



The Planning  
Inspectorate

## **ERRATA SHEET – Awel y Môr Offshore Wind Farm Ref. EN010112**

### **Examining authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department for Energy Security and Net Zero (dated 19 September 2023)**

**Corrections agreed by the Examining Authority prior to a decision being made:**

<b>PDF Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>
4 (vol.1)	Report Guide	Inconsistency in the numbering of Chapters 5.5 (Historic Environment) and 5.6 (Ground Conditions and Land Use) between the 'Report Guide' and 'Volume One Table of Contents'.	Amend the 'Report Guide' to maintain consistency with numbering of the relevant Chapters throughout the Report.



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

## **AWEL Y MÔR OFFSHORE WIND FARM**

Examining Authority's Report  
of Findings and Conclusions  
and

Recommendation to the Secretary of State for  
Energy Security and Net Zero

### **VOLUME ONE**

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20 June 2023

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# OVERVIEW

File Ref: EN010112

The application, dated 14 April 2022, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 20 April 2022.

The Applicant is Awel y Môr Offshore Wind Farm Limited.

The application was accepted for Examination on 18 May 2022.

The Examination of the application began on 20 September 2022 and was completed on 20 March 2023.

The development proposed comprises the construction and operation of an offshore energy generating station and electrical connections comprising:

- up to 50 offshore wind turbine generators;
- other offshore windfarm infrastructure including substation platforms, a meteorological mast and buoys;
- an interlink (by sub-sea cable) to the existing Gwynt y Môr offshore windfarm (to the east of the Proposed Development);
- 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.

## **Summary of Recommendation:**

Subject to considerations outlined in paragraphs 13.2.10 to 13.2.15, the Examining Authority recommends that the Secretary of State should make the Order in the form attached.



# REPORT GUIDE

This Report is divided into three volumes.

## **Volume One: This Volume**

- Introductory Matters and Context
  - Chapters 1 – 4
- Chapter 5 - Findings and Conclusions in relation to the Planning Issues
  - 5.1 Introduction
  - 5.2 Aviation
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  - 5.4 Flood Risk and Water Quality
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## **Volume Two**

- Overarching Analysis
  - Chapter 6 Habitats Regulation Assessment
  - Chapter 7 Good Design
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  - Chapter 9 Alternatives
- The Planning Balance
  - Chapter 10 Conclusions on the Case for Development Consent
- Land, Rights and Statutory Provisions
  - Chapter 11 Compulsory Acquisition and Related Matters
  - Chapter 12 The Draft Development Consent Order and Related Matters
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  - Chapter 13 Summary of Findings and Conclusions

## **Volume Three**

- Appendices

- Appendix A - Events in pre-Examination and Examination
- Appendix B - The Examination Library
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# **1. INTRODUCTION**

## **1.1. INTRODUCTION TO THE EXAMINATION**

- 1.1.1. The Application for the Awel y Môr Offshore Wind Farm project (the Proposed Development) (Planning Inspectorate (the Inspectorate) reference EN010112) was submitted by Awel y Môr Offshore Wind Farm Limited (the Applicant) to the Inspectorate on 20 April 2022 under section (s) 37 of the Planning Act 2008 (PA2008) and accepted for Examination under s55 of PA2008 on 18 May 2022 [PD-001].
- 1.1.2. The Proposed Development comprises the construction and operation of an offshore energy generating station and electrical connections comprising:
- up to 50 offshore wind turbine generators;
  - other offshore windfarm infrastructure including substation platforms, a meteorological mast and buoys;
  - an interlink (by sub-sea cable) to the existing Gwynt y Môr offshore windfarm (to the east of the Proposed Development);
  - 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.
- 1.1.3. The location of the Proposed Development is shown in the Location Plan [REP8-090]. The onshore element of the site lies within the administrative County of Denbighshire and is wholly in Wales.
- 1.1.4. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State (SoS) for the Department of Levelling Up, Housing and Communities (DLUHC) in its decision to accept the Application for Examination in accordance with s55 of PA2008 [PD-001].
- 1.1.5. On this basis, the Inspectorate agreed with the Applicant's view stated in the application form [APP-003] that the Proposed Development is an NSIP as it consists of the construction or extension of a generating station in waters adjacent to Wales up to the seaward limits of the territorial sea or in the Welsh Zone and its capacity is more than 350 megawatts (MW).
- 1.1.6. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(a) and s15(3B)(a) and (b) of PA2008 and so requires development consent in accordance with s31 of PA2008.
- 1.1.7. On 7 February 2023 the UK Government made a number of changes to its departmental structures. Of relevance to this report was the reorganisation of the Department for Business, Energy and Industrial Strategy into three new departments. As a result of this, this report now forms a recommendation to the Secretary of State for Energy Security and Net Zero (SoSESNZ).

## **1.2. APPOINTMENT OF THE EXAMINING AUTHORITY**

- 1.2.1. On 24 May 2022, Jonathan Hockley, Alex Hutson, Helen Cassini, Jason Rowlands and Richard Morgan were appointed as the Examining Authority (ExA) for the

application under s61 and s65 of PA2008 [PD-006], with Jonathan Hockley appointed as Lead Member of the ExA.

### **1.3. THE PERSONS INVOLVED IN THE EXAMINATION**

1.3.1. The persons involved in the Examination were:

- Persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party who requested to become an IP.
- Affected Persons (APs) who were affected by a compulsory acquisition (CA) and / or temporary possession (TP) proposal made as part of the Application and objected to it at any stage in the Examination.
- Other Persons (OPs), who were invited to participate in the Examination by the ExA because they were either affected by it in some other relevant way or because they had particular expertise or evidence that the ExA considered to be necessary to inform the Examination.

### **1.4. THE EXAMINATION AND PROCEDURAL DECISIONS**

1.4.1. The Examination began on 20 September 2022 and concluded on 20 March 2023.

1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

#### **The Preliminary Meeting**

1.4.3. On 23 August 2022 the ExA wrote to all IPs, Statutory Parties and OPs under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM), an Issue Specific Hearing (ISH) on the draft Development Consent Order (dDCO) and an Open Floor Hearing (OFH) [PD-007], outlining:

- the arrangements and agenda for the PM;
- notification of hearings to be held in the early stage of the Examination;
- an Initial Assessment of the Principal Issues (IAPI);
- the draft Examination Timetable;
- availability of RRs and application documents; and
- the ExA's procedural decisions.

1.4.4. The PM took place on 20 September 2022 at Venue Cymru, Llandudno. The PM was also held virtually on Microsoft Teams and livestreamed. An audio recording [EV-006] and a note of the meeting [EV-008] were published on the project page of the Inspectorate's National Infrastructure Planning website<sup>1</sup>.

1.4.5. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-008], dated 27 September 2022.

#### **Key Procedural Decisions**

1.4.6. Most of the procedural decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's

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<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/wales/awel-y-mor-offshore-wind-farm/>

consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. The decisions can be obtained from the Rule 8 Letter [PD-008] and so there is no need to reiterate them here.

### **Site Inspections**

- 1.4.7. Site Inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.
- 1.4.8. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, an Unaccompanied Site Inspection (USI) is held. Where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and / or there are requests made to accompany an inspection and Accompanied Site Inspection (ASI) is held.
- 1.4.9. The ExA held the following USIs:
- USI1 - Inspection of the environs of the application site and wider area, 27 to 29 June 2022 [EV-001] and [EV-002];
  - USI2 - Inspection of the environs of the application site and wider area, 1 to 4 August 2022 [EV-003] and [EV-004];
  - USI3 - Inspection of the environs of the application site and wider area, 5 to 7 September 2022 [EV-004a];
  - USI4 - Inspection of the environs of the application site and wider area, 14 and 15 November 2022 [EV-004b];
  - USI5 - Inspection of the environs of the application site and wider area (including night-time views), 5 and 9 December 2022 [EV-004c]; and
  - USI6 - Inspection of the environs of the application site and wider area, 27 February and 2 March 2023 [EV-004d].
- 1.4.10. A site note providing a procedural record of each of the USIs can be found in the Examination Library under the above references.
- 1.4.11. The ExA held the following ASI:
- ASI1, 6 December 2022, for an inspection of the environs of the application site and wider area relating to onshore works, including access to private land [PD-012].
- 1.4.12. The itinerary for the ASI can be found in the Examination Library under the above references.
- 1.4.13. There were no procedural issues that arose from any site inspections.
- 1.4.14. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

### **Hearing Processes**

- 1.4.15. Hearings are held in PA2008 Examinations in two main circumstances:
- Firstly, to respond to specific requests from persons who have a right to be heard - in summary terms:

- where persons affected by CA and / or TP proposals (APs) object and request to be heard at a Compulsory Acquisition Hearing (CAH); and / or
  - where IPs request to be heard at an Open Floor Hearing (OFH).
  - Secondly, to address matters where the ExA considers that a hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.
- 1.4.16. The ExA held a number of hearings to ensure the thorough examination of the issues raised by the Application. These were held in person at Venue Cymru, Llandudno, an accessible and broadly central location on the North Wales coast, and therefore an appropriate location for IPs to attend (notwithstanding the location was not within the administrative boundaries of the host authority, Denbighshire County Council (DCC)). The hearings were also held virtually on Microsoft Teams and livestreamed.
- 1.4.17. Issue Specific Hearings (ISH) were held under s91 of PA2008 as follows:
- ISH1, 21 September 2022 [EV-010] to [EV-014b], on the dDCO;
  - ISH2, 7 December 2022 [EV-017] to [EV-017i], on seascape, landscape and visual, cultural heritage, socio-economic and tourism effects;
  - ISH3, 8 December 2022 [EV-018] to [EV-018i], on the onshore substation site and related matters, including good design, landscape and visual effects and effects on biodiversity, ecology and the natural environment (the agenda also made provision for matters relating to public health and nuisance and traffic and transport, however, these matters were addressed in writing under Rule 17 of the EPR [PD-014] after ISH3); and
  - ISH4, 2 March 2023 [EV-020], [EV-029] to [EV-034] and [EV-036], on offshore environmental effects and the dDCO.
- 1.4.18. A CAH was held under s92 of PA2008 as follows:
- CAH1, 28 February 2023, [EV-019], [EV-021] to [EV-028] and [EV-035].
- 1.4.19. All persons affected by CA and / or TP proposals (APs) were provided with an opportunity to be heard. We also used this hearing to examine the Applicant's case for CA and TP in the round.
- 1.4.20. An OFH was held under s93 of PA2008 as follows:
- OFH1, 22 September 2022 (morning), [EV-015] and [EV-016].
- 1.4.21. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.

### **Written Processes**

- 1.4.22. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the Application and arising from the Examination. All of this material is recorded in the Examination Library (Appendix B) and published online. Individual document references to the Examination Library in this report are enclosed in square brackets [] and hyperlinked to the original document held online. For this reason, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.



1.4.23. Key written sources are set out further below.

### **Relevant Representations**

1.4.24. 60 RRs were received by the Inspectorate [RR-001] to [RR-060]. All makers of RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in terms of setting the principal issues for analysis in Chapter 4 of this Report and in detailed terms in following Chapters.

### **Written Representations and Other Examination Documents**

1.4.25. The Applicant, IPs and OPs were provided with opportunities to:

- make written representations (WRs);
- comment on WRs made by the Applicant and other IPs;
- summarise their oral submissions at hearings in writing;
- make other written submissions requested or accepted by the ExA; and
- comment on documents issued for consultation by the ExA including:
  - A Report on Implications for European Sites (RIES) [OD-021] published on 22 February 2023.

1.4.26. All WRs and other examination documents have been fully considered by the ExA. The issues that they raise are considered in the relevant Chapters of this Report.

### **Local Impact Report**

1.4.27. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 of PA2008.

1.4.28. One LIR was received by the ExA from the host authority, DCC [REP1-056]. This has been taken fully into account by the ExA in all relevant Chapters of this Report.

### **Statements of Common Ground (SoCG)**

1.4.29. SoCG are statements agreed between the Applicant and one or more IPs, recording matters that are agreed between them.

1.4.30. By the end of the Examination, the following bodies had concluded and signed SoCG with the Applicant:

- Cadw [REP4-028];
- Trinity House [REP4-030];
- Chamber of Shipping [REP4-031];
- Joint Nature Conservation Council [REP4-029];
- North Wales Wildlife Trust (offshore matters only) [REP7-047];
- Maritime and Coastguard Agency [REP7-048];
- DCC [REP7-049];

- North Wales Local Planning Authorities (NWLPA)<sup>2</sup> (specific to seascape, landscape and visual matters relating to offshore works) [REP8-124] (signed by all relevant parties);
- Conwy County Borough Council [REP8-045];
- Isle of Anglesey County Council [REP8-046];
- Natural Resources Wales (NRW) (specific to seascape, landscape and visual matters relating to offshore and onshore works) [REP8-047];
- NRW (offshore matters) [REP8-048];
- NRW (onshore matters) [REP8-049];
- National Trust [REP8-050];
- Isle of Man Government [REP8-051]; and
- Royal Society for the Protection of Birds [REP8-052].

1.4.31. The SoCG have been taken fully into account by the ExA in all relevant Chapters of this Report.

### **Written Questions**

1.4.32. The ExA asked three rounds of written questions.

- First written questions (ExQ1) [PD-009] and [PD-010] and procedural decisions were set out in the Rule 8 letter [PD-008], dated 27 September 2022.
- Second written questions (ExQ2) [PD-015] were issued on 23 January 2023.
- Third written questions (ExQ3) [PD-017] were issued on 1 March 2023.

1.4.33. The following requests for further information and comments under Rule 17 of the EPR were issued on:

- 15 November 2022 [PD-013] - to the Applicant and NRW, including in respect of Marine Licence matters and plans updates; and
- 19 December 2022 [PD-014] - to the Applicant, including in respect of working hours and noise and vibration.
- 9 March 2023 [PD-018] to the Applicant and the Welsh Government, including in respect of the Welsh language, invasive non-native species, land required for National Grid connections and documents to be certified.

1.4.34. All responses to the ExA's written questions and requests for further information have been fully considered and taken into account in all relevant Chapters of this Report.

### **Requests to Join and Leave the Examination**

1.4.35. The following persons who were not already IPs requested under s102A of PA2008 that the ExA should enable them to join the Examination at or after the PM:

- Hon Thomas Rowley-Conwy - on the basis that this person fell into one or more categories set out in s102B of PA2008 given their land interests and as such was an AP (accepted as an IP / AP by the ExA on 11 October 2022 [PD-011]).

1.4.36. Network Rail Infrastructure Ltd (NRIL) did not submit a RR but requested to become an IP during the course of the examination [REP1-082]. Nonetheless, as NRIL had been notified of the acceptance of the Application in accordance with s 56(2)(d) of

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<sup>2</sup> Includes Denbighshire County Council, Conwy County Borough Council, Gwynedd Council, Isle of Anglesey County Council and Eryri National Park Authority (excludes Flintshire County Council due to its withdrawal from the Examination [REP2-051])

PA2008, it was already an IP in terms of s102(1)(aa) of PA2008 and the ExA treated it as such.

1.4.37.

During the Examination, as a consequence of discussion at hearings and / or discussions between relevant IPs / APs / OPs and the Applicant, the following persons wrote to the ExA to inform it that their issues were settled, and their representations or objections were withdrawn:

- Flintshire County Council (FCC) - FCC registered as an IP, submitting a RR [RR-003] referring to matters including traffic and transport effects, landscape and visual effects, tourism effects and community benefits. It subsequently made a submission setting out that, given the distance of the Proposed Development from Flintshire, any impacts would be minimal and that as a result, it wished to withdraw from the Examination [REP2-051];
- National Air Traffic Services Ltd (NATS) on behalf of NATS En-Route plc (NATS) - NATS registered as an IP and made representations relating to the effects of the Proposed Development on Great Dun Fell and St Annes primary surveillance radars and the need for a requirement in the dDCO to mitigate adverse effects on these radars [RR-025, REP1-077, REP3-025]. NATS final submission [REP8-098] set out that it was willing to withdraw its objections subject to the inclusion of a requirement within the dDCO which it had agreed with the Applicant through negotiations. The ExA was satisfied that this was included at Requirement 25 of the dDCO [AS-053]. Accordingly, the ExA considered that NATS's issues were settled and its objections withdrawn.
- NRIL - NRIL is a Statutory Undertaker (SU) (and IP / AP), responsible for maintaining and operating the country's railway infrastructure and associated estate. NRIL's submissions raised concerns around the use of the Applicant's proposed CA powers, the adequacy of proposed protective provisions and the need for an asset protection agreement relating to the Applicant's need to route cables for the Proposed Development below and in the vicinity of a railway line to the south of Rhyl [AS-038, REP1-081, REP1-082 and REP3-027]. With NRIL as an owner of some of the Order land, this engaged s127 of PA2008. However, the Applicant and NRIL were involved in negotiations throughout the Examination, which culminated in NRIL informing the ExA at Deadline 8 that a private agreement had been reached, that it was satisfied with the Applicant's inclusion of amended protective provisions within the dDCO and that its objections were withdrawn [REP8-114].
- National Grid Electricity Transmission plc (NGET) - NGET is a SU (and IP / AP) with assets within and within proximity to the Order land that form part of the national electricity transmission network. NGET's main concerns related to the protection of these assets and also to the safeguarding of parts of the Order land for the potential future extension of its Bodelwyddan substation [RR-014, REP1-071 to REP1-074, REP5-038, REP6-047, AS-049, REP7-055 and REP8-095 to REP8-097]. This substation, which the Proposed Development would connect into, is located to the south of the St Asaph Business Park and may require extending in the future to accommodate connections associated with other projects. The Applicant and NGET were involved in negotiations throughout the Examination, which culminated in NGET informing the ExA near the end of the Examination that a private agreement had been reached, that it was satisfied with the Applicant's inclusion of amended protective provisions within the dDCO and that its objections were withdrawn [AS-057].
- Dŵr Cymru / Welsh Water (DC) - DC is a SU (and IP / AP) with water infrastructure assets within the Order land. DC's main concerns related to the adequate protection of its assets and the approval process for sustainable drainage systems [REP1-058 to REP1-061]. With DC as an owner of some of

the Order land, this engaged s127 of PA2008. However, the Applicant and DC were involved in negotiations throughout the Examination, which culminated in a joint statement signed by both parties [REP8-092] agreeing the protective provisions to be included within the dDCO for DC and setting out that there were no outstanding matters of disagreement. The ExA is satisfied that the protective provisions as set out in the joint statement were included in the dDCO [AS-053] at the end of the Examination and that as a result, DC's issues were settled, and its objections effectively withdrawn.

- SP Energy Networks (SPEN) on behalf of (o.b.o) SP Manweb plc (SPM) - SPM is a SU (and IP / AP) as a licensed distribution network operator with electrical infrastructure assets within the Order land. SPM's main concerns related to the adequate protection of its assets and the suitable wording of protective provisions in this regard [RR-013, REP1-094 and REP3-030]. As well as submitting representations in writing, SPEN o.b.o SPM, made oral representations at ISH1 [EV-010 to EV-14b]. However, the Applicant and SPEN o.b.o SPM were involved in negotiation throughout the Examination, which culminated in a joint statement signed by both parties [REP7-045] agreeing that the Applicant had included acceptable protective provisions within the dDCO and setting out that there were no outstanding matters of disagreement. The ExA is satisfied that SPM's issues were settled, and its objections effectively withdrawn.

## **Language**

- 1.4.38. Provision was made throughout the application and the examination process for the translation of documents where necessary into Welsh and for Welsh translation services during the PM and Hearings. All documents published by the ExA were issued in both English and Welsh.

## **1.5. ENVIRONMENTAL IMPACT ASSESSMENT**

- 1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).
- 1.5.2. On 11 June 2020, the Applicant submitted a Scoping Report to the SoS under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion). It follows that the Applicant is deemed to have notified the Secretary of State under Regulation 8(1)(b) of the EIA Regulations that it proposes to provide an ES in respect of the Project.
- 1.5.3. On 22 July 2020 the Inspectorate provided a Scoping Opinion [APP-295]. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES.
- 1.5.4. Notification of the application under s46 of the PA2008 was sent directly to the Secretary of State on 27 August 2021 but could not be located. The Applicant considered that they had complied with the requirement and that their consultation had gone beyond the statutory periods. A summary of this is contained within the Consultation Report [APP-024] and a copy of the letter sent under s46 is contained within Appendix B5 of this report [APP-025].

- 1.5.5. On 11 July 2022 the Applicant provided the Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 16 of the EIA Regulations had been complied with [OD-006] and [OD-007].
- 1.5.6. Consideration is given to the adequacy of the ES and matters arising from it in subsequent Chapters of this Report.

## **1.6. HABITATS REGULATIONS ASSESSMENT**

- 1.6.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Report has been provided. This is titled the Report to Inform Appropriate Assessment (RIAA). The RIAA and its associated annexes were provided with the application [APP-027 to APP-035]. During the course of the Examination, some RIAA documents were subject to updates, with the final RIAA comprising [REP8-055, APP-028 to APP-029, AS-022, APP-031 to APP-035].
- 1.6.2. Consideration is given to the adequacy of the RIAA, associated information and evidence and the matters arising from it in Chapter 4 (this volume) and Chapter 6 (within Volume Two) of this Report.

## **1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS**

- 1.7.1. By the end of the Examination, there were no matters subject to any separate undertakings, obligations and / or agreements. All relevant considerations are addressed in this Report as bearing on the DCO.

## **1.8. OTHER CONSENTS**

- 1.8.1. The Application documentation and questions during the Examination have identified the following consents that the Proposed Development will or may need, in addition to development consent under PA2008. The latest position is set out in the Applicant's Consents and Licences Required Under Other Legislation document [REP8-028] and these are recorded below.

### **Natural Resources Wales on behalf of Welsh Government**

- The DCO and Marine Licensing regimes are two separate regimes in Wales. It was common ground at the Examination between the Applicant and NRW ([REP1-006], [REP1-080]) that the DCO and the Marine Licence process should be aligned as far as possible and that duplication should be avoided but the applications must run in parallel. The Applicant submitted various versions of the Marine Licence Principles document during the Examination (with the last version being [REP8-015]) detailing progress on the Marine Licences being applied for and the areas these licenses would cover, including mitigation measures.
- Marine Licence(s) required for all licensable activities under Section 66 of the Marine and Coastal Access Act 2009 (MCA Act) (in parallel with the DCO process). Four licenses are identified: the construction and operation of the generation assets; the construction and operation of transmission assets; the assets associating with connecting to the existing Gwynt y Môr windfarm; and, inland, the crossing of the tidal River Clwyd.
- Marine Licence for unexploded ordnance (UXO) clearance under the MCA Act (post DCO consent).

## **Natural Resources Wales**

- European Protected Species Licence under the Conservation of Offshore Marine Habitats and Species Regulations 2017 (post DCO consent).
- European Protected Species Licence under the Conservation of Habitats and Species Regulations 2017 (post DCO consent).
- Environmental Permit for water discharge or waste operations / registration of exempt waste operations and water discharges under the Environmental Permitting (England and Wales) Regulations 2016 (EPR Regulations) (post DCO consent).
- Water Abstraction Licence (if required) under the Water Resources Act 1991 (post DCO consent).
- Licence for work affecting badgers under section 10 of the Protection of Badgers Act 1992 (post DCO consent).
- Flood Risk Activities Permit under the EPR Regulations for any works on or near main rivers, flood defence structures, sea defences or in flood plains (post dDCO consent).

## **Radiocommunications Agency**

- Coast Station Radio Licence under the Wireless Telegraphy Act 2006 (post DCO consent).

## **Department for Energy Security and Net Zero**

- Decommissioning Scheme under section 105(6) of the Energy Act 2004 (post DCO consent).
- Safety Zone consent under section 95 of the Energy Act 2004 (post DCO consent).

## **Health and Safety Executive**

- F10 - Notification of Construction Project under The Construction (Design and Management) Regulations 2015 (post DCO consent).

## **Denbighshire County Council**

- Building Regulation approval (if necessary) under the Building Regulations 2010 (post DCO consent).
- Notice of Street Works under the Traffic Management Act 2004 (post DCO consent).
- 'Part B' permit for crushing and screening under the Local Authority Pollution Prevention and Control Pollution Prevention and Control Act 1999 and the EPR Regulations (post DCO consent)
- Planning consent for a proposed extension to the National Grid Bodolwyddan substation to accommodate the connection to the Proposed Development's onshore substation (post DCO consent, if required [REP7-055]).

## **North and Mid Wales Trunk Agency, Local Highway Authority, Police, Bridge Owners (as appropriate)**

- Permit for transport of abnormal loads (if necessary) as defined in the Road Vehicles (Authorisation of Special Types) (General) Order 2003 and Road Traffic Act 1988 (post DCO consent).

1.8.2.

In relation to the outstanding consents recorded above, the ExA has considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, has concluded that there are no apparent

impediments to the implementation of the Proposed Development, should the SoS grant the Application.

### **Crown Land**

- 1.8.3. The Book of Reference (BoR) [REP8-025] and the Crown Land Plans [REP6-034] identify that various plots comprise Crown land. The BoR identifies that in respect of these plots, the Applicant is seeking either Temporary Possession (TP), acquisition of new rights, imposition of restrictive covenants or freehold acquisition. In addition, Article 37 (Crown rights) of the dDCO [AS-053] includes provision for the acquisition of Crown interests. In line with s135 of PA2008, the consent of the relevant Crown authorities is required.
- 1.8.4. At the close of the Examination, Crown consent had not been specifically received from any of the relevant Crown authorities. In the absence of such consents, the ExA has concluded that the Order cannot authorise the CA or TP of those plots of land and / or interests which are Crown land because s135(2) has not been met. The ExA has reported on this matter in Chapter 8 of this Report (Volume Two).

## **1.9. STRUCTURE OF THIS REPORT**

- 1.9.1. This Report includes two volumes (Volume One and Volume Two) and its structure is as follows:

### **Volume One**

- Chapter 1 introduces the reader to the Application, the processes used to carry out the Examination and make this Report.
- Chapter 2 describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- Chapter 3 records the legal and policy context for the SoS' decision.
- Chapter 4 sets out the planning issues that arose from the Application and during the Examination.
- Chapter 5 sets out the findings and conclusions in relation to the planning issues.

### **Volume Two**

- Chapter 6 to 9 considers overarching effects: with Chapter 6 on effects on European Sites and HRA; Chapter 7 on Good Design; Chapter 8 on Other projects and proposals; and Chapter 9 on Alternatives.
- Chapter 10 sets out the balance of planning considerations arising from Chapters 4 and 5, in the light of the factual, legal and policy information in Chapters 1 to 3.
- Chapter 11 sets out the ExA's examination of CA and TP proposals.
- Chapter 12 considers the implications of the matters arising from the preceding chapters for the DCO.
- Chapter 13 summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

- 1.9.2. This Report is supported by the following Appendices:

- Appendix A - the Examination Events.
- Appendix B - the Examination Library.
- Appendix C - List of Abbreviations.
- Appendix D - the Recommended Development Consent Order.

## 2. THE PROPOSAL AND THE SITE

### 2.1. THE APPLICATION AS MADE

#### Overview

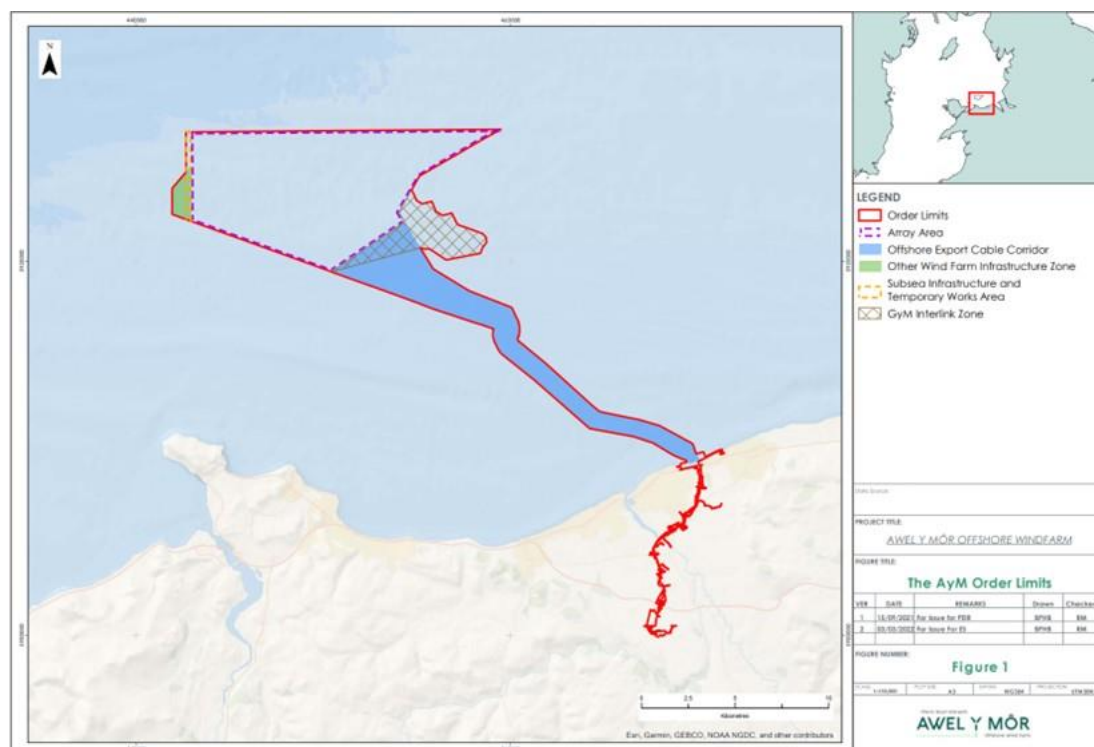
2.1.1. The Proposed Development is outlined in paragraph 1.1.2 above.

#### Site location and surrounds

2.1.2. The extent of the Proposed Development is shown in the diagram below. At its closest point the array area is proposed to be some 10.5km off the north Wales coast at Llandudno [APP-298]. The proposal is a sister project to the existing Gwynt y Môr windfarm, located to the east of the Proposed Development, to which the proposal includes an interlink cable, and further existing wind farms of Rhyl Flats and North Hoyle lie to the south of Gwynt y Môr. The subsea export cables linking the proposed wind turbine generators to land are proposed to make landfall at Ffrith beach, to the east of Rhyl and west of Prestatyn.

2.1.3. The onshore export cable corridor (ECC) would be sited through primarily agricultural land to a new onshore substation (OnSS) to the west of St Asaph's Business Park, before then connecting to the existing National Grid substation south of the Business Park.

**Figure 1: Site location (Figure 1 of ES Volume 2, Chapter 1 – Offshore Project Description [APP-047])**



2.1.4. More detail can be found in the Environmental Statement (ES) (various references), the Land Plans [REP3a-011], [REP6-028], and the Works Plans [REP6-029].



## **2.2. THE APPLICATION AS EXAMINED**

- 2.2.1. No formal changes to the application were made during examination. Some minor changes were made removing plots of land (plots 26 and 69a) from the Order Limits.

## **2.3. RELEVANT PLANNING HISTORY**

- 2.3.1. A number of offshore wind farms are located or proposed off the north coast of Wales, the north-eastern coast of England, and the south and east coast of the Isle of Man. Some of these have been fully constructed and some are currently within the consenting regime for Nationally Significant Infrastructure Projects (NSIPs).

### **Existing Offshore Wind Farm Development**

#### **Burbo Bank**

- 2.3.2. Burbo Bank offshore wind farm has been operational since 2007. An extension to the wind farm was approved in 2014. The wind farm lies to the east of the Proposed Development, off the Wirral peninsula.

#### **North Hoyle**

- 2.3.3. North Hoyle offshore wind farm has been operational since 2003. It lies to the east of the Proposed Development, and is situated off the north coast of Wales, between Rhyl and Prestatyn.

#### **Rhyl Flats**

- 2.3.4. Rhyl Flats offshore wind farm began operations in 2009 and is located to the east of the Proposed Development, to the north of Rhyl.

#### **Gwynt y Môr**

- 2.3.5. Gwynt y Môr offshore wind farm received planning consent in December 2009, with final commissioning taking place in June 2015. The wind farm lies directly to the east of the Proposed Development and consists of 150 wind turbines with a height of 150 metres (to tip) above mean sea level. The Proposed Development is proposed as an extension to this wind farm, and the project description (as above) includes inter-link cables connection between the two wind farms.

### **Other proposed offshore wind farms**

#### **Mona**

- 2.3.6. Mona offshore wind farm would be located to the north of the Proposed Development. A scoping opinion was adopted by the Secretary of State on 15 June 2022 and the National Infrastructure website states that an application for development consent is expected to be submitted in quarter 1 of 2024.

#### **Morgan**

- 2.3.7. Morgan offshore wind farm would be located to the north of Mona (above), to the southeast of the Isle of Man. A scoping opinion was adopted by the Secretary of State on 22 July 2022 and the National Infrastructure website states that an application for development consent is expected to be submitted in quarter 1 of 2024.

## **Other major projects and proposals**

### **HyNet Carbon Dioxide Pipeline**

- 2.3.8. HyNet is a proposed new build carbon dioxide (CO<sub>2</sub>) pipeline that would transport CO<sub>2</sub> produced and captured by future hydrogen producing facilities and existing industrial premises in North West England and North Wales for offshore storage. The pipeline would comprise both newbuild and existing pipelines and run from Ince in Cheshire to Talacre Beach in North Wales, to the east of Prestatyn. The examination of the nationally significant infrastructure project commenced in March 2023 and will run until September of the same year.

### **Planning Applications**

- 2.3.9. The Denbighshire County Council (DCC) Local Impact Report (LIR) [REP1-056] details various planning applications in the vicinity of the proposed development which are either pending determination or are extant (at the time of the LIR). These include major residential developments close to Glan Clwyd Hospital at Bodelwyddan and various developments at St Asaph Business Park, including a 198-bed care home and 7 industrial units.
- 2.3.10. A scheme for coastal protection including a new sea wall and interlocking rock revetment (the East Rhyl Coastal Defences) was granted consent in April 2019 and completed during the early stages of the examination. Further coastal defences were approved for central Rhyl and central Prestatyn in July 2022. Such schemes are in reasonably close proximity to the proposed landfall location.

### 3. LEGAL AND POLICY CONTEXT

#### 3.1. INTRODUCTION

- 3.1.1. This chapter sets out the relevant legal and policy context for the application which was considered and applied by the Examining Authority (ExA) in undertaking the Examination and in making its findings and recommendations to the Secretary of State (SoS).
- 3.1.2. Findings, reasoning and conclusions are set out on the relevance of different elements of the policy framework and include the identification of 'important and relevant' matters in accordance with the Planning Act 2008, as amended (PA2008).
- 3.1.3. The Planning Statement and the associated Appendix 2 [APP-289] and [APP-300], and the final Planning Statement [REP8-083], as well as the Environmental Statement Chapter on Policy and Legislation [APP-040] sets out the Applicant's policy position in relation to the Proposed Development.
- 3.1.4. These submissions were further supported by the Applicant's responses to written questions [REP1-007], [REP5-004] and [REP7-004] and the National Policy Statement Tracker, the final version of which was received at D8 [REP8-030].
- 3.1.5. Cumulatively these documents include an assessment of the proposals against the policy requirements of the National Policy Statements (NPSs); EN-1 Overarching NPS for Energy, EN-3 NPS for Renewable Energy Infrastructure, and EN-5 NPS for Electricity Networks Infrastructure.
- 3.1.6. It is noted that on the 6 September 2021 the Government published 'Planning for New Energy Infrastructure Draft National Policy Statements for energy infrastructure' a consultation on the suite of energy NPSs EN-1 to EN-5 which ran until 29 November 2021. This reaffirmed that the current NPS remain relevant government policy and EN-1 to EN-5 have effect for the purposes of the Planning Act 2008.
- 3.1.7. In response to ExQ2.0.2 [PD-015], the Applicant submitted a draft National Policy Statement Tracker into the Examination [REP6-004]. The tracker makes reference to the relevant revised policies of the draft NPSs EN-1, EN-3 and EN-5 and demonstrates the compliance of the Proposed Development with the policies.
- 3.1.8. The Draft NPS EN-1 directs that the current suite of NPSs should have effect for any application accepted for Examination before the designation of the amendments, but that any emerging draft NPSs *are potentially capable of being important and relevant considerations in the decision-making process*.
- 3.1.9. At the closure of the Examination, Government was analysing the consultation feedback in respect of the draft energy NPSs. The ExA is also aware that the SoS released new drafts of EN-1, EN-3, and EN-5 for consultation on 30 March 2023. These have not been considered in this Report as they were published following the closure of the Examination.
- 3.1.10. Denbighshire County Council Local Impact Report (LIR) [REP1-056] includes the local authority position on the relevant development plan policies and other local strategies.

## **3.2. THE PLANNING ACT 2008**

- 3.2.1. The Proposed Development is classified as a NSIP within sections 14(1)(a) and 15(3B) of the 2008 Act. Under section 15(3B) a generating station is an NSIP if:
- it is in waters adjacent to Wales up to the seaward limits of the territorial sea, or in the Welsh zone; and
  - its capacity is more than 350MW.
- 3.2.2. The Applicant confirmed that the Proposed Development is an offshore generating station within the territorial sea waters adjacent to Wales and its capacity will be more than 350MW [REP8-012]. The electrical output of the project is not defined precisely, other than to confirm that it is over 350MW although the ExA notes that the Wind Turbine Generator (WTG) Note [APP-299] states that the projects turbines will have a capacity of a minimum of 11.5MW each, giving a total with 50 WTGs of over 550MW.
- 3.2.3. The Proposed Development therefore meets the definition of an NSIP set out in section (s) 14(1)(a) and s15(3B)(a) and (b) of PA2008 and so requires development consent in accordance with section 31 of PA2008.
- 3.2.4. This is an application where there are National Policy Statements (NPSs) which provide the policy context. The application is therefore examined under s104 of PA2008 which sets out the matters the SoS must consider as follows:
- Any national policy statement which has effect in relation to development of the description to which the application relates (s104(2)(a)).
  - any relevant marine policy documents, determined in accordance with section 59 of the Marine and Coastal Access Act 2009 (s104(2)(aa));
  - Any local impact report submitted to the SoS before the specified deadline (s104(2)(b)).
  - Any matters prescribed in relation to development of the description to which the application relates (s104(2)(c)).
  - Any other matters which the SoS thinks are both important and relevant to the decision (s104(2)(d)).
- 3.2.5. S104(3) of PA2008 requires the SoS to decide the application in accordance with any relevant NPS, except to the extent that one or more of the exceptions in subsections (4) to (8) applies. The exceptions are that the SoS is satisfied that:
- Deciding the application in accordance with any relevant NPS would lead to the United Kingdom being in breach of any of its international obligations (subsection (4)).
  - Deciding the application in accordance with any relevant NPS would lead to the SoS being in breach of any duty imposed on the SoS by or under any enactment (subsection (5)).
  - Deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment (subsection (6)).
  - The adverse impact of the Proposed Development would outweigh its benefits (subsection (7)).
  - Any condition prescribed for deciding an application otherwise than in accordance with a NPS is met (subsection (8)).
- 3.2.6. Marine planning is a matter which is devolved to the Welsh Government, and a Marine Licence is also required under the Marine and Coastal Access Act 2009. The Applicant is seeking this consent through a parallel application to Welsh

Government, which is administered by Natural Resources Wales (NRW) Marine Licensing Team (MLT) on behalf of the Welsh Ministers.

3.2.7. Throughout the Examination, the Applicant provided an 'Update on the Marine Licence Submission and Progress' document [REP8-018]. This document provided the ExA with an update in respect of the timescales for, and alignment of the DCO and Marine Licences processes.

3.2.8. This Report sets out the ExA's findings and recommendations taking these matters into account and applying the approach set out in s104 of PA2008.

### **3.3. NATIONAL POLICY STATEMENTS**

3.3.1. The NPSs which are relevant in this case are:

- Overarching National Policy Statement for Energy (July 2011) (NPS EN-1).
- National Policy Statement for Renewable Energy Infrastructure (July 2011) (NPS EN-3).
- National Policy Statement for Electricity Networks Infrastructure (July 2011) (NPS EN-5).

3.3.2. NPS EN-1 sets out the Government's policy for the delivery of major energy infrastructure. It is part of a suite of NPSs for the energy sector which are to be read in conjunction with NPS EN-1 where they are relevant.

3.3.3. Part 4 of NPS EN-1 states that *Given the level and urgency of need for infrastructure of the types covered by the energy NPSs set out in Part 3 of this NPS, the [decision maker] should start with a presumption in favour of granting consent to applications for energy NSIPs. That presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused.*

3.3.4. NPS EN-3 sets out additional policy, which is specific to renewable energy applications, including offshore wind generating stations exceeding 100MW. Paragraph 2.1.1 of NPS EN-3 states that *The policies set out in this NPS are additional to those on generic impacts set out in EN-1 and do not replace them.*

3.3.5. NPS EN-5 sets out policy in relation to electricity transmission and distribution systems. It is therefore relevant to the provision of the substation and both onshore and offshore cables and related infrastructure connecting the Proposed Development to the National Grid.

3.3.6. As previously detailed, Government is currently analysing the consultation feedback in respect of the draft Energy NPSs but the ExA is also aware that the SoS released new drafts of EN-1, EN-3, and EN-5 for consultation on 30 March 2023. These have not been considered in this Report as they were published following the closure of the Examination.

### **3.4. MARINE AND COASTAL ACCESS ACT 2009**

3.4.1. As the Proposed Development is located within the Welsh inshore region, it is necessary for the Applicant to apply to NRW Marine Licencing Team, on behalf of the Welsh Government, under the Marine and Coastal Access Act 2009 for licensable activities within Welsh waters.

Whilst the NRW Marine Licencing Team, on behalf of the Welsh Government, are responsible for the determination of the relevant marine licences, full consideration has been given to the Marine and Coastal Access Act and other relevant marine plans and policies by the ExA.

### **3.5. WELSH LEGISLATION, POLICY AND GUIDANCE**

3.5.1. Welsh legislation, policy and guidance include:

- The Wales Act 2017.
- The Planning (Wales) Act 2015.
- The Well-being of Future Generations (Wales) Act 2015.
- Future Wales – The National Plan 2040 (2021).
- The Environment (Wales) Act 2016.
- The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target).
- Environmental Permitting (England and Wales) Regulations 2016.
- The Historic Environment (Wales) Act 2016.
- Welsh National Marine Plan 2019.
- Planning Policy Wales (Edition 11, February 2021).
- Technical Advice Notes 5, 6, 11, 13, 15, 18 and 23.
- Net Zero Wales (Welsh Government, 2021c).
- Prosperity for All: Low Carbon Wales (2019).
- Welsh Government Practice Guidance: Planning Implications of Renewable Energy and Low Carbon Energy (2011).
- Welsh Government Practice Guidance: Planning Implications of Renewable Energy and Low Carbon Energy – A Toolkit for Planners (2015).
- Natural Resources Policy (2017)
- Nature Recovery Action Plan for Wales 2020-21
- The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017
- Government of Wales Act (2006);
- Wales Spatial Plan (2008);
- Welsh Language Act 1993 and Welsh Language Measure (Wales) Measure 2011;
- Equality Act 2010 (Statutory Duties) Wales Regulations 2011;
- Active Travel (Wales) Act 2013 and
- Elements of Welsh Government energy, climate and infrastructure policy documents.
- Welsh Government climate emergency declaration (2019)
- Welsh National Resources Policy
- Nature Recovery Action Plan Wales

### **3.6. EUROPEAN LAW AND RELATED UK REGULATIONS**

#### **Status of EU Derived Legislation and other Internationally Derived Obligations**

3.6.1. The EU (Withdrawal) Act 2018 (EUWA2018) and the EU (Withdrawal) Act 2020 (EUWA2020) has converted EU law into UK law and preserves laws made in the UK which implements EU obligations as at 31 December 2020 unless noted otherwise.

3.6.2. This Report has been prepared on the basis of the retained law and references in it to European terms such as ‘Habitats’ have also been retained for consistency with the examination documents. However, where terminology has changed, for example ‘national sites network’ (NSN) rather than ‘Natura 2000 network’, the amended terminology will be utilised where necessary.

- 3.6.3. The SoS will be aware that retained EU law as defined in the EUWA2018 and EUWA2020 continues to apply unless removed or amended. Where Regulations or Directives have been adopted into UK law directly those will be set out. Where Regulations or Directives applied directly and have been retained those are given in the original form. It will be a matter for the SoS to satisfy themselves as to the position on retained law and obligations at the point of decision.

#### **The Espoo and Aarhus Conventions**

- 3.6.4. The United Kingdom is a signatory to the Espoo and Aarhus conventions and therefore, has obligations to engage with other signatory States and their public where relevant. Both Conventions set out provisions for public participation in the EIA procedure and access to environmental information during decision making. Where relevant, the Planning Inspectorate (the Inspectorate) is therefore required, where relevant, to invite participation in the PA2008 process from the public in EEA State(s) and any other Convention states.

#### **The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations)**

- 3.6.5. As further detailed in Chapter 4, the Proposed Development falls within Schedule 2, paragraph 3(i) of the Regulations. The location, scale and nature of the Proposed Development may have the potential to give rise to significant effects on the environment and is considered to be EIA development. The DCO application is therefore required to be accompanied by an Environmental Statement (ES) prepared in accordance with the EIA Regulations. The Applicant has provided an ES [APP-049] to [APP-325] as part of the submitted application.
- 3.6.6. A number of the submitted application documents were updated and/or revised during the Examination. A complete and final list of the application documents are available within the Examination Library. In addition, the Applicant provided an updated 'Document Tracker' at each Deadline which provides a list of each revised document [REP8-115].

#### **The Conservation of Habitats and Species (Habitats Regulations) 2017**

- 3.6.7. The Habitats Regulations are the principal means by which the Habitats Directive and the Birds Directive are transposed into the law of England and Wales. Assessment processes taking place pursuant to these regulations are referred to as Habitats Regulations Assessment (HRA).
- 3.6.8. The types of European site relevant to the application are as follows:
- Special Areas of Conservation (SAC) designated pursuant to the Habitats Directive;
  - Special Protection Areas (SPA) designated pursuant to the Birds Directive; and
- 3.6.9. The applicant is therefore required to provide information to allow a HRA to be undertaken by the competent authorities in support of its DCO and environmental permit applications. In this case the competent authorities are the SoS for Energy Security and Net Zero (SoSESNZ) (for the DCO) and NRW (for the environmental permits).

#### **Conservation of Offshore Marine Habitats and Species Regulations 2017**

- 3.6.10. The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2017 transpose Council Directive 92/43/EEC on the conservation of natural habitats and

of wild fauna and flora (Habitats Directive) and Council Directive 2009/147/EC on the conservation of wild birds (Birds Directive) into national law. These regulations apply to the UK's offshore marine area which covers waters beyond 12nm, within British Fishery Limits and the seabed within the UK Continental Shelf Designated Area.

#### **The Ramsar Convention on the conservation of wetlands**

- 3.6.11. The Ramsar Convention on Wetlands of International importance 1971 (as amended) (the Ramsar Convention) is an international treaty that provides a framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. The UK Government has chosen to apply, as a matter of policy, the legislative provisions that apply to the consideration of SACs and SPAs to Ramsar sites, even though these are not European sites as a matter of law.

#### **The Oslo and Paris convention for the protection of the marine environment of the north-east Atlantic (OSPAR)**

- 3.6.12. The OSPAR Convention is an international treaty which seeks to prevent and eliminate pollution from land-based sources (Annex I), from dumping or incineration (Annex II), from offshore sources (Annex III), assess the quality of the marine environment (Annex IV) and protect and conserve ecosystems and biological diversity of the maritime area.

#### **Marine Strategy Framework Directive (MSFD) (2008/56/EC)**

- 3.6.13. The MSFD aims to achieve Good Environmental Status of the EU's marine waters by 2020 and to protect the resource base upon which marine related economic and social activities depend.

#### **The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017**

- 3.6.14. Directive 2000/60/EC establishing a framework for Community action in the field of water policy (the Water Framework Directive or WFD) sets objectives to prevent and reduce pollution, improve aquatic ecosystems and mitigate the effects of floods. It provides for the production of River Basin Management Plans for the sustainable management of rivers. The Directive is transposed into law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

#### **Waste Framework Directive (WaFD) (2008/98/EC)**

- 3.6.15. The WaFD came into force on 12 December 2008, establishing the overarching framework for the management of waste across the EU.
- 3.6.16. Article 4 of the revised EU Waste Framework Directive (Directive 2008/98/EC) sets out five steps for dealing with waste, ranked according to environmental impact - the 'waste hierarchy'. The definitions of each of the stages can be found in Article 3. It gives top priority to preventing waste. When waste is created, it gives priority to preparing it for re-use, then recycling, then recovery, and last of all disposal (e.g. landfill). A very key principle in the backdrop to the hierarchy is to pursue efficient use of resource.
- 3.6.17. Responsibility for compliance with the waste hierarchy lies with processors of waste whose compliance therewith is regulated and monitored by the Environment Agency



(EA) (or other permitting authority if located elsewhere in the UK) through their respective Environmental Permits (EPs).

#### **Groundwater Daughter Directive (2006/118/EC)**

- 3.6.18. Directive lays down measures to prevent and control groundwater pollution, including: (a) criteria for the assessment of good groundwater chemical status; and (b) criteria for the identification and reversal of significant and sustained upward trends and for the definition of starting points for trend reversals. Moreover, the Directive complements the provisions preventing or limiting inputs of pollutants into groundwater.

#### **The Discharge of Dangerous Substances into the Aquatic Environment Directive (2006/11/EC)**

- 3.6.19. Requires Member States to take appropriate action to eliminate pollution of inland surface waters and internal coastal waters of certain dangerous substances (listed in Annex I). All discharges shall require prior authorisation by the competent authority of the Member State.

#### **Landfill Directive (1999/31/EC)**

- 3.6.20. With a view to supporting the Union's transition to a circular economy and meeting the requirements of Directive 2008/98/EC, the aim of this Directive is to ensure a progressive reduction of landfilling of waste, in particular of waste that is suitable for recycling or other recovery, and, by way of stringent operational and technical requirements on the waste and landfills, to provide for measures, procedures and guidance to prevent or reduce as far as possible negative effects on the environment, in particular the pollution of surface water, groundwater, soil and air, and on the global environment, including the greenhouse effect, as well as any resulting risk to human health, from landfilling of waste, during the whole life-cycle of the landfill.

#### **Hazardous Waste Directive (2008/98/EC) and the Waste (England and Wales) Regulations 2011 (SI 2011/988)**

- 3.6.21. The Hazardous Waste Directive lays down measures to protect the environment and human health by preventing or reducing the generation of waste, the adverse impacts of the generation and management of waste and by reducing overall impacts of resource use and improving the efficiency of such use, which are crucial for the transition to a circular economy and for guaranteeing the Union's long-term competitiveness.
- 3.6.22. The Waste (England and Wales) Regulations 2011 require businesses to confirm that they have applied the waste management hierarchy when transferring waste and include a declaration to this effect.

#### **Controlled Waste (England and Wales) Regulations 2012 (SI 2012/811)**

- 3.6.23. The Controlled Waste Regulations (England and Wales) 2012 states that household, industrial and commercial waste are classed as controlled waste and are subject to the Environmental Protection Act 1990.

### **Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894)**

- 3.6.24. These Regulations set out the regime for the control and tracking of the movement of hazardous waste for the purpose of the prevention, reduction and elimination of pollution caused by Hazardous Waste.

### **The Air Quality Directive (2008/50/EC)**

- 3.6.25. Directive 2008/50/EC on ambient air quality and cleaner air for Europe entered into force on 11 June 2008. It sets limit values (LV) for compliance and establishes control actions where the LV are exceeded for ambient air quality with respect to sulphur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>) and mono-nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene and carbon monoxide. The Air Quality Standards Regulations 2010 give direct statutory effect to Directive 2008/50/EC on ambient air quality and cleaner air for Europe.

### **UK Air Quality Strategy**

- 3.6.26. The UK Air Quality Strategy establishes the UK framework for air quality improvements. It establishes a long-term vision for improving air quality in the UK and offers options to reduce the risk to health and the environment from air pollution. Individual plans prepared beneath its framework provide more detailed actions to address LV exceedances for individual pollutants. In turn, these plans set the framework for action in specific local settings where LV exceedances are found, including the designation of Clean Air Zones and more localised Air Quality Management Areas (AQMA) where Air Quality Management Plans are prepared by local authorities.
- 3.6.27. The Proposed Development is not located within an AQMA, with the nearest AQMA being located in the city of Liverpool, over 30km to the east of the Order limits.

### **Air Quality Standards in Wales**

- 3.6.28. The Air Quality Standards (Wales) Regulations (2010) implement the Air Quality Directive (2008/50) and have limit values for pollutants in Wales. These are referred to in the Applicant's ES [AS-030].

### **The European Landscape Convention 2000**

- 3.6.29. The European Landscape Convention (ELC) promotes the protection, management and planning of European landscapes and organises European co-operation on landscape issues. The ELC requires landscape to be integrated into regional and town planning policies and in cultural, environmental, agricultural, social and economic policies, as well as any other policies with possible direct or indirect impacts on landscape.

### **The European Birds Directive**

- 3.6.30. Council Directive 2009/147/EC on the conservation of wild birds (Birds Directive) is a European nature conservation legislative measure for the protection for all wild bird species naturally occurring in the EU. The Directive places great emphasis on the protection of habitats for endangered as well as migratory species. It requires classification of areas as Special Protection Areas (SPAs) comprising all the most suitable territories for these species. Since 1994 all SPAs form an integral part of the Natura 2000 ecological network.

### **Bern Convention on the Conservation of European Wildlife and Habitats**

- 3.6.31. The Bern Convention was ratified by the UK in 1982. The obligations of the Convention have been transposed by the Wildlife and Countryside Act 1981.

### **The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) 1979**

- 3.6.32. The convention on the Conservation of Migratory Species of Wild Animals aims to conserve terrestrial, marine and avian migratory species throughout their range.

### **Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention 1972)**

- 3.6.33. The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972, commonly called the 'London Convention' is an agreement to control pollution of the sea by dumping and to encourage regional agreements supplementary to the Convention.

### **Bathing Waters Directive (2006/7/EC)**

- 3.6.34. This Directive sets rules to safeguard public health and clean bathing waters requiring member States to monitor and assess bathing water and in doing so advise the public of the findings. This Directive compliments other environmental policy in the Water Framework Directive and Marine Strategy Framework Directive.

### **Environmental Noise Directives (2002/49/EC and 2020/367)**

- 3.6.35. The Environmental Noise Directive requires Member States to produce and publish noise maps and noise management action plans for major agglomerations, roads, railways and airports above a given threshold. This is reflected in Environmental Noise (Wales) Regulations 2006 (as amended).

## **3.7. OTHER LEGAL PROVISIONS**

### **United Nations Environmental Programme (UNEP) Convention on Biological Diversity 1992**

- 3.7.1. Responsibility for the UK contribution to the UNEP Convention on Biological Diversity lies with the Department for Environment, Food and Rural Affairs (DEFRA) who promote the integration of biodiversity into policies, projects and programmes within Government and beyond.
- 3.7.2. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the UNEP Convention on Biological Diversity 1992 has been taken into account in consideration of the likely impacts of the Proposed Development and of appropriate objectives and mechanisms for mitigation and compensation. The provisions on EIA and transboundary matters regarding impacts on biodiversity referred to in this Chapter, satisfies the requirements of Article 14 of the Convention (Impact Assessment and Minimizing Adverse Impacts).

### **The United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Protection of the Underwater Cultural Heritage 2001**

- 3.7.3. This is intended to enable States to better protect their submerged cultural heritage and provides widely recognised practical rules for the treatment and research of underwater cultural heritage.

### **Kunming- Montreal Global Biodiversity Framework**

- 3.7.4. As part of this Framework the UK Government has committed to address the loss of terrestrial and marine biodiversity with set goals. The Framework is not legally binding but requires the UK to monitor and report on their progress against the set goals and targets at least every five years.

### **Equality Act 2010**

- 3.7.5. S149 of the Equality Act 2010 establishes a duty (the public sector equality duty (PSED)) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is considered further below.

### **Human Rights Act 1998**

- 3.7.6. The Compulsory Acquisition of land can engage various relevant Articles under the Human Rights Act 1998. The implications of this are considered in Chapter 11 of this Report.

### **Environmental Protection Act (EPA) 1990**

- 3.7.7. Section 79(1) of the Environmental Protection Act 1990 identifies a number of matters which are considered to be statutory nuisance. Article 8 of the draft Development Consent Order (dDCO) [AS-053] contains provisions relating to proceedings in respect of statutory nuisance.

### **The Environment Act 2021**

- 3.7.8. The purpose of the Environment Act 2021 is to make provision for long-term, legally binding targets, plans and policies with the intention of improving the natural environment; for statements and reports about environmental protection; for establishing the Office for Environmental Protection; about waste and resource efficiency; about air quality; for the recall of products that fail to meet environmental standards; about water management; about nature and biodiversity; for conservation covenants; about the regulation of chemicals; and for environmental connected purposes.
- 3.7.9. The Environment Act 2021 makes provision for biodiversity gain, including in respect of NSIPs. However, the biodiversity gain statement for NSIPs is expected to be published in 2023, after consultation, with the implementation of mandatory biodiversity gain for NSIPs in 2025.

### **The Noise Insulation Regulations 1975 (as amended 1988)**

- 3.7.10. The Noise Insulation Regulations 1975 (as amended 1988) set out the requirements under which buildings may qualify for both statutory and discretionary noise insulation.

### **Environmental Permitting (England and Wales) Regulations 2016 (SI 2016/1154)**

- 3.7.11. The environmental permitting regime requires those carrying on certain types of activity to hold an environmental permit. In this way Environmental Permitting Regulations provides for the ongoing supervision by regulators of activities which could harm the environment. The aim of the regime is to:

- Protect the environment so that statutory and government policy environmental targets and outcomes are achieved.
- Deliver permitting, and compliance with permits and certain environmental targets, effectively and efficiently, in a way that provides increased clarity and minimises the administrative burden on both the regulator and operators.
- Encourage regulators to promote best practice in the operation of facilities.
- Continue to implement European legislation fully.

#### **The Control of Pollution Act 1974**

- 3.7.12. Sections 60 and 61 of the Control of Pollution Act 1974 (CoPA) provides the main legislation regarding demolition and construction site noise and vibration. If noise complaints are received, a s60 notice may be issued by the local planning authority with instructions to cease work until specific conditions to reduce noise have been adopted. S61 of the CoPA provides a means for applying for prior consent to carry out noise generating activities during construction. Once prior consent has been agreed under s61, a s60 notice cannot be served provided the agreed conditions are maintained on-site. The legislation requires that Best Practicable Means be adopted for construction noise on any given site.

#### **Water Resources Act 1991, Flood and Water Management Act 2010, Water Act 2003 and 2014, Land Drainage Act 1991.**

- 3.7.13. The above Acts set out the relevant regulatory controls that provide protection to waterbodies and water resources from abstraction pressures, discharge and pollution, and for drainage management related to non-main rivers. The application would have implications for land drainage, flood risk and water quality and further consents may be needed under the above Acts.

#### **The Control of Substances Hazardous to Human Health (COSHH) Regulations 2002**

- 3.7.14. The main aims of the COSHH Regulations is to protect people from the hazards of substances used or likely to be present in the workplace and to impose specific duties regarding the import and use of certain specified substances within the EU.
- 3.7.15. The Regulations apply to a wide range of substances and preparations (mixtures of two or more substances) which have the potential to cause harm to health if they are ingested, inhaled, absorbed by, or come into contact with, the skin, or other body membranes. Hazardous substances can occur in many forms, including solids, liquids, vapours, gases and fumes.

#### **Environment (Wales) Act 2016**

- 3.7.16. Under section 6 of the Environment (Wales) Act 2016 public authorities that exercise their functions in relation to Wales have a duty to maintain and enhance biodiversity and promote the resilience of ecosystems. To help achieve this, and to comply with the duty, public authorities should embed the consideration of biodiversity and ecosystems into their day-to-day activities, policies, plans, programmes and projects.

#### **The Wildlife and Countryside Act 1981 (WCA)**

- 3.7.17. The WCA is the primary legislation which protects animals, plants, and certain habitats in the UK. It provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs). These sites are identified for their flora, fauna, geological

or physiographical interest by the statutory nature conservation bodies (SNCBs) in the UK. The SNCB for Wales is Natural Resources Wales (NRW).

- 3.7.18. The WCA provides for and protects wildlife, nature conservation, the countryside, National Parks and public rights of way (PRoW). If a species protected under the WCA is likely to be affected by development, a protected species licence will be required from NRW. Sites protected under the WCA, including SSSI, must also be considered. The effects of development on the PRoW network are also relevant.

#### **National Parks and Access to the Countryside Act 1949 (As Amended)**

- 3.7.19. This Act provides the framework for the establishment of National Parks and Areas of Outstanding Natural Beauty (AONBs). It also establishes powers to declare National Nature Reserves (NNRs), to notify SSSIs and for local authorities to establish Local Nature Reserves (LNRs).
- 3.7.20. National Parks and AONBs have statutory protection in order to conserve and enhance the natural beauty of their landscape. The purpose of designating a National Park or AONB is to conserve and enhance their natural beauty; including landform, geology, plants, animals, landscape features and the rich pattern of human settlement over the ages.

#### **Countryside and Rights of Way Act 2000 (CRoW Act) (As Amended)**

- 3.7.21. The CRoW Act (as amended) includes provisions in respect of PRoW and brought in new measures to further protect AONBs. This included meeting the demands of recreation, without compromising the original reasons for designation and safeguarding rural industries and local communities. There was also a new duty for all public bodies, including the ExA and the SoS to have regard to the purposes of AONBs and improved provisions for the protection and management of SSSIs.

#### **The Convention on Biological Diversity 1992**

- 3.7.22. The Convention on Biological Diversity (CBD) is the international legal instrument *for the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.*

#### **Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) (as amended by the Historic Environment (Wales) Act 2016)**

- 3.7.23. The LBCA Act empowers the SoS to maintain a list of built structures of historic or architectural importance and sets out the principal statutory provisions that must be considered in the determination of any application affecting listed buildings and conservation areas. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has had regard to the desirability of preserving any listed building and / or its setting or any features of special architectural or historic interest which it possesses. The Act has been amended by various acts, including specifically in Wales by the Historic Environment (Wales) Bill 2016.

#### **The Ancient Monuments and Archaeological Areas Act 1979 (as amended by the Historic Environment (Wales) Act 2016)**

- 3.7.24. The Ancient Monuments and Archaeological Areas Act (AMAAA) provides for Scheduled Monuments to be protected and for the maintenance of a list of Scheduled Monuments. It also imposes a requirement for Scheduled Monument

Consent for any works of demolition, repair, and alteration that might affect a designated Scheduled Monument.

- 3.7.25. The AMAAA was amended in 2016 by the Historic Environment (Wales) Bill 2016, which added a number of new sections to the Act for Wales.

#### **The Protection of Military Remains Act 1986**

- 3.7.26. The Protection of Military Remains Act 1986 provides protection for the wreckage of military aircraft and certain military wrecks. Designations can be either as a Controlled Site or Protected Place where access may be permitted but any operations which may disturb the site are illegal unless licensed by the Ministry of Defence.

#### **The Protection of Wrecks Act 1973**

- 3.7.27. The Protection of Wrecks Act 1973 allows the SoS for Digital, Culture, Media and Sport to designate a restricted area around the site of a vessel lying on or in the seabed in UK territorial waters to prevent uncontrolled.

#### **Merchant Shipping Act 1995**

- 3.7.28. The Merchant Shipping Act 1995 sets out the procedure for ascertaining the ownership of underwater finds that could be 'wrecks'. Any recovered material must be reported to the Receiver of Wrecks.

#### **Historic Environment (Wales) Act 2023**

- 3.7.29. The Historic Environment (Wales) Act will replace in Wales the Ancient Monuments and Archaeological Areas Act 1979 and the Planning (Listed Buildings and Conservation Areas) Act 1990. It was passed subsequent to the closure of the Examination of the Proposed Development, on 28 March 2023 and received Royal Assent on 14 June 2023.

#### **Climate Change Act 2008**

- 3.7.30. The Climate Change Act 2008 is the basis for the UK's approach to tackling and responding to climate change. It requires that emissions of carbon dioxide and other greenhouse gases are reduced and that climate change risks are prepared for. The Act also establishes the framework to deliver on these requirements and supports the UK's commitment to urgent international action to tackle climate change.
- 3.7.31. The Climate Change Act commits the Government by law to reducing greenhouse gas emissions by at least 80% of 1990 levels by 2050 (Committee on Climate Change, 2008). The 80% target was based on advice from the Climate Change Committee's (CCC's) 2008 report, 'Building a low-carbon economy' (Committee on Climate Change, 2008).
- 3.7.32. The Climate Change Act was amended by Statutory Instrument 1056 (2019)] to a 100% net zero target by 2050 following the CCC's updated report.
- 3.7.33. This has subsequently been updated following the CCC's Sixth Carbon Budget (December 2020) which sets a pathway which requires a 78% reduction in UK territorial emissions between 1990 and 2035. Thus, bringing forward the UK's previous target by nearly 15 years. The Carbon Budget Order 2021 secures the carbon budget for 2033-2037 (the Sixth Carbon Budget)

### **Human Rights Act 1998**

- 3.7.34. The Compulsory Acquisition of land can engage various relevant Articles under the Human Rights Act 1998. The implications of this are considered in Chapter 11 of this Report.

### **Protection of Badgers Act 1992**

- 3.7.35. The Protection of Badgers Act 1992 creates offences relating to kill, injure, taking of a badger or interfering with a badger sett. A Badger Survey Report (Public) [APP-133] is included in the EL whilst the Badger Survey Report (Confidential) [APP-132] is only available on request to those who have a legitimate need to view it. The implications of the Proposed Development for badgers are provided in ES Volume 3 Chapter 5 Onshore Biodiversity and Nature Conservation [REP8-061].

### **Hedgerows Regulations Act 1997**

- 3.7.36. The Hedgerow Regulations 1997 protect 'important' hedgerows with licencing and enforcement and penalties.

### **Pollution Prevention and Control Act 1999**

- 3.7.37. The Pollution Prevention and Control regulations apply an integrated environmental approach to the regulation of certain industrial activities. This means that emissions to air, water, including discharges to sewer, and land, plus a range of other environmental effects, must be considered together. Operators of installations that fall under the PPC regulations must have a permit in order to operate.

### **Highways Act 1980**

- 3.7.38. The Highways Act 1980 places a duty on the local Highway Authority to maintain the public highway network in a condition that is safe for users. The public highway network includes all adopted roads, footpaths and verges but does not include unadopted or privately owned roads.

### **New Roads and Street Works Act 1991**

- 3.7.39. The New Roads and Street Works Act 1991 provides a legislative framework for street works by undertakers, including utility companies, and works for road purposes.

## **3.8. MADE DEVELOPMENT CONSENT ORDERS**

- 3.8.1. The Applicant refers to a number of other made Development Consent Orders, including:
- Hornsea Three Offshore Wind Farm Order 2020 (S.I. 2020/1656).
  - Norfolk Vanguard Offshore Wind Farm Order 2020 (S.I. 2020/706).
  - Norfolk Boreas Offshore Wind Farm Order 2021 (S.I. 2021/1414).
  - East Anglia Three Offshore Wind Farm Order 2017 (S.I. 2017/826).
  - Port of Tilbury (Expansion) Order 2019 (S.I. 2019/359).
  - M20 Junction 10a Development Consent Order 2017 (S.I. 2017/1202).
  - A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016 (S.I. 2016/547).
  - Silvertown Tunnel Order 2018 (S.I. 2018/574).
  - Glyn Rhonwy Pumped Storage Generating Station Order 2017 (S.I. 2017/330).
  - Cleve Hill Solar Park Order 2020 (S.I. 2020/547).



- Immingham Open Cycle Turbine Order 2020 (S.I. 2020/847).
- Drax Power (Generating Stations) Order 2019 (S.I. 2019/1315).
- Hinkley Point C (Nuclear Generating Station) Order 2013 (S.I. 2013/648).
- West Burton C (Gas Fired Generating Station) Order 2020 (S.I. 2020/1148).
- Eggborough Gas Fired Generating Station Order 2018 (S.I. 2018/1020).
- Thurrock Flexible Generation Plant Development Consent Order 2022 (S.I. 2022/157).
- The East Anglia ONE North Offshore Wind Farm Order 2022 (S.I. 2022/432).
- The East Anglia TWO Offshore Wind Farm Order 2022 (S.I. 2022/433).
- The Northampton Gateway Rail Freight Interchange Order 2019 (S.I. 2019/1358).
- The Triton Knoll Electrical System Order 2016 (S.I. 2016/880).
- The Able Marine Energy Park Development Consent Order 2014 (S.I. 2014/2935).
- The Burbo Bank Extension Offshore Wind Farm Order 2014 (S.I. 2014/2594).
- The Rampion Offshore Wind Farm Order 2014 (S.I. 2014/1873).
- The Sizewell C (Nuclear Generating Station) Order 2022 (S.I. 2022/853).

### **3.9. TRANSBOUNDARY EFFECTS**

- 3.9.1. Regulation 32 of the EIA Regulations transposes Article 7 of EIA Directive (2011/92/EU) into UK Law as it applies to the PA2008 regime. During pre-application and before a recommendation to the SoS is made, the duties under EIA Regulation 32 are carried out by the Inspectorate on behalf of the SoS.
- 3.9.2. On the basis of the information available from the Applicant, the Inspectorate was of the view that the Proposed Development was likely to have a significant effect on the environment in a European Economic Area (EEA) State [OD-003]. In reaching this view the Inspectorate applied the precautionary approach (as explained in the Inspectorate's Advice Note 12: Transboundary Impacts Consultation).
- 3.9.3. In accordance with Regulation 32 of the EIA Regulations, the Inspectorate published a notification in the London Gazette on 29 September 2021 [OD-002] which provided information about the proposed project and its likely significant effects. The Republic of Ireland and France were asked to indicate by 5 November 2021 whether or not they wished to participate in the procedure for examining and determining the application under PA2008 and Regulation 32 of the EIA Regulations.
- 3.9.4. In addition, the ExA also took the decision to provide both the Republic of Ireland and France with 'Other Person' status in the Examination. This was to ensure relevant correspondence would be received from the Inspectorate in relation to the examination of this application ([OD-010] to [OD-013]).
- 3.9.5. A response was received from the Republic of Ireland [OD-001] confirming it wished to participate in the Examination. A response was also received from Meath County Council [AS-039], confirming the Council had no comment to make in respect of the Proposed Development.
- 3.9.6. The Irish Whale and Dolphin Group also responded stating the area for the Proposed Development is identified as being important for harbour porpoise, minke whale, bottlenose, common and Risso's dolphins as well as grey seals. Specific concerns related to piling soft starts, scale of mitigation and acoustic deterrent devices in the proposed Marine Mammal Mitigation Plan [AS-040].

- 3.9.7. A response was also received from France, confirming their participation in the PM as an 'Other Party' and also that Direction interrégionale de la mer Manche Est - mer du Nord (DIRM MEMN) would be participating in the Examination as an IP [OD-020].

### **3.10. PUBLIC SECTOR EQUALITY DUTY (PSED)**

- 3.10.1. The Equality Act 2010 consolidated previous legislation designed to prohibit discrimination on the grounds of protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation) and imposed the PSED which requires public bodies exercising public functions to have due regard for the need to eliminate discrimination, advance equality of opportunity and foster good relations between different peoples who share a relevant protected characteristic and those who do not share it.
- 3.10.2. The ExA's first questions (ExQ1.3.44) [PD-009] requested information from the Applicant on how they had had regard to the Equality Act 2010. In response the Applicant produced an Equalities Report [REP3-010]. The report reviewed any potential effects identified within the Environmental Statement that had the potential to impact on groups with characteristics under the Equality Act 2010 and concluded that with identified embedded mitigation and management measures no differentiated or disproportionate impacts on groups with protected characteristics are predicted as a result of any aspect of the Proposed Development.
- 3.10.3. A subsequent question from the ExA in its second set of questions (ExQ2.18.11) asked various parties whether they were satisfied with the assessment approach and the conclusions detailed within [REP3-010]. The host authority, Denbighshire County Council (DCC) [REP5-046] and the Welsh Government [REP5-045] stated that they agreed with the suggested approach and that the Applicant seemed to have followed the process for the equality impact assessment, engaged with stakeholders and considered mitigations where these were/are needed. Conwy County Borough Council (CCBC) [REP5-045] noted that discussions were ongoing. The ExA concurs with DCC and the Welsh Government that the Equalities Report followed due process and confirms mitigation where needed. No interested party within the Examination identified a differential impact on any protected group as a result of the Proposed Development.

### **3.11. OTHER RELEVANT POLICY STATEMENTS**

- 3.11.1. Other relevant policy statements include:
- A Green Future: Our 25 Year Plan to Improve the Environment (2021).
  - Energy White Paper (2022).
  - British Energy Security Strategy (2022).
  - The Isle of Anglesey Area of Outstanding Natural Beauty (AONB) Management Plan Review 2015-2020.
  - Clwydian Range and Dee Valley AONB Management Plan 2014-2019.
  - Snowdonia National Park Management Plan 2010-2015.
  - Noise and Soundscape Action Plan 2018-2023.
  - Towards Zero Waste – One Wales: One Planet 2014.
  - Technical Advice Note (TAN) 5: Nature Conservation and Planning.
  - TAN 11: Noise.
  - TAN 12: Design.
  - TAN 13: Tourism.

- TAN 14: Coastal Planning.
- TAN 15: Development and Flood Risk.
- TAN 18: Transport.
- TAN 20: Planning and the Welsh Language.
- TAN 21: Waste.
- TAN 23: Economic Development.
- TAN 24: the Historic Environment.

### **3.12. THE DEVELOPMENT PLAN**

- 3.12.1. The legal requirement under s38(6) of the Planning and Compulsory Purchase Act 2004 to determine applications for development consent in accordance with development plan documents does not apply to applications under PA2008.
- 3.12.2. The key development plan is the Denbighshire County Council Local Development Plan (2006-2021) (DCCCLDP) as all proposed onshore infrastructure is proposed to be in the County of Denbighshire.
- 3.12.3. Relevant LDP policies, as identified in DCC's LIR [REP1-056], include:
- Policy RD1: Sustainable development and good standard design.
  - Policy RD2: Green Barriers.
  - Policy BCS3: Securing infrastructure contributions from development.
  - Policy PSE1: North Wales Coast Strategic Regeneration Area.
  - Policy PSE15: Safeguarding Minerals.
  - Policy VOE1: Key areas of importance.
  - Policy VOE 2: Area of Outstanding Natural Beauty and Area of Outstanding Beauty.
  - Policy VOE5: Conservation of natural resources.
  - Policy VOE6: Water management.
  - Policy VOE10: Renewable energy technologies.
  - Policy ASA3: Parking standards.
- 3.12.4. DCC recognises within the LIR that the policy is intended to inform pre-application and early engagement discussions with promoters and provide an early view on potential constraints and opportunities across the district. It is not intended to replace NPS or Government guidance. It is intended to support proposals from construction through to operation and decommissioning.
- 3.12.5. DCC also confirmed in both their Statement of Common Ground (SoCG) [REP7-049] and in response to ExQ2.0.9 [REP5-046] that it finds no specific conflict with the policies of the development plan.
- 3.12.6. NPS EN-1 states at paragraph 4.1.5 that if there is any conflict between the above documents and an NPS, the NPS takes precedence due to the national significance of the proposed infrastructure.

## 4. THE PLANNING ISSUES

### 4.1. MAIN ISSUES IN THE EXAMINATION

4.1.1. This Chapter identifies the planning issues in the Examination. It notes the Examining Authority's (ExA) initial assessment of principal issues [PD-007] (Annexe C) and indicates how these issues evolved from discussion at the Preliminary Meeting (PM) and during the Examination.

4.1.2. It briefly provides a record of the issues arising from Examination processes including Relevant Representations (RR), Local Impact Reports (LIR), Written Representations (WR) and oral submissions. These matters are also considered further in their relevant Chapters.

4.1.3. Mention is also made of decision considerations arising from the following matters:

- Conformity with relevant National Policy Statements (NPS) and other legislative requirements in the context of the Planning Act 2008 (PA2008).
- Conformity with Development Plans.
- The application of other policies.

As well as relevant applicable processes for Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA).

4.1.4. These matters are considered in detailed analysis in their relevant Chapters.

#### **Initial Assessment of Principal Issues (IAP)**

4.1.5. As required by s88 of PA2008 and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010, the ExA made an Initial Assessment of Principal Issues (IAP) arising from the application within 21 days following receipt of the s58 certificate of compliance (s56 notice) under PA2008.

4.1.6. The ExA's IAP was published on 23 August 2022 [PD-007] (Annexe C). This formed an initial assessment of the issues based on the application documents and submitted RR. The list of issues relates to all phases of the Proposed Development.

4.1.7. The IAP was raised at the PM [EV-006 to EV-008]. The Applicant stated that regarding the 'Community Benefits' subsection of IAP contained within point 17 (Socioeconomics), this was being dealt with outside the Development Consent Order (DCO) process as it legally cannot be part of the DCO process. They also considered that biodiversity net gain should be noted as biodiversity benefits [EV-008].

4.1.8. The ExA noted the comments made and following the PM it was decided not to update the IAP from that initially published [PD-007] Annexe C. The issues were listed in alphabetical order and did not imply any order of importance. No other key issues were identified during the Examination and the IAP detailed the following topics:

4.1.9. **Aviation** – to include:

- Potential effects on Civil and Ministry of Defence radar and aviation operations.
- Adequacy and security of proposed mitigation.
- Lighting proposals and adequacy.

- 4.1.10. **Biodiversity, Ecology and Natural Environment** – to include:
- Potential effects on species and habitats in the marine and terrestrial environment, including protected species.
  - Implications for the integrity of designated sites.
  - Potential cumulative and in-combination effects.
  - Adequacy of baseline data including robustness of surveys and data collection methodology.
  - Adequacy and security of mitigation measures.
  - Adequacy and security of monitoring commitments including maintenance approach.
  - Biodiversity net gain.
- 4.1.11. **Compulsory Acquisition (CA) and Temporary Possession (TP)** – to include:
- The need for land and rights to be subject to CA / TP.
  - Land, rights and powers sought.
  - Minimisation of the need for land and rights.
  - Effects on those impacted by CA / TP.
  - The position of and effects on Statutory Undertakers, protected provisions and whether the tests of s127 and s138 of PA2008 would be satisfied.
  - The position in relation to Crown land.
  - The approach to special category land.
  - The adequacy and security of funding for compensation.
  - Accuracy of the Book of Reference.
  - Statement of Reasons and justification for powers sought.
  - Whether reasonable alternatives have been explored sufficiently.
  - Human rights considerations.
  - Whether a compelling case in the public interest has been established.
  - Whether the proposals meet the requirements of PA2008 in all other respects.
- 4.1.12. **Construction** – to include:
- Construction phasing and timetable.
  - Temporary work sites and storage.
  - Waste (onshore) and management of contaminated land.
  - Cable laying and foundation installation.
  - Working hours.
  - Invasive Non-Native Species (offshore and onshore).
  - Adequacy of management arrangements and monitoring.
- 4.1.13. **Draft Development Consent Order (dDCO)** – to include:
- Adequacy of the Explanatory Memorandum.
  - Relevant definitions and their clarity / consistency.
  - The structure of the dDCO.
  - Design flexibility and justification.
  - The appropriateness and adequacy of proposed requirements and whether they would effectively secure mitigation, together with any monitoring provisions.
  - Whether any additional requirements are necessary.
  - The relationship with the Marine Licence and other consents / permits / licences (including regulatory approvals and environmental permits).
  - Application and modification of legislative provisions.
  - Discharge arrangements for matters which detailed approval needs to be obtained, including consultation and arbitration.

- The identification of all relevant statutory undertakers for which protective provisions are required and the adequacy and agreement of those provisions.
- Other provisions in the dDCO, including for removal of consent requirements, CA and documents to be certified.

4.1.14. **Flood Risk and Water Quality** – to include:

- Flood risk including site drainage and surface water flooding and hydrogeology.
- Any other potential flood risk effects.
- Adequacy of baseline data including robustness of surveys and data collection methodology.
- Extent of catchment area, accuracy of modelling, climate change allowances and any assumptions made.
- Effects on potable and non-potable water supply during construction and operation.
- Compliance with the Water Framework Directive.
- Adequacy of mitigation measures and monitoring.

4.1.15. **Good Design** – to include:

- Whether the proposal, both as a whole and in part, demonstrates good design.
- Design principles.

4.1.16. **Historic Environment** – to include:

- Effects on the onshore historic environment, including archaeology and setting of designated assets (including but not limited to listed buildings and world heritage sites).
- Effects on the intertidal and offshore historic environment.
- Future archaeological investigation, monitoring and supervision.
- Adequacy of archaeological surveys undertaken (including interpretation of survey results).
- Adequacy of mitigation measures and monitoring.

4.1.17. **Land Use** – to include:

- Effects on agricultural land and farming operations.
- Effects on soil quality.
- Adequacy of mitigation measures and monitoring.

4.1.18. **Seascape, Landscape and Visual (relating to the offshore array and the onshore cabling and sub-station)** – to include:

- The adequacy of assessment methodology and approach including the extent of study areas.
- The approach to seascape, landscape and visual impact assessments.
- Baseline information.
- Adequacy of viewpoint locations.
- Accuracy of photomontages.
- The effects on seascape character.
- The effects on landscape character and landscape designations.
- Effect on landscape features including trees and hedgerows.
- Visual effects.
- Effects of artificial lighting.
- Design of the Proposed Development.
- Adequacy of mitigation measures and monitoring.

- Landscape management and maintenance and consideration of the outline Landscape and Ecology Management Plan.

4.1.19. **Marine and Coastal Physical Processes** – to include:

- Scouring and scour protection.
- Marine water and sediment quality.
- Effects of landfall location and effects on the coast.
- Adequacy of mitigation measures and monitoring.

4.1.20. **Marine (Commercial)** – to include:

- Effects on shipping and navigation.
- Effects on fisheries and fishing.
- Transboundary effects.
- Adequacy of mitigation measures and monitoring.

4.1.21. **Marine (Natural)** – to include:

- Effects on benthic species and habitats, fish and shellfish.
- Adequacy of mitigation measures and monitoring.

4.1.22. **Public Health and nuisance** – to include:

- Air quality effects during construction.
- Noise pollution and vibration effects.
- Light pollution.
- Electric and Magnetic Fields.
- Effects on human health.
- Residential amenity.
- Adequacy of mitigation and monitoring.

4.1.23. **Other projects and proposals** – to include:

- The effects of the Proposed Development on other constructed and proposed major projects nearby including offshore wind farms.
- Cumulative and in-combination effects with other major projects and proposals.

4.1.24. **Project description and site selection** – to include:

- Nature of the Proposed Development in terms of the 'Rochdale envelope'.
- Assessment of alternatives.
- Need for the development and climate change effects.
- Conformity or otherwise with relevant National Policy Statements, development plans and other policies.

4.1.25. **Socio-Economics** – to include:

- Baseline assessment methodology and the socio-economic evaluation.
- Effects on local businesses in respect of the potential seascape, landscape and visual effects of the Proposed Development, both on and off-shore during construction and operation.
- Employment and training opportunities including monitoring and data capturing.
- Community benefits.
- Adequacy of mitigation measures and monitoring.

4.1.26. **Tourism and Recreation** – to include:

- Baseline assessment methodology and tourism evaluation.
- Effects on tourism and recreation activities in respect of the potential landscape, seascape and visual effects of the Proposed Development, both on and offshore during construction and operation.
- Whether the plans are appropriate to minimise disruption to users of the PRow network and to minimise effects on local and tourism community.
- Tourism and recreation opportunities.
- Adequacy of mitigation measures and monitoring.

4.1.27. **Traffic and Transport** – to include:

- Traffic generation, traffic management and highway safety.
- Effects on the PRow network including temporary and permanent diversion and / or stopping up.
- Traffic modelling approach and effects on local, regional and national networks
- Effects of other developments on the traffic modelling approach.
- Road and pedestrian safety.
- Adequacy of mitigation measures and monitoring.

4.1.28. Each IAPI may not have its 'own' chapter or section, but all issues are covered within the Report.

## 4.2. **ISSUES ARISING IN WRITTEN SUBMISSIONS**

4.2.1. The key events in the Examination are summarised in Chapter 1 of this Report and set out more fully in Appendix A. In total there were sixty Relevant Representations (RRs), fifteen Written Representations (WR) at Deadline (D) 1, one Local Impact Report (LIR) from Denbighshire County Council (DCC) at D1, 16 signed Statements of Common Ground (SoCG) and several other written submissions at each deadline (D1 to D8) within the Examination timetable. Several oral submissions were made during hearings.

4.2.2. As the IAPI had been derived from an assessment of the application documents and the RRs received in response to the application, the subsequent WRs at D1 did not increase the range of issues already identified, beyond those raised at the PM and referred to earlier.

4.2.3. Broadly speaking, all of the issues raised fell within the IAPI set out above and the ExA goes on to consider them further in Chapters 5 and 6 of this Report.

### **Other Written Submissions**

4.2.4. Over all deadlines (D1 to D8), participants had the opportunity to respond to submissions made to previous deadlines, matters arising at hearings, requests for further information, and Additional Submissions accepted by the ExA during the Examination.

4.2.5. Fifty-seven Additional Submissions ([AS-001] to [AS-057]) were provided which the ExA accepted and has considered, including from the following:

- The Applicant [AS-001 to AS-034, AS-046, AS-047 and AS-053 to AS-056].
- The UK Health Security Agency (UKHSA) [AS-035].
- Janet Finch-Saunders MS / AS [AS-036].
- Natural England [AS-037].



- Network Rail Infrastructure Ltd [AS-038].
- Meath County Council [AS-039].
- Irish Whale and Dolphin Group [AS-040].
- Office of the Planning Regulator [AS-041].
- Davis Meade Property Consultants on behalf of Mr JB and Mrs E Evans [AS-042].
- Welsh Government [AS-043].
- Ethan Homer [AS-044].
- Rostons on behalf of Mrs H Proffitt, Mrs J Johnson, Mrs S Archdale and Mrs R Hughes [AS-045].
- Trustees of the Bodrhyddan Estate Maintenance Fund and Bodrhyddan Farming Company Ltd [AS-048].
- National Grid Electricity Transmission plc [AS-049 and AS-057].
- Charlotte Bowers [AS-050].
- Welsh Government (transport) [AS-051 and AS-052]

4.2.6. SoCGs were provided throughout the Examination and a list of these are provided in Chapter 1 of this Report.

### **4.3. ISSUES ARISING IN LOCAL IMPACT REPORTS**

4.3.1. Section (s) 104 and s105 of PA2008 state that in deciding the application the SoS must have regard to any LIR within the meaning of s60(3). There is a requirement under s60(2) of PA2008 to give notice in writing to each Local Authority falling under s56A inviting them to submit LIRs. This notice was given as part of the Rule 6 letter [PD-007] dated 23 August 2022 and reiterated in the Rule 8 letter [PD-008] dated 27 September 2022 following the PM.

4.3.2. DCC [REP1-056] produced a LIR which was submitted at D1 of the Examination and covered the following issues:

- UK and Welsh Government Planning Policy and Legislation.
- Local Planning Policy.
- Principle of Development and Climate Change.
- Seascape, Landscape and Visual Impact.
- Socio economics.
- Tourism and Recreation.
- Onshore Biodiversity and Nature Conservation.
- Ground Conditions and Land Use.
- Hydrology, Hydrogeology and Flood Risk.
- Onshore Archaeology and Built Heritage.
- Traffic and Transport.
- Residential/Public Amenity (Airbourne Noise and Vibration, Air Quality and Public Health).

4.3.3. The Applicant sought to demonstrate through the Examination and its continuing dialogue with DCC that the issues identified within the LIR could be addressed. This would be by way of amendments to the dDCO and the safeguards provided through, amongst other things, the delivery mechanisms set out in plans and documents such as the Outline Code of Construction Practice, Outline Landscape and Ecology Management Plan, Outline Soil Management Plan, Outline Site Waste Management Plan, Outline Pollution Prevention and Emergency Incident Response which were to be secured through obligations within the dDCO such that the issues initially identified would be satisfied.

- 4.3.4. In addition, the Applicant and DCC signed a SoCG [REP7-049] which confirmed all matters had been agreed between the Applicant and DCC.
- 4.3.5. An updated LIR was requested at D8 but was not submitted. Nevertheless, the submissions in the final rounds of deadlines from both the Applicant and DCC confirmed agreement in most areas overcoming the majority of those issues that had been presented by DCC at the outset.
- 4.3.6. The overarching support for the Proposed Development by DCC has been noted and all issues arising from the LIR and SoCG have been taken into account. Analysis of the outstanding issues is carried forward and addressed in the relevant sections and chapters of this Report to ensure that they are considered appropriately by the SoS.

## **4.4. CONFORMITY WITH NATIONAL POLICY STATEMENTS**

- 4.4.1. The following National Policy Statements (NPSs), which set out Government Policy on different types of national Infrastructure, are considered important and relevant in this case:

- EN-1: Overarching National Policy Statement for Energy (NPS EN-1).
- EN-3: Renewable Energy Infrastructure (NPS EN-3).
- EN-5: Electricity Networks Infrastructure (NPS EN-5).

### **NPS EN-1**

- 4.4.2. NPS EN-1 (July 2011) sets out general principles and generic impacts to be taken into account in considering applications for energy Nationally Significant Infrastructure Projects (NSIPs), including the role of offshore wind, which is expected to provide the largest single contribution towards the Government's renewable energy targets. It provides the primary basis for determining if development consent should be granted. All other energy NPSs are used together with this NPS.
- 4.4.3. Part 4 of EN-1 makes clear that the assessment of applications for energy NSIPs *...should start with a presumption in favour of granting consent...* and sets out the assessment principles to be applied. Therefore, the ExA has applied the tests set out in NPS EN-1 as one of the primary bases for its examination of the application.
- 4.4.4. The overarching policy objectives that underpin NPS EN-1 include:
- Meeting the demand for energy generation in the United Kingdom (UK).
  - Transitioning to low carbon sources and reducing greenhouse gas emissions.
- 4.4.5. While NPS EN-1 is clear about the Government's commitment to transitioning to low carbon sources and meeting the targets to reduce emissions, the need for projects to strike a balance in meeting the overarching policy objectives is acknowledged throughout NPS EN-1.
- 4.4.6. Part 2 reaffirms the commitment to meeting legally binding targets to cutting greenhouse gas emissions, now more recently updated following the 6th Climate Change Committee (CCC) report.
- 4.4.7. Part 3 sets out a presumption in favour of granting consent for energy NSIPs and requires that the weight to be attributed to the considerations of need should be proportionate to the project's actual contribution.

- Paragraph 3.1.1 states that *the UK needs all the types of energy infrastructure covered by the NPS's in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions.*
- Paragraph 3.1.4 states that *the SoS should give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for development consent under the PA2008.*
- Paragraph 3.2.3 states that *the weight which is attributed to considerations of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure.*

- 4.4.8. Part 3.3 references the urgency of the need for new electricity generation capacity and makes clear the need to bring forward new energy NSIPs as soon as possible. Going on to warn at paragraph 3.3.16 that *Energy NSIPs take a long time to move from design conception to operation and they are generally designed to operate for 30 to 60 years. The Government has therefore considered a planning horizon of 2025 for the energy NPSs in general and for EN-6 in particular, as an interim milestone to secure our longer term objectives. A failure to decarbonise and diversify our energy sources now could result in the UK becoming locked into a system of high carbon generation, which would make it very difficult and expensive to meet our 2050 carbon reduction target. We cannot afford for this to happen.*
- 4.4.9. Paragraph 3.3.2 notes that new generating capacity is required because of the need to ensure energy security, and so the need to ensure sufficient capacity is a key objective of Government energy policy. It states that *The Government needs to ensure sufficient electricity generating capacity is available to meet maximum peak demand, with a safety margin or spare capacity to accommodate unexpectedly high demand and to mitigate risks such as unexpected plant closures and extreme weather events.*
- 4.4.10. Part 4 of NPS EN-1, generic impacts of relevance to this application include impacts on air quality and emissions, biodiversity, historic environment, landscape and visual, traffic and transport, and socioeconomic benefits at national, regional and local levels.
- 4.4.11. Paragraph 4.1.2 of NPS EN-1 says that the SoS should start with a presumption in favour of granting consent to applications for energy NSIPs, and that the presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused.
- 4.4.12. In addition, paragraph 4.1.3 states that the SoS should consider environmental, social and economic benefits and adverse impacts at national, regional and local levels. These considerations should include potential benefits in meeting the need for energy infrastructure, job creation and any long-term or wider benefits and any potential adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.
- 4.4.13. Further aspects of NPS EN-1 are referred to as relevant throughout this report.

### **NPS EN-3**

- 4.4.14. This NPS sets out additional policy specific to renewable energy applications, including proposed offshore wind generating stations exceeding 100MW. The ExA notes that due to amendments to the PA2008 brought about by the Wales Act 2017 in effect this is altered to 500MW for projects in Wales. Section 2.6 of EN-3 sets out detailed assessment principles for offshore wind proposals, and these have been

applied by the ExA as one of the primary bases for its examination of the application.

- 4.4.15. Section 2.6 of NPS EN-3 goes on to consider the implications of the Rochdale Envelope approach in the context of renewable energy development. As a matter of policy, NPS EN-3 makes clear that matters such as, but not necessarily limited to, those listed below may not be able to be specified precisely in an application:
- Precise location and configuration of turbines and associated development.
  - Foundation type.
  - Exact turbine tip height.
  - Cable type and cable route.
  - Exact locations of offshore and/or onshore substations.
- 4.4.16. The NPS provides them as examples but does not seek to prescribe closely which matters must be assessed precisely and which matters are capable of assessment within a more flexible Rochdale Envelope based approach.
- 4.4.17. NPS EN-3 sets out more detailed considerations relevant to offshore wind farms. In terms of generic impact, NPS EN-3 makes clear that the designation of an area as a Natura 2000 site (a European site) *...does not necessarily restrict the construction or operation of offshore wind farms in or near that area...* (paragraph 2.6.69). It makes clear that mitigation should be considered in terms of the careful design of the development itself and of the construction techniques employed. Ecological monitoring is likely to be appropriate, both to enable the better management of the project itself and also, given the lack of scientific knowledge, to provide further useful information relevant to the management of future projects.
- 4.4.18. Further aspects of NPS EN-3 are referred to where relevant throughout this report.

#### **NPS EN-5**

- 4.4.19. This NPS (paras 1.8.1 and 1.8.2) sets out policy relevant to electricity transmission (400 kilovolt (kV) and 275kV) and distribution systems from transmission systems to the end user (130kV to 230kV). It also covers substations and converter stations.
- 4.4.20. The NPS is therefore relevant to this application insofar as it applies to sub-sea interconnecting cables, sub-sea export cables, onshore undergrounded cables, offshore collector stations and converter stations and the onshore substation extension and HVDC substation.
- 4.4.21. NPS EN-5 also establishes the need for applicants to address possible issues arising from electromagnetic fields that would be created by high-voltage cables.
- 4.4.22. Further aspects of NPS EN-5 are referred to where relevant throughout this report.

### **4.5. ENERGY NATIONAL POLICY STATEMENT CONSULTATION**

- 4.5.1. On 6 September 2021 the Government published 'Planning for New Energy Infrastructure Draft National Policy Statements for energy infrastructure' a consultation on the suite of energy NPS EN-1 to NPS EN-5 which ran until 29 November 2021. This reaffirmed that the current NPS remain relevant government policy and NPS EN-1 to NPS EN-5 have effect for the purposes of PA2008.
- 4.5.2. The Draft NPS EN-1 directs that the current suite of NPSs should have effect for any application accepted for Examination before the designation of the 2021

amendments, but that any emerging draft NPSs *are potentially capable of being important and relevant considerations in the decision-making process.*

4.5.3. As previously detailed, at the end of the Examination, Government was analysing the consultation feedback in respect of the draft NPSs. Also, as detailed above, the ExA is aware that the SoS released new drafts of EN-1, EN-3, and EN-5 for consultation on 30 March 2023. These have not been considered in this Report as they were published following the closure of the Examination.

4.5.4. Further aspects of the draft NPSs are referred to as relevant throughout this report.

## **4.6. MARINE LICENCE REQUIREMENTS**

4.6.1. As the Proposed Development is situated in Welsh waters, a separate marine licence or licenses are needed from Natural Resources Wales (NRW) under the Marine and Coastal Access Act 2009. The DCO therefore does not contain powers or controls which sit within the Marine Licencing regime. The Marine Licences (ML) will be applied for in parallel with the DCO. Any DCO would only be implementable subject to NRW's grant of effective MLs and be subject to compliance with the terms of any such licences.

4.6.2. In the context of the Proposed Development four separate MLs will be required for the following:

- To construct and operate the generation assets.
- The transmission assets.
- For the assets associated with connecting to the existing Gwynt y Môr project.
- For the River Clwyd crossing.

4.6.3. The Applicant submitted a 'Marine Licence Principles' document at each of the Examination deadlines, with the final version being [REP8-014]. This document provides a tabulation of the proposed principles which are anticipated to inform the marine licences for the Proposed Development, subject to the licences being granted by NRW.

## **4.7. CONFORMITY WITH THE DEVELOPMENT PLAN**

4.7.1. The application relates to land within the local authority area of DCC. NPS EN-1 (paragraph 4.1.5) states that policies contained within Development Plan documents and other Local Development Framework documents may be considered important and relevant in decision making.

4.7.2. The LIR [REP1-056] identifies that, for the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004, the development plan for the area of the application site comprises the Denbighshire County Council Local Development Plan 2006-2021 (CCCLDP).

4.7.3. The development plan policies cited by DCC in their LIR [REP1-056] as being relevant to the Proposed Development are detailed in Section 3.13 above.

4.7.4. As stated in paragraph 4.1.5 of NPS EN-1, if there is any conflict between the above documents and a NPS then the NPS takes precedence because of the national significance of the infrastructure. The Statement of Common Ground signed between the Applicant and DCC [REP7-049] agrees that there would be no conflict with the Development Plan.

- 4.7.5. In referencing the Development Plan policies DCC did not suggest there was a dispute over the interpretation of the policy, or a suggestion there was a conflict with it. Moreover, DCC in referencing policies within the LIR confirm their position as to the relative position of the Development Plan in the hierarchy of policy as set out in the NPS.
- 4.7.6. Policy other than that arising from NPSs is capable of being important and relevant. The compliance or otherwise of the Proposed Development with the relevant development plan policies is identified and analysed further in relation to the individual topics in the following chapters.

## **4.8. APPLICATION OF OTHER POLICIES**

- 4.8.1. DCC declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.
- 4.8.2. In their LIR [REP1-056] DCC also consider the following technical and guidance documents to be material planning considerations:
- Welsh Government LANDMAP: the all-Wales Geographical Information (GIS) based resource for assessing landscape character and quality.
  - Cadw guidance document 'Setting of Historic Assets in Wales Guidance' (CADW, May 2017).
  - Welsh Government Predicative Agricultural Land Classification: predicative map.

## **4.9. THE PRINCIPLE OF THE DEVELOPMENT**

- 4.9.1. The Applicant provided a Planning Statement [APP-298] and Appendix 2 [APP-300] setting out how it considered the Proposed Development accorded with Planning Policy. This was updated by [REP8-083] (Appendix 2 was not updated) as the Examination progressed in light of issues raised by IPs and as a consequence of questions raised by the ExA.
- 4.9.2. The ExA asked the Applicant and DCC questions in respect of policy during the first and second round of written examination questions and the responses can be found at [REP2-100] and [REP5-046].
- 4.9.3. As stated above the principle of the Proposed Development conforms with PA2008. The generic impacts of the Proposed Development are considered in the light of the relevant NPS EN-1, EN-3 and EN-5 policies in Chapter 5 of this Report.

## **4.10. ENVIRONMENTAL IMPACT ASSESSMENT**

- 4.10.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).
- 4.10.2. The Proposed Development falls within Schedule 2 paragraph 3 (i) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) and Schedule A1 paragraph 3 of the Marine Works EIA Regulations 2007. The ES was prepared with the terrestrial elements being assessed in accordance with the EIA Regulations and the marine elements being assessed with

reference to the Marine Works EIA Regulations. The approach taken by the Applicant is explained in [APP-041].

- 4.10.3. The project wide generic approach to EIA methodology is set out in the Environmental Impact Assessment Methodology [APP-041] where significance of effects is based upon a matrix consisting of magnitude of impact and sensitivity of receptor. Any effect that is concluded to be of moderate or major significance within the matrix is deemed to be 'significant' in EIA terms. Each topic specific chapter outlines the EIA approach and any differences in methodology assessment and has been summarised in the relevant section within this report.
- 4.10.4. NRW has relied upon Regulation 10 of the Marine Works EIA Regulations which exempts the need for an EIA in respect of the ML application(s) on the basis that the EIA will be properly carried out by another consenting authority, which in this case is the Secretary of State (SoS). Under this arrangement, NRW must take into account the conclusions of the SoS's assessment, any conditions attached to the DCO, and mitigation and monitoring measures. A practical consequence of this therefore is that NRW would not be in a position to issue a marine licence until the DCO has been issued.
- 4.10.5. On submission, all the application documents were reviewed by the Planning Inspectorate within the statutory period available for Acceptance. The information within the ES was considered to be of an adequate standard for examination by the ExA.
- 4.10.6. The environmental impacts of the Proposed Development are assessed during its construction and operation and decommissioning. Existing baseline conditions have been defined based on desk-based studies and site surveys and where appropriate are discussed in the relevant chapters of this report.
- 4.10.7. The EIA process involves the identification of sensitive receptors that may be affected by impacts resulting from the Proposed Development and assesses the extent to which these receptors may experience significant environmental effects as a result. Where significant effects are identified, the ES proposes mitigation measures where possible to avoid, reduce, or offset the significance of the effects. The remaining effects after taking into account mitigation are expressed as 'residual effects'.
- 4.10.8. In most ES chapters, effects that are assessed as being moderate or major are considered to be significant. The exception to this is in respect of seascape, landscape and visual effects [REP8-082, REP8-087], where effects that are assessed as being moderate-major or major are considered as significant and effects assessed as being moderate are considered either significant or not significant based on professional judgement.
- 4.10.9. At the end of the Examination there remain some matters still under discussion and some matters not agreed which related to EIA assessment methodology, EIA assessment findings and cumulative impact assessment. The status of each topic area with each party in SoCGs is set out in the Applicant's Statement of Commonality of Statements of Common Ground [REP8-125]. These are all reported under the relevant topic sections of Chapter 5 of this Report and in Chapter 6 for HRA matters.
- 4.10.10. Overall, in the light of the submitted documentation and the submissions received, the ExA considers that the ES, as supplemented with the additional information

secured during the Examination, provides an adequate basis for the EIA. In turn the ExA also considers that the various elements of the EIA, supplemented by the information received during the Examination, now form an adequate basis for this Recommendation Report and for decision making by the SoS.

- 4.10.11. Following the submission and acceptance of the application, various amendments were made to several ES chapters, figures and supporting documents. A complete list of amendments and updates to documents is contained within the 'Document Tracker' document [REP8-115].
- 4.10.12. In addition to the above, the Applicant provided an Application Errata List [REP08-053] with the purpose of identifying and correcting minor errors within application documents where revised documents were not provided. Individual chapters were also updated at D8 where relevant
- 4.10.13. Reference is made to the final versions of ES chapters, appendices, figures and supporting documents hereafter where appropriate and explain the reasons for the changes if important and necessary to do so.

## **4.11. HABITATS REGULATIONS ASSESSMENT**

### **The Competent Authority**

- 4.11.1. The SoS is the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) ('the Habitats Regulations'). The Habitats Regulations were amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.
- 4.11.2. For ease of expression, both sets of regulations are covered by the term 'Habitats Regulations' within this report unless otherwise expressed. The Habitats Regulations provide for the designation of sites for the protection of certain species and habitats. These are collectively termed 'European sites' and form part of a network of 'protected sites' across the UK known as the 'national site network' (NSN). This report uses the term 'European site' for both European sites and European offshore marine sites. As the Application covers areas within and outside the 12nm limit, both sets of Habitats Regulations apply.
- 4.11.3. The Convention on Wetlands of International Importance 1972 (the Ramsar Convention) provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the United Kingdom the same protection as sites within the National Site Network (collectively referred to here as 'protected sites').
- 4.11.4. As a matter of policy, the Government applies the same procedures to several other internationally designated sites, including Ramsar sites; these are all referred to in this report hereafter as European sites<sup>3</sup>. Consent for the Proposed Development may only be granted if, having assessed the potential adverse effects the Proposed

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<sup>3</sup> The term European sites in this context includes Special Areas of Conservation (SAC), Sites of Community Importance (SCI), candidate SACs (cSAC), possible SACs (pSAC), Special Protection Areas (SPA), potential SPAs (pSPA), Ramsar sites and proposed Ramsar sites for which the UK is responsible.



Development could have on European sites, the competent authority considers it acceptable in light of the requirements stipulated in the Habitats Regulations.

4.11.5. For the purposes of the Habitats Regulations, the SoSESNZ is the competent authority in relation to the DCO. NRW is the competent authority for determination of the Marine Licence.

4.11.6. Chapter 6 sets out the ExA's findings and conclusions in relation to effects on European sites and is intended to assist the SoS in performing their duty under the Habitats Regulations.

#### **Habitats Regulations Assessment Documentation**

4.11.7. The application was accompanied by a Report to Inform Appropriate Assessment [APP-027] and associated Annexes<sup>4</sup>. In addition, the Applicant also submitted a revised RIAA at D8 [REP8-055]. The ExA published a Report on the Implications for European Sites (RIES) [OD-021]. The RIES identifies other relevant documentation such as ES chapters, and latest documents submitted during examination are listed in Chapter 6. The Applicant's approach to HRA, the matters raised during the Examination and our findings and conclusions are reported on in Chapter 6.

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<sup>4</sup> [APP-028; APP-029; AS-022; APP-031, APP-032; APP-033; APP-034 and APP-035]

## **5. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES**

### **5.1. INTRODUCTION**

5.1.1. This Chapter addresses potential effects and benefits of the Proposed Development which were raised in the ExA's identification of issues and in submissions to the Examination. Each section of this Chapter generally consists of the following parts:

- Introduction including policy background;
- Applicant's approach in the Environmental Statement (ES) and later submissions, including baseline conditions, impacts (as assessed in the ES) and mitigation where relevant;
- issues arising; and
- the ExA's reasoning and conclusions including any further mitigation it is proposing in its recommended Development Consent Order (rDCO), found at Appendix D.

5.1.2. Matters relating to the overarching legal and policy context and the ExA's findings in relation to these matters are considered in Chapters 3 and 4 respectively and will not be repeated in this Chapter.

5.1.3. The term 'impact' is used throughout this Chapter. However, to clarify, environmental 'impacts' and 'effects' are both considered in this Report to be 'environmental effects'.

5.1.4. The findings and conclusions in relation to the planning issues are considered under generic topic headings which are arranged in alphabetical order. The order in which all these section headings are presented should not be taken to imply any order of merit.

5.1.5. In addition, to aid the reader and to aid consistency, the ExA has set out the following regime for applying / assessing the weight to be attached to the different aspects of the Proposed Development in the following manner:

- Where there is no weight: The ExA considers that there are no matters relating to that issue which would weigh for or against the making of the Order.
- First level: The ExA ascribes limited weight to matters relating to the issue for/ against the making of the Order.
- Second level: The ExA ascribes moderate weight to matters relating to the issue for/ against the making of the Order.
- Third level: The ExA ascribes substantial weight to matters relating to the issue for/ against the making of the Order.
- Fourth level: The ExA ascribes very substantial weight to matters relating to the issue for/ against the making of the Order.

## **5.2. AVIATION**

### **Introduction**

- 5.2.1. This chapter considers the policy matters relating to Aviation matters, before moving onto the Applicant's case, considering matters in the Examination and then the ExA's conclusion. An overall conclusion is provided at the end.

### **Policy Considerations**

#### **Overarching National Policy Statement for Energy (EN-1)**

- 5.2.2. Paragraph 5.4.2 of NPS EN-1 states that it is essential that the safety of UK aerodromes, aircraft and airspace is not adversely affected by new energy infrastructure and that where a Proposed Development may have an effect on civil or military aviation and/or other defence assets an assessment of potential effects should be set out in the ES (paragraph 5.4.10). The applicant should consult the Ministry of Defence (MoD), the Civil Aviation Authority (CAA), National Air Traffic Services (NATS) and any aerodrome – licensed or otherwise – likely to be affected by the Proposed Development in preparing an assessment of the proposal on aviation or other defence interests (paragraph 5.4.11).
- 5.2.3. NPS EN-1 also states that any assessment of aviation or other defence interests should include the potential impacts of the Proposed Development upon the operation of communication, navigation, and surveillance (CNS) infrastructure, flight patterns (both civil and military), other defence assets and aerodrome operational procedures, and that it should also assess the cumulative effects of the project with other relevant projects in relation to aviation and defence.
- 5.2.4. Paragraph 5.4.14 notes that the Secretary of State (SoS) should be satisfied that the effects on civil and military aerodromes, aviation technical sites and other defence assets have been addressed by the Applicant and that any necessary assessment of the proposal on aviation or defence interests has been carried out. In particular, it should be satisfied that the proposal has been designed to minimise adverse impacts on the operation and safety of aerodromes and that reasonable mitigation is carried out.
- 5.2.5. When assessing the necessity, acceptability and reasonableness of operational changes to aerodromes, the SoS should satisfy itself that it has the necessary information regarding the operational procedures along with any demonstrable risks or harm of such changes, taking into account the cases put forward by all parties (paragraph 5.4.14) and where there are conflicts between the Government's energy and transport policies and military interests in relation to the application, the SoS expects the relevant parties to have made appropriate efforts to work together to identify realistic and pragmatic solutions to the conflicts (5.4.15).
- 5.2.6. NPS EN-1 also notes (paragraph 5.4.18) that where a proposed energy infrastructure development would significantly impede or compromise the safe and effective use of civil or military aviation or defence assets and or significantly limit military training, the SoS may consider the use of 'Grampian' or other forms of condition which relate to the use of future technological solutions, to mitigate impacts. Where technological solutions have not yet been developed or proven, the SoS will need to consider the likelihood of a solution becoming available within the time limit for implementation of the development consent.

## **Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002**

- 5.2.7. Certain civil aerodromes on the basis of their importance to the national air transport system are officially safeguarded in order to ensure that their operation is not impacted upon by Proposed Developments. Aerodrome safeguarding covers aspects such as: protecting the airspace around an aerodrome to ensure no structures may cause danger to aircraft either in the air or on the ground; protecting the integrity of radar and other electronic aids to navigation; and protecting aircraft from the risk of collision with obstacles through appropriate lighting.

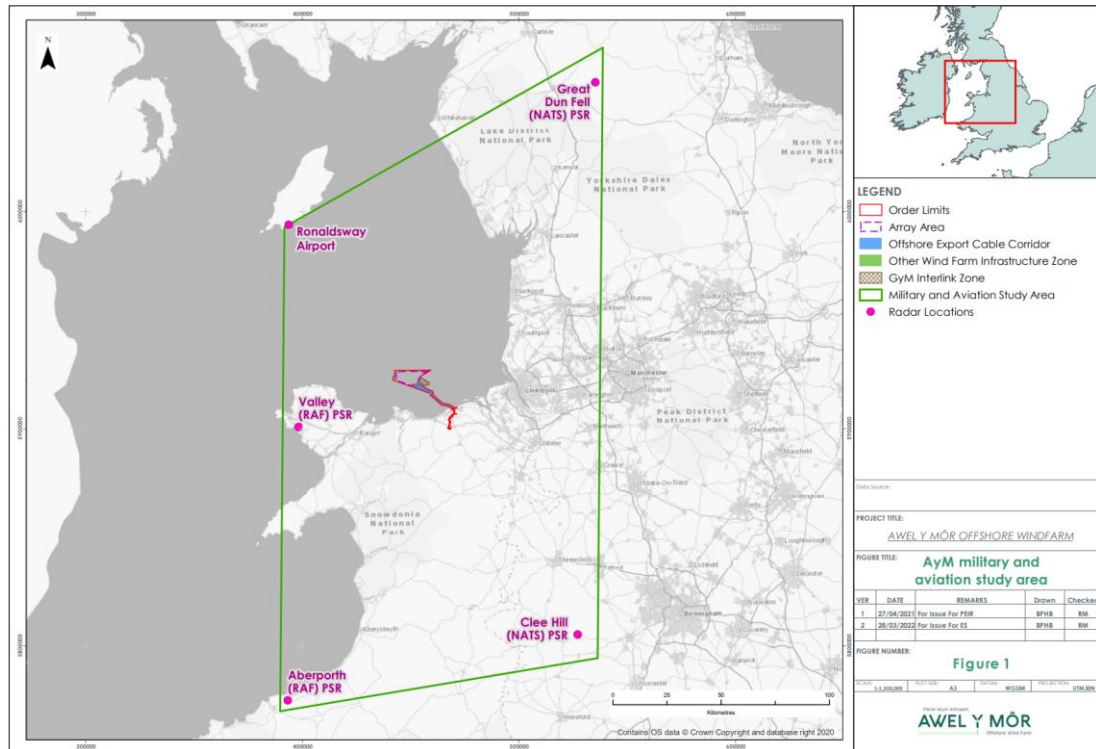
### **Draft National Policy Statements**

- 5.2.8. The Draft Overarching National Policy Statement for Energy (September 2021) mirrors the policies and text contained within the extant NPS EN-1.

### **The Applicant's Case**

- 5.2.9. The Applicant's Case is set out in the Environmental Statement (ES), Volume 2, Chapter 13 [APP-059].
- 5.2.10. Consultation with civil and military aviation stakeholders identified that the main potential issue concerning aviation and the Proposed Development would be wind turbine interference with Primary Surveillance Radars (PSR), specifically the NATS St. Annes and Great Dun Fell PSRs. The MoD identified a potential effect on the Royal Air Force (RAF) Valley and British Aerospace (BA) Warton PSR systems, and the Marine Coastguard Agency (MCA) states that the wind turbine layout would require MCA approval to minimise the risk to Search and Rescue (SAR) aircraft operating within the array. The Isle of Man Government state that the Ronaldsway Airport PSR should be considered. Helicopter operators were consulted, with Eni (ENI) and their helicopter provider NHV Helicopters (NHV) considering that the Proposed Development may create restrictions (Table 2 of [APP-059]).
- 5.2.11. In subsequent consultation the MoD confirmed that no impact was expected on the RAF or BA systems but requested that MoD accredited lighting was fitted to the turbines. The Isle of Man (IoM) Government also stated that there would be no effect on Ronaldsway Airport. Further consultation with NHV established that the existing Gwynt y Môr offshore wind farm resulted in a number of lost flying days and the Proposed Development would likely lead to further restrictions. ENI did not respond further during consultation (Table 2 of [APP-059]).
- 5.2.12. The scoping opinion concluded that as the wind turbines would be stationary during construction that they would not impact upon radar during this phase and that the construction phase could therefore be scoped out (Table 2 of [APP-059]).
- 5.2.13. The military and civil aviation study area is shown below and covers aviation radar systems that have the potential to detect 34,336m above mean sea level (amsl) high wind turbines, offshore helicopter operations in the proximity of the study area, offshore helidecks within 9 nautical miles (nm) of the array area, military low flying activity nearby, and other adjacent aviation activities. The military radars at Aberporth and Valley (Anglesey) are shown within the area, as well as the NATS radars at Great Dun Fell and Clee Hill, and Ronaldsway Airport in the Isle of Man. Although not shown on the figure below, the St Anne's PSR at Lytham St Annes and BA Warton (near Preston) also fall within the study area.

**Figure 2: Military and Aviation Study Area (Figure 1 of [APP-059])**



- 5.2.14. Immediately above the proposed windfarm to around 4,500ft amsl the airspace is 'Class G' which is uncontrolled airspace. Above this there is 'Class C' controlled airspace which forms part of the Holyhead Control area, established up to 19,500ft.
- 5.2.15. Radar modelling was undertaken of a worst-case scenario of blade tip height turbines of 336m amsl, which concluded that the Great Dun Fell and particularly St Anne's PSR systems would theoretically detect the wind turbines of the Proposed Development. Wind turbines have the potential to generate 'clutter' upon radar displays, as current generation radars are unable to differentiate between the moving blades of wind turbines and aircraft, and as a consequence, radar operators can be unable to distinguish between primary radar returns generated by wind turbines or by aircraft, leading to issues of safety. Clee Hill PSR would not detect the turbines.
- 5.2.16. BAE Warton PSR would theoretically detect all proposed turbines and RAF Valley PSR would potentially detect around 10 of the proposed turbines. As above, the MoD confirmed that there would be no operational impact to RAF Valley and BAE Warton and therefore these PSR's were scoped out of the assessment. Due to distance, radars at Ronaldsway, Aberporth, and Chester were also scoped out. Various helidecks lie within 9nm of the proposed array, including Hamilton, Douglas, and Conwy. Due to the lack of further response from ENI as noted above, these helidecks remained within the assessment.
- 5.2.17. For helicopter operations, potential effects would be from the creation of aviation obstacles. Mitigation measures include the fitting of multi-directional obstacle lighting on the periphery of the array, marking of the turbines and the issue of accurate charts of the array and spacing to helicopter bases, all of which would reduce effects to minor adverse. Specific mitigation for Great Dun Fell and St Anne's PSR is also proposed:

- Blanking the relevant areas of the windfarm site within the radar; and
- Infilling the blanked areas with data from the unaffected Clee Hill PSR to provide clutter free radar coverage above the array.

5.2.18. Without such mitigation the significant of effect is assessed as major adverse; however, the ES considers with the mitigation above the impact would be reduced to not significant.

5.2.19. Cumulative effects with the existing wind farms of Gwynt y Môr, Rhyl Flats, North Hoyle, Burbo Bank (and extension), Duddon Sands, Walney (1-4), Barrow and Ormonde were considered, as well as various proposed renewable energy projects. Effects are considered to be minor adverse with the mitigation outlined above. Interrelationships are considered to be minor adverse and there are considered to be no transboundary effects.

### **Examination**

5.2.20. The issue of aviation impacts was not a contentious issue during the Examination and was an issue that was raised solely by technical stakeholders.

5.2.21. In their Relevant Representation (RR) [RR-025] NATS stated that they had assessed the application and had identified an unacceptable impact on its infrastructure, specifically the St. Annes and Great Dun Fell PSRs, with no impact anticipated on the Clee Hill radar. NATS confirmed that they had been engaged with the Applicant over recent years and considered that mitigation measures were tangible and within NATS's control. While a formal agreement was not yet in place, NATS had no reason to believe that this would not be forthcoming in the very near future.

5.2.22. Following various updates and questions from the ExA during the Examination, at D8 NATS withdrew their objection [REP8-098] to the proposed development, provided that a requirement was provided in any development consent order granted. Such a requirement requires works to be carried out to the radar infrastructure at Great Dun Fell and St Anne's. The wording of this requirement was included in the Applicant's final recommended dDCO as requirement (R) 25 [AS-053].

### **ExA's conclusions**

5.2.23. The ExA has reviewed the effects of the Proposed Development and the proposed mitigation measures in relation to any aviation impacts.

5.2.24. Due to the nature of the subject no specific unaccompanied site visits took place to consider the matter. As mentioned above, the issue of aviation was not a contentious one during the Examination and no Issue Specific Hearings were held to consider the matter.

5.2.25. The ExA agrees that impacts during construction and decommissioning of the Proposed Development would not be significant, due to the proposed notification, marking and lighting of the proposed site.

5.2.26. The ExA agrees that for the creation of obstacles in the environment, notification, marking and lighting of the turbines would reduce the risk to an acceptable level, and that impact would not be significant.

- 5.2.27. The Proposed Development would have an adverse effect on aviation safety, by the creation of 'clutter' upon the screens of air traffic controllers of NATS for the Great Dun's Fell and St Anne's radars. However, the ExA notes the agreement of NATS to the proposed mitigation and secured in the dDCO as R25. On this basis the ExA agrees that such mitigation reduces the effect of the Proposed Development to not significant.
- 5.2.28. The ExA agrees that the Proposed Development has the potential cumulatively with other existing and proposed wind farms to have a significant adverse effect on aviation safety. However, based on the evidence submitted the ExA agrees that the proposed mitigation as secured in the dDCO will reduce the impact to be not significant. With the proposed requirement, the Proposed Development would comply with NPS EN-1 in that the safety of UK aerodromes, aircraft and airspace would not be adversely affected by new energy infrastructure. The ES adequately details relevant effects, consultation and potential impacts and the proposed requirement is of the 'Grampian' style specifically referred to in paragraph 5.4.18 of NPS EN-1.

#### **ExA's overall conclusion**

- 5.2.29. With the identified mitigation as secured by the imposition of R25 in the rDCO, the ExA concludes that the Proposed Development would not have an adverse effect on aviation safety. Therefore, the ExA considers that there are no matters relating to aviation which would weigh for or against the Order being made.

## 5.3. BIODIVERSITY, ECOLOGY AND NATURAL ENVIRONMENT

### INTRODUCTION

- 5.3.1. This Chapter considers matters relating to onshore and offshore biodiversity, ecology and natural environment during the construction, operation and decommissioning of the Proposed Development. Fish and benthic species and habitats are considered within Chapter Marine – Natural. The Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA) is included in Volume 2, Chapter 6.

### POLICY CONSIDERATIONS

#### National Policy Statements

- 5.3.2. The Overarching National Policy Statement for Energy EN-1 (NPS EN-1) sets out policy considerations relevant for biodiversity impacts. Paragraph 5.3.3 of the NPS EN-1 requires the ES to clearly set out the effects on designated sites of ecological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity.
- 5.3.3. Paragraph 5.3.4 of NPS EN-1 states that: *The applicant should show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests.*
- 5.3.4. Furthermore, paragraph 5.3.6 of NPS EN-1 states that: *In having regard to the aim of the Government's biodiversity strategy the [decision maker] 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 [decision maker] may take account of any such net benefit in cases where it can be demonstrated.*
- 5.3.5. Paragraph 5.3.7 of NPS EN-1 states that: *As a general principle, and subject to the specific policies below, development should aim to avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives (as set out in Section 4.4 above); where significant harm cannot be avoided, then appropriate compensation measures should be sought.*
- 5.3.6. Paragraph 5.3.8 of NPS EN-1 states that: *In taking decisions, the [decision maker] should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; habitats and other species of principal importance for the conservation of biodiversity; and to biodiversity and geological interests within the wider environment.*
- 5.3.7. Paragraph 5.3.15 NPS EN-1 states that: *Development proposals provide many opportunities for building-in beneficial biodiversity or geological features as part of good design. When considering proposals, the IPC should maximise such opportunities in and around developments, using requirements or planning obligations where appropriate.*
- 5.3.8. The National Policy Statement for Renewable Energy Infrastructure (EN-3) (NPS EN-3) refers to biodiversity considerations for marine mammals and birds.



Paragraphs 2.6.58 to 2.6.71 provide offshore wind farm biodiversity policy considerations to inform decision-making on Proposed Developments.

- 5.3.9. The decision maker should consider the effects of a proposal on marine ecology and biodiversity (paragraph 2.6.70 of NPS EN-3) and refers to an assessment of the effects of installing cable across the intertidal zone in paragraph 2.6.81 of NPS EN-3.
- 5.3.10. Paragraph 2.6.90-99 of NPS EN-3 sets out specific considerations which apply to offshore windfarm impacts on marine mammals. Paragraph 2.6.91 states *Offshore piling may reach noise levels which are high enough to cause injury, or even death, to marine mammals.*
- 5.3.11. Mitigation is referenced in paragraphs 2.6.97-2.6.99 and involves monitoring pre and during piling; 24 hour working practice to reduce construction period and limit impacts on the marine mammal communities; and soft start procedures during pile driving.
- 5.3.12. NPS EN-3 refers to offshore windfarm potential impacts on birds and paragraph 2.6.101 states that:

*Offshore wind farms have the potential to impact on birds through:*

- *collisions with rotating blades;*
- *direct habitat loss;*
- *disturbance from construction activities such as the movement of*
- *construction/decommissioning vessels and piling;*
- *displacement during the operational phase, resulting in loss of foraging/*
- *roosting area; and*
- *impacts on bird flight lines (i.e. barrier effect) and associated increased energy use by birds for commuting flights between roosting and foraging areas.*

- 5.3.13. Paragraph 2.6.107-110 of NPS EN-3 refers to mitigation by:
- *aviation and navigation lighting should be minimised to avoid attracting birds, taking into account impacts on safety;*
  - *wind turbines should be laid out within a site, in a way that minimises collision risk, where the collision risk assessment shows there is a significant risk of collision;*
  - *construction vessels associated with offshore wind farms should, where practicable and compatible with operational requirements and navigational safety, avoid rafting seabirds during sensitive periods.*
- 5.3.14. The National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) references in paragraphs 2.71 to possible large birds colliding with overhead lines and consideration of feeding and hunting grounds, migration corridors and breeding grounds.

### **Draft National Policy Statements**

- 5.3.15. The Draft Overarching National Policy Statement for Energy (NPS dEN-1) describes in Section 5.4 biodiversity and geological consideration. Paragraph 4.5.1 refers to environmental net gain being an approach to development that aims to leave the natural environment in a measurably better state than beforehand. Applicants should therefore not just look to mitigate direct harms, but also consider whether there are opportunities for enhancements.

- 5.3.16. Paragraph 5.4.12 of NPS dEN-1 refers to the important contribution of regional and local sites to ecological networks and nature's recovery. Paragraph 5.4.13 refers to Ancient Woodland and Veteran Trees and the need to avoid such loss or deterioration to that habitat unless the benefits (including need) of the development, in that location clearly outweigh the loss of the woodland habitat including veteran trees outside ancient woodland.
- 5.3.17. Paragraph 5.4.14 of NPS dEN-1 refers to maximising opportunities for building-in beneficial biodiversity or geological features as part of good design and when designing enhancement measures wider ecosystem services and benefits of natural capital should also be considered.
- 5.3.18. Paragraph 5.4.17 of NPS dEN-1 refers to the protection and enhancement of habitats and other species proposals should also consider any opportunities to maximise the restoration, creation, and enhancement of wider biodiversity. Consideration should be given to improvements to, and impacts on, habitats and species in, around and beyond developments, for wider ecosystem services and natural capital benefits, beyond those under protection and identified as being of principal importance.
- 5.3.19. Paragraph 5.4.18 of NPS dEN-1 refers to mitigation measures and that the applicant should demonstrate that construction activities would be confined to the minimum areas required for the works; the timing of construction had been planned to avoid or limit disturbance to birds during the breeding season; during construction and operation following of best practice; post construction restoration of habitat where practicable; mitigation measures take into account existing habitats and generally seek opportunities to enhance them, rather than replace them (and where practicable, mitigation measures should seek to create new habitats of value within the site landscaping proposals).
- 5.3.20. The Draft National Policy Statement for Renewable Energy Infrastructure (NPS dEN-3) Section 2.23 describes Offshore wind: technical considerations for the Secretary of State (SoS). Paragraph 2.23.15 refers to future monitoring and due to the difficulty in establishing the evidence base for marine environmental recovery it may be appropriate to undertake environmental monitoring (e.g. ornithological surveys, geomorphological surveys) prior to and during construction and operation. Paragraph 2.23.18 refers to environmental net gain being an approach to development that aims to leave the natural environment in a measurably better state than beforehand.
- 5.3.21. Section 2.28 of NPS dEN-3 describes Offshore wind impacts: marine mammals and paragraph 2.28.8 refers to where noise impacts cannot be reduced to acceptable levels, other mitigation should be considered, including spatial / temporal restrictions on noisy activities, alternative foundation types, alternative installation methods and noise abatement technology. Review of up-to-date research should be undertaken and all potential mitigation options presented.
- 5.3.22. Section 2.29 of NPS dEN-3 describes Offshore wind impacts: birds and paragraph 2.29.2 refers to cumulative impact assessments for ornithology based on the consented Rochdale Envelope parameters of projects, rather than the 'as-built' parameters, which may pose a lower risk to birds. The SoS will therefore require any consents to include provisions to define the final 'as built' parameters (which may not then be exceeded) so that these parameters can be used in future cumulative impact assessments.

- 5.3.23. Section 2.31 of NPS dEN-3 describes Offshore wind impacts: commercial fisheries and fishing and paragraph 2.3.11 refers to mitigation should be designed to enhance where reasonably possible any potential medium and long-term positive benefits to the fishing industry, commercial fish stocks and the marine environment.
- 5.3.24. Section 2.33 of NPS dEN-3 describes Offshore wind impacts: navigation and shipping and refers to government policy that windfarms should reduce risks to navigational safety to as low as reasonably practicable (ALARP), the impacts of safety zones and whether there is interference with the use of recognised sea lanes.

### **UK Marine Policy Statement, 2011**

- 5.3.25. The UK Marine Policy Statement sets out the framework for preparing Marine Plans and taking decisions affecting the marine environment. It sets out marine objectives to promote sustainable development and acknowledges that renewable energy developments can potentially have adverse impacts on mammals (through construction noise) and certain bird species can be displaced by offshore wind turbines and have also the potential to form barriers to migration or present a collision risk for birds.
- 5.3.26. Paragraph 2.6.3.1 of the UK Marine Policy Statement recognises that noise resulting from a proposed activity or development in the marine area or in coastal and estuarine waters can have adverse effects on biodiversity although knowledge of the extent of impacts is limited and there are few systematic monitoring programmes to verify adverse effects.
- 5.3.27. Paragraph 3.3.24 recognises renewable energy developments can potentially have adverse impacts on marine mammals primarily through construction noise and that certain bird species may be displaced by offshore wind turbines, which also have the potential to form barriers to migration or present a collision risk for birds.

### **Welsh Legislation, Policy and Guidance**

#### **The Environment (Wales) Act 2016**

- 5.3.28. Places a duty on a public authority to seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.
- 5.3.29. **Section 6** of the Environment (Wales) Act 2016 seeks to maintain and enhance biodiversity and promote the resilience of ecosystems.
- 5.3.30. **Section 7** of the Environment (Wales) Act 2016 requires the Welsh Ministers to publish a list of habitats and species that are of principal importance for the conservation and enhancement of biodiversity in Wales. The section 7 list means Welsh Ministers must take all reasonable steps to maintain and enhance the living organisms and types of habitat included in any list published under this section, and encourage others to take such steps.

#### **The Planning (Wales) Act 2015**

- 5.3.31. This Act makes provisions about sustainable development in the exercise of functions relating to development planning and applications for planning permission.

### **The Well-being of Future Generations (Wales) Act 2015**

- 5.3.32. This requires public bodies to do things in pursuit of the economic, social, environmental and cultural well-being of Wales in a way that accords with the sustainable development principle.

### **Planning Policy Wales**

- 5.3.33. Land use planning policies for Wales are set out in the Welsh Government's (WG) document and is supported by a series of Technical Advice Notes (TANs). As a key principle of positive planning TAN 5: Nature Conservation and Planning (2009) refers to look for development to provide a net benefit for biodiversity conservation.

### **Welsh Government Natural Resources Policy**

- 5.3.34. This policy has objectives such as increasing resource efficiency of reducing pollution, the aim is to build greater resilience into ecosystems.

### **Future Wales (the national plan 2040)**

- 5.3.35. This has been prepared as a framework to help shape strategic and local development plans in Wales. Policy 9 – resilient ecological networks and green infrastructure refers to safeguarding ecological networks and securing biodiversity enhancements (net benefit).

### **The Welsh National Marine Plan (WNMP)**

- 5.3.36. This plan identifies opportunities for the sustainable development of Wales's seas by guiding new development and related decisions both inshore and offshore. Policy ENV-01 (Resilient Marine Ecosystems) states *proposals should demonstrate how potential impacts on marine ecosystems have been taken into consideration and to proposals that contribute to the protection, restoration and/or enhancement of marine ecosystems are encouraged.*

### **Nature Recovery Action Plan for Wales 2020-21**

- 5.3.37. This recognises the importance of having a healthy and resilient ecosystem.

### **Local Development Plan**

- 5.3.38. Denbighshire County Council Local Development Plan 2006 – 2021 (adopted June 2013) (DCCLDP) is the current Development Plan and applies to all onshore infrastructure for the Proposed Development located within the county of Denbighshire.
- 5.3.39. Key DCCLDP policies are Policy VOE5 – Conservation of natural resources, and Policy VOE10 – Renewable energy.
- 5.3.40. DCCLDP Policy VOE 5 refers to the need to assess potential impacts on protected species or designated sites of nature conservation, including mitigation and suggests that permission should not be granted where proposals are likely to cause significant harm to such interests.
- 5.3.41. DCCLDP Policy VOE10 – Renewable energy developments may be supported providing they are located so as to minimise visual, noise and amenity impacts and demonstrate no unacceptable impact upon the interests of nature conservation, wildlife, natural and cultural heritage, landscape, public health and residential amenity.

- 5.3.42. The following Supplementary Planning Guidance Notes (SPG) are of relevance to the Proposed Development: Conservation and Enhancement of Biodiversity SPG and Trees and Landscaping SPG. DCC SPG notes it is not part of its adopted LDP although they help provide guidance and advise.
- 5.3.43. Conservation and Enhancement of Biodiversity SPG refers to sufficient information to assess the ecological effect of the proposed development and the need for adequate measures to prevent adverse effects on them.
- 5.3.44. Trees and Landscaping SPG refers to the importance to retain and plant trees and hedgerows to deliver sustainable development.
- 5.3.45. Since October 2020, DCC amended its Constitution to take regard to tackling climate and ecological change and to having regard to sustainable development principles and the well-being of future generations.

#### **Local Impact Report (LIR)**

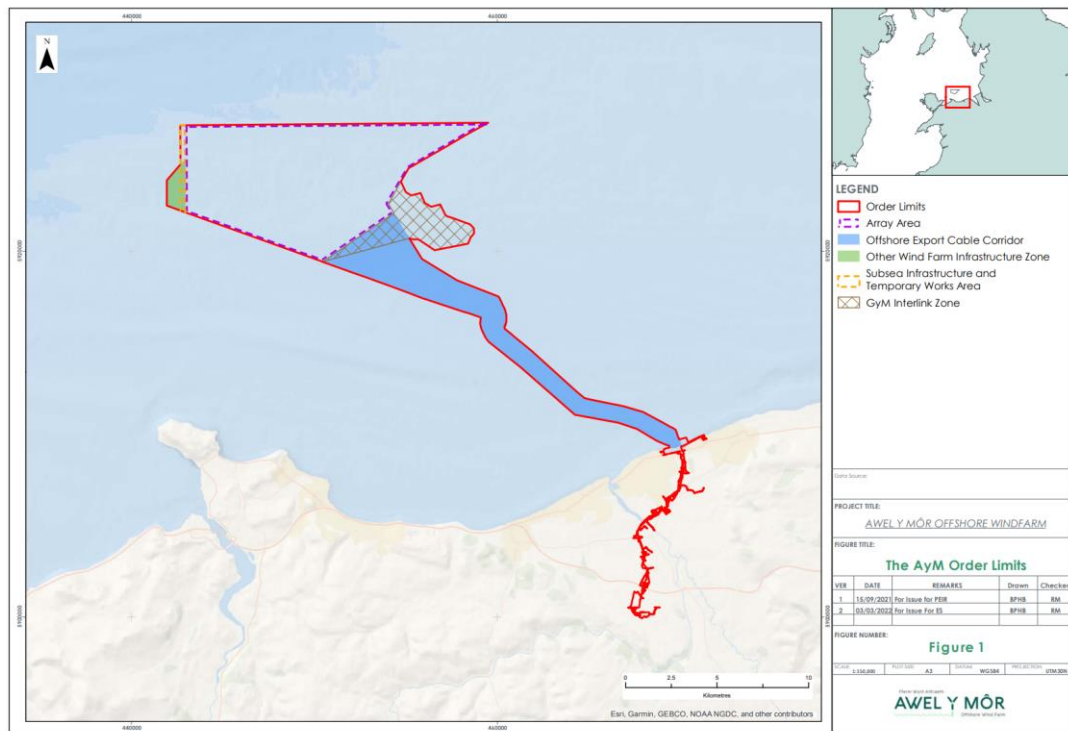
- 5.3.46. A LIR was submitted by DCC [REP1-056] and section 15 refers to onshore biodiversity and nature conservation and relevant DCCLDP Policies. Section 15 concludes DCC assessment of impact during construction to be negative, and neutral during operation; and Development Consent Order (DCO) Requirements (R) would be an acceptable mechanism to secure necessary ecological mitigation, compensation and enhancement.

### **THE APPLICANT'S CASE (OFFSHORE)**

#### **Information Submitted - Offshore**

- 5.3.47. At its closest point the array area is proposed to be some 10.5km off the north Wales coast at Llandudno [APP-298]. The proposal is a sister project to the existing Gwynt y Môr windfarm, located to the east of the Proposed Development, to which the proposal includes an interlink cable, and further existing wind farms of Rhyl Flats and North Hoyle lie to the south of Gwynt y Môr. The Proposed Development offshore would consist of up to 50 offshore wind turbine generators; other offshore windfarm infrastructure including substation platforms, a meteorological mast and buoys; an interlink (by sub-sea cable) to the existing Gwynt y Môr offshore windfarm (to the east of the Proposed Development); up to two offshore export cable circuits to bring the power generated to shore. More detail about the Proposed Development can be found in the Environmental Statement (ES) Volume 2, Chapter 1 Offshore Project Description [APP-047], the Land Plan Offshore [REP3a-011], and the Works Plan [REP6-029].

**Figure 3: Site location [APP-047, Figure 1]**



- 5.3.48. Volume 2, Chapter 4 of the ES [REP8-085] assessed offshore ornithology and Volume 2, Chapter 7 of the ES [REP8-081] assessed Marine Mammals. The Inter-related effects assessment for marine mammals ecology is included in Volume 2, Chapter 14 of the ES [REP8-059].
- 5.3.49. Submitted as part of the ES Volume 4 were Offshore Ornithology Baseline Characterisation Report [APP-095], Offshore Ornithology Displacement [APP-096], Offshore Ornithology Collision Risk Modelling [APP-097], Migratory Collision Risk Modelling [APP-098], Offshore Ornithology Scoping and Consultation Responses [APP-099], and Offshore Ornithology Population Viability Analysis [APP-100].
- 5.3.50. Also submitted as part of the ES Volume 4 were Underwater Noise Technical Report [APP-105], Marine Mammal Baseline Characterisation [REP8-059], Draft Outline Marine Mammal Mitigation Protocol (DoMMMP) [REP8-069], and Marine Mammal Quantitative Assessment Assumptions [APP-108].
- 5.3.51. The Applicant provided a Marine Licence Principles (MLP) [REP8-014] document that tabulates the proposed principles anticipated to inform the Marine Licences (ML) for the Proposed Development.

### **Documents submitted during Examination**

- 5.3.52. The Applicant updated numerous documents several times during the Examination and prepared an Application Errata List [REP1-004] that identified errors and necessary corrections where revised documents were not being provided. At Deadline (D) 8 the issues in the errata list (latest version [REP8-053]) were embedded in the relevant ES Chapters (and were issued with a new document reference in the EL).

- 5.3.53. Other documents submitted by the Applicant and by other parties during the Examination (such as Statements of Common Ground (SoCG), Hearing Action Points Responses, ExQ's Applicant's Written Responses) are listed in Appendix B – Examination Library.
- 5.3.54. Relevant new documents submitted by the Applicant during the Examination and the reasons are set out in the table below.

**Table 1: New documents**

Document Title	Reference	Reason
Marine Mammal Clarification Note	REP1-002	Marine mammal clarification note to address comments raised by Natural Resources Wales (NRW) regarding approach to cumulative permanent threshold shift; Special Area of Conservation (SAC) disturbance; and vessel collision.
Table of Environmental Statement Conclusions	REP6-032	Summary of predicted and potential effects as identified in each chapter of the Environmental Statement
Applicant's Update on the Marine Licence Submission and Progress	REP8-018	Progress update on the Marine Licence submission to NRW
Marine Licence Principles	REP8-014	Proposed principles which are anticipated to inform the Marine Licences
Schedule of Mitigation and Monitoring	REP8-016	Combines previous version of Schedule of Mitigation [APP-310] and the Schedule of Monitoring [APP-311] into a single table.
Cumulative Effects Assessment Clarification Note	REP2-028	Clarification note to address comments by NRW regarding cumulative effects on marine mammal ecology and fish and shellfish ecology
Clarification Note on Predicted Impacts Apportioned to Isle of Man Designated Sites	REP3-009	Includes Marine Licence application comments and responses related to ornithological matters
Level B Harassment Threshold Comparison Note	REP3-015	Analysis using a fixed threshold for impulsive noise for bottlenose dolphin (to calculate the number of dolphins disturbed, and to compare results with the dose/response analysis
Marine Ornithology Great Orme Assessment	REP3a-019	Clarification note to address comments raised by NRW regarding Ornithological matters associated with the Pen-y-Gogarth / Great Orme Site of Special Scientific Interest (SSSI)
Applicant's Response to R17Q1.1	REP4-008	High level marine templates for offshore management plans, risk assessment, method statement and mitigation protocol.

Document Title	Reference	Reason
Note on Opportunities for Ecological Enhancement and Connectivity at the OnSS Site	REP8-037	Note to explain how policy requirements related to terrestrial biodiversity enhancement in Wales, are met through the proposed landscape mitigation and ecology mitigation, compensation and enhancement areas around the onshore substation (OnSS).
Note on the Weight to be Given to Enhancement	REP8-038	Note to explain the policy context for the proposed enhancements and the weight.

### **Applicant's EIA methodology**

- 5.3.55. The project wide generic approach to environmental impact assessment (EIA) methodology is set out in the Environmental Impact Assessment Methodology [REP8-056] where significance of effects is based upon a matrix consisting of magnitude of impact and sensitivity of receptor. Any effect that is concluded to be of moderate or major significance within the matrix is deemed to be 'significant' in EIA terms. Each topic specific chapter outlines the EIA approach and any differences in methodology assessment and has been summarised in the relevant section within this report.

### **The Applicant's Case – Offshore Ornithology**

- 5.3.56. This section examines the effects of the Proposed Development on offshore ornithology. The effects on ornithological features of European sites are considered in Volume 2, Chapter 6 of this Report.

### **Consultation**

- 5.3.57. Consultation report [APP-024] refers to Offshore Ornithology and responses received to Preliminary Environmental Information Report (PEIR) and the draft Report to Inform Appropriate Assessment (RIAA). The summary of consultation undertaken is outlined in Offshore Ornithology Scoping and Consultation Responses [APP-099, table 1], and consultation information is included in the Evidence Plan [APP-301] and in the Annex [APP-302] related to Expert Topic Group 2: Offshore Ornithology.

### **Baseline Data**

- 5.3.58. Baseline data collection involved desk-based study are summarised in [REP8-085, table 5]. Site surveys of the Proposed Development including buffers, and other offshore windfarms surveys are summarised in [REP8-085, table 6]. Data limitations are included in [REP8-085, paragraph 4.4.3]

### **Applicant's Assessment Approach**

- 5.3.59. The assessment approach for Offshore Ornithology [REP8-085] is a source-pathway-receptor model. A construction / operation/ decommissioning activity could impact a receptor depending upon its pathway. Receptor values have been assessed based upon the conservation guidelines indicated in [REP8-085, table 10]. These range from a high value for a listed species as a qualifying feature of an internationally designated site (e.g. SPA or RAMSAR), medium value for a species



listed as a notified feature of a nationally site designated site (e.g. SSSI), and low value for species occurring within an international / national site but not crucial to the integrity of the site. A negligible value is used to describe other species that are widespread and common and are not present in locally important numbers and which are of low conservation concern. Potential receptors and their values have been identified in [REP8-085, table 14].

5.3.60. The sensitivity of receptors to potential impacts is subjective and based upon species ecology and behaviour set out in [REP8-085, table 11] ranging from high, medium, low, and negligible. The criteria used by the Applicant to determine the magnitude of impacts is set out in [REP8-085, table 12] and ranges from high, medium, low, and negligible.

5.3.61. The Applicant has considered the significance of effects by considering the sensitivity of the receptor and the magnitude impact using the matrix approach in [REP8-085, table 13].

#### **Applicant's Assessment of Impacts / Effects**

5.3.62. The predicted effects are referred within Offshore Ornithology [REP8-085, table 63]. Potential receptors identified by the Applicant were Common scoter, Red-throated diver, Kittiwake, Gannet, Common gull, Herring gull, Lesser black-backed gull, Great black-backed gull, Fulmar, Manx shearwater, Guillemot, Razorbill, Puffin, Commic tern, Sandwich tern, Red-breasted merganser, Black guillemot, Great crested grebe, and Cormorant.

5.3.63. During the **construction phase** the impacts identified were:

- Impact 1 - Disturbance and displacement: array
- Impact 2 - Disturbance and displacement: offshore ECC
- Impact 3 - Indirect impacts: array
- Impact 4 - Indirect impacts: offshore ECC

5.3.64. During the **operational phase** the impacts identified were:

- Impact 1 - Disturbance and displacement: array
- Impact 2 - Disturbance and displacement: operational vessels
- Impact 3 - Disturbance and displacement: offshore ECC
- Impact 4 - Collision risk: array
- Impact 5 - Cumulative displacement and collision risk: array
- Impact 6 - Barrier effects: array
- Impact 7 - Lighting: array
- Impact 8 - Indirect impacts: array
- Impact 9 - Indirect impacts: offshore ECC

5.3.65. During the **decommissioning phase** the impacts identified were:

- Impact 1 - Disturbance and displacement: array
- Impact 2 - Disturbance and displacement: offshore ECC
- Impact 3 - Indirect impacts: array
- Impact 4 - Indirect impacts: offshore ECC

5.3.66. The projects considered within the cumulative effect assessment is in [REP8-085, table 50] and the impacts related to **cumulative effects** were:

- Impact 1 - Disturbance and displacement
- Impact 2 - Collision risk

- Impact 3 - Cumulative displacement and collision risk
- Impact 4 - Barrier effects

5.3.67. The predicted **residual effects** as set out in Offshore Ornithology [REP8-085, table 63] have been assessed as negligible to minor adverse during construction, operation, decommissioning and cumulatively. In terms of EIA, they are not significant [REP8-085, table 13].

5.3.68. The **Inter-relationships effects** [REP8-059] on Offshore Ornithology has been scoped out as impacts on pathways through food chains is inherent within indirect impacts on prey [REP8-085] which were assessed as being not significant in EIA terms.

5.3.69. **Transboundary effects assessment** [REP8-085] concludes the inclusion of non-UK OWFs was considered very unlikely to alter the conclusions of the existing cumulative assessment, and highly likely to reduce estimated impacts at population levels if calculated at larger spatial scales.

### **Mitigation and Monitoring Measures**

5.3.70. Offshore Ornithology [REP8-085, table 9] mitigation measures refer to project design, marine mammal mitigation protocol (which facilitates diving species such as guillemot and razorbill to move away from soft start piling) and vessel traffic management plan.

5.3.71. For ornithology, the Schedule of Mitigation and Monitoring [REP8-016] refers to a minimum blade clearance of 22m above mean high water springs secured in the R2 of the draft Development Consent Order (dDCO) [AS-053]; and to be secured in the ML, marine related plans such as a Project Environmental Management Plan (PEMP) that would include Ornithological Monitoring Plan (OMP) and Vessel Traffic Management Plan (VTMP).

### **Issues Considered in the Examination**

5.3.72. The key issues considered during the Examination were:

- Baseline Characterisation
- Collision Risk Modelling
- Highly Pathogenic Avian Influenza (HPAI)
- Pen-y-Gogarth / Great Orme's Head Site of Special Scientific Interest (SSSI)
- Mitigation and Monitoring Measures

5.3.73. Issues related to the Red Throated Diver (RTD) are discussed in context of ornithological features of European sites in Volume 2, Chapter 6 of this Report.

### **Baseline Characterisation**

5.3.74. Offshore ornithology baseline characterisation was captured in report [APP-095] and was based upon site specific aerial digital survey and desk-based review of existing data sources.

5.3.75. The Royal Society for the Protection of Birds (RSPB) identified issues in its Relevant Representation (RR) [RR-024] related to the limited amount of surveys (and that they were undertaken during daylight); they were unlikely to characterise the activity of the Manx shearwater; potential response of birds to disturbance

arising from survey such as aircraft shadow; grid rather than transect survey design; and no detail of independent validation and detection rates for Manx shearwater.

5.3.76. The Applicant's response to the ExA's second written questions (ExQ2) [REP5-004] confirmed that no potential biases were known to affect the survey data collection and that baseline surveys and analysis methods had been agreed with NRW. The Applicant stated that the aircraft flew at a height beyond which is noticeable by birds and no biases are associated with the data collection method. The aerial digital surveys were designed to avoid spatial autocorrelation through the use of sufficiently high spacing between each grid cell. The use of a grid-based survey design enables higher precision in abundance estimates (due to a more even coverage of data being collected across the survey area).

5.3.77. In its response to ExQ2 [REP5-004] the Applicant referenced to Global Positioning System (GPS) tracking studies<sup>5</sup> of Manx shearwater from multiple Irish Sea colonies demonstrate very little or no diurnal (daytime), nocturnal (night-time) or crepuscular (dawn and dusk) usage of the Liverpool Bay and/ or Proposed Development array area by Manx shearwater. The Applicant considers the Manx shearwater recorded in the site-specific aerial digital surveys as being representative of nocturnal and crepuscular abundances. The Applicant referenced to Deakin et al. (2022) that Manx shearwater foraging occurred almost entirely within daylight.

#### **ExA's Consideration**

5.3.78. The Applicant confirmed there were no potential biases that could significantly affect the baseline data collection and analysis for birds. At D8, NRW offshore SoCG [REP8-048] and RSPB SoCG [REP8-052] position statement noted agreement on baseline characterisation. The ExA is satisfied that baseline characterisation is appropriate and that the scope, effort and methods required for ornithological surveys have been discussed with the relevant statutory advisor and meets the needs of NPS EN-3.

#### **Collision Risk Modelling (CRM)**

5.3.79. The Applicant's methodology for the assessment of Collision Risk Modelling was detailed in Offshore Ornithology Collision Risk Modelling [APP-097] and Migratory Collision Risk Modelling [APP-098].

5.3.80. The Offshore Ornithology Collision Risk Modelling predicted the number of collisions for four key seabird species: Gannet, Kittiwake, Herring gull, and Great black-backed gull. The parameters inputted into the model were given in [APP-097, 2.2 CRM Input Parameters] and annual mortality for the four species predicted. The collision risk impact to Manx shearwater was scoped out and is discussed further within the bird species section below.

5.3.81. The Migratory Collision Risk Modelling utilises a bespoke software model 'Migropath' which estimates the proportion of a given population passing through a site's footprint, assuming point-to-point migration. Some species however do not follow point to point migration pattern and in this instance a broad front pathway crossing the AyM array area was considered more suitable. The screen in number species for the 'Migropath' were twenty-nine and for the 'broad front' modelling the

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<sup>5</sup> Guilford et al. (2008) and Padgett et al. (2019)

number of species were five. [APP-098, table 1]. The annual collision risks for migratory seabirds species screened-in are given in [APP-098, table 6].

Stable age structure

- 5.3.82. The Applicant explained in its response to ExQ2 [REP5-004] that as site specific parameters were not available it calculated the stable age structure following the approach outlined in Furness (2015) which is based upon demographic rates summarised in Horswill and Robinson (2015). The Applicant highlighted that it is the same method used by the Crown Estate Round 4 Plan Level Habitats Regulations (NIRAS, 2022).
- 5.3.83. NRW in its RR [RR-015] noted it would have preferred that stable age structure was calculated from the local surveys, or, by adopting a precautionary approach by counting all birds as adults. Nevertheless, it does not consider that impacts the final assessments and agrees with the conclusions presented [REP8-048].
- 5.3.84. NRW in its response to ExA's third written questions (ExQ3) [REP7-056] confirmed that it was satisfied with the use of generic parameters given in Horswill and Robinson (2015) as site-specific parameters were not readily available. At D8, NRW offshore SoCG [REP8-048] states it does not agree with the methods used to calculate stable age structure but does not consider that this impacts the final CRM assessments.

Flight height parameter

- 5.3.85. The stochastic collision risk model can generate collision estimates by two different methods (basic and extended models). The basic model assumes a uniform flight height distribution across the rotor swept heights, whilst the extended model uses species-specific modelled flight height distributions to account for variation in the distribution of flights across the rotor swept heights. Both models for the Proposed Development did not use site-specific baseline surveys and sample sizes but instead utilised generic flight height data (i.e. basic model option 2, extended model option 3).
- 5.3.86. The ExA in its first written questions (ExQ1) [PD-009] to respective parties queried if they were satisfied with generic flight height data being used in the modelling. NRW confirmed it was satisfied with the Applicant's approach [REP1-080] and RSPB confirmed that the Band Model options 2 and 3 are reliable (although it considers the outputs of Option 2 being the most reliable).
- 5.3.87. For the analysis of Manx shearwater flight heights, the Applicant referenced to published flight height data [REP5-004] which form the basis of current guidance on collision risk for seabirds in UK waters from UK Statutory Nature Conservation Bodies (SNCBs).
- 5.3.88. For slope-soaring flight activity, the Applicant referenced to Deakin et al. (2022) that generally birds remain low to the sea surface where the shear is strongest.

Wind turbine rotor parameter

- 5.3.89. The ExA in its first written questions [PD-009] asked the Applicant to explain mean, minimum and maximum rotor radius of 125m in the collision risk model CRM [APP-097] and why the effects of a 153m rotor radius had not been considered (to reflect table 16 design envelope of larger WTG rotor diameter of 306m) [APP-047]. The Applicant's rationale for not modelling the 153m rotor radius was the 125m rotor

radius would result in a greater number of WTG's and is thus the worst-case scenario. The Applicant referenced to the analysis for Kittiwake to demonstrate that a larger sized WTG (with a 153m rotor radius) would result in a lower predicted collisions per annum [REP1-007].

#### Minimum blade clearance

- 5.3.90. The project design incorporates a minimum blade clearance of 22m above Mean High Water Springs (MHWS). This minimum blade clearance accords with Marine Guidance Note GN 372 Amendment 1 (M+F) Safety of Navigation: Guidance to Mariners Operating in the Vicinity of UK Offshore Renewable Energy Installations (OREIs) and Royal Yachting Association current position statement<sup>6</sup>.
- 5.3.91. The RSPB in its response to ExQ2 [REP5-042] referenced to (Johnstone et al., 2014<sup>7</sup>) that greater blade clearance (also known as air gap) results in lower predicted seabird collision. It referred to Hornsea Project Four Offshore Windfarm minimum blade clearance of 42.43m above lowest astronomical tide (LAT) and to Berwick Bank minimum blade clearance of 37m above LAT.
- 5.3.92. The Applicant response [REP6-003] referenced that the examples cited by RSPB helped to reduce seabird collision mortality rates significantly. However, for the Proposed Development the calculated seabird collision mortality rates were estimated to be low (negligible / minor and not significant) and further measures to mitigate were deemed not necessary and its approach had been agreed with NRW.

#### Bird Species Issues

- Manx shearwater

- 5.3.93. RSPB in its Written Representation [REP1-090] disagreed about the scoping out of collision impacts for Manx shearwater. The Applicant in its response to RSPB written representation [REP2-002] explained that Manx shearwater was scoped out as the collision risk was very low. This approach had been agreed with NRW - Evidence Plan Report and its supporting appendices ([APP-301], [APP-302] and [APP-303]).
- 5.3.94. At D5, the RSPB in its response to ExQ2 [REP5-042] submitted a Marine Scotland Science research paper<sup>8</sup> highlighting potential for birds such as Manx shearwater to be attracted and disorientated by light. RSPB deemed such attraction and disorientation would increase collision risk and had not been considered by the Applicant.
- 5.3.95. The Applicant highlighted in its response to ExQ2 [REP5-004] that Deakin et al. (2022) recognised that although some evidence of light-induced attraction and disorientation in Manx shearwater in certain circumstances it found no existing evidence that Manx shearwater are at increased collision risk due to attraction and / or disorientation due to lighting on wind turbine generators (WTG's), associated structures or support vessel.

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<sup>6</sup> <https://www.rya.org.uk/knowledge/planning-licensing/offshore-renewables/wind-energy> -

<sup>7</sup> Johnston, A et al. (2014). Modelling flight heights of marine birds to more accurately assess collision risk with offshore wind turbines. Journal of Applied Ecology, 51(1), 31-41.

<sup>8</sup> A review to inform the assessment of the risk of collision and displacement in petrels and shearwaters from offshore wind developments in Scotland Z. Deakin et al December 2022.

- 5.3.96. The Applicant stated that it presented evidence to the RSPB during a meeting in February 2023 and the RSPB agreed in principle that Manx shearwater would not be at risk from the Proposed Development, given the low abundance and densities present [REP6-003]. RSPB SoCG [REP8-052] shows agreement on this point.
- 5.3.97. The IoM in its SoCG [REP8-051] referred to the recovering colony of Manx shearwaters on the Calf of Man and accepted the basis for scoping out of the CRM and that due process had been followed.
- Gannet
- 5.3.98. RSPB provided gannet collision risk modelling parameters in its response to ExQ2 [REP5-042] including the need for an avoidance rate of 98% during the breeding season rather than 98.9% avoidance rate. For non-breeding season RSPB indicated initially a rate of 99% which it later changed to 98.9% at D7 [REP7-059].
- 5.3.99. The Applicant's response to ExQ2 [REP6-003] stated that an 98% avoidance rate during the breeding season would increase collision estimates by 1.8 and the level of impact would be negligible or very low (no significant effect). The 98.9% avoidance rate for gannets followed best practice and had been recommended by SNCBs.
- 5.3.100. The Applicant acknowledges gannet avoidance behaviour may differ during the breeding season. Nevertheless, as the Proposed Development was beyond the mean foraging range of 120.4 km +/- 50 km (Woodward et al. 2019) of any colony the Applicant does not consider any different foraging behaviour of gannet would have any noticeable bearing on the impact assessment.
- 5.3.101. The RSPB did not support reducing the density of birds for macro avoidance. The Applicant in its response [REP6-003] explained the results of CRM with a macro avoidance factor was presented as additional information and did not inform the impact assessment conclusion. Its CRM accords with the approach recommended by SNCB and had been agreed with NRW.
- 5.3.102. NRW in its response to ExQ2 [REP5-039] referenced to macro avoidance of offshore windfarm research paper<sup>9</sup> and that it is of the view that gannet macro avoidance could be used with the modelling (and that CRM without macro avoidance is not necessary).
- 5.3.103. RSPB in its response to ExQ3 [REP7-059] noted that whilst it continued to have concerns about the use of Avoidance Rates for gannet during the breeding season, it agrees with the Applicant that because numbers recorded on site were low, the impact significance would remain low.

#### **ExA's Consideration**

- 5.3.104. The Applicant has adopted SNCB's best practice avoidance rates and has also undertaken supplementary modelling to calculate the collision estimate for a lower avoidance rate. The conclusion of the supplementary modelling was not significant in EIA terms. RSPB SoCG [REP8-052] position statement notes the Applicant has followed SNCB's best practice relating to avoidance rates.

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<sup>9</sup> Dierschke et al (2016). Seabirds and offshore wind farms in European waters: Avoidance and attraction. *Biological Conservation*: 202, 59–68

- 5.3.105. RSPB SoCG [REP8-052] notes it agrees that Manx shearwater can be scoped out of the collision risk assessment due to low abundance of the species in the region.
- 5.3.106. NRW offshore SoCG [REP8-048] notes it is largely content with the conclusion of the CRM with the exception of the methods used to calculate stable age structure. Nevertheless, NRW does not consider that this impacts the final assessments and agrees with the conclusions presented.
- 5.3.107. The CRM and EIA concludes the significance of effects from the collision risk is negligible to minor for all assessed sea birds (not significant in EIA terms). The ExA is satisfied that the CRM assessment has taken regards to the advice from the statutory body (NRW) and has been carried out to a satisfactory standard, and that it satisfies NPS EN-3.

#### **Highly Pathogenic Avian Influenza (HPAI)**

- 5.3.108. RSPB in its response to ExQ2 [REP5-042] stated the choice of foraging hotspots was determined in part by colony size, and that any changes in colony population size due to HPAI would lead to changes in foraging site selection and potential changes to the number of birds using the development footprint.
- 5.3.109. The Applicant in responses to the ExQ2 [REP6-003] stated that the survey data collected and used to characterise the baseline was taken through the impact assessment process and pre-dates the known spread of HPAI into seabird population. The Applicant referenced to this approach being in line with the advice by Natural England on the treatment of data collected prior to HPAI outbreak and that the CRM estimated the mortality rate to be minor (under 1% threshold relative to the baseline) and not significant.
- 5.3.110. NRW in its response to ExQ2 [REP5-039] confirmed the existing surveys and their comparison with colony counts represent the best available evidence for the area and that it was the correct approach to take.
- 5.3.111. RSPB SoCG [REP8-052] notes the aerial digital survey methods and additional detailed desk study are fit for the purpose of characterising the baseline for offshore ornithology for use in impact assessments. RSPB SoCG also agrees that the outcomes of the EIA appropriately reflect the potential effects on offshore ornithology for all species.

#### **ExA's Consideration**

- 5.3.112. Baseline seabirds survey data has been taken into the impact assessment prior to the known spread of HPAI. The Applicant states this approach is in line with Natural England advice. NRW confirmed the existing surveys and their comparison with colony was the correct approach to take, and the RSBP is satisfied with the conclusion of the EIA. The ExA is satisfied the approach meets the needs of NPS EN-3.

#### **Pen-y-Gogarth / Great Orme's Head Site of Special Scientific Interest (SSSI)**

- 5.3.113. Llandudno Town Council in its RR [RR-007] raised the need for potential impacts on the SSSI (Great Orme) to be considered. NRW in its RR [RR-015] raised that a detailed assessment of the potential impacts of the project on the breeding seabird features of Pen-y-Gogarth / Great Orme's Head Site of SSSI (guillemots, razorbills and kittiwakes) should be undertaken.

- 5.3.114. In response to NRW RR, the Applicant prepared a Marine Ornithology Great Orme Assessment that was updated at D3 [REP3a-019]. The Applicant's response to the ExQ2 [REP5-004] referenced that the Population Viability Analysis (PVA) demonstrated no significant adverse effect on any interest feature of the Pen-y Gogarth/ Great SSSI.
- 5.3.115. NRW D4 submission [REP4-045] confirmed it was satisfied that there would be no significant effect on the breeding seabird features of Pen-y-Gogarth / Great Orme's Head SSSI.

#### **ExA's Consideration**

- 5.3.116. The Applicant undertook an assessment for birds specifically associated with the Pen-y-Gogarth / Great Orme's Head SSSI's colonies [REP3a-019] to supplement the EIA (which was at a larger scale linked to the relevant biologically defined minimum population scales for each species). The assessment concluded that for the three species (kittiwake, razorbill and guillemot) there is no potential for a significant effect in relation to potential displacement or collision risk impacts.
- 5.3.117. NRW submission [REP4-045] confirmed it was satisfied that there would be no significant effect on the breeding seabird features of Pen-y-Gogarth / Great Orme's Head SSSI. At D8, NRW offshore SoCG [REP8-048] and RSPB SoCG [REP8-052] agree that all likely significant effects for offshore ornithology have been correctly scoped in the EIA. Both parties agree that the assessment undertaken appropriately reflect the potential effects on offshore ornithology. The ExA is satisfied that there would be no significant effect on Pen-y-Gogarth / Great Orme's Head SSSI and the approach meets the need of NPS EN-1 and NPS EN-3.

#### **Mitigation and Monitoring Measures**

- 5.3.118. The Applicant applied "not applicable" to mitigation measures in Offshore Ornithology [REP8-085, table 63]. The Applicant confirmed in its response to ExA second written questions [REP5-004] potential impacts on offshore ornithology receptors were found to be minor adverse at most (in EIA terms to be not significant) and the use of "N/A" indicated that no specific mitigation measures beyond those embedded in the project design are proposed or required.
- 5.3.119. The Table of Environmental Statement Conclusions [REP1-049] refers to collision risk array and a minimum blade clearance of 22m above MHWS. As discussed above in the minimum blade clearance section, the RSPB [REP5-042] referenced to other offshore windfarms which had greater blade clearance. The Applicant response [REP6-003] referenced that the examples cited by RSPB helped reduce seabird collision mortality rates significantly. However, for the Proposed Development the calculated seabird collision mortality rates were estimated to be low (negligible/minor and not significant) and further measures to mitigate were deemed not necessary and its approach had been agreed with NRW.
- 5.3.120. The MLP [REP8-014] tabulates the proposed principles anticipated to inform the Marine Licences for the Proposed Development. The ExA questioned whether the MLP should be a certified document within Schedule 13 of the dDCO, and the Applicant in its response [REP3a-002] considered it should not be.
- 5.3.121. NRW in its response [REP3a-048] agreed with the approach presented by the Applicant whereby the DCO should not contain powers or controls which are regulated by a ML. It advises that mitigation and management plans which can be



secured through the ML relating to marine licensable activities only, do not also need to be secured through the DCO.

- 5.3.122. The marine plans templates related to marine works were submitted by the Applicant at D4 [REP4-008]. The purpose of these were high level, and to outline the approach and aim of each plan.
- 5.3.123. At Issue Specific Hearing 4 (ISH4), the ExA sought clarity how marine plans (to be secured as Marine Licence conditions and discharged by NRW) would work with other plans being secured in the DCO and discharged by DCC. In its Written Summary of Oral Submissions to ISH4 [REP8-007] the Applicant confirmed that the intertidal area (between MHWS and Mean Low Water Springs (MLWS)) would require co-operation between DCC and NRW to discharge DCO and ML requirements.
- 5.3.124. The MLP [REP8-014, condition 34] refers to a PEMP which would include a VTMP to minimise disruption to birds. Vessel traffic monitoring (by automatic identification system) would be for three consecutive years following the completion of construction unless otherwise agreed by NRW [REP8-014, condition 38].
- 5.3.125. NRW requested a RTD validation monitoring before, during and after construction and a VTMP during operation to avoid / reduce disturbance and displacement. The MLP [REP8-014, condition 34] refers to Ornithological Monitoring Plan (OMP) relating to the distribution of RTD following the installation of the WTG's. The Schedule of Mitigation and Monitoring [REP8-016, reference 486] includes this monitoring plan commitment with the methodology to be agreed with NRW within sufficient timeframe to factor in the potential for any pre-construction monitoring. Since the purpose of the monitoring provisions for RTD is primarily in connection with effects on the species as a feature of the Liverpool SPA, the ExA's consideration of RTD is discussed further in Volume 2, Chapter 6, relating to HRA of this Report.

#### **ExA's Consideration**

- 5.3.126. Potential regulatory overlap exists between the DCO and marine activities under section 66 of the Marine and Coastal Access Act 2009 (MACAA). NRW is the appropriate licensing authority in respect of the Marine Licence (ML), acting on delegated authority of the Welsh Ministers and the licensing function is carried out by NRW's marine licensing team (NRW MLT).
- 5.3.127. NRW MLT and the Applicant agree on an approach whereby the DCO should not contain powers or controls which also sit within the ML. If one regime of regulation must deal with something according to law (the regime under MACAA) and it can deal with it adequately (for which NRW MLT, as a competent regulatory will do so), it would lead to unnecessary complexity if another regime (the DCO regime) duplicates this.
- 5.3.128. The dDCO [AS-053, Article 4] does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation. The dDCO [AS-053, Article 5] does not relieve the undertaker of any requirement to obtain any further licence under Part 4 (marine licensing) of the 2009 Act for the offshore works. However these articles relate to just to operating and maintaining the Proposed Development and the ExA will incorporate alterations in the recommended DCO (rDCO) to address construction.

- 5.3.129. The dDCO [AS-053] seeks to secure a minimum blade clearance of 22m above MHWS, as well as the DoMMMP [REP8-069] (which facilitates soft start piling).
- 5.3.130. The ExA is satisfied that the monitoring and mitigation measures outlined by the Applicant are appropriate and notes that those which do not form part of the DCO are to be secured through the ML process and are documented in its MLP [REP8-014].

### **ExA's conclusion on offshore ornithology**

- 5.3.131. The ExA considers the summary of consultation in [APP-099], and the Evidence Plan [APP-301] including relevant Annex [APP-302] demonstrates meaningful and appropriate consultation has taken place.
- 5.3.132. Baseline characterisation is included [APP-095] and the responses to further questions on potential biases during the Examination [REP5-004] means the ExA is satisfied with the baseline data and that it meets the needs of NPS EN-3.
- 5.3.133. In taking the view on consultation, baseline characterisation, and outcomes of the EIA the ExA has considered NRW SoCG offshore [REP8-048] position which shows agreement on these points. The ExA has also considered RSPB SoCG [REP8-052] agreed position on the adequacy of consultation and baseline characterisation being fit for purpose, and notes that there is agreement on the outcomes of the EIA.
- 5.3.134. The Applicant (post PEIR) reduced the maximum number of WTGs from ninety-one to fifty and reduced the array area from 88 km<sup>2</sup> to 78 km<sup>2</sup>. A minimum blade clearance of 22m above MHWS is secured in the recommended Development Consent Order (rDCO) R2. The VTMP (embedded within the PEMP) and the suite of other marine template plans [REP4-008] are to be secured as part of the ML process and outlined in the MLP [REP8-014]. As mentioned above the ExA has included in the rDCO additional provisions in Article 3 to address construction since Articles 4 and 5 relate to operate and maintain only. The Marine Licence functions carried out by NRW MLT should adequately secure and control the mitigation measures required for the Proposed Development. In this respect the ExA also note that the DCO could not be implemented unless in accordance with the terms of a granted marine licence. Altogether, the above points are considered by the ExA to be appropriate mitigation measures.
- 5.3.135. The cumulative effects assessment predicts no significant residual effects. The ExA notes the proposed offshore windfarms of Mona and Morgan were considered in the EIA cumulative effects assessment<sup>10</sup> [APP-042] but were screened out of further assessment due to lack of meaningful information. The Applicant provided further information related to its approach to Mona and Morgan in [REP8-039]. These matters are covered further under 'Other Projects and Proposals', Chapter 8 of this report.
- 5.3.136. The ExA is content that the provisions of NPS EN-1, NPS EN-3 and the relevant legislative and policy tests for offshore ornithology has been met. The ExA is satisfied that the ES has considered the relevant impacts through the project stages and agrees that residual effects, inter-relationships effects and transboundary effects are not significant in EIA terms. However, the impacts of the Proposed Development and the residual effects means the ExA cannot ascribe an overall neutral position on offshore ornithology. The ExA therefore gives limited weight

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<sup>10</sup> Projects listed as EnBW and BP 1 - Round 4, and EnBW and BP 2 - Round 4

against the Order being made for issues related to offshore ornithology and this is carried forward into the planning balance.

### **The Applicant's Case: Offshore Marine Mammals**

- 5.3.137. This section examines the effects of the Proposed Development on marine mammals. The effects on marine mammals features of European sites are considered in Volume 2, Chapter 6 of this Report.

#### **Consultation**

- 5.3.138. Consultation report [APP-024] refers to Marine Mammals and responses received to Preliminary Environmental Information Report (PEIR) and the draft Report to Inform Appropriate Assessment (RIAA). The summary of consultation is outlined in [REP8-081, table 3] and consultation information is included in the Evidence Plan [APP-301] and in the Annex [APP-302] related to Expert Topic Group 3: Marine Mammals.

#### **Baseline Data**

- 5.3.139. The baseline characterisation for marine mammals is described in Marine Mammal Baseline Characterisation [REP8-068] and consists of site-specific surveys, regional surveys as well as consideration of desk-based data.

#### **Applicant's Assessment Approach**

- 5.3.140. The environmental impact assessment for Marine Mammals [REP8-081] is based upon the magnitude of impact and sensitivity of receptor.
- 5.3.141. The magnitude of impact refers to a series of factors including spatial extent of any interaction, likelihood, duration, frequency, and reversibility of a potential impact. Definition of magnitude of impact (high, medium, low, and negligible) is referenced in [REP8-081, table 9].
- 5.3.142. The sensitivity of marine mammal receptors refers to potential vulnerability to an impact from the proposed development, their recoverability, the value or importance of the receptor. Definitions of levels of sensitivity (high, medium, low and negligible) is referenced in [REP8-081, table 10].

#### **Applicant's Assessment of Impacts / Effects**

- 5.3.143. The predicted effects are referred within Marine Mammals [REP8-081, table 6]. The marine mammals identified and taken forward to assessment were Harbour porpoise, Bottlenose dolphin, Common dolphin, Risso's dolphin, Minke whale and Grey Seal.
- 5.3.144. During the **construction phase** the impacts identified were:
- Impact 1 - Permanent Threshold Shift (PTS) (from piling)
  - Impact 2 - Disturbance from piling
  - Impact 3 - Disturbance from other construction activities
  - Impact 4 - PTS from Unexploded Ordnance (UXO)
  - Impact 5 - Disturbance from UXO
  - Impact 6 - Collision risk from vessels
  - Impact 7 - Disturbance from vessels
  - Impact 8 - Change in water quality
  - Impact 9 - Change in fish abundance/ distribution

- 5.3.145. During the **operational phase** the impacts identified were:
- Impact 1 - Barrier effects
  - Impact 2 - Collision risk from vessels
  - Impact 3 - Disturbance from vessels
  - Impact 4 - Change in water quality
  - Impact 5 - Change in fish abundance/ distribution
- 5.3.146. During the **decommissioning phase** the impacts identified were:
- Impact 1 - PTS and disturbance
  - Impact 2 - Collision risk from vessels
  - Impact 3 - Disturbance from vessels
  - Impact 4 - Change in water quality
  - Impact 5 - Change in fish abundance/ distribution
- 5.3.147. The projects considered within the cumulative effect assessment is in [REP8-081, tables 51, 52, 58] and the impacts related to cumulative effects were:
- Impact 1 - Disturbance from underwater noise
  - Impact 2 - Disturbance from vessels
- 5.3.148. The predicted **residual effects** as set out in Marine Mammals [REP8-081, table 60] have been deemed negligible adverse to minor adverse. In terms of EIA, they are not significant [REP8-081, table 11].
- 5.3.149. An assessment of the **inter-related effects** on marine mammals [REP8-059, table 6] refers to effects due to vessel interaction / disturbance, effects due to impacts to prey resources, effects due to underwater noise, and effects due to impacts to water quality during different parts of a project's lifetime. The inter-related effects vary from negligible to minor adverse, and negligible adverse, which are deemed to be not significant in EIA terms. The receptor led effects refer to potential for spatial and temporal interactions between underwater noise, vessel interactions, effects on prey species and water quality effects on receptors during the lifetime of proposed development.
- 5.3.150. The predicted residual effects arising from **transboundary effects** [REP8-081] were deemed by the Applicant to be minor adverse which are not significant in terms of EIA.

#### **Mitigation and Monitoring Measures**

- 5.3.151. The mitigation measures referenced by the Applicant in [REP8-081, table 19] are embedded measures consisting of project design, marine mammal mitigation protocol (piling and UXO specific), vessel codes of conduct, a decommissioning plan and a marine mammal mitigation protocol (decommissioning).
- 5.3.152. Marine Mammals [REP8-081, paragraph 23] refers to specific mitigation measure(s) that would be implemented during construction would be determined, in consultation with NRW and Joint Nature Conservation Committee (JNCC), following the appointment of the installation contractors, collection of additional survey data (noise or geophysical data) and / or acquisition of noise monitoring data, and/ or information on maturation of emerging technologies. This additional data and information will allow the noise modelling to be updated to feed into the final MMMP and discussions on the appropriate mitigation measure(s).

- 5.3.153. The Schedule of Mitigation and Monitoring [REP8-016] states for marine mammals a Project Environmental Management Plan (that will include a Marine Pollution Contingency Plan), a Scour Protection Management Plan, and a piling Marine Mammal Mitigation Protocol would be secured through the Marine Licence.
- 5.3.154. The Applicant's Schedule of Mitigation and Monitoring [REP8-016] outlines the monitoring focus for marine mammals is captured within the MLP [REP8-014] and would consist of the noise generated from the first four piled foundations being measured.

### **Issues Considered in the Examination**

- 5.3.155. The key issues considered during the Examination were:

- Mitigation and Monitoring Measures
- Offshore Environmental Net Gain
- Cumulative Effects

### **Mitigation and Monitoring Measures**

#### Marine Licence Principles (MLP)

- 5.3.156. The MLP [REP8-014] provides a tabulation of the proposed principles, mitigation and monitoring anticipated to inform the Marine Licences for the Proposed Development. The Applicant referenced to mitigation and monitoring measures in the Schedule of Mitigation and Monitoring [REP8-016].
- 5.3.157. The ExA in its Rule 17 letter [PD-013] asked the Applicant and NRW whether the MLP document should be a certified document within Schedule 13 of the DCO. The Applicant in its response to the Rule 17 letter [REP3a-002] did not consider that the MLP [REP8-014] should be a certified document within Schedule 13 of the DCO.
- 5.3.158. NRW in its response to the Rule 17 letter [REP3a-048] agreed with the approach presented by the Applicant whereby the DCO should not contain powers or controls which are regulated by a marine licence. It advises that mitigation and management plans (which can be secured through the ML relating to marine licensable activities only) do not also need to be secured through the DCO.

#### Marine template plans

- 5.3.159. The ExA in its Rule 17 letter [PD-013] to the Applicant asked for a series of marine plans to be submitted into the Examination for other parties to comment on and these templates with brief content description were received at D4 [REP4-008]. The Applicant noted that they should not be a material consideration in and of themselves within the context of the DCO. The Applicant highlighted that the ML conditions for marine plans would be discharged by NRW.
- 5.3.160. NRW in its response to ExA's third written questions [REP7-056] confirmed it was broadly satisfied with the marine template plans and noted they would require further work and may require further details prior to grant of any ML.
- 5.3.161. JNCC in its response to ExQ3 [REP7-054] were content with the outlined mitigation plan provided for UXO clearance. JNCC highlighted that any UXO clearance would be subject to a ML application with impact assessment and mitigation agreed with regulators and SNCB. For all other plans referred in the document [REP4-008] JNCC deferred to NRW.

- 5.3.162. The Applicant's response to ISH4 action points [REP7-005] defined the reasonable worst-case (maximum design envelope) of up to ten items of UXO clearance in the ES [APP-047]. The Applicant confirmed that clearance of UXO would be subject to a separate ML application to NRW, and conditions for mitigation would be agreed with NRW at that time.

Underwater noise monitoring approach during piling

- 5.3.163. ExQ2 [PD-015] asked the Applicant to clarify how the results of this underwater noise monitoring approach (i.e. for four piles) correlates with piling into the seabed with different sediment distribution and thickness, bedform, and bedrock types.
- 5.3.164. The Applicant's response to ExQ2 [REP5-004] referred to worst case assessment for the EIA. The four of the first selection of piles reflects underwater noise monitoring requirements for pile installation at other recent UK offshore wind farms.
- 5.3.165. NRW response to ExQ2 [REP5-039] referred to a minimum of four representative piles which should also reflect those modelled in the EIA. NRW recommended for underwater noise measurement the Applicant follows ISO 18406:2017 (measurement of radiated underwater sound from percussive piling). The Applicant's comments on responses to the ExA's second written questions [REP6-003] considers that this is a matter for the Marine Licensing process and would form part of discussions regarding the MLP [REP8-014, condition 42] and in [REP8-016, reference 13].
- 5.3.166. The Applicant's response to ISH4 action point question regarding modelling parameters and actual wind turbine data [REP7-005] referenced to Underwater Noise Technical Report [APP-105]. The Applicant stated the model was capable of predicting noise levels for projects of a greater size and scale when compared to the inputted monitoring data that the model is based upon. For the purposes of the ES, the Applicant states a conservative worst-case set of piling parameters has been assumed and that post consent following finalisation of project design re-modelling of underwater noise would be undertaken. The Applicant confirmed that underwater noise monitoring would be used to validate predictions and to ensure that mitigation agreed in the final MMMP are sufficient. Monitoring results would be analysed and reported to NRW.

Cumulative permanent threshold shift (PTS)

- 5.3.167. The underwater noise assessment considered two metrics when assessing potential injury to marine mammals from underwater noise: sound pressure levels (SPL); and cumulative sound exposure levels (SELcum).
- 5.3.168. The DoMMMP [REP8-069] considered injury ranges predicted using the SPL metric (referred to as instantaneous PTS). The Applicant considered the injury ranges predicted using SELcum metric (referred to as cumulative PTS) as being over precautionary and did not require it necessary to commit to mitigating cumulative PTS-onset.
- 5.3.169. JNCC disagreed with the Applicant's approach of not mitigating injury ranges predicted using cumulative PTS onset metric [REP1-069]. JNCC stated that it represents current industry best practice and the Applicant had provided no suitable alternatives.

- 5.3.170. The Applicant in its Marine Mammal Clarification Note [REP1-002] committed to mitigating injury ranges predicted using the single SPL metric and cumulative PTS metrics in the final MMMP (post consent).
- 5.3.171. In JNCC SoCG [REP4-029], a commitment by the Applicant to mitigating both metrics in the final MMMP unless evidence or guidance at the time suggest otherwise means an agreed position statement has been reached. NRW SoCG offshore [REP8-048] confirmed that its concern regarding mitigating both metrics had been addressed in [REP1-002] and that the MMMP needs to be secured as a condition of any relevant licence. NWWT SoCG [REP7-047] agrees with the mitigation measures proposed in the DoMMMP and that the published version would be subject statutory oversight as it will be agreed as a function of the Marine Licence. The dDCO [AS-053, Article 40] secures DoMMMP [REP8-069].

#### **ExA's Consideration**

- 5.3.172. Mitigation and monitoring approach related to marine licensing activities under MACAA are captured in the MLP [REP8-014]. The Applicant and NRW agree that the DCO should not require powers or controls which are regulated by a ML.
- 5.3.173. The dDCO [AS-053, Article 4] does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation. The dDCO [AS-053, Article 5] does not relieve the undertaker of any requirement to obtain any further licence under Part 4 (marine licensing) of the 2009 Act for the offshore works. However, these articles relate to operating and maintaining the proposed development and the ExA will incorporate alterations in the recommended DCO (rDCO) to address construction. The ML functions carried out by NRW MLT should adequately secure and control the mitigation measures required for the Proposed Development.
- 5.3.174. Although the Applicant stated that they should not be a material consideration in and of themselves within the context of the DCO, the marine template plans [REP4-008] do help give confidence to the ExA that appropriate management plans would be developed during the separate Marine Licence regulatory process.
- 5.3.175. The Applicant's Marine Mammal Clarification Note [REP1-002] and its approach that cumulative PTS would be mitigated in the final MMMP (unless evidence and guidance at the time suggest that it is not appropriate to do so) has been agreed with NRW and JNCC and is reflected in their SoCG ([REP8-048] and [REP4-029]). The MMMP is expected to be conditioned in any Marine Licence granted by NRW, and is captured in MLP [REP8-014, condition 35].
- 5.3.176. NRW in its SoCG offshore [REP8-048] confirmed that it was satisfied with the mitigation measures described in the Marine Mammals ES chapter [REP8-048], the Schedule of Mitigation and Monitoring [REP8-016] and the MLP [REP8-014]. JNCC in its SoCG [REP4-029] is satisfied with the Applicant's approach to mitigation as prescribed in its Marine Mammal Clarification Note [REP1-002] and that both metrics (instantaneous PTS and cumulative PTS) would be mitigated in the final MMMP.
- 5.3.177. The underwater noise monitoring approach for four piles is based upon recent UK offshore wind farms and would be used to validate the predicted modelled outputs. The Applicant confirmed that a conservative worst-case set of piling parameters has been assumed. The ExA considers there is an opportunity to undertake further validation of the conservative worst-case set of piling parameters model by extending underwater noise monitoring beyond the first four piles out of sixty-seven

(which equate to approximately 6% of total number of piles proposed during the construction phase). The gathering of data would enable further useful information to be published relevant to future projects as per EN-3 para 2.6.71 *Ecological monitoring is likely to be appropriate during the construction and operational phases to identify the actual impact so that, where appropriate, adverse effects can then be mitigated and to enable further useful information to be published relevant to future projects.*

- 5.3.178. Monitoring beyond the first four piles would measure and document the effects of the Proposed Development and the effectiveness of any associated mitigation. This enables an assessment of the accuracy of the original predictions and improves the evidence base for future mitigations. This approach would align with Draft National Policy Statement for Renewable Energy Infrastructure (dEN-3), future monitoring paragraph 2.23.15 and the part related to *Monitoring will measure and document the effects of the development and the efficacy of any associated mitigation or compensation. This enables an assessment of the accuracy of the original predictions and improves the evidence base for future mitigation and compensation measures enabling better decision-making in future EIAs and HRAs. The Secretary of State may consider that monitoring of any impact is appropriate.*
- 5.3.179. With regard to the specific circumstances of the DCO application NRW MLT has relied upon Regulation 10 of the Marine Works (Environmental Impact Assessment) Regulations 2007 to exempt the need for an EIA in respect of the ML application. This is on the basis that the EIA will be properly carried out by another consenting authority (the SoS). Under this approach NRW MLT should take into account inter alia the conclusions of the SoS assessment, any provisions attached to the DCO, and the mitigation and monitoring measures.
- 5.3.180. The ExA notes the mitigation and monitoring approach is appropriate for EIA. However, the ExA deems constraining the monitoring to potentially only the first four piles as a missed opportunity to gather further relevant data for future offshore windfarms. Such an approach to gain further monitoring data would more usefully align with NPS EN-3 paragraph 2.6.71 that promotes ecological monitoring to identify actual impact to enable further useful information to be published relevant to future projects.

#### **Offshore Environmental Net Gain**

- 5.3.181. The ExA sought clarity during the Examination as to whether the Proposed Development considered opportunities for enhancements and if it aims to leave the natural environment in a measurably better state than beforehand.
- 5.3.182. The Applicant's response to ExA first written questions [REP1-007] referenced how project offshore boundary refinement had reduce the impact on the marine environment. The Applicant noted there was no requirement to include marine net gain as part of the project application and that it would engage positively with the process when the approach has become clearer and stipulated within policy.
- 5.3.183. The WG in its response to ExA first written questions [REP1-097] stated that it did not have an established policy for the delivery or assessment of marine net gain. However, it did expect applications to have taken into consideration policies laid out



in the WNMP and referred to implementation guidance<sup>11</sup> and a particular guidance note<sup>12</sup>.

- 5.3.184. The Applicant in [REP5-004] confirmed that as no significant adverse effects on offshore biodiversity and conservation had been identified the proposal would not compromise the resilience of ecological networks and thus meets the relevant policy within the WNMP.
- 5.3.185. Chris Baines RR [RR-056] wanted to see the proposed array as the physical basis for seabed ecological restoration and proactive marine nature conservation.
- 5.3.186. At ISH4, the Applicant made further representation to confirm its position regarding offshore environmental effects [REP8-007]. With regards to opportunities considered to leave the natural environment (offshore) in a measurably better state than beforehand the Applicant referenced to no established policy for the delivery or assessment of net gain in the marine environment and that it is not yet an appropriate requirement for a project application. The Applicant explained that NRW guidance note GN 059 (principles of supporting restoration and enhancement in marine or coastal development proposals) had not been highlighted or provided by NRW and does not appear to be available online was the basis for it not being possible to assess what would be considered an appropriate level of offshore environmental benefit.
- 5.3.187. In response to ISH4 action points, a document titled Applicant's comments on NSIP Action Plan and Opportunities for Offshore Environmental Net Gain [REP8-036] was submitted at D8. With reference to opportunities for offshore environmental net gain the Applicant stated that it did not consider that a commitment to such proposals was necessary for the Proposed Development given it would have no significant residual effects on the marine environment. The Applicant stated that at no stage during discussions with WG and NRW has there been a request for the project to consider measures relating to net benefits for biodiversity in the marine environment and therefore, it has not formed part of the application that is before the ExA. The Applicant stated that it would be receptive to exploring options around environmentally focused design with NRW as the Marine Licensing process progresses into the post consent phase.
- 5.3.188. The opportunities referred to by the Applicant were enhancements to proposed infrastructure elements such as cable and scour protection material. The Applicant in its response to ExA's second written questions [REP5-004] provided an update on emerging solutions to ecological engineering for cable and scour protection with biodiversity in mind. It stated that the final design would be influenced by the expectations of the SNCB and regulatory authority at that time.
- 5.3.189. At D8 the Applicant updated the MLP [REP8-014] and Schedule of Mitigation and Monitoring [REP8-016] to demonstrate how the Proposed Development complies with WNMP policy ENV\_01: Resilient marine ecosystems. NRW SoCG offshore [REP8-048] agrees with the Applicant's proposed commitments and that they align with the WNMP Policy ENV-01 in relation to the resilience of marine ecosystems.

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<sup>11</sup> <https://www.gov.wales/sites/default/files/publications/2020-06/welsh-national-marine-plan-implementation-guidance.pdf>

<sup>12</sup> GN 059 Principles supporting restoration and enhancement in marine or coastal development proposal

### ExA's Consideration

- 5.3.190. The term offshore environmental net gain has been defined within NPS dEN-1 paragraph 4.5.1 as being *an approach to development that aims to leave the natural environment in a measurably better state than beforehand. Applicants should therefore not just look to mitigate direct harms, but also consider whether there are opportunities for enhancements*. The ExA acknowledges there is currently no formal requirement by the Welsh Government or NRW for marine net gain<sup>13</sup> in Wales.
- 5.3.191. The Applicant states there is no requirement to include marine net gain as part of the project application, and referred to recent southern North Sea offshore wind farm proposals that sea-seeding and sea litter collection measures were compensatory measures related to Habitats Regulations (and not provided for marine net gain). The Applicant does not consider it necessary to commit to opportunities for offshore environmental net gain due to no significant residual effects on the marine environment. The Applicant refers to no current policy requirement to deliver net benefits for biodiversity in the marine environment [REP8-036]
- 5.3.192. The Applicant refers to how it has avoided, minimised or mitigated potential impact which meets the *look to mitigate direct harms* statement in NPS dEN-1 paragraph 4.5.1. However, whether the supplementary statement within the sentence *but also consider whether there are opportunities for enhancements* has been met needs careful consideration.
- 5.3.193. The MLP [REP8-014, condition 20 and 21] refers to consideration to be given to the choice of cable protection material that can demonstrate to maximise environmental biodiversity benefits whilst meeting technical need. This feature could be deemed as enhancement opportunities forming part of the ML. However, the Schedule of Mitigation and Monitoring [REP8-016] refers to MLP [REP8-014, conditions 20, 21, 34 and 38] as monitoring or mitigation but not enhancement.
- 5.3.194. The Applicant has shown how the Proposed Development would take advantage of opportunities to conserve biodiversity although a commitment for offshore biodiversity enhancement (to align better with NPS EN-1) is somewhat lacking.
- 5.3.195. To summarise, the Proposed Development does not commit to offshore environmental net gain nor to leaving the natural environment in a measurably better state than beforehand. The Applicant's approach is to consider offshore environmental enhancement opportunities during the ML process.

### Cumulative Effects

- 5.3.196. NRW [REP1-080] noted that several projects were missing from the Marine Mammal Cumulative Effects Assessment although they were included and qualitatively assessed for fish and shellfish.
- 5.3.197. The Applicant issued a Cumulative Effects Assessment Clarification Note at D2 [REP2-028]. The Applicant confirmed that North Wales Tidal Energy project, Mostyn Tidal Lagoon, Morgan Offshore Wind Farm, Mona Offshore Wind Farm, and Morecambe Offshore Wind Farm had not been included in the underwater assessment for marine mammals due to insufficient available data on either the project scale or timings. The Applicant did not consider a need to further update the

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<sup>13</sup>Marine net gain known in Wales as Net Benefits for Biodiversity.

marine mammal cumulative effects assessment on this basis; and to do so would depart from the Planning Inspectorate's (the Inspectorate) Advice Note 17<sup>14</sup>.

- 5.3.198. The Applicant in its response to ExA second written questions [REP5-004] recognised that Mona and Morgan Offshore Wind Farms were Tier 2 projects (as defined in the ~Inspectorate's Advice Note 17). However, it considered that insufficient information had been made available to undertake a useful or informative cumulative assessment. The Applicant referred to The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, to assess cumulative effects with *other existing and/or approved* projects (paragraph 5.e of Schedule 4) means that the legal requirement to undertake cumulative assessment is limited to projects that are either consented or are built out already.
- 5.3.199. At D8, the Applicant submitted further response to cumulative effects assessment approach to Mona and Morgan Offshore wind Farms [REP8-039]. It provided further information as to why a meaningful assessment could not be undertaken and referenced to two case law on what comprises existing projects that are consented or built out.
- 5.3.200. NRW in its SoCG offshore [REP8-048] states that although it is not in agreement with the projects, plans and activities identified in the Marine Mammals cumulative effects assessment ES chapter [REP8-081] it does agree with the conclusion that there would be no significant cumulative effects. NWWT SoCG [REP7-047] agree the cumulative effects assessment is appropriate in relation to Marine Ecology. JNCC SoCG [REP-029] agree potential cumulative effects to offshore marine mammals have been assessed appropriately and agree with the conclusions subject to proviso related to the MMMP.

#### **ExA's Consideration**

- 5.3.201. The cumulative effects assessment predicts no significant residual effects. The ExA notes the proposed offshore windfarms of Mona and Morgan were screened out of further assessment due to lack of meaningful information. These matters are covered further under 'Other Projects and Proposals', Chapter 8 of this Report.
- 5.3.202. The ExA is content that relevant provisions of NPS EN-1 and NPS EN-3 for cumulative effects assessment have been met based upon the information currently in the public domain related to those projects<sup>15</sup> screened out for further assessments.

#### **ExA's conclusion on marine mammals**

- 5.3.203. The ExA considers the consultation report [APP-024], the summary of consultation [REP8-081], consultation information [APP-301] and details of an Expert Topic Group involved in marine mammal matters as identified in the Evidence Plan Report Appendix Part 1 [APP-302] demonstrates that meaningful and appropriate consultation has taken place.
- 5.3.204. In taking the view on consultation, baseline characterisation [REP8-08], and outcomes of the relevant assessments, the ExA has considered NRW SoCG

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<sup>14</sup> Advice Note 17: Cumulative effects assessment relevant to nationally significant infrastructure projects

<sup>15</sup> North Wales Tidal Energy project, Mostyn Tidal Lagoon, Morgan Offshore Wind Farm, Mona Offshore Wind Farm, and Morecambe Offshore Wind Farm

offshore [REP8-048], JNCC SoCG [REP4-029] and NWWT SoCG [REP7-047] position which shows no dispute and agreement on these points.

- 5.3.205. The project design phase reduced the maximum number of WTGs to fifty and reduced the array area to 78 km<sup>2</sup>. The DoMMMP [REP8-069] is secured in the rDCO in Article 40 and also is included in the MLP [REP8-014, condition 35]. The final MMMP would be secured as a condition of relevant marine licence(s) and would include mitigating injury ranges predicted using cumulative PTS metrics unless evidence or guidance at the time suggest otherwise. The VTMP (embedded within the PEMP) and the suite of other marine template plans [REP4-008] are to be secured as part of the ML process as outlined in the MLP [REP8-014]. As mentioned previously the ExA has included in the rDCO additional provisions in Article 3 to address construction since Articles 4 and 5 relate to operating and maintaining the proposed development. The Marine Licence functions carried out by NRW MLT should adequately secure and control the mitigation measures required for the Proposed Development. Altogether, the above points are considered by the ExA to be appropriate mitigation measures.
- 5.3.206. The ExA has utilised the definition of offshore environmental net gain given in NPS dEN-1 to examine whether the Proposed Development aims to leave the natural environment in a measurably better state than beforehand with opportunities for enhancements. The ExA acknowledges there is currently no formal requirement by the Welsh Government or NRW for marine net gain in Wales, and the Applicant's position that it considers it unnecessary to commit to opportunities for offshore environmental net gain due to no significant residual effects on the marine environment.
- 5.3.207. Nevertheless, the Planning Act 2008: Guidance on the process for carrying out a review of existing National Policy Statements Transition between National Policy Statements paragraph 26 states *Where a review is undertaken and a decision is made not to suspend the existing National Policy Statement (in whole or in part), it will continue to have effect for the purposes of the Planning Act. Any emerging draft National Policy Statements are potentially capable of being important and relevant considerations in the decision-making process, but the extent to which they are relevant is a matter for the relevant Secretary of State to consider with regard to the specific circumstances of each Development Consent Order application.*
- 5.3.208. In light of the above guidance on transition between National Policy Statements the ExA draws attention that the Proposed Development does not commit to offshore environmental net gain and leaving the natural environment in a measurably better state than beforehand. The Proposed Development commits to no enhancement measures although during the ML process there could be enhancement considerations.
- 5.3.209. The cumulative effects assessment predicts no significant residual effects. The ExA notes the proposed offshore windfarms of Mona and Morgan were considered in the EIA cumulative effects assessment<sup>16</sup> [APP-042] but were screened out of further assessment due to lack of meaningful information. The Applicant provided further information related to its approach to Mona and Morgan in [REP8-039]. These matters are covered further under 'Other Projects and Proposals', Chapter 8 of this report.

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<sup>16</sup> Projects listed as EnBW and BP 1 - Round 4, and EnBW and BP 2 - Round 4

- 5.3.210. NWWT SoCG [REP7-047] shows that although there is no agreement on ecological monitoring it agrees there would be no material impact in the assessment conclusion. The ExA reiterates that whilst the monitoring approach is appropriate for EIA, constraining the monitoring to potentially only the first four piles is a missed opportunity to gather further relevant data for future offshore windfarms. NPS EN-3 paragraph 2.6.71 promotes ecological monitoring to identify actual impact to enable further useful information to be published relevant to future projects. An assessment of the accuracy of the original predictions would improve the evidence base for future mitigation and compensation measures enabling better decision-making in future EIAs (and HRAs) and would more usefully align with NPS dEN-3.
- 5.3.211. Nevertheless, the ExA is content that the provisions of NPS EN-1, NPS EN-3 and the relevant legislative and policy tests for marine mammals have been met. The ExA is satisfied that the ES has considered the relevant impacts through the project stages and agrees that residual effects, inter-relationships effects and transboundary effects are not significant in EIA terms. However, the impacts of the Proposed Development and the residual effects means the ExA cannot ascribe an overall neutral position on marine mammals.
- 5.3.212. The ExA therefore gives limited weight against the Order being made for issues related to marine mammals and this is carried forward into the planning balance.

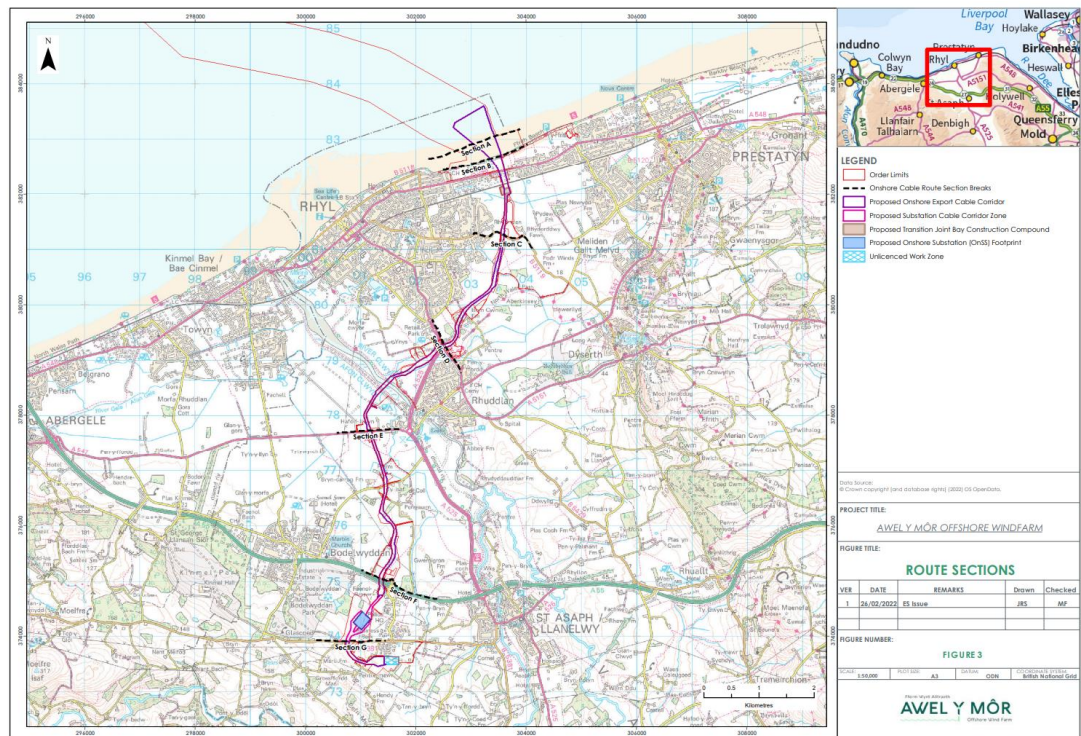
## **BIODIVERSITY, ECOLOGY AND NATURAL ENVIRONMENT**

### **THE APPLICANT'S CASE (ONSHORE)**

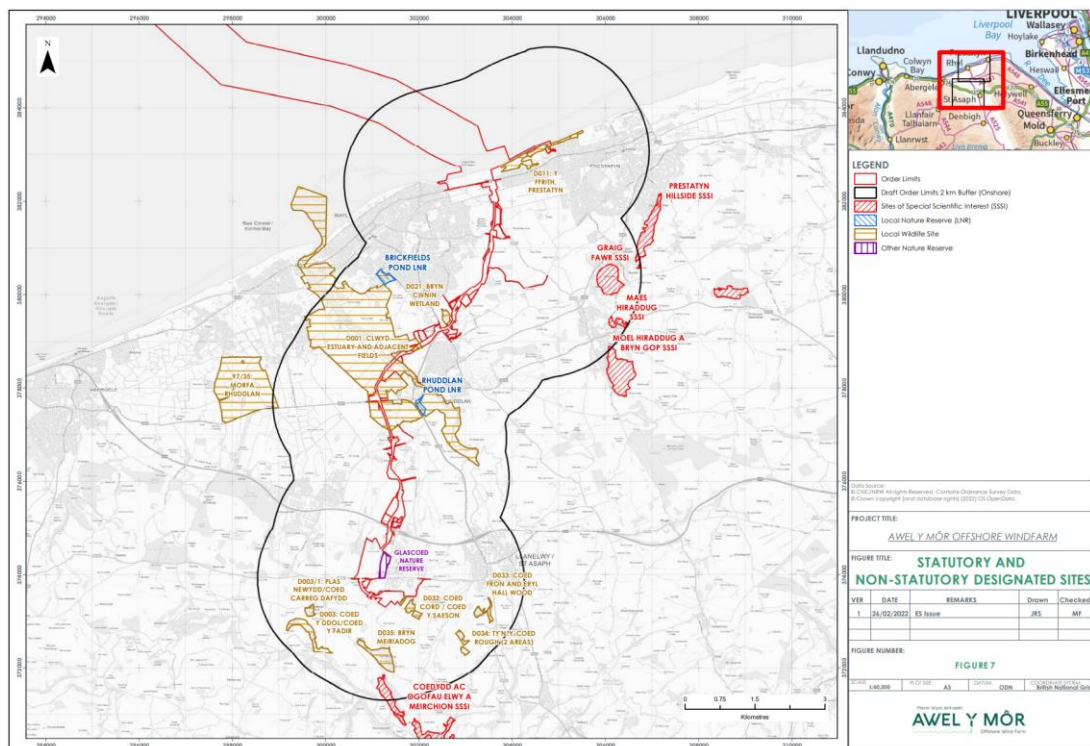
#### **Information Submitted - Onshore**

- 5.3.213. The subsea export cables linking the proposed wind turbine generators to land are proposed to make landfall at Ffrith beach, to the east of Rhyl and west of Prestatyn. The onshore export cable corridor (ECC) is approximately 12 km running generally in a north-south direction. The cables would be sited beneath infrastructure such as a railway and roads, as well as beneath ancient woodland, the river Clwyd estuary and agricultural land. It would connect to a new onshore substation (OnSS) to the west of St Asaph's Business Park (SABP) before connecting to the existing National Grid substation south of the Business Park. The first figure below shows the location of the onshore infrastructure elements whilst the second figure shows statutory and non-statutory designated sites.

**Figure 4: Onshore Infrastructure (Overview) [REP8-060, Figure 3]**



**Figure 5: Statutory and non-statutory designated sites [REP8-061, Figure 7]**



5.3.214. The Proposed Development would involve works such as site clearance and site investigation, establishment of construction compounds, building of haul roads and accesses, fencing, trenching including trenchless techniques, drainage and earthworks. More detail about the Proposed Development can be found in the

Environmental Statement (ES) Volume 3, Chapter 1 Onshore Project Description [REP8-060], the Land Plan (Onshore) [REP6-028], and the Works Plan [REP6-029].

- 5.3.215. Volume 3, Chapter 5 of the ES [REP8-061] assessed onshore biodiversity and nature conservation. The Inter-related effects assessment for ecology and nature conservation is included in Volume 2, Chapter 14 of the ES [REP8-059].
- 5.3.216. Submitted as part of ES Volume 5 are Habitat and Hedgerow Survey Report [APP-125], Wintering Bird Survey Report [APP-126], Reptile Survey Report [APP-127], Otter and Watervole Survey Report [APP-128], Great Crested Newt Survey Report [APP-129], Dormouse Survey Report [APP-130], Breeding Bird Survey Report [AS-031], Badger Survey Report (Public) [APP-133], Noise Modelling for Important Ornithological Features [APP-135], Summary of Consultation Relating to Onshore Biodiversity and Nature Conservation [APP-136].
- 5.3.217. A number of confidential reports are submitted for Barn Owl Survey Results [AS-032], Badger Survey Report [APP-132] and Bat Survey Report [APP-134].

The ES also included Preliminary Ecological Appraisal Report [APP-120], an Outline Landscape and Ecology Management Plan (oLEMP) [APP-305], an Outline Code of Construction Practice (oCoCP) [APP-312], and the Evidence Plan Report [APP-301] including annexes [APP-302] and [APP-303].

#### **Documents submitted during Examination**

- 5.3.218. The Applicant updated numerous documents several times during the Examination and prepared an Application Errata List [REP8-053] that identified errors and necessary corrections where revised documents were not being provided. At D8 the issues in the errata list were embedded in the relevant ES Chapters (and were issued with a new document reference in the EL).
- 5.3.219. Other documents submitted by the Applicant and by other parties during the Examination (such as Statements of Common Ground (SoCG), Hearing Action Points Responses, ExQ's Applicant's Written Responses) are listed in Appendix B – Examination Library.
- 5.3.220. New documents submitted by the Applicant during the Examination and the reasons are set out in the table below:

**Table 2: New documents**

Document Title	Reference	Reason
Appendix J - Technical note on Non-Road Mobile Machinery (NRMM)	Embedded within REP1-007	Qualitative assessment of NRMM emissions on nearby Local Wildlife Sites
Vessel Emissions Clarification Note	REP1-020	Technical note on marine vessel emissions that are operating within proximity to sensitive coastal onshore habitat.



Document Title	Reference	Reason
Table of Environmental Statement Conclusions	REP1-049	Summary of predicted and potential effects as identified in each chapter of the Environmental Statement
Cumulative Effects Assessment Clarification Note	REP2-028	Clarification note to address comments by NRW regarding cumulative effects on developments considered within the onshore assessments.
Schedule of Mitigation and Monitoring	REP8-016	Combines previous version of Schedule of Mitigation [APP-310] and the Schedule of Monitoring [APP-311] into a single table, and titled of document changed.

### **Applicant's EIA methodology**

- 5.3.221. The project wide generic approach to environmental impact assessment (EIA) methodology is set out in the Environmental Impact Assessment Methodology [REP8-056] where significance of effects is based upon a matrix consisting of magnitude of impact and sensitivity of receptor. Any effect that is concluded to be of moderate or major significance within the matrix is deemed to be 'significant' in EIA terms. Each topic specific chapter outlines the EIA approach and any differences in methodology assessment and has been summarised in the relevant section within this report.

### **The Applicants Case: Onshore Biodiversity, Ecology and Natural Environment**

- 5.3.222. This section examines the effects of the Proposed Development during its construction, operation and decommissioning on biodiversity, ecology and natural environment.

#### **Consultation**

- 5.3.223. The Consultation Report [APP-024] provides consultation information and approach and is supplemented by appendices [APP-025 and APP-026]. Specific consultation summary related to onshore biodiversity and nature conservation is included in [APP-136], in the Evidence Plan [APP-301], and its Annex [APP-302] related to Expert Topic Group 5: Onshore Ecology.

#### **Baseline Data**

- 5.3.224. The Preliminary Ecological Appraisal Report [REP8-070] references to desk-based studies whilst field surveys and associated reports have been provided in ES Volume 5, Annexes 5.2-5.10. It is acknowledged in ES Volume 3, Chapter 5 Onshore Biodiversity and Nature Conservation [REP8-061] that preconstruction surveys of protected species will be updated to reflect any changes between the initial survey dates and start of construction period.

### **Applicant's Assessment Approach**

- 5.3.225. The environmental impact assessment for Onshore Biodiversity and Nature Conservation [REP8-061] is based on CIEEM Guidelines for Ecological Impact Assessment in the United Kingdom and Ireland (CIEEM, 2018, updated in



September 2019). This is deemed to be the standard approach for ecology and is different to the project wide generic approach to environmental impact assessment.

### Applicant's Approach to Ecological Impact Assessment (EclA)

5.3.226. The Applicant's ES chapter 5 [REP8-061] references to four types of EclA:

- Avoidance: Impact has been avoided such as changes in scheme design;
- Mitigation: Seeks to reduce and / or eliminate the potential for significant effects to arise as a result of the project. Mitigation measures can be embedded (part of the project design) or secondarily added to reduce impacts in the case of potentially significant effects
- Compensation: Measures taken to offset residual effects resulting in the loss of, or permanent damage to, ecological features despite mitigation. Examples of compensation could be replacement habitat or improvement to existing habitats;
- Enhancement: Provision of new benefits for biodiversity in addition to mitigation or compensation measures

### Applicant's Assessment of Impacts and Effects

5.3.227. The predicted effects for Onshore Biodiversity and Nature Conservation is in [REP8-061, table 18] whilst a summary of effects are given in Table of Environmental Statement Conclusions [REP1-049]. The significance of important habitat<sup>17</sup> loss as a result of construction is represented in the following table:

**Table 3: Residual effects of important habitat loss**

Important Habitat	Short Term < 5 years	Mid Term (5 – 10 years)
S7 habitat coastal sand dune and Habitats Regulations Annex 1 habitat H2130 dune grassland		
S7 habitat hedgerows including important hedgerows		
S7 Habitat Lowland Fen		
S7 Habitat coastal and floodplain grazing marsh including part of the Clwyd Estuary and adjacent fields Local Wildlife Site (LWS)		

(red significant, green not significant, blank no statement)

5.3.228. Ancient semi-natural woodland (ASNW) and Plantation on Ancient Woodland Site (PAWS) including veteran oak tree is defined as having a UK geographical scale of importance whilst other woodland is defined as having a local geographical scale of

<sup>17</sup> Paragraph 104-107 Volume 3, Chapter 5 [REP8-061]

importance. The Applicant anticipates no loss to any of these habitats as Horizontal Directional Drilling (HDD), a trenchless technique would be used [REP8-061].

- 5.3.229. The Applicant references that there would be no loss of habitat at coastal saltmarsh, reedbeds, and rivers due to the use of HDD [REP8-061].
- 5.3.230. The Applicant does not anticipated loss of habitat at areas within Y Ffrith Local Wildlife Site (LWS) and Bryn Cwnin LWS.
- 5.3.231. The spread of invasive non-native species (INNS) present within the maximum adverse scenario assessed include: Rhododendron; Himalayan balsam; Water fern; Hottentot fig; Japanese knotweed; Giant hogweed; Floating pennywort; and Japanese rose. No significant impacts were predicted due to the incorporation of and Outline Invasive Non-Native Species Management Plan [REP8-040].
- 5.3.232. The predicted effects for Onshore Biodiversity and Nature Conservation and the significance of effects upon protected and notable species as a result of construction is included in [REP8-061, table 16] and has been represented in the following table:

**Table 4: Residual effects upon protected and notable species**

Protected and notable species	Short Term < 5 years	Mid Term (5 – 10 years)
Plant species at coastal dune habitat		
Atlantic salmon, brown trout and European eel		
Invertebrates using coastal dune habitat		
Great Crested Newts (GCN) and common toad		
Reptiles		
Badger		
Otter		
Water vole		
Breeding birds and non-breeding birds (landfall and River Clwyd)		

Bats <sup>18</sup>		
Other S7 Mammals (Hedgehog, Brown hare, and Polecat)		

(red significant, green not significant, blank no statement)

- 5.3.233. During **operation**, the Applicant assessed the residual effects on all important ecological features as likely to be not significant. Proposed mitigation would involve adoption of good practice, and measures to avoid potential impacts to protected / notable species or sensitive habitats. Unplanned maintenance would be subject to any necessary consents and consultation with the relevant nature conservation bodies prior to work taking place.
- 5.3.234. During **decommissioning**, the Applicant assessed the residual effects on all important ecological features as likely to be not significant. Proposed mitigation would be similar to construction mitigation and monitoring measures described below.
- 5.3.235. **For cumulative effects**, the Applicant assessed the residual effects on all important ecological features as likely to be not significant.
- 5.3.236. Inter-related effects assessment considers the potential for multiple impacts from the construction, operation or decommissioning of the Proposed Development on the same receptor to result in a greater effect than each impact when considered in isolation. The **Inter-relationships** [REP8-059, table 10] references to disturbance or damage to ecological features during construction, operation, and decommissioning, whilst temporary habitat loss / disturbance would be during construction and decommissioning. The assessment of the inter-related effects concluded there was no potential for effects of greater significance than those considered in isolation.
- 5.3.237. The assessment states that there are no national or international **transboundary effects** with regard to onshore biodiversity and nature conservation [REP8-061].

#### **Mitigation and Monitoring Measures**

- 5.3.238. The mitigation measures relating to onshore biodiversity and nature conservation are given in [REP8-061, table 13] and [REP8-066, table 5] and would include European Protected Species Licence (EPSL) for bats and GCN, management plans and method statements, pre-construction surveys, timing constraints, reinstatement of targeted habitats, and habitat creation. Potential permanent and temporary mitigation areas are identified in the oLEMP [REP7-026, figures 3-7] and would allow translocation of reptiles, water vole and GCN if required.
- 5.3.239. The mitigation measures referenced in the Schedule of Mitigation and Monitoring [REP8-016] reflect the measures outlined in the ES Volume 3, Chapter 5 [REP8-061] and ES Volume 3, Chapter 13 [REP8-066]. Reference is made to a monitoring role during construction by the Ecological Clerk of Works (EcOW). During operation,

<sup>18</sup> No significant residual effect is likely in the short term and mid to long term, on the local conservation status of bat populations following the implementation of the EPSL mitigation / compensation measures agreed with NRW.

monitoring of the mitigation / compensation / enhancement habitats would be undertaken in years 1-3 and further monitoring would be subject to approval of final Landscape and Ecology Management Plan (LEMP). GCN monitoring and bat monitoring would form part of the EPSL in accordance with a long-term management plan. All other areas monitoring would be undertaken in years one to three to coincide with the aftercare and implementation period.

- 5.3.240. The oLEMP [REP7-026] refers to reinstated habitats being subject to an aftercare period of up to three years following reinstatement which would be extended if deemed unsuccessful. Aftercare would be the responsibility of the Applicant (or its appointed contractors) and post aftercare the ongoing management would revert to previous management regimes by the landowner.

### **Issues Considered in the Examination**

- 5.3.241. The key issues considered during the Examination were:

- Biodiversity enhancement, ecological networks and resilience of ecosystems;
- Pre-commencement effects on biodiversity, ecology and natural environment;
- Approach to mitigation, compensation, enhancement and monitoring;
- Habitats and Species:
  - Hedgerow;
  - Bats; and
  - Great Crested Newts (GCN); and
- Non-Road Mobile Machinery Emissions.

### **Biodiversity enhancement, ecological networks and resilience of ecosystems**

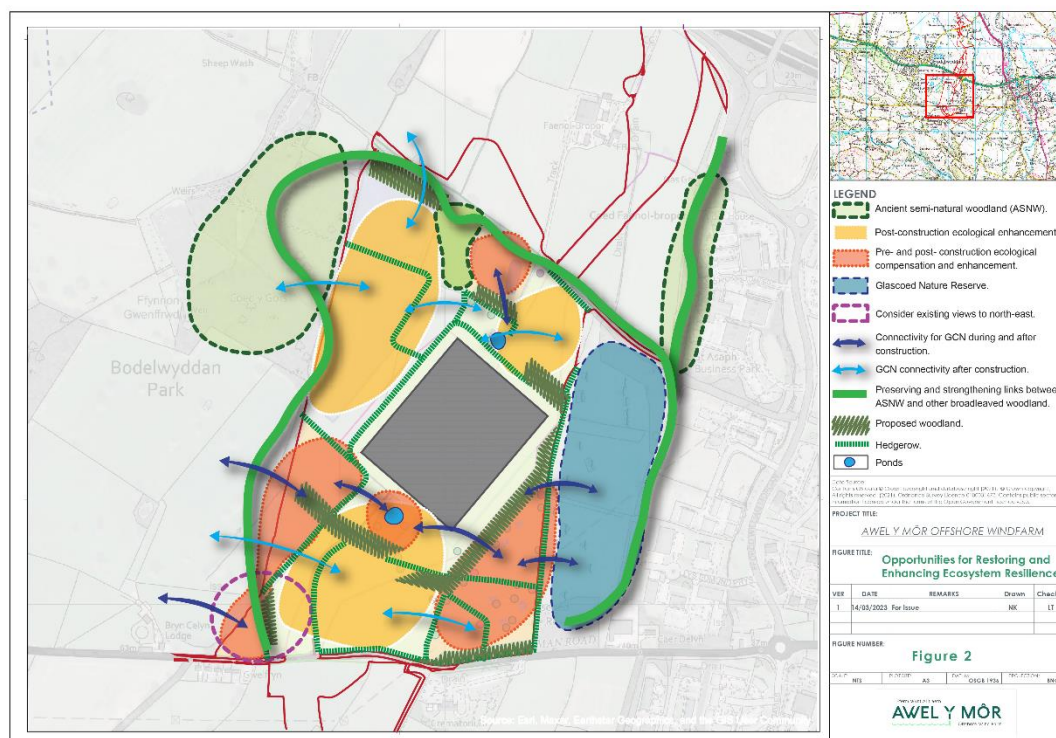
- 5.3.242. The ExA examined how the Proposed Development took advantage of opportunities to conserve and enhance biodiversity and how biodiversity net gain (or loss) had been determined. The ExA sought further clarity on how ecosystem resilience and ecological networks had been considered.
- 5.3.243. The Applicant in its response to ExA first written questions (ExQ1) [REP1-007] stated that currently there was no requirement within an ecological impact assessment to quantify losses and gains and that its approach not to use a biodiversity metric tool in Wales had been agreed with NRW. NRW SoCG onshore [REP8-049] and DCC SoCG [REP7-049] agreed with the Applicant's position there was no requirement for the Proposed Development to use a biodiversity net gain metric.
- 5.3.244. The Applicant referenced to the WG net benefits for biodiversity approach<sup>19</sup> which is similar to biodiversity net gain but does not utilise a metric.
- 5.3.245. Envirowatch.EU in its RR [RR-034] an issue regarding green connecting corridors and water bodies. The Applicant in its response to ExQ1 [REP1-007] referenced to Onshore Biodiversity and Nature Conservation [REP8-061] to describe its approach to ecological networks and ecosystems and cited woodland planting proposals as an example to address the resilience of ecosystems. The Applicant's Written Summary of Oral Submission at ISH3 [REP3a-005] referenced to the creation of hedgerows, trees and ponds to help improve linkage and resilience of areas beyond the Order Limits (OL) for GCN and bird species.

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<sup>19</sup> Welsh Government's Approach to Net Benefits for Biodiversity and the DECCA Framework in the Terrestrial Planning System (CIEEM Briefing Paper September 2022)

- 5.3.246. The ExA sought clarity on the Proposed Development approach to conservation of biological diversity, protection of ecosystems and natural habitats, interaction with existing designated sites and areas of increased ecological importance. The ExA referenced to United Nations Environmental Programme Convention on Biological Diversity of 1992 for Article 8 In-situ Conservation and Kunming-Montreal Global Biodiversity Framework relevant goals and targets.
- 5.3.247. The Applicant referenced in its response to the ExA second written questions (ExQ2) [REP5-004]:
- that the Proposed Development approach aligns to the United Nations Environmental Programme Convention on Biological Diversity of 1992 for Article 8 In-situ Conservation;
  - provided an Appendix B on the position of the Proposed Development to Kunming-Montreal Global Biodiversity Framework relevant goals and targets [REP5-004].
- 5.3.248. The ExA requested evidence with reason for initial aftercare / monitoring duration lasting up to 3 years for the Proposed Development, and referred to Norfolk Boreas and Norfolk Vanguard which had a landscaping maintenance period of ten years after planting. The Applicant response to ExQ2 [REP5-004] made reference to the oLEMP and commented that aftercare (for the purpose of checking ecological reinstatement) could be extended if reinstatement is not deemed to have been successful after three years. With reference to North Norfolk the Applicant noted challenging growing conditions and that difficulties in establishing trees and shrubs in this area have not been raised as an issue by consultees or members of the public.
- 5.3.249. An assessment of effects on ecosystems had been included in ES Volume 3, Chapter 5 [REP8-061]. The Applicant stated in [REP5-004] that there was no legal or policy requirement for developments to provide an assessment of ecosystem condition, connection or function. However, it had considered the potential for significant effects on ecosystems specifically:
- whether any processes or key characteristics would be removed or change;
  - and
  - if there would be an effect on the nature, extent, structure and function of component habitats or if there would be an effect on the average population size and viability of component species.
- 5.3.250. Along the onshore Export Cable Corridor (oECC) the works would entail reinstatement and restoration of habitats. At the OnSS, the Applicant provided a table showing how the Proposed Development would improve connectivity in the OnSS area [REP5-004, Appendix C]. At D8, the Applicant submitted a Note on Opportunities for Ecological Enhancement and Connectivity at the OnSS Site [REP8-037]. This note references to relevant policies, biodiversity compensation and enhancements, landscape mitigation and opportunities for a resilient network of inter-connected areas.
- 5.3.251. In the context of opportunities for biodiversity enhancement and the resilience of the wider ecological network, the Applicant's approach is centred upon the OnSS area. The following figure [REP8-037, Figure 2] shows opportunities for restoring and enhancing ecosystem resilience and connectivity between habitats, such as Bodelwyddan Castle woodland and the Glascoed Nature Reserve (GNR).

**Figure 6: Opportunities for restoring and enhancing ecosystem resilience [REP8-037, figure 2]**



## ExA's Consideration

- 5.3.252. The Environment Act 2021 - Section 99: Biodiversity gain in nationally significant infrastructure projects does not apply in Wales and the approach adopted by WG is net benefits for biodiversity.
- 5.3.253. The ExA considers opportunities for enhancing ecosystem resilience and connectivity between habitats (shown for the OnSS area) satisfies NPS EN-1 and NPS dEN-1. The Proposed Development demonstrates how it has taken advantage of opportunities to conserve and enhance biodiversity, opportunities for enhancements, and as part of good design builds in beneficial biodiversity features to contribute to the wider ecosystem. The ExA considers the Proposed Development meets Future Wales (the national plan 2040) Policy 9 – resilient ecological networks and green infrastructure.
- 5.3.254. However, the ExA is disappointed that the period of habitats aftercare of up to three years (oLEMP [REP7-026]) does not reflect the short-term impact duration of less than five years defined in the ES. The restored / new habitats would help to act as an integral fully functional ecological network and would improve the resilience of an ecosystem. Its success to function as intended would be at risk should disease or damage to habitat linkage occur at year four (beyond aftercare period).

## Pre-commencement effect on biodiversity, ecology and natural environment

- 5.3.255. The ES did not isolate and identify the effects associated with the pre-commencement phase and the ExA sought clarity on how and where the Proposed Development had considered these effects.
- 5.3.256. In its Written Summary of Oral Submission at ISH3 [REP3a-005] the Applicant confirmed that preliminary works meant pre-commencement works. These works it

explained had been considered within the construction phase of the Proposed Development for the purposes of the ES.

- 5.3.257. The Applicant's response to ISH3 Action Points [REP4-003] referred to paragraph 148 of the Applicant's EIA Scoping Report<sup>20</sup> where the ES had addressed the three stages of the Proposed Development (i.e. construction, operation and maintenance, and decommissioning). The definition of construction works included activities and processes that would be required to build the Proposed Development, including preparatory works. The Scoping Opinion provided by the Inspectorate [APP-295] relates to the Applicant's stages of construction, operation and maintenance, and decommissioning.
- 5.3.258. The dDCO [AS-053] defines pre-commencement works in Part 1, Preliminary, Interpretation under "commence". The range of pre-commencement works are onshore works comprising surveying or investigatory works including archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions; preparatory works to existing infrastructure and diversion and laying of utilities and services; creation of any temporary means of access; site clearance including vegetation clearance; erection of screening and fencing, site security works, creation of temporary hard standing, or the temporary display of site notices or advertisements. The oLEMP [REP7-026, section 10], outlines which parts of the oLEMP would be adhered to in carrying out pre-commencement activities and the dDCO [AS-053] includes particular requirements related to pre-commencement documentation (such as R10 (4) outline code of construction practice, R12 (3) onshore written scheme of investigation, and R13 (3) oLEMP).
- 5.3.259. The Applicant's response to ExA third written questions [REP7-004] considered it unnecessary to undertake further review and seek agreement with NRW and DCC on the outline management plans for the pre-commencement stage. NRW response to ExA third written questions [REP7-056] confirmed that it did not have issues to raise and no comments to make on the pre-commencement works taking place in accordance with outline management plans to be certified. Similarly, DCC in its response [REP7-051] confirmed it had no issues to raise / no objection with regards to the outline management plans at pre-commencement stage.

#### **ExA's Consideration**

- 5.3.260. The ES groups the impacts arising from pre-construction (i.e. pre-commencement) within the construction stage. The Applicant references to other recent offshore windfarms which have adopted a similar approach and to differentiate pre-construction / construction impacts would be without precedent. The Applicant confirmed that the pre-construction (i.e. pre-commencement) impacts are included within the overall construction period [REP4-003].
- 5.3.261. The ExA examined whether the Applicant's onshore pre-construction effects (i.e. pre-commencement) on biodiversity, ecology and natural environment meets the needs of the overarching National Policy Statement for Energy (EN-1), and paragraph 4.2.3 reads *For the purposes of this NPS (and the technology-specific NPSs), the ES should cover the environmental, social and economic effects arising from pre-construction, construction, operation and decommissioning of the project.* Whilst the Proposed Development does not explicitly differentiate impacts arising

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<sup>20</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010112/EN010112-000023-AYMO%20-%20Scoping%20Report.pdf>



from pre-construction / construction stage the ExA considers the ES meets the needs of the NPS EN-1 by incorporating pre-construction (pre-commencement) impacts within the construction stage and duplicates the approach of other recent offshore windfarm developments.

5.3.262. The ExA considers the Applicant's onshore pre-commencement effects on biodiversity, ecology and natural environment approach also meets the needs of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and the EIA process prescribed under Regulation 5 (2).

5.3.263. The ExA notes that relevant statutory bodies NRW and DCC have been actively involved with the development of the outline management plans for the pre-commencement stage and are content with them.

### **Approach to Mitigation, Compensation, Enhancement and Monitoring**

5.3.264. Envirowatch.EU in its RR [RR-034] referred to replacement of loss of land by sufficient compensatory replacement by tree / shrub planting, wildlife, including insect provision, and water bodies. The Applicant in its response to RRs [REP1-001] referred to the oLEMP [REP7-026] and its proposed enhancement measures, which were additional to those provided as part of mitigation or compensation measures.

5.3.265. Sustainable Cymru (SC) in its RR [RR-036] highlighted that the OnSS abuts a public nature reserve (i.e. GNR) that houses rare and protected newts, voles, bats, owls, and many other wildlife and fauna. It highlighted that Bodelwyddan Castle estate (which also abuts the OnSS) consists of large ponds and established woods where birds and wildlife breed. SC also referred to noise pollution, electric humming of the transformers and magnetic nuisance impact on wildlife breeding.

5.3.266. The Applicant in its response to SC RR [REP1-001] referred to the oLEMP [REP7-026] and how hedgerows would be reinstated at their original location / close as possible. New hedgerows would be located to re-establish links and maintain the network. Adjacent to Local Wildlife Sites (LWS), the working areas would be kept to the minimum area necessary and enclosed with temporary fencing to avoid inadvertent damage to adjacent habitats. The Applicant response to ISH3 action point [REP4-003] to buffer and / or protective measures at the boundary of GNR referred to a pre-construction walkover survey of the working area would be undertaken to accord with in BS5837:2012 Trees in Relation to Construction, and to the oCMS secured by R10 in the dDCO [AS-053]. The Applicant referred to a number of biodiversity enhancements at the OnSS area and regarding noise and vibration referred to Volume 3, Chapter 10 [REP8-065]. Due to the distance of any international / national ecological sites from the OnSS the Applicant considered that an assessment of noise impacts upon ecological receptors (receptors word later changed by errata list [REP8-053] to designations) was not required for the OnSS. NRW confirmed in its response to ExQ1 [REP1-080] that it was satisfied with the assessments undertaken with respect to noise impacts on protected species (including bats and barn owls) and the mitigation provided in the Outline LEMP. The dDCO [AS-053] secures the outline noise and vibration management plan [REP2-020] that would be approved by DCC prior to construction.

5.3.267. Ros Griffiths-Williams RR [RR-053] raised impact on the environment and wildlife, and Martin Griffiths [RR-054] raised concerns that the proposed substation would be a blight on the local wildlife. The Applicant in its response to impact on environment and wildlife [REP1-001] referred to assessment undertaken in ES Volume 3, Chapter 5 [REP8-061].

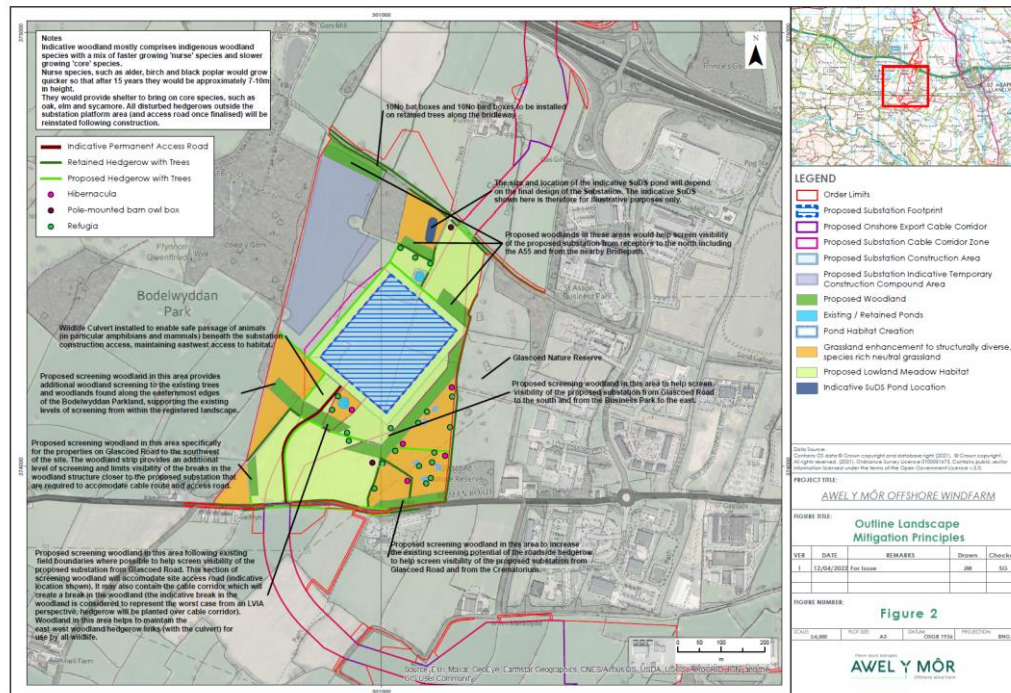


- 5.3.268. DMPC on behalf of Mr JB & Mrs E Evans [RR-038] raised concerns regarding the extent of the mitigation area earmarked for the siting of the substation. The Applicant's response [REP1-001] referred to the oLEMP [REP7-026] and the need to reduce, mitigate, compensate, and provide biodiversity enhancements to address potential impacts on landscape and biodiversity resources. The Applicant provided further details regarding mitigation, compensation and enhancement around the OnSS which it considered to be of an appropriate size in its response to written representations [REP2-002]. DMPC on behalf of Mr JB & Mrs E Evans written summary of oral submission at CAH [REP8-126] reiterated its objection to land being acquired to locate a substation together with mitigation and biodiversity enhancement measures.
- 5.3.269. Wilson Fearnall (on behalf of GBL and IM Kerfoot Discretionary Trust) RR [RR-037] raised that the Applicant had not demonstrated a clear use or necessary locational requirement for temporary mitigation areas. The Applicant in its response to ExQ1 [REP1-007] referenced to GCN as the usage purpose, and the locations were based upon a principle of siting as close as possible to the areas that would be temporarily lost and accessible to breeding ponds.
- 5.3.270. Potential permanent and temporary mitigation areas are identified in the oLEMP [REP7-026, figures 3-7] and in the relevant work numbers in the dDCO [AS-053, R13]. The Applicant's response to ExQ1 [REP1-007] explained that potential temporary mitigation areas would allow translocation of reptiles, water vole and GCN if required.
- 5.3.271. In its Written Summary of Oral Submission at ISH3 [REP3a-005] the Applicant confirmed that the term 'preliminary mitigation' is used in the ES as additional surveys will need to be undertaken to confirm the final mitigation measures to be delivered. The Applicant anticipates that the additional surveys will not affect the conclusions of the ES.
- 5.3.272. The Applicant's response to ExQ1 [REP1-007] confirmed that habitat management and monitoring regimes including any habitats and species targets would be addressed in the final LEMP approved by the planning authority and would be secured in the dDCO [AS-053, R13].
- 5.3.273. The Applicant in its response to ExQ2 [REP5-004] stated that during the first three years after planting, monitoring (to coincide with aftercare) would validate whether the proposed mitigation was sufficiently mature and established. The final LEMP would have details of monitoring methods, key indicators, and reporting. A summary of where commitments have been made in the ES chapters has been captured in Schedule of Mitigation and Monitoring [REP8-016].
- 5.3.274. The oLEMP [REP7-026] proposed an initial aftercare period of up to three years for reinstated habitats which would be extended if deemed unsuccessful. Biodiversity enhancements at the OnSS would also be subject to an initial aftercare period of up to three years. Ongoing management (for compensation and enhancement at the OnSS) would be required to maintain the value of the biodiversity enhancements, following the end of the aftercare period and the final LEMP would provide details of long-term management. Areas forming compensation and mitigation for GCN and bats would be subject to a long-term management plan (for the lifetime of the project) to satisfy NRW EPSL requirements.
- 5.3.275. NRW SoCG onshore [REP8-049] confirmed the proposals for mitigation, compensation and enhancement were acceptable to manage adverse effects with

respect to protected species. The Applicant confirmed at ISH4 [REP8-007] that no feedback had been received from NWWT on onshore matters and hence that is why NWWT SoGC [REP7-047] does not contain a section on onshore ecology and biodiversity.

- 5.3.276. Biodiversity enhancement measures have been included at the OnSS and the outline landscape mitigation principles for the OnSS area is shown in the oLEMP [REP7-026, figure 2] and is replicated below. The figure below is illustrative and the OnSS area offers some flexibility during detailed design of the landscape and ecological works.

**Figure 7: Outline landscape mitigation principles [REP7-026, figure 2]**



- 5.3.277. The oLEMP [REP7-026] shows at the OnSS area:
- creation and management of five new ponds (including ongoing management of two existing ponds);
  - creation of five reptile / amphibian hibernacula;
  - creation of twenty reptile / amphibian refugia;
  - erection of ten bat boxes, ten bird boxes, including two pole mounted barn owl boxes;
  - scrub management to promote diverse grassland habitat;
  - creation and management of 9.8ha of species-rich, lowland meadow priority habitat and 6.05ha of diverse neutral grassland;
  - creation of 2.96ha of locally native broadleaved woodland.

- 5.3.278. The Applicant in its Note on the Weight to be Given to Enhancement [REP8-038] stated that that biodiversity enhancement measures comply with policy objectives and should be given weight in the planning decision.

- 5.3.279. The Outline Code of Construction Practice (oCoCP) [REP7-018] outlines general measures to manage the potential environmental impacts from onshore construction

activities and the Outline Onshore Construction Method Statement (oOCMS) [REP7-020] outlines construction management methods.

- 5.3.280. NRW SoCG onshore [REP8-049] confirmed that the proposals for mitigation, compensation and enhancement were acceptable to manage adverse effects with respect to protected species. DCC agree with the mitigation, compensation and enhancement proposals made by the Applicant [REP7-049].

#### **ExA's Consideration**

- 5.3.281. The term 'preliminary mitigation' in the ES reflects that additional surveys would be needed to confirm the mitigation measures. It is anticipated these surveys would not affect the conclusions of the ES and pre-construction surveys for protected species have been secured in the dDCO [AS-053, R14].
- 5.3.282. The ExA is satisfied with the approach that temporary mitigation areas have been identified for potential translocation of protected species and that final measures will be confirmed following surveys and be detailed in the LEMP (the LEMP would be approved by DCC).
- 5.3.283. The ES characterises the baseline and identifies the potential effects the Proposed Development would have on habitats and species. The mitigation, compensation, enhancement, and monitoring measures would help to conserve and enhance biodiversity and would provide opportunities for building in beneficial biodiversity as part of good design. The OnSS area offers some flexibility during detailed design to develop the mitigation, compensation and enhancement measures that can help conserve and enhance biodiversity, and as part of good design builds in beneficial biodiversity features to contribute to the wider ecosystem.
- 5.3.284. The ExA considers the approach conforms with the relevant sections of NPS EN-1, NPS dEN-1, TAN 5, Future Wales (the national plan 2040) Policy 9, DCC Conservation and Enhancement of Biodiversity SPG, and DCC Trees and Landscaping SPG. The Proposed Development would meet the needs of NPS d-EN1 paragraph 5.4.18 by incorporating appropriate mitigation measures such as the oCoCP [REP7-018] and the oOCMS [REP7-020] to control construction works.
- 5.3.285. The Proposed Development would mitigate construction impacts on ancient woodlands by adopting a trenchless technique such as HDD and would meet the needs of Paragraph 5.4.13 of the NPS dEN-1 regarding Ancient Woodland.
- 5.3.286. Proposals for biodiversity enhancements at the OnSS are shown in the oLEMP [REP7-026]. The Applicant states that the NPS explicitly provides that weight can be given to biodiversity benefit and refers to NPS EN-1 paragraph 5.3.6, which states that *In having regard to the aim of the Government's biodiversity strategy the IPC 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 policy set out in the following sections recognises the need to protect the most important biodiversity and geological conservation interests. 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 IPC may take account of any such net benefit in cases where it can be demonstrated.*
- 5.3.287. The Applicant also refers to biodiversity net gain in NPS dEN-1, and relevant Welsh plans and policies and suggests that biodiversity enhancement could be given a

moderate positive weight as a benefit of the Proposed Development. The ExA considers that whilst enhancement measures contribute to WG net benefit for biodiversity approach, the weighting (for enhancement measures at the OnSS) would be matter for the ExA to consider in the context of the onshore effects on biodiversity, ecology and natural environment.

## **Habitats and Species**

### Hedgerow

- 5.3.288. Sustainable Cymru in its RR [RR-036] highlighted that established hedgerows would be destroyed to make way for lines and construction access.
- 5.3.289. The Applicant's Habitat and Hedgerow Survey Report [APP-125] presents the findings of the habitat survey and hedgerow assessment whilst The Hedgerow and Protected Tree Plan [REP6-036] relates information in the context of figures. The Application Errata List [REP8-053] identifies errors and corrections related to hedgerows and trees which have been addressed in the Table of Environmental Statement Conclusions [REP1-049].
- 5.3.290. For worst case onshore effects, the Applicant calculated [REP1-007] hedgerow loss would be 6,806m. The temporary loss of Important Hedgerow (under the Hedgerow Regulations) at the onshore ECC including associated infrastructure would be 2,530m. There would be a permanent loss of 540m of hedgerow at the OnSS footprint including eight mature trees, and forty-one mature trees along the onshore ECC. At the OnSS there would be compensatory planting of 770m of new hedgerow [REP1-007]. Hedgerows would be replaced with a locally appropriate mixture of at least seven species, including standard trees (except directly over the Onshore ECC) at a 3:1 ratio for any lost.
- 5.3.291. The Applicant's response to ExQ1 [REP1-007, Planting 10.28] referred to a need to seek agreement with the landowner regarding the practicality of reinstatement or replacement of hedgerows.
- 5.3.292. Trees and hedges would be protected from damage by the installing root protection fencing and the location and type would be agreed as part of the final LEMP (and also would be set out within the CoCP and CMS).
- 5.3.293. The Applicant response to ExQ1 [REP1-007] considered that the residual effect due to permanent loss of hedgerow would not be significant.
- 5.3.294. The extent of removal of important hedgerow and hedgerows have been identified on the hedgerow and protected tree plan [REP6-036] and is secured in the dDCO [AS-053, Article 40, Schedule 13]. A schedule to remove hedgerows including important hedgerows is referenced under Article 33 and Schedule 10, Part 1 and Part 2 of the dDCO [AS-053].
- 5.3.295. The oCoCP [REP7-018] confirmed that retained hedgerows would be protected by fencing. The oOCMS [REP7-020] confirmed the removal of hedgerows, trees and scrub would be undertaken outside of the bird breeding season wherever possible, or the vegetation would be examined for active nests by an ecologist immediately prior to removal.

### ExA's Consideration

- 5.3.296. The calculated hedgerow loss would be 6,806m and the suitability of a replacement hedgerow to act as an effective habitat for bats and birds could take up to five to ten years. The temporary loss of 2,530m of Important Hedgerow [REP1-007] means it could take thirty years before a section of new / reinstated hedgerow could be considered as Important Hedgerow<sup>21</sup>. The ExA notes that there is a need to seek agreement with the landowners regarding the practicality of reinstatement or replacement of hedgerows. Altogether, the ExA considers the no significant residual effects assessment (mid-term five to ten years) on S7 hedgerow and Important Hedgerow as being optimistic bearing in mind the points outlined above.
- 5.3.297. The oLEMP [REP7-026] notes that following the aftercare period ongoing management would revert to previous management regimes by the landowner, whilst at the OnSS ongoing management would be for the lifetime of the project for biodiversity compensation and enhancements measures. However, as mentioned previously (in the biodiversity enhancement, ecological networks and resilience of ecosystems section) the ExA is disappointed that the period of aftercare (up to three years) for habitats in the oLEMP [REP7-026] does not reflect the short-term impact duration of less than five years defined in the ES. The hedgerows' success to act as suitable habitat and function for species would be at risk should disease or damage occur at year four (beyond aftercare period). Hence the ExA preference would be for a longer aftercare period of five years for hedgerows. We note provisions for this are covered by the oLEMP [REP7-026] and ultimately by the future LEMP and suggest this may be worthy of consideration by DCC and NRW in this regard.
- 5.3.298. The oCoCP [REP7-018] and oOCMS [REP7-020] secured in the dDCO [AS-053] are appropriate construction works control measures and the ExA recognises that the approach to hedgerows could help satisfy DCC Trees and Landscaping SPG.

### Bats

- 5.3.299. The Applicant referred to the permanent loss of forty-nine roost trees and 540m of hedgerow at the OnSS which would result in significant residual effects in the short term (less than five years), but not once proposed mitigation has matured and become established during the mid-term (five to ten years). No significant residual effect is likely in the short term and mid to long term on the local conservation status of bat populations following the implementation of the EPSL mitigation / compensation measures to be agreed with NRW [REP1-049].
- 5.3.300. The potential impact on bats is shown in [REP8-061, figures 28-29]. Three species of bat roosting at five trees within or directly adjacent to the OL were Common pipistrelle; Soprano pipistrelle; and Noctule and at least a further seven bat species have been recorded within the OL.
- 5.3.301. The Proposed Development would result in a worst-case scenario of 6,806m loss of hedgerow. The Applicant has committed to the principle of providing compensation roost features as close as possible to existing moderate or high potential roost features prior to loss [REP7-026]. In addition to these compensation measures a further ten bat boxes have been proposed as enhancement measure at the OnSS area.

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<sup>21</sup> The Hedgerows Regulations 1997

- 5.3.302. During the bat active season and between dusk and dawn hedgerow gaps would be connected using dead hedges (i.e. manoeuvrable fencing with brash attached). These would remain in place until a 1m high hedgerow had been established and the locations would be identified in the final LEMP.
- 5.3.303. The Applicant's response to ExQ1 [REP1-007, Planting 10.28] referred to a need to seek agreement with the landowner regarding the practicality of reinstatement or replacement of hedgerows.
- 5.3.304. An EPSL would be required in advance of work that could affect roosting bats and the dDCO [AS-053] R14 secures European protected species onshore. NRW SoCG Onshore [REP8-049] shows it is satisfied with baseline survey, the assessment methodology the proposed mitigation, compensation and enhancement for protected species and the assessment outcome. Similarly, DCC SoCG [REP7-049] shows that it has reached an agreed position with the Applicant.

#### **ExA's Consideration**

- 5.3.305. The ExA considers the loss of tree roosts, and the removal of worst case 6,806m of hedgerows (which provide flight lines and foraging) would have a significant residual effect on bats which could extend beyond the short-term and well into the mid-term period. Although the ExA recognises the commitment made to ongoing management, as noted previously, the ExA is disappointed with the three-year aftercare period. A new / reinstated habitat dying / being damaged in year four (beyond aftercare period) could have an impact on flight lines and foraging and together with the need to gain landowner agreement on reinstatement or replacement of hedgerows it creates a level of risk and uncertainty. Hence the ExA preference would be for a longer aftercare period of five years for hedgerows. We note provisions for this are covered by the oLEMP [REP7-026] and ultimately by the future LEMP and suggest this may be worthy of consideration by DCC and NRW in this regard.
- 5.3.306. Nevertheless, the ExA acknowledges NRW and DCC agreed position on assessment, outcomes and mitigation and recognises that NRW EPSL for bats would be required. The ExA agrees that significant residual effects are unlikely on the local conservation status of bat populations following the implementation of the mitigation measures and notes the enhancement measures at the OnSS area of ten additional bat boxes.

#### **GCN**

- 5.3.307. ES Volume 3, Chapter 5 [REP8-061, figures 23-27] indicates the potential impacts on GCN. The Proposed Development would result in the permanent loss of 5 ha of terrestrial habitat and temporary loss of 10.56 ha of terrestrial habitat directly adjacent to GCN breeding ponds. There would be temporary habitat fragmentation /isolation resulting in functional loss of terrestrial habitat and breeding ponds.
- 5.3.308. Four metapopulations have been identified within the survey area: two being small sites, one medium site, and one site at the SABP being potentially exceptional. The GCN population at the SABP is not presently considered to be at favourable conservation status.
- 5.3.309. DCC noted in its LIR [REP1-056] that land in and around SABP is home to nationally important numbers of GCN and that GNR, provides habitat for a range of flora and fauna, including GCN.

- 5.3.310. Potential impacts arising from the Proposed Development identified are accidental killing / injury, and pollution to breeding ponds from diffuse or point sources associated with construction.
- 5.3.311. Temporary mitigation areas for GCN that may be required as part of the NRW EPSL are included in the oLEMP [REP7-026, figures 2-7]. The oLEMP also identifies enhancements as creation of five new ponds at the OnSS site. Mitigation measures such as compensation habitat including outline planting mitigation principles at the OnSS site have been identified in [REP8-061, table 13].
- 5.3.312. A GCN EPSL would be required from NRW in advance of work within 250m of GCN potential breeding ponds. The assessment concludes no significant effect would be likely on the local conservation status of any of the metapopulations present following the implementation of mitigation measures. NRW confirmed in its response to ExQ2 [REP5-039] that it was satisfied that the oLEMP [REP7-026] would secure enhancement with respect to GCNs.

#### **ExA's Consideration**

- 5.3.313. The ExA considers the permanent loss of 5 ha of terrestrial habitat and temporary loss of 10.56 ha of terrestrial habitat is likely to affect the potential movement of the GCN for all four metapopulation in the short term, but unlikely in the medium-long term due to mitigation measures being adopted. The ExA agrees with the Applicant's position that there is a potential to restore GCN SABP metapopulations to a favourable conservation status in the medium-long term due to the Proposed Developments approach to mitigation and management.
- 5.3.314. The ExA agrees that no significant effect is likely on the local conservation status of any of the present GCN metapopulations from the Proposed Development due to implementation of pre-construction surveys, NRW EPSL, the establishment of temporary mitigation areas for GCN, scheduling of works to avoid sensitive periods for GCN, mitigation / compensation / enhancements and monitoring measures to be agreed with NRW including incorporation of the final LEMP. The dDCO [AS-053] R14 secures adequate protection for GCN as a European protected species.

#### **Non-Road Mobile Machinery (NRMM) Emissions**

- 5.3.315. The Applicant in its response to ExA first written question [REP1-007] included an Appendix J technical note for qualitative assessment of NRMM emissions on four Local Wildlife Sites (LWS). Ecosystems and vegetation standards with respect to air quality are known as Critical Levels (CLe) for airborne concentrations, and Critical Loads (CLo) for deposition to land from air. The outcomes of the qualitative construction phase NRMM assessment indicate that the likelihood of NRMM emissions (generated by the proposed activities alone) being greater than 100% of the CLe and / or CLo alone were low. Emissions would be insignificant and the impacts from the construction activities would be temporary.
- 5.3.316. The Applicant in its response to ExA third written questions [REP7-004] identified there were ten AW located within 50m of onshore construction activities. The Applicant confirmed the likelihood of NRMM emissions (generated by proposed activities alone) being greater than 100% of the CLe or CLo alone were low. Emissions would be negligible and not significant, and the impacts from the construction activities would be temporary.



- 5.3.317. Construction phase control measures to minimise NRMM emissions are included in the Outline Air Quality Management Plan [REP2-031] and is secured in the dDCO [AS-053, R10].

#### **ExA's Consideration**

- 5.3.318. The qualitative assessment of NRMM emissions on nearby LWS including application of its principles upon ten AW concluded the effects were not significant. No IP's raised any concerns regarding the assessment and outcomes, and the ExA is content the NRMM qualitative assessment satisfies NPS EN-1.

#### **ExA's conclusion on biodiversity, ecology and natural environment**

- 5.3.319. The ExA considers the consultation, baseline data, and outcomes of the assessments was meaningful and appropriate. In taking this view the ExA has considered DCC adequacy of consultation response, the relevant representations and responses, the LIR [REP1-056] and the agreed positions of NRW SoCG onshore [REP8-049] and DCC SoCG [REP7-049].
- 5.3.320. The ExA considers the project design has taken account of protected species and habitats by avoidance where feasible, and has also provided areas for translocation of species. The Proposed Development shows how it has taken opportunities to conserve biodiversity, and at the OnSS site a range of enhancement measures have been identified. The ExA considers these to be appropriate and the approach accords with the principle of NPS EN-1 to avoid significant harm to biodiversity and enables good design opportunities for biodiversity.
- 5.3.321. DCC LIR [REP1-056] references to onshore biodiversity and nature conservation and relevant LDP Policies. Section 15 of the LIR concludes DCC assessment of impact during construction to be negative, and neutral during operation; and DCO requirements would be an acceptable mechanism to secure necessary ecological mitigation, compensation and enhancement.
- 5.3.322. The rDCO would secure the stages of authorised development (R5), the code of construction practice (R10), Landscape and Ecology management plan (R13), the European protected species onshore including nationally protected species (R14). The rDCO under Article 40 (certification of plans) lists a suite of documents such as the oLEMP.
- 5.3.323. The ExA agrees with the Applicant that construction impacts in relation to air quality, hydrology and noise in respect of ecological receptors would not be significant. The ExA is satisfied that operational noise and lighting from the OnSS would not have a significant effect on ecological receptors. The rDCO secures the following requirements: Code of construction practice (R13), Control of noise during operational stage (R18), Control of operational artificial light emissions (R19), and Onshore decommissioning (R22) which satisfies NPS EN-1.
- 5.3.324. Altogether, the ExA considers these to be appropriate measures to have in place for the Proposed Development and the ExA recognises that NRW and DCC are content with outline management plans approach for the pre-commencement stage.
- 5.3.325. The ExA is satisfied that the ES has considered the relevant impacts through the project stages and complies with NPS EN-1 and NPS dEN-1 related to protected species and habitats.



- 5.3.326. The Proposed Development approach to ecological networks and resilience of ecosystems would be compliant with the relevant sections of NPS EN-1, NPS dEN-1, and relevant Welsh plans and policies objectives. However, the ExA is disappointed with the three-year aftercare period not reflecting the ES short-term impact duration (less than five years). A reinstated habitat that dies or is damaged in year four (beyond aftercare period) could put at risk an integral fully functional ecological network and lessens the resilience of an ecosystem. The ExA also notes that landowner agreements on reinstatement or replacement of hedgerows (beyond the OnSS) places a level of risk and uncertainty on habitat and species. The calculated loss of hedgerow (worst case) would be 6,806m and the temporary loss of Important Hedgerow (under the Hedgerow Regulations) at the onshore ECC including associated infrastructure would be 2,530m. Hence the ExA preference would be for a longer aftercare period of five years. We note provisions for this are covered by the oLEMP [REP7-026] and ultimately by the future LEMP and suggest this may be worthy of consideration by DCC and NRW in this regard.
- 5.3.327. The ExA agrees that cumulative effects would not be significant, residual effects during operation / decommissioning would not be significant, the inter-related effects would not be significant and there would be no transboundary effects. However as mentioned above, the aftercare period and the need for landowner agreements means the ExA cannot ascribe an overall positive impact in terms of onshore ecology, biodiversity and natural environment due to the Proposed Development.
- 5.3.328. The ExA gives limited weight against the Order being made for issues related to onshore biodiversity, ecology, and natural environment and this is carried forward into the planning balance.

## 5.4. FLOOD RISK AND WATER QUALITY

### Introduction

- 5.4.1. The topic of onshore flood risk and water quality was identified as a principal issue in the ExA's initial assessment [PD-007]. This section reports on the onshore elements of the Proposed Development relevant to hydrology, hydrogeology and flood risk.

### Policy Considerations

#### Overarching National Policy Statement for Energy (NPS EN-1)

- 5.4.2. Section 5.7 of NPS EN-1 relates to flood risk. Paragraph 5.7.3 states that development and flood risk must be taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding. Where new energy infrastructure is, exceptionally, necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and, where possible, by reducing flood risk overall.
- 5.4.3. In terms of construction work, paragraph 5.7.10 states that the decision maker will need to be satisfied that the proposed drainage system complies with any National Standards and that the Development Consent Order (DCO) makes provision for the adoption and maintenance of Sustainable Drainage Systems (SuDS).
- 5.4.4. Paragraph 5.7.4 states that all proposals for energy projects located in Flood Zones B and C in Wales should be accompanied by a Flood Risk Assessment (FRA), which should identify and assess the risks of all forms of flooding to and from the project and demonstrate how these flood risks will be managed, taking climate change into account. Paragraph 5.7.5 goes on to say that the minimum requirements for FRAs are that they should:
- be proportionate to the risk and appropriate to the scale, nature and location of the project;
  - consider the risk of flooding arising from the project in addition to the risk of flooding to the project;
  - take the impacts of climate change into account, clearly stating the development lifetime over which the assessment has been made;
  - be undertaken by competent people, as early as possible in the process of preparing the proposal;
  - consider both the potential adverse and beneficial effects of flood risk management infrastructure, including raised defences, flow channels, flood storage areas and other artificial features, together with the consequences of their failure;
  - consider the vulnerability of those using the site, including arrangements for safe access;
  - consider and quantify the different types of flooding (whether from natural and human sources and including joint and cumulative effects) and identify flood risk reduction measures, so that assessments are fit for the purpose of the decisions being made;
  - consider the effects of a range of flooding events including extreme events on people, property, the natural and historic environment and river and coastal processes;
  - include the assessment of the remaining (known as 'residual') risk after risk reduction measures have been taken into account and demonstrate that this is acceptable for the particular project;

- consider how the ability of water to soak into the ground may change with development, along with how the proposed layout of the project may affect drainage systems;
- consider if there is a need to be safe and remain operational during a worst-case flood event over the development's lifetime; and
- be supported by appropriate data and information, including historical information on previous events.

5.4.5. Paragraph 5.7.18 states that to satisfactorily manage flood risk, arrangements are required to manage surface water and the impact of the natural water cycle on people and property. Paragraphs 5.7.20 and 21 further state that site layout and surface water drainage systems should cope with events that exceed the design capacity of the system and should be such that the volumes and peak flow rates of surface water leaving the site are no greater than the rates prior to the proposed project.

5.4.6. Section 5.15 of NPS EN-1 addresses water quality and resources recognising that infrastructure development can have adverse effects on groundwater, inland surface water, transitional waters and coastal waters. The possibility of adverse impacts on health or on protected species and habitats could arise and result in a failure to meet environmental objectives established under the Water Framework Directive (WFD). Activities that discharge to the water environment are subject to pollution control whilst the abstraction licensing regime regulates activities that take water from the water environment.

5.4.7. Where the project is likely to have effects on the water environment applicants should undertake an assessment addressing water quality, water resources and physical characteristics of the water environment, according to paragraph 5.15.2 of NPS EN-1.

#### **National Policy Statement for Renewable Energy (NPS EN-3)**

5.4.8. Whilst it is accepted that offshore wind farms are less likely to be affected by flooding, paragraph 2.3.4 of NPS EN-3 requires applicants to set out how the proposed development would be resilient to storms.

5.4.9. Paragraph 2.6.189 of NPS EN-3 also states that the construction, operation and decommissioning of offshore energy infrastructure can affect waves and tides. As such, the presence of turbines can cause indirect effects on flood defences.

#### **National Policy Statement for Electricity Networks (NPS EN-5)**

5.4.10. Paragraph 2.4.1 of NPS EN-5 states that as climate change is likely to increase risks to the resilience of some infrastructure, applicants should set out to what extent the proposed development is expected to be vulnerable, and, as appropriate, how it would be resilient to issues which include, but are not limited to, flooding. In this particular instance, this is of relevance for substations that are vital for the electricity transmission and distribution network.

#### **Draft National Policy Statements**

5.4.11. At the close of the Examination, the policy requirements of draft NPS EN-1, EN-3 and EN-5 in respect of flood risk and water quality use were largely consistent with those policy requirements of the extant NPS EN-1, EN-3 and EN-5. However, the following main amendments and additions are proposed to NPS EN-1:

- Paragraph 5.8.6 of the draft EN-1 introduces the need for a site-specific flood risk assessment for all energy projects in Flood Zone 2 and 3 in England or Zones B and C in Wales. For development in Flood Zone 1 in England or Zone A in Wales, the draft policy provides criteria for when the assessment would be necessary;
- Paragraph 5.8.14 of the draft EN-1 introduces the stipulation that energy projects should not normally be consented within Flood Zone 3b the Functional Floodplain (where water has to flow or be stored in times of flood) in England, or Zone C2 in Wales, or on land expected to fall within these zones within its predicted lifetime. The draft text also states that where essential energy infrastructure has to be located in such areas for operational reasons, they should only be consented if the development will not result in a net loss of floodplain storage, and would not impede water flows;
- Paragraph 5.8.15 of the draft EN-1 includes additional text to existing paragraph 5.7.13 of NPS EN-1. In summary, consent should not be granted in Flood Zone 2 in England or Zone B in Wales unless the sequential test requirements have been met. In regard to Zone 3 in England or Zone C in Wales, consent should not be granted unless both the sequential and exceptional tests have been met;
- Paragraph 5.16.3 of the draft EN-1 introduces new text which confirms that applicants are encouraged to manage surface water during construction by treating surface water runoff from exposed topsoil prior to discharging and to limit the discharge of suspended solids;
- Paragraph 5.16.4 of the draft EN-1 introduces new text which confirms applicants are encouraged to consider protective measures to control the risk of pollution to groundwater beyond those outlined in Water Resource Management Plans; and
- Amendments are made to existing paragraphs 5.15.6 and 7 of the extant NPS EN-1. In summary, the new text at paragraph 5.16.8 to 15.16.9 of the draft EN-1 states that in terms of the Water Framework Directive Regulations 2017, the overall aim of development should be to prevent deterioration in status of water bodies to support the achievement of the objectives in the River Basin Management Plans and not to jeopardise the future achievement of good status for any affected water bodies.

## **Other Legislation and Policies**

### ***The Water Framework Directive (2000/60/EC)***

- 5.4.12. The Water Framework Directive (WFD) provides the foundation for the protection of the UK's water environment. The WFD seeks to protect all elements of the water cycle and to enhance the quality of groundwater, surface waters, estuaries and coastal waters.
- 5.4.13. The WFD is transposed and implemented within Wales through the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

### ***Wales National Policy***

- 5.4.14. Planning Policy Wales 11 (PPW11) sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TAN), Welsh Government Circulars, and policy clarification letters, which together with PPW11 provide the national planning policy framework for Wales. Chapter 6.6 of PPW11 contains sections on water and flood risk.
- 5.4.15. TAN15 – Development, Flooding and Coastal erosion provides technical guidance which supplements the policy set out in PPW11 in relation to development and

flooding. Under TAN15, all of Wales has been divided into three flood zones, depending on an assessment of flood risk. Zone A is defined as at little or no risk of flooding, Zone B is of low risk of flooding, while Zone C represents high risk of flooding. Zone C is further subdivided into Zones C1 and C2 indicating whether the area is defended or not.

- 5.4.16. The overarching aim of TAN15 is to take a precautionary approach and direct development away from areas at high risk of flooding where possible. For sites within high-risk areas, TAN15 requires application of the Justification Test, including an assessment of acceptability of consequences.

### ***Development Plan Policies***

- 5.4.17. The Denbighshire County Council (DCC) Local Development Plan (LDP) 2013 sets out the broad approach that will be taken in addressing DCC's development needs in a sustainable manner. The DCC Strategic Flood Consequence Assessment (SFCA) identifies and maps flood risk at a borough-wide scale, including consideration of residual tidal flood risk associated with a breach of defences. The SFCA provides an appraisal of flood risk in Denbighshire County and presents recommendations on development and flood risk.

- 5.4.18. The following DCCLDP policies are considered of relevance to this topic area;

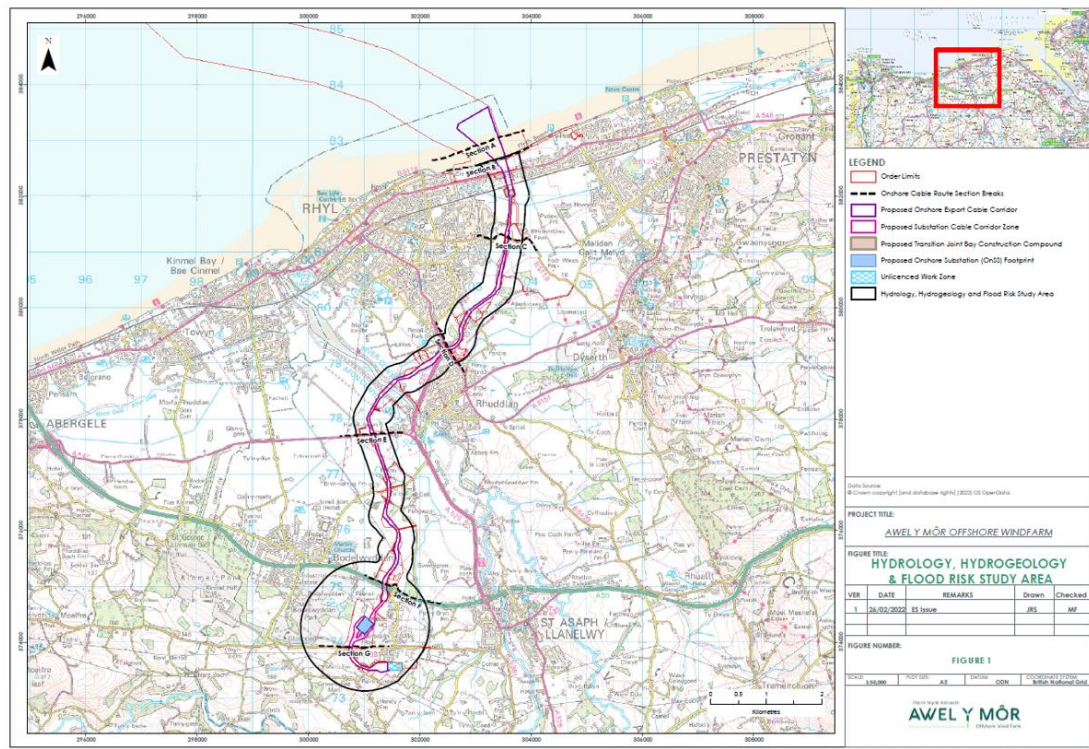
- Policy RD 1 – Sustainable development and good standard design
  - Development proposals will be supported within development boundaries provided that the development does not unacceptably affect the amenity of residents, other land and property users or characteristics of the locality by virtue of increased activity, disturbance, noise, dust, fumes, litter, drainage, light pollution etc., and provides satisfactory amenity standards itself; and
  - Satisfies physical or natural environmental considerations relating to land stability, drainage, and liability to flooding, water supply and water abstraction from the natural watercourse.
- Policy VOE 6 – Water Management – Justification Test
  - Policy VOE 6 states that all development will be required to eliminate or reduce surface water runoff from the site, where practicable. The runoff rates from the site should maintain or reduce pre-development rates.

## **The Applicant's Case**

### **Methodology**

- 5.4.19. The Applicant's assessment of effects on hydrology, hydrogeology and flood risk is set out in the Environmental Statement, Volume 3, Chapter 7 (the ES) [REP8-063]. The ES chapter confirms the effects on hydrology, hydrogeology and flood risk arising from the construction, operation and decommissioning of the Proposed Development. The potential for cumulative, inter-related and transboundary effects is also assessed.
- 5.4.20. The study area for the assessment is from mean high-water spring to the National Grid Connection Point, plus a 1km buffer around the proposed onshore substation (OnSS) and a 250m buffer around the Landfall and the onshore export cable corridor (ECC), which includes access routes and temporary construction compound (TCC) areas.

**Figure 8: Hydrology, hydrogeology and flood risk study area [REP8-063]**



- 5.4.21. The ES chapter [REP8-063] was also supported by the following documents:
- Onshore ECC Flood Consequence Assessment [REP1-042];
  - Proposed Substation Flood Consequences Assessment [REP1-044];
  - Proposed Substation Flood Consequences Assessment: Appendix A – Proposed Substation Outline Drainage Strategy [REP1-045];
  - Volume 4, Annex 3.1: Water Framework Directive Compliance Assessment [REP8-067];
  - Volume 5, Annex 7.3: Landfall Trenchless Crossing Works HDD [APP-139];
  - Volume 5, Annex 7.4: A525 Trenchless Crossing Works HDD [APP-140];
  - Volume 5, Annex 7.5: Afon Clwyd Trenchless Crossing Works HDD [APP-141]; and
  - Volume 5, Annex 7.6: A55 Trenchless Crossing Works HDD [APP-142].
- 5.4.22. The Applicant confirmed that there are no published guidelines or criteria for assessing and evaluating effects on hydrology, hydrogeology and flood risk within the context of an EIA. In the absence of this, the proposed assessment is based on a methodology derived from the Institute of Environmental Management and Assessment guidance. Professional judgement and a qualitative risk assessment methodology have been used to assess the findings in relation to each of these criteria to give an assessment of significance for each potential impact (section 7.4.4 of [REP8-063]).
- 5.4.23. The ES [REP8-063] does not explicitly consider the risk of flooding to the Proposed Development but does consider how the proposals may alter flood risk at the site and elsewhere. The flood risk to the Proposed Development is considered separately in the onshore export cable corridor (ECC) Flood Consequence Assessment (FCA) in ES Volume 5, Annex 7.1 [REP1- 042] and the FCA for the OnSS is considered in ES Volume 5, Annex 7.2 [REP1-044] and [REP1-045].

## Assessment of impacts

- 5.4.24. Table 13 of the ES provides a summary of the flood risk and water quality assessment in respect of construction, operation, decommissioning and cumulative impacts [REP8-063]. The following construction, operation, decommissioning and cumulative residual effects were identified.

### *Construction impacts*

- Onshore ECC installation including:
  - water quality of watercourses;
  - water quality for near shore coastal waters and the Clwyd transitional waters;
  - groundwater quality; and
  - flood risk from construction activities.
- OnSS construction including:
  - water quality in watercourses;
  - groundwater quality; and
  - flood risk.
- OnSS TCC construction: flood risk
- Trenchless crossing works including:
  - water quality for near shore coastal waters and the Clwyd transitional waters;
  - surface water quality;
  - groundwater quality;
  - flood risk; and
  - flood risk from Temporary Construction Compound (TCC).
- Landfall installation including:
  - near-shore coastal water;
  - surface water quality;
  - trenchless crossing on groundwater quality;
  - groundwater quality;
  - watercourse flood risk; and
  - tidal flood risk.

- 5.4.25. For the construction phase, the assessment identified effects ranging from negligible adverse, negligible to minor adverse and minor adverse. Such effects are not significant in EIA terms.

### *Operation impacts*

- Permanent onshore ECC infrastructure;
- OnSS: flood risk and water quality; and
- Permanent Landfall infrastructure: water quality and flood risk.

- 5.4.26. For the operation phase, the assessment identified effects ranging from negligible adverse to negligible to minor adverse. Such effects are not significant in EIA terms.

### *Decommissioning impacts*

- Decommissioning of onshore ECC on flood risk and water quality; and
- Decommissioning of OnSS: flood risk and water quality.

5.4.27. For the decommissioning phase, the assessment identified effects ranging from negligible adverse to negligible to minor adverse. Such effects are not significant in EIA terms.

5.4.28. In summary, the assessments concluded that no significant effects (adverse or beneficial) would be experienced during the construction, operation, or decommissioning phases (section 7.16 of the ES [REP8-063]).

#### **Other effects**

5.4.29. No cumulative, inter-relationship or transboundary effects were identified in relation to flood risk and water quality (sections 7.13 to 7.15 of the ES [REP8-063]).

#### **Flood Consequence Assessments**

##### *Onshore ECC Flood Consequence Assessment*

5.4.30. The aim of the onshore FCA was to outline:

- The potential for the onshore ECC route to be impacted by flooding;
- The potential impact of the construction works on flooding both onsite and in the vicinity; and
- The proposed measures which can be incorporated to mitigate the identified risks.

The ECC FCA identified the following areas to be located within Zone C:

- ECC from landfall to the B5119 Dyserth Road crossing;
- ECC from the A525 Rhuddlan Road crossing to the Clwyd Estuary crossing;
- ECC from the Clwyd Estuary crossing to the Sarn Lane crossing;
- Operational access track from B5119 Dyserth Road, past Aberkinsey Farm to the ECC; and
- Southern edge of ECC between Pentre Road and the A547

5.4.31. The remaining areas of the ECC are located within Flood Zone A which is land considered to be at little or no risk of fluvial or coastal/tidal flooding.

5.4.32. As parts of the ECC are located within Flood Zone C, they are subject to the Justification test as set out in TAN15. The Justification Test includes consideration of acceptability of consequences for the works in Zone C1 and Zone C2, to indicate that the development can take place.

5.4.33. The FCA confirms that in terms of the criteria contained within TAN15, the Proposed Development meets the requirements of the Justification Test and therefore is found to be acceptable (Section 7 of [REP1-042]).

5.4.34. Section 7 of the FCA concludes that the perceived level of flood risk to and caused by the Proposed Development would be low and the development would be safe, without significantly increasing flood risk elsewhere.

##### *Proposed Substation Flood Consequence Assessment*

5.4.35. The aim of the substation FCA was to understand:

- The consequences of flooding on the substation;



- The consequences of the development on flood risk elsewhere within the catchment for a range of potential flooding scenarios up to that flood having a probability of 0.1%; and
- The FCA can be used to establish whether appropriate mitigation measures could be incorporated within the design of the development to ensure that development minimises risk to life, damage to property and disruption to people.

5.4.36. Section 5 of the substation FCA concluded that the proposed substation site was not considered to be at risk of fluvial or tidal flooding or flooding from canals or reservoirs. Small areas of the site would be at risk of flooding from surface water and small watercourses; however, this would be localised to within the small watercourses/drains and two ponds. The substation should not increase the risk of flooding elsewhere. The risk of flooding from surface water was considered to be manageable through an appropriately designed and constructed sustainable drainage system [REP1-044].

5.4.37. Accordingly, the perceived level of flood risk to and caused by the substation would be low.

### **Mitigation**

5.4.38. The Applicant submitted a Schedule of Mitigation and Monitoring with the application [APP-310]. It was updated during the Examination, with the final version submitted at Deadline (D) 8 [REP8-016]. In tabular form this sets out the proposed mitigation commitments and securing mechanisms. In addition, the primary mitigation measures specific to flood risk and water quality are also specified in table 11 of section 7.9 of the ES [REP8-063].

5.4.39. Embedded and primary mitigation measures include the following:

- Evolution of the project design – including careful routing of the onshore ECC and design of key crossing points to avoid key areas of sensitivity;
- 1) Good practice – all construction work to be undertaken in accordance with the outline Code of Construction Practice (oCoCP), to be secured via Requirement (R) 10 of the dDCO [AS-053];
- The oCoCP also contains environmental management plans which are provided as outline appendices to the oCoCP. Plans which contain mitigation measures of relevance to flood risk and water quality include the following:
  - Outline Construction Method Statement (oCMS) [REP7-020] - the oCMS confirms that a surface water drainage scheme for the onshore ECC works and for the construction phase of the OnSS would be produced and would be informed by detailed design and provided for approval by DCC prior to construction. The oCMS also confirms that both drainage schemes would be prepared in line with the principles of surface water management as detailed in the ECC FCA and OnSS FCA. The oCMS also details measures to be employed in the final CMS to avoid significant alteration to the hydrological regime or an increase in fluvial or tidal flood risk.
  - Outline Soil Management Plan (oSMP) [REP7-022] - The oSMP includes mitigation measures to provide guidance on earthworks and stockpiling in order to minimise potential entrainment of sediments to surface water features or increase in nitrogen loading to groundwater through infiltration. In respect of drainage, temporary drainage would be installed within the working width of the ECC to intercept existing field drains and ditches. Additionally, land drainage systems are to be maintained during construction and reinstated on completion. Where required, along the ECC, temporary

cut-off drains would be installed parallel to the trench-line before the start of construction. A temporary ditch would also be installed along the relevant boundary of the substation site which would catch runoff from the substation platform during the construction period.

- Outline Pollution Prevention and Emergency Incident Response Plan (oPPEIRP) [REP2-037]. The oPPEIRP details construction practices which would incorporate measures to prevent pollution.

5.4.40. In respect of decommissioning, a decommissioning plan will be required. The plan would be based on guidance and best practice appropriate at the time of decommissioning. Decommissioning practices would incorporate measures similar to those employed during the construction phase, to prevent pollution to protect the water environment. Such measures are likely to include emergency spill response procedures, control of surface water and clean up and remediation of any contaminated soils. The onshore decommissioning plan is secured by R22 of the dDCO [AS-053].

5.4.41. Section 7.13 of the ES confirms no secondary mitigation measures are considered necessary [REP8-063].

### **The Planning Statement**

5.4.42. The Applicant's Planning Statement, section 6.23 hydrology, hydrogeology, and flood risk, provides a summary of the national policy of relevance to the Proposed Development. It concludes that the assessment of hydrology, hydrogeology and flood risk has had full regard to the relevant requirements for assessment as set out in NPS EN-1 and EN-3 and PPW11, and that the assessment has been carried out in accordance with those requirements. It concludes that no significant effects have been identified and as such, effects on hydrology, hydrogeology and flood risk should not weigh against the substantial benefits of the Proposed Development when considering the planning balance [REP8-083].

### **Statements of Common Ground**

5.4.43. In the final Statements of Common Ground (SoCG) it was confirmed that both DCC and Natural Resources Wales (NRW) had reached agreement with the Applicant on all matters in respect of flood risk and water quality ([REP7-049] and [REP8-049]).

5.4.44. Flood risk and water quality were not included in the remit of Conwy County Borough Council (CCBC) and the Isle of Anglesey County Council in their SoCG. As such, these SoCG remain silent on this issue ([REP8-045] and [REP8-046]).

### **Issues Considered in the Examination**

#### **River Clwyd trenchless crossing**

5.4.45. The Applicant submitted a marine licence (ML) application to NRW in June 2022. However, following this submission the Applicant identified that a further ML would be required in relation to the proposed trenchless cable crossing of the River Clwyd west of Rhuddlan. A separate ML for the trenchless River Clwyd cable crossing would be necessary such works are discrete from the remainder of the offshore transmission works and are within the onshore environment. [REP8-014].

5.4.46. As such, in the Marine Licence Principles document [REP8-014] the Applicant confirmed that it was anticipated that four ML would be required:

- To construct and operate the Generation assets (ML1);

- For the transmission assets (ML2);
- For the assets associated with connecting to the existing Gwynt y Môr project (ML3); and
- For the River Clwyd crossing (ML4).

5.4.47. Whilst four separate licences would be required, NRW confirmed that they could be determined under one application. Additional information in relation to ML4 was submitted to NRW on 25 November 2022 to supplement the application made in May 2022 (paragraph 3 of [REP8-014]).

#### **ExA's consideration**

5.4.48. Potential regulatory overlap exists between the DCO and marine activities under section 66 of the Marine and Coastal Access Act 2009 (MACAA). NRW is the appropriate licensing authority in respect of the ML, acting on delegated authority of the Welsh Ministers and the licensing function is carried out by NRW's marine licensing team (NRW MLT).

5.4.49. NRW MLT and the Applicant agree on an approach whereby the DCO should not contain powers or controls which also sit within the ML. If one regime of regulation must deal with something according to law (the regime under MACAA) and it can deal with it adequately (for which NRW MLT, as a competent regulatory will do so), it would lead to unnecessary complexity if another regime (the DCO regime) would duplicate this.

5.4.50. Article 4 of the dDCO [AS-053] does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation and Article 5 does not relieve the undertaker of any requirement to obtain any further licence under Part 4 (marine licensing) of the 2009 Act for the offshore works. However, as these relate to operate and maintain and the ExA will include an additional requirement in the rDCO to address construction.

5.4.51. Whilst noting the marine licencing for the Proposed Development sits outside of the Examination, the ExA is satisfied with the approach adopted by the Applicant in respect of the Clwyd and the proposed trenchless cable crossing.

#### **Effects on water quality (surface and ground water)**

5.4.52. At paragraphs 3.6.1 to 3.6.4 of their Written Representation (WR) [REP1-080], NRW noted that the proposed onshore works had the potential to impact water quality through several pathways. It was acknowledged that both the oCMS and oPPEIRP contained pollution prevention methods, however NRW advised that amendments were required to the oPPEIRP in order to avoid impacts on water quality. Additionally, amendments were also deemed necessary to the oCMS in respect of the over-pumping methodology.

5.4.53. At D2, the Applicant confirmed that the amendments requested by NRW in respect of both the oPPEIRP and oCMS had been made and updated versions of both management plans were submitted into the Examination ([REP2-036] and [REP2-017]).

5.4.54. Following the D2 submissions, NRW confirmed that following the amendments to the management plans they were satisfied that potential impacts on both surface and ground water quality could be satisfactorily managed [REP3-026].

### **ExA's consideration**

- 5.4.55. The ExA notes the revised measures in both the CMS and oPPEIRP and is satisfied that the Applicant's approach to the management of both surface and ground water quality is appropriate and any potential adverse effects would be fully mitigated.

### **Compliance with the Water Framework Directive**

- 5.4.56. In their WR, NRW noted that the Applicant would need to prepare various information in order to inform the final CMS that would be approved as part of R10 of the dDCO [REP1-080].
- 5.4.57. However, at paragraph 3.3.5 of their WR NRW stated that although the final CMS would secure the specific crossing methods for approval by DCC, the Applicant had not demonstrated that the proposed works would not result in deterioration of any the Water Framework Directive (WFD) quality elements. NRW requested that further work was required to confirm the site conditions and the specific crossing methods proposed at each location. Where the more environmentally preferred option (i.e., trenchless ECC crossing, or temporary bridge for the haul road) is not possible then appropriate mitigation and justification should be provided [REP1-080].
- 5.4.58. Additionally, NRW stated that the indirect effects of changes in hydromorphology on the WFD quality elements had not been appropriately assessed in the WFD Compliance Assessment submitted as part of the application. NRW requested a more detailed assessment of potential effects of all activities associated with watercourse crossings which included the potential for secondary effects in all hydrologically connected WFD water bodies, where there is a pathway for effect, e.g., sediment transport, effects to migratory species [REP1-080].
- 5.4.59. In response to NRW WR, at D2 the Applicant confirmed that the oCMS had been updated to clarify that any non-trenchless cable route crossings options or culverted haul road would be closely monitored to identify whether channel deformities were starting to occur, so that appropriate action could be taken. The oCMS was also updated to include potential bank stabilisation mitigation and additional information on watercourse crossings [REP2-018].
- 5.4.60. At both D4 and D5 (REP4-045] and [REP5-039]), NRW confirmed that following dialogue with the Applicant, the amendments made to the oCMS addressed their concerns raised in paragraphs 3.31 to 3.37 of their WR [REP1-080]. In their final SoCG, NRW also confirmed that on the basis of the oCMS they were satisfied that WFD impacts would be avoided through securing approval of the final CMS via R10 of the dDCO [AS-053].

### **ExA's consideration**

- 5.4.61. The ExA is satisfied that following the on-going dialogue between both the Applicant and NRW, all issues regarding compliance with the WFD have been satisfactorily addressed.
- 5.4.62. The ExA is therefore content that the Proposed Development would be compliant with the objectives of the WFD and would not result in the deterioration in status of any relevant WFD waterbodies.

### **Disapplication of Flood Risk Activity Permit**

- 5.4.63. Article 7 of the dDCO provides for the application and modification of legislative provisions. Under Article 7(c) the Applicant was initially seeking to disapply the requirement for a Flood Risk Activity Permit (FRAP). A FRAP is an environmental permit required under Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016 and is required for any works on or near main rivers, flood defence structures or in flood plains.
- 5.4.64. Throughout the Examination, NRW stated that they did not consent to the inclusion of Article 7 (c) within the dDCO ([RR-015], [REP1-080], [REP3-026], [REP4-045], [REP5-039] and [REP6-048]).
- 5.4.65. NRW concerns related to the issue that the CMS only provided general principles and commitments in respect of how the works would be carried out. NRW noted that the Applicant had confirmed that there would be optionality in terms of the watercourse crossing techniques for the cable connection and haul road. However, the final selection of option or options would not be available until the post-consent detailed design had been undertaken [REP1-080].
- 5.4.66. For NRW to determine whether to provide consent for the disapplication of the FRAP, NRW considered the provision of specific details of the works for which the consent or authorization was necessary. Additionally, NRW was not satisfied that should the requirement for an environmental permit in respect of the works be disapplied, it would be DCC who would be the discharging authority with responsibility for approving the detailed design. NRW considered it was necessary to retain its regulatory functions under the Regulations in respect of the works, given its established expertise when appraising works of this nature [REP1-080].
- 5.4.67. NRW further stated that an application for the works under the Regulations would be subject to an application charge in accordance with NRW's Environmental Permitting Charging Scheme Environmental Permitting Charging Scheme 2022/23. As such, NRW considered it necessary for the charging scheme to be applied in respect of the works, having regard to the appropriate allocation of public resources [REP1-080].
- 5.4.68. In response, the Applicant proposed an additional requirement within the dDCO. This would require the Applicant to provide a flood risk activity method statement. The method statement would detail the post-consent information that the Applicant would be required to provide for each watercourse crossing, reflecting the information that would be included in a typical FRAP application that would only be available following detailed design. Also, the proposed requirement would require DCC to consult with NRW before discharging the requirement [REP2-002] and REP6-005].
- 5.4.69. At D6, NRW confirmed that a review of the proposed requirement had been undertaken. NRW maintained their view that they did not provide consent to the inclusion of Article 7(c) of the dDCO. NRW remained of the view that it was necessary to retain their regulatory functions under the Environmental Permitting Regulations in respect of the works given its established expertise in this area. It was also confirmed that NRW did not consider that any further amendments to the dDCO would address their concerns [REP6-048].
- 5.4.70. As such, the Applicant agreed to remove Article 7c from the final version of the dDCO [REP7-006] and confirmed they were no longer seeking to disapply the need

to obtain a FRAP via the DCO. It was also confirmed in the 'Other Consents and Licences' document that it will be necessary for the Applicant to apply to NRW for a FRAP [REP8-028].

#### **ExA's consideration**

- 5.4.71. The ExA considers that the additional requirement as drafted by the Applicant in the dDCO submitted at D6 would have offered NRW a similar level of detail as that required in a FRAP application.
- 5.4.72. Nevertheless, the ExA is satisfied that both the Applicant and NRW undertook detailed dialogue regarding this matter and have come to an agreement that Article 7(c) was to be removed from the dDCO. As such, the ExA is satisfied that the Applicant will therefore need to apply to NRW for a FRAP as required under Regulation 12 of The Environmental Permitting (England and Wales) Regulations 2016.

#### **Coastal Defence Works**

- 5.4.73. The Central Prestatyn Coastal Defence Scheme would consist of works adjacent to the Rhyl Golf Club which is near the ECC landfall. In their Relevant Representation (RR), DCC stated that pre-consultation interactions with the Applicant had focused on landfall, interactions with coastal defences and the Rhyl golf course [RR-001]. In response to the RR, the Applicant confirmed that they were liaising with the Central Prestatyn Coastal Defence Scheme and were confident that both the landfall and associated infrastructure and the defence works would be able to co-exist [REP2-002].
- 5.4.74. Given the proximity of the proposed works to the landfall, at ExQ2.11.1 the ExA requested the Applicant gave an update regarding discussions in respect of this issue [PD-015]. The Applicant confirmed that both parties were still working to the shared timeline and design, and communication lines remained open. The Applicant was confident that both schemes could co-exist, and that communication would be maintained between the organisations as they move towards their respective construction phases [REP5-004].
- 5.4.75. In response to ExQ2.7.8, both CBCC and DCC confirmed that they were satisfied that works proposed at the landfall would not affect the delivery of the coastal defence works and that a specific landfall construction method statement was not required ([REP5-045] and [REP5-046]).

#### **ExA's consideration**

- 5.4.76. The ExA is satisfied that the landfall works would not interfere with the coastal defence works and as such, the increased resilience of this stretch of coastline would remain feasible.

#### **Private water supply at Faenol Bropor / OnSS location**

- 5.4.77. The landowners of the proposed OnSS site requested comprehensive provisions for remediation in respect of disrupted services at Faenol Bropor, including the private water supply from the well source located on land which is proposed to be acquired by the Applicant [REP1-103]. It is understood from a comment made by the Faenol Bropor landowners on the Accompanied Site Inspection, undertaken on 6<sup>th</sup> December 2022, that the well is used as a private water source for livestock.

- 5.4.78. The Applicant confirmed that they were unaware that the well was registered as a private water supply as this was not included within the information on private water supplies provided by DCC. It is understood that the supply is non-potable. The Applicant requested further detail of the well's management and use to ensure any construction activities would be designed and managed to minimise any adverse impacts [REP2-002].
- 5.4.79. During the Compulsory Acquisition Hearing, the Applicant confirmed that regarding the provision of access to the well for the purposes of maintenance, the Heads of Terms have an express provision to allow the landowners of Faenol Bropor, or those authorised by them, to access the land proposed to be purchased by the Applicant to maintain the well. There are also further provisions in the draft agreement which relate expressly to the protection of the well and the subsequent flow of water from it to Faenol Bropor. Given the relatively limited amount of information relating to the source of the well and noting that the source is likely to be subject to the influence of the actions of third parties on land outside the control and ownership of the Applicant, they confirmed that they were unable to provide an outright commitment to the maintenance of the well [REP8-006].
- 5.4.80. The Applicant did however state that they would ensure that reasonable endeavours are taken to ensure the source remains intact in so far as it is able to do so within the confines of the land to be acquired.
- 5.4.81. No further representations were made in respect of this matter during the Examination by either party.

#### **ExA's consideration**

- 5.4.82. The ExA is satisfied that the Applicant has made fair and reasonable efforts to ensure that where possible, the private water supply is maintained, and access provided during construction.

#### **ExA's conclusion on flood risk and water quality**

##### **Water Framework Directive Compliance**

- 5.4.83. In respect of compliance with the requirements of the WFD, the ExA has reviewed the Applicant's WFD Compliance Assessment and considered all representations made during the Examination. The ExA is satisfied that the Proposed Development would be compliant with the objectives of the WFD and would not result in the deterioration in status of any relevant WFD waterbodies.
- 5.4.84. On this basis the ExA considers that the Applicant has addressed the effects relating to possible adverse impacts in respect of meeting the environmental objectives established under the WFD, as detailed in paragraph 5.15.1 of NPS EN-1.

##### **Fluvial, Coastal and Tidal Flood Risk**

- 5.4.85. Paragraph 5.7.13 of NPS EN-1 stipulates that preference should be given to locating projects in Flood Zone A. The proposed OnSS is located within Flood Zone A and is therefore outside of both the tidal and fluvial floodplain. As the proposed

site for the OnSS lies within Flood Zone A, the Justification Test<sup>22</sup> for the TAN15 acceptability criteria is not applicable and this is further confirmed in the OnSS FCA.

- 5.4.86. As a result of the OnSS FCA, the ExA is satisfied that the perceived level of flood risk potentially caused by the OnSS would be low. Additionally, the ExA is satisfied that R16 of the dDCO, which requires the detailed surface water and drainage details to be provided to DCC for approval following detailed design, would provide adequate control in respect of drainage matters.
- 5.4.87. In terms of the ECC, the ExA is satisfied that the ECC FCA provided comprehensive evidence that the proposed works within Flood Zone C meet the requirements of the Justification Test and are found to be acceptable. Furthermore, following updates made to both FCAs during the Examination, both assessments were based on the most recent climate change allowances and guidance from NRW<sup>23</sup>.
- 5.4.88. Additionally, the proposed mitigation measures, including those detailed within the oCMS and the principles for control of surface water in all work areas as detailed in the oCoCP are considered satisfactory by the ExA.
- 5.4.89. As such, the ExA is satisfied that the Applicant has fully addressed fluvial, coastal, and tidal flood risk associated with the construction and operation of the Proposed Development. The proposed mitigation measures detailed within the ES and the two FCAs are considered acceptable in terms of managing any adverse effects. Furthermore, whilst the proposed landfall is in proximity to the coastal defence scheme, the ExA is content that the construction of the landfall would not negatively impact on the defence works.
- 5.4.90. Consequently, the ExA is satisfied that flood risk can be adequately mitigated through the approval of a final CMS and the underpinning method statements and management plans as part of the overall CoCP. As such, the ExA considers that the Applicant's assessment of flood risk complies with NPS EN-1, EN-3 and EN-5 in respect of making the Proposed Development safe without increasing flood risk elsewhere and demonstrating resilience to climate change.

### **Drainage Strategy**

- 5.4.91. The ExA acknowledges that the development of the OnSS is likely to result in the construction of low permeability surfacing which would increase the rate of surface water runoff from the site. An outline surface water drainage scheme has been provided as part of the OnSS FCA and includes a SuDS based surface water drainage scheme which would manage rainfall runoff from the proposed substation and is designed so as not to increase flood risk locally or in the wider area.
- 5.4.92. The construction of the onshore ECC would require temporary management of surface water along the route. The ExA considers that principles for the management of surface water during construction along the onshore ECC are satisfactorily detailed in the onshore ECC FCA.

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<sup>22</sup> In Wales, application of the Sequential Test is covered by the Justification Test under TAN15.

<sup>23</sup> UK Climate Projections 2018 (UKCP18) and Natural Resources Wales Adapting to Climate Change: Guidance for Flood and Coastal Erosion Risk Management Authorities in Wales



- 5.4.93. Both surface water drainage schemes are to be provided as part of the final CMS to manage surface water during construction. In addition, a surface water and foul water drainage scheme for the operational phase of the OnSS would be provided as part of the final CoCP for approval by DCC prior to construction and would be secured by R16 of the dDCO.
- 5.4.94. The Applicant confirmed that they would seek to disapply the Ordinary Watercourse Consent through the dDCO. In their SoCG, DCC confirmed they were satisfied with this approach as they would approve details of watercourse crossing and crossings of flood defences, prior to the commencement of works, through R16 of the dDCO [REP7-049].
- 5.4.95. The ExA is satisfied that the Applicant has fully addressed drainage requirements associated with the construction and operation of the Proposed Development. The ExA is therefore content that the required drainage associated with the Proposed Development would be satisfactorily mitigated and managed.

#### **Water Quality and Pollution Control**

- 5.4.96. The ExA notes that all construction work would be undertaken in accordance with the final PPEIRP, secured by R10 of the dDCO.
- 5.4.97. The Applicant's submissions with respect to water quality and pollution control has been fully considered by the ExA and where necessary, further clarification was sought on matters of detail throughout the Examination. Considering both the submitted evidence and further detail provided during the Examination, the ExA is satisfied that the Applicant's approach to water quality and pollution control is appropriate.
- 5.4.98. The ExA therefore concludes that the effects of the Proposed Development on water quality and pollution control have been adequately assessed and mitigated and complies with section 5.15 of NPS EN-1.

#### **Compliance with other policies**

- 5.4.99. The ExA is satisfied that TAN15 has been complied with as the Proposed Development is largely directed away from areas at high risk of flooding. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of chapter 6.6 of PPW11 and Policies RD1 and VOE6 of the DCCLDP.

#### **ExA's overall conclusion**

- 5.4.100. The ExA is satisfied that the Applicant has fully addressed the flood risk and possible effects on water quality associated with the construction and operation of the Proposed Development and has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed. Consequently, the ExA considers that the Applicant's assessment of flood risk and water quality complies with the policy aims of NPS EN-1, EN-3 and EN-5 and where relevant, draft NPS EN-1.
- 5.4.101. The ExA therefore finds that the issue of flood risk and water quality does not weigh for or against the Order being made.
- 5.4.102. The findings in respect of flood risk and water quality will be taken into account in the overall planning balance in Volume 2, Chapter 10 of this Report.

## **5.5. GROUND CONDITIONS AND LAND USE**

### **Introduction**

- 5.5.1. The topic of ground conditions and land use was identified as a principal issue in the ExA's initial assessment [PD-007]. This section reports on soil resources, land holdings, ground contamination and proposed mitigation measures during the construction, operation and decommissioning of the Proposed Development.
- 5.5.2. Issues in relation to public health and ground conditions and land use are reported on in section 5.13 Public Health and Nuisance of this Report.

### **Policy Considerations**

#### **Overarching National Policy Statement for Energy (NPS EN-1)**

- 5.5.3. NPS EN-1 recognises that an energy infrastructure project will have direct effects on the existing use of the proposed site and may have indirect effects on the use, or planned use, of land in the vicinity for other types of development (paragraph 5.10.1).
- 5.5.4. Paragraph 5.10.8 of NPS EN-1 requires applicants to minimise impacts on the best and most versatile agricultural land (BMVAL), such land is defined as land in Agricultural Land Classification (ALC) grades 1, 2 and 3a. Preference should be given to the use of land in areas of poorer quality, which includes ALC grades 3b, 4 and 5, unless this would be inconsistent with other sustainability considerations. Where development of agricultural land is demonstrated to be necessary, applicants should seek to use poorer quality land in preference to higher quality land.
- 5.5.5. Paragraph 5.10.8 further states that applicants should also identify any effects and seek to minimise impacts on soil quality taking into account any mitigation measures proposed. In decision making the economic and other benefits of the BMVAL should be taken into account and little weight should be given to the loss of agricultural land in grades 3b, 4 and 5.
- 5.5.6. In respect of mineral resources, paragraph 5.10.9 of NPS EN-1 notes that applicants should safeguard any mineral resources on the proposed site as far as possible. Paragraph 5.4.4 of NPS EN-1 also requires the applicant to demonstrate how geological interests have been conserved and enhanced, with paragraph 5.3.7 stating that as a general principle, development should aim to avoid significant harm to biodiversity and geological interests. Where this isn't possible, appropriate compensation measures should be sought.
- 5.5.7. There are no specific policies in National Policy Statement for Renewable Energy (EN-3) or National Policy Statement for Electricity Networks (EN-5) that are relevant to ground conditions and land use.

#### **Draft National Policy Statements**

- 5.5.8. The policy requirements of draft NPS EN-1 at the close of the Examination in respect of ground conditions and land use are largely consistent with those policy requirements of the extant NPS EN-1. However, draft paragraph 5.11.2 expands on and replaces the existing text of paragraph 5.10.8 of NPS EN-1 with the following:
- Applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land

Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5) except where this would be inconsistent with other sustainability considerations. Applicants should also identify any effects and seek to minimise impacts on soil quality taking into account any mitigation measures proposed. For developments on previously developed land, applicants should ensure that they have considered the risk posed by land contamination, and where contamination is present, applicants should consider opportunities for remediation where possible. Applicants are encouraged to develop and implement a Soil Management Plan which could help minimise potential land contamination.

### **Wales National Policy**

- 5.5.9. Planning Policy Wales Edition 11 (PPW11) (2021) sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TAN), Welsh Government Circulars, and policy clarification letters, which together with PPW11 provide the national planning policy framework for Wales.
- 5.5.10. PPW11 states that previously developed, also referred to as brownfield, land should, wherever possible, be used in preference to greenfield sites where it is suitable for development. In respect of BMVAL, PPW11 states that the benefits of BMVAL should be taken into account when considering whether significant development of agricultural land is necessary. It further states that the loss of best and most versatile land cannot be mitigated.
- 5.5.11. When considering land contamination, PPW11 states that planning decisions need to consider the potential hazard arising from contamination along with the results of specialist investigation and risk assessment provided by the Applicant. Where appropriate, remediation measures and validation verification details should be implemented.
- 5.5.12. In terms of mineral resources, PPW11 acknowledges that access to mineral resources needs to be safeguarded in order to prevent sterilisation by other forms of permanent development. In addition, consideration should also be given to the direct hazards of ground instability and associated risks to welfare, life and surrounding structures as well as indirect hazards such as mine works and potential release of landfill or mine gas.

### **Development Plan Policies**

- 5.5.13. In respect of mineral safeguarding, Policy PSE 15 of the Denbighshire Local Development Plan (LDP) 2013 safeguards minerals from development that would result in its permanent loss or hinder future extraction. Policy PSE 15 states that development will only be permitted where it can be demonstrated that the development outweighs the need to protect the mineral resource or would not have a significant impact on the viability of that mineral being worked or where the mineral is extracted prior to the development.

### **The Applicant's Case**

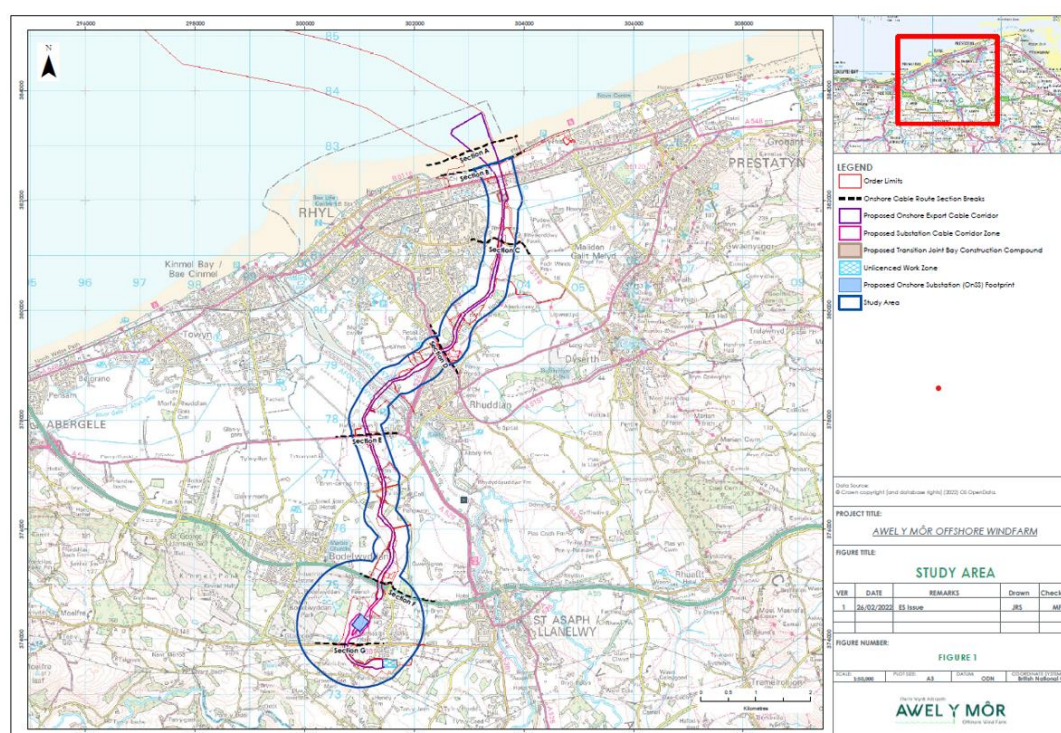
#### **Methodology**

- 5.5.14. The Applicant's assessment of effects on ground conditions and land use is set out in the Environmental Statement, Volume 3, Chapter 6 [REP8-062] (the ES). This Chapter confirms the effects on ground conditions and land use arising from the

construction, operation, decommissioning and cumulative impacts of the Proposed Development.

- 5.5.15. The Applicant confirmed that there are no published guidelines or criteria for assessing and evaluating effects on ground conditions and land use within the context of an EIA. In the absence of this, the proposed assessment is based on a methodology derived from the Institute of Environmental Management and Assessment guidance and the Land Contamination Risk Management<sup>24</sup>. Professional judgement and a qualitative risk assessment methodology have been used to assess the findings in relation to each of these criteria to give an assessment of significance for each potential impact (paragraphs 43 and 44 of the ES [REP8-062]).
- 5.5.16. In respect of the spatial scope used in the assessment, the study area comprises the onshore elements of the Proposed Development from mean high-water spring to the National Grid Bodelwyddan substation connection point to the south of St Asaph Business Park, plus a 1km buffer around the proposed onshore substation (OnSS), and a 250m buffer around the Landfall and the onshore export cable corridor ECC), which includes access routes and temporary construction compound (TCC) areas.

**Figure 9: Study area [REP8-062]**



## Assessment of impacts

- 5.5.17. Table 13 of the ES provides a summary of the ground conditions and land use assessment in respect of construction, operation, decommissioning and cumulative impacts [REP8-062]. The following construction, operation, decommissioning and cumulative residual effects were identified:

<sup>24</sup> Environment Agency Guidance: <http://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>

#### *Construction impacts*

- Impact on soil quality – cable route installation, OnSS, transition joint bays (TJBs) and trenchless crossings;
- Contamination risk to construction workers and human receptors; and
- Impacts on areas of mineral safeguarding.

5.5.18. For the construction phase, the assessment identified effects ranging from negligible adverse in respect of mineral safeguarding and soil quality as a result of the trenchless crossings to minor adverse for the remaining impacts. Such effects are not significant in EIA terms.

#### *Operation impacts*

- Impact on soil resource - cable route installation, OnSS and landfall infrastructure; and
- Impacts on areas of mineral safeguarding.

5.5.19. For the operation phase, the assessment identified effects ranging from negligible adverse in respect of impacts on areas of mineral safeguarding, negligible to minor adverse in respect of the impact on soils resources as a result of the cable route installation, with the remaining effects being minor adverse. Such effects are not significant in EIA terms.

#### *Decommissioning impacts*

- Decommissioning of cable route; and
- Decommissioning of OnSS and TJBs – land quality.

5.5.20. For the decommissioning phase, both impacts were assessed as being negligible to minor adverse which is not significant in EIA terms.

#### *Cumulative effects*

5.5.21. No adverse or beneficial significant residual effects were identified in the assessment.

#### **Other effects**

5.5.22. No transboundary or inter-relationship effects in relation to ground conditions and land use were identified (table 13 of the ES [REP8-062]).

#### **Mitigation**

5.5.23. The Applicant submitted a Schedule of Mitigation and Monitoring with the application [APP-310]. It was updated during the Examination, with the final version submitted at Deadline 8 [REP8-016]. In tabular form this sets out the proposed mitigation commitment and securing mechanism. In addition, the primary mitigation measures specific to ground conditions and land use are also specified in section 6.9 of the ES [REP8-062].

5.5.24. Embedded and primary mitigation measures include the following:

- Evolution of the project design – including careful routing of the onshore ECC and design of key crossing points to avoid key areas of sensitivity;
- Good Practice – all construction work will be undertaken in accordance with the oCoCP, secured via Requirement (R)10 of the dDCO [AS-053];

- The oCoCP also contains environmental management plans which are provided as outline appendices to the oCoCP. Plans which contain mitigation measures of relevance to ground conditions and land use are:
  - Outline Soil Management Plan (oSMP) [REP7-022];
  - Construction Method Statement (CMS) [REP7-020];
  - Outline Pollution Prevention and Emergency Incident Response Plan (oPPEIRP) [REP2-037];
  - Outline Invasive Non-Native Species Management Plan (oINNSMP) [REP8-040]; and
  - Outline Site Waste Management Plan (oSWMP) [REP2-035].
- Outline Landscape and Ecology Management Plan (oLEMP) [REP7-026], secured via R13 of the dDCO [AS-053]; and
- A Design Principles Document (DPD) was also submitted by the Applicant and updated during the Examination, with the final version being [REP7-028]. The DPD provides detail regarding the design rationale of the Proposed Development and is a certified document.

5.5.25. In respect of decommissioning, a decommissioning plan will be required. The plan would be based on guidance and best practice appropriate at the time of decommissioning. Decommissioning practices would incorporate measures similar to those employed during the construction phase, to prevent pollution. Such measures are likely to include emergency spill response procedures, control of surface water and clean up and remediation of any contaminated soils. A decommissioning phase soil management plan would be provided as part of the decommissioning phases CoCP, which would be secured by R22 of the dDCO [AS-053].

5.5.26. Paragraph 167 of the ES [REP8-062] states that no further secondary mitigation measures are considered necessary.

### **The Planning Statement**

5.5.27. The Applicant's Planning Statement, at section 6.22, provides a summary of the policies of relevance to the Proposed Development in respect of ground conditions and land use. It concludes that the assessment of ground conditions and land use has had full regard to the relevant requirements for assessment as set out in NPS EN-1 and PPW11, and that the assessment has been carried out in accordance with those requirements. It concludes that no significant effects have been identified and as such, effects on ground conditions and land use should not weigh against the substantial benefits of the Proposed Development when considering the planning balance [REP8-083].

### **Statements of Common Ground**

5.5.28. In the final Statements of Common Ground (SoCG) it was confirmed that both Denbighshire County Council (DCC) and Natural Resources Wales (NRW) had agreed all issues in respect of ground conditions, land use and ground contamination ([REP7-049] and [REP8-049]).

5.5.29. Issues relating to ground conditions and land use were not included in the remit of Conwy County Borough Council (CCBC) and the Isle of Anglesey County Council (IoACC) in their SoCG. Accordingly, these SoCG remain silent on these issues ([REP8-045] and [REP8-046]).

## Issues Considered in the Examination

### Outline Soil Management Plan

- 5.5.30. In response to ExQ1.9.9, NRW [REP1-080] confirmed that they were satisfied with the proposed approach in respect of the management of potential effects on soil resources as detailed in the oSMP [REP7-022].
- 5.5.31. In contrast, in response to ExQ1.9.9 [REP1-097] the Welsh Government stated that a detailed ALC survey and Physical Characteristics Report was required to confirm:
- Whether the development area was BMVAL ;
  - The proportion of grades identified; and
  - The available soil resources available.
- 5.5.32. This information was considered necessary to provide baseline information to inform the oSMP in respect of soil stripping, storage, reinstatement, and the aftercare scheme for the Proposed Development [REP7-022].
- 5.5.33. In the absence of such survey work, the Welsh Government further commented that the oSMP was broad and gaps were evident in respect of how the Proposed Development would minimise damage to soils [REP1-097]. The main risk to be considered and addressed included soil compaction, mixing of topsoil and subsoil resources, mixing of soil materials with different characteristics and contamination of soil materials with aggregate.
- 5.5.34. In response to the concerns raised by the Welsh Government, the Applicant confirmed that the updated oSMP submitted at D1 contained additional information in respect of the soil condition survey that would be undertaken to inform the final details for how soil would be managed to return all agricultural land back to its current condition [REP1-038].
- 5.5.35. Furthermore, the final oSMP confirms a commitment to pre-construction soil condition surveys and intrusive soil survey trial pits to fully identify and describe the physical and nutrient characteristics of the soil profiles. Surveys are to be undertaken by specialist soil surveyors, who are professional members of the British Society of Soil Science. Surveys will comply with best practice [REP7-022].
- 5.5.36. In response to ExQ2.9.5, the Applicant confirmed that the Welsh Government responded via email on 25 November 2022 stating that:
- Regarding the inclusion of ALC and Soil Physical Characteristics surveys in the oSMP, following our discussions we would not consider it essential that these are undertaken for the cable corridor prior to the determination of the DCO [REP5-004].*
- 5.5.37. However, the Welsh Government further commented that it was important that such surveys are undertaken prior to the final SMP to enable the survey results to inform the detailed scheme [REP5-004].
- 5.5.38. The Applicant confirmed that the proposed condition surveys represent a more detailed investigation than the ALC survey suggested by Welsh Government. The surveys proposed by the Applicant would also inform the reinstatement baseline that would be set out in the final SMP alongside details of site aftercare and inspection [REP7-022].

### **ExA's consideration**

- 5.5.39. The ExA notes that the Applicant made several revisions to the oSMP during the Examination in direct response to discussion with Interested Parties and following specific Examination questions.
- 5.5.40. The ExA is content that the oSMP would ensure appropriate survey work is undertaken pre and post consent where necessary and best practice is adhered to with regards to the site preparation and, where appropriate reinstatement of land within the Proposed Development boundary. The ExA further considers that the oSMP is adequate to ensure no significant adverse effects on soil resources would occur as a result of the Proposed Development.

### **Agricultural Land Classification**

- 5.5.41. The Applicant confirmed that the study area was assessed using ALC. The ALC provides a method for assessing the quality of farmland to enable informed choices to be made about its future use within the planning system. In addition, at Paragraph 68 of the ES the Applicant further confirmed that the Welsh Government also provided a Predictive Agricultural Land Classification Map. This uses the best available information to predict the grade of land on a national basis. It has been designed to help local planning authorities, developers, surveyors and land use managers make informed long-term decisions over the use of land in the planning system and to target survey work to the most appropriate locations. [REP8-062].
- 5.5.42. Land use within the study area is predominately agricultural and the Applicant confirmed that the study area is dominated by ALC grade 3a and 3b land. The land is therefore considered to be of moderate to good quality.
- 5.5.43. In response to ExQ1.9.1, the Applicant provided additional information in the form of Appendices L and M. Appendix L depicts the Predictive ALC alongside the onshore ECC and OnSS route sections and Order Limits to provide additional context for the ECC routing. Appendix M depicts a plan illustrating Posy 1988 ALC (Wales) surveys that have been undertaken. This plan confirms that there have been extensive surveys undertaken to the south and east of Rhyl, to the northwest of Bodelwyddan and around St Asaph Business Park. The ALC determined by these surveys is reflected in the Predictive ALC data [REP1-007].
- 5.5.44. In response to ExQ1.9.8, the Applicant also calculated the ALC grade land within 1000m of the TJB and OnSS [REP1-007]. Following additional survey work undertaken by the Applicant in December 2022, the table in relation to the OnSS was updated in response to ExQ3.9.6 [REP7-004]. This confirmed that the area of the proposed OnSS footprint and wider landscape mitigation and ecological compensation and enhancement areas includes 1.5ha of grade 3a land.
- 5.5.45. The loss of 1.5ha represents 0.69% of grade 3a land within 1000m of OnSS and 0.011% of grade 3a land in Denbighshire [REP7-004].
- 5.5.46. Also, in response to ExQ1.9.1, the Welsh Government confirmed that although the Applicant had used the Predictive ALC map to provide land quality information, there was no evidence of field survey work being undertaken or any previous survey data held by the Welsh Government. As such, the Welsh Government stated that it was unclear how BMVAL policy had been applied robustly in both the application and spatial choices made by the Applicant, when the ALC grades and distribution of grades had not been confirmed [REP1-097].



- 5.5.47. A response to this was made by the Applicant at D2 and referenced the extensive Post 1988 Agricultural Land Classification (Wales) Surveys that were undertaken to the south and east of Rhyl, to the northwest of Bodelwyddan and around St Asaph Business Park. The ALC determined by the surveys is reflected in the Predictive ALC data and as such, the Applicant contends that and that this therefore represents sufficient information to inform the EIA [REP2-003].
- 5.5.48. The Applicant also undertook an agricultural land quality survey of 33.3ha of land at Faenol Bropor Farm which is the proposed location for the OnSS [REP7-036]. The loss of agricultural land would be as a consequence of both the proposed OnSS and associated landscape and ecological works. This survey identified land of grade 3 and is split into subgrades as depicted below. It confirmed the majority of land at the proposed OnSS is within subgrade 3b. The 'other land' is reported as being non-agricultural and comprised a block of woodland in the north of the site and two small ponds.

**Table 5: ALC Report at the Onshore Substation Site – Areas Occupied by the Different Land Grades [REP7-036]**

Grade/Subgrade	Area (Ha)	% of the land
Subgrade 3a	1.5	5
Subgrade 3b	30.6	92
Other land	1.2	3
<b>Total</b>	<b>33.3</b>	<b>100</b>

- 5.5.49. Whilst noting the survey results, the ExA is also aware of the concerns raised by the owners of Faenol Bropor via their land agent in respect of the ALC survey undertaken by the Applicant. Specifically, concern was raised as to the legitimacy of the 'downgrading' of the proposed OnSS site [REP7-062]. It was stated that the land had previously been identified as ALC Grade 2 and since the 1970's there had been significant investment in the land to further improve its productive capacity.
- 5.5.50. In response to ExQ2.9.5, whilst the Welsh Government stated it did not consider the loss of BMVAL to be a matter in the national agricultural interest, it did confirm that the survey findings from the survey at the proposed OnSS could be taken by the ExA as an accurate reflection of the agricultural land quality on the OnSS site [REP5-044].
- 5.5.51. In addition, in response to ExQ1.9.7 [REP1-007], ExQ2.9.6 [REP5-004] and ExQ3.9.3 [REP7-004], the Applicant provided an Agricultural Holdings Table. The ExA requested the following data for each agricultural holding affected by the Proposed Development:
- Total size of each holding;
  - Loss of holding to Proposed Development by hectare;
  - Loss of holding to Proposed Development, split by temporary and permanent development by hectare;
  - Percentage loss of holding to Proposed Development, split by temporary and permanent development; and
  - Significance of loss in EIA terms for each holding.
- 5.5.52. The table was updated in response to each round of Examination questions, with the final version of the table being submitted at D7 (Appendix A of [REP7-004]). The

Applicant confirmed that whilst they hold data in relation to the proposed OnSS where permanent loss of agricultural land is to occur, no information was available in relation to the size of land holdings for the remaining onshore elements of the scheme, where effects on land are to be temporary.

- 5.5.53. Additionally, in their closing submissions the Applicant confirmed that as a result of the measures proposed to reinstate land temporarily affected by the Proposed Development, the measures to reduce the impact of construction works upon agricultural operations and the financial compensation to be paid to holdings that are impacted as a result of the temporary works, no significant effects upon holdings along the ECC and landfall are reported. As such, an assessment of the impact of the Proposed Development on individual land holdings who face temporary land losses was not undertaken [REP8-117].
- 5.5.54. At paragraph 7 of the oSMP the Applicant has also committed to undertake pre-construction soil condition surveys and intrusive soil survey trial pits to identify and describe the physical and nutrient characteristics of the existing soil profiles. Such surveys will include ALC surveys and Soil Resources and Physical Characteristics surveys [REP7-022].
- 5.5.55. Approval of the final SMP by DCC is secured as part of the CoCP via R10 of the dDCO [AS-053].

#### **ExA's consideration**

- 5.5.56. The ExA considers that the Applicant's approach in respect of the ALC work, including the most recent survey of the proposed OnSS site, is appropriate and has been carried out in line with relevant guidance. The ExA is also satisfied that suitably qualified individuals executed the survey work.
- 5.5.57. As per the request made at ExQ3.9.3, the ExA considers it would have been of use to have been provided with information relating to the temporary loss of all grades of agricultural land. Nevertheless, in respect of the additional information provided by the Applicant, the tabular information clearly defines the split between agricultural land required permanently and temporarily and it is clear as to what land would be returned at the end of the construction phase. It also illustrates the split across all grades of agricultural land to be lost on a permanent basis.
- 5.5.58. The ExA is therefore content that the additional information provides a satisfactory breakdown of the individual components of the Proposed Development in respect of agricultural land.

#### **Best and Most Versatile Agricultural Land**

- 5.5.59. The Applicant confirmed that NPS EN-1 requires the impact on soils and BMVAL to be considered in the assessment and to minimise impacts on soil quality and consider mitigation measures [Table 1 of REP8-062].
- 5.5.60. ES Volume 1, Chapter 4: Site Selection and Alternatives [APP-044] and associated annexes ([APP-045] and [APP-046]) provides detail on how each of the aspects of the Proposed Development was selected and how the design evolved through consultation.
- 5.5.61. In respect of the ECC, the Applicant accepts that there would be a temporary impact upon agricultural land during the construction phase in their response to ExQ1.9.1 [REP1-007]. However, as detailed in the oSMP, the reinstatement of land above the

buried cable would allow agricultural cultivation to re-commence once the cable has been installed. Additionally, field drainage would be reinstated, and the indicative minimum burial depth would allow cultivation of land. Measures to reduce the impact of construction works upon agricultural operations are included in the oSMP [REP7-022].

- 5.5.62. Mitigation measures are discussed in section 6.9 and Table 11 of the ES [REP8-062]. Such measures include design changes and applied mitigation which would be subject to further study or approval of details. No secondary mitigation measures were identified as being necessary by the Applicant.
- 5.5.63. The Applicant, in both the ES [REP8-062] and in response to ExQ1.9.1 [REP1-007], acknowledged that there would be a permanent loss of ALC grade 3a as a result of the OnSS. However, as commented on above such a loss equates to 1.5ha or 5% of the holding at Faenol Bropor Farm, which is the proposed location for the OnSS, and represents 0.69% of grade 3a land within 1000m of the OnSS and 0.011% of grade 3a land in Denbighshire.
- 5.5.64. Additionally, in response to ExQ2.9.5 [REP5-044], the Welsh Government stated that they did not consider the loss of BMVAL to be a matter in the national agricultural interest and would be a matter for the ExA to take a view on.
- 5.5.65. In their Local Impact Report (LIR) [REP1-056], DCC confirm that in line with NPS EN-1 and sections 3.58 and 3.59 of PPW11 weight is to be given to protecting land of grades 1, 2 and 3a quality. PPW11 notes that such land is the best and most versatile and justifies conservation as a finite resource for the future.
- 5.5.66. Whilst DCC accepts that most of the land required falls within grade 3b, the ECC also crosses through sections of grade 2 and 3a land and the onshore substation is made up of a mix of grade 3a and 3b land. DCC considered that loss of BMVAL could not be mitigated [REP1-056].
- 5.5.67. Nevertheless, in their final SoCG, in respect of ground conditions and land use, DCC confirmed they agreed that construction, operational and decommissioning effects, as assessed in the ES, were not significant in EIA terms [REP7-049].
- 5.5.68. In respect of where the proposed ECC crosses Bryn Cwnin Farm east of the A525, the Trustees of the Bodrhyddan Estate Maintenance Fund and Bodrhyddan Farming Company Ltd, as landowners and tenants, referred to Table 6 within ES Volume 3, Chapter 13 Onshore Conclusions [REP8-066]. Table 6 states that the residual effect of the impact upon soil quality is minor adverse and therefore not significant. The Trustees consider that the method of working, and the satisfactory working methods of separating topsoil and subsoil are critical to minimising the soil quality degradation. Concern was raised as no assurances had been given that sufficient care and attention would be given to this matter as the land in question is BMVAL [AS-048].
- 5.5.69. In response the Applicant confirmed that the oSMP includes measures to prevent the mixing of topsoil and subsoil alongside methods of soil handling and restoration, all of which will be informed by pre-construction soil condition surveys. In respect of BMVAL, the Applicant acknowledged that the proposed ECC would pass through BMVAL but noted that impacts on such land are to be minimised where possible through site selection and the future adherence to the SMP [REP5-003].

### **ExA's consideration**

- 5.5.70. The ExA notes that the onshore infrastructure for the Proposed Development does not utilise brownfield / previously development land as the onshore ECC is routed predominately within agricultural greenfield land and the 5ha OnSS footprint occupies land on an agricultural holding.
- 5.5.71. However, in terms of permanent loss of BMVAL, this would only occur from the development of the permanent infrastructure associated with the OnSS and associated landscape and ecological works at Faenol Bropor. The percentage loss of grade 3a land at Faenol Bropor equates to 1.5ha, which is 5% of the holding.
- 5.5.72. In terms of temporary effects, the ExA acknowledges that such effects would occur on agricultural land during the construction phase. However, as detailed within the oSMP, the reinstatement of land above the buried cable would allow agricultural cultivation to re-commence once the cable has been installed. The restoration of land used temporarily for construction would be secured by R17 of the dDCO.
- 5.5.73. Further measures to reduce the impact of construction works upon agricultural land are included in the oSMP. The oSMP provides details of mitigation measures and best practice handling techniques to safeguard soil resources by ensuring their protection, conservation, and appropriate reinstatement during the construction of the onshore works. The oSMP would be secured by R10 of the dDCO.
- 5.5.74. Additionally, measures to reduce the impact of construction works upon agricultural land are included in the oSMP which provides details of mitigation measures and best practice handling techniques to safeguard soil resources by ensuring their protection, conservation, and appropriate reinstatement during the construction of the onshore works.
- 5.5.75. The ExA is therefore satisfied that, in line with paragraph 5.10.8 of NPS EN-1, the Applicant has, as far as practicable, sought to minimise impacts on BMVAL and where possible would utilise poorer quality land.

### **Stockpiles**

- 5.5.76. The oSMP confirms that soils are to be segregated into stockpiles, of typically no more than 5000m<sup>3</sup>, based on their origin and type. In response to ExQ1.4.14 the Applicant confirmed that the maximum height for topsoil stockpiles would be 4m in order to avoid compaction. In response to ExQ1.4.8, the Applicant confirmed that the final location of construction elements such as stockpiles would be a matter for the Principal Contractor on site and such detail would not be available until the detailed design stage [REP1-007].
- 5.5.77. However, in respect of subsoil stockpiles, the Applicant confirmed at ExQ1.4.15 [REP1-007] that no maximum height has been set. This is due to several factors including the amount of space available, the nature and composition of the soil, the prevailing weather conditions at the time of stripping. As such, the maximum height is to be agreed via the final SMP.
- 5.5.78. Best practice measures would be set out and approved in the final SMP and implemented to prevent accidental mixing during all phases of soil handling. Details of the soil management works would be recorded as part of the daily record/site diary, and such records would be checked on a weekly basis for compliance with the final SMP.

- 5.5.79. The ExA explored soil restoration methods with the Applicant. In response to ExQ1.9.15, the Applicant confirmed that the final SMP would include an appropriate restoration methodology based on the results of the site investigation and soil resource survey reports. The main objectives for the reinstatement of the land would be to restore it to its pre-development quality as far as is reasonably practicable, as determined by the information obtained during the pre-construction soils survey and to leave the topsoil of any agricultural land in a loose and friable and workable condition to its whole depth. Land would be reinstated as soon as reasonably practical after completion of the construction works [REP1-007].
- 5.5.80. The restoration of land used temporarily for construction would be secured by R17 of the dDCO. Under R17 the reinstatement of land which has been used temporarily for the construction of the onshore works and is not to be incorporated in permanent works or approved landscaping, must be reinstated within six months of completion of the relevant construction stage [AS-053].

#### **ExA's consideration**

- 5.5.81. The ExA notes that the oSMP describes the procedures for soil storage to maintain, as far as practicable, soil quality and viability as required for the proposed end uses.
- 5.5.82. The ExA is satisfied that the Applicant's approach to stockpiles would ensure soils are stored and managed appropriately. Such measures would reduce soil exposure to precipitation and ensure quality is maintained during storage.
- 5.5.83. Additionally, where land is being returned to agriculture at the end of the construction phase, the ExA is content that the proposed measures, secured by R17 of the dDCO, would ensure that the land would be returned to the pre-construction ALC grade.

#### **Effect on Livestock**

- 5.5.84. In response to ExQ1.9.2, the Applicant confirmed that the health and wellbeing of animals, in respect of potential noise and dust effects, had not been specifically assessed [REP1-007]. The Applicant further commented that buildings housing animals are generally located near to the residential properties along the onshore ECC which had been subject to assessment.
- 5.5.85. The Applicant also drew attention to the oCoCP which proposes that a qualified Land Agent would be employed to liaise with landowners and farmers before and during construction. The Land Agent would undertake site inspections during construction to monitor working practices and ensure landowners' and farmers' reasonable requirements are fulfilled. The Land Agent would also retain a function with regards to agreeing reinstatement measures following completion of the works [REP1-007].
- 5.5.86. Wherever possible, the Applicant commented that general disruption impacts would be mitigated early in the construction planning process by allowing a sufficient time period between the serving of notice for entry and the commencement of onsite activities. This would therefore allow farmers and landowners time to adapt their working practices in anticipation of the works. Where required, crossing points would be used in suitable places in order that livestock and vehicles could cross the working width [REP1-007].

### **ExA's consideration**

- 5.5.87. Whilst no assessment was undertaken specifically in relation to livestock, in respect of dust it is noted that with the proposed mitigation measures contained within the outline Air Quality Management Plan, which would be delivered through the oCoCP, no significant effects are predicted.
- 5.5.88. The ExA considers that the Applicant's approach in respect of the employment of a Land Agent is satisfactory and the role would provide an important function particularly in terms of liaison with landowners / tenant farmers. With these measures in place the ExA is satisfied that there would be no significant effects on the welfare of livestock.

### **Effect on Individual Land Holdings**

- 5.5.89. The effect on individual land holdings was an issue raised throughout the Examination. Representations in respect of this matter were made at, but not limited to, [RR-038] to [RR-051], [REP1-101], [REP1-104], [REP5-034], [REP5-036], [REP5-037], [REP7-053], [REP7-062], [REP8-112] and [REP8-126]. Such representations focused on the potential effects on a small number of specific land holdings
- 5.5.90. As detailed above, in response to ExQ1.9.7 [REP1-007], ExQ2.9.6 [REP5-004] and ExQ3.9.3 [REP7-004], the Applicant provided an Agricultural Holdings Table. Whilst the ExA requested data for each agricultural holding affected by the Proposed Development, the Applicant confirmed that they had not undertaken an assessment of the impacts of the Proposed Development on all individual land holdings, as the only permanent loss of land would occur at the OnSS site [REP8-117].
- 5.5.91. Effects on several land holdings are detailed below. Issues relating to Compulsory Acquisition of land and related matters are considered in Volume 2, Chapter 11 of this Report.
- 5.5.92. To avoid repetition, the following considerations should be taken as being relevant to the below mentioned land holdings:
- Design - In respect of permanent land take, the ExA is satisfied that the site design has been optimised to reduce the overall land take and, where possible, to reduce potential severance in terms of access;
  - Reinstatement of agricultural land - In respect of returning land to its original agricultural use, soil handling, storage and re-use methods are detailed in the oSMP [REP7-022]. This is to ensure that the soils are fit for purpose on the reinstatement of the land. The ExA is content that the proposed approaches in the oSMP are sufficient to ensure no significant adverse effects on soil resources would occur and that, where relevant, agricultural land would be capable of being returned to its original use through R17 of the dDCO; and
  - Operation phase management - The Applicant has confirmed in the oINNSMP that during the operation phase good site practice and hygiene control measures would be followed [REP8-040]. In addition, biosecurity measures would also be considered to prevent the potential spread of animal disease between agricultural holdings within and around any land visited or affected by operations and maintenance site visits or works. Site workers and the Ecological Clerk of Works would remain vigilant for the new growth of invasive non-native species within and in proximity to the works, and the INNSMP will be updated accordingly if new areas of growth are identified. The ExA is satisfied that these

are appropriate approaches to minimise the spread of animal diseases and invasive non-native species which could threaten any adjoining agricultural land.

*Faenol Bropor*

- 5.5.93. The OnSS is proposed to be located at Faenol Bropor, which is a livestock and arable farm of some 61.29ha. Faenol Bropor is the only location where a permanent loss of land would occur due to the Proposed Development. Infrastructure at this location is to include:
- ECC;
  - OnSS;
  - OnSS TCC;
  - Permanent landscape mitigation and ecological compensation and enhancement land; and
  - Utilities connection.
- 5.5.94. Significant concern was raised throughout the Examination by the landowners via their land agent in respect of the area of land to be lost due to the Proposed Development. Specifically, the landowners stated that the infrastructure would have a devastating impact on the viability of the agricultural unit and accordingly the associated livestock enterprise as in excess of 54% or 33.59ha of prime agricultural land would be acquired by the Applicant [REP1-104]. The total area of land allocated for mitigation and enhancement land was also considered to be excessive by the landowners [REP1-103].
- 5.5.95. Additionally, a further 6% or 3.8ha would also be required for ‘temporary occupation and use’ potentially up to 2030 in respect of the intended ECC and outfall pipe. As such, the landowners stated that the farm business would not be able to sustain their existing two households and the aspirations for the subsequent generation to succeed would be significantly hampered [REP1-104].
- 5.5.96. In response to ExQ3.9.1, the Faenol Bropor landowners confirmed that they also farm an adjacent plot to Faenol Bropor. However, this is a tenanted parcel of approximately 65ha, known as the old Bodelwyddan Castle parkland, and is severely limited in its productive capacity [REP7-062].
- 5.5.97. In terms of the permanent loss of land, the Applicant acknowledged that the land take would equate to 54% of the holding. However, as a result of the ALC survey, it was confirmed that only 1.5ha of BMVAL would be taken out of production during the operation of the Proposed Development [REP5-004].
- 5.5.98. In response to the concerns raised by the landowner in terms of land take for mitigation areas, the Applicant stated that the proposed area for mitigation, compensation, and enhancement around the OnSS was an appropriate size. Such areas would provide compensation for the permanent loss of foraging habitat for Great Crested Newts and bat roosts and the tree and woodland planting is proposed in order to mitigate visual effects where possible. Additionally, the Applicant confirmed that the proposed mitigation proposals are considered satisfactory by both DCC and NRW [REP2-003].
- 5.5.99. Furthermore, the Applicant confirmed that actual size of the land take would allow for some flexibility in the final design and both the oLEMP [REP7-026] and DPD [REP7-028] would provide opportunities for landowners and other local residents to consider and contribute to the detailed proposals for the OnSS works and landscaping.

- 5.5.100. The Faenol Bropor landowners also raised concern in respect of the necessary excavation works. Where such works are necessary the landowners stated that it would be imperative that topsoil, subsoil, and boulder clay are all kept separate and are reinstated in sequence to protect the structure of the soil strata. At the same time to further mitigate likely impacts on agricultural production, it was requested that cables are installed at a minimum of 0.9m below surface level [REP1-103].
- 5.5.101. In response, the Applicant confirmed that the final SMP would include measures to prevent mixing of topsoil and subsoil and also for reinstatement of soils. The soil condition surveys and discussions with the landowner would assist in determining the extent of reinstatement measures and soil treatments, water access and boundary treatments required [REP1-007]. Reinstatement in accordance with details approved by DCC is secured under R17 of the dDCO [REP8-009].
- 5.5.102. The Applicant confirmed that discussions were ongoing in terms of burial depth of necessary infrastructure and cables and that it was likely that a minimum burial depth of 0.9m could be adopted at the OnSS site ([REP2-003] and [REP5-004]). As such, the Applicant states that indicative minimum burial depth, from ground surface to the top of the cable ducting, would allow cultivation of land [REP8-117].

#### **ExA's consideration**

- 5.5.103. The ExA is satisfied that the Applicant has provided a robust justification for the required land take. Furthermore, it is acknowledged that only 1.5ha of BMVAL would be lost as a result of the proposed infrastructure. As such, the loss of BMVAL and the total loss of all grades of agricultural land represents a very small percentage loss, both regionally and nationally.
- 5.5.104. Nevertheless, as 54% of the holding would be required on a long-term basis, the ExA does not concur with the Applicant that no significant adverse effects would be experienced by the landowners. The percentage of land required brings the viability of the land holding into question during the operational lifetime of the Proposed Development. Whilst some land would still be available to farm, the ExA considers a moderate significant adverse residual effect would be experienced by the landowners, which is significant in EIA terms.
- 5.5.105. However, it is understood that discussion with regards to agreeing Heads of Terms (HoTs) are advanced and that the Applicant hopes to shortly finalise these. The ExA concurs that the approach of seeking individual agreements with landowners is appropriate.
- 5.5.106. Where effects cannot be mitigated, the compensation code provides appropriate financial compensation for landowners. The ExA consider the Applicant's approach, where mitigation is not possible, to be appropriate and proportionate.

#### ***GBL and IB Kerfoot Discretionary Trust***

- 5.5.107. The holding is currently farmed in conjunction with a neighbouring dairy farm and regularly grows crops of grass, maize and cereals. Throughout the Examination, the Trustees raised concern regarding the effect of the Proposed Development on their land holding. Concern focused on short term impacts which may limit the practical agricultural use of the land, both directly and indirectly by severing fields, to the point where the Trustees agricultural unit would no longer be economically viable [REP7-053].



- 5.5.108. Additionally, the geographical layout of the rights and restrictions proposed would make it difficult to physically construct any sort of useful agricultural building or to locate any diversified enterprise within the unit, which would further limit the earning capacity of the holding. In the medium to long term, the Trustees stated that the rights proposed by the Applicant would prevent the physical development of the land for residential or other commercial uses, thereby limiting the strategic growth of Rhyl in an otherwise unconstrained area [REP7-053].
- 5.5.109. In their final submission, the Trustees concluded that if the DCO was granted in its proposed form the land would become impossible to use as a viable agricultural holding during the extended temporary mitigation, construction and re-instatement periods which may extend up to 15 years [REP8-112].
- 5.5.110. In response to such concerns, the Applicant confirmed that they had consulted closely with DCC regarding the Replacement Local Development Framework (LDF) process and that a review of all sites that had been submitted to DCC as 'Candidate Sites' in the replacement LDF process. It was further confirmed that DCC had invited interested parties to submit land for consideration as sites within the replacement LDP in 2018 and again in 2020. The 'Candidate Sites' did not include land within the ownership of the GBL and IB Kerfoot Discretionary Trust [REP6-003].
- 5.5.111. Additionally, in their Closing Submissions the Applicant confirmed that no evidence of an active planning consent or application, local plan allocation or application for 'Candidate Site' status had been presented either directly to the Applicant or into the Examination [REP8-117]. Furthermore, it is noted that the Applicant confirmed at D6 that whilst it is accepted that the proposed easement in regard of the ECC does include restrictions on some activities, this would not preclude the holding being brought forward for development [REP6-003].

#### **ExA's consideration**

- 5.5.112. The ExA notes the concerns raised by the Trustees of the holding. However, as all land would be returned to its original agricultural use, any effects would be temporary and as such, not significant. Additionally, the ExA notes R17 of the dDCO requires that any land used temporarily for the construction of onshore works which is not incorporated permanently or included within the approved landscaping schemes is to be reinstated within six months of completion of the relevant stage of works.
- 5.5.113. The ExA is also content that the measures within the oSMP are adequate to ensure no significant adverse effects on soil resources would occur during either the construction or reinstatement phases. Also, field drainage would be reinstated and the indicative minimum burial depth, from ground surface to the top of the cable ducting, would allow cultivation of land.
- 5.5.114. In respect of possible development opportunities regarding the holding, as confirmed by the Applicant, no substantive information has been submitted into the Examination detailing an extant planning permission or details of a proposed future development. Accordingly, the ExA has given very limited weight to this issue.
- 5.5.115. Whilst it is accepted that the required easement in respect of the proposed ECC would restrict certain activities, it is understood that discussions with regards to agreeing HoTs are advanced and that the Applicant hopes to shortly finalise these.

The ExA concurs that the approach of seeking individual agreements with landowners is appropriate.

- 5.5.116. Where effects cannot be mitigated, the compensation code provides appropriate financial compensation for landowners. The ExA considers the Applicant's approach where mitigation is not possible to be appropriate and proportionate.

*Fferm*

- 5.5.117. The holding at Fferm consists of both livestock farming and equestrian facilities. In respect of the Proposed Development the ECC would cross the land, and the holding is also required for operational access and a visibility splay.
- 5.5.118. In respect of this land holding, concern was raised in respect of the removal of land from agricultural production and the time that it would take to return to full productivity would have an impact upon food security [RR-045] to [RR-051].
- 5.5.119. In addition, in response to ExQ1.9.4 the landowners raised concern in respect of the proposed large-scale excavations including the separation and replacement of topsoil from subsoil. Such activities would have a significant impact upon the productive capacity and yield potentials of agricultural land following the reinstatement of the land post works, even in ideal weather conditions. Additionally, the use of heavy plant and construction equipment across agricultural land during the works and during its reinstatement, could cause long-lasting or, in the worst-case, irreparable damage to the soil structure, particularly if the sub soil becomes mixed with the topsoil. It was stated that such issues could be mitigated by ensuring that the cable is direct drilled along the entire length of this land rather than by open cut trench which would significantly reduce the affected areas [REP1-106].
- 5.5.120. In response, the Applicant confirmed that the final SMP would include measures to prevent mixing of topsoil and subsoil and also for reinstatement of soils. Such measures would enable reinstatement to be undertaken and for the soils to be returned to arable cultivation. It is further considered that the soil condition surveys and discussions with the landowner would assist in determining the extent of reinstatement measures and soil treatments, water access and boundary treatments required [REP2-003].
- 5.5.121. Turning to the request for direct drilling of the ECC, the Applicant confirmed that such technology is not appropriate for this parcel of agricultural land as the land does not contain any environmental or technical constraints that require the use of trenchless techniques. Also, the required length of bore involved in trenchless techniques would require an increased level of drilling fluid which may result in a greater environmental risk to the holding. Furthermore, such technology would result in increased noise due to the need for 24-hour operations [REP2-003].
- 5.5.122. Concern was also raised in respect of effects on horse riding in this location, and this is considered in section 5.15 Tourism and Recreation of this Report.

**ExA's consideration**

- 5.5.123. Following construction of the ECC, the land would be returned to its original use. The ExA is satisfied that as the land in question would be returned to its original use, any effects, including food production, would be short-term and temporary and as such not significant. Additionally, the ExA notes R17 of the dDCO requires that any land used temporarily for the construction of onshore works which is not

incorporated permanently or included within the approved landscaping schemes is to be reinstated within six months of completion of the relevant stage of works.

- 5.5.124. The ExA is also content that the measures within the oSMP, secured by R10 of the dDCO, would be adequate to ensure no significant adverse effects on soil resources would occur during either the construction or reinstatement phases. Also, field drainage would be reinstated and the indicative minimum burial depth, from ground surface to the top of the cable ducting, would allow cultivation of land.
- 5.5.125. In respect of the request for trenchless techniques to be utilised for the installation of the ECC in this location, the ExA notes the concerns raised. However, as no environmental or technical constraints have been identified on this specific parcel of land, it is considered that any benefits resulting from trenchless techniques would be outweighed by possible environmental, cost and engineering considerations.
- 5.5.126. It is understood that discussion with regards to agreeing HoTs are advanced and that the Applicant hopes to shortly finalise these. The ExA concurs that the approach of seeking individual agreements with landowners is appropriate.
- 5.5.127. Where effects cannot be mitigated, the compensation code provides appropriate financial compensation for landowners. The ExA considers the Applicant's approach where mitigation is not possible to be appropriate and proportionate.

#### *Cwybr Fawr*

- 5.5.128. The holding at Cwybr Fawr has a mixed use and consists of livestock farming, equestrian facilities, and leisure business operations. In respect of the Proposed Development the ECC would cross the land and the holding is also required for the TCC and operational access.
- 5.5.129. In respect of this land holding, concern was raised in respect of the removal of land from agricultural production and the time that it would take to return to full productivity would have an impact upon food security [RR-045] to [RR-051].
- 5.5.130. In addition, in response to ExQ1.9.4 the landowners raised concern in respect of the proposed large-scale excavations including the separation and replacement of topsoil from subsoil. Such activities would have a significant impact upon the productive capacity and yield potentials of agricultural land following the reinstatement of the land post works, even in ideal weather conditions. Additionally, the use of heavy plant and construction equipment across agricultural land during the works and during its reinstatement, could cause long-lasting or, in the worst-case, irreparable damage to the soil structure, particularly if the sub soil becomes mixed with the topsoil. It was stated that such issues could be mitigated by ensuring that the cable is direct drilled along the entire length of this land rather than by open cut trench which would significantly reduce the affected areas [AS-045].
- 5.5.131. In response, the Applicant confirmed that the final SMP would include measures to prevent mixing of topsoil and subsoil and also for reinstatement of soils. Such measures would enable reinstatement to be undertaken and for the soils to be returned to arable cultivation. It is further considered that the soil condition surveys and discussions with the landowner would assist in determining the extent of reinstatement measures and soil treatments, water access and boundary treatments required [REP2-003].
- 5.5.132. Turning to the request for direct drilling of the ECC, the Applicant confirmed that such technology is not appropriate for this parcel of agricultural land as the land

does not contain any environmental or technical constraints that require the use of trenchless techniques. Also, the required length of bore involved in trenchless techniques would require an increased level of drilling fluid which may result in a greater environmental risk to the holding. Furthermore, such technology would result in increased noise due to the need for 24-hour operations [REP2-003].

- 5.5.133. Concerns in relation to potential effects on the touring caravans, events field, and livery operated at Cwybr Fawr are discussed in section 5.14 Socioeconomics of this Report.

#### **ExA's consideration**

- 5.5.134. Following construction of the ECC, the land would be returned to its original use. The ExA is satisfied that as the land in question would be returned to its original use, any effects, including food production, would be short-term and temporary and as such not significant. Additionally, the ExA notes R17 of the dDCO requires that any land used temporarily for the construction of onshore works which is not incorporated permanently or included within the approved landscaping schemes is to be reinstated within six months of completion of the relevant stage of works.
- 5.5.135. The ExA is also content that the measures within the oSMP, secured by R10 of the dDCO, would be adequate to ensure no significant adverse effects on soil resources would occur during either the construction or reinstatement phases. Also, field drainage would be reinstated and the indicative minimum burial depth, from ground surface to the top of the cable ducting, would allow cultivation of land.
- 5.5.136. In respect of the request for trenchless techniques to be utilised for the installation of the ECC in this location, the ExA notes the concerns raised. However, as no environmental or technical constraints have been identified on this specific parcel of land, it is considered that any benefits resulting from trenchless techniques would be outweighed by possible environmental, cost and engineering considerations.
- 5.5.137. It is understood that discussion with regards to agreeing HoTs are advanced and that the Applicant hopes to shortly finalise these. The ExA concurs that the approach of seeking individual agreements with landowners is appropriate.
- 5.5.138. Where effects cannot be mitigated, the compensation code provides appropriate financial compensation for landowners. The ExA considers the Applicant's approach where mitigation is not possible to be appropriate and proportionate.

#### *Agricultural land to the south of Glascoed Road*

- 5.5.139. In respect of this holding, objection was raised by the landowners in their WR to the felling of established trees, as they require at least 10% tree cover on their farm to qualify for the proposed Welsh Government Sustainable Farming scheme [REP1-101].
- 5.5.140. In response the Applicant confirmed that there were no proposals to remove areas of woodland as a result of the Proposed Development. The Applicant did however acknowledge that there was the potential for the loss of hedgerows and some individual trees. It was further confirmed by the Applicant that where temporary hedgerow loss is proposed, other than for the purpose of permanent visibility splays, compensation would be provided by re-instating native, species-rich hedgerows with trees, and this would also include ditches where these were present originally. Hedges would be reinstated at their original location and comprise a locally appropriate mixture of at least seven woody species and would include heavy

standard trees at a 3:1 ratio for any lost. Trees and deep-rooted plants would not be planted in the permanent cable easement area to avoid the risk of damage to the cable by their roots or within any permanent visibility splays [REP2-002].

- 5.5.141. The ExA further examined this issue with the landowner at ExQ2.9.1 and asked whether the response by the Applicant provided adequate reassurance [PD-017]. In response the landowners stated that it remained a concern that any removal of trees and hedgerows may adversely impact their ability to qualify for the proposed Welsh Government Sustainable Farming scheme [REP5-036].
- 5.5.142. The Welsh Government also provided a response to ExQ2.9.1 stating that whilst a figure of 10% tree cover would be required to qualify for the proposed scheme, landowners would have a period of 5 years in order to reach this level of cover. Additionally, the Welsh Government confirmed that the proposed scheme is in a draft form and when the joining requirements are finalised, they would consider scenarios under force majeure and matters outside the control of individual scheme participants [REP5-044].
- 5.5.143. In response the Applicant further commented that the route of the haul road and cable trenching within the ECC would be subject to detailed design which would include engagement with landowners as noted in Section 3.7 of the oCoCP. Where possible the loss of trees or hedges would be avoided to ensure as far as is practicable so that works would not impact landowner's ability to qualify for such schemes. The Welsh Government's comments around force majeure and matters being outside the control of individual participants was also acknowledged [REP6-003].

#### **ExA's consideration**

- 5.5.144. The ExA notes the concerns raised by the landowners. However, the ExA is also aware that the proposed Welsh Government Sustainable Farming scheme and the specific joining requirements had not been finalised by the close of the Examination.
- 5.5.145. Nevertheless, based on the evidence provided, the ExA is satisfied that the landowners would be given adequate opportunity to comply with the joining requirements assuming that the period of 5 years in order to reach the 10% coverage figure is included in the final scheme.
- 5.5.146. Additionally, the Applicant has also confirmed that it is not their intention to remove areas of woodland and if the loss of hedgerows and individual trees occurs, the ExA is satisfied that the compensatory planting would be adequate.

#### **Ground contamination**

- 5.5.147. The issue of potential ground contamination did not feature as a key issue during the Examination. The only exception to this is the response to ExQ1.9.3 by the landowners of agricultural land to the south of Glascoed Road [REP1-102]. In respect of the Proposed Development, part of the onshore ECC would cross the land and a temporary construction compound would be located on the land.
- 5.5.148. In respect of ground contamination, that landowners stated that it would be important that the topsoil is protected from contamination and reinstated in the sequence of builder clay, subsoil followed by topsoil together with surface stones removed [REP1-102].

- 5.5.149. As discussed above in relation to the oSMP, the ExA is satisfied that appropriate reinstatement methods would be employed via the oSMP, which would be secured by R10 of the dCO.
- 5.5.150. Whilst not a key issue during the Examination, the ExA is content that, following the contaminated land risk assessment, the Applicant has adequately considered contaminated historical sites and land uses. The assessment concludes that other than agricultural land which has only limited potential for contamination to occur, no significant contamination sources have been identified from historical plans or other sources of information (section 6.7.8 of [REP8-066]).
- 5.5.151. Also, as detailed in Table 11 of [REP8-066] and in the Applicant's Closing Submission [REP8-117], all construction work would be undertaken in accordance with a Pollution Prevention and Emergency Incident Plan (PPEIP), which would be secured by R10 of the dDCO [AS-053].
- 5.5.152. An outline PPEIP (oPPEIP) was submitted into the Examination and, amongst other things, details procedures to be followed should sources of contamination be discovered during construction of onshore elements of the Proposed Development. The oPPEIP also confirms that should unexpected contamination be encountered or suspected, the works would cease in that area and assessment by a suitably qualified land contamination specialist would be undertaken to determine appropriate actions and a decision made on where such material should be handled, stored, and eventually disposed of safely [REP2-037].
- 5.5.153. The ExA is satisfied that the oPPEIP would ensure appropriate pollution prevention measures would be applied during the course of the onshore construction works and that adequate monitoring would be carried out to ensure compliance of the works detailed within the oPPEIP [REP2-037].

#### **Mineral resource safeguarding**

- 5.5.154. The issue of safeguarding mineral resources did not feature as an issue during the Examination. Nevertheless, the ExA is content that, as detailed in section 6.7.10 of the ES, the Applicant has adequately considered the mineral resource in the study area that has potential to be affected by the onshore infrastructure [REP8-066].
- 5.5.155. The assessment identified that the study area included areas of safeguarded deposits of minerals and aggregates. These occur along the onshore ECC in Route Sections A, C and D (areas of sand and gravel) and on the OnSS site. As such there is the potential for the construction of onshore elements of the Proposed Development to preclude mineral extraction. However, a search of the DCC planning website did not indicate any extant planning permissions for mineral extraction in the above identified areas (paragraph 129 and 130 of the ES [REP8-066]).
- 5.5.156. Whilst the ES confirms that the construction of the OnSS and TCC area would lead to the sterilisation of mineral resources during construction, this would be small in comparison to the remaining available mineral resource area. In respect of the operation phase, this would lead to the permanent sterilisation of mineral resources. However, the OnSS footprint and permanent access road is considered small in comparison to the remaining available mineral resource area (paragraphs 131 and 147 of the ES [REP8-066]). Also, following decommissioning there would be the potential to return to mineral extraction in these locations. As such, the ExA considers the effect would be long-term but reversible.

- 5.5.157. Accordingly, the assessment recorded negligible adverse residual effects for both the construction and operation phases, which are not significant in EIA terms.
- 5.5.158. The ExA is therefore satisfied that in respect of both paragraph 5.10.9 of NPS EN-1 and paragraph 5.14.7 of PPW11, the Applicant had fully assessed the potential effect on mineral resources and no significant adverse residual effects were identified.

### **ExA's conclusion on ground conditions and land use**

#### *Soil resources and quality*

- 5.5.159. The ExA is satisfied that the Applicant undertook a robust assessment of soil quality and resources. As stated in NPS EN-1, paragraph 5.10.8 the ExA is content that the Applicant has sought to identify any effects on soil quality and minimised impacts through appropriate mitigation measures.
- 5.5.160. The provisions of the final SMP would be secured through the CoCP and R10 of the dDCO. The ExA considers that the content of R10 is adequate to ensure no significant adverse effects on soil resources from the Proposed Development.
- 5.5.161. The ExA is satisfied that the measures and procedures to be detailed in the final SMP would ensure adequate protection of soil function. Such measures would result in the protection of soils which would enable their re-use in the restoration of the site and where appropriate, returned to pre-construction agricultural use. Where land is to be restored, soils are to be handled in accordance with measures as set out in the final SMP and CoCP. Such measures would ensure sufficient volumes of material for restoration are provided and the minimisation of surplus soil material occurs.
- 5.5.162. As such, the ExA considers there are no matters relating to soil resources which would weigh for or against the Order being made.

#### *Loss of BMVAL*

- 5.5.163. The fact that BMVAL is a finite national resource and has a higher sensitivity than land in Grades 3b, 4 and 5 is noted by the ExA. However, the majority of BMVAL land to be permanently lost would be within subgrade 3b, which represents poorer quality land.
- 5.5.164. No agricultural land in grades 1 or 2 is to be permanently lost as a result of the Proposed Development. In terms of subgrade 3a, 1.5ha of this subgrade is to be permanently lost during the construction and operation phases of the OnSS.
- 5.5.165. The ExA is therefore satisfied that in line with paragraph 5.10.8 of NPS EN-1 the Applicant has, as far as practicable, through consultation and design iterations, sought to minimise impacts on BMVAL and where possible would utilise poorer quality land.
- 5.5.166. As per the test in NPS-EN-1, the ExA gives limited weight to the loss of poor-quality agricultural land of ALC Grade 3b and given the limited amount of Grade 3b land which would be permanently affected, the ExA also affords limited weight to this matter.
- 5.5.167. The ExA therefore attributes limited weight to matters relating to the effect on BMVAL against the Order being made.

### *Effect on Landholdings*

- 5.5.168. Limited harm was identified in respect of most landholdings, as the majority of land is required temporarily during the construction of the onshore ECC and is to be returned to its original use. The ExA is also content that measures within the CoCP and final SMP, where practicable, would provide adequate levels of mitigation and minimise adverse effects.
- 5.5.169. It is however acknowledged that in respect of Faenol Bropor, over half of the holding would be removed from agricultural operations due to the OnSS and associated access, mitigation, compensation, and enhancement areas. However, the ExA is satisfied that compensation would be payable to the landowner would adequately compensate for the impact. Additionally, the ExA considers that any potential effect on this holding would be necessary to allow for the construction and operation of a renewable energy scheme.
- 5.5.170. The ExA is also satisfied with the measures contained in both the CoCP and oSMP which confirm that a qualified Land Agent would be employed to ensure that information on existing agricultural management and soil / land conditions would be obtained, recorded, and verified by way of a detailed pre-construction condition survey. The Land Agent would also undertake site inspections during construction to monitor working practices and ensure landowners' and farmers' reasonable requirements are fulfilled. The Land Agent would also retain a function with regards to agreeing reinstatement measures following completion of the works.
- 5.5.171. The Applicant has also confirmed that a significant number of landowners have signed HoTs and where HoTs have not been signed, that they are at an advanced stage. The HoTs confirm the arrangements for financial compensation in respect of both temporary and permanent land take and to address any injurious affection that may result from the Proposed Development.
- 5.5.172. Therefore, the ExA concludes that when considered together, the effect on landholdings should be given limited weight against the Order being made.

### *Ground contamination*

- 5.5.173. The ExA notes that the potential for contaminants contained within excavated ground and stockpiled materials is unlikely. However, should contamination occur or be discovered during construction, the ExA is satisfied that the approach detailed within the oPPEIP is appropriate.
- 5.5.174. On this basis the ExA considers that the Applicant has addressed the effects relating to potential ground contamination in accordance with the relevant policies within NPS EN-1.
- 5.5.175. Considering all the submitted evidence and the ExA's consideration set out above, the ExA considers there are no matters relating to ground contamination which would weigh for or against the Order being made.

### *Mineral resource safeguarding*

- 5.5.176. The ExA consider that the Applicant has addressed the effects relating to mineral safeguarding in accordance with the relevant policies within NPS EN-1. The ExA considers there are no matters relating to mineral resources which would weigh for or against the Order being made.



*Compliance with other policies*

- 5.5.177. The ExA is satisfied that, in accordance with PPW 11, the Applicant has given appropriate consideration to the protection of soils and ground conditions, and this is demonstrated in the mitigation measures contained within the oCoCP, oSMP and oPPEIRP. The ExA is also satisfied that the design of the Proposed Development has been optimised to reduce the overall land take, where practicable.
- 5.5.178. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of Policy PSE 15 of the LDP.

**ExA's overall conclusion**

- 5.5.179. Consequently, the ExA considers that the Applicant's assessment of ground conditions and land use and the proposed mitigation measures, complies with the policy aims of NPS EN-1 and where relevant, the draft NPS EN-1.
- 5.5.180. Whilst the ExA notes the moderate significant adverse residual effect in respect of Faenol Brodor, taken in the round the ExA ascribes limited weight to the matters relating to ground conditions and land use against the making of the Order.
- 5.5.181. The findings in respect of ground conditions and land use will be taken into account in the overall planning balance in Volume 2, Chapter 10 of this Report.

## **5.6. HISTORIC ENVIRONMENT**

### **Introduction**

- 5.6.1. This chapter considers the onshore Historic Environment effects of the Proposed Development first, before moving onto the offshore aspects of the proposal. An overall conclusion is provided at the end.
- 5.6.2. This chapter differs to other chapters in that minor effects, which are not significant in EIA terms, are considered. This is due to the fact that any harmful effects on heritage assets need to be considered (see policy section below).

### **Policy Considerations**

#### **The Infrastructure Planning (Decisions) Regulations 2010**

- 5.6.3. These regulations state that when deciding an application which affects a Listed Building or its setting, or a scheduled monument or its setting, the decision-maker must have regard to the desirability of preserving the Listed Building, Scheduled Monument or its setting or any features of special architectural or historic interest which it possesses.
- 5.6.4. When deciding an application relating to a Conservation Area, the decision maker must have regard to the desirability of preserving or enhancing the character or appearance of that area.

#### **Overarching National Policy Statement for Energy (NPS EN-1)**

- 5.6.5. The NPS states that as part of the ES the Applicant should provide a description of the significance of the heritage assets affected by the Proposed Development and the contribution of their setting to that significance. The level of detail should be proportionate to the importance of the heritage assets and no more than is sufficient to understand the potential impact of the proposal on the significance of the heritage asset. The Applicant should ensure that the extent of the impact of the Proposed Development on the significance of any heritage assets affected can be adequately understood from the application and supporting documents (paragraph 5.8.8).
- 5.6.6. The NPS notes that in considering applications, the Secretary of State (SoS) should seek to identify and assess the particular significance of any heritage asset that may be affected by the Proposed Development, including by development affecting the setting of a heritage asset. In considering the impact of a Proposed Development on any heritage assets, the SoS should take into account the particular nature of the significance of the heritage assets and the value that they hold for this and future generations and the desirability of sustaining and, where appropriate, enhancing the significance of heritage assets, the contribution of their settings and the positive contribution they can make to sustainable communities and economic vitality (paragraphs 5.8.11-13).
- 5.6.7. The NPS states that there should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to, or loss of, a grade II listed building, park or garden should be

exceptional. Substantial harm to, or loss of, designated assets of the highest significance, including Scheduled Monuments; registered battlefields; grade I and II\* listed buildings; grade I and II\* registered parks and gardens; and World Heritage Sites, should be wholly exceptional (paragraph 5.8.14).

- 5.6.8. Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Where the application will lead to substantial harm or total loss of significance of a designated heritage asset the SoS should refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm (paragraph 5.8.15).
- 5.6.9. NPS EN-1 states that there are some heritage assets with archaeological interest that are not currently designated as scheduled monuments, but which are demonstrably of equivalent significance. The NPS notes that the absence of such designation does not indicate lower significance, and that if the evidence before the SoS indicates that a non-designated heritage asset of the type may be affected by the Proposed Development then the heritage asset should be considered subject to the same policy considerations as those that apply to designated heritage assets (paragraphs 5.8.4-5).

#### **Draft National Policy Statement**

- 5.6.10. Some parts of the Draft Overarching National Policy Statement for Energy (DEN-1) mirror the extant EN-1 and these aspects are not repeated here. Additions are made regarding encouraging the Applicant to prepare proposals which can make a positive contribution to the historic environment, including considering how visual impacts can affect heritage assets and whether there may be opportunities to enhance access to or interpretation, understanding and appreciate of the heritage assets affected by the scheme (paragraph 5.9.14).
- 5.6.11. The DEN-1 states that when considering the impact of a proposed development on the significance of a designated heritage asset, the SoS should give great weight to the asset's conservation. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance (paragraph 5.9.21) and that any harm or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification (paragraph 5.9.22). Any harmful impact on the significance of a designated heritage asset should be given significant weight when weighed against the public benefit of development (paragraph 5.9.23).

#### **Wales National Policy**

- 5.6.12. The legislative framework for the protection of the Historic Environment in Wales is set by the Planning (Listed Buildings and Conservation Area) Act 1990, the Ancient Monuments and Archaeological Areas Act 1979, and the Historic Environment (Wales) Act 2016. Planning Policy Wales (11<sup>th</sup> Edition, February 2021) provides the national planning policy framework for the historic environment. This is supplemented by Technical Advice Note (TAN) 24: the historic environment (May 2017) and best practice advice and guidance published by Cadw.
- 5.6.13. As stated in Chapter 3, at the time of writing the draft Historic Environment (Wales) Bill is progressing through the Senedd. When enacted this Bill will replace in Wales

the Ancient Monuments and Archaeological Areas Act 1979 and the Planning (Listed Buildings and Conservation Areas) Act 1990. Royal assent is expected in *early Summer 2023*; however *legislation will not come into force as soon as it receives Royal Assent since a substantial quantity of secondary legislation will need to be made and guidance will need to be updated during an implementation phase* (Welsh Government response to ExQ2.8.2 [REP5-044]).

- 5.6.14. The Welsh National Marine Plan (2019) covers developments in Welsh territorial waters. Policy SOC\_05 states that proposals should demonstrate how potential impacts on historic assets and their settings have been taken into consideration and should avoid adverse impacts, minimise unavoidable impacts and mitigate impacts where they can't be minimised.
- 5.6.15. Future Wales, the National Plan 2040 (2021) states that managing the North's historic and natural resources is a priority for the region and Planning Policy Wales Edition 11 (PPW11) (2021) notes that the planning system recognises the need to conserve archaeological remains and that this is a material consideration. PPW11 also states that the preservation or enhancement of the character or appearance of a conservation area or its setting and that where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building or its setting, and any features of special architectural or historic interest which it possesses. Technical Advice Note 10 (TAN10) states that any impact on setting of historic assets is a material consideration.

### **Development Plan Policies**

- 5.6.16. Policy VOE1 of the Denbighshire County Council Local Development Plan (DCCDLP) 2006-2021 (2013) seeks to protect sites of built heritage from development which would adversely affect them and requires that development proposals should maintain and wherever possible enhance them. Policy VOE10 supports renewable energy developments providing they are located to minimise visual, noise and amenity impacts and demonstrate no unacceptable impact upon the various interests, including cultural heritage. In areas that are visually sensitive, including the AONB, Conservation Areas, World Heritage Site and Buffer Zone and in close proximity to historic buildings, visually intrusive technologies will not be permitted unless it can be demonstrated that there is no negative impact on the designation or there is an overriding public need for the development.

### **The Applicant's Case**

#### **Onshore**

- 5.6.17. The Applicant's Case is set out in the Environmental Statement, Volume 3, Chapter 8 [REP8-064] (ES), supplemented by various appendices [APP-143] to [APP-147]. This Chapter considers the scope and methodology of the ES, before assessing the potential effects arising from the construction, operation and decommissioning of the Proposed Development.
- 5.6.18. Pre application consultation with relevant parties including Gwynedd Archaeological Planning Service (GAPS), Clwyd-Powys Archaeological Trust, Anglesey County Council, Cadw led to further viewpoints being added, an intertidal walkover survey being included in the ES, and an assessment of impacts upon Registered Historic Landscapes. Comments were also raised relating to the extent of geophysical and walkover surveys along the preferred cable route, the inclusion of landscape

features, the effect on Great Orme and Llandudno Conservation Area, and the need for outline written schemes of investigation (WSI) to be included.

- 5.6.19. The study area selected comprised of a 1km area, based on 500m either side of the proposed onshore cable route. For the setting of onshore heritage assets, final groups for assessment included specific assets requested by consultees (as mentioned above) as well as others based on professional judgment and likely visibility. Direct effects (from physical damage or disturbance) on historic assets would only result within the proposed Order Limits, whereas indirect effects arise from potential change to heritage significance, generally from effects to the setting of assets.
- 5.6.20. An outline Written Scheme of Investigation (WSI) [APP-582] was also submitted as part of the ES, which outlines the strategy to undertake programmes of archaeological survey and evaluation post consent and includes a range of likely mitigation options and responses.
- 5.6.21. Various archaeological assets were identified on the Historic Environment Record within the Order Limits, by an inter-tidal area walkover and the completion of a geophysical survey. A range of heritage assets were identified as having the potential to have indirect affects by the offshore aspects of the proposed development. These 13 assets comprised of listed buildings, scheduled monuments, a World Heritage Site, and a Conservation Area. Four Historic Landscapes of Wales were also considered, 16 assets were included for assessment for potential effects of the onshore aspects of the proposed development. These include 12 assets associated with the Bodelwyddan Estate.
- 5.6.22. Embedded mitigation within the project design can be summarised as an agreed scheme of archaeological investigation and recording as part of the WSI, and the reinstatement of landscaping, including screening planting where practicable and hedgerow replacement.
- 5.6.23. During the construction phase direct effects on archaeological assets are considered to be minor adverse or negligible following the embedded mitigation. Indirect effects on heritage assets from construction traffic, noise and dust are considered to be negligible and minor adverse (Barn to NW of Faenol Bropor Farmhouse, Registered Park and Garden of Bodelwyddan Castle) due to the short-term nature of the construction and mitigation by screening.
- 5.6.24. During the operational phase, the onshore substation (OnSS) is stated to have minor adverse effects on the Barn to NW of Faenol Bropor Farmhouse and Bodelwyddan Castle. The offshore array is stated to have a negligible effect on:
- Beaumaris Castle (Grade I)
  - Conwy Castle (Grade I)
  - Penrhyn Castle (Grade I)
  - Slate Landscape of Northwest Wales World Heritage Site
  - Gwrych Castle (Grade I)
  - Trywn Du Lighthouse (Grade II\*)
  - Puffin Island Tower and Remains of Church and Monastic Settlement Scheduled Monument
  - Puffin Island Telegraph Station (Grade II)
  - Pen y Dinas Hillfort Scheduled Monument
  - Bangor Pier (Grade II\*)
  - Menai Bridge (Grade I)

- Creuddyn and Conwy Historic Landscape of Wales (HLW)
- Dyffryn Ogwen HLW
- North Arllechwedd HLW
- Penmon HLW

5.6.25. Minor adverse effects are predicted for Llandudno Conservation Area, and moderate adverse for the Grade II\* listed Llandudno Pier.

5.6.26. No predicted adverse effects are predicted for decommissioning.

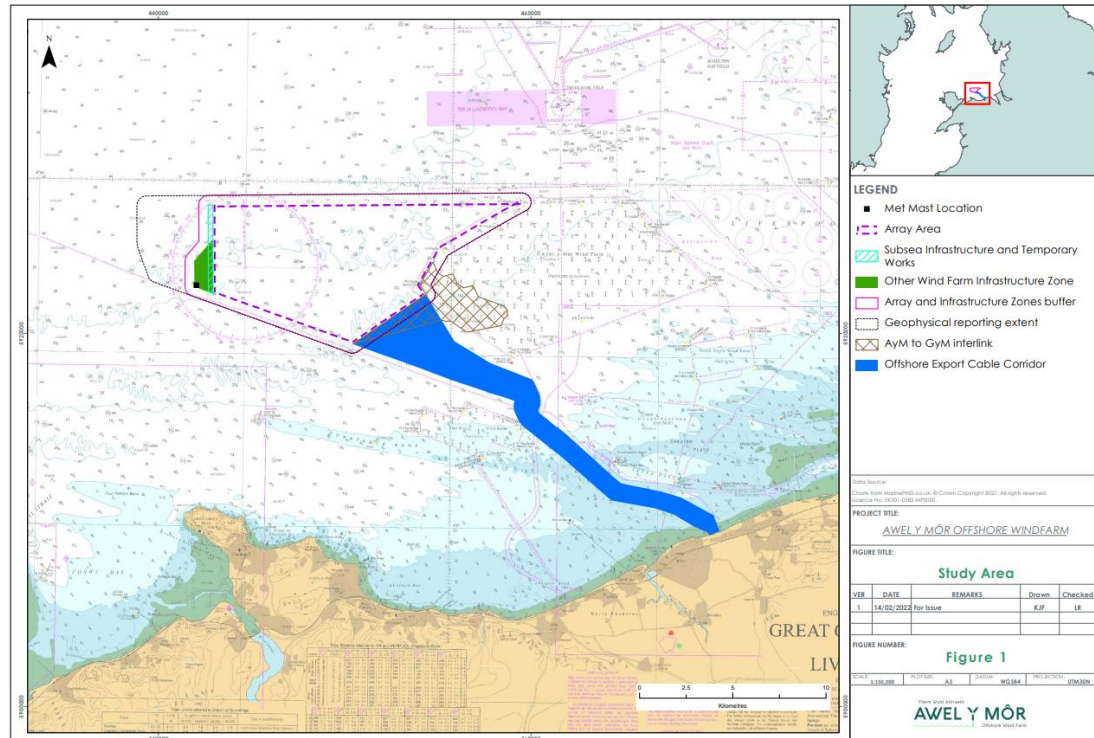
### Offshore

5.6.27. The Applicant's Case for offshore works is set out in the Environmental Statement, Volume 2, Chapter 11 [REP8-058] (ES), supplemented by an appendix containing an archaeology desk-based assessment [APP-117]. This Chapter considers the scope and methodology of the ES, before considering the potential effects arising from the construction, operation and decommissioning of the Proposed Development.

5.6.28. Pre-application consultation with relevant parties including the Planning Inspectorate, Gwynedd Archaeological Planning Service (GAPS), Cadw, and Denbighshire County Council (DCC) led to various issues remaining under consideration (i.e. not scoped out). Various comments were also made concerning the adequacy of data and the extent of the walkover survey for the inter tidal area.

5.6.29. The study area selected is shown below.

**Figure 10: Study area [REP8-058]**



5.6.30. Searches for marine archaeology and cultural heritage included data from the UK Hydrographic Office, Cadw, NRW, GAPS, Clwyd-Powys Archaeological Trust and various historic maps and charts. This information was supplemented with new

geophysical data and the use of existing geophysical data from the Gwynt y Môr project.

- 5.6.31. Within the array area a number of palaeogeographical features were identified and 509 anomalies of archaeological potential. There are six known wrecks. 16 of the archaeological anomalies area were classified as A1 archaeological potential, with 472 assigned as having A2 potential. In the export cable corridor a number of palaeogeographical features were identified and 132 anomalies of archaeological potential. These include 127 classified as having A2 archaeological potential, four as A1 archaeological potential and one with A3 archaeological potential. Intertidal areas are covered within the Onshore chapter and by the submitted outline Written Scheme of Investigation (WSI) [APP-582].
- 5.6.32. Embedded mitigation within the project design can be summarised as an agreed scheme of archaeological investigation and recording as part of an offshore WSI [APP-304], and the imposition of Archaeological Exclusion Zones (AEZ) around features of anthropogenic origin of archaeological interest (A1 anomalies) and historic records of archaeological material (A3 anomalies). The AEZs recommended are of 50m radius around well constrained features and 100m radius around more dispersed sites. No AEZs are proposed for A2 anomalies but avoidance of such features by micro-siting is recommended if there is potential for them to be impacted by the development.
- 5.6.33. During the construction phase direct effects on archaeological assets are considered to be low or negligible adverse following the embedded mitigation. In some cases, for instance archaeological investigation of seabed anomalies could lead to minor or moderate beneficial effects (for instance discovering a wreck of interest and being able to share it with the public). During the operational phase effects would be similar, as would affects associated with decommissioning.
- 5.6.34. Cumulative effects are considered for offshore wind farms with resulting low to negligible adverse significance and moderate beneficial significance as a result of the archaeology assessments adding to greater understanding of paleogeography in the area. All other cumulative effects (marine aggregates and disposal, commercial fisheries, oil and gas, cables and pipelines) are considered to have low to negligible effects.

### **Issues considered in the Examination**

- 5.6.35. From various representations including from Denbighshire County Council (DCC), Conwy County Borough Council (CCBC), Gwynedd Archaeological Planning Service (GAPS), Clwyd-Powys Archaeological Trust (CPAT), Anglesey County Council (ACC), and Cadw, the key issues considered in the Examination are as follows:
- Archaeological effects in the intertidal area, onshore cable route and the site of proposed OnSS
  - Effects on listed buildings and scheduled monuments of the onshore cable route and site of proposed OnSS
  - Indirect effects on listed buildings, scheduled monuments and Historic Landscapes of Wales (excluding Llandudno)
  - Effect on Llandudno – including Llandudno Pier, Llandudno Conservation Area, and Creuddyn and Conwy Historic Landscape of Wales (HLW)

These are considered in turn below. In addition, although not considered to be a key issue in the Examination, offshore effects are also considered as a separate subject area.

**Archaeological effects in the intertidal area, onshore cable route and the site of proposed OnSS.**

- 5.6.36. DCC's Local Impact Report [REP1-056] stated that they are satisfied with the archaeological survey effort carried out and consider that the mitigation set out in the ES to be sufficient to protect archaeological interests, subject to it being adequately secured through imposition of requirements.
- 5.6.37. Cadw [RR-028] raised serious concerns about the walkover survey conducted for archaeology, noting that 30% of the terrestrial survey was incomplete. The geophysical survey has also only been undertaken on some 65% of the area required. The results of this work are essential if any sub-surface archaeological sites are to be identified and the need for further investigative work, including archaeological evaluation, carried out. The failure to complete these aspects is contrary to section 5.8.10 of EN-1 which states that any application should contain sufficient information to allow heritage significance to be understood. The surveys must therefore be completed so that the impact of the proposed development on the historic environment can be understood.
- 5.6.38. The Applicant was of the view that the response from Cadw related to an earlier iteration of the proposed scheme and assessment, noting that a geophysical (magnetometer survey), field walkover of the final cable route had been undertaken and the intertidal zone has been visited on several occasions at low tide, as a result of which approximately 95% of the accessible onshore cable route (i.e. not including roads and the caravan park and railway at landfall) was covered by walkover survey and/ or geophysical survey [REP1-001].
- 5.6.39. Some very limited trial trenching had been undertaken, however weather conditions over winter prevented the completion of a more comprehensive exercise. The scope and extent of the surveys (magnetometer and trial trenching) was agreed in consultation with Clwyd and Powys Archaeological Trust (CPAT) (on behalf of DCC) who were kept informed of progress throughout and agreed that the remainder of surveys could be undertaken post-consent.
- 5.6.40. The Examining Authority's First Written Question (ExQ1) 1.8.4 [PD-009] raised the issue of why the trial trenching could not take place at alternative times of the year where weather conditions could be more conducive. The Applicant [REP1-007] stated that it was considered that trial trenching was most appropriate post consent but that in response to queries from DCC some limited trial trenching was carried out. CPAT had agreed that if weather conditions were challenging then could be addressed post consent and had approved the WSI.
- 5.6.41. The Applicant's response to ExQ1.8.5 confirmed that micro-siting could be undertaken to avoid any archaeological assets which may be uncovered during ground works or post consent trenching, In response to EXQ1.8.6, which raised the question of pre-consent trenching making it more possible to preserve archaeological features in situ, the Applicant stated that a staged approach would be taken and although more data is always useful, this needs to be proportionate
- 5.6.42. A signed Statement of Common Ground (SoCG) with Cadw [REP4-028] confirmed that sufficient primary and secondary data (including site-specific surveys) have been collated to appropriately characterise the baseline environment for the



purposes of EIA and that Requirement (R) 12 of the dDCO is sufficient to secure the mitigation measures described in the ES.

- 5.6.43. In response to the Marine Licence application, the Royal Commission on Ancient and Historic Monument of Wales (RCAHMW) raised concerns [REP3a-014] over the inclusion of the inter-tidal zone within the onshore WSI as opposed to an offshore WSI. However they noted that they were in agreement with the main findings of the ES in relation to the inter-tidal zone. The Applicant noted that as standard practice DCC as the local planning authority would consult with NRW on the approval of schemes in this area, and that this would be enshrined within the final WSI [REP3a-014].

**ExA's consideration**

- 5.6.44. An archaeological WSI is secured through R12 of the dDCO [AS-053]. This ensures that any onshore works (including intertidal works, as confirmed by Schedule 1, Part 1 of the dDCO) must be carried out in accordance with a WSI to be submitted to and approved by DCC. R12(3) also confirms that pre-commencement surveys and investigations to allow and inform the WSI must also take place in accordance with the WSI details.
- 5.6.45. The WSI, to be carried out in accordance with the Outline WSI [APP-147] would mitigate any adverse archaeological effects. All matters were agreed with Cadw [REP4-028] before the close of the Examination and DCC are content with the archaeological provisions within the application documents [REP1-056]. Following questioning the ExA have no reason to disagree with such views and consider archaeological effects and mitigation measures to be satisfactory.

**Effects on listed buildings and scheduled monuments on the onshore cable route and the OnSS**

- 5.6.46. DCC's Local Impact Report [REP1-056] notes that the onshore export cable corridor (ECC) and the OnSS site would be close to a number of listed buildings including the Grade II\* listed buildings of the church of St Margaret, Faenol Fawr, and Bodelwyddan Castle, as well as the Registered Park and Garden of Bodelwyddan Castle. They state that they are satisfied with the conclusions of the assessment but note that adverse harm to the setting of the Castle and the Registered Historic Park and Garden would not be fully mitigated through landscaping but accept that planting would soften views of the substation. As the effects of the planting would not be realised until the longer term (year 15) DCC consider that controls must be applied to secure the long-term management and maintenance of landscaped areas and new tree planting for a minimum of 15 years. This should be reflected within any final landscape and ecology plan.
- 5.6.47. The ExA asked questions in ExQ1 concerning the Church of St Margaret and Bodelwyddan Castle [PD-009], asking about any effect on the setting of the Church by the proposed OnSS and the proximity of the OnSS site upon the Registered Park and Garden at Bodelwyddan.
- 5.6.48. The Applicant stated [REP1-007] that the Church of St Margaret lies at the edge of the 1km boundary from the onshore ECC and similar distances from construction zones. They note that the Church was scoped out of further assessment within the ES and a more detailed assessment was not requested during EIA scoping or Section 42 Consultation Responses. Long distance views of the Church from the OnSS site are noted within the ES but the land on which the OnSS and ECC would be sited was not found to contribute to the significance of the Church. The presence

of the OnSS would not challenge the landmark status of the Church and would not affect its historic or architectural interests.

5.6.49. For Bodelwyddan Castle Registered Park and Garden the Applicant confirmed that [REP1-007] the Park and Garden had been considered alongside the Castle itself (and the other listed assets within the grounds)

5.6.50. A question was asked at ExQ3 [PD-017] requesting clarification of the listed status of Faenol Brodor. It was confirmed by the Applicant [REP7-004] that it is the barn to the northwest of this farmhouse that is the listed building (and not the farmhouse).

#### **ExA's consideration**

5.6.51. The proposed ECC and OnSS site would run past a number of listed buildings, including, but not limited to Bryn Cwnin Farmhouse and range of farm buildings, Fferm, Tyddyn Isaf, the Barn to the NW of Faenol Brodor Farmhouse, Bodelwyddan Castle (and the Registered Park and Garden), and Bryn Celyn Lodge. As far as was possible from public areas, the ExA viewed these properties in their Unaccompanied Site Inspections (USI) 1 [EV-001], USI2 [EV-003], and USI5 [EV-004c] The Church of St Margaret was visited at USI2. Bodelwyddan Registered Park and Garden, Fferm, and the Barn to the NW of Faenol Brodor Farmhouse was viewed from private land in the Accompanied Site Inspection (ASI) [PD-012].

5.6.52. During construction of the ECC effects on such listed buildings would be reasonably limited – while some disturbance may take place in terms of construction noise and dust such effects would be time limited to the relevant periods when cable was being laid. The ExA agree that for relevant heritage assets such effects would be negligible and harm to the significance of these assets would not be caused.

5.6.53. Construction on the OnSS site would necessarily take place for a longer term than just works on the ECC. Effects on the barn at Faenol Brodor would therefore take place for a longer period, and the construction on land associated with this farm building would also have a greater impact. The ExA agree that such effects would be minor adverse in EIA terms and would cause harm to the significance of the heritage asset for the duration of the works.

5.6.54. For similar reasons, the construction works would also have a minor effect upon the Registered Park and Garden of Bodelwyddan Castle. While much of the garden would be well screened from the works by existing substantial screening, areas of the park adjoining the OnSS site would inevitably be affected.

5.6.55. During the operational phase, the ExA agree that the onshore ECC would not have an adverse effect on any listed buildings as the cabling would be underground and disturbed areas above would be reinstated. The operation of the OnSS would however have an adverse impact upon the Barn to NW of Faenol Brodor Farmhouse and Bodelwyddan Castle. For the barn this would result in a new substantial structure sited to the south of the heritage asset. While a degree of separation would be retained between the barn and the OnSS by distance and the existing strip of largely wooded land alongside the footpath splitting the two, the wider historic rural setting of the barn would be adversely affected. The ExA agree that such effects would be minor in EIA terms, but this would cause harm to the significance of the listed building.

5.6.56. While not visible from the Castle itself, the proposed OnSS would be sited within the wider setting of the Bodelwyddan Castle. At present this setting comprises of a

largely rural farmland setting, albeit adversely affected in some areas by the presence of other development (such as the A55 dual carriageway). However, the OnSS would significantly alter the character of this wider setting to the east of the Castle, causing harm to the significance of the listed building. Equally, harm would also be caused to the significance of the Registered Park and Garden of Bodelwyddan Castle.

### **Indirect effects on listed buildings, scheduled monuments and Historic Landscapes of Wales**

- 5.6.57. A number of interested parties referred to heritage impacts at the relevant representations stage. The Isle of Anglesey County Council (IoACC) [RR-004] considered that the proposal would cause harm to the setting of various historic assets, including Listed Buildings, Scheduled Monuments, Penmon Registered Landscape of Outstanding Historic Interest and “most importantly” Beaumaris Castle World Heritage Site. They noted that visual and physical connection to the sea is an important aspect of many of these sites and that visual intrusion of the new turbines may impair this connection and unacceptably reduce the significance of one or more assets. They were also of the view that some Listed Buildings had been under assessed, including the Grade II\* Trwyn Du, or Black Point, Lighthouse and the Grade II Telegraph Station (former) (5529) or not assessed at all (Grade II listed Pilot's Cottage (former) No 1 & 2 and Enclosure walls at former pilots' cottages for Trwyn Du Lighthouse. They further noted concerns expressed by Cadw in relation to Beaumaris Castle World Heritage Site and the Menai Suspension Bridge, which are considered of high historical architectural value and are popular tourism attractions on Anglesey.
- 5.6.58. Cadw [RR-028] considered that the proposed development would have an impact on (i) the settings of Beaumaris and Conwy Castles, which are both nationally important scheduled monuments and part of the Castles and Town Walls of King Edward in Gwynedd World Heritage Site and (ii) Penrhyn Castle which is a grade I listed building set in a Grade II\* registered historic park and garden and part of the Slate Industry of Northwest Wales World Heritage Site. They considered that detail of the effects on these assets was limited and that no full analysis of the impact of the windfarm in these views has been made. Cadw considered that the Applicant has misinterpreted the setting of these assets in relation to the Welsh Government TAN 24 Section 1.25.
- 5.6.59. The National Trust [RR-029] noted that a key element of the proposed development was the significance of change to the landscape and seascape, during operation, but also construction and decommissioning, considering that their properties at Great Orme and Penrhyn Castle would be impacted most by the scheme. Concerns were also raised over night lighting of the turbines. They were of the view that the approach to offshore landscape mitigation was very limited and considered that more could be achieved in this area. Noting that the Applicant had considered that there could be an opportunity to potentially deliver a positive benefit to the tourism sector within Llandudno and Great Orme area they considered that no specific implementation mechanisms had been brought forward.
- 5.6.60. At Deadline 1 (D1), Gwynedd Archaeological Planning Service (GAPS) submitted a detailed response on behalf of IoACC, Gwynedd County Council, Snowdonia National Park Authority, and the part of CCBC west of Penrhyn Bay [REP1-063], agreeing with the statutory and policy context, consultation log, scope, and methodology for the ES assessment. GAPS disagreed, however, with the conclusion of the ES for the following heritage assets:

- Beaumaris Castle.
  - GAPS note that the World Heritage Site (WHS) Management Plan for the Castle states that where a significant view or arc of view is identified, the entire view is considered to be significant, and that as the proposed development would be visible within an identified significant arc of view, it forms part of the setting of the site.
  - The ES considers that the visibility of turbines in this view does not affect the functional relationship of the castle with the sea or the ability to appreciate this relationship, but while the reduction in the scheme at PEIR has improved matters, offshore wind farms would still be present across the sea horizon albeit with the perception of a gap between Awel y Môr and the Great Orme.
  - The significance of the impact would not unacceptably impair the appreciation of the past and present relationship of the castle with the sea. However, the turbines would be a conspicuous intrusion of modern infrastructure within an identified significant view of a World Heritage Site. Having regard to the very high significance of the monument and the scale and nature of the development, GAPS considering that it is difficult to see how this can be regarded as a negligible change, and the impact would be more appropriately graded as of low magnitude, minor to moderate significance, and not significant in EIA terms.
- Conwy Castle and town walls
  - The ES illustrates the visibility of parts of up to 16 turbines on the skyline in a dip between hills from the Castle, which is part of an identified significant arc of view in the WHS Management Plan, but is not identified as being of specific interest. Nonetheless, the turbines would be incongruous and detract from the aesthetic quality of this view. As scenic quality in this part of the view acts to enhance the experience and appreciation of the World Heritage Site, rather than being of intrinsic importance, the turbines are considered to be a small distraction within the wider arc of view. Having regard to the very high status of the monument, it is considered that this constitutes an impact of negligible/low magnitude, minor significance and not significant in EIA terms.
  - However, the assessment should have taken account of the fact that two components of the WHS would be affected (the Castle and the town walls)
- Penrhyn Castle Registered Historic Park and Garden
  - Negligible effect upon the Castle is agreed. However, the ES considers the Registered Historic Park and Garden only as a setting for the castle. However, it is an asset in its own right with its own setting. The register entry describes the chief glory of the garden as its setting against the landscape of north Wales.
  - The ES shows that the proposed development would extend offshore wind farm development within a framed view across the visible seascape skyline, with the Awel y Môr turbines noticeably taller and more prominent than existing developments. The new wind turbines would be conspicuous and intrusive in the view from the terrace, drawing the eye away from the intervening grounds, reducing the prominence of the Great Orme headland, and removing the sense of openness of an undeveloped sea horizon, leading to a medium impact of moderate significance.
- Tower and Remains of Church and Monastic Settlement on Puffin Island

- The ES notes correctly that the setting of the monument includes its physical separation in an island location and the accompanying sense of isolation, which may have been factors in the choice of location for the monastery and contribute to understanding the significance of the monument.
  - The ES illustrates views towards Puffin Island. Viewpoint (VP) 7 is a close-range view in which the Awel y Môr turbines are clearly visible to either side of the island and considerably more prominent than the more numerous and distant existing offshore wind farms. By creating a backdrop of modern development, they appreciably reduce the sense of removal from the secular world.
  - The Awel y Môr turbines would be a large, unsympathetic intrusion that dominates the skyline and substantially reduces the perception of isolation of Puffin Island, a key attribute of the setting of the monastic settlement that is important for its understanding and appreciation. As such, this would significantly reduce the contribution of setting to the significance of the monument, which would be reduced as a result. It is considered that this would constitute a high adverse impact, of moderate impact on the significance of the monument, and thus significant in EIA terms.
- Bangor Pier
    - The ES notes that the function of the pier was historically as a landing stage for pleasure steamers and presently provides long views of the surrounding land- and seascape. Both the listing description and the Seascape and Landscape Visual Impact Assessment (SLVIA) refer to structures and furniture indicating that appreciation of these views is intentional and part of its architectural design. Arguably, therefore, aesthetic or scenic quality of the setting can be said to contribute to the significance of the site as a destination for historic tourists and for appreciating its history.
    - The ES VP9 indicates that the proposed development would be a conspicuous alteration to the view, increasing the influence of modern infrastructure in an otherwise mainly rural setting. Although this does not detract materially from the architectural and historical interest of the pier and can be accommodated within the wider views experienced along the pier this impact would be of low magnitude and minor significance, and not significant in EIA terms.
- Penmon Registered Historic Landscape
    - The ES assessment notes that the new wind turbines would be visible either side of Puffin Island in VP7 but are clearly separate and do not challenge the island for prominence. The juxtaposition of turbines in this view nonetheless reduces the sense of place as a remote monastic site, and this is even more stark from VP8. This impact was assessed as of moderate significance at an individual level. Similarly, the assessment is consistent in maintaining that as there is no impact upon the significance of Beaumaris Castle nor its contribution to the Registered Historic Landscape. As discussed above, GAPS consider there to be a minor impact on the castle resulting from the change to its setting.
    - As principal components of the Registered Historic Landscape, the impacts upon Beaumaris Castle and the Puffin Island group of assets do have some bearing on the implications for the Registered area. The assessment appears to acknowledge this, qualifying the assessment of significance by reference to the visibility of the turbines in relation to these two assets. The significance of the impacts discussed is lower in the context of the whole Registered Landscape. Taking account of the high status of the assets and

the degree to which they are affected, it is considered that the proposed development would have a low impact on the contribution of setting to the Registered Landscape, of minor significance overall.

- 5.6.61. GAPS consider that there is no suitable mitigation for the type of impact that the proposed development would cause, although reduction of the array area could reduce the effect upon Puffin Island, Beaumaris Castle, Bangor Pier, and the Menai Suspension Bridge (although GAPS considered the harm to the bridge to be negligible).
- 5.6.62. The National Trust [REP1-075] support the inclusion of the terrace viewpoint from Penrhyn Castle [APP-246] but note this is illustrative and partially screened by existing vegetation. They consider that it is only partially correct to state that the view is glimpsed from the fixed viewpoint due to intervening vegetation and note that visitor views are not fixed and will encompass a variety of views out to the proposed array including those from various points around the Castle and from many points within the adjoining Grade II\* registered park and garden
- 5.6.63. ExQ1 [PD-009] explored some of these issues, with questions centred on Penrhyn Castle and Puffin Island.
- 5.6.64. The Applicant responded to the comments of GAPS at D2 [REP2-002]. In relation to Beaumaris, they note that the relevant arc of view is well over 270 degrees and cannot be encompassed in one view. They were of the view that the availability of near all round views from the Castle that is important, not specifically what may or may not be in view and they do not consider that everything that can be seen from the Castle forms part of its setting and maintained that the effect would be negligible.
- 5.6.65. For Conwy Castle [REP2-002] they considered that the outstanding universal value of the castle and adjacent town would not be affected or diminished, and that the extensive views available already include significant modern infrastructure and development; the turbines would not prevent the enjoyment of the views. They also note that the degree of visibility would be lower or further screened from elsewhere on the castle or the town walls.
- 5.6.66. In respect to the Penrhyn Registered Historic Park and Garden the Applicant notes [REP2-002] that the garden owes its existence entirely to the Estates and the majority of its significance as the designed setting for the Castle. They also state that it is the availability of the long-distance sea views that is important (and not necessarily what is in them) that adds to the asset, noting that seaward views are not the only or even major contributor to the castle's significance in this regard, with the arguably more important landward views providing the backdrop of the castle within the parkland itself.
- 5.6.67. In response to the National Trust, the Applicant acknowledged that the visitor experience within the Park and Garden is dynamic, considering that the assessment presented in [APP-069] illustrates a worst case in respect of the castle and park by choosing the terrace Viewpoint as representative for both assets. Any fixed-point view is not going to be illustrative of dynamic movement and or experience within the park as a whole. The heritage assessment considers that the significance of the park and garden was effectively derived for the role it plays as the designed setting for the castle (to which it owes its existence), and that assessment in terms of being the setting for the castle was appropriate.

- 5.6.68. In response to the ExA's question [PD-009] noting that the listing for Penrhyn Castle describes the setting and relationship of the Castle with the park and surrounding landscape as outstanding and notes that the best views can be found at the entrance to the Castle and from the 'barbican' terrace on the east side of the property, the Applicant [REP1-007] reiterated that availability of these long-distance sea views is what is important (and not necessarily what is in them) that adds to the asset and that seaward views are not the only or even major contributor to the castle's significance in this regard.
- 5.6.69. At D2 GAPS [REP2-053] noted the representations of the National Trust [REP1-075] in relation to Penrhyn and considered that the composition of a view, particularly from a designed landscape, is fundamental to its significance and how this is understood, experienced and appreciated, and that where this is an intended part of visitor experience, the impact of change on its contribution is magnified.
- 5.6.70. The Applicant responded to GAPS at D3 [REP3-002], maintaining their view that the heritage significance of the park (and its role as the setting to the Castle) and the ability to appreciate that heritage significance does not rely on what may be present in any given view. The Applicant considered that the specific sea view is not in this regard determinative in understanding the heritage significance of the castle or park, which is best understood *in the round*.
- 5.6.71. The Applicant considered that the presence of the proposed turbines at distance within views from Puffin Island [REP1-007], [REP2-002] would not affect the ability to appreciate, experience or understand the built form, archaeological interest or isolated island location, which contribute to the significance of the asset of the Tower and Remains of Church and Monastic Settlement. Furthermore, they considered that is the separation of the island from the mainland which is important to the asset, in terms of understanding the location of the early Christian and monastic communities in respect of the desire for isolation from the temporal world as represented on the mainland (of Anglesey). The separation of the spiritual from the secular or temporal "realm" is better understood where these two "realms" are in counterpoint. The Applicant agrees with GAPS that the wider maritime aspect contributes to this, but that this is not determinative.
- 5.6.72. In respect of Bangor Pier, the Applicant acknowledged [REP2-002] that turbines would be visible from the Pier but that the function of the pier in providing these views would not be affected and the heritage value of the pier would not be harmed.
- 5.6.73. For Penmon Registered Landscape of Outstanding Historic Interest, as the Applicant disagrees with GAPS over the effect of the proposal on the Scheduled Monument on Puffin Island and Beaumaris Castle, they maintain their view that the effect on this Landscape would be negligible [REP2-002].
- 5.6.74. With respect to mitigation the Applicant notes the reduction of the array from the PIER stage, noting that the array area is already less than that of Gwynt y Môr, itself considered to be a densely packed array [REP2-002]. GAPS remain of the view that material improvement (in terms of the effects on the historic environment) could be achieved by relatively minor modification to layout to reduce impact on the setting of the Puffin Island and Penmon historic assets. They state they would also welcome clarification as to why relocation (as opposed to removal) of turbines results in a lower output. Additionally, while accepting that the application is necessarily based on future market assumptions, they would also welcome further evidence that any further reduction would jeopardise the viability of the scheme [REP2-053].

- 5.6.75. The Applicant noted that any reductions in turbine numbers and change in location would need to be of such an extent that the Proposed Development would no longer be economically viable and there would be a significant reduction in the renewable energy generation and the project's contribution to meeting the net zero target. They considered that as no other significant effects on historic assets (other than to Llandudno Pier) have been assessed to occur, no specific mitigation of this nature was considered appropriate or necessary. They also noted that the density of the array plays a critical role in project economics and AyM is already at the upper end of site density compared with many competing projects. Relocating turbines from one area would in effect be a reduction in the project area and lead to an increase in the density of turbines elsewhere [REP3-002].
- 5.6.76. Issue Specific Hearing 2 (ISH2) took place on 7 December 2022 and considered effects of the proposed offshore works upon cultural heritage [EV-017]. The Applicant noted that in respect of Penrhyn Castle and the registered park and garden that Cadw agreed with the Applicant's position and that disagreement with GAPS was based on professional judgement. They stated that the historical setting, in relation to the estate and its ownership and connection to the slate mining areas, with associated infrastructure such as Port Penrhyn is not affected, whether or not the turbines are visible from the registered park and garden and consider that the value of the registered park and garden also lies very much in its internal arrangements and planting. While there are more open areas, with specimen trees, planting beds and grassy areas to the north and where longer views which include the Menai Strait are possible, much of the garden is focussed more inwardly or in association with the castle, taking the form of wilderness walks, with dense tree planting and designed glades or more formal arrangements such as the walled garden [REP3a-004].
- 5.6.77. For Beaumaris Castle, the Applicant recognised that the castle has a defensive function on the Menai Strait, and the visibility to and from the castle is important. Although AyM would be present in some views, other modern development is also visible. They also reiterated that it is the availability of views that is important in this regard, not what is specifically in that view [REP3a-004].
- 5.6.78. With regards to Puffin Island Monastic Site and the Penmon Landscape, the Applicant stated that the expanse of sea and its role in the appreciation of the isolation of the monastic site can still be appreciated even with WTGs and the importance of the site can still be understood [REP3a-004].
- 5.6.79. A SoCG with Cadw was submitted at D4 [REP4-028], with all matters agreed, including that no significant adverse residual effects (in EIA terms) on onshore archaeology and cultural heritage are predicted to arise from the development of AyM and that the conclusions in relation to visual effects on setting of historic environment receptors are appropriate.
- 5.6.80. At ExQ2 [PD-015] the ExA noted plans to re-route the Wales Coast Path through the Penrhyn Estate and asked if this change would have any implications for effects upon the Castle and its Registered Park and Garden. GAPS stated that [REP5-035] theoretically the re-routed path could lead an increase in awareness but that even if the re-routing opened up new sea views this would be unlikely to lead to a change in the scale of impact, as, in contrast to the current intentional framed views along the new route would be incidental.
- 5.6.81. The Applicant [REP5-004] considered that this would not change the assessment as presented in the ES. While the proposed turbines would potentially be more clearly



visible in views across the Menai Strait to the north, the park and castle will be behind the viewer, to the south. They state that there is a clear distinction between the seaward side and the designed landscape within the park, and the role the park plays as the setting for the castle itself would not be affected, nor would be the ability to appreciate this setting and the contribution made by the setting to the heritage significance of the castle adversely affected. No responses were received to the question from Gwynedd Council (or to a follow up question at ExQ3 [PD-017]).

### **ExA's consideration**

- 5.6.82. The ExA visited the detailed heritage assets during their series of USIs – during USI1 [EV-001], Penmon Point and Beaumaris were visited (for views of Puffin Island, Trywn Du Lighthouse, other listed buildings at Penmon Point, and Beaumaris Castle), as well as Bangor Pier and Penrhyn Castle. USI2 [EV-003] saw another visit to Beaumaris Castle, as well as Menai Bridge, Gwyrch Castle, and Conwy Castle. Bodelwyddan Castle was visited at USI5 [EV-004c]. Finally, Penrhyn Castle Registered Historic Park and Garden was revisited at USI6 [EV-004d].
- 5.6.83. Those heritage assets that were discussed during the Examination detailed above are considered below. For the avoidance of doubt for all other heritage assets (aside from Llandudno assets, considered in the next section) the ExA agree with the conclusions of the ES and see no reason to disagree with the Applicant, GAPS or Cadw.
- Beaumaris Castle (Grade I)
- 5.6.84. VP44 [APP-273] shows the predicted effect of the proposed array upon the Castle in visual terms. It should be noted that the precise location of the photograph was not able to be visited by the ExA during their visit [EV-003] as this area of the castle walls was closed to the public; nevertheless, a view from castle walls slightly to the south provided very similar aspects.
- 5.6.85. The ExA noted the panoramic views available from the castle walls and the GAPS statement that where a significant view or arc of view is identified, the entire view is considered to be significant [REP1-153]. We agree that the proposed turbines would lie within part of the setting of the site. However, the turbines would only be visible in one small segment of this view and would not in our view be conspicuous. They would be visible at a distance, but with much intervening modern infrastructure at far closer proximity (such as the car park to the north). While noting the very high significance of the monument, the ExA consider the effect of the proposed development on the setting and the significance of the heritage asset would be negligible.
- Conwy Castle (Grade I)
- 5.6.86. VP 45 [APP-274] shows the likely effect of the proposed development when viewed from the Chapel Tower, and the ExA viewed the visualisation during USI2 [EV-003]. The ExA noted that the visibility of parts of up to 16 turbines would be seen on the skyline behind the hills behind Deganwy (effectively between Great Orme and Little Orme). When set against this backdrop of the built development of Deganwy and Llandudno Junction the ExA do not consider that the turbines would appear incongruous or detract from the aesthetic quality of this view. The ExA therefore agree that the effect on this heritage asset would be negligible. Views from various parts of the town walls would be similar or lesser.
- Penrhyn Castle and Penrhyn Castle Registered Park and Garden (Grade I)

- 5.6.87. The ExA note that GAPS and the Applicant are in agreement that the proposal would have a negligible effect upon the Castle and see no reason to disagree with this assessment.
- 5.6.88. The ExA note that the garden owes its existence entirely to the Castle and the Applicant's view that the majority of its significance derives from being the designed setting for the Castle. While this may be the case, the gardens are extensive and cover a wide area and the ExA note the register entry describing the chief glory of the garden as its setting against the landscape of north Wales. While this encompasses a wide range of views and landscapes, this also includes the seascape and the distinctive views to sea, particularly to the west of Great Orme.
- 5.6.89. The ExA is not convinced in this respect that it is the availability of the long-distance sea views that is important (and not necessarily what is in them) that adds to the asset. The proposed development would appear conspicuous within this view, in a current area of open sea, [APP-246] detracting from the significance of the gardens. Furthermore, the view from the Barbican terrace would not be the only affected view. The ExA noted on their visit [EV-004d] that views of the sea are also readily available from other parts of the garden. In particular a view to the east of the terrace provided sweeping views of the seascape and was purposely designed (including a bench), meaning that the view was not a dynamic or transitory experience. While the ExA noted that much of the garden was inward looking and designed, we consider that the effect on the Registered Park and Garden would have minor significance.
- 5.6.90. There was limited details on the proposed change to the Wales Coastal Path during the Examination. Given this, and the views of GAPS and the Applicant, the ExA agree that the re-routed path would be unlikely to lead to a change in the scale of impact to this heritage asset.
- Puffin Island Tower and Remains of Church and Monastic Settlement  
Scheduled Monument
- 5.6.91. The Applicant considers that it is the separation of the island from the mainland which is important to the asset, in terms of understanding the location of the early Christian and monastic communities in respect of the desire for isolation from the temporal world as represented on the mainland (of Anglesey) and that the separation of the spiritual from the secular or temporal "realm" is better understood where these two "realms" are in counter-point. The ExA agree to a large extent with this. However, the ExA consider that the isolation of the Monastic Settlement is fundamental to the significance of the heritage asset and that this isolation is important from Anglesey, but also in terms of being surrounded by the open sea.
- 5.6.92. VP7 [APP-236] clearly shows how the proposed turbines would 'intrude' upon this open sea, bringing modern industrial development visually close to the heritage asset and reducing the sense of removal and isolation from the secular world. The ExA agree that with GAPS that this would constitute a high adverse impact, of moderate impact on the significance of the monument, and thus significant in EIA terms.
- 5.6.93. The effect on the Grade II\* Trwyn Du Lighthouse and the Grade II Telegraph Station (former) (5529), as well as the Grade II listed Pilot's Cottage (former) No 1 & 2 and Enclosure walls at former pilots' cottages would be markedly less significant and would, in the view of the ExA, be negligible.

- Bangor Pier (Grade II\*)

- 5.6.94. ES VP9 [APP-238] shows how the proposed development would be clearly visible from the pier. However, the ExA consider that the function of the Pier is largely for providing such views towards the open sea. While the proposed turbines would alter these views, the ExA is not convinced that they would be harmed, or the setting of the pier harmed by their presence. Nor would the heritage value of the pier be harmed.
- 5.6.95. Further 'down' the Menai Strait the Menai Suspension Bridge (Grade I) is set at a higher level than Bangor Pier. However, the increased distance between the heritage asset and the proposed development would mean that the turbines would appear on the horizon and would not cause harm to this heritage asset.

- Penmon HLW

- 5.6.96. Discussions during the Examination concerning Penmon HLW were largely focused on two of the principal components of the Historic Landscape, in the impacts upon Beaumaris Castle and Puffin Island. Above the ExA have considered that the effects on Puffin Island monastic settlement would be moderate and would be negligible upon Beaumaris Castle. However, the ExA considers that negligible does not mean 'no' effects. There would clearly be some effect on the Castle, even if would not be enough to trigger an effect of minor significance. When coupled with the moderate effect on Puffin Island the ExA consider that the proposed development would have a low impact on the setting of the Registered Landscape, of minor significance overall.

### **Effect on Llandudno – including Llandudno Pier, Llandudno Conservation Area, and the wider Creuddyn and Conwy Historic Landscape of Wales (HLW)**

- 5.6.97. Conwy County Borough Council (CCBC) in their relevant representation [RR-002] stated that the proposed array would lie close to, and affect the setting of, a number of coastal landscape features, including the Great Orme (Heritage Coast and part of a Special Landscape Area and Historic Landscape) and various built heritage assets, namely Llandudno Pier and Llandudno Conservation Area (CA). They also raised an issue that the development could potentially cause a decline in visitor numbers, and this could in turn lead to a reduction in the frequency and quality of maintenance of the built fabric. Over time, such a deterioration would be detrimental to the character and appearance of the Llandudno CA and to the special features of interest of the listed buildings.
- 5.6.98. In their D1 submission CCBC [REP1-055] expanded on this, noting that the seafront extent of Llandudno Town Centre and Seafront Conservation Area extends over most of the built frontage along North Shore, including the Pier at its Western extremity. A large number of buildings, particularly along the Promenade, are listed as being of special historic or architectural interest. They were of the view that the assessment of effects presented as minor and not significant are a conservative assessment of the magnitude and significance of the impacts. The development would be especially apparent and experienced in Llandudno. The impact on tourism, which the mentioned heritage assets, rely on, would be adversely impacted by the proposed development.
- 5.6.99. They noted that the ES had assessed the magnitude of the indirect impact on the Llandudno Conservation Area (CA) as Minor Adverse, with Minor Adverse residual effect and the indirect impact on Llandudno Pier as Moderate Adverse, with a

Moderate Adverse residual effect. They were unsure how the impact could have been assessed differently, considering that the magnitude of the indirect effect is likely to be the same in the CA as it is for one building (pier) within the CA.

- 5.6.100. Expanding on concerns regarding the potential impact of a reduction in tourism expenditure on the maintenance of buildings within the CA, they noted that a high proportion of buildings in the Conservation Area (and especially, those fronting the Promenade) constitute hotels and guest houses. These buildings typically have painted external walls, slate roofs, traditional dormers and timber windows, requiring expensive and frequent maintenance. CCBC were concerned that any reduction in visitor numbers or expenditure could have a detrimental impact on such maintenance, which would over time, result in a gradual deterioration of the built fabric and hence the character and appearance of the CA and its constituent buildings.
- 5.6.101. At D1, GAPS disagreed [REP1-063] with the conclusions of the ES for Llandudno CA and for Creuddyn and Conwy Registered Landscape of Outstanding Historic Interest (CCHLW). For the CA, GAPS considered that the development would detract from appreciation of the Area. They note that the ES refers to the visibility of existing wind farms, implying that this lessens the impact of additional turbines, but this does not address the substantial difference in size or the cumulative impact; noting that the ES states that the Awel y Môr turbines would be 'substantially more prominent' than existing offshore wind farms as a result of their size and the extent to which they occupy the fields of view from various viewpoints, including views framed by landforms, with wind energy development extending across approximately 83 degrees of the view at VP18 and 62 degrees at VP59, leaving only 15 degrees of clear water along the horizon framed by Great and Little Orme.
- 5.6.102. As a result of this they considered this would constitute a moderate impact on the contribution of setting, resulting in a medium impact on appreciation of the Conservation Area, and a moderate impact on the significance of the asset. In response the Applicant noted [REP2-002] that the CA is an extensive designation, the majority of which is not focused on the seafront, with a significant proportion landward. They consider that despite the new turbines it would still be possible to appreciate the design and form of the planned development of the CA, with the ability to appreciate the historic association of the promenade with leisure and recreation not affected and the ability to appreciate the architectural details and interest in the buildings would not be impeded. The pier as a focal point at the northern end of the bay would remain unchanged.
- 5.6.103. In relation to the query from CCBC over how the impact was assessed differently upon the Pier and the CA, the Applicant [REP2-002] noted that the CA has an area designation covering the historic planning development of the resort containing a variety of structures and views which contribute to its significance and the effects assessed take into account the character and appearance of the CA as a whole, whereas the assessment of the Pier is focused on the structure itself and of high heritage significance (Grade II\*).
- 5.6.104. In relation to the potential effect on the maintenance of buildings within the CA, the Applicant noted that the Tourism assessment identified a significant short term indirect and reversible effect upon the tourist economy of Llandudno in the latter stages of construction and the start of operation (2 years). They considered that there are opportunities for AyM to manage the risks of this impact and to potentially deliver a positive benefit to the tourism sector within Llandudno and Great Orme area. When considering the minor effect on the CA found by the ES, the Applicant

considered that the proposal would not jeopardise the long term preservation of the special interest and heritage significance of buildings within the CA.

- 5.6.105. At D2 GAPS noted [REP2-053] the concerns expressed by CCBC relating to potential implications for the maintenance of Llandudno's built heritage. They agreed that maintenance and enhancement of built heritage is a continuing challenge for owners and local authorities, and vulnerable to any additional economic pressure and considered that although difficult to predict, that this should be considered as a potential indirect impact on the local historic environment.
- 5.6.106. The Applicant responded at D3 [REP3-002], reiterating previous comments and noting that the matter should be understood in the context of Llandudno (and the Great Orme) being a busy tourist destination from which offshore wind energy schemes are already clearly visible. They considered that there is no evidence that this has happened elsewhere in relation to similar or previous offshore energy development either here or elsewhere along the North Wales coast.
- 5.6.107. In relation to the CCHLW, GAPS noted [REP1-063] that the coastline is the most distinctive element of the Registered Landscape's setting, with the Great Orme a principal component of this historic landscape and a well-known landmark. It has intangible historic landscape value derived from the Norse origin of the placename and is one of few Norse place-names within the region. They were of the opinion that in VP11 and other, longer-range views, the turbines would effectively extend the terrestrial/built landscape beyond the headland, impairing appreciation of its primary physical characteristic as the coastal edge. Similarly, in VP12, VP40 and VP60 the turbines would appear on the skyline of the headland, as well as extending to one or both sides, reducing its aesthetic and landmark value.
- 5.6.108. They did not consider that the presence of existing turbines in many views is a mitigating factor in the capacity of the seascape setting to accommodate the proposed scheme, due to the potential cumulative impact of increasing wind energy infrastructure in these views, and the impact of the difference in scale between the existing and proposed turbines. GAPS considered that in the light of the importance of the marine setting and the form of the Great Orme to the Registered Historic Landscape character, combined with the number and spread of views in which appreciation of the historic landscape would be affected, this would lead to a moderate adverse impact on the contribution of setting, leading to a minor loss of significance of the Registered Historic Landscape. This is a minor impact, which is not significant in EIA terms.
- 5.6.109. The Applicant considered [REP2-002] that the presence of existing turbines in the area is not presented as a mitigating factor but as a description of the baseline conditions within which the proposed array would be introduced.
- 5.6.110. ExQ1.8.15 explored the possible effect of the proposed array adding to the effect of existing offshore windfarms and 'filling' more of existing vistas with offshore wind farms, particularly in the setting of Llandudno Conservation Area, Llandudno Pier and Pen y Dinas Hillfort.
- 5.6.111. In response the Applicant acknowledged that [REP1-007] the proposed array would add to the existing number of turbines visible along the coast or from a given heritage asset but considered that the presence and visibility of more turbines would not alter the assessment of the effects upon the significance of historic assets. For the CA, while they noted that the turbines would be a noticeable addition to views along the coast and out to sea, they would not be an entirely new feature-type with

the existing turbines of Rhyl Flats and Gwynt y Môr being clearly visible. It would still be possible to appreciate the design and form of the planned architectural development along the eastern side of the Conservation Area and the additional WTGs associated with AyM would not detract from an appreciation of the historic development of the town, nor its historic recreational value in the past and today as a historic seaside resort.

- 5.6.112. The assessment of Llandudno Pier highlights that the architectural interest in the pier (particularly in relation to its focal position at the northern end of the promenade) would be affected adversely by turbines visible in combination with the pier, rather than as a result of additional WTGs extending across the view.
- 5.6.113. From Pen y Dinas hillfort the Applicant noted that the proposed turbines would be visible at distance to the north-east, but the bulk of the AyM array would be screened by the intervening mass of the Great Orme itself. Turbines are already a feature of the seascape in views to the east, with Rhyl Flats being prominent, with the Gwynt y Môr WTGs at distance beyond. The significance of the hillfort resides primarily in its archaeological interest. The ability to enjoy and understand this is not affected by the proposed turbines, even where visible at distance from the monument.
- 5.6.114. ISH2 considered effects of the proposed offshore works upon Llandudno CA and CCHLW [EV-017]. The Applicant stated that the effect on CCHLW is negligible on the basis of its historical value and noted the agreement of GAPS that the effect is not significant in EIA terms. For the CA, the Applicant noted that although there are some link roads leading from the centre of the conservation area to the sea, turbines are already visible on these roads. The ability to understand the conservation area or the ability to appreciate the various interests in the listed buildings with it, would not be affected by the additional turbines. The Applicant recognised there is an effect but it is not significant so there is a difference in assessment for the conservation area and the pier [REP3a-004].
- 5.6.115. At ISH2 [EV-017], the Applicant also noted there is an opportunity to incorporate aspects relating to cultural heritage into a proposed landscape enhancement package, and/or as part of a proposed tourism fund. However, they noted that they did not consider there are any significant effects other than to Llandudno pier so mitigation measures are not required and that it would be difficult to directly mitigate the significant effects on the pier.

#### **ExA's consideration**

- 5.6.116. The effect of the proposed development on Llandudno Pier was agreed at the Examination, with relevant parties agreeing with the Applicant's conclusion of moderate significant effect upon this heritage asset. The ExA agree with this assessment, considering that the proximity and the scale of the proposed turbines would draw the eye away from the Pier, detracting from its historical significance.
- 5.6.117. Llandudno CA covers a fairly extensive area, with the designated area covering a long expanse of the northern seafront, including the pier at its western end. The designation stretches back into the town, both around the main shopping street of Mostyn Street and the slopes of the town to the north around Church Walks. The CA also includes all of Gloddaeth Avenue, linking the northern seafront to the west shore, and a large section of the western seafront. The proposed development would be visible from the eastern seafront, and in glimpsed views from streets set back further in the town and in the slopes to the north.

- 5.6.118. While clearly the proposed turbines would have an effect upon views and the setting of the CA from the northern seafront, this effect would be less pronounced than upon the Pier, a structure designed to be surrounded by the open sea. In the CA as a whole the range, quality, and character of the built environment along the northern seafront, presenting a cohesive whole built along the curve of the bay would be largely unaffected by the proposal, with the planned nature and architectural planning and detailing of the seafront still left intact and largely unharmed. The proposed development, while being of a different scale, would add to the existing seafront views of wind energy development but would not cause significant harm to this aspect of the CA or to the wider Area. The ExA consider that the proposal would therefore have a minor effect upon the character and appearance of the CA.
- 5.6.119. The ExA notes the concerns of CCBC concerning any reduction in visitor numbers or expenditure and potential knock-on detrimental impact on maintenance of the buildings of the CA. While potential effects on tourism are considered in Section 5.15, for similar reasons as above the ExA is of the view that the proposed development would be unlikely to have a marked effect on the future maintenance of heritage assets in the CA and the character and appearance of the CA.
- 5.6.120. The CCHLW includes the lower part of the estuary of the River Conwy and land on either side, with the north east side containing both Great and Little Orme. Great Orme itself (and to a lesser extent, Little Orme) provide a spectacular backdrop to Llandudno and are principal components of the HLW. The proposed development would add to the existing wind energy arrays in the area but at a different scale, appearing in some views to be on both sides of Great Orme and in other views on its skyline. Due to the importance of Great Orme to the HLW and the visual effect of the proposed development the ExA consider that the proposal would have a minor impact upon the significance of the HLW.
- 5.6.121. The ExA note that the majority of the proposed array would be hidden from view from Pen y Dinas hillfort by Great Orme. While the elevation and views from the hillfort are clearly of some significance in its chosen location, the ExA agree that the significance of the hillfort largely resides primarily in its archaeological interest and agree that the proposed development would have a negligible effect on this heritage asset.

### **Offshore direct effects**

- 5.6.122. Janet Finch-Saunders MS/AS copied into the Examination an objection letter to NRW for the Marine Licence application [AS-036] raising queries over the physical assessment of the interlink area between the Proposed Development and Gwynt y Môr and a risk of archaeological receptors during the decommissioning phase due to the draw-down of sediments
- 5.6.123. The ExA explored similar issues at ExQ1 [PD-009], with questions considering the partial lack of geophysical data for the proposed interlink area and a direct request to various parties asking if they were satisfied with the approach to offshore archaeology and the provisions of the draft WSI.
- 5.6.124. The Applicant [REP1-001], [REP1-007] acknowledged the data gap in the interlink area but considered that the existing data collected in this area for the Gwynt y Môr project to be adequate for characterising the environment. They also noted that the draft outline WSI covered this issue, with archaeologists to be involved during the post consent phase of the interlink area to ensure a full assessment of the area is achieved pre-construction. The WSI would be covered in the Marine Licence.

- 5.6.125. In response to the point concerning decommissioning, the Applicant [REP1-001] noted that, as per the Outline Offshore WSI [APP-304] mitigation proposed, such as an archaeological review of post-consent monitoring data in addition to the protocol for unexpected finds, would reduce potential adverse effects to non-significant levels. Furthermore, it considered that should there be increased sedimentation resulting in the burial of archaeological material, there could be a minor beneficial effect.
- 5.6.126. In response to ExQ1.8.3, GAPS noted that [REP1-062] the offshore area falls outside of their remit but that the Senior Investigator (Maritime) at the Royal Commission on the Ancient and Historical Monuments of Wales should be consulted. Cadw stated [REP1-097] that they had consulted the Commission and they had confirmed that the approach taken by the Applicant was appropriate. They also confirmed that the Senior Investigator is detailed within the draft WSI as the relevant archaeological curator to approve the WSI and this is appropriate.

#### **ExA's consideration**

- 5.6.127. Offshore effects were not considered in depth during the Examination and due to the nature of the subject no USIs or ASIs took place to consider such issues. There was agreement amongst relevant parties at the Examination that the Applicant had taken the correct approach and that mitigation within the outline WSI was appropriate.
- 5.6.128. Embedded mitigation within the project design can be summarised as an agreed scheme of archaeological investigation and recording as part of the offshore WSI [APP-304], and the imposition of Archaeological Exclusion Zones (AEZ) around features of anthropogenic origin of archaeological interest (A1 anomalies) and historic records of archaeological material (A3 anomalies). The AEZs recommended are of 50m radius around well constrained features and 100m radius around more dispersed sites. No AEZs are proposed for A2 anomalies but avoidance of such features by micro-siting is recommended if there is potential for them to be impacted by the development.
- 5.6.129. During the construction phase direct effects on archaeological assets are considered to be low or negligible adverse following the embedded mitigation. In some cases, for instance archaeological investigation of seabed anomalies could lead to minor or moderate beneficial effects (for instance discovering a wreck of interest and being able to share it with the public). During the operational phase effects would be similar, as would effects associated with decommissioning.
- 5.6.130. Cumulative effects are considered for offshore wind farms with resulting low to negligible adverse significance and moderate beneficial significance as a result of the archaeology assessments adding to greater understanding of paleogeography in the area. All other cumulative effects (marine aggregates and disposal, commercial fisheries, oil and gas, cables and pipelines) are considered to have low to negligible effects.
- 5.6.131. The Offshore WSI would be secured by condition in the Marine Licence as opposed to the dDCO ([REP8-014] confirms).



## **ExA's conclusions**

### **Archaeological effects in the intertidal area, onshore cable route and the site of proposed OnSS.**

- 5.6.132. With mitigation afforded by the WSI required by R12 in the dDCO, the ExA concludes that the Proposed Development would not have an adverse effect on archaeological effects onshore.

### **Effects on listed buildings and scheduled monuments on the onshore cable route and the OnSS**

- 5.6.133. Due to the short term and reversible nature of the proposed onshore cable works, the ExA concludes that this aspect of the Proposed Development would not have an adverse impact upon listed buildings and scheduled monuments. The OnSS would have a minor adverse effect upon the Barn to the NW of Faenol Brodor and the Registered Park and Garden of Bodelyyddan Castle (particularly the boundary wall) during construction, with harm being caused to the same heritage assets during operation. The proposed landscaping scheme would provide some mitigation, but this would be limited by the scale of the OnSS.

### **Indirect effects on listed buildings, scheduled monuments and Historic Landscapes of Wales, and the effect on Llandudno.**

- 5.6.134. In considering indirect effects upon listed buildings, scheduled monuments and HLW, the ExA agree that the offshore array would have negligible effects upon:

- Conwy Castle (Grade I)
- Beaumaris Castle (Grade I)
- Penrhyn Castle (Grade I)
- Slate Landscape of Northwest Wales World Heritage Site
- Gwrych Castle (Grade I)
- Trywn Du Lighthouse (Grade II\*)
- Puffin Island Telegraph Station (Grade II)
- Bangor Pier (Grade II\*)
- Menai Bridge (Grade I)
- Dyffryn Ogwen HLW
- North Arllechwedd HLW
- Pen y Dinas Hillfort Scheduled Monument

- 5.6.135. The ExA consider that the offshore array would have minor adverse effects upon:

- Penmon HLW
- Creuddyn and Conwy HLW
- Llandudno CA
- Penrhyn Castle Registered Park and Garden

- 5.6.136. The ExA consider that the offshore array would have moderate adverse effects (significant in EIA terms) upon:

- Llandudno Pier (Grade II\*)
- Puffin Island Tower and Remains of Church and Monastic Settlement Scheduled Monument

- 5.6.137. Various references were made in the Examination to opportunities to incorporate aspects relating to cultural heritage into a proposed landscape enhancement

package, and/or as part of a proposed tourism fund. These funds are considered in more detail in the Landscape and Tourism chapters respectively,

#### **Offshore direct effects**

- 5.6.138. Offshore effects. With mitigation secured in the Marine Licence (as confirmed by [REP8-014]), the ExA conclude that the Proposed Development would not have an adverse effect on offshore heritage assets.

#### **Conclusion against policy**

- 5.6.139. The ES complies with the requirements of EN-1 in providing a description of the significance of the heritage assets affected by the Proposed Development and the contribution of their setting to that significance, with a level of detail proportionate to the importance of the heritage assets. In a similar way the ES complies with Policy SOC\_05 of the Welsh National Marine Plan.
- 5.6.140. Unlike the draft EN-1, EN-1 does not specifically refer to the concept of 'less than substantial harm' but notes that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that gardens; and that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss.
- 5.6.141. The proposed development would not lead to the substantial harm or total loss of significance of any designated heritage asset as defined in EN-1. However, harm would be caused to various heritage assets as detailed above, including those assets which the proposal would have minor and moderate adverse effects on in EIA terms. Under the terms of Draft EN-1, the proposal would cause less than substantial harm to these assets; the ExA consider that those assets subject to minor harm ( Barn to NW of Faenol Bropor; Bodelwyddan Castle and Registered Park and Garden; Penmon HLW; Creuddyn and Conwy HLW; Llandudno CA; Penrhyn Registered Park and Garden) would be at the lower end of the scale of less than substantial harm and those caused moderate harm (Llandudno Pier, Puffin Island Monastic Settlement) would be at the higher end of less than substantial harm.
- 5.6.142. Mitigation provided by the landscape/heritage fund or the Tourism fund could potentially provide a benefit in terms of the visitor experience of such heritage assets, enabling visitors to better appreciate the significance of such assets. Such funds could comply with paragraph 5.9.14 of Draft EN-1. However, in the absence of any firm details of this work, the ExA is unable to place any firm weight upon such benefits.
- 5.6.143. The Proposed Development would also be contrary to Planning Policy Wales 11 and to policy VOE1 of the DCCDLP. However, in respect of cultural heritage matters and the onshore effects of the proposal, the proposed development would comply with policy VOE10 of the DCCDLP.
- 5.6.144. When taking all these aspects into the round, the ExA concludes that the Proposed Development would have an adverse effect on the Historic Environment. Given the harm caused to varying heritage assets the ExA ascribes moderate weight to matters relating to the historic environment against the Order being made.

- 5.6.145. As noted above, paragraph 5.18.5 of NPS EN-1 states that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. This judgement is carried out in the planning balance, Volume 2, Chapter 10 of this Report.

## **5.7. SEASCAPE, LANDSCAPE AND VISUAL**

### **Introduction**

- 5.7.1. This section considers the seascape, landscape and visual effects of the Proposed Development relating to the construction, operation and decommissioning of the offshore works. Landscape and visual effects relating to onshore works are considered in section 5.8 of this Report.

### **Policy Considerations**

#### **National Policy Statements**

- 5.7.2. Paragraph 5.9.1 of the Overarching National Policy Statement for Energy (NPS EN-1) notes that the landscape and visual effects of energy projects will vary on a case-by-case basis according to the type of development, its location and its landscape setting. In this context, references to landscape should be taken as covering seascape where appropriate.
- 5.7.3. Paragraph 5.9.5 of NPS EN-1 states that applicants should carry out a landscape and visual assessment and report it in the ES. This should take into account any landscape character assessments and any relevant policies in local development plans. The assessment should include the effects during construction of the project and the effects of the completed development and its operation on landscape components, landscape character, views and visual amenity and light pollution effects (paragraphs 5.9.6-7).
- 5.7.4. Paragraph 5.9.8 of NPS EN-1 acknowledges that virtually all nationally significant energy infrastructure projects will have effects on the landscape and that projects will need to be designed carefully, taking account of potential impacts, with the aim of minimising harm and providing reasonable mitigation where possible and appropriate. Factors to be considered when judging the impact of a project on landscape are the existing character of the local landscape, its current quality, how highly it is valued and its capacity to accommodate change.
- 5.7.5. Paragraph 5.9.9 of NPS EN-1 states that National Parks (NP) and Areas of Outstanding Natural Beauty (AONB) are confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty. Each of these designated areas has specific statutory purposes which help ensure their continued protection and which the SoS should have regard to in its decisions. The duty to have regard to the purposes of these nationally designated areas also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them, with the aim being to avoid compromising the purposes of designation (paragraph 5.9.12). The primary purpose of NPs is to conserve and enhance their natural beauty, wildlife and cultural heritage and to promote opportunities for the understanding and enjoyment of the special qualities of those areas by the public<sup>25</sup>. The primary purpose of AONBs is to conserve and enhance their natural beauty<sup>26</sup>. Paragraph 5.9.13 of NPS EN-1 states that the fact that a proposed project will be visible from within a designated area should not in itself be a reason for refusing consent.

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<sup>25</sup> The National Parks and Access to the Countryside Act 1949

<sup>26</sup> The Countryside and Rights of Way Act 2000

- 5.7.6. Paragraph 5.9.14 of NPS EN-1 identifies that outside nationally designated areas, there are local landscapes that may be highly valued locally and protected by local designations. It goes on to state that where a local development plan in Wales has policies based on landscape character assessment, these should be paid particular attention, though local landscape designations should not be used in themselves to refuse consent. Paragraph 5.9.15 of NPS EN-1 notes that the scale of such projects means that they will often be visible within many miles of the site of the proposed infrastructure and that the SoS should judge whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project. In reaching a judgment, the SoS should consider whether any adverse impact is temporary and / or capable of being reversed in a reasonable timescale (paragraph 5.9.16). The SoS should consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to minimise harm to the landscape, including by reasonable mitigation (paragraph 5.9.17).
- 5.7.7. Paragraph 5.9.18 of NPS EN-1 recognises that all proposed energy infrastructure is likely to have visual effects for many receptors around proposed sites, and that the SoS will have to judge whether the visual effects on sensitive receptors outweigh the benefits of the project. It goes on to state that coastal areas are particularly vulnerable to visual intrusion because of the potential high visibility of development on the foreshore, on the skyline and affecting views along stretches of undeveloped coast. Paragraph 5.9.19 suggests that it may be helpful for applicants to draw attention to any examples of existing permitted infrastructure they are aware of with a similar magnitude of impact on sensitive receptors.
- 5.7.8. In terms of mitigation, NPS EN-1 states that reducing the scale of a project can help to mitigate the visual and landscape effects of a proposal but notes that this may significantly reduce function. It goes on to say that there may, however, be exceptional circumstances where mitigation could have a very significant benefit and warrant a small reduction in function. Within a defined site, adverse landscape and visual effects may be minimised through appropriate siting of infrastructure within that site, through design including colours and materials, and through landscaping schemes, depending on the size and type of the proposed project (paragraph 5.9.21-22) and it may be appropriate to undertake landscaping off site (paragraph 5.9.23).
- 5.7.9. The National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) sets out that proposals for renewable energy infrastructure should demonstrate good design in respect of landscape and visual amenity (paragraph 2.4.2).
- 5.7.10. NPS EN-3 notes that seascape is a discrete area within which there is shared inter-visibility between land and sea, recognising that the seascape is an important resource and an economic asset, with coastal landscapes often recognised through statutory landscape designations (paragraphs 2.6.199-200).
- 5.7.11. NPS EN-3 states that where a proposed offshore wind farm will be visible from the shore, a seascape and visual impact assessment should be undertaken which should include an assessment of the limit of visual perception from the coast, individual characteristics of the coast which affect its capacity to absorb a development and how people perceive and interact with the seascape (paragraphs 2.6.202-203).
- 5.7.12. For decision making NPS EN-3 states that consent should not be refused solely on the ground of an adverse effect on seascape or visual amenity unless an alternative

layout can be reasonably proposed which would minimise any harm or, taking account of the sensitivity of the receptor(s) set out in NPS EN-1, the harmful effects are considered to outweigh the benefits of the scheme (paragraph 2.6.208). Paragraph 2.6.209 of NPS EN-3 sets out that where adverse effects are anticipated either during the construction or operational phases, the extent to which the effects are temporary or reversible should be taken into account.

5.7.13. NPS EN-3 notes that neither the design nor scale of individual wind turbines can be changed without significantly affecting the electricity generating output of the wind turbines, and therefore it is unlikely that mitigation in the form of reduction of scale will be feasible, although the layout of the turbines should be designed appropriately to minimise harm (paragraph 2.6.210).

5.7.14. The National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) recognises that new substations and other above ground infrastructure that form connection, switching and voltage transformation points can give rise to landscape and visual impacts (paragraph 2.8.2).

### **Draft National Policy Statements**

5.7.15. The policy requirements of draft NPS EN-1 at the close of the Examination in respect of landscape and visual matters were largely consistent with those policy requirements of NPS EN-1. However, relevant additions / amendments include the following:

- Paragraph 5.10.5 highlights that for seascapes, applicants should consult the Seascape Character Assessment and the Marine Plan Seascape Character Assessments, and any successors to them (amendment to paragraph 5.9.5 of NPS EN-1); and
- Paragraph 5.10.10 sets out that applicants should consider how landscapes can be enhanced using landscape management plans, as this will help to enhance environmental assets where they contribute to landscape and townscape quality (additional paragraph).

5.7.16. The policy requirements of draft NPS EN-3 at the close of the Examination in respect of landscape and visual matters were largely consistent with those policy requirements of NPS EN-3. However, relevant additions / amendments include the following:

- Paragraph 2.35.2 sets out that seascape requires consideration given it is an important environmental, cultural and economic asset, especially so where it provides the setting for a nationally designated landscape and supports the delivery of the designated area's statutory purpose; and for stretches of coastline identified as Heritage Coasts which are associated with a largely undeveloped coastal character (amendments to paragraphs 2.6.199-200 of NPS EN-3);
- Paragraph 2.35.4 sets out that where a proposed offshore wind farm will be visible from the shore and would be within the setting of a nationally designated landscape with potential effects on the area's statutory purpose, an SLVIA should be undertaken which is proportionate to the scale of the potential impacts (amendments to paragraph 2.6.202 of NPS EN-3); and
- Paragraph 2.35.5 sets out that where necessary, assessment of the seascape should include an assessment of the limit of visual perception from the coast under poor, good and best lightening [sic] conditions, the effects of navigation and hazard prevention lighting on dark night skies, individual landscape and visual characteristics of the coast and the special qualities of designated

landscapes, which limits the coast's capacity to absorb a development and how people perceive and interact with the coast and seascape (amendments to paragraphs 2.6.203 of NPS EN-3).

5.7.17. The policy requirements of draft NPS EN-5 at the close of the Examination in respect of landscape and visual matters were largely consistent with those policy requirements of NPS EN-5. However, relevant additions / amendments include the following:

- Paragraph 2.11.3 recognises that new substations and other above ground infrastructure that form connection, switching and voltage transformation points can give rise to landscape and visual impacts, however it also notes that government does not believe that such development is incompatible in principle with developers' statutory duty under Schedule 9 of the Electricity Act 1989 (amendment to paragraph 2.8.2 of NPS EN-5).

## **The Applicant's Case**

### **Introduction**

5.7.18. ES Volume 2, Chapter 10: Seascape, Landscape and Visual Impact Assessment (SLVIA) [REP8-082] assesses the effects of the offshore elements of the Proposed Development on seascape, landscape and visual receptors during its construction, operation and decommissioning. The Chapter is supported by ES Volume 4 Annexes 10.1 to 10.5 and ES Volume 6 Annexes 10.4 and 10.5, which contain the following:

- SLVIA Methodology [APP-112]
- SLVIA Consultation [APP-113]
- SLVIA Simple Assessment [APP-114]
- SLVIA Visibility Data [APP-115]
- SLVIA Legislation and Policy [APP-116]
- Figure 1: Array Area and SLVIA Study Area with Cumulative Developments [APP-190]
- Figure 2a: Maximum Design Scenario A [APP-191]
- Figure 2b: Maximum Design Scenario B [APP-192]
- Figure 2c: Snowdonia National Park and Areas of Outstanding Natural Beauty [APP-193]
- Figure 3: Landform [APP-194]
- Figures 4, 5, 6, 7a and 7b: Seascape and Landscape Character figures [APP-195 to APP-199]
- Figure 8: Landscape Planning Designations [APP-200]
- Figure 9: LANDMAP – Visual and Sensory Evaluation [APP-201]
- Figure 10a: Snowdonia National Park Baseline Light Pollution [APP-202]
- Figure 10b: Tranquillity [APP-203]
- Figure 11: Visual Receptors and Viewpoint Locations [APP-204]
- Figures 12a to 12c, 13a to 13c, 14, 15, 16a-b, 16c, 17.1a-b, 17.1c, 17.2a-b, 17.2c, 18a-b, 18c-d, 19, 20, 21a-b, 22a-b, 23, 24, 25, 26 and 27: Zones of Theoretical Visibility (for various scenarios and receptors) [APP-205 to APP-229]
- Figures 28 to 90: Viewpoints 1 to 67 [APP-230 to APP-292]

5.7.19. The array area would cover an area of approximately 78 km<sup>2</sup>. It would be located within open sea to the immediate west of the operational wind farm Gwynt y Môr (GyM) and to the north of the North Wales coast at a distance of approximately 10.6 km from the nearest land point, Little Orme.

- 5.7.20. The SLVIA [REP8-082] identifies that the study area comprises an area with a 50km radius from the proposed array area boundary. This is shown in ES Figure 1 [APP-190]. The SLVIA covers the construction, operation and decommissioning of the offshore elements of the Proposed Development which would be contained within the array area as well as those elements within the area identified as 'other wind farm infrastructure zone', also shown on ES Figure 1, which would contain the meteorological mast and associated undersea cabling. It was agreed by the Inspectorate in its Scoping Report that the impact of the offshore cable route construction, operation and decommissioning could be scoped out of the SLVIA.
- 5.7.21. The SLVIA [REP8-082] focusses on the areas that are likely to be affected by the Proposed Development both directly through physical changes to the seascape resource and indirectly through visibility of these changes which may affect the character of the seascape and landscape resource and the visual amenity of the surrounding area. The SLVIA has been informed by a review of the seascape, landscape and visual resource as it currently exists. Baseline data collection has been undertaken through desk study and analysis from a variety of sources (Table 1 of the SLVIA [REP8-082]) as well as through field work carried out within the study area. This was undertaken during periods of clear and mixed visibility between November 2019 and May 2021 to allow for a range of different conditions and seasonal variation.
- 5.7.22. The SLVIA notes that the assessment followed published guidance of the Landscape Institute, the Institute of Environmental Management and Assessment (IEMA), Natural England (NE), the Planning Inspectorate, Natural Resources Wales (NRW) and NatureScot, with a detailed methodology set out in ES Volume 4 Annex 10.1: SLVIA Methodology [APP-112].

### **Seascape character**

- 5.7.23. Seascape character areas within the study area at the national level are shown in ES Figure 4 [APP-195] and at a regional level in ES Figure 5 [APP-196].
- 5.7.24. At a national level, the proposed array area lies within Marine Character Area (MaCA) 04 – North Wales Open Water<sup>27</sup>. The key characteristics of MaCA 04 include: gradual depth increases; a thin layer of mostly coarse sediment overlying bedrock, a rich variety of life; moderately strong currents; a number of wrecks; dominant maritime character of recreational and commercial transit; a spoil dumping ground in the northeast; larger fishing boats offshore and smaller ones closer to shore; GyM offshore wind farm dominates the east; the Douglas oil field is located in the north; and considerable changes in landward views throughout the MaCA, with rocky headlands, islets and large bays visible to the west and the large shallow opening of Conwy Bay to the east, with a backdrop of the mountains of Snowdonia.

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<sup>27</sup> Natural Resources Wales (2015) National Seascape Assessment for Wales



- 5.7.25. At a regional level, the proposed array area predominantly lies within Seascape Character Area (SCA) F - North Wales Open Waters<sup>28</sup>, with the westernmost extent located within SCA 28 - North East Anglesey<sup>29</sup>.
- 5.7.26. The SLVIA [REP8-082] notes the following in respect of SCA F: an increasing sea depth; a seabed formed of a thin layer of mostly coarse sediments overlying bedrock; finer sand found in the south-east around the mouth of the River Conwy; a rich variety of life; an industrialised character and includes all of Gwynt y Môr (GyM) and North Hoyle Wind Farm (NHWF); wind farm operation and maintenance vessels are characteristic; the Douglas oil and gas platform complex lies to the north of GyM; a dredging area for marine aggregates in the east of the SCA and a spoil dumping ground in the northeast; the dominant maritime character is one of transit, including recreational and commercial vessels, often waiting to dock; a number of wrecks can be found; landward views south are of the highly settled, Welsh coastline between the Dee Estuary and the Great Orme with some rising land of the Clwydian Range beyond; distant views west to Anglesey, south-west to the mountains of Snowdonia and east to the developed English coast with more distant views of the Isle of Man, the Cumbrian Fells, and the Pennines in clear weather; and lighting sources contribute to a sense of a more development seascape at night.
- 5.7.27. The SLVIA [REP8-082] notes the following In respect of SCA 28: much of it is open water approaching the shore near the Great Orme, Puffin Island and Point Lynas; the dominant maritime character is of transit with shipping lanes; a presence of commercial and recreational vessels with large cargo ships and tankers offshore (often waiting for pilot boats) and trawlers, scallop dredgers, smaller fishing boats and potting boats closer to shore; Anglesey's shoreline of rocky headlands, cliffs and islets broken up by the large bays of Red Wharf Bay, Lligwy Bay and Dulas Bay influences views to the southwest; to the southeast, the Great Orme and Puffin Island enclose the large shallow opening of Conwy Bay, with the mountains of Snowdonia beyond; the Isle of Man and Cumbrian Fells to the north and northeast can be seen in clear conditions; further out to sea the land is barely visible though commercial ships are a common sight; and GyM and RFWF are visible in a generally eastwards direction.

### **Landscape character**

- 5.7.28. National and regional landscape character areas within the study area are identified on ES Figures 2.3a [APP-158] and 2.3b [APP-159] respectively.
- 5.7.29. The SLVIA [REP8-082] notes that the landscape character of the study area is highly varied and derived largely from its diverse underlying geology and resulting landform. In the west lies the Isle of Anglesey (IoA), characterised by a diverse scenic coastal strip in the east with relatively limited development, cliffs and bays. The interior forms the agricultural core of the island and although described as a gentle lowland landscape, there are a number of hills and rock outcrops. Separating the IoA and the Menai Strait from the Snowdonia foothills lies the Arfon lowland area. The upland area of Snowdonia reaches almost to the coast and is dominated

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<sup>28</sup> SCAs A-F are based on the National Marine Character Areas for Wales and broadly follow the subdivisions of coastal character used in the Gwynt y Môr Environmental Statement, with information supplemented and drawn from other seascape character assessments (SLVIA para 60)

<sup>29</sup> Isle of Anglesey Council / Fiona Fyfe Associates (2013) Anglesey Seascape Character Assessment

by mountain ranges of which the Snowdon massif rises to be the highest peak in England and Wales. The ranges extend into the study area and include the Carneddau and Glyderau.

- 5.7.30. To the east of Snowdonia lies the landscape of the Conwy Valley, which contains Wales' longest tidal river. This landscape area extends to the coast and forms the northern edge of Snowdonia around Conwy Bay. To the north, the North Wales Coast extends from the prominent headland of the Great Orme to the Point of Ayr, indented by a number of bays many of which are characterised by towns and villages that are popular with tourists. Further inland, the land rises providing containment to the coast and less developed uplands. This is with the exception of the lower lying Vale of Clwyd which runs away from the coast set below the Clwydian Range. The Clwydian Range separates the lower lying valley landscapes of Deeside and Wrexham which form the most easterly extent of Wales in the north. On the other side of the estuary of the River Dee lies the more highly developed English coastline which includes the extensive settlements of Birkenhead and Liverpool on either side of the Mersey. The study area includes the English coast as far north as Blackpool.

#### **Designated / defined landscapes**

- 5.7.31. The offshore elements of the Proposed Development are not within the boundary of any area subject to international, national or regional landscape designations. Certain landscapes found within the onshore parts of the study area have been designated or defined due to their scenic or historic landscape qualities. These areas are shown on ES Figure 8 [APP-200] and include: IoA AONB; Clwydian Range and Dee Valley (CRDV) AONB; Eryri (previously Snowdonia) National Park (ENP); North Anglesey Heritage Coast (NAHC); Great Orme Heritage Coast (GOHC); a number of Special Landscape Areas (SLA); and a number of Registered Parks and Gardens (RPG).

#### **Visual**

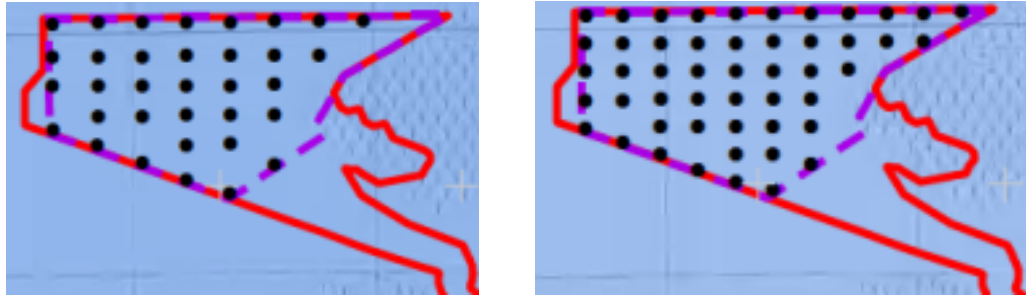
- 5.7.32. Zones of Theoretical Visibility (ZTV) [APP-205 to APP-229] were established using computer modelling to help identify the potential extents from which the Proposed Development may be visible and have effects on seascape and landscape character and visual amenity. This adopted two scenarios for the Proposed Development considered to demonstrate potential worst-case effects, Maximum Design Scenario (MDS) A and MDS B. These scenarios are discussed in further detail in ES Volume 2 Chapter 1: Offshore Project Description [APP-047]. However, the main differences between MDS A and MDS B for the purposes of the SLVIA are that MDS A would comprise 34 wind turbine generators (WTG) with a maximum rotor diameter of 306m and a maximum rotor tip height of 332m above Mean High Water Springs (MHWS), whereas MDS B would comprise 50 WTGs with a maximum rotor diameter of 250m and a maximum rotor tip height of 282m above MHWS.
- 5.7.33. The SLVIA [REP8-082] primarily assesses MDS A, which is considered to have the maximum effect on seascape, landscape and visual receptors, noting that findings of a consultation review of the SLVIA carried out by a consultancy on behalf of the North Wales Local Planning Authorities<sup>30</sup> (NWLPA) found that the significance of

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<sup>30</sup> Including Isle of Anglesey County Council; Gwynedd Council, Eryri (previously Snowdonia) National Park Authority; Conwy County Borough Council; Denbighshire County Council; Flintshire County Council; and Wrexham County Borough Council

effects would not vary between MDS A and MDS B. The layout and a visualisation example of MDS A and MDS B (from VP 12: Conwy Mountain) are shown in Figures 11 and 12 below, as a comparison.

**Figure 11: MDS A and MDS B layouts [APP-205 and APP-208]**



**Figure 12: MDS A and MDS B visualisation example [APP-241]**





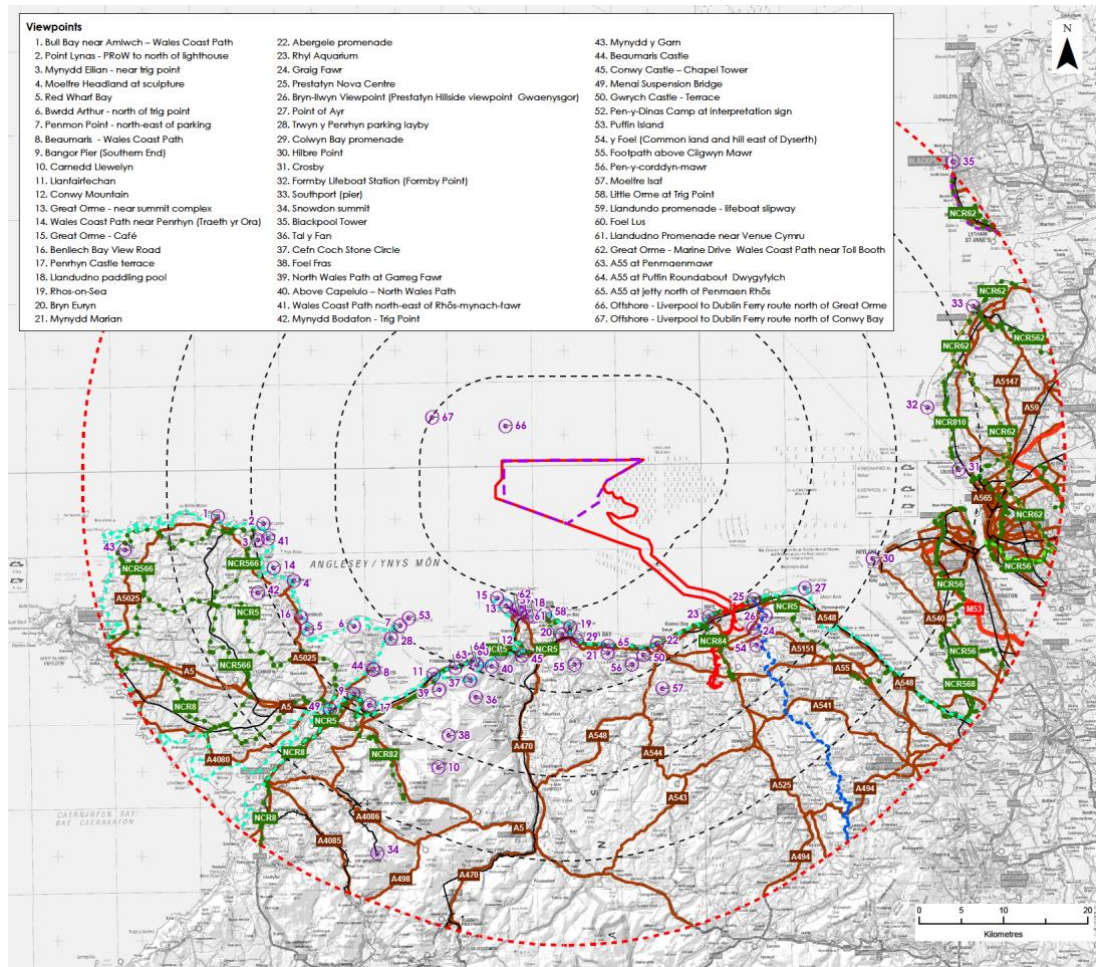
- 5.7.34. The ZTVs assisted with the selection of 63 viewpoints (VP), VPs 1 to 67 (with the exception of VP Nos 46, 47, 48 and 51 which are not in use). The locations of these, which are within various administrative areas within north Wales<sup>31</sup> and northwest England<sup>32</sup>, as well as along an offshore ferry route between Liverpool and Dublin, are shown in ES Figure 11 [APP-204] and Figure 13 below. The viewpoint analysis was used to assist in the assessment of effects on visual receptors as well as seascape and landscape character effects. Visual receptors include people within settlements, road users, visitors to tourist facilities or historic environment assets and people engaged in recreational activity such as those using walking and cycle routes.

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<sup>31</sup> Including Isle of Anglesey County Council; Gwynedd Council, Eryri National Park Authority; Conwy County Borough Council; Denbighshire County Council; and Flintshire County Council

<sup>32</sup> Including Wirral Council; Sefton Council; and Blackpool Council

**Figure 13: SLVIA viewpoint locations [APP-204]**



5.7.35. Table 2 of the SLVIA [REP8-082] identifies that of the 63 VPs, 38 are representative viewpoints (four of which also include night-time views), one is solely a night-time viewpoint, 20 are illustrative viewpoints and four are cultural heritage viewpoints. Representative viewpoints are used to represent an area where there may be a variety of receptors and where significant effects may arise. These are assessed in full within the SLVIA. Illustrative viewpoints are provided for further specific locations / receptors and are used to inform various aspects of the SLVIA, such as sequential assessment, wider effects or to scope out effects, but are not assessed in full. Cultural heritage viewpoints illustrate views from certain heritage assets not included within the representative viewpoints.

5.7.36. Visualisations provided for the majority of representative viewpoints include baseline photographs and wireframes and photomontages of MDS A. For some of these viewpoints, identified as 'key viewpoints', photomontages of MDS B are also provided. For representative VP 34 (Snowdon Summit), no photomontages have been provided given the substantial distance of the view and, for VPs 66 and 67 (Liverpool to Dublin Ferry route), baseline images have been computer generated. A combination of baseline photographs, wireframes and photomontages have been provided for all other viewpoints.

## Mitigation

5.7.37. SLVIA [REP8-082] Table 4 identifies measures considered to be mitigation. This principally includes a reduction in the size of the array area and number of WTG



from that of the scoping stage and within the Preliminary Environmental Information Report (PEIR) as a result of statutory and non-statutory consultation prior to the submission of the application. This has effectively increased the distance of the array area from the IoA coast and AONB by around 8.5km thereby reducing the horizontal field of view and scale of the WTG when viewed from these locations. It has also reduced the horizontal field of view when viewed from other areas, including SNP. In addition, the reduction in size of the array area and number of WTG means that the Proposed Development sits outside of an area of seascape identified in NRW's offshore wind farm guidance<sup>33</sup> as having a high sensitivity to offshore wind farm development, primarily relating to SNP, IoA AONB and CRDV AONB, as shown on ES Figure 2c [APP-193].

- 5.7.38. SLVIA Table 4 [REP8-082] also identifies mitigation for night-time lighting effects. This includes the installation of sensors for aviation lighting on WTG so that when visibility is greater than 5km at night, lighting is reduced from 2000 candela (cd) to 200cd.

### Effects

- 5.7.39. The SLVIA [REP8-082] reports a number of significant adverse effects during construction, operation and decommissioning of the offshore works on seascape character, landscape character, representative viewpoints, views from settlements and views from footpaths / cycleways / roads. These significant effects are identified and summarised in Table 6 below (shaded red).
- 5.7.40. Some of these significant effects are coincidental with receptors (or parts of) within statutory designated landscapes, including IoA AONB (highlighted yellow) and ENP (highlighted green). The SLVIA also reports significant effects on three of the fifteen special qualities of the IoA AONB. In addition, some significant adverse effects are coincidental with receptors (or parts of) within non-statutory designated landscapes, including the GOHC (highlighted blue) and the NAHC (highlighted pink).

**Table 6: SLVIA likely significant effects**

Receptor	Construction (latter stages)	Operation	Decommissioning (early stages)
Seascape character			
SCAs 2, 3, 5, 6, 7, 28 and A			
Landscape character			
IoA LCAs 8, 9, 10 and 11			
Gwynedd LCA G01			
Conwy/Denbighshire LCA C10			
Viewpoints			

<sup>33</sup> Natural Resources Wales / White Consultants (2019) Seascape and visual sensitivity to offshore wind farms in Wales: Strategic assessment and guidance (Stages 1-3)

VPs 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 28, 29, 37, 38, 40 and 59			
VP 13 (night-time)	N/A		N/A
Views from settlements			
Moelfre, Benllech, Llanfairfechan, Penmaenmawr, Dwygylchi, Llandudno, Penrhyn Bay, Rhos-on-Sea, Colwyn Bay and Llanddulas			
Views from footpaths / cycleways / roads			
WCP Sections C, C, D, E, F, H, I, K, L, M, N and O			
NCR 5 (Conwy)			
Statutory designated landscapes			
IoA AONB: special qualities - 'Expansive Views'; 'Peace and Tranquillity'; and 'Islands around Anglesey'			
Non-statutory designated landscapes			
GOHC			

- 5.7.41. In addition to the significant adverse effects identified in Table 6 above, the SLVIA identifies that there would also be a number of non-significant adverse effects on seascape character, landscape character, viewpoints, views from settlements and views from footpaths / cycleways / roads. Some of these non-significant adverse effects are coincidental with receptors (or parts of) within nationally designated landscapes, including IoA AONB, ENP and CRDV AONB. The SLVIA also reports non-significant adverse effects on two of the nine special qualities of ENP and two of the fifteen special qualities of the CRDV AONB. In addition, some non-significant adverse effects are coincidental with receptors (or parts of) within non-statutory designated landscapes, including GOHC and NAHC.
- 5.7.42. The SLVIA [REP8-082] sets out that, in respect of IoA AONB and ENP, the harm identified is not considered to occur to such a degree that it would affect the overall integrity of these nationally designated landscapes or their inherent natural beauty. However, the SLVIA recognises that the Proposed Development would not be consistent with objectives that seek to enhance these nationally designated landscapes. The SLVIA does not report such conclusions in a similar manner in respect of the CRDV AONB.
- 5.7.43. The SLVIA [REP8-082] reports no transboundary effects. In terms of cumulative effects, the SLVIA [REP8-082] considers the addition of the Proposed Development to existing operational offshore wind farms throughout. It is also concluded that

there would be no further cumulative effects as a result of any under construction, consented, application or scoping stage development.

- 5.7.44. The SLVIA [REP8-082] indicates that any potential for inter-related effects between the offshore and onshore works would be limited to a short part of the construction period, in the vicinity of the landfall only and would relate to visual effects for footpath and beach users. It is nonetheless concluded that the effects identified for offshore and onshore works in this area, including the Wales Coast Path (WCP), would not materially change as a result of inter-related effects. The ExA notes that the SLVIA appears to incorrectly report at paragraph 1514 that the LVIA [REP8-087] reports a significant effect for users of the WCP (and Rhyl Golf Club) in this area.
- 5.7.45. Table 19 of the SLVIA [REP8-082] provides examples of other existing infrastructure which has been permitted close to sensitive receptors, including AONBs and NPs.

## **Issues considered in the Examination**

### **Relevant Representations**

- 5.7.46. DCC's RR [RR-001] did not refer to SLVIA matters relating to offshore works. CCBC's RR [RR-002] referred to pre-application SLVIA concerns and highlighted that these would be reviewed in light of amendments made to the Proposed Development as submitted. GC's RR [RR-005] indicated it would provide any comments on landscape matters at a later stage. FCC's RR [RR-003] noted that given the distance of the proposed array area to Flintshire, visual impacts on the county and its receptors would not be significant. FCC maintained this view and subsequently withdrew from the Examination [REP2-051].
- 5.7.47. The RRs from Llandudno Town Council's [RR-007] and Betws yn Rhos and Llanellian yn Rhos Community Council [RR-008] referred to the visibility of the Proposed Development. Llanddulas and Rhyd Y Foel Community Council noted in its RR [RR-009] that a significant number of WTG would be built off the coast of Llandulas village, although no specific reference was made to any visual effects concerns.
- 5.7.48. IoACC's RR [RR-004] set out that the Proposed Development would give rise to significant adverse impacts on views of the seascape from the IoA AONB and would have a harmful effect on some of the AONB's special qualities. As such, IoACC considered that the Proposed Development would not be consistent with the conservation and enhancement of natural beauty. It also considered that the adverse effects on the designated landscape and seascape as a setting and feature of the IoA AONB, relate to the likely visibility of the WTG alone and cumulatively with other offshore wind farms. The RR also noted that whilst significant adverse effects would occur to a number of landscape and visual receptors on Anglesey, design changes since the pre-application stage had reduced the area and number of receptors which would experience these.
- 5.7.49. Eryri (previously Snowdonia) National Park Authority (ENPA) raised concerns in its RR [RR-006] around the SLVIA and under-reporting of significant effects for some landscape and visual receptors within the ENP, a lack of mitigation in terms of WTG heights and array extent and cumulative effects with other existing offshore wind farms.
- 5.7.50. NRW's RR [RR-015] raised concerns around the numerous and extensive significant adverse effects on seascape, landscape and visual receptors within the



IoA AONB and ENP and within their settings, adverse effects on the special qualities of the IoA AONB and ENP and conflict with the statutory purpose to conserve and enhance the natural beauty of these designated areas. NRW also highlighted non-significant but adverse effects on the CRDV AONB as well as other non-significant adverse effect on the IoA AONB and ENP. NRW considered some seascape, landscape and visual effects to have been under-estimated within the SLVIA as well as making reference to potential cumulative effects with other planned onshore and offshore projects. The RR set out that whilst the array extent and number of WTG had been reduced from the pre-application stage, a further substantial reduction of these would be required to minimise adverse effects on the IoA AONB and ENP, highlighting NRW's offshore wind farm guidance in this regard. In addition, the RR advised that opportunities for enhancement of the landscapes of the IoA AONB and ENP should be considered, albeit that this would represent compensation and / or offsetting rather than mitigation.

- 5.7.51. NT's RR [RR-029] set out that it owns a diverse range of property along the North Wales coast that would have views towards the Proposed Development and that the key element for NT is the significance of change to the landscape and seascape, particularly in views from the Great Orme and Penrhyn Castle. Night-time lighting effects were also raised as a concern in the RR. In addition, NT considered that there were opportunities to enhance designated landscapes to offset reported harms and that this should be explored further.

#### **Further representations**

- 5.7.52. The ExA posed a number of written questions (ExQ1) [PD-009] to the Applicant and Interested Parties (IPs) on matters relating to seascape, landscape and visual effects. There was general agreement from IP responses in respect of the SLVIA study area extents, the range of seascape, landscape and visual receptors assessed, viewpoint locations selected and the methodology for undertaking the SLVIA and associated visualisations.

- 5.7.53. In terms of methodology, a joint submission from the NWLPA (specific to SLVIA and Landscape and Visual Impact Assessment (LVIA) related matters) [REP1-091 and REP1-093] questioned the Applicant's determination of whether 'moderate' seascape, landscape and visual effects were either significant or not significant based on professional judgement.

- 5.7.54. From responses to ExQ1 [PD-009] and as set out in written representations at D1, which often expanded on matters raised in RRs, a number of detailed concerns were raised by IPs, including specifics of where there were disagreements with the Applicant's assessment of effects. These included the following:

NRW [REP1-080] considered:

- visual effects from VPs 1, 2, 3 and 36 to be significant;
- effects on ENP LCA 01 to be significant;
- wider reaching significant effects would occur within SCAs 2, 5 and 28;
- wider reaching significant effects would occur within IoA LCAs 8, 9 and 10;
- SCA F forms part of the setting of IoA AONB (albeit it was accepted that effects on this SCA would be non-significant);
- that the Proposed Development was in conflict with the statutory purpose of the IoA AONB that is to conserve and enhance its natural beauty, giving rise to substantial harm to the designated area;

- that although there would be no significant adverse effects on the special qualities of ENP, the Proposed Development was in conflict with the statutory purpose of the ENP that is to conserve and enhance its natural beauty, giving rise to substantial harm to the designated area;
- though no significant adverse effects associated with landscape or visual receptors within the CRDV AONB or its special qualities would occur, the non-significant adverse effects would fail to conserve or enhance the natural beauty of the area in conflict with this statutory purpose;
- that the Applicant had not had sufficient regard to NRW's offshore wind farm guidance [REP7-056];
- and that consideration should be given to a landscape enhancement scheme in accordance with the Welsh National Marine Plan Policy SOC\_06: Designated Landscapes.

NWLPA [REP1-091 and REP1-093] submissions, which included a review of the Applicant's SLVIA (and LVIA) by Land Use Consultants (LUC), considered:

- visual effects from VP 23 and Rhyl settlement to be potentially significant;
- visual effects from VP 36 to be potentially significant;
- visual effects from VP 44 to be potentially significant;
- effects on parts of ENP LCA 01 to be potentially significant;
- wider reaching significant effects would potentially occur within SCAs 2 and 3;
- significant effects would potentially occur for SCA B;
- effects on GOHC to be moderate-major adverse (significant) rather than moderate adverse (significant) as reported;
- whilst the above matters have been raised, it is accepted that they are all borderline cases and do not represent areas of substantive disagreement – effects on the special qualities of the IoA AONB, ENP and CRDV AONB as reported are accepted; and
- given the harm reported, particularly with regard to IoA AONB and ENP, and that as a result the Proposed Development would fail to conserve or enhance their natural beauty, the Applicant should make provision for a landscape enhancement scheme in respect of IoA AONB and ENP.

5.7.55. DCC's Local Impact Report (LIR) [REP1-056] reiterated some of the above concerns and included the LUC review [REP1-091] as an appendix. NT's written submissions [REP1-075 and REP1-076] expanded on the points raised in its RR.

### **Hearings and written questions**

5.7.56. The ExA held a hearing (ISH2) [EV-017 to EV-017i] to address these and other SLVIA matters (such as operational lighting, effects on CRDV AONB, mitigation measures, cumulative effects and the potential for off-site landscape enhancements) with the Applicant and IPs. This was attended by the Applicant and IPs, including NRW, DCC, CCBC, GC, IoACC, ENPA, LUC on behalf of the NWLPA and NT. The ExA also asked further written questions on SLVIA matters (EXQ2 [PD-015] and ExQ3 [PD-017]).

### **Key issues**

From the representations received, the key issues considered by the ExA in relation to SLVIA matters include:

- Methodology.
- Assessment of seascape, landscape and visual effects.
- Night-time lighting.

- Effects on designated landscapes.
- Potential for reduction in array parameters and NRW's offshore wind farm guidance.
- Landscape enhancement scheme.
- Cumulative effects.

### **Methodology**

- 5.7.57. The ExA asked written questions around the NWLPA concern regarding the assessment of 'moderate' effects as being either significant or not significant based on professional judgement. The matter was also addressed at ISH2. NRW was satisfied with this approach and the ExA notes that NRW's offshore wind farm guidance [REP7-056] recognises that a 'moderate' significance of effect is 'potentially significant'. The Applicant also provided further justification for its methodology and assessment of effects in its response to ExQ1 [REP1-007]. Furthermore, whilst raising the concern, the NWLPA submissions also recognised that such an approach was not uncommon. Additionally, the NWLPA SoCG [REP8-124] recognised that whilst there was some remaining disagreement over the matter, it did not have a material impact on any conclusions of the SLVIA.

#### *ExA consideration*

- 5.7.58. On the basis of these factors, the ExA had no substantive concerns over this aspect of the Applicant's SLVIA methodology.

### **Assessment of seascape, landscape and visual effects**

- 5.7.59. At ISH2, DCC and LUC on behalf of NWLPA confirmed that it agreed with the Applicant that visual effects from VP 23 and Rhyl settlement would not be significant. It was further confirmed that where the NWLPA submissions had identified potential for significant effects as per the other bullet points above, the cases were borderline, not areas of substantive disagreement and that the SLVIA made clear the overall extent of likely significant effects. The SoCG with NWLPA [REP8-124] reiterated this.
- 5.7.60. NRW at ISH2 further set out its reasoning for its concerns, primarily regarding the degree of harm it envisaged to the IoA AONB and ENP designated areas. NRW highlighted instances where it considered receptor sensitivity had been under-reported, such as for VPs 1, 2, 3 and 36 and IoA LCAs 8, 9, and 10. NRW also put forward that overall effects on ENP LCA 01 were under-reported given the significant adverse visual effects from VPs 12, 38, 40, and in NRW's view, VP 36 also, which are spread across the LCA, and from in with, scenic views towards the coast and sea are an important feature of its character.
- 5.7.61. The ExA explored these concerns at ISH2, seeking responses from the Applicant where necessary. The SoCG with NRW (specific to SLVIA and LVIA matters) [REP8-047] identified that in respect of SCAs F, 5 and 28, NRW does not consider the points of disagreement to be material. With regard to the other matters, which NRW considered material, the ExA has considered the arguments carefully. It is worth noting that whilst the SoCG [REP8-047] notes NRW's material disagreement with the Applicant's 'medium-high' sensitivity rating of VP 36 within the SLVIA, the Applicant clarified [REP2-002] that this was an error, and the sensitivity should have been reported as 'high'. This was also included in a stand-alone Errata List [REP8-053] and in the errata list within the SLVIA [REP8-082]. Notwithstanding this, the Applicant still found an overall 'moderate' adverse effect which it considered to be not significant in this case.

### *ExA considerations*

- 5.7.62. With regard to visual effects from VPs 1, 2 and 3 (within IoA AONB), the ExA considers that the Applicant had adequately demonstrated effects to be adverse though not significant, taking into account factors such as distance of WTG from the viewpoint, expanse of the view and the degree of the view the WTG would sit within. With regard to SCA 2, the ExA considers that the Applicant has reasonably described the extent of adverse significant effects, taking into account factors such as the location of the WTG outside of it, the presence of existing offshore wind farms in the area, influences of existing coastal development, the ZTV and that a significant effect from a particular viewpoint within SCA 2 (i.e. VP 12), which relates to the effect on a visual receptor, does not necessarily translate to a significant effect on the SCA. With regard to IoA LCAs 8, 9 and 10, the ExA considers that the Applicant has reasonably described the extent of adverse significant effects, noting existing human influences within the LCAs and that landscape character effects are not derived purely as a result of visibility.
- 5.7.63. With regard to VP 36 (within ENP), the ExA, when visiting the viewpoint [EV-003 and EV-004d], experienced a strong sense of remoteness, which was not materially diminished by views of coastal development in the distance. The WTG would appear larger and considerably more prominent than existing offshore WTG and would form a prominent backdrop to the Great Orme, noticeably interfering with the appreciation of views of it and its relationship to the sea as experienced from VP 36. The Applicant assessed the effects from this viewpoint as moderate adverse and not significant. However, for the reasons given, the ExA would concur with NRW that visual effects would be significant (albeit moderate adverse). In addition, whilst increasing the sensitivity of the viewpoint to 'high', the Applicant has not, in the ExA's view adequately justified its reasoning as to why it considers views from VP 36 to be not significant when effects from other nearer or more distant viewpoints in this part of ENP (including VPs 12, 38 and 40) have been assessed as significant.
- 5.7.64. Notwithstanding the above consideration of VP 36, the ExA considers that the Applicant had adequately demonstrated effects on ENP LCA 01, within which VPs 12, 36, 38 and 40 are located, to be not significant. This is taking into account that landscape character effects are not derived purely as a result of visibility, the overall ZTV extents within the LCA, existing human influences along the coastline and limited effects on characteristics relating to tranquillity, remoteness and wildness.

### **Night-time lighting**

- 5.7.65. In response to the ExA's written questions, concerns raised by IPs and discussions at hearings around operational lighting of the WTG and potential night-time lighting effects, the Applicant made changes to Requirement 3 (Aviation safety) of the dDCO to secure that any lights installed would operate at the lowest permissible lighting intensity level. The Applicant also highlighted that further details of lighting would be agreed as part of the Marine Licence, through a Lighting and Marking Plan. This is included within the Marine Licence Principles Document [REP8-015], which also states that lighting must fall within the parameters set out in the ES, including ES Volume 2, Chapter 1: Offshore Project Description [APP-047], which states that aviation lighting intensity would be 2000cd, dimmable to 200cd when visibility is greater than 5km at night.
- 5.7.66. The ExA notes the continued concerns of NT with regard to lighting effects, including as highlighted within its SoCG [REP8-050]. However, the ExA also notes

that the SoCG indicates that the concern of NT over lighting, given the 'orange' position status, is not considered to be material to any assessment conclusions.

*ExA consideration*

- 5.7.67. The ExA is satisfied that lighting matters have been adequately addressed by the Applicant. Significant effects have been minimised as far as possible and would occur at only one location, VP 13 (Great Orme – near summit complex).

**Effects on designated landscapes**

- 5.7.68. During ISH2, the ExA explored effects on designated landscapes and any conflict with their statutory purposes. At the hearing, the Applicant accepted that due to the adverse effects reported in the SLVIA in respect of the IoA AONB, ENP and CRDV AONB, the presence of the proposed WTG would fail to conserve the natural beauty of these areas, being visible from them and located within their setting, as well as failing to enhance it. Accordingly, the Applicant accepted that the Proposed Development would conflict with the statutory purposes of these areas. However, the Applicant highlighted that any large-scale development of this nature, visible from the designated areas, would be difficult to directly conserve or enhance their natural beauty.
- 5.7.69. It was also the Applicant's view that despite the reported harms, the Proposed Development would provide mitigation of climate change impacts, which are predicted to give rise to widespread changes in our landscapes, habitats and species, including those in the AONBs and ENP. The ExA sought the views of IPs on this matter [PD-017] with NRW [REP7-056] suggesting this was an overstatement given difficulties in measuring the specifics, though accepted that the Proposed Development would play a part in the general mitigation of climate change impacts more widely. Furthermore, the Applicant stated that the adverse effects would not affect the overall integrity of these designated areas and would not undermine the reasons for their designation, given the limited geographical extent of adverse effects when compared to the wider scale of these areas and the limited number of special qualities affected. These views were reflected in the Applicant's written summary of ISH2 [REP3a-004] and the matters around conflict with statutory purposes were also reflected in some of the Applicant's subsequent submissions, including [REP8-117 and REP8-038].
- 5.7.70. The Applicant provided an NPS Tracker [REP8-032] setting out how it considered the Proposed Development complied with the relevant NPSs, including in respect of SLVIA matters, and no IPs sought to highlight any specific conflict with the NPSs in this regard. The ExA asked written questions on NPS compliance, including seeking clarification on how the Applicant has sought to avoid compromising the purposes of designated landscapes as per NPS EN-1 paragraph 5.9.12. The Applicant responded setting out that:
- the Proposed Development sits outside the boundaries of designated landscapes;
  - the Proposed Development is located to the immediate west of an existing offshore wind farm and in the vicinity of others, thus resulting in an incremental change rather than introducing a new type of feature into seascapes and views;
  - NRW guidance on offshore wind farms recognises that effects on designated landscapes are likely to be greater where WTGs are located in areas of seascape where no other offshore development exists;

- the array area is the minimum extent to allow for an economically viable project and is outside areas of the sea identified by NRW as having a high sensitivity to such development;
- the distance between the array area and the IoA has been maximised as far as possible;
- whilst larger WTG than those proposed are likely to be available, the Applicant has fixed the maximum extents in the dDCO in consideration of effects on designated landscapes;
- WTG colour would be light grey and therefore recessive and similar to the colour of other WTG in the area;
- Aviation lighting would operate at the lowest permissible lighting intensity level in view of the sensitivity of dark skies; and
- the Applicant is actively seeking agreement over a reduction in the number of WTG requiring aviation lighting with the Civil Aviation Authority.

5.7.71. During the Examination, the ExA became aware that the CRDV AONB Management Plan had been updated [REP7-042] from that referred to in the SLVIA. In addition, the ExA understands that the Welsh Government is intending to change the CRDV AONB to NP status in the future. The ExA asked written questions [PD-009 and PD-017] on these matters and those parties that responded (including the Applicant [REP1-007 and REP8-004] and NRW [REP1-080 and REP7-056]) considered that they did not alter any of the assessments undertaken.

#### *ExA consideration*

5.7.72. The ExA recognises that the Proposed Development would give rise to a number of significant adverse effects during construction, operation and decommissioning of the offshore works on seascape, landscape and visual receptors, some of which are coincidental with statutory designated landscapes, including IoA AONB. Significant effects would also arise for some of the special qualities of the IoA AONB. In addition, some significant adverse effects are coincidental with receptors within non-statutory designated landscapes, including the GOHC and the NAHC.

5.7.73. In addition, there would be a number of non-significant adverse effects on seascape, landscape and visual receptors, some of which are coincidental with receptors within nationally designated landscapes, including IoA AONB, ENP and CRDV AONB. There would also be some non-significant adverse effects on some of the special qualities of ENP and CRDV AONB. In addition, some non-significant adverse effects are coincidental with receptors within non-statutory designated landscapes, including GOHC and NAHC.

5.7.74. The ExA considers that given the harms identified, and whilst the Applicant has sought to avoid compromising the statutory purposes as far as possible, the Proposed Development would fail to conserve or enhance the natural beauty of the IoA AONB, CRDV AONB and ENP designated landscapes, in conflict with this statutory purpose. The ExA considers this would be more so for the IoA AONB and ENP given that significant effects have been reported in relation to these designated landscapes.

#### **Potential for reduction in array parameters and NRW's offshore wind farm guidance**

5.7.75. The ExA, having regard to NPS EN-1 paragraph 5.9.21 and NPS EN-3 paragraph 2.6.210, explored matters around viability and whether a small reduction in function of the Proposed Development could mitigate adverse seascape, landscape and visual effects. The Applicant provided a detailed response to ExQ1 on the matter

[REP1-007], setting out that in order to mitigate significant adverse effects, a substantial reduction in the array area and size of WTGs would be needed, highlighting that other IPs, including NRW, took the same view. The Applicant set out that this would result in a corresponding significant reduction in the amount of electricity generated, which would be likely to render the project economically unviable. The Applicant reiterated its case during ISH2, and no IPs provided any substantive to the contrary.

5.7.76. The ExA also sought to explore the status of NRW's offshore wind farm guidance [REP7-056], the degree to which the Applicant had considered this and implications for the Proposed Development were the advice to be fully adhered to.

5.7.77. The ExA recognises that, whilst outside the most sensitive area of sea, the size of the proposed WTG would exceed the size of WTG identified to minimise significant effects, particularly in relation to designated landscapes, as set out in the NRW offshore windfarm guidance. However, the ExA understands that this guidance has not been formally adopted, was not formally consulted on and post-dates the start of TCE's Offshore Wind Leasing Round 4 process of which the site of the Proposed Development formed part of. Additionally, as set out above, to fully conform with the guidance would be likely to substantially reduce the electrical output of the Proposed Development and risk its viability.

#### *ExA consideration*

5.7.78. In light of the above, the ExA is satisfied that significant effects could not be mitigated through a small reduction in the scale of the Proposed Development. Furthermore, given its status as an unadopted guidance document, the ExA does not consider the NRW offshore windfarm guidance to adequately justify a substantial reduction in the size of the Proposed Development. Moreover, a substantial reduction in the size of the Proposed Development would be likely to risk the viability of the project. NPS EN-1 and NPS EN-3 recognise this. The ExA is satisfied that the Applicant has had regard to the NRW offshore wind farm guidance insofar as the Proposed Development would be located in the vicinity of other offshore wind farms and is located outside of areas of the sea identified as having the highest levels of sensitivity.

5.7.79. The ExA accepts that there would be significant adverse seascape, landscape and visual effects, including in respect of designated landscapes. Such effects are to be weighed in the overall planning balance.

#### **Landscape enhancement scheme**

5.7.80. The Applicant indicated in response to ExQ1 [REP1-007] and IP representations that it was willing to consider landscape enhancements to assist with offsetting adverse effects on designated landscapes. At ISH2, the Applicant confirmed that some initial discussions had taken place with NRW and relevant NWLPA relating to the scope and principle for a landscape enhancement fund to address impacts on designated landscapes. Updates were provided at D4 [REP4-003] in response to ISH2 action points [EV-017i], where the Applicant confirmed it had further liaised with NRW, ENPA, IoACC and CCBC as a group relating to landscape enhancements for IoA AONB, ENP and GOHC. This was because it was these designated areas in which significant effects had been reported to occur. A draft s106 agreement was issued to the group at that time, albeit not submitted into the Examination. The Applicant provided a further update at D6 [REP6-002], including DCC (and other IPs) in the discussions and setting out a number of principles for

the delivery of a landscape enhancement scheme. The ExA addressed the matter again at ISH4, exploring with the Applicant and IPs the potential inclusion of a new requirement in the dDCO to secure the landscape enhancement scheme, as suggested by the Applicant, should a s106 agreement not be forthcoming.

5.7.81. At D8, the Applicant provided:

- a final update document related to landscape enhancements [REP8-123];
- a note on weight to be given to landscape enhancements [REP8-038];
- a landscape enhancement principles document [REP8-093] (which was included as a certified document in Schedule 13 of the dDCO); and
- a joint position statement on landscape enhancements [REP8-122], signed by the Applicant, IoACC, ENPA, CCBC and DCC.

5.7.82. The update document [REP8-123] set out that the Applicant was working on a draft s106 agreement with the relevant parties but as not yet finalised, it was not to be submitted in the Examination (though would continue working on it with a view to providing a completed legal agreement to the SoS). Instead, a new requirement, R26 (Landscape enhancement scheme), would secure the landscape enhancement scheme. The principles document [REP8-083] sets out the mechanism for delivery, the spatial scope, the project scope, fund timings, fund size (£5,000,000), a payment profile over 30 years, fund start and index link details and the steering group, which will comprise IoACC, ENPA, CCBC, NRW and DCC (consulting other IPs, such as NT, GC and Gwynedd Archaeological Planning Service where relevant).

5.7.83. These details are reiterated in the signed joint position statement [REP8-122], which also sets out agreement between the Applicant and IoACC, ENPA, CCBC and DCC that the landscape fund would enable significant benefits to IoA AONB (including NAHC), ENP and GOHC. It also confirms, as a result of this: IoACC's and ENP's agreement that [...] *the net balance of the AyM proposal in relation to its effects on these designated landscapes is acceptable. The landscape fund will adequately compensate for any adverse impacts and provide benefits in line with paragraphs 4.1.3 and 4.1.4 of NPS EN-1.*; and CCBC's agreement that [...] *the net balance of the AyM proposal in relation to its effects on these designated landscapes is less harmful. The landscape fund will compensate for any adverse impacts and provide benefits in line with paragraphs 4.1.3 and 4.1.4 of NPS EN-1.*

5.7.84. On the matter, the NWLPA SoCG [REP8-124] set out that they consider that whilst there has been a reduction in the array size and number WTG through an iterative design process pre-application, a further substantial reduction in scale / extents would be required to minimise significant effects. However, the landscape enhancement opportunities would have the potential to offset the adverse effects. NRW's SoCG [REP8-047] cross-references to its D8 submission [REP8-100]. This sets out that whilst the proposed landscape enhancement scheme would not directly mitigate significant adverse effects, it would support the statutory purpose to conserve and enhance the natural beauty of designated landscapes and would contribute to conserving and enhancing their special qualities. NRW sets out it is supportive of R26 of the dDCO in light of a lack of a completed s106 agreement, though would prefer to see initial payments made at the construction phase rather than from when it is operational as set out in the principles document. This is because significant adverse effects are reported during the construction phase.

5.7.85. The Applicant's note on weight to be given to landscape enhancements [REP8-038] sets out that the Proposed Development cannot fully mitigate the adverse effects on



designated landscapes without affecting the economic viability of the project. Furthermore, that the smaller size of WTG needed to further mitigate adverse effects in line with NRW's offshore wind farm guidance, are no longer available in any event. As such, the landscape enhancement scheme would compensate for significant adverse effects relating to IoA AONB, ENP and GOHC by strengthening, reinforcing or enhancing their features, distinctiveness, special qualities or sense of place over the long-term. The Applicant considers the landscape enhancement scheme and its method for securement to be necessary and to meet the relevant legislative and policy tests. More detail on this is provided in the Applicant's submission [REP7-005]. The Applicant also highlights a scheme off the coast of Anglesey (the Morlais tidal energy scheme) where a similar approach was taken as proposed and was accepted by the Inspector and Welsh Government. The Applicant concludes that positive weight should be given the proposed landscape enhancement scheme in the overall planning balance.

#### *ExA consideration*

- 5.7.86. The ExA considers that the proposed Landscape Enhancement Scheme would assist with compensating for significant adverse effects on the relevant designated landscapes. Further consideration of R26 (Landscape enhancement scheme) of the dDCO is considered in section 5.8 of this Report. With regard to NRW's comment regarding the timing of any payments, this could be negotiated between the parties at a later date. However, the ExA considers it a reasonable request, given that significant adverse effects would occur during the construction phase (albeit in the latter stages).

#### **Cumulative effects**

- 5.7.87. With regard to the proposed Mona Offshore Wind Farm, the proposed Morgan Offshore Wind Farm and the onshore Pre-assessed Areas for Wind Energy, the ExA explored, through written questions and during hearings, the Applicant's reasoning as to why these were excluded from the cumulative SLVIA assessment. Some IPs had also raised this as a concern.
- 5.7.88. It was the Applicant's stance throughout the Examination [REP1-007, REP3a-004, REP5-004, REP7-004 and REP8-117] that due to the limitations of available information on these other plans / projects, it was unable to undertake a meaningful cumulative assessment in respect of these plans / projects.

#### *ExA consideration*

- 5.7.89. The ExA was satisfied with the Applicant's approach. Further consideration of this matter is presented in Volume Two, Chapter 8 of this Report.

#### **Other SLVIA matters**

- 5.7.90. The Applicant provided an Environmental Statement Conclusions document [REP1-049] which highlighted all effects which were reported as being significant, for ease of reference. Nevertheless, regarding SLVIA effects in Tables 9 and 10 of the document, it has several inconsistencies with the SLVIA [REP8-082] and ES Volume 2, Chapter 15: Offshore Conclusions [AS-028] and should therefore be disregarded in respect of entries relating to the SLVIA.
- 5.7.91. The ExA noted a number of inconsistencies in the SLVIA and brought these to the attention of the Applicant. The Applicant included these in an Errata List, which was

updated throughout the Examination, with the relevant list of errata included at the end of the SLVIA [REP8-082].

- 5.7.92. The ExA also noted that in the SLVIA Simple Assessment [APP-114], SCA 4: Menai Straight is identified as requiring detailed assessment. However, this does not appear to have been included in the SLVIA. On the basis that significant effects have been identified for some landscape and visual receptors along some coastal areas in the northern part of SCA 4, the ExA has considered, as a worst-case, that there are likely to be some significant adverse effects on seascape character along some coastal areas of SCA 4 also. Additionally, NRW makes reference at paragraph 6.1.4 of [REP8-080] to significant adverse effects for SCA 4 and the Applicant in response to NRW's submission [REP2-002] acknowledges and does not seek to dispute this.

### **ExA's conclusions on seascape, landscape and visual matters**

- 5.7.93. There would be a range of significant and non-significant adverse effects on seascape, landscape and visual receptors, predominantly along the North Wales coast, including some coincidental to and within the setting of statutory designated landscapes, including the IoA AONB, the CRDV AONB, ENP, and non-statutory designated landscapes, including GOHC and NAHC. Adverse effects would also arise to some of the special qualities of the statutory designated landscapes. The harm identified would conflict with the statutory purpose to conserve and enhance the natural beauty of AONBs and NPs. The ExA affords substantial weight to the conservation of the natural beauty of the IoA AONB, the CRDV AONB and ENP.
- 5.7.94. The ExA notes that NPS EN-1 recognises that the fact that a proposed project will be visible from within a designated area should not in itself be a reason for refusing consent. The ExA also accepts that the Applicant has aimed to avoid, as far as possible, compromising the purposes of designation and has had regard to sensitive design taking into account various siting, operational, and other relevant constraints. The ExA is also mindful that the geographical extents of adverse effects on designated landscapes would be relatively limited when considering the IoA AONB, CRDV AONB and ENP designations as a whole and that the Proposed Development would conflict with only a limited number of their respective special qualities. The ExA also considers that the Proposed Development would be in general conformity with NPS EN-1, NPS EN-3 and NPS EN-5 (and with the drafts of these NPSs) in relation to seascape, landscape and visual matters. R2 adequately secures the offshore array parameters and R3 adequately secures lighting limits associated with the proposed array.
- 5.7.95. Nonetheless, having regard to the harms identified, the ExA attributes substantial weight to adverse effects on seascape, landscape and visual matters relating to the proposed offshore works against the Order being made.
- 5.7.96. The proposed landscape enhancement scheme would compensate for some of the seascape, landscape and visual harms identified and would provide benefits to designated landscapes over the longer term, including in respect of some of their special qualities. This scheme would be secured under R26 of the rDCO. The ExA affords moderate weight to the benefits of the landscape enhancement scheme for the making of the Order.
- 5.7.97. The landscape enhancement scheme would not strictly mitigate the harm caused by the Proposed Development to the identified seascape, landscape and visual receptors, as the scheme would not screen or minimise the visual effects of the

proposed WTGs on the receptors. However, the landscape enhancement scheme could provide other benefits and would potentially enhance the identified receptors and their special qualities. This would reduce the overall weight the ExA ascribe to harm arising from the adverse effects on seascape, landscape and visual matters from the Proposed Development. However, this weighting would remain within the boundaries of substantial harm, albeit set at the lower end of this scale.

## **5.8. LANDSCAPE AND VISUAL**

### **Introduction**

- 5.8.1. This section considers the landscape and visual effects of the Proposed Development relating to the construction, operation and decommissioning of the onshore works. Seascape, landscape and visual effects relating to offshore works are considered in section 5.7 of this Report.

### **Policy Considerations**

#### **National Policy Statements and draft National Policy Statements**

- 5.8.2. For brevity and to avoid repetition, please refer to section 5.7 of this Report above for the relevant NPS and draft NPS policies relating to landscape and visual matters.

#### **Wales National policy**

- 5.8.3. Planning Policy Wales Edition 11 (PPW11) (2021) states that all the landscapes of Wales are valued for their intrinsic contribution to a sense of place. Furthermore, that their special characteristics should be protected and enhanced, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places. PPW11 notes that there is a statutory duty to have regard to the purposes of AONBs, including in respect of activities affecting their setting, and that regard should be had to their identified special qualities.

#### **Development Plan Policies**

- 5.8.4. Policy VOE2 of the Denbighshire County Council Local Development Plan 2006-2021 (2013) (DCCLDP) sets out that in determining development proposals within or affecting the Area of Outstanding Natural Beauty (AONB) and Area of Outstanding Beauty (AOB), development that would cause unacceptable harm to the character and appearance of the landscape and the reasons for designation will not be permitted. DCCLDP Policy VOE10 sets out that development proposals which promote the provision of renewable energy technologies may be supported providing they are located so as to minimise, amongst other things, visual and amenity impacts. Furthermore, that development proposals demonstrate no unacceptable impact upon, amongst other things, natural and cultural heritage, landscape and residential amenity.

### **The Applicant's Case**

#### **Introduction**

- 5.8.5. ES Volume 3, Chapter 2: Landscape and Visual Impact Assessment (LVIA) [REP8-087] assesses the effects of the onshore elements of the Proposed Development on landscape and visual receptors during its construction, operation and decommissioning. The Chapter is supported by ES Volume 6, Annexes 2.2 and 2.3, which contain the following:

- Figure 2.1: Site Location and Study Area [APP-156]
- Figure 2.2: Landform [APP-157]
- Figures 2.3a and 2.3b: Landscape Character [APP-158 and APP-159]
- Figure 2.4: Landscape Designations [APP-160]
- Figure 2.5: Principal Visual Receptors [APP-161]

- Figure 2.6: Aerial Mapping [REP7-039]
- Figure 2.7: Context Photos [APP-163]
- Figures 2.8a, 2.8b and 2.8c: Zones of Theoretical Visibility (ZTV) with Viewpoints [APP-164 to APP-166]
- Figures 2.9a, 2.9b, 2.10a, 2.10b, 2.11a, 2.11b, 2.12a, 2.12b, 2.13a and 2.13b: LANDMAP Aspect Areas (and ZTVs) [APP-167 to APP-176]
- Figure 2.14: Landscape Character, Landscape Designations and ZTV [APP-177]
- Figure 2.15: Principal Visual Receptors and ZTV [APP-178]
- Figure 2.16: Outline Landscape Mitigation Principles [APP-179]
- Figure 2.17: Cumulative Developments [APP-180]
- Figures 2.18 to 2.26: Viewpoints 1-9 [REP8-072 to REP8-080]

5.8.6. The LVIA [REP8-087] notes that the assessment followed published guidance of the Landscape Institute, the Institute of Environmental Management and Assessment (IEMA), Natural England (NE), the Planning Inspectorate, Natural Resources Wales (NRW) and NatureScot.

### **Study area**

5.8.7. The LVIA [REP8-087] identifies that the study area for landscape and visual effects broadly extends 1 kilometre (km) around the onshore export cable corridor (ECC) and landfall site and 5km around the site of the onshore sub-station (OnSS). This is shown in ES Figure 2.1 [APP-156]. It is noted in the LVIA that this study area is not intended to provide a boundary beyond which the onshore elements of the Proposed Development would not be seen, but rather to define the area within which there is potential for significant landscape or visual effects.

### **Landscape**

5.8.8. The onshore elements of the Proposed Development would be located between the proposed export cable landfall to the east of Rhyl and National Grid's existing Bodelwyddan substation to the south of the St Asaph Business Park (SABP). The assessment notes that this part of North Wales has a distinct coastal landscape broadly characterised by the coastal towns and resorts which span its coastline of extensive beaches and dune landscapes and that inland from the coastline, the landscape of the study area is largely characterised by agricultural lowland landscapes which providing a rural backdrop to the coast. Further inland the landscape tends to be characterised by more elevated rolling hills. The assessment also notes that whilst the landscape of the study area is rural in nature, it also has a busy and active feel with many transport routes traversing the area including the A55 and the Chester to Holyhead railway.

5.8.9. The Welsh landscape is classified at the national level by National Landscape Character Areas (NLCA) as defined by NRW. The onshore elements of the Proposed Development lie predominantly within NLCA 8: Colwyn and Northern Coastline (landfall, ECC and OnSS) with the southern extents of the ECC within NLCA 9: Rhos Hills. The wider study area also includes NLCA 11: Vale of Clwyd. This is shown in ES Figure 2.3a [APP-158].

5.8.10. Notwithstanding the above, the assessment for landscape character considers the landscape character areas (LCA) of the Conwy and Denbighshire Landscape Sensitivity and Capacity Assessment for Wind Energy Development (2013) (CDLSCA) to be of a more appropriate scale. The CDLSCA uses LANDMAP, a Geographic Information System based landscape resource and dataset, in its baseline assessment. The onshore elements of the Proposed Development lie

within the LCA A1: Eastern Lowlands (Cefn Meiriadog Vale Slopes) (ECC and OnSS), LCA A4: Coastal & Estuarine Flats (Prestatyn to Abergele) (landfall and ECC) and LCA A6: Vale Farmlands (Vale of Clwyd) (ECC). The location for the OnSS lies close to LCA C4: Limestone Farmlands (Abergele to Denbigh Coastal/Vale Hills) and the wider study area also includes LCA B2: Deep Valleys (Aled and Elwy) and LCA D1: Aled Hiraethog Hills (West). The LCAs are shown in ES Figure 2.3b [APP-159].

5.8.11. The assessment considers that the effects of the landfall and ECC would be too small in scale and temporary in nature to give rise to significant landscape character effects in respect of LCA A4 and LCA A6. In addition, any potential effects from the OnSS would be limited to LCA A1 and LCA C4. As such, it is the effects on these LCAs which are assessed in detail, the characteristics of which are identified as follows:

- LCA A1: Eastern Lowlands (Cefn Meiriadog Vale Slopes) - a gently undulating pastoral lowland, man-made influences evident of managed landscapes and frequency of farmsteads / rural properties, modern development notable along the A55 (including SABP and nearby substations), occasional pylons and views typically filtered by landform and vegetation.
- LCA C4: Limestone Farmlands (Abergele to Denbigh Coastal/Vale Hills) – a rolling landscape with a mosaic of pastures and woodland including estate woodlands and designed parklands, man-made influence evident including the A55 and pylon lines, the presence of traffic on the local road network brings frequent movement (particularly around the larger settlements), elsewhere the landscape becomes more rural with a settlement pattern dispersed along a network of minor lanes.

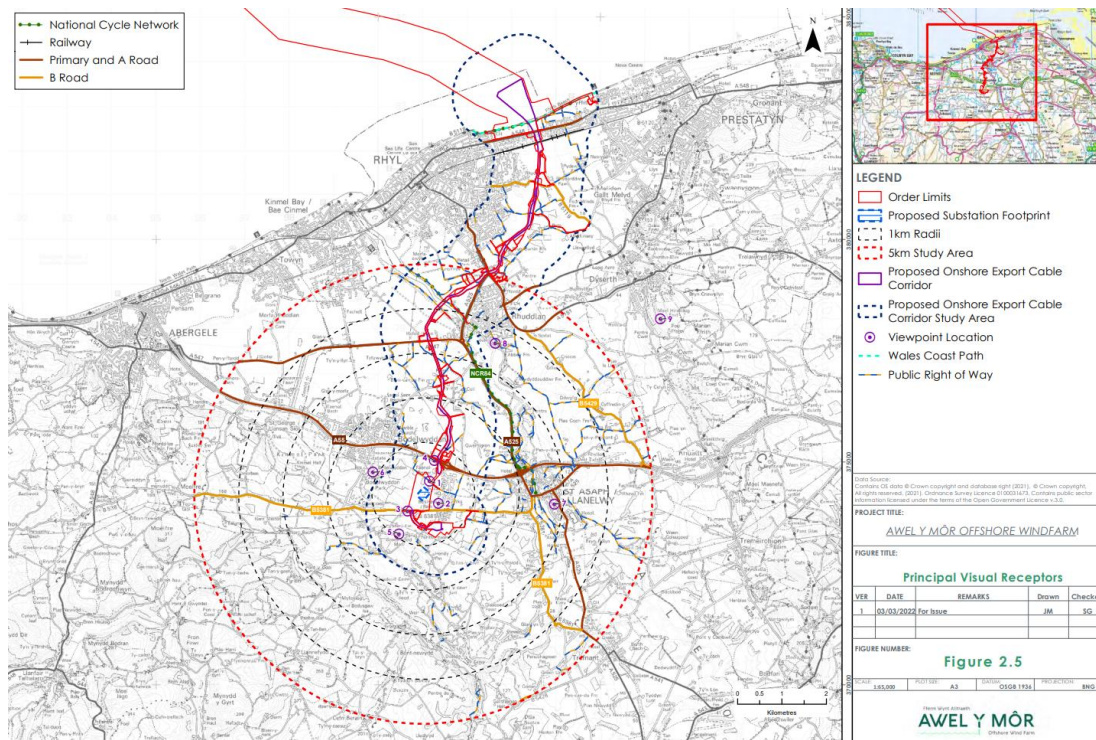
5.8.12. The LVIA [REP8-087] and ES Figure 2.4 [APP-160] identify that landscape designations within the study area (though outside the Order limits) include Conwy County Borough Council (CCBC) Betws yn Rhos Special Landscape Area (SLA) and the CCBC Elwy and Aled Valley SLA. Also identified within the study area are a number of conservation areas and registered parks and gardens, albeit these heritage assets are predominantly considered within section 5.6 of this Report. ES Figure 2.4 [APP-160] shows the location of the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (CRDV AONB), outside of and to the east of the study area.

5.8.13. The assessment also considers effects on physical landscape features, including agricultural land, hedgerows and hedgerow trees along the ECC route, trees in the OnSS site area and the coastal landscape (comprising the beach, seawall, footpath, golf course and sand dunes). It is noted that existing woodland would not be affected due to the adoption of trenchless techniques where woodland is encountered along the ECC.

### **Visual**

5.8.14. A Zone of Theoretical Visibility (ZTV) was established using computer modelling to help identify the potential extents from which the OnSS may be visible. This took into account options for the OnSS technology which includes either Air Insulated Switchgear (AIS) or Gas Insulated Switchgear (GIS), with AIS requiring a larger area of land and GIS requiring a greater height of buildings. The extent of potential visibility was then verified in the field to determine how perceptible potential views of the OnSS may be. From this, nine representative viewpoint (VP) locations were selected to assist in understanding the visual effects of the OnSS. The locations of these are shown in ES Figure 2.5 [APP-161] and Figure 14 below.

**Figure 14: LVIA viewpoints [APP-161]**



5.8.15. Existing winter photographs were produced for all VPs, with the exception of VP 6 (Bodelwyddan Castle) where summer photographs were produced, given that access was restricted during the wintertime [REP8-072 to REP8-080]. Visualisations showing the maximum parameters of the OnSS with an example block model of the AIS / GIS options (at Year 1 and at Year 15 with proposed planting in leaf) were produced for VPs 1-5 [REP8-072 to REP8-076]. Visualisations just showing the maximum parameters of the OnSS (at Year 1) were produced for VPs 6-9 [REP8-077 to REP8-080], on the basis that the OnSS would not be visible due to intervening vegetation or buildings (VPs 6 and 7) or that it would not be discernible given the considerable separation distances involved (VPs 8 and 9).

5.8.16. The assessment also considers a range of visual receptors, including those being associated with particular settlements, residential buildings, footpaths and highway routes, as shown in ES Figure 2.5 [APP-161] and ES Figure 2.6 [AS-033].

### Potential effects

5.8.17. The LVIA [REP8-087] recognises that potential adverse landscape and visual effects during construction would arise in relation to construction activities, including plant, cranes, stockpiling, construction compounds, access roads, cable trenching, temporary structures, emerging OnSS structures, lighting and removal of landscape features. During operation, potential for landscape and visual effects would arise as a result of the OnSS platform, structures and buildings. During decommissioning, potential for landscape and visual effects would arise from plant, temporary facilities, cranes and the removal of the OnSS platform, structures and buildings.

### Mitigation

5.8.18. To minimise adverse landscape and visual effects during construction, proposed mitigation includes the sensitive siting of construction compounds, selection of the ECC route to avoid tree and hedgerow loss where possible, the selection of the

OnSS site in proximity of existing electrical infrastructure, working area restrictions, tree protection, the careful storage of soil and measures identified in the outline Code of Construction Practice (oCoCP) and outline Landscape and Ecology Management Plan (oLEMP).

5.8.19. During operation, the assessment sets out that mitigation to minimise adverse landscape and visual effects from the OnSS would include existing vegetation to act as screening, additional screening planting in the form of woodland (with potential for planting during early stages of construction) and possible landscape bunding utilising any surplus soil and excavation material to further enhance the screening. Along the ECC route, land would be restored, and landscape features and habitats reinstated where possible.

5.8.20. The dDCO includes requirements (R) relating to OnSS works and design (R6), OnSS parameters (R7), provision of landscaping (R8), landscape implementation and maintenance (R9), code of construction practice (R10), a landscape and ecological management (R13), land restoration (R17), lighting (R19) and decommissioning (R22).

### Effects

5.8.21. The LVIA [REP8-082] reports a number of significant and non-significant adverse landscape and visual effects during the construction of the ECC route and the construction and operation of the OnSS. The significant effects (shaded red) are identified and summarised in Table 7 below.

**Table 7: LVIA likely significant effects**

Receptor	Construction	Year 1	Year 15
<b>ECC and landfall</b>			
Landscape features			
Taller hedgerows and hedgerow trees along ECC route		N/A	N/A
Trees within OnSS area		N/A	N/A
Landscape character			
No significant effects	N/A	N/A	N/A
Visual			
PRoW to the south of Rhyl between the B5119 and A547 (including the North Wales Path)		N/A	N/A
Bridlepath (PRoW 201/9) to the north of the OnSS area		N/A	N/A
Cwybr Bach (residential)		N/A	N/A
Plas Lorna (residential)		N/A	N/A
Faenol-Bropor (residential)		N/A	N/A



Waen Meredydd (residential)		N/A	N/A
B5381 Glascoed Road		N/A	N/A
<b>OnSS</b>			
Landscape features			
No significant effects	N/A	N/A	N/A
Landscape character			
A1. Eastern Lowlands (Cefn Meiriadog Vale Slopes)			
Visual			
Viewpoint 1 - Bridlepath (PRoW 201/9) to the north of the OnSS area			
Viewpoint 3 – Glascoed Rd (road users and residential)			
Viewpoint 5 - Minor Rd, Groesffordd			
Denbighshire Memorial Park and Crematorium			

5.8.22. With regard to decommissioning, the LVIA [REP8-087] sets out that no decision has been made regarding the final decommissioning policy for the onshore cables, as industry best practice, rules and legislation change over time. However, it is likely the onshore cables would be pulled through the ducts and removed, with the ducts themselves left in situ in order to minimise ground disturbance. With regard to the OnSS, it is anticipated that decommissioning effects would be similar to or less than those assessed during the construction phase. Additionally, as landscape planting would have matured over the operational life of the OnSS, it is expected to screen the OnSS decommissioning works from relevant surrounding landscape and visual receptors.

5.8.23. The LVIA [REP8-087] concludes that there would be no significant cumulative landscape or visual effects due to separation distances and limited intervisibility between the onshore elements of the Proposed Development and other identified developments.

### Issues considered in the Examination

5.8.24. DCC's RR [RR-001] did not address the application documents, though noted that during the pre-application stages, it had raised some concerns around effects on visual amenity and landscape character from the operation of the OnSS. The ExA posed a number of first written questions (ExQ1) [PD-009], including to DCC, relating to landscape and visual matters. DCC's responses were included in Appendix B of a review of the SLVIA / LVIA undertaken by Land Use Consultants (LUC) on behalf of the North Wales Local Planning Authorities (NWLPA) [REP1-091], which DCC also included at Appendix 9 of its LIR [REP1-056].

- 5.8.25. The responses to ExQ1 confirmed DCC's overall satisfaction with the LVIA study areas, viewpoint locations, assessment methodology and reporting of landscape and visual effects, including cumulative effects. As with the SLVIA in section 5.7 above, some concerns were raised relating to the Applicant's use of professional judgment to determine whether 'moderate' landscape and visual effects were either significant or not significant. In addition, DCC's LIR [REP1-056] and the NWLPA submission [REP1-091] referred to a lack of visual assessment of the construction and operation of the OnSS on the occupiers of Faenol Brodor to the north of the OnSS site and users of the Glascoed Nature Reserve to the east. Matters relating to the oLEMP were also highlighted, such as clarification needed around woodland, tree, hedgerow and pond protection, the proposed use of parts of the wider OnSS site, opportunities for advance planting, aftercare periods, including for the long term and a preference for a 15-year period for the replacement of any planting associated with the OnSS site rather than the 5-year period specified in R9 of the dDCO. DCC's LIR noted that significant effects of the OnSS on the CRDV AONB would be unlikely, but that consideration should be given to its design, colour and materials to minimise adverse visual effects, as well as the control of lighting to protect dark skies. The NWLPA's joint WR [REP1-093] repeated some of these concerns.
- 5.8.26. NRW's RR [RR-015] shared a similar view to that of DCC in respect of effects on the CRDV AONB and measures which should be taken to minimise adverse effects. NRW's WR and response to ExQ1 [REP1-080] reaffirmed this and requested it was added as a consultee on Requirements 6 and 8 of the dDCO, which related to design and landscaping of the OnSS respectively. NRW raised no specific concerns in respect of the Applicant's approach to the LVIA and its conclusions.
- 5.8.27. The RR from Martin Griffiths [RR-054] raised visual effects and lighting associated with the OnSS as a concern. The RR and written representations from DMPC on behalf of Mr JB and Mrs E Evans [RR-038 and REP1-103] highlighted a concern around the adequacy of proposed screening measures associated with the OnSS, particularly a lack of evergreen trees, and subsequent visual effects from their property, Faenol Brodor. Envirowatch.EU [RR-034] referred to a need for sufficient replacement tree and shrub planting and green connecting corridors, and Sustainable Cymru [RR-036] raised a concern that established hedgerows would be destroyed as a result of the Proposed Development. Charlotte Bowers [AS-050] raised concerns around loss of green belt land and visual effects.
- 5.8.28. A hearing (ISH3) [EV-018 to EV-018i] was held to allow the ExA to further consider and explore matters around the OnSS, including in respect of landscape and visual effects. This was attended by DCC and NRW. DMPC on behalf of Mr JB and Mrs E Evans also attended and further raised concerns around visual effects from Faenol Brodor. In addition, Mr Meirick Lloyd Davies, a local resident, attended ISH3 and raised concerns around visual effects from his property arising from the construction and operation of the OnSS and the obstructing of open views resulting from the positioning of proposed landscaping.
- 5.8.29. The ExA also posed a number of further written questions (ExQ2 and ExQ3) [PD-015 and PD-017] on landscape and visual matters to the Applicant and Interested Parties (IPs) and addressed some landscape and visual matters at ISH4 [EV-020, EV-029 to EV-034 and EV-036], relating to the consideration of the dDCO.
- 5.8.30. As a result of representations by IPs, the ExA's written questions and discussions during hearings, the Applicant made changes to some of the application documents

and submitted further documentation throughout the Examination to address the matters or concerns raised. This included:

- Making further provision within the oLEMP [REP7-026], oCoCP [REP7-018] and oOCMS [REP7-021] for tree and hedgerow protection during construction;
- Making provision within the oLEMP [REP7-026] for long-term landscape and ecological management and maintenance within the OnSS site;
- Making provision within the oLEMP [REP7-026] for advance planting (subject to detailed design);
- Making provision within the oLEMP [REP7-026] and Design Principles Document [REP7-028] for consultation with local residents near the OnSS site in respect of landscape proposals;
- Making provision in the Design Principles Document [REP7-028] for colours of the OnSS elements to follow the guidance of: NRW's Environmental Colour Assessment: benefits, process and application; and the Landscape Institute's Environmental Colour Assessment Technical Information Note (04/2018);
- Providing a review of Table 8 of the LVIA with regard to effects on agricultural land as a landscape feature [REP4-026];
- Adding NRW as a consultee to R6 (substation) and R8 (landscaping) of the dDCO [REP7-006];
- Specifying maximum heights for OnSS buildings for the AIS option as well as the GIS option in R7 of the dDCO [REP7-006], with an associated explanatory note [REP6-025];
- Providing a visual assessment from Glascoed Nature Reserve [REP2-029];
- Providing a visual assessment from Faenol Bropor [REP7-037];
- Updates to LVIA Figure 2.6 - Aerial Mapping [REP7-039], to identify receptor locations more clearly;
- Updates to the Hedgerow and Protected Tree Plan [REP6-036] to identify hedgerow extents more clearly; and
- Provision of an Errata List [REP8-053] to identify / clarify minor errors and inconsistencies in application documents, including those relating to landscape and visual matters, and including a list of errata at the end of relevant documents.

5.8.31. The visual assessments from Faenol Bropor [REP7-037] and Glascoed Nature Reserve [REP2-029] identified significant effects during construction of the OnSS and at Year 1, with effects reducing to not significant at Year 15 as a result of the establishment and growth of landscape / woodland planting. The oLEMP [REP7-026] makes provision for long term maintenance of landscaping and a detailed LEMP is secured under R13 of the dDCO. Landscaping, and its replacement should it not survive beyond five years, is secured under R8 and R9 of the dDCO respectively. The ExA considered the additional visual assessments to draw reasonable conclusions, and, in respect of Faenol Bropor, given the depth of proposed screening planting, this was notwithstanding whether the planting comprised some evergreen species.

5.8.32. The ExA asked the Applicant whether height parameters should be included within R7 of the dDCO for buildings and structures associated with an AIS OnSS as they had been for a GIS OnSS. As mentioned above, the Applicant subsequently included height parameters in the dDCO for the AIS OnSS option. However, as the AIS buildings heights specified in R7 of the dDCO exceeded those set out in the LVIA for such a scenario, the ExA sought to explore the matter with the Applicant at ISH4 with regard to whether there were any implications for the LVAI. The Applicant addressed and expanded on its note on OnSS building heights [REP6-025], maintaining that the variation between heights specified in the LVIA and in R7 of the

dDCO made no difference to the assessments. This was because building heights associated with an AIS option would be considerably less than those associated with a GIS option and it was the height of the GIS option which represented a worst-case in terms of the landscape and visual assessment. Additionally, a taller AIS building to the height specified in R7 of the dDCO, would result in a corresponding reduction in footprint required, balancing out any resulting landscape and visual effects. No IPs sought to dispute the Applicant's views on the matter and the ExA was satisfied with the explanation and the inclusion of the AIS parameters into R7 of the dDCO.

- 5.8.33. With regard to the obstruction of open views from Mr Davies' property, the Applicant responded to Mr Davies and to the ExA's written questions on the matter [REP4-003 and REP5-004]. The Applicant highlighted that the proposed woodland belt in the southeastern part of the OnSS site (as shown on ES Figure 2.16 [APP-179] and Figure 2 of the oLEMP [REP7-027]) would be set back from the field boundary to provide some screening of the OnSS whilst not impeding large proportions of the current view from properties along Glascoed Road. Provision would also be made for local residents to comment on the landscape proposals, as set out in the Design Principles Document [REP7-028], and, as the ExA understands it, through DCC's process of discharging requirements relating to landscape matters. The ExA considered this a satisfactory response and outcome.
- 5.8.34. The Applicant responded to IP concerns around operational lighting [REP1-001], setting out that: the OnSS would not be permanently manned, and any lighting would only be required during operation and maintenance activities; some directional lighting would be needed for safety and security; and though some task-specific lighting would be needed externally, this would be required on an infrequent basis. As such, no significant artificial lighting effects on visual receptors would be expected to occur. The Applicant reiterated this during ISH3, pointing out that R19 of the dDCO would secure details of lighting associated with the OnSS. The Design Principles Document [REP7-028] also addresses lighting associated with the OnSS.
- 5.8.35. Having regard to Charlotte Bower's concerns [AS-050], the Applicant responded [REP7-003] to clarify that the OnSS would not occupy any land designated as green belt. The Applicant also detailed how it had undertaken a robust site selection process and had sought to minimise visual effects of the OnSS through the oLEMP and the relevant requirements of the dDCO. In response to [RR-034] and [RR-036], the Applicant highlighted that with the restoration of land along the ECC route, reinstatement of hedgerows, planting of hedgerow trees and landscape and ecological mitigation and enhancement within the OnSS site, green corridors would be maintained or created, and loss of hedgerows mitigated.
- 5.8.36. In respect of concerns raised regarding the determination of 'moderate' effects as being either significant or not significant based on professional judgement, the ExA has addressed this matter in section 5.7 (SLVIA) above and takes the same view of its acceptability for the LVIA.
- 5.8.37. By the end of the Examination, DCC [REP7-049] and NRW [REP8-047] had signed SoCG with the Applicant agreeing all matters relating to LVIA matters in respect of the onshore works.
- 5.8.38. Whilst DCC signed a SoCG at D7 agreeing all matters, including with regard to the proposed five-year landscape replacement planting period specified in R9 of the dDCO, DCC also indicated in its response to ExQ3 at the same deadline [REP7-051] that the oLEMP should specify the length of time referred to as 'long-term' in respect of landscape maintenance. The Applicant subsequently highlighted [REP8-

004] that oLEMP paragraph 36 refers to long-term maintenance over the 'operational lifetime' of the Proposed Development and as such no further additions were required.

- 5.8.39. The ExA, through written questions and as part of ISH3 and ISH4, also queried the Applicant's proposed five-year landscape replacement period within R9 of the dDCO. This was on the basis that the LVIA is reliant on the effectiveness of screening planting to mitigate or reduce adverse effects associated with the OnSS over the longer term. The Applicant maintained that the period was adequate given that five years is generally considered a standard length of time to determine whether planting had established or had failed and required replacement [REP1-007, REP5-004 and REP8-007]. The Applicant also highlighted that where other dDCOs had extended the period for landscape replacement (including Norfolk Vanguard and Norfolk Boreas), this was due to concerns raised by IPs around extreme weather conditions associated with climate change for those geographical locations and associated difficulties in plant establishment. The Applicant pointed out that no such concerns had been raised or any substantive evidence provided to support such concerns in this case to justify an extended period.

### **ExA's conclusions on landscape and visual matters**

- 5.8.40. NPS EN-1 acknowledges that virtually all nationally significant energy infrastructure projects will have effects on the landscape and that all proposed energy infrastructure is likely to have visual effects for receptors around proposed sites. NPS EN-5 also recognises that new substations can give rise to landscape and visual impacts. The ExA is satisfied that the Applicant has undertaken an appropriate landscape and visual assessment and has adequately identified the effects of the Proposed Development on landscape and visual receptors.
- 5.8.41. On the basis of the evidence, and noting DCC's SoCG on the matter, the ExA considers that a five-year landscape replacement period, in combination with a LEMP detailing planting, management and maintenance measures, would be sufficient to ensure the likely long-term effectiveness of landscaping.
- 5.8.42. The onshore elements of the Proposed Development (ECC and OnSS) would give rise to some localised significant effects on landscape features, landscape character and visual receptors during construction. The presence of the OnSS would also give rise to some localised significant effects on landscape character and visual receptors during the early years of its operation. As a result of the establishment and maturing of proposed landscape planting, the ExA is satisfied that such significant effects would diminish considerably by Year 15 for most receptors. The exception to this would be limited to users of the PRoW to the immediate north of the OnSS site, in the vicinity of Viewpoint 1. Visual effects would remain significant for these receptors due to the ability to obtain views towards the OnSS through gaps in vegetation, given the limitations for tree and woodland planting directly above buried cables. Some short-term and localised significant effects on landscape character and visual receptors would also arise during decommissioning.
- 5.8.43. NPS EN-1 and NPS EN-3 promote the sensitive design of energy infrastructure and highlight that siting, colours, materials and landscaping can assist with minimising landscape and visual harm. The ExA is satisfied that such matters have been suitably addressed by the Applicant. Further consideration of design is undertaken in Volume 2, Chapter 7 of this Report.

- 5.8.44. Mitigation and control for the avoidance and reduction of adverse landscape and visual effects, where reasonable and appropriate, would be adequately secured through the rDCO. This includes the following requirements: R6 (substation works, including layout, scale, colour and materials); R7 (onshore design parameters); R8 (provision of landscaping); R9 (implementation and maintenance of landscaping); R10 (code of construction practice, including construction method statement, soil management plan and artificial light emissions plan); R13 (landscape and ecology management plan); R17 (restoration of land used temporarily for construction); R19 (control of operational artificial light emissions); and R22 (onshore decommissioning).
- 5.8.45. Taking the above matters into account, the ExA is satisfied that the Proposed Development would accord with NPS EN-1, NPS EN-3 and NPS EN-5 (and with the drafts of these NPSs) in respect of landscape and visual matters relating to the proposed onshore works. The ExA is also satisfied that there would be compliance with DCCLDP Policies VOE2 and VOE10 in this regard. Furthermore, given residual significant adverse effects in respect of landscape and visual matters would be limited and localised, the ExA attributes moderate weight relating to these matters against the Order being made.

## **5.9. MARINE AND COASTAL PHYSICAL PROCESSES**

### **Introduction**

- 5.9.1. The topic of marine and coastal physical processes was identified as a principal issue in the ExA's initial assessment [PD-007]. This section considers the Proposed Development seaward of Mean High-Water Springs. Marine and coastal physical processes is a collective term for the following topic areas:

- Water levels;
- Currents;
- Waves and winds;
- Sediments and geology, including seabed sediment distribution and sediment transport;
- Seabed geomorphology; and
- Coastal geomorphology.

### **Policy Considerations**

#### **Overarching National Policy Statement for Energy (NPS EN-1)**

- 5.9.2. Paragraph 4.8.5 of NPS EN-1 states that applicants must consider the impacts of climate change when planning the location, design, build, operation and, where appropriate, decommissioning of new energy infrastructure. The Environmental Statement should set out how the proposal will take account of the projected impacts of climate change.
- 5.9.3. Section 5.5 of NPS EN-1 addresses coastal change. Paragraph 5.5.1 states that the Government's aim is to ensure that our coastal communities continue to prosper and adapt to coastal change. This means planning should:
- Ensure that policies and decisions in coastal areas are based on an understanding of coastal change over time;
  - Prevent new development from being put at risk from coastal change by (i) avoiding inappropriate development in areas that are vulnerable to coastal change or any development that adds to the impacts of physical changes to the coast, and (ii) directing development away from areas vulnerable to coastal change;
  - Ensure that the risk to development which is, exceptionally, necessary in coastal change areas because it requires a coastal location and provides substantial economic and social benefits to communities, is managed over its planned lifetime; and
  - Ensure that plans are in place to secure the long-term sustainability of coastal areas.
- 5.9.4. The decision-maker should be satisfied that the Proposed Development would be resilient to coastal erosion and deposition, taking into account climate change, during its operational life and any decommissioning stage.

#### **National Policy Statement for Renewable Energy (NPS EN-3)**

- 5.9.5. Paragraph 2.3.5 of NPS EN-3 identifies that section 4.8 of NPS EN-1 advises that the resilience of the project to climate change should be assessed. In addition, paragraph 2.6.113 confirms that an assessment of effects of installing cables across the intertidal zone should also be undertaken by the Applicant.

- 5.9.6. Paragraph 2.9.196 further states that the decision maker should be satisfied that the methods of construction and use of materials reasonably minimise potential impacts on the receiving physical environment.
- 5.9.7. In respect of mitigation, paragraph 2.6.197 states that the applicant should have considered the trenching of cables to an appropriate depth and use scour protection techniques around offshore structure to prevent scour effects around them.

### **Draft National Policy Statements**

- 5.9.8. The policy requirements of draft NPS EN-1 and EN-3 in respect of marine and coastal physical processes are largely consistent with the extant NPS statements, with no significant changes being identified.

### **Other Legislation and Policies**

#### ***Welsh National Policy***

##### *Welsh National Marine Plan (2019)*

- 5.9.9. In respect of the Welsh National Marine Plan, Policy SOC\_08: Resilience to Coastal Change and Flooding and Policy SOC\_09: Effects on Coastal Change and Flooding are relevant. Policy SOC\_08 states that applicants should demonstrate how the proposals are resilient to coastal change and flooding over their lifetime. Additionally, Policy SOC\_09 states that the proposal should demonstrate how it avoids significant adverse impacts on coastal processes and minimises the risk of coastal change and flooding.
- 5.9.10. Policy SOC\_11: Resilience to Climate Change is also relevant, as this policy requires applicants to demonstrate that they have considered the impacts of climate change and have incorporated appropriate adaptation measures.
- 5.9.11. In respect of cumulative effects, Policy GOV\_01 requires applicants to demonstrate that they have fully assessed cumulative effects. In order of preference, they should aim to avoid, minimise, and mitigate cumulative effects.

##### *Planning Policy Wales (2021)*

- 5.9.12. Planning Policy Wales Edition 11 (PPW11) (2021) sets out the planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes, Welsh Government Circulars, and policy clarification letters, which together with PPW11 provide the national planning policy framework for Wales.
- 5.9.13. In respect of marine and coastal processes, PPW11 states that applicants should design proposals to be resilient to the effects of climate change over its lifetime and not result in unacceptable incremental increases in risk. Furthermore, it is not appropriate for development in one location to unacceptably add to the impacts of physical change to the coast in another location.

### **The Applicant's Case**

#### **Methodology**

- 5.9.14. The Applicant's assessment of effects on marine and coastal physical processes is detailed in the Environmental Statement, Volume 2, Chapter 2 (the ES) [REP8-084]. This ES chapter confirms the effects on the marine and coastal physical processes arising from the construction, operation, decommissioning of the Proposed



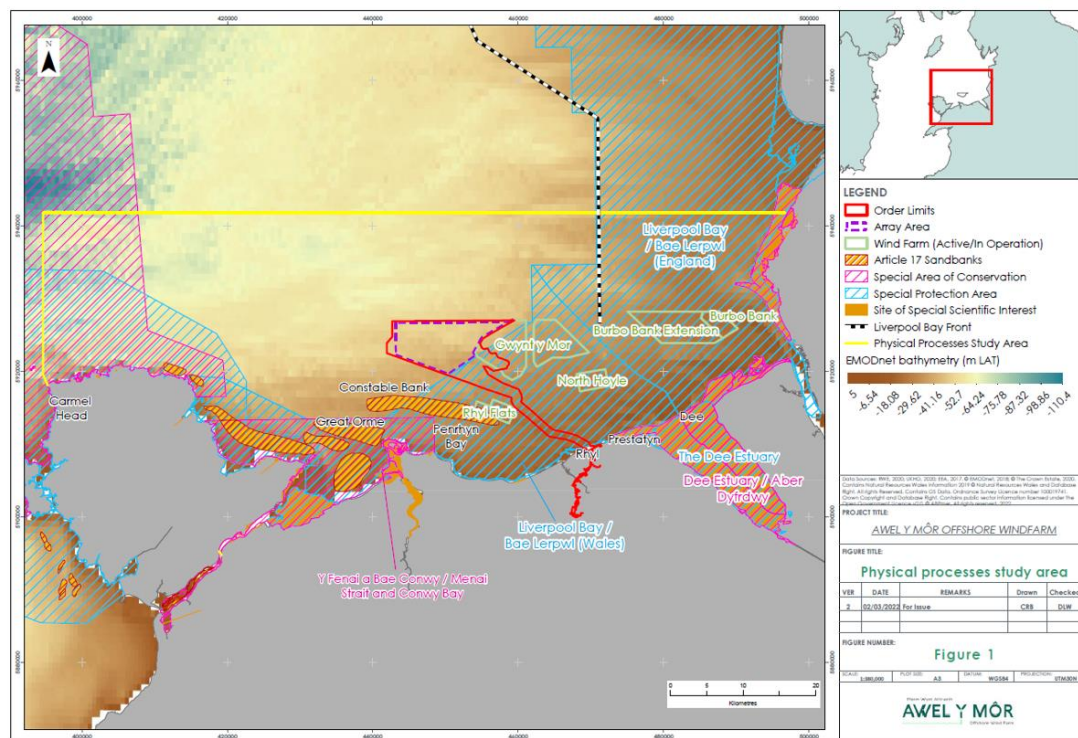
Development. The potential for cumulative, inter-related and transboundary effects is also assessed.

5.9.15.

The ES confirmed that the assessment of impacts on the marine physical environment was considered over two spatial scales:

- Far-field - which is defined as the area surrounding the turbine array and offshore export cable corridor (ECC) over which indirect changes may occur; and
- Near-field – which is defined as the footprint of the turbine array and offshore ECC (Paragraph 18 of [REP8-084]).

**Figure 15: Physical processes study area [REP8-084]**



5.9.16.

In addition to the submission of the ES [REP8-084], Volume 4, Annex 2.1 provides a physical processes baseline technical report [APP-075] and Volume 4, Annex 2.2 [APP-076] provides a model design and validation report in respect of the numeric modelling used to support the ES chapter.

5.9.17.

The Applicant confirmed that the assessment was undertaken in accordance with industry best practice and guidance. The specific guidance documents which were used to inform the assessment methodologies are listed at paragraph 6 of the ES [REP8-084].

5.9.18.

The Applicant also confirmed that the assessment considered likely naturally occurring variability in, or long-term changes to, physical processes within the lifetime of the Proposed Development due to natural cycles and/or climate change, such as sea level rise. This is important as it enables a reference baseline level to be established against which the potentially modified physical processes can be compared, throughout the lifecycle of the Proposed Development. Baseline conditions are detailed in the physical processes baseline technical report and include for the potential effects of climate change [APP-075].

## Assessment of impacts

- 5.9.19. Table 15 of the ES provides a summary of the marine and coastal physical processes assessment in respect of construction, operation, decommissioning and cumulative impacts [REP8-084]. The following construction, operation, decommissioning and cumulative residual effects were identified.

### *Construction impacts*

- Potential changes to suspended sediment concentrations, bed levels and sediment type/ character arising from construction related activities including dredging, drilling and cable installation;
- Potential changes to Constable Bank/ Rhyl Flats and designated sites owing to the combined influence of sediment removal activities e.g. dredging and sandwave clearance;
- Potential changes to Constable Bank/ Rhyl Flats, designated sites and the adjacent coast, arising from dredging/ disposal induced bed level change and associated modification of waves, tides and sediment transport;
- Potential changes to Constable Bank/ Rhyl Flats, designated sites and the adjacent coast, arising from blockage effects associated with (partially) installed infrastructure;
- Potential changes to the coast arising from Horizontal Directional Drilling (HDD) and trenching at the landfall;
- Potential for long term changes to the coast arising from the use of cable protection at the landfall; and
- Potential for long term changes to the coast arising from cable protection within nearshore areas.

- 5.9.20. For the construction phase, the assessment identified the effects for bullet points 2-7 above to be minor adverse which are not significant in EIA terms. The first bullet point relates to changes to a physical process that has the potential to indirectly impact other environmental receptors. As this is a 'pathway' the impact has been considered in the relevant ES topic chapter heading.

### *Operation impacts*

- Potential for scour of seabed sediments, including that around scour protection structures;
- Potential for changes to Constable Bank/Rhyl Flats and designated sites arising from modification of the tidal regime;
- Potential for changes to Constable Bank/ Rhyl Flats, designated sites and the adjacent coast arising from modification of the wave regime;
- Potential for changes to Constable Bank/ Rhyl Flats, designated sites and the adjacent coast arising from modification of the sediment transport regime; and
- Potential for changes to the coast arising from any modification of Constable Bank and Rhyl Flats.

- 5.9.21. For the operation phase, the assessment identified the assessment identified the effects for bullet points 2-5 above to be minor adverse which are not significant in EIA terms. The first bullet point relates to changes to a physical process that has the potential to indirectly impact other environmental receptors. As this is a 'pathway' the impact has been considered in the relevant ES topic chapter heading.

### *Decommissioning impacts*

- Potential changes to suspended sediment concentrations, bed levels and sediment type; and

- Potential changes to the coast arising from the removal of infrastructure and associated rock protection.

5.9.22. For the decommissioning phase, the assessment identified the effects for bullet points 2 and 3 above to be minor adverse which are not significant in EIA terms. The first bullet point relates to changes to a physical process that has the potential to indirectly impact other environmental receptors. As this is a 'pathway' the impact has been considered in the relevant ES topic chapter heading.

#### *Cumulative impacts*

- Potential for cumulative temporary increases in suspended sediment concentration (SCC) and seabed levels as a result of foundation installation and aggregate dredging;
- Potential for cumulative temporary increases in SSC and seabed levels as a result of foundation installation and dredge spoil disposal at licensed disposal grounds;
- Potential for cumulative changes in hydrodynamics, waves and sediment transport arising from interaction with Flagstaff Tidal Lagoon;
- Potential for cumulative changes in hydrodynamics, waves and sediment transport arising from interaction proposed Round 4 offshore wind farm projects; and
- Potential for cumulative changes in hydrodynamics, waves and sediment transport arising from interaction with new coastal defence works.

5.9.23. In respect of cumulative effects, the assessment identified the effects for bullet points 1 and 2 above relate to changes to a physical process that has the potential to indirectly impact other environmental receptors. As this is a 'pathway' the impact has been considered in the relevant ES topic chapter heading. The only exception to this would be bullet point 3 above, which was assessed as having a minor adverse residual effect which is not significant in EIA terms.

5.9.24. The impacts listed at bullet points 3 and 4 were not assessed at the Applicant stated there was insufficient information available to undertake an assessment.

#### **Other effects**

5.9.25. In respect of inter-relationship effects and marine coastal and physical processes, the Applicant stated the different physical processes studied were already inter-related. Sediment transport is dependent on currents and waves and therefore these linked processes had already been considered within the assessment. Such information on physical processes had also been used to inform other assessment topics such as offshore ornithology, benthic and intertidal ecology and fish and shellfish ecology.

5.9.26. Accordingly, assessments had been undertaken separately within these individual topic chapters and marine coastal and physical processes was therefore scoped out of the inter-related effects assessment (Section 2.14 of the ES [REP8-084]).

5.9.27. No potential for transboundary effects were identified in the ES (section 2.15 of the ES [REP8-084]).

#### **Mitigation**

5.9.28. The Applicant submitted a Schedule of Mitigation and Monitoring with the application [APP-310]. It was updated during the Examination, with the final version submitted at Deadline 8 [REP8-016]. In tabular form this sets out the proposed

mitigation commitments and securing mechanisms. In addition, the primary mitigation measures specific to marine and coastal physical processes are also specified in Table 8 of section 2.9 of the ES [REP8-084].

5.9.29. Embedded and primary mitigation measures include the following:

- Evolution of the project design – This included the routing of the offshore ECC to avoid Constable Bank and also the reduction in number of proposed wind turbines;
- Offshore cables – A Cable Specification and Installation Plan (CSIP) would be developed. The CSIP would set out appropriate cable burial depth in accordance with industry good practice, minimising the risk of cable exposure. The CSIP would also ensure that cable crossings were appropriately designed to mitigate environmental effects. The crossings would be agreed with relevant parties in advance of the CSIP submission. The CSIP would also include a detailed Cable Burial Risk Assessment to enable informed judgements regarding burial depth to maximise the chance of cables remaining buried whilst limiting the amount of sediment disturbance. This would be secured by the Marine Licence (ML) as detailed in the Marine Licence Principles (MLP) document [REP8-014];
- Offshore cables - Where practicable, cable burial would be the preferred means of cable protection, which would minimise the requirement for surface laid protection. Where burial depth could not be achieved, cable protection would be implemented, which may include mattresses or rock placement. The suitability of installing rock or mattresses for cable protection would be investigated, based on the seabed current data at the location of interest and the assessed risk of impact damage. This would be secured by the ML as detailed in the MLP document [REP8-014];
- Geophysical monitoring – Monitoring across the area in which construction is to take place, with a suitable buffer, would be determined in agreement Natural Resources Wales (NRW) post-consent. Such monitoring would be used to determine the effectiveness of cable burial and cable protection. This would be secured by Conditions 34 and 38 of the ML as detailed in the MLP document [REP8-014];
- Landfall – The use of open-cut trenching in the intertidal and HDD, or alternative trenchless techniques, would be utilised to minimise disturbance to the beach and is secured by Requirement 5 of the dDCO;
- Disposal sites – The array area would be licensed as disposal sites for the deposition of dredgings and drill arisings. All material that is to be dredged from the seabed would be disposed of within this area to ensure material is retained within the local sediment transport system;
- Scour Protection - Scour protection would be used in areas where the seabed is erodible. The aim of this approach would be to limit the volume of material that could be eroded and released into the water column. The provision of a Scour Protection Management Plan would be the ML as detailed in the MLP document [REP8-014]; and
- Decommissioning – A Decommissioning Plan would be developed to cover the decommissioning phase. As the decommissioning phase would be a similar process to the construction phase, but in reverse, the embedded mitigation measures would be similar to those for the construction phase. The provision of a Decommissioning Plan for offshore would be secured by the ML as detailed in the MLP document [REP8-014].

### **The Planning Statement**

- 5.9.30. The Applicant's Planning Statement, Section 6.6 Marine Geology, Oceanology and Physical Processes, provides a summary of the national policy of relevance to the Proposed Development. It concludes that the assessment of marine and coastal physical processes has had full regard to the relevant requirements for assessment as set out in NPS EN-1 and EN-3, and that the assessment has been carried out in accordance with those requirements. It concludes that the effects on marine and coastal physical processes should not weigh against the substantial benefits of the Proposed Development when considering the planning balance [REP8-083].

### **Statements of Common Ground**

- 5.9.31. In the NRW offshore final Statement of Common Ground (SoCG) all matters in respect of marine and coastal physical processes had been agreed with the Applicant [REP8-048].
- 5.9.32. Marine and coastal physical processes were not included within the remit of Conwy County Borough Council, Denbighshire County Council, or the Isle of Anglesey County Council. As such, these SoCG remain silent on these issues ([REP8-045], [REP7-049] and [REP8-046]).

### **Issues Considered in the Examination**

- 5.9.33. Apart from the matters raised by NRW detailed below, no other significant matters of concern or points of clarification were raised by Interested Parties during the Examination in respect of marine and coastal physical processes.

### **Secondary scour protection**

- 5.9.34. In both their Relevant Representation (RR) [RR-015] and Written Representation (WR) [REP1-080], NRW noted that the local dimensions of secondary scour would be highly dependent upon the specific shape, design, and placement of the scour protection. Such parameters are highly variable and so there is no clear quantitative method or evidence base for accurately predicting the dimensions of secondary scour. Given the uncertainty regarding the spatial extent and volume of secondary scour, NRW advised that post-construction monitoring should be considered, and that clarity was required on the most appropriate regulatory mechanism needed to secure it.
- 5.9.35. In response to the comments made by NRW [REP2-002] and to ExQ1.11.2 [REP1-007], the Applicant confirmed that they anticipated that the monitoring of secondary scour would be conducted as part of asset-protection surveys undertaken post-construction. Such a monitoring plan would be secured by the ML as detailed in the MLP document [REP8-014].
- 5.9.36. This is specified in the Marine Licence Principles document [REP8-014] and forms an agreement between NRW and the Applicant in the offshore SoCG [REP8-048].

### **ExA's consideration**

- 5.9.37. As noted above, by the close of the Examination the issue relating to secondary scour protection had been agreed between NRW and the Applicant. Whilst marine licencing for the Proposed Development sits outside of the Examination, the ExA is content that the provision of a Scour Management Plan would provide a sufficiently robust assessment and that it would be appropriately secured in the ML.

### **Dredge and Disposal of Dredge Material**

- 5.9.38. In their WR, NRW stated that it wasn't clear as to whether the offshore ECC was to be licenced as a disposal site in the ML application associated with the array area and further clarity should be provided [REP1-080].
- 5.9.39. In respect of the offshore ECC, the Applicant confirmed that an assessment of the disposal of dredged material and drill arisings had been undertaken. However, the Applicant had not currently sought to licence the disposal activity as the methods that are to be used during construction are not to be finalised until the detailed design phase post-consent. At that time, should disposal within the offshore ECC area and Gwynt y Môr offshore wind farm interlink area be required, the Applicant would apply for a further disposal licence or other required licences [REP2-002].
- 5.9.40. This approach forms an agreement between NRW and the Applicant in the offshore SoCG [REP8-048].

### **ExA's consideration**

- 5.9.41. As noted above, by the close of the Examination the approach to the potential for an additional disposal site or sites had been agreed with NRW and the Applicant. Whilst such licencing considerations sit outside of the Examination, the ExA is satisfied that the proposed approach is reasonable and provides sufficient clarity.

### **Conclusion on Marine and Coastal Processes**

- 5.9.42. The ExA examined all the Applicant's submitted assessments and considered the issues raised by NRW during the Examination. The ExA is satisfied that the Applicant has fully addressed the possible marine and coastal physical process effects associated with the construction, operation and decommissioning of the Proposed Development. Additionally, the ExA is content that the Applicant has demonstrated that effects associated with the Proposed Development could be satisfactorily mitigated and managed. Whilst such mitigation sits outside of the Examination process, the ExA is satisfied that the Marine Licence functions carried out by NRW Marine Licencing Team would adequately secure and control the mitigation measures required for the Proposed Development.
- 5.9.43. With regards to climate change considerations, the ExA is satisfied that the Applicant has identified and considered potential climate changes, such as sea level rise and such changes are fully considered within the assessment. As such, as required by NPS EN-1, the ExA considers that the Applicant has fully addressed the vulnerability and resilience of the Proposed Development to coastal change.
- 5.9.44. In respect of cumulative effects, the ExA is aware that two impacts were not considered in the assessment due to a lack of available information. The ExA accepts this reasoning and considers that other potential projects which may be forthcoming would require cumulative environmental assessments themselves which would need to take account of the Proposed Development.
- 5.9.45. Consequently, the ExA consider that the Applicant's assessment of marine and coastal physical processes fully complies with the policy aims of NPS EN-1 and EN-3 and where relevant the draft NPS EN-1 and EN-3. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of Policies SOC\_08, SOC\_09, SOC\_11 and GOV\_01 of the Welsh Marine Plan and relevant policies in PPW11.

- 5.9.46. Therefore, the ExA considers that there are no matters relating to marine and coastal processes which would weigh for or against the Order being made.
- 5.9.47. The findings in respect of marine and coastal processes will be taken into account in the overall planning balance in Volume 2, Chapter 10 of this Report.

## **5.10. MARINE - COMMERCIAL FISHERIES, SHIPPING AND NAVIGATION**

### **INTRODUCTION**

- 5.10.1. This Chapter considers the matters relating to ES Chapter 8 Commercial Fisheries [REP8-086] and ES Chapter 9 Shipping and Navigation [APP-055]. Recreational fishing (including charter angling) is assessed within the Other Marine Users and Activities ES Chapter 12 [APP-058].

### **POLICY CONSIDERATION**

#### **National Policy Statements**

- 5.10.2. The National Policy Statement for Renewable Energy Infrastructure (EN-3) (NPS EN-3) refers to commercial fisheries and fishing (paragraphs 2.6.121-2.6.136), and navigation and shipping (paragraphs 2.6.147-2.6.174).

#### **Commercial fisheries**

- 5.10.3. Paragraphs 2.6.127 to 2.6.128 of NPS EN-3 refers to commercial fisheries and fishing, and the consultation between the Applicant, statutory advisors, and representatives of the fishing industry. Detailed surveys of the effects on fish stocks of commercial interest should be sought (paragraph 2.6.129) and consultation should also occur around the potential extents of safety zones and the effects on fishing activity (paragraph 2.6.131).
- 5.10.4. Paragraph 2.6.130 refers to where there is a possibility that safety zones will be sought around offshore infrastructure, potential effects should be included in the assessment on commercial fishing.
- 5.10.5. The decision maker should be satisfied that the site selection process reasonably minimises adverse impacts on fish stocks and should consider the extent to which the proposed development occupies any recognised important fishing grounds (paragraph 2.6.132). Paragraph 2.6.133 requires the decision maker to be satisfied that that the applicant has consulted with the fishing industry on co-existence.
- 5.10.6. Mitigation proposals should result from the consultation between the Applicant and the fishing industry, and where reasonably possible be designed to bring any potential medium and long-term positive benefits to the fishing industry and commercial fish stock (paragraph 2.6.134-2.6.135).
- 5.10.7. The decision maker will need to consider the extent of disruption to the fishing industry during construction and operation and whether it has been mitigated where reasonably possible (paragraph 2.6.13).

#### **Draft NPS**

- 5.10.8. NPS dEN-3 Section 2.31 Offshore wind impacts: commercial fisheries and fishing, Paragraph 2.31.6-2.31.9 refers to the Applicant's assessment and includes consultation with statutory advisors and representatives of the fishing industry, surveys, the effects of commercial fish stock, and likely constraints on fishing activity within the Proposed Development boundary and the safety zones.
- 5.10.9. Mitigation is referenced in paragraphs 2.31.10 and 2.3.11 and involves consultation with relevant representatives of the fishing industry and statutory advisors. It states



in paragraph 2.31.11 *mitigation should be designed to enhance where reasonably possible any potential medium and long-term positive benefits to the fishing industry, commercial fish stocks and the marine environment.*

- 5.10.10. The SoS decision making approach is outlined in paragraphs 2.31.12 – 2.13.14 and relates to site selection, statutory advisors' consultations and the extents of disruption to the fishing industry.

### **Shipping and Navigation**

- 5.10.11. Paragraphs 2.6.153-2.6.154 of the NPS EN-3 refers to engagement and consultation between the Applicant and the navigation sector; and for the proposed development to co-exist with navigation uses of the sea.
- 5.10.12. Paragraph 2.6.156 requires the Applicant to undertake a Navigational Risk Assessment (NRA).
- 5.10.13. The decision maker should not grant development consent where interference with the use of recognised sea lanes essential to international navigation is caused (paragraph 2.6.161). Wider disruption to or economic loss to the shipping and navigation industries should be minimised (paragraph 2.6.162). On less strategically important shipping routes the Applicant should minimise negative impacts to As Low As Reasonably Practicable (ALARP) paragraph 2.6.13)
- 5.10.14. The continuity of search and rescue activities (paragraph 2.6.164) and effects on recreational craft (paragraph 2.6.166) should be considered; and any unacceptable risks to navigational safety following mitigation measures should result in the consent application not being granted by the decision maker (paragraph 2.6.165).
- 5.10.15. Paragraph 2.6.158 Where there is a possibility that safety zones will be sought around offshore infrastructure, potential effects should be included in the assessment on navigation and shipping. Paragraph 2.6.159 Where the precise extents of potential safety zones are unknown, a realistic worst-case scenario should be assessed. Applicants should consult the Maritime and Coastguard Agency (MCA) and refer to the Government guidance on safety zones.

### **Draft NPS**

- 5.10.16. Draft EN-3 Section 2.33 Offshore wind impacts: navigation and shipping (paragraph 2.33.1- 2.33.28). Paragraph 2.33.6 states that: *Applicants should establish stakeholder engagement with interested parties in the navigation sector early in the development phase of the proposed offshore wind farm and this should continue throughout the life of the development including during the construction, operation and decommissioning phases. Such engagement should be taken to ensure that solutions are sought that allow offshore wind farms and navigation uses of the sea to successfully co-exist.*
- 5.10.17. Paragraph 2.33.7 identifies the consultation parties, whilst paragraph 2.33.8 refers to recognised sea lanes assessment. Paragraph 2.33.9-2.33.10 refers to NRA and paragraphs 2.33.11-2.33.12 refers to safety zones. Mitigation is referenced paragraphs 2.33.18-2.33.19 and paragraphs 2.33.20 -2.33.28 refers to SoS decision making.

## **Welsh Policy Statements**

- 5.10.18. Welsh National Marine Plan (Welsh Government, 2019) Policy - SOC\_01: Access to the marine environment relate to proposals that maintain or enhance access to the marine environment are encouraged.

## **MCA and IMO Guidance**

- 5.10.19. Marine Guidance Note (MGN) 654 Safety of Navigation: Offshore Renewable Energy Installations (OREIs) – Guidance on United Kingdom (UK) Navigational Practice, Safety and Emergency Response (MCA, 2021) highlights issues that need to be taken into consideration when assessing impacts related to navigational safety and emergency response (search and rescue (SAR), salvage and towing, and counter pollution) that may arise from OREI developments.
- 5.10.20. The Revised Guidelines for Formal Safety Assessment (FSA) for Use in the Rule-Making Process (International Maritime Organization (IMO), 2018) – outlines the FSA methodology.
- 5.10.21. Marine Guidance Note (MGN) 372 Offshore Renewable Energy Installations (OREIs): Guidance to Mariners Operating in the Vicinity of UK OREIs (MCA, 2008) - highlights issues to be considered by third party mariners when planning and undertaking voyages in the vicinity of OREIs off the UK coast.
- 5.10.22. International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA) Recommendation R0139 in The Marking of Man-Made Offshore Structures (IALA, 2021) and Guidance G1162 in The Marking of Man-Made Offshore Structures (IALA, 2021) – provides recommendations and guidance for developers with regard to the marking of structures which may represent obstructions to navigation (including OREIs)
- 5.10.23. Standard Marking Schedule for Offshore Installations (Department of Energy & Climate Change (DECC), 2011)

## **THE APPLICANT'S CASE**

### **Information Submitted**

- 5.10.24. Volume 2, Chapter 8 of the ES [REP8-086] assessed commercial fisheries and Volume 2, Chapter 9 of the ES [APP-055] assessed shipping and navigation.
- 5.10.25. Submitted as part of the ES Volume 4 (Annexes 8.1, 8.2 and 9.1 respectively) are Commercial Fisheries Baseline Report [APP-109], Commercial Fisheries Consultation Record [APP-110], Navigation Risk Assessment [APP-111],
- 5.10.26. The ES also included a Safety Zone Statement [APP-297], Evidence Plan Report [APP-301] including annexes [APP-302] and [APP-303], and Fishing Liaison and Co-existence Plan [REP1-033].
- 5.10.27. The Applicant has provided a MLP [REP8-014] document that tabulates the proposed principles anticipated to inform the Marine Licences for the Proposed Development.

### **Documents submitted during Examination**

- 5.10.28. The Applicant updated numerous documents several times during the Examination and prepared an Application Errata List [REP1-004] that identified errors and

necessary corrections where revised documents were not being provided. At Deadline (D) 8 the issues in the errata list were embedded in the relevant ES Chapters (and were issued with a new document reference in the EL).

5.10.29. Other documents submitted by the Applicant and by other parties during the Examination (such as Statements of Common Ground, Hearing Action Points Responses, ExQ's Applicant's Written Responses) are listed in Appendix B – Examination Library.

5.10.30. Relevant new documents submitted by the Applicant during the Examination and the reasons for these changes, are set out in the table below:

**Table 8: New Documents**

Document Title	Reference	Reason
Fisheries Liaison and Co-Existence Plan	REP1-033	Liaison approach to commercial fishermen and charter anglers.
Rhyl Flats Restriction Zone in Proximity to Awel y Môr Cable Corridor	REP1-048	Extent of Order Limits and definition of Rhyl flats restriction zone
Table of Environmental Statement Conclusions	REP1-049	Summary of predicted and potential effects as identified in each chapter of the Environmental Statement
Applicant's Update on the Marine Licence Submission and Progress	REP8-018	Progress update on the Marine Licence submission to NRW
Marine Licence Principles	REP8-014	Proposed principles which are anticipated to inform the Marine Licences
Schedule of Mitigation and Monitoring	REP8-016	Combines previous version of Schedule of Mitigation [APP-310] and the Schedule of Monitoring [APP-311] into a single table.
Cumulative Effects Assessment Clarification Note	REP2-028	Clarification note to address comments by NRW regarding cumulative effects on marine mammal ecology and fish and shellfish ecology

### **Applicant's EIA methodology**

5.10.31. The project wide generic approach to environmental impact assessment (EIA) methodology is set out in the Environmental Impact Assessment Methodology [REP8-056] where significance of effects is based upon a matrix consisting of magnitude of impact and sensitivity of receptor. Any effect that is concluded to be of moderate or major significance within the matrix is deemed to be 'significant' in EIA terms. Each topic specific chapter outlines the EIA approach and any differences in methodology assessment and has been summarised in the relevant section within this report

## **The Applicant's Case: Commercial Fisheries**

- 5.10.32. This section examines the effects of the Proposed Development on Commercial Fisheries.

### **Consultation**

- 5.10.33. Consultation Report [APP-024] refers to local fishermen being included in consultation activities from an early stage that accords with the Fishing Liaison with Offshore Wind and Wet Renewables Group (FLOWW) 2015 guidance. The Consultation Report records there was no duty to consult with the MMO since the Proposed Development is in Welsh waters.
- 5.10.34. Consultation relevant to characterisation of the existing environment have been captured in [REP8-086] and commercial fisheries baseline technical report [APP-109]. Minutes of meetings with commercial fishermen have been captured in Consultation Report Appendices - Part 2 (E to H) [APP-026] and there is a Commercial Fisheries Consultation Record [APP-110].

### **Baseline Data**

- 5.10.35. Data sources used to inform the commercial fisheries ES assessment are summarised in [REP8-086, table 5] and include data limitations (in paragraphs 28-32),

### **Applicant's Assessment Approach**

- 5.10.36. The EIA for commercial fisheries is based upon the project-wide generic approach to assessment as set out in EIA Methodology [REP8-056] i.e. the magnitude of impact and sensitivity of receptor is assessed to determine the significance of effects.
- 5.10.37. The magnitude of impact refers to the value and vulnerability of the receptor i.e. the fishing fleet under assessment, together with the reversibility of the impact. Specific economic criteria are not set for defining value within the magnitude and are based on judgement. Definition of magnitude of impact (adverse and beneficial) for high, medium, low, and negligible is referenced in [REP8-086, table 6].
- 5.10.38. The sensitivity of receptor refers to recoverability, availability of alternative fishing grounds, operational range and adaptability of fishing fleet. Description of receptor sensitivity for high, medium, low and negligible is referenced in [REP8-086, table 7].

### **Applicant's Assessment of Impacts and Effects**

- 5.10.39. The predicted effects are referred within Commercial Fisheries [REP8-086, table 15]. The commercial fisheries identified and taken forward to assessment are potting fleet, netting fleet and dredging fleet.
- 5.10.40. During the **construction phase** the impacts identified were:
- Impact 1: AyM array area construction activities and physical presence of constructed wind farm infrastructure leading to reduction in access to, or exclusion from established fishing grounds.

- Impact 2: AyM offshore export cable construction activities and physical presence of constructed wind farm infrastructure leading to reduction in access to, or exclusion from established fishing grounds.
- Impact 3: Displacement from AyM array area leading to gear conflict and increased fishing pressure on adjacent grounds.
- Impact 4: Displacement from AyM offshore ECC leading to gear conflict and increased fishing pressure on adjacent grounds.
- Impact 5: AyM array area and offshore ECC construction activities leading to disturbance of commercially important fish and shellfish resources leading to displacement or disruption of fishing activity.
- Impact 6: Increased vessel traffic associated with AyM within fishing grounds leading to interference with fishing activity.
- Impact 7: Additional steaming to alternative fishing grounds for vessels that would otherwise fish within the AyM area.

5.10.41. During the **operation phase** the impacts identified were:

- Impact 1: Physical presence of AyM array area infrastructure leading to reduction in access to, or exclusion from established fishing grounds.
- Impact 2: Physical presence of offshore export cable and infrastructure within the AyM offshore ECC leading to reduction in access to, or exclusion from established fishing grounds.
- Impact 3: Displacement from AyM array area and offshore ECC leading to gear conflict and increased fishing pressure on adjacent grounds.
- Impact 4: AyM operation and maintenance activities leading to displacement or disruption of commercially important fish and shellfish resources.
- Impact 5: Increased vessel traffic within fishing grounds as a result of changes to shipping routes and maintenance vessel traffic from AyM leading to interference with fishing activity.
- Impact 6: Additional steaming to alternative fishing grounds for vessels that would otherwise fish within the AyM area.
- Impact 7: Physical presence of AyM array area infrastructure leading to gear snagging.
- Impact 8: Physical presence of the export cable and associated infrastructure leading to gear snagging.

5.10.42. During the **decommissioning phase** the impacts identified were:

- Impact 1: AyM array area decommissioning activities leading to reduction in access to, or exclusion from, potential and/or established fishing grounds.
- Impact 2: AyM offshore ECC decommissioning activities leading to reduction in access to, or exclusion from established fishing grounds.
- Impact 3: Displacement from AyM array area leading to gear conflict and increased fishing pressure on adjacent grounds.
- Impact 4: Displacement from the AyM offshore ECC leading to gear conflict and increased fishing pressure on adjacent grounds.
- Impact 5: Decommissioning activities leading to displacement or disruption of commercially important fish and shellfish resources.
- Impact 6: Increased vessel traffic within fishing grounds as a result of changes to shipping routes and transiting decommissioning vessel traffic from AyM array area and AyM offshore ECC leading to interference with fishing activity.
- Impact 7: Additional steaming to alternative fishing grounds for vessels that would otherwise fish within the AyM area.
- Impact 8: Physical presence of any infrastructure left in situ leading to gear snagging.

- 5.10.43. The projects considered within the cumulative effect assessment is in [REP8-086, table 13] and the impacts related to **cumulative effects** were:
- Impact 1: Reduction in access to, or exclusion from established fishing grounds.
  - Impact 2: Displacement leading to gear conflict and increased fishing pressure on established fishing grounds.
- 5.10.44. The predicted **residual effects** as set out in Commercial Fisheries [REP8-086] for the fleets of potting, netting and dredging were deemed negligible to minor adverse subject to implementation of proposed mitigation or existing commitments. In terms of EIA, they are not significant [REP8-086, table 8].
- 5.10.45. A description of the likely inter-related effects arising for the Proposed Development on commercial fisheries is provided in Inter-relationships [REP8-059]. The **inter-related effects** were deemed to be no greater than the assessment presented for each project phase which is not significant in EIA terms.
- 5.10.46. The **transboundary effects** on commercial fish stocks in waters of other states and constraints on foreign commercial activities were assessed as negligible and are considered not significant in EIA terms.

#### **Mitigation and Monitoring Measures**

- 5.10.47. The mitigation measures referenced by the Applicant's Table of Environmental Statement Conclusions [REP1-049, table 7] refers to measures set out in ES chapter Fish and Shellfish [REP8-057].
- 5.10.48. The Schedule of Mitigation and Monitoring [REP8-016] states the Fisheries Co-Existence and Liaison Plan, the Dropped Objects Plan, and the Cable Specification and Installation Plan would be secured through the Marine Licence. The MLP [REP8-014] refers to cable installation methodology and cable management plan, installed cable report involving a post geophysical survey report and an operations and maintenance plan.
- 5.10.49. The Applicant's Schedule of Mitigation and Monitoring [REP8-016] refers to geophysical monitoring of the cable burial and cable protection.

#### **Issues Considered in the Examination**

- 5.10.50. The key commercial fisheries issues considered during the Examination were:
- Baseline characterisation, consultation, and methodology
  - Commercial fish stocks

#### **Baseline Characterisation, Consultation, and Methodology**

- 5.10.51. Janet Finch-Saunders MS/AS [AS-036] highlighted the need for further dialogue with the commercial fisheries stakeholder group to address potential concerns. The Applicant in its response [REP1-001] referenced to a Fisheries Liaison Officer (FLO) and Fisheries Liaison and Co-existence Plan (FLCEP) [REP1-033].
- 5.10.52. The IoM in its Relevant Representation (RR) [RR-027] cited that the examples provided by the Applicant did not provide reassurance that the Manx commercial fishing interests have yet been adequately considered. The Applicant's response to RR [REP1-001] referenced to two meetings (one in 2020 and one in 2021) with the Isle of Man Government, and The Manx Fish Producers' Organisation inclusion in the AyM fisheries stakeholder distribution list.

- 5.10.53. The RR by Manx Fish Producers Organisation [RR-033] raised concerns that Manx vessel data had not been fully included in the presented datasets. It highlighted the fact that it had twenty-four under 15m vessels which fish for scallops in the regional study area and cumulative impact was an issue.
- 5.10.54. The Isle of Man (IoM) response to ExA's first written questions (ExQ1) [REP2-052] noted it was not possible to make a comprehensive assessment of spatial distribution of fishing activity in the area by only using Vessel Monitoring System <sup>34</sup>(VMS)> 15m data. For the assessment to be improved IoM stated VMS>12m data should be included.
- 5.10.55. The Applicant's response to RR [REP1-001] stated that IoM data had been incorporated into Marine Management Organisation (MMO) UK databases since 2011 and was included in the ES. Although British vessels ≥12 m in length have VMS on board since 2012, the Applicant recognised that MMO VMS datasets was for ≥15 m vessels only. To assist in mitigating the risk of under-representing smaller inshore vessels, site-specific marine traffic survey data comprising information on vessel movements gathered by Automatic Identification System (AISm) and radar was analysed alongside VMS data.
- 5.10.56. On a similar note, Janet Finch-Saunders MS/AS [AS-036] was concerned about missing baseline data related to the location of vessels 12m and under and that the impact pathway assessment conclusions would be unreliable. The Applicant in its response [REP1-001] referred to fisheries landings statistics sourced from the MMO including landings made by vessels of both under and over 10m length, fisheries group meetings and individual interviews with fishermen that had helped to understand fishing activity within the Proposed Development area.
- 5.10.57. The IoM SoCG [REP8-051] notes that no agreement was reached on planning and policy due to limited specific reference to IoM fishing interests. IoM acknowledged the potential for impact is relatively low due to the distance from the development and the disagreement between parties results in no material impact. Nevertheless, IoM SoCG shows baseline characterisation was appropriate for the purposes of EIA and had been agreed.
- 5.10.58. The mitigation measures outlined in [REP8-086, table 10] referenced to ongoing liaison with fishermen throughout all stages of the project and the appointment of a FLO. The FLCEP [REP1-033] states how the developer and project consultants will liaise with commercial fishermen and charter anglers.
- 5.10.59. The IoM SoCG [REP8-051] shows it is satisfied that issues raised during consultation had been given due consideration.

### **ExA's Consideration**

- 5.10.60. The Applicant refers to several reports outlining its approach to commercial fisheries consultation and the ExA considers with further engagement by FLO and FLCEP, consultation with fishing industry is adequate and satisfies the NPS EN-3.
- 5.10.61. The ExA recognises the Applicant improved its understanding of spatial activity data for vessels under 15m in length by holding fisheries group meetings (to understand fishing activity) and analysing marine traffic survey. The ExA notes that for the purpose of the EIA, the IoM agreed in its SoCG [REP8-051] that baseline

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<sup>34</sup> form of satellite tracking using transmitters on board fishing vessels

characterisation was appropriate. The ExA is satisfied that the baseline characterisation and methodology for commercial fishing is appropriate and meets the needs of NPS EN-3 and NPS dEN-3.

### **Commercial fish stocks**

- 5.10.62. Mr Carl Davies at Open Floor Hearing 1 [EV-015] highlighted the disappearance and re-emergence of particular fish stocks (such as tub gurnard) which he attributes to his experience on the effects of the construction of a nearby wind farm Gwynt y Môr. In his response to ExA first written questions (ExQ1) [REP1-098] Mr Davies predicted there would be a fall in commercial fish and shellfish catches during piling over a wide area and would extend beyond the windfarm footprint.
- 5.10.63. The Applicant response to ExA's second written questions (ExQ2) [REP5-004] stated the impact associated with construction noise and vibration would be temporary and minor adverse for fish and shellfish species. The magnitude of this impact on commercial fisheries would be low adverse (short term impact with minor loss of biological resource impact). The sensitivity of fishing fleets to this impact would be low. Disturbance to commercially important fish and shellfish resources, leading to disruption or displacement of fishing activity would be minor adverse and would be minor adverse during the construction (which in EIA terms is not significant).
- 5.10.64. The Applicant advised that recoverability of a receptor was largely informed by the Marine Life Information Network (MarLIN) sensitivity assessments. Further information on vulnerability, recoverability and importance of receptors were detailed in ES Volume 2, Chapter 6 Fish and Shellfish Ecology [REP8-057] and Clarification Note: Fish Noise Sensitivity Weighting Justification within Evidence Plan Report Appendices [APP-303].
- 5.10.65. The IoM in its response to ExQ1 [REP2-052] highlighted concerns on commercial fisheries effects as a result of impacts to earlier life stages, habitats and ecological connectivity. The Applicant in its response [REP3-002] referred to specific ES Chapter sections [REP8-086] that highlighted the potential linkage between effects on fish and shellfish resource and impacts on commercial fishing.
- 5.10.66. Janet Finch-Saunders MS/AS [AS-036] referenced to reporting changes in fish abundance and diversity in this local area since the construction of nearby offshore windfarms. Her submission highlighted a need for clarity that the development would not result in a negative impact on the livelihoods of fishers. The Applicant in its response [REP1-001] referenced to particular documents in the EL identifying trends related to commercial landings, interviews with fishermen, and factors that influence trends.
- 5.10.67. The Applicant's response to ExQ2 [REP5-004] stated that it would with NRW consider (post consent) any designs that could provide ecological enhancement with positive benefits to the fishing industry and commercial fish stocks.
- 5.10.68. The IoM SoCG [REP8-051] shows that it is satisfied with the outcomes of the EIA and mitigation measures proposed.

### **ExA's Consideration**

- 5.10.69. The ExA notes Mr Davies' concerns that there would be a fall in commercial fish and shellfish during the construction phase and Janet Finch-Saunders point regarding fish abundance and diversity in the local area. The ES recognises that



construction activities leading to disturbance of commercially important fish and shellfish resources would have a moderate adverse residual effect on potting fishery which is significant in EIA terms. These effects would be mitigated to minor adverse by incorporation of FLCEP [REP1-033] (and to be secured in the ML), co-operation agreements and associated payment. For netting fishery, the residual effect was deemed to be negligible adverse, and for dredge fishery the residual effect was minor adverse. In terms of EIA, neither are significant.

5.10.70. The ExA acknowledges that consideration will be given to the choice of cable protection material to maximise environmental biodiversity benefits whilst meeting technical needs [REP8-014, condition 20 & 21]. The Applicant confirmed it was open to enhanced scour protection for lobster (and other species) and would continue to engage with stakeholders and NRW post-consent [REP2-003].

5.10.71. The ExA notes that with relevant mitigation, the residual effects on commercial fisheries are not significant in EIA terms. However, the ExA notes that there is no commitment to implement mitigation measures that would enhance potential medium and long term benefits to the fishing industry and commercial fish stock.

### **ExA's conclusion on commercial fisheries**

5.10.72. VMS data sourced from MMO displays the value of catches by different gear types and covers UK registered vessels  $\geq 15\text{m}$  length. For vessels under 15m in length the Applicant improved its understanding of fishing activity by referencing to fisheries landing statistics, individual interviews with fishermen and fisheries group meetings. Limitations associated with data sources have been identified in [REP8-086]. Altogether, the ExA is satisfied that baseline data has been collected (with limitations identified) and is considered sufficiently robust to meet NPS EN-3.

5.10.73. The ExA considers that the consultation and mitigation measures to be secured in the ML and outlined in the MLP [REP8-014] (such as FLO and FLCEP) are adequate and satisfies NPS EN-3.

5.10.74. The ExA notes that with relevant mitigation the residual effects on commercial fisheries are not significant in EIA terms, consideration will be given to the choice of cable protection material, post consent the Applicant (with NRW) would consider designs that could provide ecological enhancement for the fishing industry and commercial fish stocks. However, a commitment (rather than consideration) to implement mitigation measures to enhance where reasonably possible any potential medium and long-term positive benefits to the fishing industry and commercial fish stocks (NPS EN-3 paragraph 2.6.135) would have been welcomed. A commitment approach for enhancement measures would also align with NPS dEN-1 paragraph 4.5.1 that aims to leave the natural environment in a measurably better state than beforehand.

5.10.75. Policy ENV-01 (Resilient Marine Ecosystems) of the Welsh National Marine Plan (WNMP) sets out that proposals should demonstrate how they contribute to the protection, restoration and/or enhancement of marine ecosystems. NRW in its SoCG offshore [REP8-048] considers the Applicant's proposed commitments in the Marine Licensing process aligns with WNMP resilient marine ecosystems policy.

5.10.76. The ExA is content that the provisions of NPS EN-3 for commercial fisheries have been met. The ExA is satisfied that the ES has considered the relevant impacts through the project stages and agrees that residual effects, inter-relationships effects and transboundary effects are not significant in EIA terms.

- 5.10.77. The ExA considers there are no matters relating to commercial fisheries which would weigh for or against the Order being made.

### **The Applicant's Case: Shipping and Navigation**

- 5.10.78. This section examines the effects of the Proposed Development on shipping and navigation.

#### **Consultation**

- 5.10.79. Consultation report [APP-024] refers to shipping and navigation and responses received to Preliminary Environmental Information Report (PEIR). The summary of consultation undertaken is outlined in [APP-055] and consists of responses to PEIR. The Navigation Risk Assessment [APP-111, table 4.4] summarises regular operators consultation. Expert Topic Group 1 shipping and navigation is referenced in Evidence Plan Report [APP-301] and minutes of meetings and shipping and navigation agreements have been logged [APP-302].

#### **Baseline Data**

Baseline data collection and description of the existing environment is included [APP-055, table 3 and paragraph 9.7].

#### **Applicant's Assessment Approach**

- 5.10.80. The Marine Guidance Note (MGN) 654 Annex 1 by the Maritime and Coastguard Agency (MCA) requires the use of International Maritime Organization (IMO) Formal Safety Approach (FSA) (2018) for assessment of impacts to shipping and navigation receptors. This assessment approach is applied within the Navigational Risk Assessment (NRA) [APP-111].
- 5.10.81. Each impact in the FSA approach is assigned a severity of consequence (SOC) and frequency of occurrence (FOC). SOC range from negligible, minor, moderate, serious, and major, and have been defined in [APP-055, table 4]. FOC range from negligible, extremely unlikely, remote, reasonably probable and frequent, and have been define in [APP-055, table 5].
- 5.10.82. For the purpose of the overarching environmental impact assessment as set out in EIA Methodology [REP8-056], the magnitude of the impact is captured within SOC, and sensitivity of receptors is captured within FOC.

The ES chapter Shipping and Navigation [APP-055, table 6] uses broadly acceptable, tolerable and unacceptable definitions. In EIA terms, broadly acceptable or tolerable are deemed to be not significant whilst unacceptable (or not within the as low as reasonably practicable) is deemed to be significant.

#### **Applicant's Assessment of Impacts and Effects**

- 5.10.83. The predicted effects are set out in Shipping and Navigation [APP-055, table 12].
- 5.10.84. During the **construction phase** the impacts identified were:
- Impact 1: Increased vessel-to-vessel collision risk between third-party vessels resulting from displacement and proximity to routing measures.
  - Impact 2: Restriction of adverse weather routing.
  - Impact 3: Increased vessel-to-vessel collision risk between a third-party vessel and a project vessel.

- Impact 4: Vessel-to-structure powered allision risk.
- Impact 5: Vessel-to-structure drifting allision risk.
- Impact 6: Reduced access to local ports.
- Impact 7: Reduction of Search and Rescue (SAR) capability due to increased incident rates and reduced access for surface / air responders.

5.10.85. During the **operation phase** the impacts identified were:

- Impact 1: Increased vessel-to-vessel collision risk between third-party vessels resulting from displacement and proximity to routeing measures.
- Impact 2: Restriction of adverse weather routeing.
- Impact 3: Increased vessel-to-vessel collision risk between a third-party vessel and a project vessel.
- Impact 4: Vessel-to-structure powered allision risk.
- Impact 5: Vessel-to-structure drifting allision risk.
- Impact 6: Reduced access to local ports.
- Impact 7: Reduction of SAR capability due to increased incident rates and reduced access for surface / air responders.
- Impact 8: Reduction in under keel clearance resultant of cable protection.
- Impact 9: Anchor interaction with subsea cables.

5.10.86. During the **decommissioning phase** the impacts identified were:

- Impact 1: Increased vessel-to-vessel collision risk between third-party vessels resulting from displacement and proximity to routeing measures.
- Impact 2: Restriction of adverse weather routeing.
- Impact 3: Increased vessel-to-vessel collision risk between a third-party vessel and a project vessel.
- Impact 4: Vessel-to-structure powered allision risk.
- Impact 5: Vessel-to-structure drifting allision risk.
- Impact 6: Reduced access to local ports.
- Impact 7: Reduction of SAR capability due to increased incident rates and reduced access for surface / air responders.

5.10.87. The projects considered within the cumulative effect assessment is in [APP-055, table 10] and the impacts related to **cumulative effects** were:

- Impact 1: Increased vessel-to-vessel collision risk between third-party vessels resulting from displacement and proximity to routeing measures.
- Impact 2: Restriction of adverse weather routeing.
- Impact 3: Increased vessel-to-vessel collision risk between a third-party vessel and a project vessel.
- Impact 4: Vessel-to-structure powered allision risk.
- Impact 5: Vessel-to-structure drifting allision risk.
- Impact 6: Reduced access to local ports.
- Impact 7: Reduction of SAR capability due to increased incident rates and reduced access for surface / air responders.
- Impact 8: Reduction in under keel clearance resultant of cable protection.
- Impact 9: Anchor interaction with subsea cables.

5.10.88. The predicted **residual effects** as set out in Shipping and Navigation [APP-055, table 12] have been assessed as broadly acceptable or tolerable. In terms of EIA these residual effects are not significant [APP-055, table 6].

5.10.89. An assessment of the **inter-related effects** is provided in Inter-relationships [REP8-059]. The effects due to vessel interaction/disturbance to marine mammal ecology

were assessed negligible to minor adverse which is not significant in EIA terms. The assessment of inter-related effects on shipping and navigation also forms part of the NRA [APP-111].

- 5.10.90. **Transboundary effects** of offshore wind farms vessel routing including to international ports were assessed within cumulative effects and were deemed as broadly acceptable (not significant in EIA terms). Individual transits associated with internationally owned or located vessels were assessed within the baseline marine traffic.

#### **Mitigation and Monitoring Measures**

- 5.10.91. The mitigation measures in [APP-055] refers to MGN 654 compliance, Cable Specification and Installation Plan (CSIP) and Cable Burial Risk Assessment (CBRA), Project Environmental Management Plan (PEMP), Marine Pollution Contingency Plan (MPCP), Emergency Response Cooperation Plan (ERCoP), marking on admiralty charts, advance notices of works and marine co-ordination, construction safety zones, temporary marking and lighting, sufficient blade clearance and guard vessels.
- 5.10.92. The Schedule of Mitigation and Monitoring [REP8-016] also includes scour protection management plan, decommissioning plan, safety zones application and geophysical monitoring of the cable burial and cable protection.
- 5.10.93. The MLP [REP8-014] refers to aid to navigation plan, cable installation methodology and cable management plan, installed cable report involving a post geophysical survey report and an operations and maintenance plan.

#### **Issues Considered in the Examination**

- 5.10.94. The key issues considered during the Examination were:
- Safety zones, spacing layout of structures and shipping routes
  - Navigational Risk Assessment

#### **Safety zones, spacing layout of structures and shipping routes**

- 5.10.95. The Applicant's response to ExA first written question [REP1-007] confirmed that Safety Zones (which are subject to separate consent from the SoS under the Energy Act 2004) may extend beyond the Order Limits.
- 5.10.96. Through its responses to ExQ1 both Trinity House [REP1-096] and Maritime and Coastguard Agency [REP1-070] were satisfied with the safety zones distances and the layout spacing principles between structures.
- 5.10.97. Trinity House in its response to ExQ1 [REP1-096] highlighted that the final layout of the turbines should comply with MCA guidance and be sufficiently far from the traffic separation scheme as to not interfere with the shipping lane.
- 5.10.98. The MCA was content that risk controls in [APP-055] and embedded mitigation in [APP-111] were appropriate for reducing risks to ALARP to all shipping routes in the area. MCA was content that the proposed project does not interfere with recognized sea lanes essential to international navigation [REP1-070]
- 5.10.99. Trinity House response to ExQ1 [REP1-096] on effects on sea lanes expects the final turbine layout to comply with MCA guidance and would be sufficiently far from traffic separation scheme as not to interfere with the shipping lane.

- 5.10.100. MCA written representation [REP1-070] highlighted grant of construction and operational safety zones would be subject to detailed justification and significant evidence in addition to the baseline NRA. The Applicant in its response to written representation [REP2-002] referred to its Safety Zone Statement [APP-297] and that in accordance with Section 95 of the Energy Act 2004, a safety zone application would be made to the SoS.
- 5.10.101. MCA expected risk controls for construction and operation phases would be secured in the marine licence conditions.
- 5.10.102. The ExA raised a number of questions throughout the Examination related to impacts arising from a construction base port facility. The Applicant's response to ExQ1 [REP1-007] referenced to impacts from project vessels to third party vessels would be managed via industry standard mitigations including marine coordination and compliance with flag state regulations (including the Convention on the International Regulations for Preventing Collisions at Sea (COLREGS)). The Applicant's response to ExA second written questions [REP5-004] that the selection of construction and operational port would be made post consent.
- 5.10.103. The Applicant in its response to ExQ1 [REP1-007] reference to vessel anchoring is not a licensable activity and is considered necessary for the purposes of maritime and navigational safety.

#### **ExA's Consideration**

- 5.10.104. The Applicant has provided refers to several reports to demonstrate engagement and consultation with the navigation sector. Trinity House SoCG [REP4-030] and Maritime and Coastguard Agency SoCG [REP7-048] confirm that they have been adequately consulted.
- 5.10.105. The Proposed Development considers potential effects worst case scenario from safety zones on shipping and navigation in [APP-055]. A safety zone statement [APP-297] outlines legislative requirements relating to applications for safety zones for offshore WTG. Whilst the construction and operational base for the port facility has not been confirmed, it is considered the vessel routes to/from the Proposed Development would reflect the EIA and would abide with the mitigation measures within the MLP [REP8-014].
- 5.10.106. The ExA considers the Proposed Development meets the needs of NPS EN-3 and can co-exist with the navigation uses of the sea and would not interfere with the use of recognised sea lanes essential to international navigation.

#### **Navigational Risk Assessment (NRA)**

- 5.10.107. The MCA in its Written Representation [REP1-070] was satisfied that the NRA was in accordance with MGN 654 and was content with the NRA conclusions that risks to navigation and SAR would be Tolerable or Broadly Acceptable. Trinity House in its SoCG [REP4-030] agree with the conclusions of the NRA.
- 5.10.108. The UK Chamber of Shipping (CoS) in its SoCG [REP4-031] did not agree with the outcome of the EIA and NRA and referred to safety concerns raised during Section 42 consultation responses (S42) and the likely impact of a powered allision incident and the risk from drifting and unpowered allision. The S42 comment however relates to an application that is separate to the DCO, the Marine Licence, that was being administered by NRW ML team.

- 5.10.109. The Applicant though replied to CoS S42 safety concerns comments in its response to Marine Licence application comments [REP3a-014; ML-CoS-3.1 and ML-CoS-3.2.]. Based on limited incidents to date the majority of the impact energy is absorbed by WTG and foundations. The Applicant noted that vessel construction standards are controlled by the Safety of Life at Sea Convention and managed by the Maritime and Coastguard Agency and its assessment was based upon most likely worst case for commercial vessels. Whilst CoS is not satisfied that its concerns have been fully considered, it recognises that the additional risks associated are not overly significant due to a low frequency of risk and that the disagreement would have no material impact on the assessment conclusion [REP4-031].
- 5.10.110. The Applicant in its response to ExQ1 [REP1-007] confirmed that although the construction port had not been defined, for the purposes of NRA it was compliant with the requirements of MGN-654.
- 5.10.111. The Applicant in its response to ExA second written question [REP5-004] referred to Shipping and Navigation [APP-055, table 12] and that impacts on receptors were considered to be within As Low As Reasonably Practicable (ALARP).
- 5.10.112. At D4, the Applicant submitted a series of marine template plans [REP4-008]. NRW in its response to ExA's third written questions [REP7-056] confirmed it was broadly satisfied with the marine template plans and noted they would require further work and may require further details prior to grant of any Marine Licence.
- 5.10.113. The MCA noted that the mitigation measures listed within Shipping and Navigation [APP-055] and risk controls for construction and operation phases would need to be captured in the Marine Licence conditions with further consultation with the MCA and other navigation stakeholders for the post-consent plans.

#### **ExA's Consideration**

- 5.10.114. The ExA notes the series of marine plans templates [REP4-008] will undergo further iterations and that the MCA requires risk controls to be captured during the ML process. Trinity House and the MCA (subject to ML conditions) are satisfied with the conclusion of the NRA whilst CoS recognise additional risks are not overly significant due to a low frequency of risk and that would have no material impact on the assessment conclusion.
- 5.10.115. The ExA is satisfied that the NRA has been conducted to a satisfactory standard having had regard to the advice from the relevant statutory advisors and considers the requirements of NPS EN-3 have been met.

#### **ExA's conclusion on shipping and navigation**

- 5.10.116. The Applicant has undertaken relevant consultation, identified recognised sea lanes, and considered safety zones. The ExA considers the Applicant has demonstrated that the continuity of search and rescue activities has been considered and its approach satisfies NPS EN-3.
- 5.10.117. Trinity House and the MCA (subject to ML conditions) are satisfied with the conclusion of the NRA. The CoS recognise the risks are not overly significant for powered allision incident, and from drifting and unpowered allision. This is due to a low frequency of risk and would have no material impact on the assessment conclusion. The ExA is satisfied that the NRA had regard to advice from statutory advisors and is adequate and meets the needs of NPS EN-3.

- 5.10.118. The Schedule of Mitigation and Monitoring [REP8-016], the ES Chapter Shipping and Navigation [APP-055], and the MLP [REP8-014] identifies proposed mitigation measures to be secured in the ML.
- 5.10.119. The ExA is content that MCA guidance and IMO guidance has been taken into consideration and that the relevant provisions of NPS EN-3 have been met. The ExA is satisfied that the ES has considered the relevant impacts through the project stages and agrees that residual effects, inter-relationships effects and transboundary effects are not significant in EIA terms. The ExA recognises that risk controls during construction and operation phases are outlined in the Marine Licence Principles [REP8-014] and would be captured in the Marine Licence conditions. The ExA therefore considers there are no matters relating to shipping and navigation which would weigh for or against the Order being made.

## 5.11. MARINE - NATURAL

### Introduction

- 5.11.1. The topic of Marine (Natural) was identified as a principal issue in the ExA's initial assessment [PD-007]. This chapter reports on any effects of the Proposed Development on benthic species and habitats, fish and shellfish.

### Policy considerations

#### National Policy Statements

- 5.11.2. Section 5.3 of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1) covers policy matters for biodiversity impacts in general. Paragraph 5.3.7 states that *As a general principle, and subject to the specific policies below, development should aim to avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives ... where significant harm cannot be avoided, then appropriate compensation measures should be sought.*
- 5.11.3. Paragraph 2.6.59 of the National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) includes fish and seabed habitats among the biodiversity considerations to which regard needs to be given. Paragraph 2.6.62 of NPS EN-3 states that *Evidence from existing offshore wind farms demonstrates that it has been possible to locate wind farms in ecologically sensitive areas where careful siting of turbines has been undertaken following appropriate ecological surveys and assessments* and paragraph 2.6.64 states *“Applicants should assess the effects on offshore ecology and biodiversity for all stages of the lifespan of the proposed offshore wind farm.*
- 5.11.4. In regard to fish, paragraph 2.6.74 of NPS EN-3 requires that the applicant should identify fish species that are the most likely receptors of impacts with respect to spawning grounds, nursery grounds, feeding grounds, over-wintering areas for crustaceans and migration routes. NPS EN-3 also considers that any consent that is granted should be flexible to allow for necessary micro siting of elements of the proposed windfarm to allow for unforeseen events, and states that applicants should assess the effects on the subtidal environment from habitat loss due to foundations and seabed preparation, predicted scour, scour protection and altered sedimentary processes (paragraph 2.6.113) and on the benthic environment from extendible legs and anchors of construction vessels and habitat disturbance in the intertidal zone during cable installation and removal (paragraphs 2.6.113, 2.6.81).

#### Draft National Policy Statement

- 5.11.5. Many parts of the Draft NPS EN-3 mirror the extant NPS EN-3 and these aspects are not repeated here. Additions are made stating that the applicant should assess the effects on the subtidal environment from potential impacts from electromagnetic fields (EMF) on benthic fauna and that applicants should assess the impacts on protected sites (paragraph 2.30.2).

#### Welsh National Marine Plan 2019 (WNMP)

- 5.11.6. Taken together policies ENV\_01, 03 and 04 of the WNMP state that the sensitivities of marine ecosystems should be taken into account when developing proposals and proposals should take into account how they will contribute to ecosystem protection, restoration/enhancement, put in place reasonable biosecurity measures to reduce



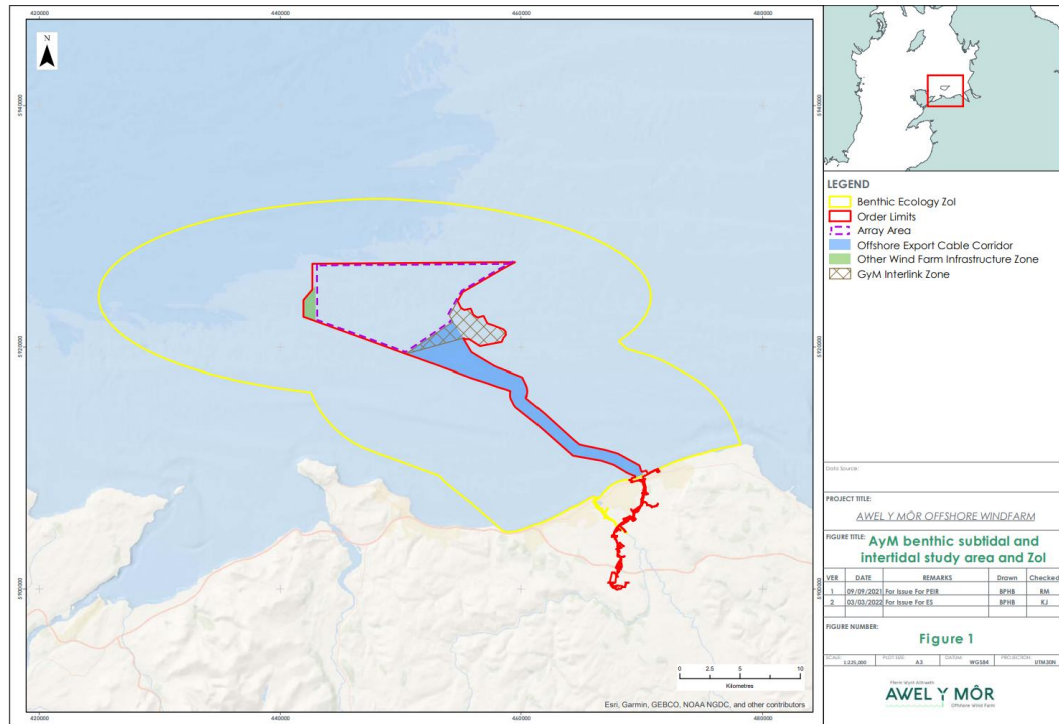
or stop the introduction or spread of invasive non-native species (INNS) and reduce marine litter.

- 5.11.7. Policy ENV\_02 states that proposals should demonstrate how they avoid or minimise the risk of introducing and spreading non-native species, and that, where appropriate, proposals should include biosecurity measures to reduce the risk of introducing and spreading such species.

### **The Applicant's case**

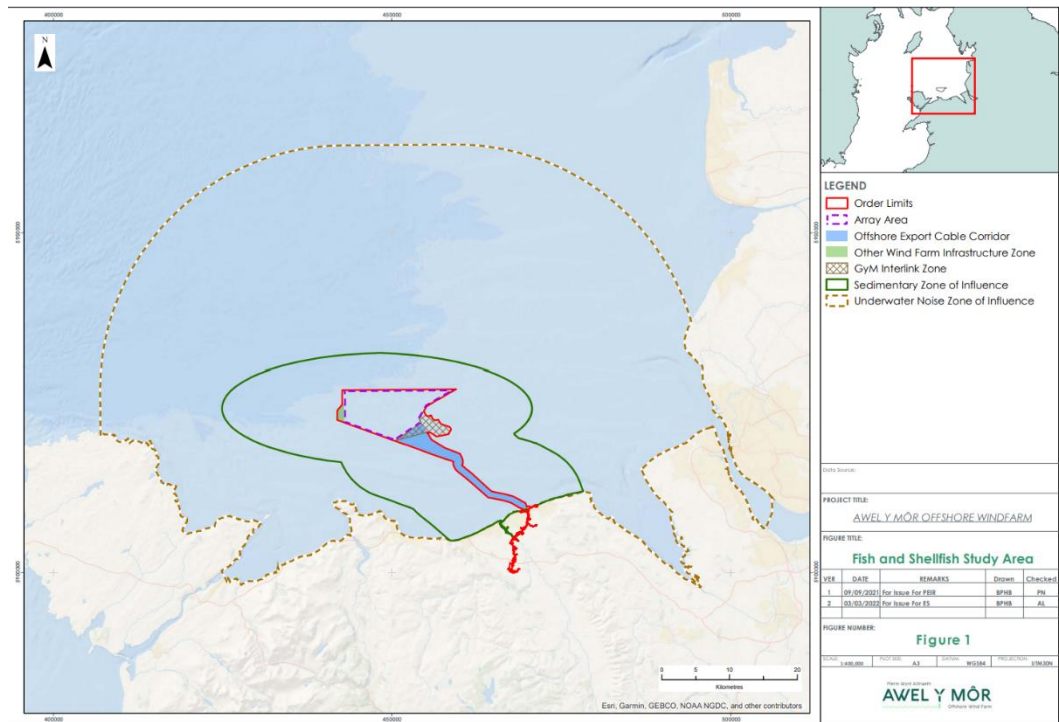
- 5.11.8. The Applicant's Case is set out in the Environmental Statement, Volume 2, Chapters 5 [APP-051] and 6 [REP8-057] (ES), supplemented by various appendices [APP-101] to [APP-103] and [APP-104] to [APP-105]. This section considers the scope and methodology of the ES, before considering the potential effects arising from the construction, operation and decommissioning of the Proposed Development.
- 5.11.9. For benthic ecology, pre application consultation with relevant parties including the Planning Inspectorate, Natural Resources Wales (NRW) and the Wildlife Trust (TWT) identified a need to assess impacts on Constable (sand) Bank, provide additional sampling locations, assess temporary increases in suspected sediment concentrations for Menai Strait and Conwy Bay Special Area of Conservation (SAC), a request for accurate figures for habitat loss, queries over cable and scour protection post decommissioning,
- 5.11.10. For fish and shellfish, various comments were raised including the need to assess the effects of EMF, direct disturbance during operation and maintenance, impacts on fish feeding, spawning effects, overwintering grounds, and migration routes, impacts on salmon and sea trout, the need for more clarification on sensitivity conclusions and fish spawning grounds, and the need to consider effects on the Isle of Man transboundary issues
- 5.11.11. For the purpose of identifying benthic ecological receptors, a Zone of Influence (Zol) was defined based on hydrodynamic modelling. The Zol extends to a maximum of 18km to the west of array area (and less to the east) and a maximum of 8.5km around the offshore export cable corridor (ECC). The Zols contain the maximum extent of measurable plumes predicted by the modelling from construction activities although the majority suspended sediment is expected to be deposited much closer to the disturbance activity. The study zone includes the intertidal area up to the Mean High Water Springs (MHWS).

**Figure 16: Benthic sub-tidal and intertidal study area (Figure 1 of [APP-051])**



5.11.12. The study area for fish and shellfish is relatively broad and is dynamic in that it varies according to the nature of the impact being studied. They are derived from expert judgement. A 36km study area for underwater noise impacts has been defined.

**Figure 17: Fish and shellfish study area (Figure 1 of [REP8-057])**



5.11.13. Embedded mitigation measures contained within the ES for fish and shellfish include project design reducing the number of wind turbine generators (WTGs) and reducing simultaneous piling, the production of a Project Environmental Management Plan (PEMP), Marine Pollution Contingency Plan (MPCP), Cable Specification and Installation Plan (CSIP) and Scour Protection Plan (SPP). The PEMP, MPCP, CSIP and SPP are also key mitigation measures for benthic ecology, along with the production of a Biosecurity Plan to control Invasive Non-native species (INNS). For EMF impacts inter-array and export cables will be buried at a target depth of 0.5 to 4m, subject to a cable burial risk assessment. Similar pollution prevention measures will also be required for decommissioning.

5.11.14. For benthic ecology, following the above mitigation measures, the below residual effects were predicted as a result of the Proposed Development:

- Construction
  - Temporary habitat disturbance – minor adverse (not significant);
  - Temporary inter-tidal habitat disturbance – minor adverse (not significant);
  - Temporary increase in suspended sediment concentrations (SSC) and deposition - minor adverse (not significant);
  - Temporary increase in SSC and deposition inter-tidal - minor adverse (not significant);
  - Direct and indirect seabed disturbances – negligible adverse (not significant);
  - Increased risk of INNS – negligible adverse (not significant); and
  - Long term habitat loss/change from the presence of foundations, scour protection and cable protection - minor adverse (not significant).
- Operation
  - Colonisation of WTGSs and scour/cable protection - minor adverse (not significant);
  - Increased risk of spread of introduction and spread of INNS - minor adverse (not significant);
  - Temporary habitat disturbance from maintenance - negligible adverse (not significant);
  - Changes to seabed habitats from effects on physical processes - negligible adverse (not significant); and
  - Indirect disturbance of benthic species from EMF- negligible adverse (not significant).
- Decommissioning
  - Temporary habitat disturbance - minor adverse (not significant);
  - Increased SSC and deposition - minor adverse (not significant); and
  - Loss of introduced habitat - minor adverse (not significant).
- Cumulative effects
  - Temporary habitat loss/disturbance - minor adverse (not significant);
  - Temporary increase in SSC and deposition - minor adverse (not significant);
  - Long term habitat loss - minor adverse (not significant); and
  - Colonisation of WTGs and scour/cable protection, including by INNS - minor adverse (not significant).

5.11.15. For fish and shellfish, following the embedded mitigation measures the below residual effects were predicted as a result of the Proposed Development:

- Construction
  - Mortality, injury, behavioural impacts and auditory masking arising from noise and vibration:
    - Mortality and moral injury – minor adverse (not significant)
    - Recoverable injury – minor adverse (not significant)
    - Hearing damage - minor adverse (not significant)
    - Behavioural impacts – minor adverse (not significant);
  - Temporary increase in SSC and deposition – minor adverse (not significant);
  - Direct damage (crushing) and disturbance - minor adverse (not significant);
  - Direct and indirect seabed disturbance – negligible/minor adverse (not significant); and
  - Impacts on fishing pressure due to disturbance – negligible adverse (not significant).
- Operation
  - Long term loss of habitat - negligible/minor adverse (not significant);
  - Increased hard substrate and structural complexity – minor adverse (not significant);
  - Impacts on fishing pressure due to displacement:
    - Reduced fishing pressure within the array area – negligible beneficial (not significant)
    - Increased fishing pressure outside the array area – negligible adverse (not significant); and
  - EMF effects - minor adverse (not significant).
- Decommissioning
  - Mortality, injury, behavioural impacts and auditory masking arising from noise and vibration - negligible/minor adverse (not significant);
  - Temporary increase in SSC and deposition – minor adverse (not significant);
  - Direct damage (crushing) and disturbance - negligible/minor adverse (not significant); and
  - Impacts on fishing pressure due to displacement:
    - Reduced fishing pressure within the array area — negligible beneficial (not significant)
    - Increased fishing pressure outside the array area – negligible adverse (not significant).
- Cumulative
  - Mortality, injury, behavioural impacts and auditory masking arising from noise and vibration - minor adverse (not significant) and
  - Temporary increase in SSC and deposition - minor adverse (not significant).

### **Issues considered in the Examination**

5.11.16. Principally from representations from Natural Resources Wales (NRW), North Wales Wildlife Trust (NWWT), and the Examining Authority's (ExA) own observations, the key issues considered in the Examination are as follows:

- Benthic ecology – general;
- INNS issues and Biosecurity; and
- Cumulative effects on fish populations, including swim speeds.

These are considered in turn below:

### **Benthic ecology - general**

- 5.11.17. The ExA noted in its first written questions (ExQ1.13.1) [PD-009] that noise impacts on benthic ecology had been scoped out and were not assessed, yet the summary of consultation did not mention the decision to scope out this issue.
- 5.11.18. In response, the Applicant stated [REP1-007] that they had not included an assessment for noise pollution on benthic ecology because it was recognised by industry that there are no likely significant effect to benthic ecology resources associated with the impact of noise from construction related activities. They noted that there is a scarcity of studies carried out with benthic receptors which constrains an assessment for noise pollution.
- 5.11.19. A query was also raised by the ExA (ExQ1.13.2) [PD-009] over whether the volume of scour protection was considered within the benthic ecology assessment. The Applicant confirmed that this had been considered in [APP-051] in relation to the area and therefore the footprint of long-term habitat loss that could occur on benthic habitat features, rather than the volume of scour protection used.

### **ExA's Consideration**

- 5.11.20. The Applicant's responses to ExQ1.13.1 and 1.13.2 are noted and accepted. The matter was not raised or commented on by statutory consultees, and the ExA note that the Statement of Common Ground (SoCG) signed with NRW for offshore matters [REP8-048] states that all matters are agreed regarding Benthic Subtidal and Intertidal Ecology. The Joint Natural Conservation Committee (JNCC) stated that they deferred to NRW on all matters in Welsh waters (aside from effects on North Anglesey Special Area of Conservation) for the proposed development [REP1-069].

### **INNS issues and Biosecurity**

- 5.11.21. NRW in their relevant representation (RR) [RR-015] stated that they considered that the magnitude of impact from the potential introduction of marine INNS should be presented as low as there is a continuous risk of INNS being introduced. They did however note that the significance of the impact would still be minor and therefore not significant in EIA terms. NRW noted the commitment from the Applicant to produce a biosecurity risk assessment to be conditioned within the Marine Licence (ML), as outlined in the Schedule of Mitigation [APP-310] and the ML Principles document [AS-023], and recommended that this should be a free-standing document
- 5.11.22. The Applicant maintained [REP1-007] that the effect should remain as negligible but that even if low this would not materially alter the conclusions of the ES. They also stated in response to ExQ1.13.6 [REP1-107] that a Marine Biosecurity Plan would be produced and kept separate to the onshore Outline INNS Management Plan.
- 5.11.23. At Deadline (D) 3, NRW [REP3-026] welcomed the Applicant's commitment that a free-standing marine biosecurity plan would be produced. NRW considered that such a document should be secured by both the ML and the dDCO, given jurisdictional overlap.
- 5.11.24. In response to a question at ExQ2.13.2 [PD-015] on this matter, the Applicant stated [REP5-004] that the dDCO included an Invasive Non-native Species Management Plan (INNSMP) ([REP2-047], later [REP8-040]) which would be approved by Denbighshire County Council (DCC) ahead of works as part of the Code of

Construction Practice (CoCP). They noted that this would cover onshore biosecurity landward of Mean Low Water Springs (MLWS) and that this would also be included in the ML.

- 5.11.25. The Applicant further noted that the Marine Biosecurity Plan would be included in the PEMP, secured as a condition in the ML(s) and would need to be agreed with NRW prior to commencement of offshore works. The PEMP would cover offshore biosecurity seaward of MHW. They therefore considered that there would be an overlap between the INNSMP and Marine Biosecurity Plan in the intertidal area but noted that the plans would focus on different aspects and therefore the overlap would be appropriately managed, and no conflict was anticipated.

#### **ExA's consideration**

- 5.11.26. Given the evidence considered during the Examination, the ExA is of the view that the risk from the potential introduction of marine INNS should be presented as low, in line with the views of NRW. However, the ExA notes that both the Applicant and NRW agreed that this would not be significant in EIA terms and that the agreed mitigation measures are appropriate. The ExA also considers that the matters of marine INNS and biosecurity would be adequately covered in the dDCO (via the CoCP) and in the ML (under the jurisdiction of NRW, and via the PEMP).

#### **Cumulative effects on fish populations, including swim speeds**

- 5.11.27. In their D1 submission, RR, NRW [RR-015] highlighted discrepancies within Table 18 of [APP-052] and also considered that the swim speed for spawning fish fleeing receptors was overstated, leading to unrealistic scenarios for sole, plaice, cod, and whiting. NRW also noted that they would wish to see further information on how the cumulative impacts to fish populations over multiple spawning seasons from underwater noise arising from consecutive construction activity from several offshore windfarm projects in Liverpool Bay had been considered.
- 5.11.28. In response to the first issue, the Applicant provided a clarification note on swim speeds [REP1-003] and noted that despite this technical query, there was no dispute on the conclusions of the ES. When considering cumulative impacts, the Applicant was of the view that there was limited information available, and that the onus should be on forthcoming projects to appropriately consider cumulative effects on fish and shellfish in line with the proposed development.
- 5.11.29. At D2 the Applicant produced a Cumulative Effects Assessment (CEA) Clarification Note [REP2-028]. This provided further information and justification for their assessment of the cumulative impacts to fish populations.
- 5.11.30. At D3, NRW [REP3-026] stated that the CEA Note [REP2-028] had explained, to NRW's satisfaction, that the worst-case scenario applied to all hearing sensitive fish, and that the conclusions of the assessment of 'minor adverse' was therefore applicable also to cod. Furthermore, the note satisfactorily clarified that the CEA conclusion did not rely on future measures which may mitigate piling noise effects but was based on best available information. NRW confirmed that the CEA Note [REP2-028] had therefore resolved their issues and that they had no further concerns regarding the CEA for fish and shellfish receptors. NRW further stated that there were no outstanding areas of disagreement on fish and shellfish receptors between the two parties.

### **ExA's consideration**

- 5.11.31. The discussions between the Applicant and NRW adequately resolved the questions raised by NRW in their RR [RR-015] and the ExA sees no reason to disagree with their conclusions. The SoCG signed with NRW for offshore matters [REP8-048] states that all matters are agreed regarding Fish and Shellfish Ecology. The Joint Natural Conservation Committee (JNCC) stated that they deferred to NRW on all matters in Welsh waters (aside from effects on North Anglesey Special Area of Conservation) for the proposed development [REP1-069].

### **ExA's Conclusions**

- 5.11.32. The ExA has reviewed the effects of the Proposed Development and the proposed mitigation measures in relation to any marine natural impacts.
- 5.11.33. Due to the nature of the subject no specific unaccompanied site visits took place to consider the matters. The issues raised by the topic were not particularly contentious during the Examination and no Issue Specific Hearings were held to consider the matters.
- 5.11.34. For benthic ecology, the ExA agrees that impacts during construction, operation and decommissioning of the Proposed Development would not be significant, due to the proposed mitigation measures provided by the PEMP, MPCP, CSIP, SPP and the Biosecurity Plan. Such measures are to be secured within the ML, which falls under the jurisdiction of NRW. While the ExA agree that residual impacts from marine INNS would be low, this remains not significant. In the intertidal area the CoCP secured in the dDCO (Requirement (R) 10) would adequately manage INNS.
- 5.11.35. For fish and shellfish, the ExA agrees that impacts during construction, operation and decommissioning of the Proposed Development would not be significant, due to the proposed mitigation measures provided by the PEMP, MPCP, CSIP, and SPP. Such measures are to be secured within the ML, which falls under the jurisdiction of NRW.

### **ExA's overall conclusion**

- 5.11.36. With the identified mitigation as secured by the imposition of R10 in the dDCO and the measures in the ML, the ExA concludes that the Proposed Development would not have a significant adverse effect on Marine Natural matters. While minor impacts have been identified, the ExA ascribes limited weight to matters relating to Marine Natural against the Order being made.

## **5.12. MARINE WATER AND SEDIMENT QUALITY**

### **Introduction**

- 5.12.1. The topic of marine water and sediment quality was included as a principal issue in the ExA's initial assessment [PD-007].
- 5.12.2. A limited number of matters arose during the Examination in respect of this topic. There is some overlap between effects on marine water and sediment quality and international and national sites and species that could be affected. Further consideration is given to these topic areas in Volume 2, Chapter 6 Habitats Regulation Assessment and Volume 1, section 5.3 Biodiversity, Ecology and Natural Environment of this Report. Matters relating to flooding and non-marine water are reported on in section 5.4 Flood Risk and Water Quality of this Report.

### **Policy Considerations**

#### **Overarching National Policy Statement for Energy (NPS EN-1)**

- 5.12.3. NPS EN-1 paragraph 5.15.1 notes that infrastructure development can have adverse effects on the water environment including coastal waters. This can involve discharges to water, cause adverse ecological effects resulting from physical modifications to the water environment and increase risk of spills and leaks of pollutants to the water environment. Paragraph 5.15.2 identifies the need for an assessment of the effects of development on water quality, water resources and the physical characteristics of the water environment.
- 5.12.4. Paragraph 5.15.5 further indicates that impacts on the water environment should generally be given more weight by the decision maker when they would have an adverse effect on the meeting of objectives under the Water Framework Directive.

#### **National Policy Statement for Renewable Energy (NPS EN-3)**

- 5.12.5. NPS EN-3 from paragraph 2.6.189 to 2.6.197 identifies the need to consider the effects of marine development in terms of water quality, waves, tides, scour, sediment transport and suspended solids. Paragraph 2.6.196 identifies that the Secretary of State should be satisfied that the methods of construction and use of materials reasonably minimise potential impacts on the receiving physical environment.

### **Draft National Policy Statements**

- 5.12.6. The policy requirements of draft NPS EN-1 and EN-3 in respect of marine water and sediment quality are largely consistent with the extant NPS statements, with no significant changes being identified.

### **Other Legislation and Policies**

#### ***The Water Framework Directive (2000/60/EC)***

- 5.12.7. The Water Framework Directive (WFD) provides the foundation for the protection of the UK's water environment. The WFD seeks to protect all elements of the water cycle and to enhance the quality of groundwater, surface waters, estuaries, and coastal waters.
- 5.12.8. The WFD is transposed and implemented within Wales through the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.



### ***The Bathing Water Directive (2006/7/EC)***

- 5.12.9. The Bathing Water Directive is the legal instrument for managing environment and reducing health risk at bathing in natural waters. Its aim is to protect human health and preserve, protect, and improve the quality of the environment. The Directive has been implemented in England and Wales via the Bathing Water Regulations 2013 (as amended).

### ***Wales National Policy***

#### ***Welsh National Marine Plan***

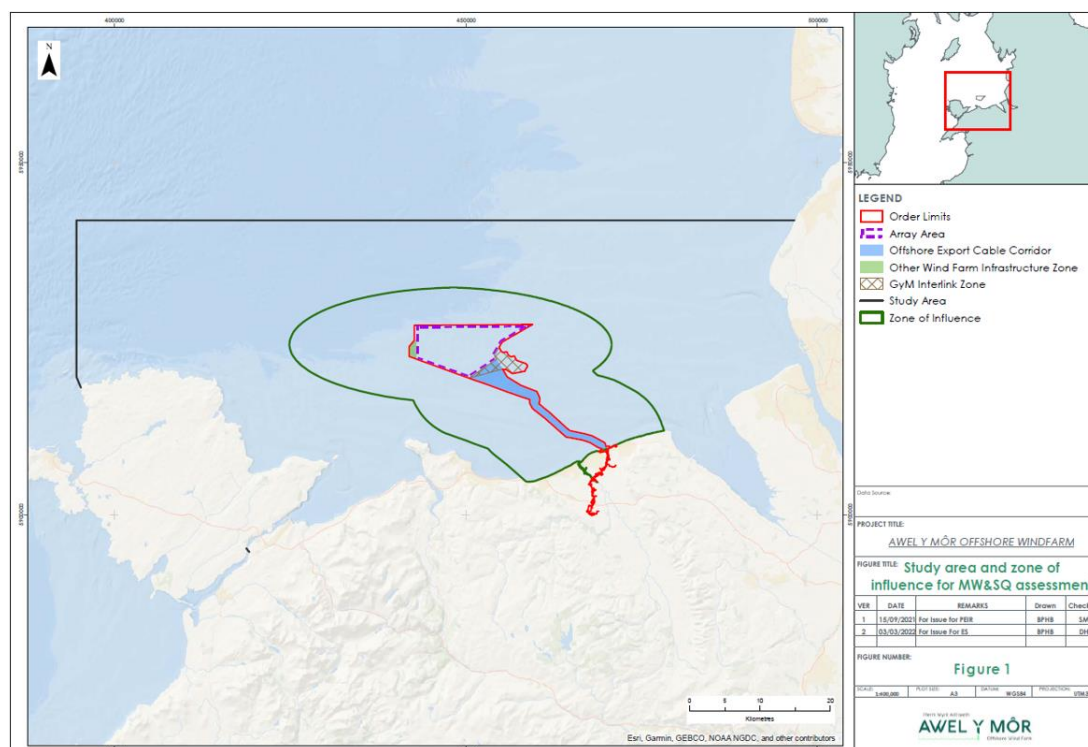
- 5.12.10. Policy ENV\_06: Air and Water Quality of the Welsh National Marine Plan states that proposals must demonstrate that they have considered their potential air and water quality impacts and should in order of preference avoid, minimise, or mitigate adverse effects. If this is not possible, a clear and convincing case for proceeding with the proposal must be delivered.

### **The Applicant's Case**

#### **Methodology**

- 5.12.11. The Applicant's assessment of effects on marine water and sediment quality is detailed in the Environmental Statement, Volume 2, Chapter 2 (the ES) [APP-049]. This ES chapter confirms the effects on marine water and sediment quality arising from the construction, operation and decommissioning of the Proposed Development. The potential for cumulative, inter-related and transboundary effects is also assessed.
- 5.12.12. The study area for the assessment included the array area, the offshore export cable corridor (ECC) up to and including the intertidal zone in Rhyl and is defined as ending at Mean High Water Springs. The ES confirmed that the study area for the assessment was broken down into three sections. Each section was assessed individually in terms of the potential impacts on marine water and sediment quality. The three sections are:
- The array area which includes wind turbine generators, offshore substation platforms and inter-array cables;
  - The offshore ECC; and
  - The seabed and water column surrounding these areas that may be influenced by changes to marine water and sediment quality (paragraph 26 of the ES [APP-049]).
- 5.12.13. To identify marine water and sediment quality receptors with the potential to be significantly affected by the Proposed Development, a Zone of Influence (Zoi) was defined based on hydrodynamic modelling undertaken by the Applicant. The Zoi was defined as an 8.5km buffer around the offshore ECC. Such a buffer encapsulates the maximum extent of measurable plumes predicted by the modelling from activities within the offshore environment. An ellipse around the array was used to define the Zoi for the activities within the array, owing to the plumes generally moving in parallel relative to the coast in less disperse plumes (paragraph 27 of the ES [APP-049]).

**Figure 18: Study area and zone of influence for marine water and sediment quality assessment [APP-049]**



- 5.12.14. The ES Chapter [APP-049] was also supported by the following documents:
- Volume 4, Annex 2.1: Physical Processes Baseline Technical Report [APP-075];
  - Volume 4, Annex 2.2: Physical Processes Model Calibration [APP-076];
  - Volume 4, annex 2.3: Physical Processes Modelling Results [APP-077]; and
  - Volume 4, Annex 3.1: Water Framework Directive Compliance Assessment [REP8-067].
- 5.12.15. The Applicant confirmed that as there are no Environmental Quality Standards for in situ sediments in the UK, survey data was analysed relative to the Centre for Environment, Fisheries and Aquaculture Science (Cefas) Action Guideline Levels for the disposal of dredged material. The levels were utilised in the assessment to determine whether further assessment was required rather than a pass or fail criterion.
- 5.12.16. In addition to the Cefas Guideline Action Levels, the Canadian Sediment quality guidelines were also utilised to provide further context, and for contaminants such as Polycyclic Aromatic Hydrocarbons (PAHs) that are not captured within the Cefas Guideline Action Levels.

### Assessment of impacts

- 5.12.17. Table 19 of the ES provides a summary of the marine water and sediment quality assessment in respect of construction, operation, decommissioning and cumulative impacts [APP-049]. The following construction, operation, decommissioning and cumulative residual effects were identified.

#### *Construction impacts*

- Deterioration in water quality due to suspension of sediments;
- Release of sediment-bound contaminants from disturbed sediments;
- Deterioration in water clarity due to the release of drilling mud; and
- Accidental releases or spills of materials or chemicals during construction.

5.12.18. For the construction phase, the assessment identified effects ranging from negligible to minor adverse. Such effects are not significant in EIA terms.

#### *Operation impacts*

- Deterioration in water quality due to suspension of sediments from scour;
- Deterioration in water quality due to suspension of sediments from operation and maintenance activities; and
- Accidental releases or spills of materials or chemicals during operation.

5.12.19. For the operation phase, the assessment identified effects ranging from negligible to minor adverse. Such effects are not significant in EIA terms.

#### *Decommissioning impacts*

- Deterioration in water quality due to suspension of sediments; and
- Accidental releases or spills of materials or chemicals during decommissioning.

5.12.20. For the decommissioning phase, the assessment identified effects ranging from negligible to minor adverse. Such effects are not significant in EIA terms.

#### *Cumulative impacts*

- Cumulative deterioration in water quality due to suspension of sediments; and
- Cumulative release of sediment-bound contaminants from disturbed sediments.

5.12.21. The assessment concluded that cumulative effects ranged from negligible to minor adverse. Such effects are not significant in EIA terms.

#### **Other effects**

5.12.22. No potential for significant (adverse or beneficial) transboundary effects were identified in the ES and therefore a transboundary assessment was not deemed necessary (paragraph 216 of the ES [APP-049]).

5.12.23. In respect of inter-related effects, potential inter-relationships between marine water and sediment quality and the below topics were identified (paragraph 215 of the ES [APP-049]):

- Fish and Shellfish;
- Benthic Subtidal and Intertidal Ecology;
- Marine Geology, Oceanography and Physical Processes; and
- Socioeconomics and Tourism.

5.12.24. However, the inter-related effects assessment found no significant (adverse or beneficial) effects (Volume 2, Chapter 14: Inter-relationships [REP8-059]).

#### **Mitigation**

5.12.25. The Applicant submitted a Schedule of Mitigation and Monitoring with the application [APP-310]. It was updated during the Examination, with the final version submitted at Deadline (D) 8 [REP8-016]. In tabular form this sets out the proposed

mitigation commitment and securing mechanism. In addition, the primary mitigation measures specific to marine water and sediment quality are also specified in table 16 of section 3.9 of the ES [APP-049].

5.12.26. Embedded and primary mitigation measures include the following:

- *Evolution of the project design* - The Proposed Development boundary selection was made following a series of constraints analyses, with the array area and offshore ECC route selected to ensure any impact on the environment and other marine users were minimised;
- *Project design* - where burial depth cannot be achieved, cable armouring would be implemented, such as mattresses or rock placement. The suitability of installing rock or mattresses for cable protection would be investigated, based on the seabed current data at the location of interest and the assessed risk of impact damage;
- *Project design* - In areas where there is potential for scour pits to develop around the foundations of structure, then scour protection will be implemented;
- *Scour Protection Management Plan (SPMP)* - In areas where there is potential for scour pits to develop around the foundations of structures, then scour protection would be implemented. A SPMP would be developed to set out the details of the protection where there is the potential for scour to develop around infrastructure. The SPMP would be secured by the Marine Licence (ML);
- *Pollution prevention* - a Project Environment Management Plan (PEMP) is proposed to be produced to ensure that the potential for contaminant release is strictly controlled. The PEMP is to be secured by the ML;
- *Pollution prevention* – A commitment to the disposal of sewage and other waste has been made, which would comply with all relevant regulatory requirements. Such measures would be secured by the ML;
- *Cable Specification and Installation Plan (CSIP)* - The CSIP is to set out appropriate cable burial depth in accordance with industry good practice, minimising the risk of cable exposure. The CSIP would also ensure that cable crossings are appropriately designed to mitigate environmental effects. The CSIP will include a detailed Cable Burial Risk Assessment (CBRA) to enable informed judgements regarding burial depth to maximise the chance of cables remaining buried whilst limiting the amount of sediment disturbance. The CSIP would be secured by the ML; and
- *Decommissioning* – A Decommissioning Plan would be developed to cover the decommissioning phase. As the decommissioning phase would be a similar process to the construction phase, but in reverse, the embedded mitigation measures would be similar to those for the construction phase. The provision of a Decommissioning Plan would be by the ML and Requirement (R) 21 and R22 of the dDCO.

### **The Planning Statement**

5.12.27. The Applicant's Planning Statement, section 6.7 marine water and sediment quality, provides a summary of the national policy of relevance to the Proposed Development. It concludes that the assessment of marine water and sediment quality has had full regard to the relevant requirements for assessment as set out in NPS EN-1 and EN-3, and that the assessment has been carried out in accordance with those requirements. It concludes that no significant effects have been identified and as such, effects on marine water and sediment quality should not weigh against the substantial benefits of the Proposed Development when considering the planning balance [REP8-083].

### **Statements of Common Ground**

- 5.12.28. In the Natural Resources Wales (NRW) offshore final Statement of Common Ground (SoCG) all matters in respect of marine water and sediment quality had been agreed with the Applicant [REP8-048].
- 5.12.29. Marine water and sediment quality was not included within the remit of Conwy County Borough Council (CCBC), Denbighshire County Council (DCC) or the Isle of Anglesey County Council; (IoACC). As such, these SoCG remain silent on this issue ([REP8-045], [REP7-049] and [REP8-046]).

### **Issues Considered in the Examination**

- 5.12.30. Apart from the matters raised by NRW detailed below, no other significant matters of concern or points of clarification were raised by Interested Parties during the Examination in respect of marine water and sediment quality.

### **Sediment bound contaminants**

- 5.12.31. In their Relevant Representation (RR), NRW disagreed with the assessment conclusions made in relation to sediment bound contaminants, and further information was requested to support the Applicant's conclusion. In addition, where data was available, NRW requested that the Applicant reports all data in the context of Cefas Action Levels [RR-015].
- 5.12.32. NRW also requested that once the updated information was received, the Report to Inform Appropriate Assessment (RIAA) should also be updated to reflect the new information.
- 5.12.33. The ExA explored the concerns raised by NRW and in response to ExQ1.7.4 [REP1-007], the Applicant confirmed that discussions had been held with NRW and a subsequent Marine Water and Sediment Quality Clarification note (the clarification note) was produced and submitted into the Examination at D1 [REP1-015]. The Applicant did not consider it necessary to update the RIAA as there were no changes which would materially influence or change the conclusions.
- 5.12.34. In their Written Representation (WR) [REP1-080], NRW confirmed that following receipt of the clarification note, a review alongside the submitted ES [APP-049] had been carried out. Subsequently, NRW confirmed they were satisfied that there was no longer a risk from contaminated sediment (paragraph 2.2.2 of [REP1-080]).

### **ExA's consideration**

- 5.12.35. The ExA notes the content of the clarification note and is satisfied with the Applicant's approach in respect of the management and mitigation of possible contaminated sediment. In addition, the ExA agrees that it was not necessary to update the RIAA in respect of this specific matter.

### **Phytoplankton and Dissolved Oxygen assessments**

- 5.12.36. In their RR, NRW raised concern regarding the approach to the assessment of impact on Phytoplankton and Dissolved Oxygen (DO). The assessments focused on the impacts of nutrients on phytoplankton and DO, where NRW were not expecting any nutrients to be released. NRW advised that the assessment should consider impacts on phytoplankton and DO in light of suspended sediments not nutrients. As such, NRW were unable to agree with the conclusions of the assessment [RR-015].

- 5.12.37. In response to ExQ1.7.5 [REP1-007], the Applicant confirmed that discussions had been held with NRW and a clarification note was produced and submitted into the Examination at D1 [REP1-015].
- 5.12.38. NRW confirmed in their WR that the discussions focused on the interactions between DO and suspended sediment, and phytoplankton and suspended sediment. Subsequently, it was concluded that there was no risk to DO and phytoplankton as a result of the Proposed Development (paragraph 2.2.3 of [REP1-080]).

#### **ExA's consideration**

- 5.12.39. The ExA notes the content of the clarification note and is satisfied that the Applicant's approach in respect of the assessment of phytoplankton and DO is appropriate.

#### **Accidental spills**

- 5.12.40. In their RR, NRW did not agree that the impact of accidental spills could be considered temporary and therefore negligible adverse in EIA terms. As it is possible for contaminants to remain in the environment for long periods, NRW considered that the impact should be assessed as medium adverse. Additionally, NRW did not agree that such impacts would be short-term as considerable time would be required to recover to baseline conditions [RR-015].
- 5.12.41. In response, the clarification note produced by the Applicant confirmed that the assessment undertaken in respect of accidental releases or spills of material or chemicals was undertaken on the basis that the provision of a Project Environmental Management Plan (PEMP) and Marine Pollution Contingency Plan (MPCP) would be secured through the Marine Licence ML implemented accordingly (paragraph 22 of [REP1-015]).
- 5.12.42. As detailed in the Marine Licence Principles document [REP8-014], it is proposed that the PEMP, and included MPCP, would be secured through Condition 12 of the ML. The Applicant further confirmed in the clarification note that the inclusion of such plans within the ML would be in line with the Integrated Pollution Prevention and Control (IPPC) Directive (Directive 2008/1/EC or equivalent at that time) and as such any potential risk is minimised to acceptable or negligible levels (paragraph 24 of [REP1-015]).
- 5.12.43. In response, NRW in their WR stated that having reviewed the justifications provided within the clarification note, alongside further consideration of the assessment and mitigation measures outlined within the ES, they were able to agree that the residual effect could be considered negligible adverse. This was on the proviso that the mitigation commitments in both the ES and the clarification note were incorporated into a PEMP and MPCP and delivered post-consent [REP1-080].

#### **ExA's consideration**

- 5.12.44. Potential regulatory overlap exists between the DCO and marine activities under section 66 of the Marine and Coastal Access Act 2009 (MACAA). NRW is the appropriate licensing authority in respect of the Marine Licence (ML), acting on delegated authority of the Welsh Ministers and the licensing function is carried out by NRW's marine licensing team (NRW MLT).

- 5.12.45. NRW MLT and the Applicant agree on an approach whereby the DCO should not contain powers or controls which also sit within the ML. If one regime of regulation must deal with something according to law (the regime under MACAA) and it can deal with it adequately (for which NRW MLT, as a competent regulatory will do so), it would lead to unnecessary complexity if another regime (the DCO regime) duplicates this.
- 5.12.46. Article 4 of the dDCO [AS-053] does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation. Article 5 of the dDCO [AS-053] does not relieve the undertaker of any requirement to obtain any further licence under Part 4 (marine licensing) of the 2009 Act for the offshore works. However, these articles relate to operate and maintain and the ExA will include an additional Requirement in the recommended DCO to address construction.
- 5.12.47. Whilst noting the marine licencing for the Proposed Development sits outside of the Examination, the ExA is satisfied with the approach adopted by the Applicant in respect of the mitigation measures secured by the ML.

### **Conclusion on Marine Water and Sediment Quality**

- 5.12.48. The ExA examined all the Applicant's submitted assessments and considered the specific concerns raised by NRW during the Examination. The ExA notes that by the end of the Examination all the initial issues raised by NRW had been addressed and agreement reached, as reflected in their final SoCG.
- 5.12.49. In respect of compliance with the requirements of the WFD, the ExA has reviewed the Applicant's WFD Compliance Assessment. The ExA is satisfied that the Proposed Development would be compliant with the objectives of the WFD and would not result in the deterioration in any designated water body or protected area and would not jeopardise the attainment of good status or the potential to achieve good ecological and chemical status.
- 5.12.50. On this basis the ExA considers that the Applicant has addressed the effects relating to possible adverse impacts in respect of meeting the environmental objectives established under the WFD, as detailed in paragraph 5.15.1 of NPS EN-1.
- 5.12.51. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of the Welsh National Marine Plan and The Bathing Water Directive (2006/7/EC).
- 5.12.52. The ExA is therefore satisfied that the Applicant has fully addressed the possible marine water and sediment quality effects associated with the construction, operation and decommissioning of the Proposed Development and has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed.
- 5.12.53. Consequently, the ExA considers that the Applicant's assessment of marine water and sediment quality and proposed mitigation measures, which would be secured in the ML, complies with the policy aims of NPS EN-1 and EN-3 and where relevant, the draft NPS EN-1 and EN-3. Therefore, the ExA considers that there are no matters relating to marine water and sediment quality which would weigh for or against the Order being made.
- 5.12.54. The findings in respect of marine water and sediment quality will be taken into account in the overall planning balance in Volume 2, Chapter 10 of this Report.

## **5.13. PUBLIC HEALTH AND NUISANCE**

### **Introduction**

- 5.13.1. This Chapter reports on the onshore and offshore noise, nuisance and health effects of the Proposed Development, taking into consideration the tests set out in the overarching National Policy Statement for Energy (NPS EN-1). Public Health and Nuisance was identified as a principal issue in the ExA's initial assessment [PD-007].
- 5.13.2. The following Chapters of the Environmental Statement (ES) are relevant:
- Chapter 10 Noise and Vibration [REP8-065];
  - Chapter 11 Air Quality [AS-030]; and
  - Chapter 12 Public Health [APP-073].
- 5.13.3. The issues considered in this Chapter are:
- Noise effects, during construction, operation and decommissioning;
  - Air quality during construction, including dust and vehicle emissions;
  - Light pollution;
  - Health impacts, including electric and magnetic fields (EMF); and
  - Common law nuisance and statutory nuisance.
- 5.13.4. The generic impacts and assessment principles relevant to this Chapter are found in NPS EN-1 in:
- Section 5.11 – noise;
  - Section 5.2 – air quality;
  - Section 5.6 – dust, odour, artificial light, smoke, steam and insect infestation;
  - Section 4.13 – health; and
  - Section 4.14 – common law nuisance and statutory nuisance.
- 5.13.5. This Chapter will cover each of the above issues in a separate section as follows:
- Policy Considerations;
  - The Applicant's Case;
  - Issues Considered in the Examination; and
  - Conclusions
- 5.13.6. The ExA's conclusions on each topic are summarised at the end of each section. The ExA's overall conclusion on public health and nuisance is provided at the end of the chapter. The findings in respect of public health and nuisance will be considered in the overall planning balance in Volume 2, Chapter 10 of this Report.

### **Noise and Vibration**

#### **Policy Considerations**

##### **Overarching National Policy Statement for Energy (NPS EN-1)**

- 5.13.7. Paragraph 5.11.4 of NPS EN-1 acknowledges that excessive noise can have wide ranging impacts on quality of life, health, and use and enjoyment of areas of value such as quiet places and areas with high landscape quality. Factors include operational noise and its characteristics, and proximity to noise sensitive receptors (NSR), quiet places and other areas particularly valued for their acoustic environment or landscape quality (NPS EN-1 paragraph 5.11.3).



- 5.13.8. Paragraph 5.11.4 of NPS EN-1 says that the applicant should identify noise sensitive premises and areas, and lists what the Applicant should include in the noise assessment, including:
- Characteristics of the existing noise environment;
  - A description of the noise generating aspects of the development, including any distinctive tonal, impulsive or low frequency characteristics;
  - How the noise environment would change, both during construction and operation and at different times of the day;
  - How the changes would affect the noise environment at noise sensitive premises and in noise sensitive areas; and
  - Mitigation measures.
- 5.13.9. Paragraph 5.11.5 of NPS EN-1 says that the noise impact of ancillary activities, such as increased traffic, should also be considered.
- 5.13.10. NPS EN-1 paragraph 5.11.6 says that operational noise should be assessed with reference to NPS EN-3 for renewables and NPS EN-5 for electricity networks for assessing technologies using relevant British Standards.
- 5.13.11. The applicant should consult the Environment Agency (EA) and Natural England (NE), or Natural Resources Wales (NRW), as necessary and in particular about assessment of noise on protected species or other wildlife. The results of any noise surveys and predictions may inform the ecological assessment. The seasonality of potentially affected species in nearby sites may also need to be taken into account (NPS EN-1 5.11.7).
- 5.13.12. Paragraph 5.11.8 of NPS EN-1 says that the project should demonstrate good design through selection of the quietest cost-effective plant available, containing noise within buildings, optimising layout, and use of landscaping, bunds and noise barriers to reduce noise transmission.
- 5.13.13. The decision maker should not grant consent (NPS EN-1 paragraphs 5.11.9, 5.11.10) unless satisfied that the proposals will:
- Avoid significant adverse impacts on health and quality of life;
  - Mitigate and minimise other adverse impacts; and
  - Where possible contribute to improvements to health and quality of life through effective management and control of noise.
- 5.13.14. The decision maker should also consider including measurable requirements or specific mitigation to ensure that noise levels do not exceed limits specified in the order.
- 5.13.15. The decision maker should also consider additional mitigation measures: NPS EN-1 paragraph 5.11.12 gives examples of engineering, layout and administrative mitigation and NPS EN-1 paragraph 5.11.13 states that the decision maker may need to consider requiring improved sound insulation to dwellings.
- National Policy Statement for Renewable Energy (NPS EN-3)**
- 5.13.16. Paragraph 2.7.54 of NPS EN-3 states that the ES should include a noise assessment as set out in Section 5.11 of NPS EN-1. However, the noise created by wind turbines in operation is related to wind speed and is different to general industrial noise and an additional assessment of this noise should be made.

- 5.13.17. The applicant's assessment of noise from the operation of the wind turbines should use ETSU-R-97, taking account of the latest industry good practice. This should include any guidance on best practice that the Government may from time to time publish (NPS EN-3 2.7.56).

#### **National Policy Statement for Electricity Networks Infrastructure (NPS EN-5)**

- 5.13.18. NPS EN-5 section 2.9 provides additional technology-specific policy guidance in respect of noise.

#### **Draft National Policy Statements**

- 5.13.19. Draft National Policy Statements EN-1, EN-3 and EN-5 as at the close of the Examination had not changed materially with respect to noise and vibration from the extant NPSs.

#### **Other Legislation and Policies**

##### **Wales National Policy**

- 5.13.20. Paragraph 5.9.20 of Planning Policy Wales (PPW) states that planning authorities should identify and require suitable ways to avoid, mitigate or compensate adverse impacts of renewable and low carbon energy development. The construction, operation, decommissioning, remediation and aftercare of proposals should consider:
- the need to minimise impacts on local communities, such as from noise and air pollution, to safeguard quality of life for existing and future generations;
  - the impact on the natural and historic environment;
  - the cumulative impact; and
  - the capacity of, and effects on, the transportation network.
- 5.13.21. Paragraph 6.7.27 of PPW says that planning authorities must consider the potential for temporary environmental risks during construction phases of a development and where appropriate require a construction management plan covering pollution prevention, noisy plant, hours of operation, dust mitigation and details for keeping residents informed about temporary risks.
- 5.13.22. Paragraph 8 of Technical Advice Note (TAN) 11, states that authorities must ensure that noise generating development does not cause an unacceptable degree of disturbance.
- 5.13.23. Paragraph 9 of TAN 11 requires the character of noise as well as its level should be taken in account from industrial developments. Advice on assessing noise is provided in Annex B: predictions of noise from highways should be prepared in accordance with *Calculation of Road Traffic Noise* (Department of Transport (DoT) and Welsh Office, 1988); detailed guidance on noise from wind turbines is contained in Planning Guidance (Wales), TAN 8, *Renewable Energy*, Welsh Office, 1996, Annex A, paragraphs A28-A38; and Detailed guidance on assessing noise from construction sites can be found in BS 5228, parts 1 to 4.

#### **Development Plan Policies**

- 5.13.24. Denbighshire County Council Local Development Plan (DCCLDP) Policy RD1, Sustainable Development and Good Design, says development should not unacceptably affect the amenity of local residents, other land and property users or characteristics of the locality by virtue of increased activity, disturbance, noise, dust,

fumes, litter, drainage, light pollution etc., and provides satisfactory amenity standards itself.

- 5.13.25. DCCLDP Policy VOE10, Renewable Energy Technologies, says development proposals which promote the provision of renewable energy technologies may be supported providing they are located so as to minimise visual, noise and amenity impacts and demonstrate no unacceptable impact upon the interests of nature conservation, wildlife, natural and cultural, heritage, landscape, public health and residential amenity.

### **The Applicant's Case**

- 5.13.26. ES Volume 3, Chapter 10 on Noise and Vibration [REP8-065] provides an assessment for the Proposed Development's noise and vibration emissions from construction, operation (including maintenance) and decommissioning of the Proposed Development, and its practical effects. The assessment is informed by:

- Volume 3, Chapter 1: Onshore Project Description [REP8-060]
- Volume 3, Chapter 9: Traffic and Transport [APP-070]

- 5.13.27. The assessment is supported by:

- Volume 5, Annex 10.1: Calibration Certificates [APP-151]
- Volume 5, Annex 10.2: Survey Results [APP-152]
- Volume 5, Annex 10.3: Construction Plant [APP-153]
- Volume 5, Annex 10.4. Noise Model outputs [APP-154]

### **Consultation and Scoping**

- 5.13.28. Pre-application consultation on the scope of the air quality assessment was undertaken through the Awel y Môr (AyM) Evidence Plan, Expert Topic Group (ETG) process, comprising discussions with DCC and Conwy County Borough Council (CCBC).

### **Methodology**

- 5.13.29. The study area for noise and vibration assessments was divided into four separate areas: the array; the landfall; the onshore export cable corridor (ECC) and the onshore substation (OnSS) (Figures 1 to 3) [REP8-065].
- 5.13.30. It was agreed with DCC that to establish the existing noise environment, baseline sound surveys would be undertaken at the nearest NSRs to the Landfall, onshore ECC and OnSS over representative daytime and night-time periods. These surveys took place in during April 2021, when the Covid-19 pandemic was still having an impact on road, rail and aircraft traffic flows. Therefore, it is considered that when traffic flows return to a 'normal' situation there is potential for these baseline sound levels to increase.
- 5.13.31. A further baseline sound survey was undertaken at locations representative of the noise-sensitive receptors to the array in January 2022. These locations were agreed with the environmental health department of CCBC. Array monitoring locations are shown in Figure 1 of ES Chapter 10 [REP8-065].
- 5.13.32. The assessment methodologies for noise and vibration set out in [REP8-065] were agreed with the ETG.

- 5.13.33. The assessment used an impact significance matrix combining sensitivity of receptor (high, medium and negligible) with magnitude of impact (high, medium, low and negligible) to arrive at the impact significance (major, moderate, minor, negligible).

## **Assessment**

### **Construction Impacts**

- 5.13.34. Construction noise and vibration assessments were undertaken for the landfall area, the cable route, OnSS and piling operations associated with the array. The assessments were undertaken in accordance with BS5228, Code of Practice for Noise and Vibration Control on Construction and Open Sites Part 1 Noise and Part 2 Vibration.

#### *Noise*

- 5.13.35. Construction noise limits were set at the identified NSRs in conjunction with the measured baseline levels and the ABC Method contained in BS5228. The location of NSRs considered for landfall construction noise are shown in Figure 12 of ES Chapter 10 [REP8-065]. The location of NSRs considered for ECC construction noise are shown in Figures 14 to 17 and the location of NSRs considered for OnSS construction noise are shown in Figure 20 of the same document.
- 5.13.36. Construction noise levels were then predicted at the identified NSRs using the Cadna/A noise modelling software and the calculation algorithms contained in BS5228, Part 1 and assessed against the specified limits.
- 5.13.37. Noise from construction traffic was also considered using the Design Manual for Roads and Bridges (DMRB).
- 5.13.38. ES Chapter 10 [REP8-065] concludes that temporary effects from noise emissions during construction, with the standard best practice mitigation measures applied [Table 49] would be of minor to major adverse significance, with moderate and major adverse being significant in EIA terms.
- 5.13.39. The identified temporary moderate or major adverse noise effects on mainly residential receptors due to the route of the ECC relate to:
- Construction activities at Landfall during weekday daytime and on Saturday afternoons;
  - Trenchless crossing activities at landfall during the evening and night-time;
  - Construction activities along the onshore ECC during weekday daytime and on Saturday afternoons;
  - Trenchless crossing activities along the onshore ECC during the evening and night-time;
  - Construction of access roads during weekday daytime and on Saturday afternoons; and
  - Construction traffic accessing the construction working area and haul road during weekday daytime, on Saturday afternoons and at night-time in a limited number of places.
- 5.13.40. Mitigation measures that were identified and adopted as part of the evolution of the project design (embedded into the project design) and that are relevant to noise and vibration are listed in Table 49 [REP8-065]. These include controlling construction hours, using low noise equipment, positioning equipment away from receptors where possible and erecting 2.4m hoardings. The Applicant has proposed additional

construction mitigation measures in Table 50 [REP8-065], to be informed by detailed design post consent and included within a final Noise and Vibration Management Plan (NVMP) [REP2-020] which would be submitted for approval by DCC as part of the final Code of Construction Practice (CoCP) [REP8-040]. The final CoCP would be secured by Requirement (R) 10 of the draft Development Consent Order (dDCO). The Applicant predicts that the additional construction mitigation would reduce magnitude, and therefore significance of effect to minor adverse and 'not significant' in EIA terms for all of the above mentioned NSRs.

#### *Vibration*

- 5.13.41. The potential impact of construction vibration from onshore sources, (the Applicant has discounted any vibration effects from Wind Turbine Generator (WTG) piling because of the large distance to the nearest receptor), such as drilling, piling and construction plant, arising from the Proposed Development, upon residential receptors was determined with reference to BS5228, Part 2, which also gives recommendations for basic methods of vibration control.
- 5.13.42. Empirical equations, contained in BS5228 Part 2, for predicting construction-related vibration were used provide estimates in terms of peak particle velocity (PPV). The consequences of predicted levels in terms of human perception and disturbance were then established through direct comparison with the BS5228 guidance vibration levels.
- 5.13.43. ES Chapter 10 [REP8-065] concludes that impacts from temporary vibration emissions during construction, with the standard best practice mitigation measures applied; would be of minor to major adverse significance, with moderate and major being significant.
- 5.13.44. The identified temporary moderate or major adverse vibration impacts on mainly residential receptors would relate to:
  - Trenchless crossing activities (including vibratory piling) at major road crossing locations during the daytime;
  - Trenchless crossing activities at Landfall and major road crossing locations during the night-time;
  - Trenchless crossing activities along the onshore ECC during evening and night-time; and
  - Cofferdam and OnSS piling operations.
- 5.13.45. Mitigation measures that were identified and adopted as part of the evolution of the project design (embedded into the project design) and that are relevant to noise and vibration are listed in Table 49 [REP8-065]. These include controlling construction hours, using low noise equipment, positioning equipment away from receptors where possible and erecting 2.4m hoardings. The Applicant has proposed additional construction mitigation measures in Table 50 [REP8-065], to be informed by detailed design post consent and included within a final NVMP [REP2-020] which would be submitted for approval by DCC as part of the final CoCP [REP8-040]. The final CoCP would be secured by R10 of the dDCO. The Applicant predicts that the additional construction mitigation would reduce magnitude, and therefore significance of effect to minor adverse and 'not significant' in EIA terms for all of the above mentioned NSRs.

## ***Operational Impacts***

### *Noise from the OnSS*

- 5.13.46. Noise generated by the OnSS was predicted at the nearest residential NSRs using the Cadna/A noise modelling software and the methodology in ISO 9613-2:1996, Acoustics – Attenuation of Sound during Propagation Outdoors. It was assessed at any identified residential receptors in accordance with BS4142 (Methods for Rating and Assessing Industrial and Commercial Sound). Sound levels associated with the operation of the OnSS were compared to measured daytime and night-time background and, where applicable, the absolute sound levels at the closest receptors.
- 5.13.47. A subjective opinion of the potential acoustic features was also included, and this considered corrections for tonal, impulsive and/ or intermittent characteristics.
- 5.13.48. The results of the assessment were used to determine whether noise levels generated by the operation of the OnSS would lead to adverse impacts at the nearest NSRs.
- 5.13.49. For commercial receptors, noise levels from the OnSS were assessed in accordance with The Institute of Environmental Management and Assessment (IEMA) 'Guidelines for Environmental Noise Impact Assessment'.
- 5.13.50. ES Volume 3, Chapter 10: Noise and Vibration [REP8-065] concludes that the permanent impact of noise from the OnSS, with the standard best practice mitigation measures applied, would be of minor adverse significance, (during the day), which is not significant, to moderate adverse significance (during the night), which is significant in Environmental Impact Assessment (EIA) terms.
- 5.13.51. With further mitigation measures, including the use of low noise or screened equipment (Table 72 of [REP8-065]), secured by R10 of the dDCO as part of the final NVMP, the Applicant predicts that the magnitude of impact would reduce resulting in a level of effect of a permanent minor adverse which is not considered significant in terms of the EIA Regulations.

### *Noise from the Array*

- 5.13.52. The nearest turbine associated with the array would be located approximately 10.6 km from Penrhyn Bay in Conwy. Therefore, the noise and vibration study area for the array extends from Penrhyn Bay to the nearest WTG locations.
- 5.13.53. Noise predictions for operational offshore WTGs fall outside the scope of the Institute of Acoustics (IoA) Good Practice Guide (GPG) to ETSU-R-97, The Assessment and Rating of Noise from Wind Farms. This is due to the large separation distances across reflective surfaces resulting in cylindrical spreading. However, the noise limits within ETSU-R-97 are used.
- 5.13.54. Predictions of operational noise from the array were therefore undertaken in accordance with the propagation models presented in the Danish regulations which include a correction for multiple reflections.
- 5.13.55. Calculations were performed for the two indicative WTG scenarios considered in the ES, up to 34 of the largest possible WTGs with a Rotor Diameter (RD) of up to 306m and a hub-height of 179m (Maximum Design Scenario (MDS) A) and up to 50 smaller WTGs with a RD of up to 250 m and a hub-height of 157m (MDS B).

- 5.13.56. The assessment indicated that the absolute lower fixed limits set by ETSU-R-97 of 35 dB LA90 at the closest receptor to the development, i.e. the simplified assessment limit as stated in ETSU-R-97, would not be exceeded. Therefore, operational noise from the WTGs was not considered further.

#### *Vibration*

- 5.13.57. The Applicant concluded that a detailed assessment of the effects of operational vibration from the OnSS was not required because the predicted vibration levels from any of its moving parts were not capable of generating a fraction of the energy required to make them perceptible by the nearest receptor 275m away [REP8-065].

#### ***Decommissioning Effects***

- 5.13.58. The Applicant's position with respect to the environmental effects of noise and vibration at decommissioning is that they are not expected to be greater than those for the construction stage of the Proposed Development [REP8-065]. In addition, there is the potential for onshore infrastructure including the cables, to remain in-situ, which would see a reduction in impacts and resulting level of effect and significance in comparison to the assessment of construction effects.

#### ***Transboundary Effects***

- 5.13.59. The Applicant concluded that there would be no transboundary noise or vibration effects [REP8-065].

#### ***Cumulative Effects***

- 5.13.60. The Applicant assessed the cumulative noise and vibration effect of the Proposed Development alongside other proposed developments and activities. The cumulative MDS is described in Table 8 [REP8-065].
- 5.13.61. After considering likely concurrent construction operations and the availability of formal noise and vibration assessment data, only a gas fired power station (GFPS) which received planning consent in 2018 and is to be located on land to the north of the electricity sub-station on TRB Drive, St Asaph Business Park (SABP), was considered in the cumulative noise and vibration assessment.
- 5.13.62. The assessment concluded that the cumulative rating levels (and thus of the impact of the addition of the OnSS) would not result in any greater level of effect on the nearest NSR than that of the GFPS solely.

#### **Statements of Common Ground**

- 5.13.63. In the final Statements of Common Ground (SoCG) it was confirmed that DCC and NRW had agreed all issues in respect of noise and vibration ([REP7-049] and [REP8-049]).
- 5.13.64. With regard to noise from offshore construction, CCBC agreed all issues in the final SoCG [REP8-045] except the threshold for offshore construction noise in onshore wind weather conditions, between the hours of 2300 and 0700.

## Issues Considered in the Examination

### Written Representations

- 5.13.65. Of the 60 Relevant Representations (RRs) received, 13 made some reference to noise and vibration both during construction and operation of the Proposed Development.
- 5.13.66. CCBC in its RR [RR-002], was concerned about the impacts arising from construction works on the amenity of residents and visitors in Llandudno, pointing out that only one sensitive noise receptor was identified in the Preliminary Environmental Information Report (PEIR), and no background noise level surveys had been carried out. The Council was also concerned that draft requirements of the dDCO lacked clarity in respect of the maximum noise levels permitted, the periods during which they would apply and the location of measurements.
- 5.13.67. Genesis Town Planning on behalf of Memoria Ltd [RR-031], raised concerns that the proximity of Glascoed Road and its use by construction traffic for the construction of the OnSS, would result in harm to the tranquil setting of its client's Denbighshire Crematorium and Memorial Park (the Crematorium) that no amount of noise mitigation or landscaping would overcome. It suggested that the *most sensible solution* would be to utilise a construction and haul road serving the OnSS site either from the north, close to interchange with the North Wales Expressway (A55), or alternatively from the east through SABP where existing commercial activities exist. In addition, it also raised concerns with respect to potential noise from a proposed permanent maintenance access route along the eastern edge of the Crematorium site.
- 5.13.68. Glyndwr University on behalf of Glyndwr Innovations Limited [RR-035] raised concerns around ground-born low frequency (sub-micron level) vibrations from the Proposed Development. It considered these would include, but not be limited to, the development of the OnSS and ECC in close proximity to Glyndwr Innovations Limited's Optic Technology Centre on SABP and would render machinery used within the building for its processes unusable. The RR considered that the EIA, Consultation Report or draft NVMP did not adequately address previous consultation concerns or options for mitigation previously discussed with the Applicant.
- 5.13.69. The RR submitted by Sustainable Cymru [RR-036] raised concerns about the potential impact of noise from the operation of the OnSS on wildlife.
- 5.13.70. RRs [RR-044] to [RR-051] submitted by Rostons on behalf of several private landowners referred to potential noise from Cwybr Fawr construction compound and construction compounds at Fferm.
- 5.13.71. Mr Griffiths [RR-054] also raised the issue of noise from OnSS transformers.
- 5.13.72. The Applicant commented on all RRs at D1 [REP1-001].

### Local Impact Report (LIR)

- 5.13.73. DCC submitted a LIR at D1 [REP1-056].
- 5.13.74. DCC had no objection to the proposed OnSS operational noise limits but considered that the wording of R18 (relating to the control of noise) of the dDCO needed to be



amended to provide protection to all properties in the vicinity and to set out procedures should noise complaints be received.

- 5.13.75. DCC did not agree with the construction hours set out in R15 of the draft DCO of 0700 to 1900 Monday to Saturday with no working on Sundays and Bank Holidays, particularly at landfall. This was because of concerns that properties in the vicinity of this location had already been exposed to prolonged periods of construction disturbance because of construction of the East Rhyl coast defence scheme, with disruption from other consented major coastal defence schemes likely over the next 1 to 2 years.
- 5.13.76. As a result, because DCC considered it *unreasonable to expose residents to prolonged, cumulative construction disturbance at unreasonable times of the day* and it proposed limiting construction activity to 0800 to 1800 Monday to Friday and 0800 to 1300 Saturdays with no working on Sundays and Bank Holidays.
- 5.13.77. In addition, DCC considered the proposed wording of R15 (2) of the draft DCO was too vaguely worded and could allow for any work at the landfall and any works the Applicant considers to be 'time-critical' to be carried out without any restriction on hours of working.
- 5.13.78. DCC proposed that the requirement should be more precise on the identification of time-sensitive construction activities and require a minimum notice period of one week.
- 5.13.79. The Applicant commented on the LIR at D2 [REP2-004]. Such comments are considered in the discussion below.

#### **Written Questions**

- 5.13.80. The ExA studied all the RRs and put written questions to the Applicant and other parties [PD-009], on compliance with Welsh legislation and policy; the methodology for assessing noise and vibration effects; baseline monitoring; the outline Noise and Vibration Management Plan (oNVMP); working hours; the outline Code of Construction Practice (oCoCP); and the effect of vibration on businesses at SABP.
- 5.13.81. The ExA held a hearing (ISH3) [EV-018] in respect to the proposed OnSS and related matters including noise and vibration, after considering: the responses received at D1 to the ExA's first written questions, from the Applicant [REP1-001], CCBC [REP1-054] and NRW [REP1-080]; the LIR submitted by DCC at D1 [REP1-056]; the Applicant's comments on the LIR at D2 [REP2-004] and the Applicant's comments on responses received to the ExA's first written questions [REP2-003].
- 5.13.82. In the event, due to unforeseen complications with translation services, there was insufficient time at ISH3 to consider noise and vibration matters. A Rule 17 letter [PD-014] was therefore used to ask the Applicant questions on: working hours; out of hours working, requiring the advance notice and approval of the local planning authority; protection from noise for residential properties in the vicinity of the OnSS; and the mechanism for amending working hours at specific locations in the oCoCP. The ExA also put further written questions to the Applicant and Glyndwr University, on behalf of Glyndwr Innovations Limited [PD-015], regarding the potential impact of noise and vibration on the latter's business located on SABP.
- 5.13.83. The ExA considered the Applicant's response to the Rule 17 letter [REP4-005] and ExA's further written questions [REP5-004] and decided to hold a hearing (ISH4)

[EV-020], dealing with matters relating to offshore environmental effects and the dDCO.

#### **Issue Specific Hearing (ISH4)**

- 5.13.84. The issues discussed in the hearing were:
- R4 of the dDCO [AS-053], and the threshold for offshore construction noise in onshore wind weather conditions, between the hours of 2300 and 0700; and
  - R15 of the dDCO [AS-053], construction hours and agreement or notification of incidences of 24 hours HDD working.
- 5.13.85. With regard to R4, the Applicant stated its position that the threshold for offshore construction noise in onshore wind weather conditions, between the hours of 2300 and 0700, should be 50 dB(A), Leq T, calculated in accordance with BS5228.
- 5.13.86. CCBC maintained its position that it considered the threshold level of 50 dB(A) is too high when considering still night-time periods in Llandudno, particularly during periods when background noise levels are relatively low. It proposed, based on the methodology for assessing static, operational equipment as set out in BS4142, a threshold 5 dB(A) above back-ground level.
- 5.13.87. This issue remained unresolved at the at the end of the examination as noted in the final SoCG between the Applicant and CCBC [REP8-045]. However, CCBC did agree that the outline Offshore Piling Noise Monitoring Plan (oOPNMP) [REP6-041], which includes proposals for communication with local residents, would reduce the likelihood of complaints.
- 5.13.88. Following comments in its LIR [REP2-004], DCC had agreed with the Applicant, reduced construction hours (no significant noise generating construction activities outside of the hours of 0800 and 1800 Monday to Saturday) in the vicinity of the landfall, prior to the hearing, due to its concern about the number of schemes in that location including coastal defence works.
- 5.13.89. At the hearing, the Applicant confirmed that provisions for reduced working hours at the landfall had not been included in R15 of the dDCO as they were better located within the Onshore Construction Method Statement (OCMS) [REP7-020]. The Applicant further noted that the oCoCP would need to be agreed with DCC prior to works taking place and would work in conjunction with the dDCO requirements.
- 5.13.90. The Applicant also clarified that 24-hour working would be included in the dDCO and would include notification to DCC. Approval would not however be required as the assessment of trenchless crossing had assumed that there would be 24-hour working at certain locations such as crossing the river Clwyd and landfall trenchless crossings. The Applicant advised that the oCoCP would be corrected on this point.
- 5.13.91. In response to a query from the ExA regarding half-day working on Saturdays, the Applicant advised that the impact of such a reduction had been assessed and that, further to this, additional comfort had been provided in the oCoCP.
- 5.13.92. An official from Flintshire County Council (FCC) representing DCC at the hearing did not comment on the issues discussed. However, DCC subsequently confirmed its agreement with the Applicant's position, in its final SoGC [REP7-044] with the Applicant.

### **ExA's Consideration**

5.13.93. The ExA undertook Unaccompanied Site Inspections (USI), USI2 on 1 to 4 August 2022 [EV-003], USI3 on 5 to 7 September 2022 [EV-004a], USI6 on 27 February 2023 and an Accompanied Site Inspection (ASI) on 6 December 2022 which enabled it to view on foot the land and properties along the cable route, from landfill to the proposed substation and National Grid infrastructure at Bodelwyddan.

5.13.94. The key issues raised in the examination were:

- The potential effect of noise from construction traffic on the Crematorium;
- The potential effect of noise and vibration on Glyndwr Innovations Ltd;
- The potential effect of noise from the operation of the OnSS;
- The potential effect of noise from Cwybr Fawr and Fferm construction compound;
- R4 of the dDCO and the threshold for offshore construction noise; and
- R15 of the dDCO, relating to construction hours.

#### ***The potential effect of noise from construction traffic on Denbighshire Crematorium and Memorial Park***

5.13.95. The ExA notes that the Applicant responded to the original RR received from Genesis Town Planning on behalf of Memoria Ltd [RR-031] at Deadline 1 (D1) [REP1-001] and that no response or further representations were received on the issue.

5.13.96. The ExA is satisfied with both the methodology and assessment of noise and vibration during the construction and operation of the Proposed Development [REP8-065]. The assessment concluded that construction noise is likely to have a minor adverse level of effect, that would not be significant in EIA terms on users of the Crematorium. In addition, the Applicant has prepared an oNVMP as part of the oCoCP secured by R10 of the dDCO, that would control any residual effects, the final version of which would be agreed by DCC prior to the start of construction.

5.13.97. The ExA is therefore satisfied that the Applicant has addressed this issue and there would be no significant harmful effects on the Crematorium and its users.

#### ***The potential effect of noise and vibration on Glyndwr Innovations Ltd***

5.13.98. The ExA notes that the Applicant responded to the original RR received from Glyndwr University on behalf of Glyndwr Innovations Ltd [RR-035] at D1 [REP1-001] and that no response or further representations were received on the issue. In addition, the ExA requested further information from the Applicant and Glyndwr University on behalf of Glyndwr Innovations Ltd, in ExQ1 [PD-009] and ExQ2 [PD-015]. A response was only received from the Applicant on both occasions [REP1-007 and REP5-004].

5.13.99. The ExA is satisfied with both the methodology and assessment of noise and vibration during the construction and operation of the Proposed Development [REP8-065]. The assessment concluded that any trenchless crossing technique operations are likely to have a minor adverse level of effect, that would not be significant in EIA terms, on users of SABP. In addition, the Applicant has prepared an oNVMP as part of the oCoCP secured by R10 of the dDCO, that would adequately control any residual effects, the final version of which would be agreed by DCC prior to the start of construction.

- 5.13.100. The ExA is therefore satisfied that the Applicant has addressed this issue and there would be no significant harmful effect on the operation of Glyndwr Innovations Ltd.

***The potential effect of noise from the operation of the OnSS***

- 5.13.101. The potential effect of noise from the operation of the OnSS was raised by Sustainable Cymru [RR-036] with respect to wildlife and Mr Griffiths [RR-54] in relation to human receptors. The ExA notes that the Applicant responded to both at D1 [REP1-001]. Mr Griffiths submitted a further representation [REP8-133] towards the end of the examination, raising his concerns that previous submissions including the issue of noise from the OnSS had not been addressed.
- 5.13.102. With regard to the effect of noise from the operation of the OnSS on wildlife, this issue is dealt with in section 5.3 Biodiversity, Ecology and Natural Environment of the Report.
- 5.13.103. With regard to human receptors, the ExA notes that an assessment of the impact of noise from the OnSS on human receptors was carried out. A summary of the findings is contained in Table 80 of [REP8-065]. The assessment concluded that noise from the OnSS is likely to have a minor adverse effect, following mitigation, that would not be significant in EIA terms. In addition, maximum noise levels at the facades of residential properties, are secured by R18 of the dDCO [AS-053]. Further, the ExA notes that in the final SoCG, DCC has agreed all noise and vibration issues.
- 5.13.104. The ExA is therefore satisfied that the Applicant has addressed this issue and that there would be no significant harmful effects on residential receptors during the operation of the OnSS.

***The potential effect of noise from Cwybr Fawr and Fferm construction compounds***

- 5.13.105. The ExA notes that the Applicant responded to the original RR received from Rostons on behalf of several private landowners [RR-044 to RR-051] at D1 [REP1-001]. Rostons responded on behalf of the landowners to ExQ1 [AS-045] which contained questions for the Applicant on construction noise but did not make specific reference to it.
- 5.13.106. The ExA is satisfied with both the methodology and assessment of noise and vibration during the construction and operation of the Proposed Development [REP8-065]. The assessment concluded that noise and vibration from construction operations are likely to have a minor adverse level of effect, following the implementation of mitigation, that would not be significant in EIA terms. In addition, the Applicant has prepared an oNVMP as part of the oCoCP secured by R10 of the dDCO, that would control any residual effects, the final version of which would be agreed by DCC prior to the start of construction.
- 5.13.107. The ExA is therefore satisfied that the Applicant has addressed this issue. There is likely to be a level of noise and disturbance for Cwybr Fawr residents, but with mitigation there would be no significant harmful effects.

***R4 of the dDCO and the threshold for offshore construction noise***

- 5.13.108. The ExA notes that this issue was unresolved at the end of the examination as set out in the final SoCG between the Applicant and CCBC [REP8-045]. The Applicant's position remained unchanged, that the threshold for offshore construction noise in

onshore wind weather conditions, between the hours of 2300 and 0700, should be 50 dB(A), Leq T, calculated in accordance with BS5228. CCBC was still of the view that the threshold level of 50 dB(A) is too high when considering still night-time periods in Llandudno, particularly during periods when background noise levels are relatively low and based on the methodology for assessing static, operational equipment as set out in BS4142, a threshold 5 dB(A) above back-ground level should be set.

- 5.13.109. The ExA has considered the information in the RR, the Applicant's response to the RR, the responses to the ExA's written questions, the information provided during and after ISH4 and the position statements in the final SoCG.
- 5.13.110. The ExA notes that BS5228 is the only British Standard specifically for controlling noise and vibration from construction sites such as the Proposed Development. BS4142, Methods for rating and assessing industrial and commercial sound, provides a method of assessing the impact of a source of industrial or commercial sound including sound from: industrial and manufacturing processes fixed installations the loading and unloading of goods. In addition, the ExA notes that while CCBC maintains BS4142 should be used it *appreciates that the noise assessment has been undertaken correctly using BS5228*. Further, CCBC agrees that the oOPNMP which includes proposals for communication with residents, would reduce the likelihood of complaints.
- 5.13.111. The ExA is therefore satisfied that the Applicant has used the correct methodology for assessing the effects of noise from offshore construction and that no amendments to R4 of the dDCO are necessary.

***Requirement 15 of the dDCO, relating to construction hours***

- 5.13.112. The ExA notes that following concerns highlighted in its LIR [REP2-004] about the original construction hours (0700 to 1900, Monday to Saturday with no working on Sundays or Bank Holidays) set out in R15 of the dDCO, DCC has agreed reduced working hours with the Applicant. The reduced working hours (no significant noise generating activities outside the hours of 0800 and 1800 Monday to Saturday) are only in the vicinity of landfall (including Ffrith beach and associated TCC's represented by Works numbers 3, 3A, 4, 5, 6, 6A, 7 and 7A) and contained in the oCoCP [REP7-018] rather than R15 of the dDCO [AS-053].
- 5.13.113. During the course of ISH4 [EV-020], the ExA questioned the Applicant on why:
- Limiting significant noise generating construction activities at landfall to between 0800 and 1800 had not been included in the Requirement itself but the oCoCP;
  - It was decided not to apply this restriction to other onshore locations; and
  - It was decided not to restrict working hours on a Saturday, the ExA having noted that working hours on other similar offshore wind projects, such as East Anglia 2, with associated onshore works of long duration and incidents of 24 hour working for operations such as HDD had adopted working hours of 0700 to 1900, Monday to Friday and 0700 to 1300 on Saturdays with no working on Sundays or Bank Holidays.
- 5.13.114. With regard to reduced working hours at landfall, the Applicant responded that *provisions for reduced working hours at the landfall had not been included in the dDCO as they were better located within the Construction Method Statement (CMS) (an appendix of the CoCP) and the re-drafting of Requirements could cause a degree of complexity should different areas have different restrictions* [REP8-007].

- 5.13.115. With regard to the application of these working time restrictions to other onshore locations the Applicant stated that *DCC had expressed fewer concerns about works in other areas* [REP8-007].
- 5.13.116. Finally, about reduced working hours on Saturdays, the Applicant responded that the need for such a reduction was considered EIA and *additional comfort had been provided in the CoCP* [REP8-007].
- 5.13.117. DCC's representative at ISH4, an officer from FCC did not comment on the Applicant's response.
- 5.13.118. The ExA has considered all the information entered into the examination in relation to this issue, including RRs, DCC's LIR [REP1-056], other written representations and the Applicant's written and oral responses to questions from the ExA regarding it.
- 5.13.119. The ExA notes the final SoCG confirmed that DCC had agreed all issues in respect of noise and vibration including working hours in the vicinity of landfall [REP7-049]. However, the ExA also notes that the Council had outstanding concerns about other areas and the Applicant did not raise any concerns with regard to reduced working hours on a Saturday with respect to lengthening the construction programme or the financial viability of the Proposed Development.
- 5.13.120. For certainty and precision the ExA therefore recommends that the construction hours in R15 of the dDCO are amended to 0700 to 1900 Monday to Friday and 0700 to 1300 Saturday with no working on Sunday and Bank Holidays. The Applicant would still have the ability to agree working outside or amendments to these hours on a case-by-case basis with DCC via the CoCP and its appendices.

### **ExA's conclusions**

- 5.13.121. The ExA examined all the Applicant's submitted assessments and considered all the issues raised during the Examination.
- 5.13.122. The ExA is satisfied that the Applicant has fully assessed and addressed the possible noise and vibration effects associated with construction, operation and decommissioning of the Proposed Development. The assessment has included the consideration of ancillary activities including traffic and an assessment of noise from the WTG using ETSU-R-97. The ExA is also satisfied that the Applicant has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed and suitable mitigation would be secured by R15 of the recommended Development Consent Order (rDCO).
- 5.13.123. Consequently, the ExA considers that the Applicant's assessment of noise and vibration effects fully complies with the policy aims of NPS EN-1 and NPS EN-5, PPW, TAN 11 and DCCLDP Policies and there are no other important or relevant considerations.
- 5.13.124. The ExA therefore finds that the issue of noise and vibration has limited weight against the Order being made.

## **AIR QUALITY**

### **Policy Considerations**

#### **Overarching National Policy Statement for Energy (NPS EN-1)**

- 5.13.125. With reference to air quality and dust, paragraphs 5.2.1 and 5.6.1 of NPS EN-1 state that infrastructure development can have adverse effects on air quality in the construction, operation and decommissioning phases. Air emissions include dust, particulates and gases such as sulphur dioxide, carbon monoxide and nitrogen oxide. NPS EN-1 paragraph 5.2.2 notes that the decision maker does not need to address individual applications, in terms of carbon emissions, against carbon budgets.
- 5.13.126. Where the project is likely to have adverse effects on air quality, the applicant should assess the impacts in the ES (NPS EN-1 paragraphs 5.2.6, 5.6.4). The assessment should include the type, quantity and timing of emissions, effects on premises or locations, and the proposed mitigation (NPS EN-1 paragraphs 5.2.7 and 5.6.5).
- 5.13.127. Paragraph 5.2.11 of NPS EN-1 states that the decision maker should consider whether any additional mitigation measures are needed and whether there is a need for a construction management plan (NPS EN-1 paragraph 5.6.10). Paragraph 5.6.11 of NPS EN-1 gives examples of engineering, layout and administrative mitigation.
- 5.13.128. Paragraph 5.2.10 of NPS EN-1 says that the decision maker must always take account of any statutory air quality limits and refuse consent if a project will lead to non-compliance with a statutory limit.

#### **Draft National Policy Statements**

- 5.13.129. Draft National Policy Statement EN-1 has not changed materially with respect to air quality from the extant NPSs.

### **Other Legislation and Policies**

#### ***Wales National Policy***

- 5.13.130. PPW places a requirement for new developments to consider potential air quality effects, and:
- Address any implication arising because of its association with, or location within, Air Quality Management Areas (AQMA)s, or areas where there are sensitive receptors;
  - Not create areas of poor air quality; and
  - Seek to incorporate measures which reduce overall exposure to air and noise pollution.
- 5.13.131. To assist with decision making, PPW requires a technical air quality assessment to be prepared by a suitably qualified and competent person on behalf of the developer.
- 5.13.132. Further, PPW states that where possible, the proposed development should be designed to prevent adverse effects to amenity, health and the environment but as a minimum to limit or constrain any effects that do occur.

- 5.13.133. The Clean Air Plan for Wales (CAPW) was published in 2020 (Welsh Government, 2020). The aim of which is to improve air quality nationally and reduce the impacts of air pollution on human health, biodiversity, the natural environment and the economy over a 10-year pathway.

#### ***Development Plan Policies***

- 5.13.134. The DCCLDP was adopted by DCC in June 2013. LDP states that DCC is committed to securing future air quality compliance.

#### **The Applicant's Case**

- 5.13.135. ES Volume 3, Chapter 11 on Air Quality [AS-030] provides an assessment for the Proposed Development's effects on air quality from construction, operation (including maintenance) and decommissioning. The assessment is informed by:
- Volume 3, Chapter 1: Onshore Project Description [REP8-60]
  - Volume 3, Chapter 9: Traffic and Transport [APP-070]

- 5.13.136. The assessment is supported by:
- Outline Air Quality Management Plan (oAQMP) that is included as Appendix 3 of the Outline Code of Construction Practice [REP2-31].

#### **Consultation and Scoping**

- 5.13.137. Pre-application consultation on the scope of the air quality assessment was undertaken through the AyM Evidence Plan, Expert Topic Group (ETG) process, comprising discussions with DCC and CCBC.

#### **Construction Dust**

- 5.13.138. The assessment of dust generated by potential construction activities on nearby sensitive human and ecological receptors was undertaken in accordance with the Institute of Air Quality Management (IAQM) guidance (IAQM, 2016).
- 5.13.139. The study area was defined on the following screening criteria (provided in the IAQM guidance (IAQM, 2016)):
- Human receptors within 350m of the onshore Order Limits (OL), and within 50m of routes used by construction vehicles, up to 500m from the onshore OL; and
  - Ecological receptors within 50m of the onshore OL and within 50m of routes used by construction vehicles, up to 500m from the onshore OL.
- 5.13.140. The likely unmitigated dust emission magnitude associated with four activities (demolition, earthworks, construction and trackout) was used in conjunction with the sensitivity of the surrounding area to determine the risk of impact for each activity. These sensitivities were:
- annoyance due to dust soiling;
  - the risk of health effects due to an increase in exposure to PM10; and
  - harm to ecological receptors.
- 5.13.141. Following the construction dust assessment, the onshore construction activities were found to be at worst high risk in relation to dust soiling impacts on people and property, medium risk in relation to ecological designations, and low risk in relation to human health impacts. Effects would be temporary and are only likely to materialise if certain activities and / or meteorological conditions coincide.



- 5.13.142. The effects were not considered significant by the Applicant following the implementation of the mitigation measures contained in the oCoCP [REP7-018] and secured by R10 in the dDCO.

### ***Construction Phase Road Traffic Screening Assessment***

#### ***Human Receptors***

- 5.13.143. Screening criteria provided within the Environmental Protection UK (EPUK) & IAQM guidance document (IAQM & EPUK, 2017) was used to determine whether further assessment of construction-generated traffic on sensitive human receptor locations was required.
- 5.13.144. The screening criteria considered relevant to this assessment was as follows (specific to a development located outside of an AQMA, there are no AQMAs within the order limits):
- A change of light duty vehicle (LDV) flows of more than 500 annual average daily traffic (AADT); and / or
  - A change of heavy-duty vehicle (HDV) flows of more than 100 AADT.
- 5.13.145. The maximum onshore construction generated flows were found not to exceed the applied EPUK & IAQM screening criteria (EPUK & IAQM, 2017) despite what were considered as conservative calculations. In addition, the flows used relate to the maximum trips reported across all affected links. In reality, vehicles would distribute across the local highways network, resulting in lower flows on other roads.
- 5.13.146. The road traffic impacts associated with onshore construction activities on air quality were therefore considered as having an insignificant / neutral effect on human health. The effects were concluded to be not significant in terms of the EIA Regulations. No further assessment was carried out by the Applicant.

#### ***Ecological Receptors***

- 5.13.147. The assessment procedure outlined within the IAQM guidance document (IAQM, 2020) was used in relation to the assessment of sensitive ecological receptors and road traffic. This initially comprised a screening assessment to indicate whether:
- Any sensitive qualifying features were located within 200m of a road link projected to experience development-generated vehicle movements; and
  - Onshore construction activities were likely to generate either >1,000 (and/ or >200 HDV) AADT movements on a road link within 200m of the ecological receptor or result in >1% of a Critical Level and / or Critical Load.
- 5.13.148. Following receipt of NRW's comments submitted in response to Statutory Consultation, in-combination screening was also conducted with respect to national ecological designations. No national ecological designations were found within 200m of the proposed construction haul roads or road links.
- 5.13.149. For the assessment of impacts on local ecological designations, development trips were assessed in isolation.
- 5.13.150. The Applicant expects onshore construction works to last up to 27 months in one location (for the OnSS), and as such any consequential impacts on local road traffic flows were considered to be temporary, with no long-term deterioration of air quality conditions.

- 5.13.151. Road traffic impacts associated with onshore construction activities on air quality were found to have an insignificant / neutral effect on ecological receptors. Effects were concluded to be not significant in terms of the EIA Regulations. No further assessment was carried out by the Applicant.

#### ***Operational and Maintenance Activities***

- 5.13.152. Following the Planning Inspectorate's (the Inspectorate) comments contained within the Scoping Opinion [APP-295] it was agreed that effects associated with operation and maintenance (O&M) activities could be scoped out, given that expected activities would be unlikely to affect air quality.
- 5.13.153. However, consideration of operational effects was requested by NRW in response to Environmental Impact Assessment (EIA) Scoping, and an assessment of likely O&M activities was undertaken qualitatively, given the reduced scale of works anticipated in comparison to those assessed in relation to construction.
- 5.13.154. Potential traffic movements were assessed as being considerably less than those during construction and on the basis of the assessment carried out for the latter, operational effects were not considered significant. Similarly, the effects of helicopter movements, for onshore and offshore maintenance tasks were not considered significant because the existing helipad capacity would not be exceeded.

#### **Decommissioning**

- 5.13.155. Decommissioning activities were not anticipated to exceed the construction phase worst case criteria assessed. This was based on forecast improvements to air quality, and the potential for onshore ducts to remain in situ with only the cable removed which would see a reduction in impacts and resulting level of significance in comparison to the assessment of construction effects.

#### **Transboundary Effects**

- 5.13.156. The Applicant concluded that there would be no transboundary air quality impacts [AS-030].

#### **Cumulative Effects**

- 5.13.157. The Applicant concluded there would be no significant cumulative construction phase air quality effects. Any concurrent construction activity would have to comply with its own dust mitigation measures and IAQM guidance (IAQM, 2016) states that, with the implementation of the recommended mitigation, effects would not be significant. In addition, all other assessment considerations (i.e. construction traffic emissions) were screened out in isolation as per IAQM guidance (IAQM, 2016).

#### **Statements of Common Ground**

- 5.13.158. In the final SoCG it was confirmed that both DCC and NRW had agreed all issues in respect of air quality ([REP7-049] and [REP8-049]).

#### **Issues Considered in the Examination**

##### **Written Representations**

- 5.13.159. Of the 60 RRs received, 9 referred to air quality.

- 5.13.160. In its RR, NRW [RR-015] agreed with the conclusions in the ES Chapter 11 [AS-030], that with respect to air quality, construction and operational onshore traffic is unlikely to have significant effects on any designated nature conservation site (Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site). However, NRW noted that there was no assessment of any air quality impacts arising from marine vessel emissions and it was unclear whether marine vessels would operate within proximity to sensitive coastal onshore habitat that may support features of SSSIs, SACs, and Ramsar site.
- 5.13.161. RRs [RR-044] to [RR-051] submitted by Rostons on behalf of several private landowners referred to potential dust from Cwybr Fawr and Fferm construction compounds.

- 5.13.162. The Applicant commented on all RRs at D1 [REP1-001].

### **Local Impact Report (LIR)**

- 5.13.163. DCC submitted a LIR at D1 [REP1-056].
- 5.13.164. DCC agreed with the conclusions contained in the Environmental Statement about air quality, that potential impacts would be limited to the construction phase and would not be significant.
- 5.13.165. The Applicant commented on the LIR at D2 [REP2-004].

### **Written Questions**

- 5.13.166. The ExA studied all the RRs and put written questions to DCC, NRW and the Applicant [PD-009], on the assessment of the construction, operation and decommissioning of the Proposed Development on air quality.
- 5.13.167. The Applicant responded to the ExA's first set of written questions at D1 [REP1-007].

### **ExA's Consideration**

- 5.13.168. The ExA undertook Unaccompanied Site Inspections (USI), USI2 on 1 to 4 August 2022 [EV-003], USI3 on 5 to 7 September 2022 [EV-004a], USI6 on 27 February 2023 and an Accompanied Site Inspection (ASI) on 6 December 2022 which enabled it to view on foot the land and properties along the cable route, from landfall to the proposed substation and National Grid infrastructure at Bodelwyddan.
- 5.13.169. The key issues raised in the examination were:
- The assessment of air quality effects arising from marine vessel emissions; and
  - The potential effect of dust from Cwybr Fawr and Fferm construction compounds.

### ***The assessment of air quality effects arising from marine vessel emissions***

- 5.13.170. The ExA notes that the Applicant provided the examination and NRW with a Vessel Emissions Clarification Note at D1 [REP1-020]. The note concluded that *Given that vessel movements generated by the Proposed Development would not exceed the Welsh Government's Local Air Quality Management Technical Guidance (LAQM.TG(22)), screening thresholds and would not occur within 1.7km of a*

*national or international onshore ecosystem, emissions from vessel emissions are not considered to be significant.*

5.13.171. In the final SoCG [REP8-049], between the Applicant and NRW, NRW was satisfied with the Applicant's assessment of air quality impacts to protected sites, including agreeing, following the submission of the Vessel Emissions Clarification Note [REP1-020], *that marine vessels are not likely to have significant effects on any designated onshore coastal habitat.*

5.13.172. The ExA is therefore satisfied that the Applicant has addressed this issue.

***The potential effects of dust from Cwybr Fawr and Fferm construction compounds***

5.13.173. The ExA notes that the Applicant responded to the original RRs received from Rostons on behalf of several private landowners [RR-044 to RR-051] at D1 [REP1-001] and that Rostons further written representation on behalf of the landowners [AS-045] with regard ExQ1 [PD-009], did not specifically refer to the issue of dust from construction compounds.

5.13.174. The ExA agrees with both the methodology and assessment of air quality for the construction and operation of the Proposed Development [AS-030]. The assessment concluded that dust from construction operations is likely to have a negligible adverse level of effect, following the implementation of mitigation, that would not be significant in EIA terms. In addition, the Applicant has prepared an oCoCP secured by R10 of the dDCO, that would control any residual effects, the final version of which would be agreed by DCC prior to the start of construction.

5.13.175. The ExA is therefore satisfied that the Applicant has addressed this issue.

**ExA's conclusions**

5.13.176. The ExA examined all the Applicant's submitted assessments and considered all the issues raised during the Examination.

5.13.177. The ExA is satisfied that the Applicant has fully addressed the possible air quality effects associated with construction, operation and decommissioning of the Proposed Development and has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed, including a CoCP and this would be secured by R10 in the rDCO.

5.13.178. Consequently, the ExA considers that the Applicant's assessment of air quality effects fully complies with the policy aims of NPS EN-1, PPW, CAPW and DCCLDP Policies and there are no other important or relevant considerations.

5.13.179. The ExA therefore finds that the issue of air quality has limited weight against the Order being made.

**LIGHT POLLUTION**

**Policy Considerations**

**Overarching National Policy Statement for Energy (NPS EN-1)**

5.13.180. With reference to artificial light, paragraph 5.6.1 of NPS EN-1 says that infrastructure development has the potential for the release of a range of emissions including artificial light, and paragraph 5.6.4 says that the applicant should assess

the potential for artificial light to have a detrimental impact on amenity as part of the ES.

- 5.13.181. The assessment should include effects on premises or locations, and the proposed mitigation (NPS EN-1 paragraph 5.6.5). Paragraph 5.6.7 of NPS EN-1 says that the decision maker should be satisfied that an assessment of the potential for artificial light emissions to have a detrimental impact on amenity has been carried out and that such impacts have been minimised. The decision maker should also consider whether any additional mitigation measures are needed and whether there is a need for a construction management plan (NPS EN-1 paragraph 5.6.10). Paragraph 5.6.11 of NPS EN-1 gives examples of engineering, layout and administrative mitigation.

### **Draft National Policy Statements**

- 5.13.182. Draft National Policy Statements EN-1 has not changed materially with respect to light pollution from the extant NPS.

### **Other Legislation and Policies**

#### ***Wales National Policy***

- 5.13.183. Paragraph 6.8.1 of PPW states that there is a need to balance the provision of lighting to enhance safety and security to help in the prevention of crime and to allow activities like sport and recreation to take place with the need to:
- Protect the natural and historic environment including wildlife and features of the natural environment such as tranquillity;
  - Retain dark skies where appropriate;
  - Prevent glare and respect the amenity of neighbouring land uses; and
  - Reduce the carbon emissions associated with lighting.

### **The Applicant's Case**

- 5.13.184. The Applicant sets out the construction lighting requirements in the outline Artificial Light and Emissions Plan (oALEMP) [REP2-045]. No fixed lighting would be required along the ECC during construction. At temporary construction compounds and on the onshore cable corridor, temporary lighting may be required in the winter months.
- 5.13.185. The Applicant sets out the operational lighting requirements in the Onshore Project Description (REP8-060). The OnSS would not be manned, and lighting would only be required during Operation and Maintenance (O&M) activities (paragraph 189). Table 19 sets out the MDS for the O&M phase of the Proposed Project, that being approximately one visit per week, rising to a daily visit for a two-week period during planned annual maintenance. Directional lighting for safety and security and task specific external lighting may be required on a very infrequent basis, for example should a visit occur at dusk over winter months, but the likelihood is a more appropriate time of day would be used. On this basis operational lighting has not been assessed.
- 5.13.186. Control of artificial light emissions during construction and operation is to be exercised through an oALEMP [REP2-045], contained in Appendix 10 of the oCoCP [REP7-018] and secured through R10 in the dDCO [AS-053].
- 5.13.187. In addition, R19 of the dDCO [AS-053], states that Work No. 31A and Work No. 33(c), (the OnSS and its access roads), must not be brought into operation until a

written scheme for the management and mitigation of internal and external artificial light emissions has been submitted to and approved by the relevant planning authority. Further, the approved scheme for the management and mitigation of artificial light emissions must be implemented and maintained during the lifetime of Work No. 31A and Work No. 33(c).

## **Issues Considered in the Examination**

### **Written Representations**

- 5.13.188. Of the 60 RRs received, 8 referred to light pollution.
- 5.13.189. RRs [RR-044] to [RR-051] submitted by Rostons on behalf of several private landowners referred to potential light pollution from Cwybr Fawr and Fferm construction compounds.
- 5.13.190. The Applicant commented on the LIR at D2 [REP2-004].

### **Local Impact Report (LIR)**

- 5.13.191. DCC submitted a LIR at D1 [REP1-056].
- 5.13.192. The Council was concerned that the ES appeared to be silent on glare/ nuisance associated with construction lighting. The Council considered both construction and operational lighting can adversely impact on residential amenity and public health and considered it necessary all external lighting to be controlled by requirements of the dDCO.
- 5.13.193. The Applicant commented on all RRs at D1 [REP1-001].

### **ExA's consideration**

- 5.13.194. The ExA undertook Unaccompanied Site Inspections (USI), USI2 on 1 to 4 August 2022 [EV-003], USI3 on 5 to 7 September 2022 [EV-004a], USI6 on 27 February 2023 and an Accompanied Site Inspection (ASI) on 6 December 2022 which enabled it to view on foot the land and properties along the cable route, from landfall to the proposed substation and National Grid infrastructure at Bodelwyddan.
- 5.13.195. The key issues raised in the examination were:
- Light pollution from construction including Cwybr Fawr and Fferm construction compounds; and
  - Light pollution from the operation of the OnSS;

### ***Light pollution from construction including Cwybr Fawr construction compound***

- 5.13.196. The ExA notes that the Applicant responded to the original RRs received from Rostons on behalf of a number of private landowners [RR-044 to RR-051] at D1 [REP1-001]. and that Rostons further written representation on behalf of the landowners [AS-045] with regard ExQ1 [PD-009], did not specifically refer to the issue of light pollution from construction compounds.
- 5.13.197. While the Applicant has not carried out an assessment of the impact of light from construction activities on receptors it has prepared an outline Artificial Light Emissions Management Plan (oALEMP) [REP2-045] as Appendix 10 of the oCoCP

secured by R10 of the dDCO. The ExA is content that this sets out an approach that would effectively minimise and mitigates construction lighting requirements and its effects. In addition, the final ALEMP would be agreed by DCC prior to the start of construction.

- 5.13.198. The ExA is therefore satisfied that the Applicant has addressed this issue.

***Light pollution from the operation of the OnSS***

- 5.13.199. The ExA notes from the Onshore Project Description [REP8-060], that the OnSS would not be manned, and lighting would only be required during O&M activities. Table 19 of [REP8-060] sets out the MDS for the operation and maintenance phase of the Proposed Development. One visit per week, rising to a daily visit for a two-week period during planned annual maintenance. Directional lighting for safety and security and task specific external lighting may be required on a very infrequent basis, for example should a visit occur at dusk over winter months, but the likelihood is a more appropriate time of day would be used.

- 5.13.200. In addition, the ExA notes that R19 of the dDCO [AS-053], states that Work No. 31A and Work No. 33(c), (the OnSS and its access roads), must not be brought into operation until a written scheme for the management and mitigation of internal and external artificial light emissions has been submitted to and approved by the relevant planning authority. Further, the approved scheme for the management and mitigation of artificial light emissions must be implemented and maintained during the lifetime of Work No. 31A and Work No. 33(c).

- 5.13.201. The ExA is therefore satisfied that the Applicant has addressed this issue.

**ExA's conclusions**

- 5.13.202. The ExA examined all the Applicant's submitted assessments and considered all the issues raised during the Examination.
- 5.13.203. The ExA is satisfied that the Applicant has fully addressed the possible light pollution effects associated with construction, operation and decommissioning of the Proposed Development and has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed and this would be appropriately secured by R19 in the rDCO.
- 5.13.204. Consequently, the ExA considers that the Applicant's proposed management of light pollution effects fully complies with the policy aims of NPS EN-1 and PPW and there are no other important or relevant considerations.
- 5.13.205. The ExA therefore finds that the issue of light pollution has limited weight against the Order being made.

**HUMAN HEALTH**

**Policy Considerations**

**Overarching National Policy Statement for Energy (NPS EN-1)**

- 5.13.206. In respect of assessment principles for health, NPS EN-1 recognises that energy production has the potential to impact on the health and wellbeing of the population and that, although access to energy is clearly beneficial to health, production and distribution may have negative impacts (paragraph 4.13.1).

- 5.13.207. Paragraph 4.13.2 of NPS EN-1 says that the ES should identify any adverse health impacts and measures to avoid, reduce or compensate for the impacts identified, and should consider the cumulative impact on health of more than one development.
- 5.13.208. NPS EN-1 acknowledges that for energy infrastructure projects most likely to have a significantly detrimental impact on health, effective mitigation is provided through separate regulation, but that account should be taken of health concerns in the setting of requirements (paragraph 4.13.5).

#### **National Policy Statement for Electricity Networks Infrastructure (NPS EN-5)**

- 5.13.209. NPS EN-5 section 2.10 provides additional technology-specific policy guidance in respect of EMF.

#### **Draft National Policy Statements**

- 5.13.210. Draft National Policy Statements EN-1 and EN-5 have not changed materially with respect to health from the extant NPSs.

#### **Other Legislation and Policies**

##### ***Wales National Policy***

- 5.13.211. Paragraph 3.24 of PPW states that where significant effects on human health are likely to arise as a result of development plans or individual development proposals, environmental impacts should be considered in full knowledge of the likely consequences for health. Information to assess potential impacts on health can be required through various mechanisms, such as sustainability appraisal of development plans and environmental impact assessments, and where relevant, health impacts should be incorporated into such assessments.
- 5.13.212. Future Wales – The National Plan 2040 sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of communities.

##### ***Development Plan Policies***

- 5.13.213. DCCLDP Policy VOE10 states that development proposals which promote the provision of renewable energy technologies may be supported providing they are located so as to minimise visual, noise and amenity impacts and demonstrate no unacceptable impact upon the interests of nature conservation, wildlife, natural and cultural heritage, landscape, public health, and residential amenity.

#### **The Applicant's Case**

- 5.13.214. ES Volume 3, Chapter 12 on Public Health [APP-073] provides an assessment of the Proposed Development's effects on human health. The public health assessment should be read alongside the following chapters and annexes of the ES:
- Volume 3, Chapter 1: Onshore Project Description [REP8-060];
  - Volume 3, Chapter 6: Ground Conditions and Land Use [REP8-062];
  - Volume 3, Chapter 7: Hydrology, Hydrogeology and Flood Risk [REP8-063];
  - Volume 3, Chapter 9: Traffic and Transport [APP-070];
  - Volume 3, Chapter 10: Airborne Noise and Vibration [REP8-065]; and



- Volume 3, Chapter 11: Air Quality [AS-030].

### **Consultation and Scope**

- 5.13.215. Pre-application consultation on the scope of the health assessment was undertaken through the AyM Evidence Plan, Expert Topic Group (ETG) process, comprising discussions with DCC and CCBC.

### **Assessment**

- 5.13.216. The Applicant combined information about the onshore aspects of the Proposed Development and the activities for all stages of the project life cycle (construction, O&M and decommissioning) with information about the environmental baseline to identify the potential interactions between the project and the receptors. These potential effects were then assessed to give a likely level of significance of effect upon the receptors.
- 5.13.217. The criteria for magnitude of impacts, receptor sensitivity and significance of effect with regard to air quality, water emissions, soil contamination and noise and vibration were taken from the relevant ES topic chapters.

### **Construction**

- 5.13.218. A summary of the Applicant's assessment of the potential health effects during construction and their significance, is provided in Table 9 below:

**Table 9: Summary of Effects – Construction**

<b>Impact</b>	<b>Magnitude</b>	<b>Mitigation</b>	<b>Residual Effects</b>
Traffic emissions (see Table 25 in Volume 3, Chapter 11: Air Quality [AS-030])	Negligible (below screening criteria)	None	Negligible (Not Significant)
Dust emissions (see Table 25 in Volume 3, Chapter 11: Air Quality [AS-030])	Low to Medium	Mitigation in oCoCP [REP7-018] secured by R10 dDCO [REP8-118]	Negligible (Not Significant)
Water emissions (see Table 13 in Volume 3, Chapter 7, Hydrology, Hydrogeology and Flood Risk [REP8-063].	Negligible to Low	PPEIRP [REP2-036] provided as part of the oCoCP [REP7-018] secured by R10 dDCO [REP8-118]	Minor Adverse (Not Significant)
Soil contamination (see Table 13 in Volume 3, Chapter 6: Ground Conditions and Land Use [REP8-062])	Negligible	PPEIRP provided as part of the oCoCP	Minor Adverse (Not Significant)

Noise (see Table 80 in Volume 3, Chapter 9: Airborne Noise and Vibration [REP8-065])	Negligible to High	oNVMP [REP2-019] provided as part of the oCoCP	Minor Adverse (Not Significant)
Vibration (see Table 80 in Volume 3, Chapter 9: Airborne Noise and Vibration [REP8-065])	Negligible to High	Prior warning to sensitive residential receptors	Minor Adverse (Not Significant)
Disruption to local road network (see Table 38 in Volume 3, Chapter 9: Traffic and Transport [APP-070])	Negligible to Low/ Medium	Measures within oCTMP [REP2-0238]	Negligible Adverse to Minor Adverse (Not Significant)

### **Operation**

- 5.13.219. A summary of the Applicant's assessment of the potential health effects during operation and their significance, is provided in Table 10 below:

**Table 10: Summary of Effects – Operation**

<b>Impact</b>	<b>Magnitude</b>	<b>Mitigation</b>	<b>Residual Effects</b>
Traffic emissions (see Table 25 in Volume 3, Chapter 11: Air Quality [AS-030])	Negligible (below screening criteria)	Not Required	Negligible (Not Significant)
Water emissions (see Table 13 in Volume 3, Chapter 7, Hydrology, Hydrogeology and Flood Risk [REP8-063])	Negligible	Not Required	Negligible to Minor Adverse (Not Significant)
Noise (see Table 80 in Volume 3, Chapter 9: Airborne Noise and Vibration [REP8-065])	High	Reduction in operational noise levels through the use of acoustic enclosures, silencers and covers.	Minor Adverse (Not Significant)
Electromagnetic radiation exposure (see Volume 3, Chapter 12: n	Negligible	Not Required	Negligible (Not Significant)

Public Health [APP-73])			
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### ***Decommissioning***

- 5.13.220. A summary of the Applicant's assessment of the potential health effects during decommissioning and their significance, is provided in Table 11 below:

**Table 11: Summary of Effects – Decommissioning**

<b>Impact</b>	<b>Magnitude</b>	<b>Mitigation</b>	<b>Residual Effects</b>
Dust and Traffic emissions (see Table 25 in Volume 3, Chapter 11: Air quality [AS-030])	Comparable to construction, less if underground cables remain in situ		
Water emissions (see Table 13 in Volume 3, Chapter 7, Hydrology, hydrogeology and flood risk [REP8-063])	Negligible	Not Required	Negligible to Minor Adverse (Not Significant)
Noise (see Table 80 in Volume 3, Chapter 9: Airborne noise and vibration [REP8-065])	Not anticipated to exceed construction phase worst-case criteria. Potential impacts reduced as it is assumed that no night-time or piling decommissioning operations are required.		
Disruption to local road network (see Table 38 in Volume 3, Chapter 9: Traffic and Transport [APP-070])	Comparable to construction, less if underground cables remain in situ		
Electromagnetic radiation exposure (see Volume 3, Chapter 12: n Public Health [APP-73])	Upon decommissioning the negligible adverse effect during operation would become neutral		

### ***Transboundary Effects***

- 5.13.221. The Applicant concluded that there would be no transboundary health impacts [APP-073].

### ***Cumulative Effects***

- 5.13.222. Individual stand-alone chapters such as noise and vibration and air quality assessed any cumulative impacts on those potential impacts.

- 5.13.223. With regard to electromagnetic radiation, the only potential cumulative effect that could occur is where the onshore ECC crosses the underground cable connection for the Gwynt y Môr (GyM) offshore wind farm approximately 750m north of the A55. The nearest residential property to the intersection of the proposed and existing underground cable connections is approximately 500m away. At this distance, the Applicant concluded that there would be no combined impact arising from magnetic fields from the Proposed Development and the GyM connections.

#### **Statements of Common Ground**

- 5.13.224. In the final SoCG it was confirmed that DCC had agreed all issues in respect of air quality [REP7-049].

#### **Issues Considered in the Examination**

##### **Written Representations**

- 5.13.225. Of the 60 RRs received, 9 referred to health.
- 5.13.226. The RR received from Sustainable Cymru [RR-036], raised the issue of the replacement of a large asbestos pipe adjacent to the development before the start of construction or the monitoring of water quality flowing through it during construction.
- 5.13.227. RRs [RR-044] to [RR-051] and [AS-045] submitted by Rostons on behalf of several private landowners raised concerns about the well-being of site residents from the effects of noise, dust and light from Cwybr Fawr and Fferm construction compounds. In addition, reference was made to health and safety concerns preventing children from horse riding.
- 5.13.228. Mr Beament's RR [RR-058], raised concerns about the potential use of sulphur hexafluoride (SF6) in the Proposed Development and its potential greenhouse gas effects.

##### **Written Questions**

- 5.13.229. The ExA studied all the RRs carefully and put written questions to Sustainable Cymru, the Applicant, Public Health Wales (PHW) and DCC [PD-009], on: the asbestos pipe – its location and potential impact on health; the potential use and control of SF6 gas in the OnSS and the assessment of the potential health impacts of electromagnetic radiation during the operation of the Proposed Development.

##### **ExA's consideration**

- 5.13.230. The ExA undertook Unaccompanied Site Inspections (USI), USI2 on 1 to 4 August 2022 [EV-003], USI3 on 5 to 7 September 2022 [EV-004a], USI6 on 27 February 2023 and an Accompanied Site Inspection (ASI) on 6 December 2022 which enabled it to view on foot the land and properties along the cable route, from landfall to the proposed substation and National Grid infrastructure at Bodelwyddan.

##### ***Health risks from an asbestos pipe***

- 5.13.231. The ExA notes that the Applicant responded to the original RR received from Sustainable Cymru [RR-036] at D1 [REP1-001] and that no response or further representations were received on the issue. In addition, the ExA requested further information from Sustainable Cymru including the location of the pipe, in its first set of written questions. No response was received.

5.13.232. The ExA notes that the Applicant has been in discussion with Dwr Cymru / Welsh Water throughout the examination of the Proposed Development and has agreed protective provisions for its apparatus such as pipes in Part 2 of the dDCO [AS-053]. Under the protective provisions the Applicant must protect pipes and only disturb them with the approval and under the direction of the statutory undertaker. Further the Applicant must repair any damage to pipes.

5.13.233. The ExA is therefore satisfied that the Applicant has addressed this issue.

***The well-being of residents from the effects of noise, dust and light from Cwybr Fawr and Fferm construction compounds***

5.13.234. The ExA notes that the Applicant responded to the original RRs received from Rostons on behalf of several private landowners [RR-044 to RR-051] at D1 [REP1-001] and that Roston's further written representation on behalf of the landowners [AS-045] with regard ExQ1 [PD-009], did not specifically refer to the issue of health.

5.13.235. The ExA agrees with both the methodology and assessment of noise and vibration [REP8-065] and air quality [AS-030] during the construction and operation of the Proposed Development. The former concluded that vibration from construction operations are likely to have a minor adverse level of effect, following the implementation of mitigation, that would not be significant in EIA terms. The latter concluded that dust from construction operations is likely to have a negligible adverse level of effect, following the implementation of mitigation, that would not be significant in EIA terms. In addition, the Applicant has prepared an oCoCP secured by R10 of the dDCO, that would control any residual effects, the final version of which would be agreed by DCC prior to the start of construction.

5.13.236. With regard to light pollution, the ExA notes that while the Applicant has not carried out an assessment of the impact of light from construction activities on receptors it has prepared an oALEMP [REP2-045] as Appendix 10 of the oCoCP secured by R10 of the dDCO. The ExA is content that this sets out an approach that effectively minimises and mitigates construction lighting requirements and its effects. In addition, the final ALEMP would be agreed by DCC prior to the start of construction.

5.13.237. The ExA is therefore satisfied that the Applicant has addressed this issue.

***The potential use of SF6 gas in the OnSS***

5.13.238. In its response to the ExA's first set of written questions [REP1-007], the Applicant confirmed that the only location SF6 could potentially be used in the Proposed Development was in the OnSS. The decision on the technology to be adopted has yet to be made, but GIS could be selected, and this commonly uses SF6.

5.13.239. The ExA notes the Applicant's required to control SF6, if used in the Proposed Development, in strict compliance with the relevant regulations and standards with: equipment maintained to prevent leaks; only trained personnel allowed to operate and maintain equipment containing SF6; automatic leak detection; areas containing SF6 secured to prevent unauthorised access; records providing an audit trail; and a disposal and end of life plan.

5.13.240. The ExA is therefore satisfied that the Applicant has addressed this issue.

***The potential health impacts of electromagnetic radiation during the operation of the Proposed Development***

- 5.13.241. The ExA notes that neither PHW or DCC responded to the question raised by the ExA on this issue in its first set of written questions [REP1-007]. However, the ExA notes that DCC confirmed its agreement with the Applicant's methodologies for assessing the impact of the Proposed Development on public health in its final SoCG with the Applicant [REP-049].
- 5.13.242. The ExA is satisfied with both the methodology and assessment of the Proposed Development's effects on human health [APP-073]. With respect to electromagnetic radiation, the assessment concluded that with a magnitude of impact assessed as negligible (all infrastructure built in compliance with the government guidelines on electromagnetic radiation emission and mitigation implemented) and the sensitivity of the receptor to electromagnetic radiation being assessed as low (equipment located away from residential properties), the assessed effect is negligible adverse, which is not significant in EIA terms.
- 5.13.243. Further the ExA notes that the Applicant concluded there would be no cumulative effect from electromagnetic radiation. The only location this might occur is where the onshore ECC crosses the underground cable connection for the GyM offshore wind farm. The nearest residential property is approximately 500m away. At this distance, magnetic field values would be well below reference levels and International Commission on Non-ionizing Radiation Protection (ICNIRP) guidance exposure levels.
- 5.13.244. The ExA is therefore satisfied that the Applicant has addressed this issue.

**ExA's conclusions**

- 5.13.245. The ExA examined all the Applicant's submitted assessments and considered all the issues raised during the Examination.
- 5.13.246. The ExA is satisfied that the Applicant has fully addressed the possible human health effects associated with construction, operation and decommissioning of the Proposed Development and has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed with mitigation, where necessary secured through the rDCO including R21 and R22 which provide for the management of offshore and onshore decommissioning and any potential harmful effects to human health from these activities.
- 5.13.247. Consequently, the ExA considers that the Applicant's assessment of human health effects fully complies with the policy aims of NPS EN-1 and EN-5, PPW and DCCLDP Policies and there are no other important or relevant considerations.
- 5.13.248. The ExA therefore finds that the issue of human health has limited weight against the Order being made.

**COMMON LAW NUISANCE AND STATUTORY NUISANCE**

**Policy Considerations**

**Overarching National Policy Statement for Energy (NPS EN-1)**

- 5.13.249. In respect of common law nuisance and statutory nuisance, NPS EN-1 paragraph 5.6.1 says that a range of emissions has the potential to cause a common law nuisance or statutory nuisance under Part III Environmental Protection Act 1990.

NPS EN-1 paragraph 4.14.1 says that s158 of the Planning Act 2008 (PA2008) confers statutory authority, but only for the purpose of providing a defence in any civil or criminal proceedings for nuisance.

5.13.250. This defence does not extinguish the local authority's duties to investigate complaints of statutory nuisance and serve abatement notices, nor is it intended to extend to proceedings where the matter is prejudicial to health. In view of the availability of this defence, it is important that the potential for impacts is considered (NPS EN-1 paragraph 5.6.2) and that impacts are kept to a minimum and at a level that is acceptable (NPS EN-1 paragraph 5.6.3).

5.13.251. NPS EN-1 says that, as well as including relevant requirements in the order (paragraph 4.14.2), the decision maker can also disapply s158 PA2008 in whole or in part in any particular case, having regard to whether any particular nuisance is an inevitable consequence of the development (paragraph 4.14.3). Paragraph 5.6.8 says that if the decision maker cannot conclude that there is justification for all the authorised project to be covered by the s158 PA2008 defence, then the defence should be disappplied in whole or in part through a provision in the order.

### **The Applicant's Case**

5.13.252. The Applicant's defence to proceedings in respect of statutory nuisance is at Article 8 of the dDCO [AS-053]. The control of activities which may give rise to a claim nuisance is in the requirements in the dDCO. In particular, noise is governed by R4, R10, R15 and R18.

### **Issues Considered in the Examination**

5.13.253. There were no substantive submissions by Interested Parties in respect of common law or statutory nuisance during the Examination.

### **ExA Consideration**

5.13.254. The ExA has examined and is satisfied with the provisions of Article 8 and R4, R10, R15 and R18 in the dDCO in respect of nuisance.

### **ExA's conclusions**

5.13.255. The ExA examined all the Applicant's submitted assessments and considered all the issues raised during the Examination.

5.13.256. The ExA therefore finds that the issue of nuisance does not weigh for or against the Order being made.

### **ExA's overall conclusion on public health and nuisance**

5.13.257. This section provides the ExA's overall conclusion on Public Health and Nuisance.

5.13.258. Based on the conclusions above, the ExA finds overall that the impact of the proposal on human health and nuisance has limited weight against the Order being made.

5.13.259. The findings in respect of public health and nuisance will be taken into account in the overall planning balance in Volume 2, Chapter 10 of this Report.

## **5.14. SOCIOECONOMICS**

### **Introduction**

- 5.14.1. The topic of socioeconomics was identified as a principal issue in the ExA's initial assessment of principal issues [PD-007]. This section considers the matters relating to socioeconomics during construction, operation, and decommissioning. Tourism and recreation matters are considered in section 5.15 of this Report.

### **Policy Considerations**

#### **Overarching National Policy Statement for Energy (NPS EN-1)**

- 5.14.2. Paragraph 5.12.2 of NPS EN-1 requires an applicant, where a project is likely to have socioeconomic impacts at either local or regional levels, to undertake an assessment of those impacts as part of the Environmental Statement. At paragraph 5.12.3, NPS EN-1 then provides a list of the relevant socioeconomic impacts that could be considered and include, for example, the effects on tourism and the impact of a changing influx of workers during the different construction, operation, and decommissioning phases.
- 5.14.3. With regards to the effects of new energy infrastructure, paragraph 5.12.6 of NPS EN-1 states that the decision maker should have regard to the potential socioeconomic impacts identified by the applicant and from any other sources that the decision maker considers to be both relevant and important to their decision.
- 5.14.4. Paragraph 5.12.7 of NPS EN-1 states the decision maker may conclude that limited weight is to be given to assertions of socioeconomic impacts that are not supported by evidence. At paragraph 5.12.8 NPS EN-1 also states that the decision maker should consider any relevant positive provisions the developer has made or is proposing to make to mitigate impacts and any legacy benefits that may arise as well as any options for phasing development in relation to the socioeconomic effects.
- 5.14.5. Paragraph 5.12.9 of NPS EN-1 advocates that the decision maker should consider whether mitigation measures would be necessary to mitigate any adverse socioeconomic impacts of the development.

#### **Draft National Policy Statements**

- 5.14.6. The policy requirements of draft NPS EN-1 at the close of the Examination in respect of socioeconomics were largely consistent with those policy requirements of the extant NPS EN-1. However, relevant additions/amendments include the following:
- Paragraph 5.13.3 includes the additional text in respect of the socio-economic assessment, which is an amendment to existing paragraph 5.12.3. of NPS EN-1:
  - Applicants may wish to provide information on the sustainability of the jobs created, including where they will help to develop the skills needed for the UK's transition to Net Zero;
  - The contribution to the development of low carbon industries at the local and regional level as well as nationally; and
  - Any indirect beneficial impacts for the region hosting the infrastructure, in particular in relation to the use of local support services and supply chains.



- Paragraph 5.13.5 includes additional text regarding applicants being encouraged, where possible, to ensure local suppliers are considered in any supply chain, which is an amendment to existing paragraph 5.12.5 of NPS EN-1;
- Paragraph 5.13.6 is an addition and confirms that applicants should also consider developing accommodation strategies where appropriate, especially during construction and decommissioning phases, that would include for the need to provide temporary accommodation for construction workers if required;
- Paragraph 5.13.9 states that the Secretary of State may wish to include a requirement that specifies the approval by the local authority of an employment and skills plan detailing arrangements to promote local employment and skills development opportunities, including apprenticeships, education, engagement with local schools and colleges and training programmes to be enacted. This is an amendment to existing paragraph 5.12.8 of NPS EN-1.

## **Wales National Policy**

### *Welsh National Marine Plan*

- 5.14.7. The Welsh National Marine Plan (2019) covers developments in Welsh territorial waters and intends to guide the sustainable development of inshore and offshore marine areas by setting out how proposals are to be considered by decision makers.
- 5.14.8. Objective 3 of the Marine Plan supports the opportunity to sustainably develop marine renewable energy resources with the right development in the right place, helping to achieve the UK's energy security and carbon reduction objectives, whilst fully considering other's interests, and ecosystem resilience. Policy ELC\_01 b states that relevant public authorities and the sector are encouraged, in liaison with other interested parties, to collaborate to understand opportunities for the sustainable use of wind energy resources.

### *Prosperity for All: The National Strategy*

- 5.14.9. Prosperity for All: The National Strategy (2017) sets out the Welsh Government's key commitments in a long-term context and explains their role in wider public service work seeking to lay the foundations for achieving prosperity for all.
- 5.14.10. The strategy rests on four themes and five priority areas, which are guided by the Well-being of Future Generations (Wales) Act 2015. The wellbeing objectives under the 'prosperous and secure' theme include sustainable growth and combating climate change.

### *Planning Policy Wales, Edition 11*

- 5.14.11. The primary objective of Planning Policy Wales, Edition 11 (PPW11) is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental, and cultural wellbeing of Wales. Additionally, paragraph 5.9.16 of PPW11 states that Wales has an abundant wind resource and, as a result, wind energy forms a key part of meeting the Welsh Government's vision for future renewable energy production.

### *Technical Advice Note 23: Economic Development*

- 5.14.12. Technical Advice Note 23 (TAN 23) suggests that the planning system should steer development to the most efficient and sustainable locations, whilst encouraging local authority areas to work jointly, in regional groups, to prepare regional economy evidence bases and prepare strategies.

- 5.14.13. Paragraph 2.1.1 of TAN 23 confirms that it should not be assumed that economic objectives are necessarily in conflict with social and environmental objectives. Paragraph 2.1.4 further acknowledges that quantifying economic impacts is not always straight forward and it is necessary to assess the benefits and weigh them against any social or environmental damage that development may cause.

#### **Development Plan Policies**

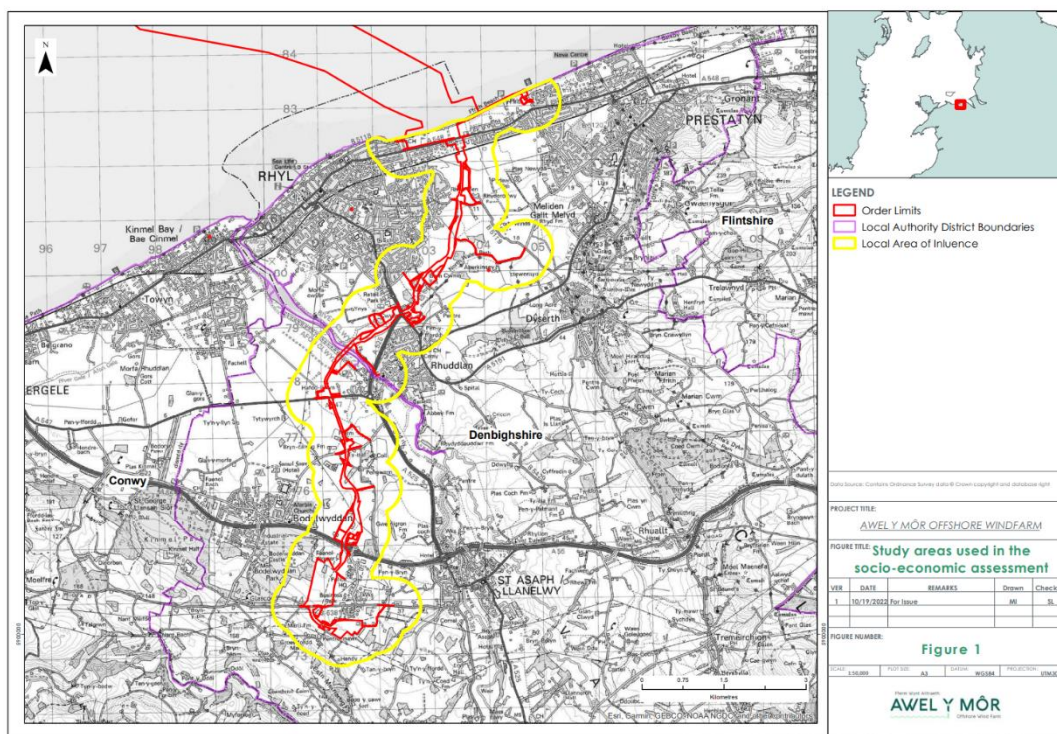
- 5.14.14. Section 3.2.4 of the Environmental Statement, Volume 3, Chapter 3: Socioeconomics [REP8-088] (the ES) details the most relevant local planning and economic policies considered of relevance to the Proposed Development in respect of socioeconomic considerations.

#### **The Applicant's Case**

##### **Methodology**

- 5.14.15. The Applicant's assessment is detailed in the ES chapter [REP8-088] and confirms the effects on socioeconomics arising from the construction, operation and decommissioning of the Proposed Development. The potential for cumulative, inter-related and transboundary effects is also assessed.
- 5.14.16. The Applicant confirmed that there are no formalised technical guidance or criteria for assessing the scale, and therefore significance, of socioeconomic effects within the context of an Environmental Impact Assessment (EIA). In the absence of this, the assessment of likely effects is primarily based on professional judgement and considers the sensitivity of each receptor in addition to the magnitude of change to the receptor brought about by the Proposed Development. The assessment of socioeconomics also draws on industry best practice (paragraph 130 of the ES [REP8-088]).
- 5.14.17. In respect of the spatial scope used in the assessment, the Proposed Development's effect on economic receptors was assessed at the North Wales and wider Wales level. The assessment of the impact on community facilities is assessed at the local area of influence which consists of a 500m buffer from the Order Limits and relates solely to the onshore elements of the Proposed Development.

**Figure 19: Study areas used in the socioeconomic assessment (Appendix N of [REP1-007])**



5.14.18. The ES chapter [REP8-088] was also supported by the following documents at the time of submission of the application:

- Community Linguistic Statement [REP6-023];
- Commercial Fisheries Baseline Report [APP-109];
- Commercial Fisheries Consultation Record [APP-110];
- Charter Angling Baseline Report [APP-118];
- Charter Angling Baseline Report Annex B (Confidential) [APP-119]; and
- Seaside Tourism Economic Employment Evidence [APP-124].

### Assessment of impacts

5.14.19. Table 34 of the ES provides a summary of the socioeconomic assessment in respect of construction, operation, decommissioning and cumulative impacts [REP8-088]. The following residual effects were identified:

#### Construction effects

#### Employment

5.14.20. At the North Wales level, the expenditure retained locally is estimated to support between 20 and 40 full time equivalent (FTE) jobs throughout the construction of the Proposed Development. In respect of the Wales national level, the potential employment impacts generated is estimated to support an average annual employment impact of between 130 to 180 FTE jobs per annum over an assumed five-year development and construction phase.

5.14.21. The total FTE jobs may vary due to whether there is a local port or non-local port scenario. Also, the figures do not include any jobs that would be based outside of Wales.

- 5.14.22. For both the North Wales and the Wales national level, the residual effect was assessed as being of minor beneficial significance, which is not significant in EIA terms.

*The economy*

- 5.14.23. In the case of the Proposed Development any reference to Gross Value Added (GVA) represents the additional economic value that would be secured by local businesses. The assessment concluded that during the construction phase the Proposed Development could support a GVA of between £1.3 million and £2.4 million per annum in North Wales. The range of estimates depends on whether a local port in North Wales is used during construction. For Wales at the national level, the GVA benefits were assessed as being likely to be between £6.8 million and £9.1 million per annum.

- 5.14.24. For both the North Wales and the Wales national level, the residual effect was assessed as being of minor beneficial significance, which is not significant in EIA terms.

- 5.14.25. The ES also identified effects ranging from minor adverse, for community facilities and healthcare services. Such effects are not significant in EIA terms.

*Operation effects*

*Employment*

- 5.14.26. Based on a local port scenario, in respect of the North Wales region, during operation the Proposed Development could generate up to a maximum of 70-80 FTE jobs, with approximately 30 of these being indirect/supply chain FTE jobs. At the Wales national level, the figure would be approximately 150-170 FTE jobs.

- 5.14.27. For both the North Wales and the Wales national level, the residual effect was assessed as being of minor beneficial significance, which is not significant in EIA terms.

*The economy*

- 5.14.28. The assessment identified that the operational phase of the Proposed Development would have the potential to generate an annual GVA impact of between £32 million and £38 million to the Wales national economy, totalling between £793 million and £962 million over the course of its anticipated 25-year operational lifetime. At the North Wales level, the direct and wider supply chain employment supported would have the potential to generate an annual impact of between £14 million and £17 million, totalling between £347 million and £424 million over lifetime of the Proposed Development.

- 5.14.29. For both the North Wales and the Wales national levels, the residual effect was assessed as being of moderate beneficial significance, which is significant in EIA terms.

*Decommissioning effects*

- 5.14.30. The assessment assumed that the residual effect for all socioeconomic receptors would mirror, but were likely to be lower in magnitude, the Proposed Development's construction phase. As such, the residual effects during decommissioning were assessed as not being significant in EIA terms.

### *Cumulative effects*

- 5.14.31. The assessment identified no significant cumulative residual effects. The only exception to this was for the effect of construction on the North Wales economy. This was reported as being moderate beneficial which is significant in EIA terms.
- 5.14.32. Moderate beneficial residual effects are reported as a result of overlapping construction. Table 32 of the ES [REP8-088] listed the projects considered in the cumulative assessment. Almost all of the projects listed in Table 32 were likely to be built concurrently with the Proposed Development between 2026 to 2030. Also, the North Hoyle offshore wind farm is also anticipated to be decommissioned during this period.
- 5.14.33. As such, the assessment concluded that the likely concurrent construction and the decommissioning of the existing North Hoyle offshore wind farm would have the potential to generate the largest impact to the economy in terms of jobs supported and GVA created in respect of the North Wales economy.

### **Other effects**

- 5.14.34. In respect of transboundary effects, the assessment did not identify any potential for significant adverse transboundary socioeconomic effects on other European Economic Area states.

### **Mitigation**

- 5.14.35. The Applicant submitted a Schedule of Mitigation and Monitoring with the application [APP-310]. It was updated during the Examination, with the final version submitted at Deadline (D) 8 [REP8-016]. In tabular form this sets out the proposed mitigation commitments and securing mechanisms. In addition, the primary mitigation measures specific to socioeconomics are also specified in table 24 of section 3.9 of the ES [REP8-088].
- 5.14.36. Embedded and primary mitigation measures include the following:
- Project design - The Proposed Development underwent extensive site selection, including successive design iterations, which involved socioeconomic considerations;
  - Construction hours – Construction hours for the onshore elements of the Proposed Development, at the time of submission of the application, were stated as being between 0700 hours to 1900 hours Monday to Saturday, with no work where noise is audible beyond the Order Limits on Sundays, Bank Holidays or during night-time hours without prior agreement. This is secured by Requirement (R) 15 of the dDCO. The issue of construction hours is discussed further in section 5.13 Public Health and Nuisance of this Report;
  - Rolling construction – It is proposed that works would generally progress in stages along the route of the onshore export cable corridor (ECC), so that individual sections would be affected for a minimum amount of time, rather than for the full onshore construction period, which may be up to 18 months. Construction of the onshore infrastructure is therefore anticipated to progress in sections. The rolling construction approach is detailed in the outline Public Access Management Plan and secured by R10 of the dDCO;
  - Noise and Vibration Management Plan (NVMP) – All construction work would be undertaken in accordance with a NVMP, which would be secured by R10 of the dDCO;

- Perimeter fencing – The construction working area would be enclosed within fencing, enabling the continued use of nearby routes whilst work is underway but separated from users of the routes. The type of fencing would be selected to suit the location and purpose and would be agreed with Denbighshire County Council (DCC) and landowners. Perimeter fencing would be detailed in the Construction Method Statement, which would be secured by R10 of the dDCO; and
- Inspection and maintenance - The export cable and its infrastructure would be designed to require zero maintenance over the operation period. Inspection would be undertaken through link boxes and test pits.

5.14.37. At D4, the Applicant submitted an Outline Skills and Employment Strategy (oSES) [REP4-007], which would be secured by R20 of the dDCO. The document provided an outline strategy which would be developed further with the relevant key consultees into a Skills and Employment Strategy that would facilitate positive and meaningful commitments and activities within the North Wales region by the Applicant. As the oSES was developed during the Examination, it was not referred to in the mitigation section of the ES chapter [REP8-088]. It is however included in the final version of the Schedule of Mitigation and Monitoring [REP8-016].

### **The Planning Statement**

5.14.38. The Planning Statement [REP8-083] provided a summary of the national policy of relevance to the Proposed Development. It concluded that the assessment of socioeconomics had full regard to the relevant requirements for assessment as set out in NPS EN-1, and that the assessment had been carried out in accordance with such requirements.

5.14.39. The Planning Statement concluded that the identified minor beneficial effects on socioeconomics should be considered in addition to the substantial benefits of the Proposed Development as a whole (paragraph 631 of [REP8-083]).

### **Statements of Common Ground**

5.14.40. In the final Statements of Common Ground (SoCG) it was confirmed that all socioeconomic considerations had been resolved between the Applicant and DCC [REP7-049] and the Isle of Anglesey County Council (IoACC) [REP8-046].

### **Issues Considered in the Examination**

#### **Wake effect loss and energy yield**

5.14.41. Throughout the Examination both the Applicant<sup>35</sup> and Rhyl Flats Wind Farm Limited<sup>36</sup> (RWF) made detailed representations in respect of potential wake loss effects as a result of the Proposed Development.

5.14.42. The potential for wake loss effects was raised as an issue during the Examination by the representatives of RWF, an existing wind farm to the southeast of the proposed turbine array. In summary, RWF were of the view that the operation of the Proposed Development would reduce the wind energy reaching the existing

<sup>35</sup> Applicant submissions in respect of wake loss include: [REP1-006], [REP1-007], [REP2-002], [REP3-002], [REP5-003], [REP5-004], [REP6-003], [REP7-003], [REP7-004], [REP8-004], [REP8-005] and [REP8-117].

<sup>36</sup> RWF submissions in respect of wake loss include: [RR-020], [REP1-086] to [REP1-088], [REP2-056], [REP2-057], [REP3-029], [REP4-047], [REP4-048], [REP5-041], [REP6-050], [REP7-058] and [REP8-106] to [REP8-109].

turbines of RFWF, thereby reducing their economic efficiency. RFWF state that would equate to a loss of 2% of their energy generation [REP1-086].

5.14.43. Furthermore, in response to ExQ1.0.19 [REP1-087], RFWF stated that Chapter 12 of the ES [APP-058] considered impacts from existing offshore wind farms for other marine users and activities. However, this assessment did not include consideration of wake loss impacts on RFWF. RFWF stated that no explanation had been offered as to why this effect had been scoped out and RFWF did not consider there was any information in the Examination which assessed the potential impact of the Proposed Development in respect of energy yield.

5.14.44. RFWF also noted that paragraph 2.6.179 of NPS EN-3 states:

*Where a potential offshore wind farm is proposed close to existing operational offshore infrastructure or has the potential to affect activities for which a licence has been issued by Government, the applicant should undertake an assessment of the potential effect of the proposed development on such existing or permitted infrastructure or activities.*

5.14.45. Accordingly, RFWF considered the approach adopted by the Applicant failed to comply with NPS EN-3 [REP1-087].

5.14.46. The ExA posed several questions to both the Applicant and RFWF in respect of this issue (ExQ1.16.7 [PD-009], ExQ2.3.8 [PD-015] and ExQ3.3.19 [PD-017]). The questions focused on:

- Provision of substantive evidence to support the claims made by the Applicant and RFWF;
- Relevance of NPS EN-3;
- Whether a wake loss effect assessment should have been undertaken;
- The effect on economic viability of RFWF; and
- Possible solutions.

5.14.47. Discussions in relation to this issue were also held at Issue Specific Hearing 1 (ISH1), with written summaries provided by both parties' at [REP1-006] and [REP1-086]. Further discussions were also held at the Compulsory Acquisition Hearing (CAH), where the Applicant confirmed that the parties' positions on wake loss had been clearly established [REP8-006].

5.14.48. In respect of the relevance of NPS EN-3, at [REP3-002] the Applicant noted RFWF submission at ISH1 in relation to paragraph 2.6.184 of NPS EN-1 which states:

*The IPC should be satisfied that the site selection and site design of the proposed offshore wind farm has been made with a view to avoiding or minimising disruption or economic loss or any adverse effect on safety to other offshore industries. The IPC should not consent applications which pose unacceptable risks to safety after mitigation measures have been considered.*

5.14.49. However, the Applicant noted the reference in the above paragraph related to 'other offshore industries' and also that the wording in paragraph 2.6.176 of NPS EN-3 also helped to clarify what was intended to be included, as it states *other offshore infrastructure, such as telecommunication cables or oil and gas pipelines, are located or other activities, including oil and gas exploration/drilling or marine aggregate dredging...* [REP3-002].

- 5.14.50. Moreover, the Applicant stated that there was no reference in this section of NPS EN-3 to the interaction between offshore wind farms. As such, the Applicant considered that this therefore only applies to interactions with other types of offshore infrastructure and industries [REP3-002].
- 5.14.51. As such, the Applicant confirmed that they did not consider the wording in NPS EN-3 was applicable to other offshore wind farms, and that appropriate distances between projects were managed by The Crown Estate (TCE) through its leasing process. Despite this, the Applicant stated that they had ensured that the site design of the Proposed Development would minimise disruption or economic loss to other offshore industries. This also included other offshore wind farms, including RFWF, as was set out in the 'Site Selection and Alternatives' chapter of the ES [APP-044] and in the 'Other Marine Users' chapter of the ES [APP-058] in which Table 11 sets out the relevant embedded mitigation [REP3-002].
- 5.14.52. Accordingly, the Applicant stated that they fundamentally disagreed with RFWF's interpretation of NPS EN-3 in respect of wake loss effects. The Applicant maintained that had paragraphs 2.6.176 to 2.6.188 of NPS EN-3 been intended to cover other offshore wind farms, then this would have been expressly stated. In particular, the use of the word 'other' and omission of such projects from the list in paragraph 2.6.176 of NPS EN-3 confirmed that their interpretation was correct. The Applicant further reiterated that any claims of wake loss was a commercial matter between the two parties, and it is not relevant to the Examination and subsequent decision [REP3-002] and [REP7-004]. The Applicant maintained the view that had it been the intention of NPS EN-3 to place a financial burden on developers as a result of wake loss effects, then this would have been explicitly stated in the relevant policy [REP8-006].
- 5.14.53. At ExQ3.3.19(b), the ExA asked the Applicant how the assessment undertaken complies with Regulation 5(2)(a) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 [PD-017]. In response the Applicant commented that this Regulation relates to impacts on population and public health. As such, these matters were assessed in the Public Health chapter of the ES [APP-073] and that this Regulation is not relevant to socioeconomic matters, which are considered in [REP8-088].
- 5.14.54. Furthermore, the Applicant considered that there were no factors listed in Regulation 5(2) that required a wake loss assessment to be undertaken and no representations were made regarding this in the Scoping Opinion in response to the Applicant's EIA scoping request [APP-295].
- 5.14.55. In terms of the possible loss of 2% of energy yield, and in the absence of an assessment by the Applicant, RFWF commissioned DNV to provide an opinion on potential wake loss [REP4-047]. The note provided stated that given the proposed distance between the two wind farms, it was the opinion of DNV that the construction of the Proposed Development would result in a tangible wake loss in the region of up to 2%. As such, DNV recommended a wake impact assessment to be carried out at the RFWF [REP4-048].
- 5.14.56. At D5, the Applicant noted that RFWF had not provided any assessment or details to support the assertion that wake loss effects of the Proposed Development would actually be 2% or the basis on which the calculation had been made. Also, the Applicant did not consider that a 2% wake loss would be sufficient to affect the future viability of RFWF and also that RFWF had not specifically claimed that such a loss would affect the future viability of the existing wind farm [REP5-003].



- 5.14.57. In response, at D6 RFWF stated that it was not for them to bear the costs of such an assessment. Furthermore, that they were aware that the Applicant accepted that there may be a wake loss effect similar to that stated by DNV but had chosen not to submit this information into the Examination. As such, RFWF felt it was disingenuous for the Applicant to question the figure supplied by DNV [REP6-050].
- 5.14.58. At ExQ3.3.19, the Applicant confirmed that they had never asserted that the presence of the Proposed Development would have no effect on RFWF. They acknowledged that it is a feature of offshore wind development that all new offshore wind farms would have a potential wake effect on existing offshore wind farms, including those that may be tens or even hundreds of kilometres apart. It remained the view of the Applicant that the matter was appropriately regulated through the TCE leasing process by adherence to TCE's siting criteria for new offshore wind farm development, which the Proposed Development would comply with [REP7-004].
- 5.14.59. In respect of the suggestion by RFWF that the Applicant should undertake a wake loss assessment, the Applicant did not consider it was necessary as it was not a policy requirement and that TCE's siting criteria for offshore wind farms dictates the location of the Proposed Development wind turbine generators (WTGs). In any event, to undertake an assessment based on the maximum design scenario would be overly precautionary as the number, layout and height of the WTGs had not been determined and would therefore not be a sound basis on which to reach any conclusions regarding wake loss effects [REP7-004].
- 5.14.60. The Applicant did not consider arbitration in relation to wake loss effects would be appropriate. This was as the key issue in the dispute related to the interpretation of NPS EN-3 and whether wake loss effects are a relevant consideration in determining the application for the Proposed Development. The Applicant considered the correct interpretation of NPS EN-3 is a matter for the ExA and the SoS and that it is not appropriate to be determined by an arbitrator [REP7-004].
- 5.14.61. In respect of the drafting of a requirement, the Applicant considered that even if the ExA and SoS concluded that the policies of NPS EN-3 should be engaged, the Applicant had complied with the policies by minimising the impact on the existing RFWF and there would therefore be no need, and thus no justification for a requirement [REP7-004].
- 5.14.62. The Applicant also reiterated that they considered there was nothing in any of the energy NPSs (either extant or revised drafts) or any other policies to prevent an offshore wind farm from being developed in the vicinity of another offshore wind farm. The only control that currently exists is through TCE's leasing process where buffers are built in to ensure appropriate separation, which the Applicant stated the Proposed Development complied with [REP7-004].
- 5.14.63. In response to ExQ3.3.19, RFWF stated that in terms of arbitration it was not clear how arbitration would assist in resolving the issue as, fundamentally, it required the SoS to determine whether the terms of paragraphs 2.6.176 – 2.6.188 NPS EN-3 applied in relation to assessment of impacts on existing wind farms. Despite this, RFWF further stated that on the assumption that the SoS did agree that the issue of wake loss effects needed to be addressed, then where arbitration might be relevant is in relation to the assessment of such an impact and determination of appropriate mitigation or compensation [REP7-058].

- 5.14.64. Also, in response to ExQ3.3.19, RFWF submitted a proposed Requirement to deal with the wake loss issue. RFWF felt that a methodology for the assessment of wake loss should be agreed with them and following this, the assessment would be carried out as agreed. Compensation would be paid for the loss of any revenue, with arbitration being addressed in the terms of the arbitration provisions of the dDCO [REP7-058].
- 5.14.65. The proposed wording of the wake loss requirement was attached as Appendix one to RFWF response to ExQ3.3.19 [REP7-058] and stated:
- (1) Prior to the construction of any wind turbine generators as part of Work No. 1, the undertaker shall submit a methodology to the Company for the carrying out of an assessment of the wake effects of the Authorised Development on the operation of the Rhyl Flats Offshore Wind Farm to identify and quantify the extent of external wake loss to Rhyl Flats Offshore Wind Farm. If the Company does not respond within 28 days then approval is deemed to be given.*
- (2) Prior to the attachment of blades to any of the wind turbine generators as part of Work No. 1, the undertaker shall will undertake the assessment of assessment of the wake effects of the Authorised Development on the operation of the Rhyl Flats Offshore Wind Farm in terms of the methodology approved, as deemed to have been approved under sub-paragraph (1) and submit this for the approval of the Company. If the Company does not respond within 28 days then approval is deemed to be given.*
- (3) The undertaker shall indemnify the Company for any loss of electricity generation capacity identified in the assessment of wake loss approved or deemed to have been approved under subparagraph (2).*
- 5.14.66. At D8, the Applicant stated that in view of their position on the non-application of NPS EN-3, and that as any impact on RFWF had been minimised, to indemnify RFWF for any loss of any electrical generation capacity resulting from any wake loss effects would not meet the relevant policy test as it is not necessary and would be unreasonable [REP8-004].
- 5.14.67. Turning to the issue of the potential for a 2% wake loss, the Applicant did not contest the figure. However, the Applicant considered that the actual wake impact may well be appreciably less than this figure and that it would remain within the current level of operating variability. As such the Applicant concluded that the Proposed Development would not have an appreciable impact on RFWF and in turn that any wake loss effects would not detract from the very substantial benefits of the Proposed Development [REP7-004].
- 5.14.68. RFWF confirmed that they had undertaken an initial calculation of the estimated loss of energy production if both the existing wind farm and the Proposed Development were both in operation. On the basis that both wind farms would be operating together for a period of 5 years, a 2% wake loss would equate to up to 26,000 megawatt hours (MWh). If RFWF was in operation longer than currently planned, this figure would increase [REP7-058].
- 5.14.69. Such figures were caveated by RFWF as they only had limited information. As such they suggested that in order to provide a more accurate figure, an assessment of wake loss was required which, to date, the Applicant had failed to undertake [REP7-058].

- 5.14.70. In respect of the figures provided by RFWF, at D8 the Applicant stated that a breakdown of how the alleged loss of 26,000 MWh of electrical generating capacity on account of wake loss effects had not been provided. As such, the Applicant was therefore not in a position to comment further. The Applicant also reiterated a previous point in that they considered any potential wake loss would have no appreciable impact on the very substantial benefits that the Proposed Development would provide if granted consent [REP8-004].
- 5.14.71. At ExQ3.3.20, the ExA asked TCE to confirm whether their siting criteria for offshore wind farm extensions, which sets a 5km stand-off from other operational offshore wind farms, takes into account the potential for wake effects/reductions in energy output [PD-017]. In response, TCE confirmed that:
- The 5km buffer/stand-off between wind farms, unless developers consent to closer proximity, is a commercial arrangement to enable developers to develop, operate and maintain wind farms by allowing for a range of factors including amongst other matters, wake effects, navigation and safety. The location of a wind farm within an area of seabed leased from The Crown Estate is for developers to decide and design for, subject to obtaining the necessary consents and The Crown Estate's approval [REP7-060].*
- 5.14.72. At the close of the Examination, the Applicant stated that the issue fundamentally came down to a question of interpretation of NPS EN-3 and whether in the absence of specific wording the SoS would interpret the policy as requiring the Applicant to undertake a wake loss assessment for RFWF [REP8-006].
- 5.14.73. In respect of RFWF, at the close of the Examination they confirmed that their position was that the RFWF was an operational offshore windfarm and constitutes existing offshore infrastructure. The provisions of paragraphs 2.6.176 – 2.6.188 of NPS EN-3 are therefore engaged in relation to the potential impact of the Proposed Development on RFWF. As such, RFWF considered that the Applicant had not followed the guidance in the relevant parts of NPS EN-3 [REP8-109].
- 5.14.74. Accordingly, it was the view of RFWF that consent should not be granted until the impact of the Proposed Development on RFWF was properly assessed, and appropriate provision was made to minimise negative impacts, disruption and economic loss to RF as required by EN-3 [REP8-109].

#### **ExA's consideration**

- 5.14.75. Taking into consideration the detailed information provided by both Parties in respect of this issue, the ExA accepts that the Proposed Development complies with adherence to TCE's siting criteria for new offshore wind farm development.
- 5.14.76. In respect of Regulation 5(2)(a) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, the ExA concurs with the Applicant insofar as this relates to population and human health and is not relevant to the socioeconomics assessment and considerations.
- 5.14.77. However, the ExA concludes that NPS EN-3 does apply to offshore wind farm effects on other windfarms. Also, that the existing RFWF does fall within the definition of existing operational infrastructure, as referenced in NPS EN-3.
- 5.14.78. The ExA is satisfied that had the content of NPS EN-3 specifically intended to exclude existing wind farm development from the application of NPS EN-3, then this would have been made explicitly clear. As such, in respect of paragraph 2.6.179 of

NPS EN-3, an assessment should have been undertaken by the Applicant. Accordingly, the ExA finds that the Proposed Development does not, in this respect, comply with paragraph 2.6.179 of NPS EN-3.

5.14.79. In terms of the predicted wake loss effect of approximately 2%, the ExA notes that the Applicant stated that this figure was calculated using a maximum design scenario and therefore the losses may be lower. However, the Applicant did not contest the predicted effect of 2% on RFWF. From the evidence provided during the Examination, the ExA is satisfied with the figure of 2% as presented.

5.14.80. The ExA notes the potential loss of up to 26,000 MWh as a consequence of the Proposed Development may also increase if RFWF is operational for a longer period. However, and with regard to paragraph 2.6.185 of NPS EN-3, the ExA does not consider that the 2% effect would affect the future viability of RFWF and that when balancing the 2% figure against the energy benefits of the Proposed Development this provides moderate weight against the scheme.

5.14.81. In respect of the proposed wording of the Requirement as provided by RFWF, requirements need to observe the same tests as used for planning conditions, as set out in the National Planning Policy Framework 2021 (NPPF)<sup>37</sup>. Paragraph 56 of the NPPF states that:

*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.*

5.14.82. The ExA notes that the same tests are set out in Wales in 'The use of planning conditions for development management'<sup>38</sup>.

5.14.83. The wording of the proposed Requirement is vague and the ExA considers, as worded, the Requirement would fail to meet the tests of enforceability and precision. This relates specifically to the issue of indemnification and the extent of wake losses. The wording is also unclear in respect of how any areas of disagreement between the Parties would be resolved.

5.14.84. Accordingly, the ExA has drafted the wording as detailed below and this Requirement is also included in Volume 3, Appendix D Recommended Development Consent Order of this Report:

*(1) No part of any wind turbine generator shall be erected as part of the authorised development until an assessment of any wake effects and subsequent design provisions to mitigate any such identified effects as far as possible has been submitted to and approved in writing by the Secretary of State, in order to mitigate the impact of the authorised development on the energy generation of Rhyl Flats Wind Farm. The assessment must be based on the scope of the DCO as granted.*

*(2) The authorised development shall be carried out in accordance with the approved details.*

5.14.85. The ExA notes that this is, to their knowledge, the first time such a Requirement would be imposed on a DCO. Nevertheless, as it is likely such circumstances may

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<sup>37</sup> <https://www.gov.uk/guidance/national-planning-policy-framework>

<sup>38</sup> Welsh Government Circular (WGC 016/2014)

become more common with the increase in offshore wind development, it is important to fully understand the economic effects on existing offshore wind farms.

- 5.14.86. The ExA is aware that the inclusion of the proposed requirement may be seen as creating a precedent. It would also require the SoS to become involved in the discharge of the Requirement as the offshore environment falls outside of the administrative boundaries of either CCBC or DCC. However, the inclusion of a wake effect assessment would ensure that the final detailed design of the Proposed Development had fully sought to minimise or negate the effects of the proposal on RFWF. Whilst not only complying with NPS-EN3, such an assessment may also result in the further reduction in wake loss effects to less than the quoted 2% figure.

#### **Requirement 20: Skills and Employment Strategy**

- 5.14.87. In their Relevant Representation (RR), the Isle of Anglesey County Council (IoACC) [RR-004] noted the confirmation that the opportunity to maximise local socio-economic benefits would be explored and presented in more detail post-consent. The IoACC further noted that this was to include a Requirement to submit for approval a 'Skills and Employment Strategy'.
- 5.14.88. However, IoACC noted that the dDCO requirements as drafted did not include a suitable worded requirement for the approval of a 'Skills and Employment Strategy'. The IoACC considered it best practice to prepare and submit an outline strategy as part of the dDCO to ensure that discussions took place early and during the consenting process, with engagement taking place with key stakeholders and that any final strategy would be approved based on the outline strategy [RR-004].
- 5.14.89. In response to ExQ1.18.11, the Welsh Government confirmed that they had engaged with the Applicant in respect of skills and employment and were keen to continue with such discussions and to co-ordinate work across the offshore wind sector with the other opportunities off the North Wales coast, as well as the Irish Sea projects, and with other renewable and low carbon sectors in North Wales [REP1-097].
- 5.14.90. Also, the Welsh Government stated that links to the Welsh language opportunities in relation to skills were key to such projects, ensuring the skills recognised the opportunities for Welsh through the training and education opportunities. As such, the Welsh Government felt it would be useful to work collaboratively across sectors and that they were happy to provide support for such activities [REP1-097].
- 5.14.91. At ISH1, the Applicant confirmed their willingness to provide a skills and employment strategy and confirmed they were preparing an outline strategy for discussion with relevant local authorities which they proposed would be secured as a requirement in the dDCO [REP1-006]. Details of the proposed wording for R20: Skills and Employment Strategy was included in a revised version of the dDCO submitted at D1 [REP1-008] which stated:

*20. No stage of the authorised development may commence until a skills and employment strategy, substantially in accordance with the outline skills and employment strategy has been submitted to and approved by the relevant planning authority.*

- 5.14.92. In their Written Representation (WR) at D2, the IoACC confirmed that they were pleased that the Applicant had been working on establishing an outline Skills and Employment Strategy (oSES) and had also been engaging with local stakeholders to explore opportunities within the local area for skills, employment, and

apprenticeship opportunities. In addition, the IoACC requested that an oSES should also be made available during the Examination and provision made within the dDCO for the final detailed plan to be approved [REP1-068].

- 5.14.93. In response to the received WRs, the Applicant confirmed at that an oSES was to be drafted and made available during the Examination once an initial round of engagement had been completed in order to inform the content of the strategy [REP2-002]. This was also confirmed in response to ExQ1.18.11 at [REP1-007].
- 5.14.94. At D4, the Applicant submitted an oSES into the Examination [REP4-007]. This outlined the purpose of the oSES was to provide a framework upon which to develop a Skills and Employment Strategy with relevant key consultees in order to facilitate positive and meaningful commitments and activities within the North Wales region. Table 4 of the oSES detailed outline commitments which included the following:
- Proposed approach to recruitment;
  - Education;
  - Apprenticeships;
  - Interns and graduate programmes;
  - Transition;
  - Diversity and inclusion
  - unemployed and under-employed; and
  - Employee engagement.
- 5.14.95. At ExQ2.18.3, the ExA further explored with the Applicant, DCC, Conwy County Borough Council (CCBC) and IoACC whether R20 of the dDCO should also be included within the Schedule of Mitigation and Monitoring [PD-015]. In response, both DCC and IoACC confirmed that the oSES should be included within the Schedule of Mitigation and Monitoring ([REP5-033] and [REP5-046]).
- 5.14.96. The Applicant confirmed that they had updated the Schedule of Mitigation and Monitoring to include R20 [REP5-004] and this was submitted into the Examination at D4 [REP4-021].
- 5.14.97. Discussions regarding proposed R20 were also held at ISH4. The ExA requested that the Applicant considered the inclusion of an implementation clause for R20, which the Applicant agreed to. The Applicant confirmed that the amendment wording would be included in the next draft of the dDCO submitted into the Examination [REP8-007].
- 5.14.98. The ExA noted that R20 had been included in the latest version of the Schedule of Mitigation and Monitoring [REP4-021]. However, R20 was stated as being 'not applicable' in respect whether it was mitigation, monitoring, compensation, or enhancement. The ExA asked the Applicant to explain this and to also confirm how R20 complied with the NPPF tests in relation to planning conditions ([EV-029] to [EV-031]).
- 5.14.99. The Applicant confirmed that R20 was not mitigation as it was not necessary to mitigate an effect of the scheme. However, the Applicant advised that they would review the entry in the Schedule of Mitigation and Monitoring [REP8-006]. The Applicant also stated that in this instance given the location of the Proposed Development being in Wales, the NPPF was not considered relevant.

- 5.14.100. An updated Schedule of Mitigation and Monitoring was submitted into the Examination at D8. The ExA notes that in this version, R20 is classified as being mitigation (row 487 of [REP8-016]). Additionally, at D7 the Applicant submitted their response to the 'CAH and ISH4 Actions' document [REP7-005]. This confirmed that whilst R20 was not required in order to mitigate against significant adverse effects, it had been described as mitigation, or a commitment, in terms of providing further detail on securing positive benefits to employment and the economy in North Wales, and Wales more widely.
- 5.14.101. An updated dDCO was also submitted into the Examination at D8, which including an implementation clause for R20 [REP8-009]:
- (1) No stage of the authorised development may commence until a skills and employment strategy, substantially in accordance with the outline skills and employment strategy has been submitted to and approved by the relevant planning authority.*
- (2) The skills and employment strategy must be implemented in accordance with the approved details.*
- 5.14.102. At the close of the Examination, DCC confirmed that they agreed that the proposal for a Skills and Employment Strategy would be finalised in line with an outline Skills and Employment Plan and that this would be of benefit to local people and companies [REP7-049].
- ExA's consideration**
- 5.14.103. As no significant adverse residual effects were identified in respect of employment and skills in the socioeconomic assessment, the ExA does not consider R20 is required as a form of mitigation.
- 5.14.104. Whilst this issue was discussed at ISH4 and the Applicant confirmed R20 would not mitigate any effects of the Proposed Development, it remains unclear to the ExA as to why R20 has been classed as 'mitigation' in the final version of the Schedule of Mitigation and Monitoring.
- 5.14.105. Turning to the discussion held at ISH4 in respect of the tests sets out in the NPPF and the relevance to the Welsh planning system, the ExA notes the comments made by the Applicant. However, in any event it is noted that the same tests appear in Wales in 'The use of planning conditions for development management'.
- 5.14.106. Accordingly, the ExA considers that as R20 does not form mitigation for the Proposed Development it runs the risk of offending the tests of needing to relate to planning and necessity.
- 5.14.107. However, despite this issue the ExA is satisfied that there is clear precedent for such a requirement in several DCOs, including R17 of the Thurrock Flexible Generation Plant Development Consent Order 2022/157. Furthermore, it is evident that R20 would enable the delivery of significant benefits to local areas in respect of employment and training.
- 5.14.108. For example, the ExA notes that the Applicant has committed to taking on Coleg Llandrillo apprentices and the ExA understands that they are currently exploring how apprentices could be trained in advance of the Proposed Development's needs. Technical apprentices would be trained at the college, and the Applicant has

confirmed that they are examining appropriate delivery for non-technical apprentices, which may include degree apprentices.

- 5.14.109. In addition, the final SES would also include ways in which to work with the supply chain to improve the diversity of the workforce and inclusion within the companies, whilst recognising that many of those worst affected are in the minority communities, e.g. in terms of age, disability, ethnicity, gender and social mobility.
- 5.14.110. Paragraph 5.13.9 of the draft EN-1 also includes the following wording in respect of employment and skills plans:
- The Secretary of State may wish to include a requirement that specifies the approval by the local authority of an employment and skills plan detailing arrangements to promote local employment and skills development opportunities, including apprenticeships, education, engagement with local schools and colleges and training programmes to be enacted.*
- 5.14.111. The ExA notes the willingness of the Applicant to propose such a requirement, and the support of various local planning authorities to such a scheme. The ExA therefore recommends that R20 is retained in its current form in the recommended DCO (rDCO). However, the issue of compliance with the tests is an issue the ExA notes that the SoS may wish to consider further.

### **Supply Chain**

- 5.14.112. In their RR, IoACC stated that local companies needed to be made aware of the potential supply chain opportunities that would be made available to them during all stages of the Proposed Development. Such engagement would allow companies to plan accordingly and ensure that they would capitalise on the opportunities presented. As such, the IoACC requested the development of a Supply Chain Action Plan [RR-004].
- 5.14.113. In their WR, IoACC stated that such an outline Supply Chain Action plan should be made available during the Examination and then the provision made within a DCO requirement for the final plan to be approved. Such a requirement would ensure discussions in relation to supply chain opportunities took place early to ensure local and regional companies were ready to fully benefit from opportunities presented by the Proposed Development [REP1-068].
- 5.14.114. In response to the IoACC RR the Applicant confirmed that they understood the importance of developing the supply chain and associated skills in the region. The Applicant noted that they had looked to upskill the future generation through the creation of its Wind Turbine Apprenticeship Programme in partnership with Coleg Llandrillo, Grŵp Llandrillo Menai [REP1-001].
- 5.14.115. Also, in the DCC Local Impact Report (LIR), DCC noted that the Proposed Development would generate supply chain opportunities but noted that there were no guarantees that goods and services would be procured from the local supply chain. As such, the socioeconomic benefits may not be realised without intervention and local weight (paragraph 13.6 of [REP1-056]). DCC further noted that they would encourage efforts to ensure North Wales businesses were made aware of the potential supply chain opportunities (paragraph 13.7 of [REP1-056]).
- 5.14.116. In response to the DCC LIR, the Applicant confirmed that since an early stage of the Proposed Development, they had been undertaking activities to include and maximise the use of local suppliers wherever possible and was fully supportive of



the benefits of local content. In addition, the Applicant confirmed they were a founding member of the Offshore Energy Alliance. This is a supply chain cluster organisation set up as part of the Offshore Wind Sector Deal that acts as a champion for local business development in North Wales and the Northwest of England. The cluster facilitates engagement between offshore wind developers and suppliers, highlighting opportunities in a timely way and therefore helping to maximise local benefits [REP2-004].

- 5.14.117. The ExA also explored the approach to the supply chain with the Applicant at ExQ1.18.26, where it was asked whether a commitment would be made to a proportion of contracts being delivered through local suppliers [PD-009].
- 5.14.118. The Applicant commented that a proportion of contracts to be provided through local suppliers was not identified as required mitigation in the socioeconomics assessment and therefore it was not necessary to secure this in the dDCO [REP1-007].
- 5.14.119. Additionally, the Applicant stated that following receipt of a DCO and Marine Licence, which are requirements for entering a Contract for Difference (CfD) Allocation Round, the Applicant intended to apply for a CfD. The Applicant anticipated that the Proposed Development would be required to submit a Supply Chain Plan in order to be eligible to apply for a CfD. The range and quality of commitments within the Supply Chain Plan would include the categories of Green Business Growth, Innovation, Skills & Infrastructure. Within the category of 'Green Growth', it is expected the Applicant would be incentivised to maximise local content [REP1-007].
- 5.14.120. Also, in respect of securing a proportion of local content, the Applicant confirmed that they would have significant concern about this being secured through the DCO. This was because it would likely duplicate requirements under the Supply Chain Plan and would pre-empt the work underway to assess the ability of the local supply chain to assist in delivery of the Proposed Development. The Applicant confirmed that they were engaged in discussions with the offshore wind supply chain, but such discussions, and therefore the Applicant's understanding of the local supply chain's role, would evolve as the detailed design progresses and as the supply chain itself evolves [REP1-007].
- 5.14.121. In response to the IoACC WR, the Applicant referred back to their response made to ExQ1.18.26 and also confirmed that the production of a Supply Chain Action Plan would likely duplicate requirements under the CfD Supply Chain Plan [REP2-002].
- 5.14.122. Whilst not specifically aimed at the Welsh Government, the Welsh Government also responded to ExQ1.18.26 stating that:
- This element is key to the success of this project in North Wales. Welsh Government recognises the project could be a catalyst to secure long-lasting legacy benefits for North Wales and indeed Wales and key to securing such a legacy will be coordinated action and strategic approaches by both the public and private sectors, ensuring that the mitigation measures ensure and protect the Welsh public purse from additional costs [REP1-097].*
- 5.14.123. In noting the response provided by the Applicant to ExQ1.18.26, the ExA asked the Welsh Government, DCC and CCBC at ExQ2.18.1 whether they still considered it necessary to secure a percentage of local content jobs from within the North Wales regions during the construction and/or operation phases [PD-015].

- 5.14.124. In response, DCC confirmed that they were content with the approach suggested by the Applicant in their response to ExQ1.18.26 [REP5-046]. CCBC also confirmed that initial discussions had been held with the Applicant and that discussions regarding the supply chain issue were ongoing [REP5-454].
- 5.14.125. In terms of the Welsh Government response to ExQ2.18.1, they noted that:
- For local communities in North Wales and Wales to benefit from the opportunity of hosting such developments, it is necessary to at least understand the proportion of work coming to local supply chains. It is not possible for Welsh Government to indicate a realistic figure as the work on supply chain is yet to be completed. Currently, the Supply Chain Plan does not provide the detail of 'local content' and therefore it is difficult to secure such opportunities for local communities hosting major infrastructure [REP5-044].*
- 5.14.126. At D6 the Applicant, in response to the answer given by the Welsh Government to ExQ2.18.1, commented that they would continue to seek to bring local benefits to the region as a result of the Proposed Development and that they continued to work with the Welsh Government and other stakeholders to ensure that they fully understood the capabilities of businesses in the region. If gaps are identified, it is the intention of the Applicant to incorporate solutions to these within the Supply Chain Plan process to help secure as much local content and benefits as possible [REP6-003].
- 5.14.127. The ExA also noted that at the close of the Examination, DCC confirmed that they agreed that a Supply Chain Plan would be developed through the CfD process, and this would provide benefit to local companies [REP7-049].

#### **ExA's consideration**

- 5.14.128. The ExA agrees that as no significant residual effects were reported in respect of employment, it is not necessary for a proportion of local content for jobs to be secured by the dDCO.
- 5.14.129. Despite this, the ExA is satisfied that that opportunities for the supply chain in the region would be a positive effect of the Proposed Development and this would be enhanced by the production of a Supply Chain plan.
- 5.14.130. Whilst the Supply Chain plan is unlikely to be available until post consent and therefore sits outside of the Examination, the ExA is content that the Applicant is working with relevant private and public body stakeholders to understand available capacity within the region and as such, recognises the importance of taking a holistic approach to supporting labour market resilience and support for the region's growth strategies and key sectors including construction and energy.
- 5.14.131. Additionally, in relation to paragraph 5.3.15 of draft NPS EN-1 it is stated that *Applicants are encouraged, where possible, to ensure local suppliers are considered in any supply chain plan.*
- 5.14.132. Accordingly, the ExA is satisfied that the Applicants approach in respect of the proposed content of the Supply Chain plan would comply with draft NPS EN-1 in this respect.

## **Community Linguistic Statement**

- 5.14.133. The Applicant submitted a Community Linguistic Statement (CLS) as part of the application [APP-325]. The CLS considered the potential impact and effect of the Proposed Development on the Welsh language and culture and, how it would protect, promote, and enhance the Welsh language.
- 5.14.134. The CLS concluded that the Applicant had given due consideration to any effects of the Proposed Development on the Welsh language. As such, the CLS found that the Proposed Development would not result in negative impacts upon the linguistic and social character and the locality and would not impede the ability to achieve the relevant national and local Welsh language policy objectives. Additionally, in order to further safeguard the Welsh language, the Applicant committed to the promotion of the Welsh language as part of the Proposed Development. This would be achieved by the proposal that all non-technical public facing signage during construction and operation would be bilingual [APP-325].
- 5.14.135. The ExA explored the suitability of the CLS with the Welsh Government at ExQ1.18.12 [PD-009]. The Welsh Government commented that the achievement of local and national Welsh language objectives amounted to more than just the use of the language visually through signs, documentation, and websites. It was further stated that there was a need for clear understanding as to how the Proposed Development would impact on demographic changes, which includes supporting the Welsh language as a living community language [REP1-097].
- 5.14.136. Overall, the Welsh Government stated that they did not feel that the CLS provided sufficient consideration to the linguistic nature and interest within the relevant area. A full impact assessment was requested to provide more detail of the impacts on inward migration, local services and any mitigation measures that could be put in place to support the language. Accordingly, the Welsh Government concluded that more consideration was required in respect of the needs and interest of the Welsh language within the Proposed Development [REP1-097].
- 5.14.137. The ExA notes in response to ExQ1.18.12, both CCBC and Gwynedd Council confirmed they were satisfied with the content of the CLS ([REP1-054] and [REP1-062]).
- 5.14.138. In response to the Welsh Government's request for a more detailed impact assessment, the Applicant considered that the CLS was compliant with DDC Supplementary Planning Guidance (SPG) Note – Planning and the Welsh Language - Appendix 3, which ensures compatibility with the Denbighshire Local Development Plan (LDP) policies with regards the Welsh language. As such, the Applicant concluded that they considered the CLS to be an appropriate and proportionate approach, and in line with the information provided for other comparable offshore energy projects such as the Morlais Tidal Energy project and the Erebus offshore floating wind project, the former of which similarly ensures compliance with a Welsh language policy which includes commitments for the supply chain [REP1-007].
- 5.14.139. Noting the response from the Applicant at D1, the ExA asked the Welsh Government whether they were satisfied that an 'appropriate and proportionate' approach had been adopted by the Applicant (ExQ.2.18.5 [PD-0015]).
- 5.14.140. The Welsh Government responded to ExQ2.18.5 stating that there didn't seem to be a response made by the Applicant regarding their suggestions as to how the

CLS could be strengthened. Additionally, the Welsh Government, reiterated the point that the Applicant appeared to have failed to understand the aims of the SPG regarding the need to protect the social and cultural use of the language within communities [REP5-044].

- 5.14.141. An updated CLS was submitted at D6 in response to the Welsh Governments responses to ExQ2.18.5. Section 1.7 of the CLS was amended to capture the additional measures which were considered proportionate with regards the impacts of and opportunity presented by the Proposed Development, and appropriate with regards promoting and enhancing the use of Welsh language [REP6-023].
- 5.14.142. The Applicant also confirmed that they proposed to develop a Welsh language policy. This policy would be implemented as part of the Supply Chain Plan and would, amongst other aspects, ensure that the Welsh language was treated no less favourably than the English language and that all contractors, tenants and supply chain provider staff should gain, as a minimum, Level 1 speaking Welsh language skills. Additionally, there would be requirements on supply chain companies to comply with the Welsh language policy and establish a means of monitoring compliance (Paragraph 60 of [REP6-023])
- 5.14.143. Following this update to the CLS, the ExA again requested input from the Welsh Government in terms of the suitability of the amendments (ExQ3.18.6 [PD-017]). Unfortunately, in response the Welsh Government stated they were unable to see the updated CLS and therefore their comments made at D5 remained valid [REP7-061].
- 5.14.144. The issues facing the Welsh Government in respect of accessing the CLS to fully respond to ExQ3.18.6 were noted by the ExA. Accordingly, the ExA submitted a Rule 17 letter<sup>39</sup> to the Welsh Government in March 2023 which provided the most up to date references for the CLS and asked for comments on the amendments made to the document [PD-018].
- 5.14.145. At D8, the Welsh Government confirmed that they would wish the Applicant to further consider opportunities to consider the use of the Welsh language as part of any future community benefit funds [REP8-110].

#### **ExA's consideration**

- 5.14.146. The importance of the Welsh language and Welsh identity is understood by the ExA. The Welsh language is a key part of the region's culture and identity and the ExA is aware that Welsh is the primary language spoken in several communities, as well as having a significant presence in many workplaces and education institutions.
- 5.14.147. The ExA is satisfied that, following the amendments made to the CLS at D6, the content of CLS would ensure full compliance with Policy RD 5 of the DCCLDP, which states that in all planning application *the needs and interests of the Welsh language will be taken into account*.
- 5.14.148. In respect of the SPG, it is stated that for infrastructure projects a CLS is required. Such a document is intended to allow the developer to explain the proposal in more detail and explore the positive and negative impact of the proposed development on

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<sup>39</sup> Submission of a Rule 17 letter under the Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010

the Welsh language. Accordingly, the ExA is content that the CLS also complies fully with the SPG.

- 5.14.149. Through the development of the CLS, the ExA is satisfied that it has been adequately demonstrated by the Applicant that the Proposed Development would not have any significant negative effect on the Welsh language. Furthermore, appropriate efforts are to be employed by the Applicant to ensure the promotion of the Welsh language during both the construction and operational phases and further language measures would be contained with the Supply Chain Plan.
- 5.14.150. However, it is not clear to the ExA how the CLS would be secured. Given the importance of the document, the ExA considers it appropriate that it is included as a Certified Document in the rDCO.

### **Port selection**

- 5.14.151. The ExA explored the issue of port selection, both in terms of a construction port and an operation base with the Applicant at ExQ1 (ExQ1.18.25, ExQ1.20.2 and ExQ1.20.3 of [PD-009]).
- 5.14.152. In response to the questions, the Applicant confirmed that they were engaging with port operators in undertaking a review of available ports and to understand the suitability of ports to support both the construction and in terms of a port or ports to support the required operations base. The Applicant also confirmed that a decision on which port, or ports, to be used would likely be taken once consent for the Proposed Development was granted [REP1-007].

### **ExA's consideration**

- 5.14.153. The ExA accepts that as with the generality of offshore wind farm NSIP applications, it is often not possible at the time of the application for all aspects of this Proposed Development to be settled in precise detail. This is for technological, cost, and public policy reasons.
- 5.14.154. These effects help secure the most cost-effective energy achievable for the UK consumer. Equivalent commercial and cost minimisation reasoning applies to the selection of construction and operation servicing ports, where an assessment based on more than one port option is a normal means of enabling an undertaker to obtain port services on competitive commercial terms, again minimising consumer costs.
- 5.14.155. Additionally, paragraphs 4.2.7 and 4.2.8 of NPS EN-1 note that it may not be possible at the time of an application for development consent for all aspects of a proposal to have been settled in precise detail.
- 5.14.156. Accordingly, the ExA is satisfied in respect of the approach adopted regarding port selection and that this complies with NPS EN-1. It is however important to note that the ExA is aware that the GVA per annum for the North Wales region would be close to £2.4 million per annum during the construction phase if a local port was selected, as compared to £1.3 million per annum in a non-local port is utilised.

### **Commercial fish stocks**

- 5.14.157. Concern was raised by both the Isle of Man Government [RR-027] and by the Manx Fish Producers Organisation [RR-033] that the Manx fishing interests had not been adequately considered. On a similar note, Janet Finch-Saunders MS/AS [AS-036] was concerned about missing baseline data related to the location of vessels 12m

and under and that the impact pathway assessment conclusions would be unreliable.

- 5.14.158. Mr Carl Davies at Open Floor Hearing 1 [EV-015] highlighted the disappearance and re-emergence of particular fish stocks (such as tub gurnard) which he attributes to his experience on the effects of the construction of a nearby wind farm Gwynt y Môr. In his response to ExQ1.18.8, Mr Davies predicted there would be a fall in commercial fish and shellfish catches during piling over a wide area and would extend beyond the windfarm footprint [REP1-098].
- 5.14.159. These matters are considered and concluded on in section 5.10 Marine – Commercial Fisheries, Shipping and Navigation of this Report.

#### **Faenol Bropor landholding**

- 5.14.160. The onshore substation (OnSS) is proposed to be located at Faenol Bropor, which is a livestock and arable farm of some 61.29ha. Faenol Bropor is the only location where a permanent loss of land would occur due to the Proposed Development. Infrastructure at this location is to include:
- The export cable corridor (ECC);
  - OnSS;
  - OnSS temporary construction compound (TCC);
  - Permanent landscape mitigation and ecological compensation and enhancement land; and
  - Utilities connection.
- 5.14.161. Significant concern was raised throughout the Examination by the landowners via their land agent in respect of the area of land to be lost due to the Proposed Development. Specifically, the landowners stated that the infrastructure would have a devastating impact on the viability of the agricultural unit and accordingly the associated livestock enterprise as in excess of 54% or 33.59ha of prime agricultural land would be acquired by the Applicant [REP1-104]. The total area of land allocated for mitigation and enhancement land was also considered to be excessive by the landowners [REP1-103].
- 5.14.162. Additionally, a further 6% or 3.8ha would also be required for 'temporary occupation and use' potentially up to 2030 in respect of the intended ECC and outfall pipe. As such, the landowners stated that the farm business would not be able to sustain their existing two households and the aspirations for the subsequent generation to succeed would be significantly hampered [REP1-104].
- 5.14.163. The Applicant confirmed that actual size of the land take would allow for some flexibility in the final design and both the outline Landscape and Ecology Management Plan [REP7-026] and Design Principles Document [REP7-028] would provide opportunities for landowners and other local residents to consider and contribute to the detailed proposals for the OnSS works and landscaping.

#### **ExA's consideration**

- 5.14.164. Section 5.5 Ground Conditions and Land Use of this Report considers the effects on Faenol Bropor in more detail. Matters in relation to the need to acquire the land is considered and concluded on in Volume 2, Chapter 11 Compulsory Acquisition and Related Matters of this Report. In summary, whilst the ExA is satisfied that the Applicant has provided a robust justification for the required land take, as 54% of the holding would be required on a long-term basis, the ExA does not concur with

the Applicant that no significant adverse effects would be experienced by the landowners.

5.14.165. The percentage of land required would bring the viability of the land holding into question during the operational lifetime of the Proposed Development. Whilst some land would still be available to farm, the ExA considers a moderate significant adverse residual effect would be experienced by the landowners, which is significant in EIA terms.

5.14.166. However, it is understood that discussion with regards to agreeing Heads of Terms (HoTs) are advanced and that the Applicant hopes to shortly finalise these. The ExA concurs that the approach of seeking individual agreements with landowners is appropriate. Where effects cannot be mitigated, the compensation code provides appropriate financial compensation for landowners. The ExA consider the Applicant's approach where mitigation is not possible to be appropriate and proportionate.

### **Cwybr Fawr Partnership**

5.14.167. The holding at Cwybr Fawr Partnership has a mixed use and consists of livestock farming, equestrian facilities, and leisure business operations. In respect of the Proposed Development the ECC would cross the land and the holding is also required for a TCC and operational access.

5.14.168. In respect of this land holding, concern was raised in respect of the removal of land from agricultural production and the time that it would take to return to full productivity would have an impact upon food security and also the potential effect on the commercial operations undertaken at the Cwybr Fawr Partnership ([RR-045] to [RR-051] and [AS-045]). Issues in relation to agricultural land use of this holding is also considered and concluded on in section 5.5 Ground Conditions and Land Use of this Report. Matters in relation to the need to acquire the land is considered and concluded on in Volume 2, Chapter 11 Compulsory Acquisition and Related Matters of this Report.

5.14.169. In response to ExQ1.18.6, the landowners confirmed that the business elements of Cwybr Fawr include [AS-045]:

- Residential lettings;
- Caravan storage;
- Equine livery yard;
- Touring site for leisure caravans;
- Events field; and
- Agricultural land

5.14.170. The landowners considered that the installation of the ECC would have a significant effect on both the agricultural, touring site and equine livery aspects of the business and requested direct drilling of the proposed export cable, rather than the use of open cut trenching. In respect of the events field, this provides a site for a travelling circus on an annual basis which attracts a large number of visitors. As this field is proposed for the TCC, the landowners note that it would be unlikely that this event would be viable in this location [AS-045].

5.14.171. In addition to the financial implications to the landowners, concern was also raised that the presence of construction activities close to the residential dwellings would be detrimental to the residents. Further consideration of public health and nuisance

issues are considered and concluded on in section 5.13 Public Health and Nuisance of this Report.

- 5.14.172. Turning to the request for direct drilling of the ECC, the Applicant confirmed that such technology is not appropriate for this parcel of agricultural land as the land does not contain any environmental or technical constraints that require the use of trenchless techniques. Also, the required length of bore involved in trenchless techniques would require an increased level of drilling fluid which may result in a greater environmental risk to the holding. Furthermore, such technology would result in increased noise due to the need for 24-hour operations [REP2-003].
- 5.14.173. The ExA further explored the concerns raised by the landowners of the Cwybr Fawr Partnership at ExQ2.18.9 and ExQ2.18.10 with the Applicant [PD-015]. In respect of the potential effect on the use of paddocks and touring pitches during the construction phase, the Applicant confirmed that they were not yet in a position to comment on whether the use of the paddocks and pitches would be viable during construction as this would be dependent on the timing of the construction works and the current and future use of this land [REP5-004].
- 5.14.174. However, the Applicant confirmed that they would look to develop further detail regarding proposed mitigation in this area, which would be informed by a detailed scheme design, with the landowners and their agent where reasonable, practicable and effective in relation to useability [REP5-004].
- 5.14.175. The ExA notes that following the submission made by the Applicant in response to ExQ2, no further submissions were submitted by the Cwybr Fawr Partnership into the Examination.

#### **ExA's consideration**

- 5.14.176. In respect of the request for trenchless techniques to be utilised for the installation of the ECC in this location, the ExA notes the concerns raised. However, as no environmental or technical constraints have been identified on this specific parcel of land, it is considered that any benefits resulting from trenchless techniques would be outweighed by possible environmental, cost and engineering considerations.
- 5.14.177. The ExA notes that the socioeconomic assessment did not identify any required mitigation in respect of the Cwybr Fawr Partnership. Noting the assessment conclusions and following an Unaccompanied Site Visit undertaken at Cwybr Fawr by the ExA on 27 February 2023, the ExA accepts that there would be some disruption to the commercial operations during the construction of the ECC. However, the ExA considers that such disruption would be short-term and temporary in nature.
- 5.14.178. Whilst not secured by the dDCO, the ExA is satisfied that the Applicant has committed to further discussions in respect of identifying possible measures to ensure the continued viability of the commercial activities at Cwybr Fawr Partnership during the construction phase.
- 5.14.179. It is understood that discussion with regards to agreeing HoTs are advanced and that the Applicant hopes to shortly finalise these. The ExA concurs that the approach of seeking individual agreements with landowners is appropriate.
- 5.14.180. Where effects cannot be mitigated, the compensation code provides appropriate financial compensation for landowners. The ExA considers the Applicant's approach where mitigation is not possible to be appropriate and proportionate.



### **Memoria Ltd**

- 5.14.181. The ExA notes the concerns raised by Memoria Ltd in their two RR ([RR-030] and [RR-031]), in respect of construction and noise related issues. These issues are considered and concluded on in section 5.13 Public Health and Nuisance of this Report.

### **ExA's overall conclusion**

- 5.14.182. The ExA is satisfied that the Applicant has undertaken an appropriate assessment in terms of socioeconomics and the assessment adequately identified the effects of the Proposed Development.
- 5.14.183. The ExA notes that a moderate significant beneficial effect was identified in respect of the economy for both North Wales and the Wales national level during the operation phase, which is significant in EIA terms. The cumulative effect of construction on the North Wales economy was also reported as moderate beneficial, which is significant in EIA terms.
- 5.14.184. The ExA considers that such a beneficial effect could be further enhanced through the final Skills and Employment Strategy which has the potential to facilitate positive and meaningful training and employment commitments by the Applicant. The production of the outline Skills and Employment Strategy also complies with paragraph 5.13.9 of the draft EN-1.
- 5.14.185. Consequently, the ExA considers that the Applicant's assessment of socioeconomics fully complies with the policy aims of NPS EN-1, and where relevant the draft NPS EN-1. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of relevant Welsh national and local planning policies.
- 5.14.186. The ExA has considered all matters relating to socioeconomics and has weighed the identified harm in respect of the Feanol Bropor landholding against the wider public benefits of the Proposed Development identified in this chapter. In doing so the ExA ascribes moderate weight in favour of matters relating to Socioeconomics for the making of the Order.
- 5.14.187. The findings in respect of socioeconomics will be taken into account in the overall planning balance in Volume 2, Chapter 10 of this Report.

## **5.15. TOURISM AND RECREATION**

### **Introduction**

- 5.15.1. The topic of tourism and recreation was identified as a principal issue in the ExA's initial assessment [PD-007]. This section reports on issues in respect of tourism and recreation including the visitor economy, as well as onshore and offshore recreation.
- 5.15.2. Recreational fishing and charter angling is considered in Volume 2, Chapter 12: Other Marine Users and Activities [APP-058]. Table 17 of [APP-058] provides a summary of the other marine users and activities assessment in respect of the construction, operation, decommissioning, and cumulative effects of the Proposed Development. For all phases, no residual, adverse or beneficial, effects were reported. As no significant effects were identified and no matters relating to tourism and recreation and recreational fishing and charter angling were raised during the Examination, the ExA has not considered this matter further.
- 5.15.3. Matters relating to socioeconomics is considered in section 5.14 of this Report.

### **Policy Considerations**

#### **Overarching National Policy Statement for Energy (NPS EN-1)**

- 5.15.4. NPS EN-1 requires an applicant, where a project is likely to have socio-economic impacts at either local or regional levels, to undertake an assessment of those impacts as part of the Environmental Statement (paragraph 5.12.2). A list of the relevant socio-economic impacts that should be considered in the assessment is detailed at paragraph 5.12.3 of NPS EN-1 and this includes the effects on tourism and cumulative effects.
- 5.15.5. Paragraph 5.10.2 of NPS EN-1 also states that it is the Government's policy to ensure there is adequate provision of high-quality open space, which includes green infrastructure, and sports and recreation facilities to meet the needs of local communities.
- 5.15.6. NPS EN-1 also states that when considering the impact on maintaining coastal recreation sites and features, it is expected that applicants should have taken advantage of opportunities to maintain and enhance access to the coast. In doing so the Secretary of State should consider the implications for development of the creation of a continuous signed and managed route around the coast, as provided for in the Marine and Coastal Access Act 2009 (paragraph 5.10.16).
- 5.15.7. Additionally, NPS EN-1 also states that Rights of Way, National Trails, and other rights of access to land are important recreational facilities, for example for walkers, cyclists, and horse riders. The Secretary of State should expect applicants to take appropriate mitigation measures to address adverse effects on coastal access, National Trails, and other Rights of Way. Where this is not the case the Secretary of State should consider what appropriate mitigation requirements might be attached to any grant of development consent (paragraph 5.10.24).

#### **National Policy Statement for Renewable Energy (NPS EN-3)**

- 5.15.8. NPS EN-3 notes that offshore wind farms will occupy an area of the sea and therefore it is inevitable that there will be some impact on navigation in and around the area of the site. This is relevant to both commercial and recreational users of the

sea who may be affected by disruption or economic loss as a result of the proposed offshore wind farm (paragraph 2.6.147).

- 5.15.9. The use of the sea by recreational craft is also an important consideration for applicants and the Secretary of State. Recreational craft, such as yachts, may try to avoid areas of sea used by commercial vessels such as recognised sea lanes essential to international navigation (paragraph 2.6.151).
- 5.15.10. As such, the potential effects on recreational craft, such as yachts, should be considered in any assessment (paragraph 2.6.160). The Secretary of State should therefore be satisfied that the scheme has been designed to minimise the effects on recreational craft and that appropriate mitigation measures, such as buffer areas, are built into applications to allow for recreational use outside of commercial shipping routes. In view of the level of need for energy infrastructure, where an adverse effect on the users of recreational craft has been identified, and where no reasonable mitigation is feasible, the Secretary of State should weigh the harm caused with the benefits of the scheme (paragraph 2.6.166).
- 5.15.11. NPS EN-3 also identifies that the presence of the turbines can cause indirect effects on coastal recreation activities (paragraph 2.6.189).

#### **Draft National Policy Statements**

- 5.15.12. The policy requirements of draft NPS EN-1 and EN-3, in respect of tourism and recreation, are largely consistent with the extant NPS statements, with no significant changes being identified.

#### **Other Legislation and Policies**

- 5.15.13. In addition to NPS EN-1 and EN-3, Planning Policy Wales (Edition 11) (PPW11) and Planning Policy Wales Technical Advice Note 16: Sport Recreation and Open Space (TAN16) are considered relevant in respect of tourism and recreation:

#### **Development Plan Policies**

- 5.15.14. The following policies from the Denbighshire County Council (DCC) Local Development Plan (LDP) 2006-2021 are also of relevance:
- Objective 8: Public Open Space - The LDP seeks to protect existing open space and ensure that new developments make an adequate contribution to public open space provision;
  - Objective 15: Tourism - The LDP seeks to enhance and sustain sustainable tourism in the rural and coastal areas of the County;
  - Policy RD 1: Sustainable Development and Good Standard Design - This policy details the criteria for the support of development proposals within development boundaries. In terms of the Proposed Development, paragraph vii) states that development should consider impacts on the wider Rights of Way network surrounding the development site;
  - Policy BSC 1: Recreation and Open Space - This policy confirms that existing recreation, public open space, allotments and amenity greenspace is to be protected and where possible enhanced. Development that would result in the loss of public or private land with recreational and/or amenity value will only be permitted where alternative outdoor provision of equivalent or greater community benefit is provided; and

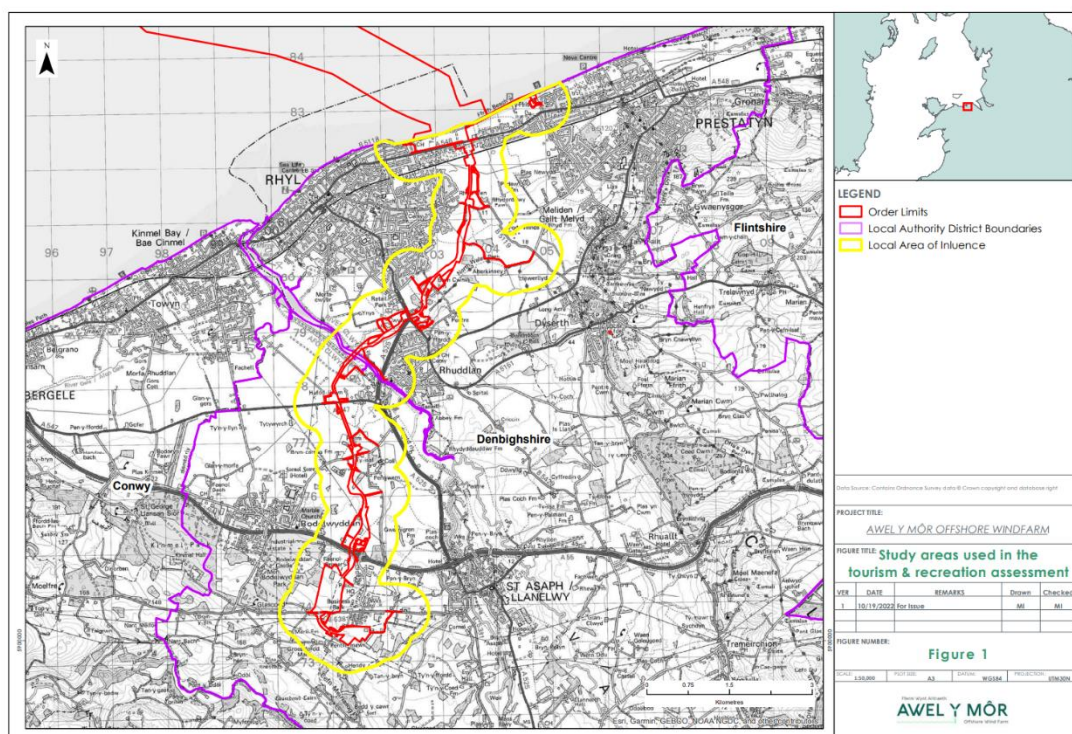
- Policy PSE 13: Coastal Tourism Protection Zones - The LDP states that within the coastal tourism protection zones proposals which would result in the loss of tourism facilities will not be supported.

## The Applicant's Case

### Methodology

- 5.15.15. The Applicant's approach in respect of the methodology for the assessment is detailed in section 4.4.8 of the ES [APP-065]. The ES chapter confirms the effects on tourism and recreation arising from the construction, operation, and decommissioning of the Proposed Development. The potential for cumulative, inter-related and transboundary effects is also assessed.
- 5.15.16. The Applicant confirmed that for the assessment of the Proposed Development onshore, a study area covering all areas that fall within a 50km radius from the proposed offshore array was used in addition to a local study area which comprised of all local authority areas along the North Wales coastline.
- 5.15.17. The Zone of Influence (ZoI) was primarily focussed on the onshore Order Limits (OL), which included the area around the landfall point at Ffrith Beach, through to the proposed substation near Bodelwyddan. For the purposes of the assessment, the local area of influence was generally taken to be a 500m buffer each side of the onshore OL.

**Figure 20: Study areas used in the tourism and recreation assessment (Appendix Q of [REP1-007])**



- 5.15.18. The ES chapter [APP-065] was also supported by the following documents:
- Seaside Tourism Economic Employment Evidence [APP-124];
  - Charter Angling Baseline Report and associated annex [APP-118] and [APP-119]; and

- Baseline Details of Recreation Resources within 500m of Draft Order Limits [APP-123].

### **Assessment of impacts**

- 5.15.19. Table 41 of the ES provides a summary of the tourism and recreation assessment in respect of construction, operation, decommissioning and cumulative impacts [APP-065] and identifies residual effects. The impacts and effects are summarised as:

#### *Construction impacts*

- Impact of construction on onshore recreation;
  - Impact of construction on offshore recreation;
  - Impact of construction activity on tourism receptors;
  - Impact of construction activity on volume and value of the tourism economy; and
  - Impact of construction activity on displacement of tourism visitors.
- 5.15.20. The ES identified effects ranging from negligible to minor adverse arising from the above identified impacts during the construction phase. This included minor adverse effects on the impact of construction activity on volume and value of the tourism economy in terms of the local area as a whole and for Rhyl, Prestatyn, Kinmel Bay and Abergele and Abergele to Rhos-on-Sea. Such effects are not significant in EIA terms.
- 5.15.21. However, a moderate adverse effect was reported for Llandudno and the Great Orme, which is significant in EIA terms. The assessment identified that this effect could lead to changes to the number and overall expenditure by visitors, both day and overnight, due to construction activity. This effect considers visual impacts arising because of both onshore and offshore construction activity.
- 5.15.22. During the wind turbine generator (WTG) installation phase of construction, the offshore WTG of the Proposed Development would be visible from both the Great Orme and along the Llandudno waterfront. There would be the potential for some effects on visitor numbers, which would be likely to occur at the latter stages of construction, with potentially a small proportion of visitors being discouraged by the development activity.
- 5.15.23. In respect of the duration of the effect, it is noted as being short term and it is likely to arise in the latter stages of the construction programme as more WTG are installed on the horizon.
- 5.15.24. The assessment concludes that the overall effect of construction activity of the Proposed Development would be direct and temporary in nature.

#### *Operation impacts*

- Impact of operational activity on onshore recreation;
  - Impact of operational activity on offshore recreation;
  - Impact of operational phase on visitor receptors; and
  - Impact of operational phase on the volume and value of tourism economy.
- 5.15.25. In respect of the impact of operational activity on onshore recreation, residual effects were reported as being generally negligible to minor adverse, but this would increase to moderate adverse effects on local receptors if repairs are necessary. However, the assessment concluded that it would be very unlikely that there would be any significant disturbance of onshore recreation assets during the operational phase. If repairs are needed, these would likely be associated with the transition

joint pits or other infrastructure, without the need for trenches to be reopened. In the unusual and unlikely case that an open trench repair is needed, effects would be no worse than construction and would be localised, and therefore limited in scale and extent.

- 5.15.26. Residual negligible effects for bathing, water sports and recreational sailing and minor adverse effects for scuba diving were identified in terms of the effect of operational activity on offshore recreation which are not significant in EIA terms.
- 5.15.27. No significant residual effects were reported in terms of the impact of the operational phase on visitor receptors, with effects being reported as minor adverse for all receptors.
- 5.15.28. As with the construction phase, the impact of the operational phase on the volume and value of the tourism economy was reported as being minor and therefore not significant in EIA terms, for Rhyl, Prestatyn, Kinmel Bay and Abergele area and the Abergele to Rhos-on-Sea area. However, this increased to a moderate adverse effect, which is significant, for Llandudno and the Great Orme area in the short term, which is defined as being up to two years. However, in the longer term the effect is expected to reduce to negligible as the sector and market adapts and hence is reported as being minor adverse, which is not significant in EIA terms.
- 5.15.29. The assessment concluded that the overall operation effect of the Proposed Development was short-term, indirect, and reversible in nature.

#### *Decommissioning impacts*

- 5.15.30. In respect of decommissioning, the Applicant stated that the residual effects for all tourism and recreation receptors would mirror, but will likely be lower in magnitude, the Proposed Development's construction phase.

#### *Cumulative impacts*

- 5.15.31. The residual effects for all cumulative impacts were reported as being minor adverse and therefore not significant in EIA terms.

#### **Other effects**

- 5.15.32. The ES assessment identified that the only potential for transboundary effects was the potential for the displacement of tourism visitors by construction workers in the vicinity of the construction port, should this be located outside of the UK. The Applicant states that this would be a matter for the port EIA to consider. However, the Applicant further stated that the overall effect is unlikely to be significant adverse (paragraph 352 of ES [APP-065]).

#### **Mitigation**

- 5.15.33. The Applicant submitted a Schedule of Mitigation and Monitoring with the application [APP-310]. It was updated during the Examination, with the final version submitted at Deadline (D) 8 [REP8-016]. In tabular form this sets out the proposed mitigation commitments and securing mechanisms.
- 5.15.34. In addition, the embedded and primary mitigation measures specific to tourism and recreation are also specified in table 8 of the ES [APP-065]. Such measures include the following:

- Project design – tourism and recreation considerations were included within the design parameters. Considerations include:
  - wherever possible, avoiding proximity to visitor and onshore recreation facilities
  - wherever possible, link pits would be located off Public Rights of Way (PRoW)
  - refinement of the design to remove transition joint bays and construction compound from the Rhyl Golf Club
  - refinement of the offshore array to reduce the overall visual impact;
- PRoW consents and temporary diversions - Where practical, for temporary diversions or the stopping up of PRoW, suitable alternative provision would be made for continued public access. Where possible, all PRoW would be kept open to minimise impacts to users. Where this is not possible, a suitable diversion would be created. An outline Public Access Management Plan (oPAMP) would be produced, as part of the outline Code of Construction Practice (oCoCP) to determine the least possible impact regime at each location. The oPAMP would be secured by Requirement (R) 10 of the dDCO;
- Onshore cable - Disruption to major recreation resources would be minimised by the use of Horizontal Direction Drilling (HDD), or other trenchless crossing techniques, at the proposed landfall and under the River Clwyd. This would result in no physical interruption to key recreational routes. This would be secured via the provision of the oPAMP by R10 of the dDCO;
- Traffic control - Where PRoW are to be crossed by work and/or access routes, traffic control measures would be put in place. These measures, including manned crossings or gated crossings, would be committed to within the oPAMP and secured by R10 of the dDCO;
- Rolling construction - Works would generally progress in stages along the route of the onshore export cable corridor (ECC), so that individual sections would be affected for a minimum amount of time, rather than for the full onshore construction period of up to 18 months. In the worst-case scenario, the haul roads remain for the whole construction period but with traffic control in place throughout. This would be secured via the provision of the oPAMP by R10 of the dDCO;
- Perimeter fencing - The construction working area would be enclosed within fencing, enabling continued use of nearby routes whilst work is underway close to, but separated from them. This would be secured through the provision of an outline Construction Method Statement (oCMS) by R10 of the dDCO;
- Notice to Mariners - Advanced warning and accurate location details of construction Safety Zones and advisory passing distances would be given via Notices to Mariners (NtM) and the Kingfisher Bulletins. This would be secured by the Marine Licence (ML);
- Safety zones - Safety zones of up to 500m would be sought during construction, operation, and decommissioning phases. This would be secured by the ML;
- Diver safety - A soft-start programme would be implemented. Consideration would be given to the potential for divers to be in the water outside of the advisory exclusion zone at the start of pile driving. This would be secured by the ML; and
- Inspection and maintenance - If maintenance or cable repair is required, this would be typically achieved by isolating the affected section of the cable circuit and, if necessary, by removing and replacing it through the installed ducts. In some circumstances, minor further excavations may be required at the location of the fault. The actual cable may be repaired at any point along the cable route,

although this is likely to be extremely infrequent and would only affect a small working area.

- 5.15.35. In respect of decommissioning and mitigation, the assessment assumed that at the end of the operational lifetime of the Proposed Development, all infrastructure would be completely removed. The effects of decommissioning activities are therefore likely to be similar to, but no worse than the effects identified during the construction phase. As such, it is assumed that the same form of embedded mitigation as that identified for the construction phase would also be implemented during the decommissioning phase.

### **The Planning Statement**

- 5.15.36. Section 6.20 of the Planning Statement provides a summary of the national policy of relevance to the Proposed Development in respect of tourism and recreation. It concludes that the assessment has had full regard to the relevant requirements for assessment as set out in NPS EN-1 and EN-3 and other relevant policy and has been carried out in accordance with those requirements. It further concludes that effects on tourism and recreation would not result in any long-term significant effects and the identified effects should not weigh against the substantial benefits of the Proposed Development when considering the planning balance [REP8-083].
- 5.15.37. Section 6.16 of the Planning Statement also provides a summary in respect of national policy of relevance to the Proposed Development in respect of other marine users and activities. It is concluded that no significant effects were identified and therefore effects on other marine users should not weigh against the substantial benefits of the Proposed Development when considering the planning balance [REP8-083].

### **Statements of Common Ground**

- 5.15.38. The below provides an update in respect of those Statements of Common Ground (SoCG) considered of relevance to tourism and recreation and other marine users and activities.

#### *Conwy County Borough Council*

- 5.15.39. As detailed in their SoCG, at the close of the Examination the following matters remained as areas of disagreement between Conwy County Borough Council (CBCC) and the Applicant [REP8-045]:
- Baseline characterisation – CCBC considered that because of the Covid-19 pandemic, it was difficult to identify a baseline. They acknowledged that this was noted in the assessment, however several assumptions had been made in order to identify a baseline;
  - Assessment scope and methodology - CCBC noted the conclusions of various studies relating to the impact of windfarms on the tourism sector. However, CCBC also were aware of elements of uncertainty within the assessment. Accordingly, they stated they were unable to agree with the conclusions in paragraph 299 of the ES [APP-065], insofar as the impacts on the visitor economy for Llandudno and the Great Orme would be low in the short-term and that effects would be negligible thereafter; and
  - Outcomes of the EIA – CCBC stated that the effect on tourism in relation to the offshore construction works would be similar to that during the operation phase of the Proposed Development. As such CCBC continued to have concerns regarding the inherent uncertainty and unpredictability of such effects.



5.15.40. Matters relating to the historic environment are considered in section 5.6 of this Report. However, the following matter is also of relevance to tourism and recreation considerations:

- *Llandudno Conservation Area and Listed Buildings* - CCBC noted that the effects arising from any decline in tourism revenue on the maintenance of the built fabric within the Llandudno Conservation Area and on listed buildings was not addressed within the assessment.

5.15.41. In addition to matters not agreed, at the close of the Examination the following matters were still ongoing points of discussions between CCBC and the Applicant:

- *Tourism Fund* - The effect of the Proposed Development on tourism was uncertain and there was limited data available to show trends for how windfarms affect tourism in North Wales. A tourism fund would help in some ways to mitigate any negative effect on tourism in the area, but there remained a risk that there would still be a negative residual effect on the visitor economy. CCBC had met with the Applicant to agree the principles of a tourism fund and discussions were ongoing at the close of the Examination;
- *Outcomes of the EIA* - The fact Llandudno attracts older visitors was considered within the assessment. Some mitigation measures had been suggested in the form of introducing signage to explain the benefits of the Proposed Development. It was suggested by the Applicant that Llandudno could attract a different visitor type because of the Proposed Development, but this was an assumption and not based on any evidence. CCBC stated that they would welcome further discussion on this point to mitigate any negative effects on tourism, such as the provision of a tourism fund; and
- *Outcome of the EIA* – The effect on Llandudno and the Great Orme had been classed as moderate adverse. CCBC were in ongoing discussions over the provision of a tourism fund with the Applicant to mitigate the effects of this at the close of the Examination.

*Denbighshire County Council*

5.15.42. At the close of the Examination, all matters in respect of tourism and recreation had been agreed between DCC and the Applicant [REP7-049].

*Isle of Anglesey County Council*

5.15.43. Tourism and recreation considerations were not included in the remit of the Isle of Anglesey County Council (IoACC) in their SoCG and as such, the SoCG is silent on this topic [REP8-046].

*National Trust*

5.15.44. At the close of the Examination, the following matter remained a point of ongoing discussion between the National Trust (NT) and the Applicant [REP8-050]:

- *Mitigation measures* - NT had been updated by the Applicant in a meeting on the status of negotiations relating to the potential provision of a Tourism Fund and understood that negotiations are ongoing. NT understood they would be consulted by CCBC where relevant as discussions continue.

5.15.45. No SoCG were produced in respect of other marine users and activities.

## **Issues Considered in the Examination**

### **Environmental Impact Assessment – Baseline Characterisation**

- 5.15.46. The issue of baseline characterisation remained an unresolved matter between CCBC and the Applicant at the end of the Examination, as indicated in the CCBC final SoGC [REP8-045].
- 5.15.47. CCBC acknowledged that the assessment had used the evidence available to the Applicant to determine a baseline environment relevant to tourism and recreation as accurately as possible. However, due to the Covid-19 pandemic, it was necessary for the Applicant to make several assumptions to identify a baseline [REP8-045].
- 5.15.48. The issues faced in respect of the impact of Covid-19 and potential effects on data collection, baseline characterisation and recreation usage level post-Covid was identified by the Applicant. The Applicant acknowledged that this resulted in changes in the patterns and quantities of outdoor recreation and tourism undertaken during 2020 and 2021. Furthermore, the Applicant accepted that it is not currently clear as to how significant the changes would be and what their lasting effects on patterns and volume of use would be (section 4.6 of [APP-065]).
- 5.15.49. The ExA explored the concerns raised by CCBC at ExQ3.19.2 and requested clarification as to whether any further information had become available since the tourism and recreation assessment was undertaken which would alter the baseline used. CCBC confirmed that no further information had become available to date and as the tourism sector is still recovering from Covid-19, it remained difficult to determine an up-to-date baseline [REP5-045].

### **ExA's consideration**

- 5.15.50. The ExA is aware of the challenges faced in respect of both data collection and baseline characterisation in respect of the tourism and recreation section due to the impact of the Covid-19 pandemic. The ExA notes that the Applicant was aware of the uncertainties in respect of the assessment and provided detailed information as to the problems faced and possible subsequent issues this may cause in terms of the assessment.
- 5.15.51. Whilst the ExA accept some uncertainties in the baseline characterisations may exist, the Applicant correctly sought to use the 'worst case' scenario as outlined in the Maximum Design Scenario to mitigate, as far as possible, any uncertainties.
- 5.15.52. As confirmed in both the ES [APP-065] and the Applicant's Closing Submission [REP8-117], the assessment utilised a wide range of data sets, which included visitor surveys, use of employment and business data sets, desk-based research, and consultations. Additionally, the Applicant commissioned a further report which presented tourism sector-based employment data for seaside towns located within 30km of seven operational UK wind farms [APP-124].
- 5.15.53. The ExA is therefore satisfied with the evidence utilised in respect of the baseline characterisation. Given the exceptional circumstances which faced the Applicant in terms of Covid-19, the ExA is content that the most up to date information available was used in the preparation of the baseline for the existing tourism and recreation environment within the study areas and the uncertainties and technical difficulties were thoroughly detailed.

## **Environmental Impact Assessment – Scope and Methodology**

- 5.15.54. In respect of the effect on the visitor economy regarding the Great Orme and Llandudno, CCBC acknowledged, in both their section 42 consultation feedback (Table 4 of the ES [APP-065]) and their Written Representation (WR) [REP1-055], that the effects would be low in the short term and negligible in the longer term, with any short-term effects not exceeding two years. However, CCBC considered it was unclear to what extent the conclusion took account of the demographic profile of visitors to Llandudno and the County generally, or to the distinctive heritage and character which are critical in its attractiveness to that visitor profile.
- 5.15.55. CCBC also noted that the Applicant stated that there was an element of uncertainty in terms of this conclusion. As such, whilst acknowledging the circumstances in relation to the Covid-19 pandemic, CCBC considered that the conclusion reached in relation to the magnitude of the impact was subject to a wide margin of uncertainty and they were therefore unable to agree with the conclusion reached [REP1-055].
- 5.15.56. Llandudno Town Council also raised concern regarding potential effects in terms of tourism. Additionally, if the Proposed Development was to go ahead, the Town Council would wish to see maximum benefit for both the town and its community [RR-007]. Flintshire County Council also stated that the impact on seascape and landscape visual receptors may have indirect negative effects on tourism [RR-003].
- 5.15.57. In response to the concerns raised the Applicant confirmed that the assessment did take account of the characteristics of Conwy, and therefore Llandudno, and the surrounding area. This included its visitor offer, characteristics of visitors and reasons for visiting. However, the Applicant acknowledged that whilst research to date indicated that offshore wind farms usually have no or limited impacts on visitor economies, there was an element of uncertainty linked to the scale of the Proposed Development and the specific characteristics of the resort (sections 4.7.1 and 4.7.4 of the ES [APP-065]).
- 5.15.58. The Applicant also directed CCBC to the additional study they had commissioned which presented tourism sector-based employment data for seaside towns located within 30km of seven selected operational UK wind farms [APP-124]. The aim of the analysis was to provide supplementary evidence of tourism trends in proximity to relevant UK offshore wind farms and to supplement the evidence examining the relationships between offshore wind farms and the tourism sector. This evidence was used to help inform the ES impacts evidence base.
- 5.15.59. In summary, the report concluded that the research undertaken did not provide evidence that the development of large-scale offshore wind farms near to significant seaside towns coincided with a decline in tourism employment either during or after construction. The trends in post completion employment in the tourism sector tended to be generally positive or neutral comparatively. It was however acknowledged that other economic forces would probably play a larger part in determining these trends of tourism and associated tourism employment (paragraph 1.65 of [APP-124]).
- 5.15.60. This issue was further explored during ISH2 where the Applicant confirmed that the assessment did identify a small risk at the final stage of construction and the first two years of the operational phase in respect of the visitor economy of the Great Orme and Llandudno. However, such an effect was expected to reduce to minor adverse in the longer term as the sector and market adapted to the presence of the Proposed Development [REP3a-004].

5.15.61. A further question was posed to CCBC by the ExA at EXQ3.19.3 in respect of this issue. In response, CCBC confirmed that it was not the level of significance, which was being queried, rather it was the two-year period of significance of adverse effects. CCBC considered the two-year time frame was quite specific and if negative effects were to occur, they felt the impact on tourism would last longer than two years [REP5-045].

5.15.62. As detailed in the CCBC SoCG, this matter was not agreed between CCBC and the Applicant by the close of the Examination [REP8-045].

#### **ExA's consideration**

5.15.63. In terms of the visitor economy in connection with the Great Orme and Llandudno, the ExA accepts that because of the Covid-19 pandemic, a degree of uncertainty exists in respect of the conclusion reached regarding the significant adverse effect towards the end of the construction period and the early stages of operation.

5.15.64. However, the ExA is satisfied that the Applicant undertook the assessment on a precautionary approach, as demonstrated by use of the 'worst case' scenario as outlined in the Maximum Design Scenario to mitigate the uncertainties.

5.15.65. Furthermore, no evidence was provided by any Interested Parties to support the concern that the construction of an offshore wind farm results in significant and long-term effects on local tourism economies. In addition, the research undertaken by the Applicant did not provide any evidence to support this concern.

5.15.66. Notwithstanding this point, the ExA notes the specific demographic profile of visitors to Llandudno and the Great Orme and the distinctive heritage and character of the location which is of particular attractiveness to that visitor profile. Accordingly, the ExA accept that during the later stages of construction and the initial operation period, there would be some negative effects on the tourism visitor economy in the Great Orme and Llandudno locations.

5.15.67. As discussed below, the Applicant is proposing a Tourism Fund which may assist in addressing the effects during this relatively short period. However, as the proposed Fund sits outside of the Examination, the ExA is unable to give weight to this consideration.

5.15.68. The ExA note that such effects would be short-term and temporary. However, overall, the ExA considers the effects would be negative. Despite this, the ExA is satisfied that the tourism economy would be able to adapt successfully to the presence of the Proposed Development over time. As such, once the early operation phase is complete, the ExA is content that the economic effects would be neutral.

#### **Public Access to the Beach and Promenade**

5.15.69. In their Local Impact Report (LIR), DCC raised concern regarding the potential restriction to access to the beach and promenade and that some sections of the promenade would be closed to the public during construction. This would reduce accessibility to the coastline and may detrimentally effect tourism during the construction phase (paragraph 14.6 of [REP1-056]).

5.15.70. In response, the Applicant confirmed that during landfall works on Ffrith beach, public access would be maintained wherever possible, and a suitable means of access would be made available for the public to pass around the works areas on

the beach. Whilst access to the promenade would not be restricted, some pedestrian and cycle traffic may need to be temporarily interrupted to allow construction vehicles to cross the promenade to access the beach (paragraph 54 of [REP2-004]).

- 5.15.71. In terms of public access, the Applicant submitted an outline Public Access Management Plan (oPAMP) into the Examination [APP-320]. The oPAMP established the approach to be taken to manage public access to the Active Travel Routes (ATR) and PRow in respect of onshore construction and would be secured by R10 of the dDCO [AS-053]. Amendments were made to the oPAMP during the Examination, mainly in response to concerns raised by DCC, with the final version being submitted at D7 [REP7-024].
- 5.15.72. The ExA also explored the content of the oPAMP with DCC at ExQ2.19.1 [PD-015]. DCC confirmed that following revisions made in response to their concerns, they were satisfied with the content of the oPAMP [REP5-046].

### **ExA's considerations**

- 5.15.73. The ExA is satisfied that wherever possible, the Applicant has committed to maintaining accessibility to the beach, the promenade, ATR's and PRow. It is accepted that there will need to be some temporary closures with a short diversion for those PRow that cross the onshore ECC during construction. The ExA is satisfied that the exact route of each PRow diversion would be agreed with DCC during the construction phase and communication to other relevant organisation such as Community Councils would be made in advance of any closure or diversion. Such detail would be contained within the outline Construction Communications Plan (oCCP), which is secured by R10 of the dDCO.
- 5.15.74. The ExA notes that there may however be some instances where it may be necessary for the Applicant to temporarily close a PRow without a diversion. However, this is likely only to occur where a PRow crosses the onshore ECC, where the PRow is not widely used, and few alternative routes exist. Where this occurs, the Applicant has committed to suggesting alternative routes via signage following consultation with DCC.
- 5.15.75. The ExA is content that the measures proposed in the oPAMP would minimise the duration of any possible disruption to users of the beach, promenade, ATRs and PRow and the final PAMP would be developed following detailed design and reviewed and approved by DCC. As such, the ExA is satisfied that wherever possible, access to tourism and recreation activities would remain unrestricted.

### **Tourism Fund**

- 5.15.76. Paragraph 257 of the ES [APP-065] acknowledged that opportunities existed for the Proposed Development to support and engage with local stakeholders to promote and realise potential positive benefits to the tourism sector within Llandudno and the Great Orme area. Such opportunities are detailed as including the provision of information, interpretation, and promotion to explain the construction and operation of the Proposed Development and its role in renewable energy transition and addressing climate change. Other opportunities included the provision of a tourism liaison officer to aid in the delivery of benefits to the tourism sector. The Applicant considered these opportunities would potentially benefit the tourism sector during the construction phase of the Proposed Development.

- 5.15.77. In respect of the operational phase, the assessment stated that the provision of a tourism liaison officer could aid in the delivery of information, interpretation, and promotion, which would help in the delivery of benefits to the tourism sector (paragraph 301 of the ES [APP-065]).
- 5.15.78. Whilst CCBC raised some objection to the Proposed Development in respect of tourism effects in their WR, they also confirmed that they would be willing to enter into discussions with the Applicant for the provision of a tourism fund to ensure that the tourism industry was in a favourable position to attract new visitors to replace any displaced visitors (paragraph 5.4 of [REP1-055]). CCBC further stated that they saw the establishment of such a fund to either operate independently of, or in conjunction with, a landscape fund (paragraph 7.5 of [REP1-055]). Consideration of the proposed landscape fund is detailed in section 5.8 of this Report.
- 5.15.79. NT also stated that whilst the Applicant had reported that there were opportunities to deliver a positive benefit to the tourism sector within the Llandudno and Great Orme area, no specific implementation mechanisms had been brought forward within the submission, nor the extension of this commitment to operational impacts, nor a detailed exploration of the potential benefit ([RR-029] and [REP1-075]).
- 5.15.80. In response to ExQ1.19.7, the Applicant confirmed that opportunities existed for the Proposed Development to potentially deliver a positive benefit to the tourism sector within Llandudno and the Great Orme area. The Applicant confirmed that they were engaging with stakeholders on a potential package of contributions to support the tourism industry, that would sit outside of the planning process, and a potential package of landscape contributions [REP1-007].
- 5.15.81. Further discussions regarding the tourism fund were also held during Issue Specific Hearing (ISH) 2 – Seascape and Related Matters. During ISH 2, the Applicant confirmed that discussions were being held with CCBC regarding the tourism fund. The Applicant further reiterated that the risk of tourism effects was low, and any effects would be temporary and relate to a limited geographical area. As such, the Applicant did not consider such a fund was required to specifically address the low risk of tourism being adversely impacted. Further consideration was being given as to how such a fund could be delivered and the Applicant confirmed they would update the ExA accordingly [REP3a-004].
- 5.15.82. At D4, the Applicant provided an update in respect of the progress of the proposed fund and stated that CCBC had been provided with a set of key principles. The principles established a proposal for a direct contract between the Applicant and CCBC to provide funds for tourism related activities in Llandudno and the Great Orme at the end of construction and early operation of the Proposed Development. The Applicant confirmed that further progress updates would be submitted into the Examination as and when necessary [REP4-003].
- 5.15.83. A further update was provided at D6, which confirmed that the proposed fund would take the form of a commercial agreement between CCBC and the Applicant and remained under negotiation between the parties [REP6-022].
- 5.15.84. Further submissions at D8 were made which confirmed negotiations were still ongoing in respect of the commercial terms between CCBC and the Applicant ([REP8-035] and [REP8-123]).
- 5.15.85. The Applicant's Closing Submission document confirmed that the proposed fund would be designed to cover the period between construction ending and operation

commencing, given the identification of the potential short-term effects on tourism in Llandudno and the Great Orme. Additionally, the Applicant also stated that as the fund was not necessary to address adverse effects of the Proposed Development, it would not be necessary to secure the fund via a Section 106 planning agreement or a DCO requirement (Paragraph 369 of [REP8-117]).

#### **ExA's consideration**

- 5.15.86. The ExA reviewed the key principles of the proposed Tourism Fund and consider them to be appropriate. However, as the proposed fund would form a commercial agreement between CCBC and the Applicant, it falls outside of the Examination. As such, the ExA is unable to attach any weight to it.

#### **Llandudno Town Centre and Seafront Conservation Area and Listed Buildings**

- 5.15.87. Throughout the Examination, CCBC raised concern regarding the potential effect of the Proposed Development on the built environment and heritage, in terms of the setting of the Llandudno Conservation Area and listed buildings ([RR-002] and [REP1-055]). Specific issues relating to the historic environment are considered in section 5.6 of this Report.
- 5.15.88. In respect of tourism, CCBC further stated that as the Proposed Development could potentially cause a decline in visitor numbers, this could in turn lead to a gradual reduction in the frequency and quality of maintenance of the built fabric of the Conservation Area. Over time, such a deterioration could be detrimental to the character and appearance of the Llandudno Conservation Area and to the special features of interest of the listed buildings ([RR-002] and [REP1-055]).
- 5.15.89. In response to these concerns, the Applicant confirmed that the heritage assessment within the Onshore Archaeology and Cultural Heritage ES chapter [APP-069] acknowledged the potential effects of the Proposed Development upon the character and appearance of Llandudno Conservation Area and the significance of the listed buildings through change within their settings. This was assessed as a minor adverse effect which is not significant in EIA terms. The conclusion of a minor adverse effect recognised the fact that the Proposed Development would constitute a noticeable new addition to the views from and along the promenade, albeit views in which the turbines of the existing Rhyl Flats and Gwynt y Môr offshore wind farms are already prominent. The assessment clarified that the ability to understand the significance of the Listed Buildings within the Conservation Area, in terms of their architectural details, and historic association as part of the planned coastal and leisure evolution of the town, would not be compromised [REP2-002].
- 5.15.90. In response to ExQ1.19.2, CCBC also stated that the Proposed Development would not comply with PPW11 in respect of improving the cultural well-being of North Wales. CCBC considered this was as a result of the Proposed Development detracting from the character and appearance of the Llandudno Conservation Area and on the setting of listed buildings. CCBC reiterated their concerns that any reduction in tourism numbers and expenditure could impact on the frequency and standard of works to maintain the built fabric [REP1-054].
- 5.15.91. The issue was further explored by the ExA at ISH 2 where CCBC were asked by the ExA as to whether, as a result of the construction and operation of the Gwynt y Môr offshore wind farm, CCBC were aware of any evidence to suggest it resulted in a direct effect on the ability of hotel and guest house owners to maintain their properties. CCBC confirmed that they had no specific examples or evidence to support this assertion ([EV-017a] to [EV-017i]).

- 5.15.92. In addition, during ISH2 the Applicant also confirmed that no representations had been made from local businesses engaged in tourism and recreation. Also, that previous representations that had been made in relation to the construction and operation of the Gwynt y Môr offshore wind farm, regarding possible harm to tourism and recreation receptors, had not materialised (paragraph 4.1 of [REP3a-004]).
- 5.15.93. This matter remained an area of disagreement between CCBC and the Applicant at the close of the Examination and is detailed in the final SOCG as such [REP8-045].
- 5.15.94. At [RR-057], Jodi Cook raised a similar issue in respect of the potential adverse effect on Llandudno's Victorian architecture and tourism. Concern was raised that the construction of additional wind turbines would jar with the town's pride in terms of the preservation of history and in turn, would make it difficult to attract visitors to the area.

#### **ExA's consideration**

- 5.15.95. The ES concludes that there would be limited disruption to tourism assets during both the construction and operation phase. As previously discussed, the only exception to this is the Great Orme and Llandudno areas where the assessment found that the significance of effect on the tourism economy would be moderate adverse in the latter stages of the construction programme and in the early years of the operational phase for up to two years [APP-065]. Whilst the ExA accepts that this would be a negative effect, such an effect would nonetheless be short term and temporary.
- 5.15.96. Taking into consideration the existing UK offshore wind farms located in similar seaside and tourist locations, there is no evidence before the ExA from the Applicant, CCBC, the North Wales tourism industry or local hoteliers and guest house owners which lead the ExA to consider a possible reduction in visitor numbers for a period of up to two years would result in the deterioration of the existing built heritage fabric of the Conservation Area and listed buildings.
- 5.15.97. Accordingly, the ExA does not find conflict with PPW11 in respect of cultural well-being and is satisfied, based on the evidence provided, that the assets in question would not deteriorate because of the Proposed Development.
- 5.15.98. The ExA also notes that the proposed Tourism Fund may also provide some cultural heritage benefits. However, as the Fund sits outside of the Examination and in the absence of any firm details, no weight is attached to this consideration.

#### **Settlement of Rhyl and Rhyl Aquarium**

- 5.15.99. In the DCC LIR the assessment of effects on Viewpoint 23 – Rhyl Aquarium (VP 23) and the settlement of Rhyl was not agreed. DCC stated that the addition of the turbines on the horizon would fill in gaps, accentuate the differences between the existing and Proposed Development and result in greater incidence of stacking and visual clutter. This change would be noticeable and would result in significant effects, as opposed to the assessment conclusion of non-significant effects (paragraph 11.5 of [REP1-056]).
- 5.15.100. In terms of operational effects, DCC considered that the Proposed Development would have a significant effect on views from Rhyl Aquarium and from views along the seafront in the settlement of Rhyl. As such, operational effects could adversely impact on the attractiveness of Rhyl as a tourism destination. Such effects could



therefore undermine the investment made by both DCC and the Welsh Government into projects to regenerate and rejuvenate the tourism economy in Rhyl (paragraphs 14.11 and 14.12 of [REP1-056]).

- 5.15.101. Despite this DCC further stated that they agreed with the conclusions in the ES with regards to the impact of the operational windfarm, insofar as it would not significantly impact on tourism and recreation in Denbighshire (paragraph 14.14 of [REP1-056]).
- 5.15.102. In response to the submission of the LIR, the Applicant accepted that the proposed wind turbines would infill the current gap between the existing Rhyl Flats and Gwynt y Môr offshore wind farms. It was also accepted that the change in the current view would be noticeable due to the infilling of the current gap and addition of further wind turbines [REP2-004].
- 5.15.103. However, in terms of Rhyl and tourism effects, the Applicant noted that generally Rhyl appeals to families and those visitors seeking a more traditional beach holiday or day trip, given the presence of beaches and seaside entertainment activities. For many of the visitors, the quality of the landscape would not necessarily feature as a top priority, with the seascape already characterised by views of Gwynt y Môr and other offshore wind farms. Furthermore, the Applicant also noted that there was no available evidence which suggested that the volume and value of tourism has suffered because of the visibility of existing wind farms along this stretch of coast and the assessment in the ES did not identify a significant effect on the tourism economy [REP2-004].
- 5.15.104. The issue of VP 23 was also further discussed during ISH2 where DCC confirmed they now agreed with the Applicant that the visual effects in respect of VP 23 and the Rhyl settlement would not be significant [REP3a-004].
- 5.15.105. Further consideration regarding this issue is discussed in the section 5.8 Landscape and Visual of this Report.

#### **ExA's consideration**

- 5.15.106. The ExA accepts that the Proposed Development would result in the infilling of the existing gap between the Rhyl Flats and Gwynt y Môr offshore wind farms and that this would be visible for those visiting Rhyl Aquarium and from the seafront in Rhyl.
- 5.15.107. Despite this, the ExA is content with the assessment undertaken in respect of this location and that the evidence within the tourism report commissioned by the Applicant does not suggest that the presence of an offshore windfarm in a seaside location would result in a significant downturn of visitor numbers.
- 5.15.108. Accordingly, the ExA is satisfied that the presence of the Proposed Development regarding Rhyl Aquarium and the wider settlement would have a neutral effect.

#### **Horse Riding at Fferm**

- 5.15.109. The landholding at Fferm consists of both livestock farming and equestrian facilities. It is proposed that the ECC would cross the land, and it is also required for operational access and a visibility splay.
- 5.15.110. In respect of the landholding, concern was raised as the land is used by the whole family, particularly the children for horse riding and that such activities would not be able to take place during construction for health and safety reasons, causing the

family to miss out on opportunities that cannot be repeated [RR-045] to [RR-051] and [REP1-106].

- 5.15.111. In response, the Applicant noted the concerns raised in respect of construction disturbance. However, the Applicant confirmed that the project team would work with the landowners and agent to ensure that the mitigation and management procedures proposed would, as far as practicable, consider the concerns raised [REP2-003].
- 5.15.112. In respect of mitigation proposed, the outline Noise and Vibration Management Plan (oNVMP) [REP2-020] describes possible measures and management procedures to control and limit noise and vibration levels. The oNVMP would be secured by R10 of the dDCO, with the final NVMP being approved by DCC prior to the commencement of construction [AS-053].
- 5.15.113. Further mitigation may also include the erection of temporary noise barriers. Such barriers would be located to ensure that an enhanced level of noise attenuation would be provided to the most sensitive points. In the case of nearby equestrian use, the acoustic barriers could also be designed to afford a degree of visual screening from the construction works area [REP2-003].
- 5.15.114. At paragraph 38 of the oCoCP, it is also confirmed that the type of temporary fencing around TCCs and sections of the ECC would be selected to suit the location and purpose and would be agreed with DCC and landowners in advance [REP7-018]. The oCoCP would be secured by Required 10 of the dDCO [AS-053].
- 5.15.115. Noise and vibration issues are considered in more detail in section 5.13 Public Health of this Report. Concern was also raised by the landowners in respect of the effect on agricultural operations and this is considered in section 5.5 Ground Conditions and Land Use of this Report.

#### **ExA's consideration**

- 5.15.116. The ExA notes the concern in relation to possible effects on horse riding at Fferm, particularly in regard to health and safety implications surrounding the construction phase.
- 5.15.117. Notwithstanding this point, the ExA is satisfied that the Applicant has adequately assessed the likely effects created by construction activity in this specific location. Furthermore, the proposed mitigation measures are considered appropriate and would assist in minimising disruption to horse riding. Such measures are also subject to the approval of DCC and in respect of fencing, also the landowner, prior to the commencement of construction.
- 5.15.118. The ExA accepts that it is ultimately a decision for the landowners to determine if they consider it safe to horse ride. However, the ExA is satisfied that any effects would be short term and temporary and that the proposed mitigation measures would allow horse riding activities to continue unrestricted.

#### **ExA's overall conclusion**

- 5.15.119. The ExA is satisfied that the Applicant has undertaken appropriate assessments in terms of tourism and recreation and the assessment adequately identified the effects of the Proposed Development.

- 5.15.120. The ExA accepts that the Applicant faced exceptional circumstances in respect of the Covid-19 pandemic. Despite this, the ExA is satisfied that the Applicant clearly identified and explained the limitations and uncertainties faced in respect of baseline characterisation.
- 5.15.121. Harm to the tourism visitor economy in respect of Llandudno and the Great Orme is predicted at the end of the construction phase and during the early operation phase. Whilst noting to a certain extent that people's perception of their own likely future actions, and those of others, may produce a stronger reaction than in reality, the ExA accepts that some harm would occur in respect of this particular sector of the tourism economy. Noting the importance of the tourism economy in this location, such harm would be significantly reduced once the early operational phase is complete and would result in a neutral effect on the tourist economy long-term.
- 5.15.122. At the end of the Examination, two areas of disagreement between CCBC and the Applicant remained in respect of outcomes of the assessment and the effect on the Llandudno Conservation Area and listed buildings. The ExA notes that paragraph 5.12.7 of NPS EN-1 states that limited weight should be given to assertions of socioeconomic impacts that are not supported by evidence. Section 5.12 of the NPS EN-1 is of relevance in respect of tourism effects. There is no evidence before the ExA that the development of offshore wind farm in similar seaside locations has resulted in a significant adverse effect on the tourism economy or the built fabric of listed buildings in these locations.
- 5.15.123. The ExA is satisfied that mitigation and controls for the avoidance and reduction of adverse tourism and recreation effects, where reasonable and appropriate, would be adequately secured through the dDCO. This includes R10 of the dDCO, with regard to the oPAMP, oCMS and oCCP.
- 5.15.124. Whilst not secured by the dDCO, the following proposed conditions would also secure appropriate mitigation and controls in the ML:
- Notification of Commencement; and
  - Cable Management Plan.
- 5.15.125. However, the ExA notes that these sit outside of the Examination and as such, have not attributed any weight to them.
- 5.15.126. In respect of the proposed Tourism Fund, as no long term significant adverse effects were identified by the Applicant, this is not a form of mitigation. It is proposed that the Tourism Fund would take the form of a commercial agreement between CCBC and the Applicant and as such, it sits outside of the Examination. Whilst the ExA cannot give weight to this, it is considered that a managed and targeted Tourism Fund would be an effective approach in bringing benefits to the local tourism sector.
- 5.15.127. There would be a negative effect on the tourism economy in the Great Orme and Llandudno area for a limited period at the end of construction and for the early years of operation. However, the ExA is content that this would be short term and temporary and is satisfied that the long-term effects on the visitor economy in this location would be neutral.
- 5.15.128. As previously commented on, no significant effects were identified in respect of recreational fishing and angling. As such, the ExA finds there are no matters relating to specific topic areas which would weigh for or against the making of the Order.

- 5.15.129. Taking the above matters into account, the ExA is satisfied that the Proposed Development would accord with NPS EN-1 and EN-3 in respect of tourism and recreation.
- 5.15.130. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of the relevant policies in the LDP and in terms of PPW11 and TAN16, in terms of improving the cultural well-being of North Wales and the protection of existing facilities.
- 5.15.131. Therefore, the ExA attributes limited weight to matters relating to tourism and recreation against the making of the Order.
- 5.15.132. The findings in respect of tourism and recreation will be taken into account in the overall planning balance in Volume 2, Chapter 10 of this Report.

## **5.16. TRAFFIC AND TRANSPORT**

### **INTRODUCTION**

- 5.16.1. This Chapter reports on the effects of the Proposed Development on onshore transport and traffic during construction, operation and decommissioning.
- 5.16.2. ES Volume 3, Chapter 9 on Traffic and Transport [APP-070] provides an assessment of the Proposed Development's effects on traffic and transport from construction, operation (including maintenance) and decommissioning. Traffic and transport-related effects on the living conditions of residents (including noise and air quality) are covered separately in section 5.13 Public Health and Nuisance and on tourism in section 5.15 Tourism and Recreation of this Report.

### **POLICY CONSIDERATION**

#### **National Policy Statements**

- 5.16.3. NPS EN-1 recognises that the transport of materials, goods and personnel to and from a development during all project phases can have a variety of impacts on the surrounding transport infrastructure (paragraph 5.13.1). The consideration and mitigation of transport impacts is an essential part of Government's wider policy objectives for sustainable development as set out elsewhere in NPS EN-1 (paragraph 5.13.2).
- 5.16.4. NPS EN-1 says that, if a project is likely to have significant transport implications, the Applicant's Environmental Statement (ES) should include a Transport Assessment (paragraph 5.13.3) and the Applicant should provide a travel plan and details of proposed measures to improve public transport, walking and cycling to reduce the need for parking associated with the proposal and to mitigate transport impacts (paragraph 5.13.4).
- 5.16.5. NPS EN-1 goes on to state that the decision-maker should ensure that the applicant has sought to mitigate these impacts, including during the construction phase of the development. Where the proposed mitigation measures are insufficient to reduce the impact on the transport infrastructure to acceptable levels, requirements should be considered to mitigate adverse impacts on transport networks arising from the development (paragraph 5.13.6).
- 5.16.6. With regard to mitigation, NPS EN-1 states that water-borne or rail transport is preferred over road transport at all stages of the project (paragraph 5.13.10) and advises that requirements may be attached to a consent where there is likely to be substantial Heavy Goods Vehicles (HGV) traffic that:
- controls numbers of HGV movements to and from the site in a specified period during its construction, and possibly the routeing of such movements;
  - makes sufficient provision for HGV parking, either on the site or at dedicated facilities elsewhere, to avoid overspill parking on public roads, prolonged queuing on approach roads and uncontrolled on-street HGV parking in normal operating conditions; and
  - ensures satisfactory arrangements for reasonably foreseeable abnormal disruption, in consultation with network providers and the responsible police force (paragraph 5.13.11).
- 5.16.7. NPS EN-3, states that the extent to which generic impacts set out in NPS EN-1 are relevant, may depend on the phase of the proposed development being considered.

For example, land-based traffic and transport and noise issues may be relevant during the construction and decommissioning periods only, depending on the specific proposals.

### **Draft National Policy Statements**

- 5.16.8. Draft NPS EN-1 as at the close of the Examination states that the Transport Assessment should also consider any possible disruption to services and infrastructure, such as road, rail and airports (paragraph 5.14.4).

### **Wales National Policy**

- 5.16.9. Paragraph 5.9.20 of Planning Policy Wales (PPW) states that planning authorities should also identify and require suitable ways to avoid, mitigate or compensate adverse impacts of renewable and low carbon energy development. The construction, operation, decommissioning, remediation and aftercare of proposals should consider, the capacity of, and effects on the transportation network.
- 5.16.10. Paragraph 4.1.11 of PPW, states that development proposals must seek to maximise accessibility by walking, cycling and public transport, by prioritising the provision of appropriate on-site infrastructure and where necessary, mitigating transport impacts through the provision of off-site measures such as the development of active travel routes, bus priority infrastructure and financial support for public transport services.
- 5.16.11. Paragraph 4.1.18 of PPW, requires design and access statements show how the scheme has responded to the sustainable transport hierarchy.
- 5.16.12. Paragraph 4.1.33 of PPW, states that development plans must identify and safeguard active travel routes and networks.
- 5.16.13. Technical Advice Note (TAN) 18 Transport sets out the Welsh Government's aim for integration of land use planning and transport in order to achieve a sustainable pattern of development. TAN 18 places emphasis on sustainability and the need for sustainable development patterns.
- 5.16.14. Section 6 of TAN 18 focuses on the needs of walkers and cyclists and the requirement to safeguard routes for walkers, cyclists and horse-riders.
- 5.16.15. Section 9.16 and Annex B of TAN 18 set out the requirements for new accesses.

### **Local Policy**

- 5.16.16. Denbighshire County Council Local Development Plan (DCCLDP) Policy RD1 - Sustainable development and good standard design, states that development proposals will be supported providing a range of criteria are met including: *Does not have an unacceptable effect on the local highway network as a result of congestion, danger and nuisance arising from traffic generated and incorporates traffic management / calming measures where necessary and appropriate. A transport assessment and travel plan will be required where appropriate.*

### **THE APPLICANT'S CASE**

- 5.16.17. ES Chapter 9 [APP-070] provides an assessment of the Proposed Development's effects on traffic and transport from construction, operation (including maintenance) and decommissioning. The assessment is informed by:

- Volume 3, Chapter 1: Onshore Project Description [REP8-60]

The assessment is supported by:

- Volume 5, Annex 9.1 Baseline Technical Report [APP-148];
- Volume 5, Annex 9.2 Trip Generation and Distribution Calculations [APP-149];
- Volume 5, Annex 9.3 Percentage Impact Calculations and Assessment Screening [APP-150];
- Outline Code of Construction Practice (oCoCP) [REP7-018];
- Appendix 7: Outline Construction Traffic Management Plan (Outline oCTMP) [REP2-038];
- Appendix 8 Outline Public Access Management Plan (oPAMP) [REP1-036];
- and
- Appendix 9 Outline Travel Plan (oTP) [APP-321].

- 5.16.18. Figure 1 of Volume 3, Chapter 9 of the Environmental Statement shows the onshore highway study area [APP-070]. A detailed description of each of the routes is provided in Volume 5, Annex 9.1: Traffic and Transport Technical Baseline Report of the Environmental Statement [APP-148]. Roads in the area are of varying widths and standards. The A55 dual carriageway is the only trunk road connecting ports and communities along the North Wales coast and forms part of the Trans-European Road network linking Ireland to the UK and EU.

### **Consultation and Scoping**

- 5.16.19. Pre-application consultation on the scope of the air quality assessment was undertaken through the Awel y Môr (AyM) Evidence Plan Expert Topic Group (ETG) process, comprising discussions with DCC and Conwy County Borough Council (CCBC).

### **Assessment**

#### **Construction**

- 5.16.20. The Applicant carried out a reasonable worst-case assessment of the likely significant traffic and transport effects of the construction phase of the Proposed Development, based on the Maximum Design Scenario (MDS) as follows:
- The maximum expected number of total vehicle movements in one month at each construction access; and
  - The maximum expected number of HGV movements in one month at each construction access
- 5.16.21. The effects of the forecast construction phase traffic have been assessed against the measured future baseline in terms of existing traffic levels and then compared to standard practice criteria as set out in paragraphs 66 to 86 and Table 3 and Table 4 of ES Chapter 9 [APP-070].
- 5.16.22. A number of baseline data sources (existing and new) were used to inform the chapter and the design of the Proposed Development. The data sources which are described in detail in Volume 5, Annex 9.1 [APP-148], were discussed and agreed through the Evidence Plan process, and are summarised below:

#### Existing data

- A desktop appraisal of the traffic and transport aspects of the study area (Google Earth);
- Annual Average Daily Traffic (AADT) flows and speed for the Local Road Network (LRN) (Department for Transport (DfT) National Road Statistics);
- STATS19 accident data for the LRN (DCC);
- Public Rights of Way (PRoW) maps (DCC);
- Active Travel Routes (ATR) maps (DCC);
- Cycleway counts (DCC); and
- Accident data for the Strategic Road Network (SRN).

#### New data

- Automatic Traffic Counters (ATC) installed at seven locations across the study area to collect traffic flow and speed data.

5.16.23. The assessment of traffic and transport and the potential traffic impacts in relation to the Proposed Development was undertaken with reference to the following key guidance documents:

- Department for Communities and Local Government, Planning Practice Guidance - Overarching Principles on Travel Plans, Transport Assessments and Statements (2014);
- Institute of Environmental Management and Assessment (IEMA), Guidelines for Environmental Assessment of Road Traffic (GEART), 1993; and
- Design Manual for Roads and Bridges (DMRB), LA 112 Population and Human Health.

5.16.24. Based on the guidance in GEART, the following factors were identified as being the most discernible potential environmental effects likely to arise from changes in traffic movements. These are considered in the assessment as potential effects which may arise from changes in traffic flows resulting from the Proposed Development:

- Driver severance and delay - the potential delays to existing drivers and their potential severance from other areas;
- Community severance - the potential severance to communities and the delays to movements between communities;
- Vulnerable road users and road safety - the potential effect on the safety of users of the road, particularly pedestrians and cyclists;
- Dust and Dirt - The potential effect of dust, dirt and other detritus being brought onto the road; and
- Dangerous loads - the potential effect on road users and local residents and users of the highway network caused by the movement of AILs.

#### **Driver Severance and Delay**

5.16.25. During consultation with DCC, CCBC and North and Mid Wales Trunk Road Agent (NMWTRA), no sensitive junctions were identified that would automatically require an assessment of potential delays for drivers during periods when baseline traffic flows are at their greatest (the highway peak hours).

#### **Community Severance**

5.16.26. Community severance was assessed with reference to GEART which suggests that changes in total traffic flow of 30%, 60% and 90% are considered to be slight, moderate and substantial respectively.



- 5.16.27. In addition, reference was made to DMRB LA 112 which provides guidance to both the direct effects of a new scheme, and to effects caused by increases in traffic levels on existing roads. The guidance provides example definitions of where severance could be experienced and notes that for pedestrians crossing at-grade (i.e. on the same level), AADT flows of 4,000 or less, 4,000 to 8,000, 8,000 to 16,000 and 16,000 plus the relative sensitivity would be low, medium, high and very high respectively.

#### **Vulnerable Road Users and Road Safety**

- 5.16.28. In accordance with GEART an examination of the existing collisions occurring within the onshore highway study area was undertaken to identify any areas of the highway with concentrations of collisions, or roads with collision rates that are higher than the national average. These locations, which are considered sensitive to changes in traffic flows, were then subject to more detailed analysis in the specific context of the Proposed Development.

#### **Dust and Dirt**

- 5.16.29. The effects of dust and dirt were assessed with reference to GEART.

#### **Dangerous Loads**

- 5.16.30. The ES assessment for dangerous loads travelling between the A55 and proposed onshore substation (OnSS) was based on a review of a previous Abnormal Indivisible Load (AIL) investigations report that was undertaken for the Gwynt y Môr substation (which is located approximately 1,200m to the southeast of the proposed OnSS site), together with a review of any changes to the highway network since that report was produced in 2006.

#### **Users of PRow and Active Travel Routes**

- 5.16.31. The criteria in DMRB LA 112 Population and Human Health, was adopted to assess the impact of the construction works associated with the Proposed Development on users of PRow and ATRs. The scope of assessment was defined as all PRow and ATRs that would be directly impacted by the construction works and those that form part of a specific route with the PRow and ATRs that would be directly impacted

#### **Operational and Maintenance Activities**

- 5.16.32. Following the scoping opinion provided by the Planning Inspectorate (the Inspectorate) it was agreed with the Applicant that operational and maintenance activities could be scoped out of the assessment

#### **Decommissioning Activities**

- 5.16.33. The Applicant only carried out a qualitative assessment of decommissioning activities. They were not considered to exceed the construction phase worst case criteria assessed. The decommissioning methodology would be finalised nearer to the end of the lifetime of the Proposed Development, to be in line with current guidance, policy and legislation.
- 5.16.34. A summary of the Applicant's assessment of potential traffic and transport effects during construction and their significance, is provided in Table 12 below:

**Table 12: Summary of Effects – Construction**

<b>Impact</b>	<b>Magnitude</b>	<b>Mitigation</b>	<b>Residual Effects</b>
Driver delay and severance - increase in vehicle movements	Low Adverse	Measures in oCTMP [REP2-038] oTP [APP-321] secured by Requirement (R) 10 of the draft Development Consent Order (dDCO) [AS-053]	Negligible Adverse (Not Significant)
Driver delay and severance - use of open trenching	Negligible to Low/ Medium Adverse	Measures in oCTMP	Negligible to Minor Adverse (Not Significant)
Community severance	Negligible	None	Minor Adverse (Not Significant)
Driver delay and severance - increase in vehicle movements	Low Adverse	Measures in oCTMP [REP2-038] oTP [APP-321] secured by R10 of the dDCO [AS-053]	Negligible Adverse (Not Significant)
Driver delay and severance - use of open trenching	Negligible to Low/ Medium Adverse	Measures in oCTMP	Negligible to Minor Adverse (Not Significant)
Community severance	Negligible	None	Minor Adverse (Not Significant)
Vulnerable road users and road safety	Negligible to Low Adverse	Measures in oCTMP	Minor Adverse (Not Significant)
Dust and dirt	Negligible to Low Adverse	Measures in oCTMP	Negligible to Minor Adverse (Not Significant)
Dangerous loads	Negligible	Any measures identified in the Abnormal Load Assessment Report (ALAR) to be prepared post consent.	Negligible to Minor Adverse (Not Significant)
Users of ATRs and PRow	Negligible to High Adverse	Measures in oPAMP [REP1-036] secured by R10 dDCO [AS-053]	Negligible to Minor Adverse (Not Significant)

5.16.35.

A summary of the Applicant's assessment of potential traffic and transport effects during decommissioning and their significance, is provided in Table 13 below:

**Table 13: Summary of Effects – Decommissioning**

<b>Impact</b>	<b>Magnitude</b>	<b>Mitigation</b>	<b>Residual Effects</b>
Likely traffic and transport impacts associated with	Comparable to construction and lesser if underground cables remain in situ		

Impact	Magnitude	Mitigation	Residual Effects
decommissioning activities			

### Transboundary Effects

- 5.16.36. The Applicant concluded that there would be no national transboundary effects arising from the Proposed Development with regard to traffic and transport [APP-070].

### Cumulative Effects

- 5.16.37. The Applicant's Cumulative effects assessment methodology and long list are described in Volume 1, Annex 3.1: Cumulative Effects Assessment [APP-042]. The long list of projects was reviewed based on a 5 km search area, which was considered a suitable distance to screen for other projects that might have construction or operational vehicle movements using the same highway links as the Proposed Development.
- 5.16.38. On this basis the developments considered for the assessment comprised:
- Minor schemes which would have negligible traffic movements;
  - Schemes that would not impact on the Proposed Development's construction access routes;
  - Schemes that would impact on some of the Proposed Development's construction access routes but with the addition of the development traffic associated with those schemes, would not breach GEART thresholds;
  - Schemes at screening stage and / or without any traffic flow information;
  - Schemes that had have a decision pending and may not be consented; and
  - Schemes that are already in construction or are likely to be constructed by 2026 when AyM construction is likely to commence.
- 5.16.39. Given the above, the Applicant concluded no cumulative effect assessment was required.

### Statement of Common Ground

- 5.16.40. In the final Statements of Common Ground (SoCG) it was confirmed that DCC had agreed all issues in respect of traffic and transport [REP7-049].

### Issues Considered in the Examination

#### Written Representations

- 5.16.41. Of the 60 relevant representations (RR) received, 12 made some reference to traffic and transport during construction and operation.
- 5.16.42. Genesis Town Planning on behalf of Memoria Ltd [RR-031] raised concerns that the proximity of Glascoed Road and its use by construction traffic for the construction of the OnSS would result in harm to the tranquil setting of its client's Denbighshire Crematorium and Memorial Park (the Crematorium) that no amount of noise mitigation or landscaping would overcome. It suggested that the *most sensible* solution would be to utilise a construction and haul road serving the OnSS site either from the north, close to interchange with the North Wales Expressway (A55), or alternatively from the east through St Asaph Business Park (SABP) where existing commercial activities exist. In addition, it also raised concerns with respect

to potential noise from a proposed permanent maintenance access route along the eastern edge of the Crematorium site.

5.16.43. Rostons raised several concerns on behalf of different clients. For Mr Beech [RR-042], it was that the additional traffic accessing the construction compounds on the A547 & Bodelwyddan Road would cause significant congestion on the A525. For Mr Wynne-Davies [RR-043], it was with regard to additional traffic using Dyserth Road. For landowners, in the vicinity of Cwybr Fawr and Fferm [RR-044 to RR-051], it was traffic associated with the Proposed Development making congestion on the A525 worse and additionally highway safety was raised as an issue by some of these lps.

5.16.44. Mr Griffiths [RR-054] questioned whether the Applicant had the correct speed limit for the B5381, Glascoed Road in documentation.

5.16.45. The Applicant commented on all RRs at Deadline 1 (D1) [REP1-001].

#### **Local Impact Report (LIR)**

5.16.46. DCC submitted a LIR at D1 [REP1-056].

5.16.47. The Council agreed with the conclusions of the Traffic and Transport section in the ES and agreed that, subject to the imposition of mitigation, adverse impacts to the highway network would be limited to the construction phase and would not be significant.

5.16.48. However, the Council as Local Highway Authority did not agree to the street works and stopping up of public rights of way powers proposed for the Applicant in Part 3 of the dDCO.

5.16.49. The Applicant commented on the LIR at D2 [REP2-004].

#### **Written Questions**

5.16.50. The ExA studied all RRs and put written questions to the Applicant and other relevant parties [PD-009] on:

- The port to be used for construction traffic;
- Assessment methodology;
- Highway powers;
- The oCoCP and its appendices;
- The proposed construction access route for the OnSS; and
- The proposed maintenance access adjacent to the western boundary of the Crematorium site.

5.16.51. The Applicant responded to the ExA's first set of written questions at D1[REP1-007].

#### **ExA Consideration**

5.16.52. The ExA undertook Unaccompanied Site Inspections (USI), USI2 on 1 to 4 August 2022 [EV-003], USI3 on 5 to 7 September 2022 [EV-004a], USI6 [EV-004d] on 27 February 2023 and an Accompanied Site Inspection (ASI) [PD-012] on 6 December 2022 which enabled it to view on foot the land and properties along the cable route, from landfall to the proposed substation and National Grid infrastructure at Bodelwyddan.

5.16.53. The key issues raised in the examination were:

- The use of the Glascoed Road, B5381 for construction traffic;
- Maintenance access route adjacent to the Crematorium site;
- Construction traffic causing congestion on the A525;
- Additional traffic using Dyserth Road;
- Street works and stopping up of public rights of way powers; and
- Port for construction traffic

### **The use of the Glascoed Road, B5381 for construction traffic**

- 5.16.54. Genesis Town Planning in its RR on behalf of Memoria Ltd [RR-031], raised concerns with regard the suitability of Glascoed Road, B5381 as a route for construction traffic accessing the OnSS site. It suggested that the *most sensible solution* would be to utilise a construction and haul road serving the OnSS site either from the north, close to interchange with the North Wales Expressway (A55), or alternatively from the east through SABP where existing commercial activities exist.
- 5.16.55. The ExA questioned the Applicant on its choice of access route in its first set of written questions [PD-009] and having considered the Applicant's response at D1 [REP1-001], requested further information in its second set of written questions [PD-015]. The Applicant responded at D5 [REP5-004].
- 5.16.56. In addition, because the Applicant was relying on an Abnormal Load Assessment Report (ALAR), prepared for the transport of transformers to the GyM substation site in 2006 and assessed a different part of Glascoed Road to that required for the Proposed Development the ExA asked the Applicant further questions in its third set of written questions [PD-017]. The Applicant responded at D7 [REP7-004].
- 5.16.57. In its responses the Applicant outlined the process by which the four potential routes: one immediately to the north of the Crematorium off Glascoed Road the B5381; one to the east via SABP; one to the north-east, via a minor road off Ffordd William Morgan to the north of SABP and one to the south-west off Glascoed Road, were assessed.
- 5.16.58. The first, directly opposite the Crematorium was discounted because of: potential traffic management issues at the entrance to the Crematorium; disturbance to the Crematorium; risk of AILs interacting with overhead lines and closer proximity to Glascoed Nature Reserve.
- 5.16.59. The second, via SABP, was discounted, due to the risk of a long-term irreversible effect that would result on the Glascoed Nature Reserve.
- 5.16.60. A 'Black, Red, Amber, Green' (BRAG) process was undertaken for the remaining routes following PEIR consultation. The engineering and Environmental Impact Assessment (EIA) analysis of both remaining north and south access zones were broadly comparable. However, the Applicant selected the southern route (south-west off Glascoed Road), after considering the landowner's feedback to be material in the route selection. There would have been more disruption to the operation of Faenol Bropor farm from the construction and operation of an access route from the north-east. The south-west route also avoids the loss of significant tree habitat and the ExA is satisfied with this decision.
- 5.16.61. The Applicant also confirmed [REP7-004] that the ALAR prepared for GyM substation considered:

- Transformers of a similar size to those proposed;
- The vehicles proposed for transporting loads to the Proposed Development's site have similar swept paths to those used for GyM;
- The infrastructure and road layout have not changed since the ALAR was prepared in 2006; and
- The proposed vehicles and load can safely negotiate the section of Glascoed Road not assessed in the original report.

The ExA is therefore content that AILs can safely negotiate the route through from the A55 junction, through SABP, and west along Glascoed Road to the site of the OnSS.

5.16.62. The ExA is therefore satisfied that the Applicant has addressed this issue.

#### **Proposed maintenance access route adjacent to Denbighshire Crematorium and Memorial Park**

5.16.63. Genesis Town Planning on behalf of Memoria Ltd [RR-031], also raised concerns about the proposed location of a maintenance access road adjacent to the western boundary of the Crematorium, and potential noise and disturbance.

5.16.64. In the Applicant's response to the RR [REP1-001] and the ExA's questions on the same issue [REP1-007], it explained that the route would be used infrequently (typically 1-2 times a year) to access link boxes along the cable corridor as set out in paragraph 190 of [APP-062]. Access would be taken in a small vehicle driving south along this route to access the cable route located well beyond the extend of the Crematorium to the south. The disturbance associated with any routine works would be no more than the use of the existing agricultural access point and agricultural field within which this access is located or from existing traffic on the Glascoed Road which runs a similar distance away from the Crematorium to the north.

5.16.65. The ExA is content that the proposed location of the maintenance access would not cause any significant adverse effects. The issue of noise raised in RR-031 has been dealt with in section 5.13 Public Health and Nuisance of this Report.

5.16.66. The ExA is therefore satisfied that the Applicant has addressed this issue.

#### **Construction traffic causing congestion on the A525**

5.16.67. The ExA notes that the Applicant responded to the original RRs received from Rostons on behalf of Mr Beech [RR-042] and several landowners in the vicinity of Cwybr Fawr construction compound [RR-044 to RR-051] at D1 [REP1-001] and that no response or further representations were received on the issue.

5.16.68. The ExA is satisfied with both the methodology and assessment of transport impacts for the construction and operation of the Proposed Development [APP-070]. The assessment includes consideration of potential delays for existing road users and is based upon maximum trip generation forecasts for construction traffic alongside worst-case parameters for the assignment of construction vehicle movements to construction accesses including those on the A547 and Bodelwyddan Road. The assessment concludes that any adverse impact on driver severance and delay on all highway links (other than B5381 Glascoed Road) would be minor and any resulting effect would not be significant.

5.16.69. The ExA is therefore satisfied that the Applicant has addressed this issue.

### **Additional traffic using Dyserth Road**

- 5.16.70. The ExA notes that the Applicant responded to the original RRs received from Rostons on behalf of Mr Wynne-Davies [RR-043] at D1 [REP1-001] and that no response or further representations were received on the issue.
- 5.16.71. The ExA agrees with both the methodology and assessment of transport impacts for the construction and operation of the Proposed Development [APP-070]. The assessment includes consideration of potential delays for existing road users and is based upon maximum trip generation forecasts for construction traffic alongside worst-case parameters for the assignment of construction vehicle movements to construction accesses. The assessment concludes that any adverse impact on driver severance and delay on all highway links (other than B5381 Glascoed Road) would be minor and any resulting effect would not be significant.
- 5.16.72. The ExA is therefore satisfied that the Applicant has addressed this issue.

### **Street works and stopping up of public rights of way powers**

- 5.16.73. The ExA notes that at the start of the examination DCC was not content with the street works and public right of way powers that were to be exercised by the Applicant in accordance with Part 3 of the dDCO [AS-053], because of the high number of major developments in the north of the County which may overlap with the Proposed Development; the need to maintain strategic control over the highway and rights of way network to avoid conflict with other planned works; and concerns regarding the duration and reinstatement of temporary disruptions / diversions of PRoW.
- 5.16.74. However, the ExA also notes that following further discussions between DCC and the Applicant during the examination and the need for agreement and approval of the Public Access Management Plan (PAMP) [REP7-24] secured by R10 of the dDCO and with R17 of the dDCO imposing a 6-month time limit on reinstatement of agreed stages of onshore works, the final SoCG confirmed that DCC had agreed all issues in respect of traffic and transport [REP7-049].
- 5.16.75. The ExA is therefore satisfied that the Applicant has addressed this issue.

### **Port for construction traffic**

- 5.16.76. The Applicant had not confirmed a port for the delivery of sub-station transformers and other large components or a port to be used for offshore works before the end of the Examination.
- 5.16.77. The ExA notes that as set out in section 9.10.5 of ES Chapter 9 [APP-070], an ALAR would be prepared post-consent, as part of the final CTMP, to confirm the routeing and any modifications to the highway network that might be required between the port of origin for delivery of the substation transformers (once this has been identified) and the route to the site.
- 5.16.78. The ExA is therefore content that any adverse effects following the selection of the port and identification of transport routes can effectively be mitigated by measures in the final CTMP and that appropriate mitigation would be secured via R10 of the recommended Development Consent Order (rDCO).
- 5.16.79. The ExA is therefore satisfied that the Applicant has addressed this issue.

### **ExA's conclusions**

- 5.16.80. The ExA examined all the Applicant's submitted assessments and considered all the issues raised during the Examination.
- 5.16.81. The ExA is satisfied that the Applicant has fully assessed and addressed the possible traffic and transport effects associated with construction, operation and decommissioning of the Proposed Development. In accordance with NPS EN-1, paragraph 5.13.3, the traffic assessment has been carried out using current transport guidance. In addition, the assessment has considered possible disruption to rail and road (draft NPS EN-1, paragraph 5.14.4) and includes an oTP [APP-321] (NPS EN-1, paragraph 5.13.4) which contains demand management measures and promotes the use of sustainable forms of transport. The oPAMP [REP7-024] would minimise potential disruption to walking and cycling routes. The Applicant has also demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed and that appropriate mitigation would be secured via R10 of the rDCO.
- 5.16.82. Consequently, the ExA considers that the Applicant's assessment of traffic and transport effects fully complies with the policy aims of NPS EN-1 and EN-3, PPW, TAN 18 and DCCLDP Policies and there are no other important or relevant considerations.
- 5.16.83. With the identified mitigation as secured by the imposition of R10 in the dDCO the ExA concludes that the Proposed Development would not have a significant adverse effect on traffic and transport matters. While minor impacts have been identified, the ExA ascribes limited weight to such matters against the Order being made.
- 5.16.84. The findings in respect of traffic and transport will be taken into account in the overall planning balance in Volume 2, Chapter 10 of this Report.



## **5.17. OTHER CONSIDERATIONS**

### **Waste and Materials Management**

- 5.17.1. This section addresses waste and materials management considerations in respect of the Proposed Development. Issues in relation to public health and waste are reported on in section 5.13 Public Health and Nuisance of this Report.

### **Policy Considerations**

#### ***Overarching National Policy Statement for Energy (NPS EN-1)***

- 5.17.2. Paragraph 5.14.1 of NPS EN-1 states that Government policy on hazardous and non-hazardous waste is intended to protect human health and the environment by producing less waste and by using it as a resource wherever possible. Where this is not possible, waste management regulation ensures that waste is disposed of in a way that is least damaging to the environment and to human health.
- 5.17.3. Paragraph 5.14.2 of NPS EN-1 sets out a waste hierarchy approach to manage waste which is prevention, preparation for reuse, recycle, other recovery and disposal.
- 5.17.4. Paragraph 5.14.6 of NPS EN-1 states that the Applicant should set out the arrangements that are proposed for managing any waste produced and prepare a Site Waste Management Plan. Paragraph 5.14.7 further states that the decision maker should consider the extent to which the applicant has proposed an effective system for managing hazardous and non-hazardous waste arising from the construction, operation and decommissioning of the proposed development. Paragraph 5.14.7 goes on to say that the decision maker should use requirements or obligations to ensure that appropriate measures for waste management are applied.

### **Draft National Policy Statements**

- 5.17.5. At the close of the Examination, the policy requirements of draft NPS EN-1 in respect of waste use were largely consistent with those policy requirements of the extant NPS EN-1.
- 5.17.6. Two new paragraphs with relevance to waste are proposed in the draft NPS EN-1 at paragraphs 5.15.7 and 5.15.8. In summary, the additional text encourages applicants to source materials from recycled or reused sources and to ensure materials are reused or recycle onsite wherever possible. Additionally, applicants are encouraged to use construction best practices in relation to storing materials in an adequate and protected place on site to prevent waste, for example, from damage or vandalism.

### **The Applicant's Case**

- 5.17.7. A specific waste and material resources Environmental Statement (ES) chapter was not submitted as part of the application for the Proposed Development. However, as part of the suite of application documents an outline Code of Construction Practice (oCoCP) was submitted [APP-312]. Several amendments were made to the oCoCP during the Examination, with the final version submitted at Deadline (D) 7 [REP7-018].
- 5.17.8. Section 3.12 of the oCoCP focuses on waste and confirms that waste matters are addressed in detail in the outline Site Waste Management Plan (oSWMP), which

forms Appendix 5 of the oCoCP [REP2-035]. Both the oCoCP and associated appendices, are secured by Requirement (R)10 of the dDCO [AS-053].

- 5.17.9. The oSWMP identifies the obligations for the Proposed Development regarding waste legislation. It provides the details regarding the roles and responsibilities of the Applicant and its contractors to ensure that the Proposed Development complies with its waste obligations, under waste legislation including the Waste (England and Wales) Regulations 2011 and current environmental best practice.
- 5.17.10. Paragraphs 8 and 9 of the oSWMP confirm that a detailed Site Waste Management Plan (SWMP) would be in place throughout the construction phase of the Proposed Development. The oSWMP also confirms that the detailed SWMP would remain a live document and would be used to describe the progress on site against waste management forecasts which would be developed alongside the SWMP [REP2-035].
- 5.17.11. Paragraph 13 of the oSWMP also confirms that the SWMP would include measures to manage and reduce the amount of waste produced by construction of onshore elements of the Proposed Development. Such measures would include a process of identification of wastes, input into the final design, and the continued measurement and management of wastes to achieve the most sustainable level in the waste hierarchy [REP2-035].
- 5.17.12. An outline Pollution Prevention and Emergency Incident Response Plan (oPPEIRP) formed Appendix 6 of the oCoCP [APP-318] and was updated during the Examination, with the final version being [REP2-037]. The oPPEIRP identifies that waste is a potential source of pollution which may adversely impact upon both terrestrial and aquatic ecosystems. As such, the oPPEIRP sets out pollution prevention measures and emergency responses, which would be implemented by the Applicant and its contractors during construction.
- 5.17.13. Additionally, an outline Construction Method Statement (oCMS) [APP-313] formed Appendix 1 to the CoCP and was updated during the Examination, with the final version being [REP7-020]. The oCMS confirms that fuels, chemicals, and wastes would be handled and stored in accordance with the approved PPEIRP and SWMP.
- 5.17.14. Both the oPPEIRP and the CMS are secured by R10 of the dDCO.
- 5.17.15. The Applicant also confirmed in their Marine Licence Principles document [REP8-014] that, in respect of the offshore environment, the following plans would detail waste management policies and would be secured by the Marine Licence (ML):
- Offshore Construction Method Statement (offCMS) – The offCMS would be agreed by Natural Resources Wales (NRW) prior to commencement of any offshore works. The offCMS would typically include construction procedures in relation to offshore infrastructure and would be secured by the ML; and
  - Offshore Project Environmental Management Plan (PEMP) – the PEMP would be agreed by NRW prior to commencement of any offshore works. The PEMP would include waste management principles and would be secured by the ML.

#### **ExA's considerations**

- 5.17.16. No significant matters of concerns were raised in Relevant Representations or Written Representations regarding waste and waste management. However, during the Examination the ExA posed several questions to the Applicant in respect of waste issues.

- 5.17.17. The ExA sought clarity at ExQ1.4.17 as to whether there was sufficient capacity to receive both conventional and hazardous waste generated from the Proposed Development [PD-009]. In response the Applicant confirmed that in terms of estimated tonnages generated, which is likely to be approximately 0.28 million tonnes, it is thought that most waste would consist of construction and demolition wastes and general industrial, commercial, and household-like wastes. However, it was also acknowledged that there would be the potential to generate some hazardous wastes as well [REP1-007]. Additionally, the Applicant provided information which detailed the waste management sites in North Wales and their estimated waste management capacity [Appendix K of [REP1-007].
- 5.17.18. The ExA notes that although the data sources utilised relate to data from 2018, 2020 and 2021, the aggregated treatment capacity of 1.9m tonnes and disposal capacity of 7.7m tonnes is considered to demonstrate sufficient available capacity exists in North Wales to manage waste from the Proposed Development.
- 5.17.19. In response to ExQ1.4.9 regarding excavated material, the Applicant confirmed the oSWMP requires the Applicant to appropriately manage construction waste on site and in line with the waste hierarchy, must ensure waste is minimised. The quantum of excavated material to be reused would be established at detail design stage for the onshore substation (OnSS). Any removal of excavated material would be agreed through the final SWMP [REP1-007].
- 5.17.20. In terms of the approach to construction waste on site, in response to ExQ1.4.10 [REP1-007] and ExQ2.4.7 [REP5-004], the Applicant confirmed that under the oSWMP on-site contractors would be obligated to carry out their own assessments to ensure their activity minimises waste and they have considered opportunities for waste to be reused. Under this plan the Principal Contractor would be responsible for ensuring waste transfer notes are produced correctly and that waste is stored and removed in accordance with UK legislation under the appropriate permit or licence and is also in line with the waste hierarchy.
- 5.17.21. At ExQ1.4.22, the ExA asked NRW to confirm whether they were content with the oSWMP. In response NRW confirmed they agreed with the proposed approach as outlined in the oSWMP and were satisfied that onshore waste would be appropriately managed [REP1-080].
- 5.17.22. The Applicant updated the oCMS at D7 [REP7-020]. The updated CMS included confirmation that any material excavated as part of the cut and fill works would be re-used on site under the Definition of Waste Code of Practice (DoWCoP) produced by Contaminated Land: Applications in Real Environments (CL:AIRE). As part of the DoWCoP a Materials Management Plan (MMP) would be produced which would detail how the site construction materials would be managed by the appointed contractor demonstrating that the material meets the requirements of the DoWCoP.
- 5.17.23. The ExA also notes that the outline Invasive Non-Native Species Management Plan (oINNSMP), which forms Appendix 11 of the oCoCP [REP8-040], details the approach in respect of Japanese knotweed. Paragraph 17 of the oINNSMP confirms that in the case of Japanese knotweed, a specialist eradication company would be employed and a suitable strategy for removal and disposal would be determined through consideration of the location and extent of any stands in relation to construction works. Removal would be by a suitably licenced carrier and would be disposed at licensed waste disposal site [REP8-040].

### **ExA's overall conclusion**

- 5.17.24. The ExA is satisfied that matters relating to mitigation in respect of waste and materials management would be adequately provided for and are appropriately secured through the dDCO. Thus, the Proposed Development would meet all legislative and policy requirements relating to waste management, including those of NPS EN-1 and those detailed in the draft NPS EN-1.
- 5.17.25. The ExA considered waste and materials management in detail and confirm that there are no other matters that appear to indicate against the grant of development consent or indicate a need to change the dDCO in respect of them.
- 5.17.26. The management of offshore materials and waste would be controlled by Articles and Conditions in the ML. Whilst such licencing considerations sit outside of the Examination, the ExA is satisfied that the proposed approach is reasonable and provides sufficient clarity.
- 5.17.27. Therefore, the ExA considers that there are no matters relating to waste and materials management which would weigh for or against the Order being made.
- 5.17.28. The findings in respect of onshore waste management will be considered in the overall planning balance in Volume 2, Chapter 10 of this Report.



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

## **AWEL Y MÔR OFFSHORE WIND FARM**

Examining Authority's Report  
of Findings and Conclusions  
and

Recommendation to the Secretary of State for  
Energy Security and Net Zero

### **VOLUME TWO**

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20 June 2023

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## **6. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT**

### **6.1. INTRODUCTION**

6.1.1. This Chapter sets out the Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Energy Security and Net Zero (SoS), as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').

6.1.2. This Chapter is structured as follows:

- Section 6.2: Findings in relation to Likely Significant Effects on the UK National Site Network and other European sites;
- Section 6.3: Conservation Objectives for sites and features;
- Section 6.4: Findings in relation to Adverse Effects on Integrity; and
- Section 6.5: HRA conclusions.

6.1.3. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s)<sup>1</sup> and no reasonable scientific doubt remains<sup>2</sup>.

6.1.4. Policy considerations and the legal obligations under the Habitats Regulations are described in Volume 1, Chapter 3 of this Report.

6.1.5. The ExA has been mindful throughout the Examination of the need to ensure that the SoS has such information as may reasonably be required to carry out their duties as the Competent Authority. We have sought evidence from the Applicant and the relevant Interested Parties (IPs), including Natural Resources Wales (NRW), Natural England (NE), the Department for Agriculture, Environment and Rural Affairs (DAERA NI), NatureScot (NS) and the Joint Nature Conservation Committee (JNCC) as the Appropriate Nature Conservation Body (ANCB), through written questions and Issue Specific Hearings (ISHs).

#### **RIES and Consultation**

6.1.6. The ExA produced a Report on the Implications for European Sites (RIES) [OD-021] which compiled, documented, and signposted HRA-relevant information provided in the DCO application and Examination representations up to Deadline (D) 6 (20 February 2023). The RIES was issued to set out ExA's understanding on HRA-

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<sup>1</sup> For the purposes of this chapter, in line with the Habitats Regulations and relevant Government policy, the term "European sites" includes Special Areas of Conservation (SAC), candidate SACs, possible SACs, Special Protection Areas (SPA), potential SPAs, Sites of Community Importance, listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites. For ease of reading, this chapter also collectively uses the term "European site" for 'European sites' defined in the Conservation of Habitats and Species Regulations 2017 and 'European Marine Sites' defined in the Conservation of Offshore Marine Habitats and Species Regulations 2017, unless otherwise stated. "UK National Site Network" refers to SACs and SPAs belonging to the United Kingdom already designated under the Directives and any further sites designated under the Habitats Regulations.

<sup>2</sup> CJEU Case C-127/02 Waddenzee 7 September 2004.

relevant information and the position of the IPs in relation to the effects of the Proposed Development on European sites at that point in time. Consultation on the RIES took place between 22 February 2023 and 15 March 2023. Comments were received from the Applicant [REP8-008] at D8. The JNCC [REP8-094], NE [REP8-099] and NRW [REP8-100] also submitted comments on the RIES at D8. These comments have been taken into account in the drafting of this Chapter.

- 6.1.7. The ExA's recommendation is that the RIES, and consultation on it, may be relied upon as an appropriate body of information to enable the Secretary of State to fulfil their duties of consultation under Regulation 63(3) of the Habitats Regulations should the SoS wish to do so.

### **Proposed Development Description and HRA Implications**

- 6.1.8. The Proposed Development is described in Chapter 2 of this Report.
- 6.1.9. The spatial relationship between the Order Limits of the Proposed Development and European sites is shown in Figure 4 of the RIAA [REP8-055], and French sites (shown in Appendix A [REP1-007]) which show all sites screened into the assessment.
- 6.1.10. The Proposed Development is not directly connected with, or necessary to, the management of a European site. The SoS must therefore make an 'appropriate assessment' of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.
- 6.1.11. The Applicant's assessment of effects is presented in the following documents:
- 5.2 Report to Inform Appropriate Assessment (RIAA) [REP8-055] (this superseded the RIAA submitted at application [APP-027]);
  - 5.2.1 RIAA Annex 1: HRA Screening update – Non – Ornithology [APP-028];
  - 5.2.2 RIAA Annex 2: HRA Screening update – Ornithology [APP-029];
  - 5.2.3 RIAA Annex 3: HRA European Site Information [AS-022 (this superseded the version submitted at application [APP-030]);
  - 5.2.4 RIAA Annex 4: HRA Bottlenose Dolphin and Grey Seal Additional Information [APP-031];
  - 5.2.5 RIAA Annex 5: Ornithology Apportioning Note [APP-032];
  - 5.2.6 RIAA Annex 6: Screening Matrices [APP-033];
  - 5.2.7 RIAA Annex 7: Integrity Matrices [APP-034]; and
  - 5.2.8 RIAA Annex 8 Red-Throated Diver Distribution Evidence Note [APP-035].
- 6.1.12. The Applicant undertook an evidence plan process in relation to the each of the aspect chapters in the Environmental Statement which involved NRW, JNCC, and other bodies such as the Royal Society for the Protection of Birds (RSPB) and the Wildlife Trusts (TWT). These included a number of aspects relevant to the HRA; Shipping and Navigation, Offshore Ornithology, Marine Mammals and Benthic Subtidal and Intertidal Ecology. Details of the aspect topics, the discussions that took place and the associated documentation is provided in the Evidence Plan [APP-301 to APP-303].
- 6.1.13. Table 1 of the RIAA [REP8-055] summarises consultation responses relating to HRA received throughout the pre-application stage of the application. The table summarises the comments from statutory consultation bodies and the action taken by the Applicant in addressing the comments.

- 6.1.14. The ExA chose to notify NE, NS and DAERA NI as other persons as these Appropriate Nature Conservation Bodies (ANCBs) did not register as IPs during the pre-examination period, to offer them the opportunity to participate in the Preliminary Meeting. NE advised that it did not wish to participate in the Preliminary Meeting [AS-037]. NE and DAERA NI subsequently responded to questions from the ExA and/or the Applicant (see section 1.2 of this report); NS did not respond to any questions from the ExA or comment on the RIES.
- 6.1.15. The acceptance decision notice was accompanied by s51 advice under PA2008 which requested the Applicant review 5.2.3 RIAA Annex 3 HRA European Site Information [APP-030] and ensure all figures were present. The Applicant provided a revised version [AS-022] which replaced [APP-030].
- 6.1.16. The Applicant identified likely significant effects (LSE) on European sites in European Economic Area (EEA) States in its RIAA and supporting annexes [APP-027, APP-028 and APP-029]. Section 12 of the RIAA [REP8-055] identified 28 sites in European Economic Area (EEA States). Of these sites 18 were in France (all designated for harbour porpoise) and the rest were in the Republic of Ireland (three designated for marine mammals and seven for seabirds). The Applicant concluded that adverse effects on the integrity of these sites would not arise (section 12 [APP-027] from the Proposed Development either alone or in combination with other plans and projects.
- 6.1.17. The examination of these matters is described in Chapter 3 of this report.

### **Summary of HRA Matters Considered During the Examination**

- 6.1.18. The main HRA matters raised by the ExA, NRW, JNCC and other IPs and discussed during the Examination include:
- The potential for likely significant effects on Manx shearwater features of SPAs as a result of collision-related mortality;
  - Securing mitigation for impacts on European sites;
  - The potential for adverse effects on the integrity on SACs with harbour porpoise features as a result of underwater noise;
  - The potential for adverse effects on the integrity of SPAs with gannet features as a result of collision-related mortality; and
  - The potential for adverse effects on the integrity of Liverpool Bay SPA as a result of displacement/disturbance effects on red throated divers.
- 6.1.19. These matters are discussed in the Sections below, as appropriate. No other matters were disputed by the ANCBs or other IPs.

## **6.2. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS**

- 6.2.1. Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have Likely Significant Effects (LSE) on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an 'appropriate assessment' (AA) and the activities, sites or plans and projects to be included for further consideration in the AA.
- 6.2.2. The European sites and qualifying features that were considered in the Applicant's assessment of LSE are presented in Table 4 (Non-ornithological features) and Table 5 (ornithological features) of the RIAA [REP8-055]. Sections 6.1 (Non-ornithology) and 6.2 (Ornithology) of the RIAA [REP8-055] describe the screening

process undertaken by the Applicant, with additional detail on the criteria used to determine if LSE would arise provided in RIAA Annexes 1 and 2 [APP-028 and APP-029].

- 6.2.3. The ExA sought to establish if any other European sites or qualifying features should have been included in the Applicant's assessment [PD-009]. NRW [REP1-080, REP8-048] and the JNCC [REP1-069] confirmed they were content with the scope of the Applicant's assessment. DAERA NI confirmed it was content with respect to SACs considered for marine mammals [REP1-057]. In response to a request from the ExA [PD-015], the Applicant asked DAERA NI if it had any concerns about any European sites or features which had been omitted from the assessment. The Applicant stated that DAERA NI had responded to confirm that it was content with the assessment and had no further comments [REP6-001].
- 6.2.4. NE advised that it had no concerns in relation to European sites in England or English waters and it deferred to NRW's advice on European sites within Wales or which cross the English/Welsh border [REP8-099].
- 6.2.5. The Royal Society for the Protection of Birds (RSPB) initially raised concerns about the baseline densities of Manx shearwater presented in the Applicant's assessment and the Applicant's decision to scope out the species as a receptor at risk of collision impacts [RR-024, REP1-090, REP5-042]. It considered that there is evidence of light-induced disorientation of Manx shearwater and that it is not possible to rule out in-combination effects from collision risk on the Manx shearwater qualifying features of European sites. It considered that the Applicant should have identified LSE on the Manx shearwater feature of the following sites:
- Copeland Islands SPA;
  - Irish Sea Front SPA;
  - Glannau Aberdaron ac Ynsy Enlli/Aberdaron Coast and Bardsey Island SPA;
  - Sgomer, Sgogwm a Moroedd Penfro/Skomer, Skokholm and the Seas off Pembrokeshire SPA
  - Rum SPA; and
  - St Kilda SPA.
- 6.2.6. The Applicant [REP1-001, REP2-002, REP5-004] provided further evidence to justify its approach and noted that the impact pathway was scoped out in agreement with NRW (evidenced in the Evidence Plan Report and its supporting appendices ([APP-301], [APP-302] and [APP-303], respectively). NRW agreed that LSE on this species is unlikely as the Applicant's aerial surveys detected relatively small numbers of this species. In addition, it is known to fly within a few metres of the surface of the sea [REP5-039] (presumably making it unlikely that the birds would be flying within the area likely to be swept by the turbine blades).
- 6.2.7. Following discussions with the Applicant, the RSPB confirmed that it was satisfied that while it considered that future assessments for offshore wind farms should consider collision risk for Manx shearwater, it agreed that this species could be scoped out of the collision risk assessments. This was because of low abundance of the species within the area affected by the Proposed Development [REP8-052].
- 6.2.8. The Isle of Man Government raised concerns about the adequacy of the Applicant's ornithological assessment, particularly in relation to effects on Manx shearwater [RR-027]. It confirmed that the Isle of Man is not covered by the Habitats Regulations (a point also made by the Applicant [REP5-004]) but is part of the

Ramsar convention. One site on the Isle of Man has been listed as a Ramsar site, Ballaugh Curraghs, designated for hen harrier [REP2-052].

- 6.2.9. The Applicant provided further information on the approach used to assess impacts on the hen harrier population associated with the Ballaugh Curraghs [REP3-009]. It concluded that the assessment in [APP-098] considered the migratory collision risk to the entire UK non-breeding hen harrier population would be less than one individual mortality per annum. The Manx Bird Atlas is stated by the Applicant to show that many hen harriers remain within natal area all year with a small number migrate in autumn and spring. The Applicant considered that those extra birds would be unlikely to materially change the outputs from the migratory collision risk modelling. The Isle of Man government confirmed that it was largely content with the assessment [REP8-051].

### **LSE from the Proposed Development Alone**

- 6.2.10. The Applicant identified potential impacts during construction, operation and decommissioning of the Proposed Development which could lead to LSE. The impacts considered by the Applicant to have the potential to result in LSE are:
- physical habitat loss/disturbance during all phases of the Proposed Development;
  - increases in suspended sediment and deposition during all phases of the Proposed Development;
  - marine pollution during all phases of the Proposed Development;
  - introduction of marine invasive non-native species during all phases of the Proposed Development;
  - changes to offshore physical processes during all phases of the Proposed Development;
  - EMF effects during operation;
  - underwater noise during construction and decommissioning;
  - direct disturbance and displacement of birds during all phases of the Proposed Development;
  - barrier effects on birds during operation;
  - collision related mortality of birds during operation; and
  - onshore visual and/or noise disturbance to bird species.
- 6.2.11. The sites, qualifying features and impact pathways are summarised in Table A.1 of the RIES [OD-021]. A total of 36 UK National Network sites were screened by the Applicant prior to the Examination (Table 6 [APP-028] and Table 2 [APP-029]). Two sites were excluded following changes to the boundary of the Proposed Development during the pre-application phase. Of the remaining sites, the Applicant concludes that LSE could be excluded for the following sites:
- Afon Gwyrfaï a Llyn Cwellyn SAC; and
  - Afon Eden – Cors Goch Trawsfynydd SAC.
- 6.2.12. As noted above, the RSPB initially had concerns about the Applicant's conclusion of no LSE on the Manx shearwater qualifying feature of several European sites but this concern was resolved in the course of the Examination and has been captured in RSPB SoCG [REP8-052].
- 6.2.13. NRW [RR-015, REP1-080] advised that there was insufficient justification to support a conclusion of no LSE from vessel collision for bottlenose dolphin, grey seal or harbour porpoise features of SACs within the Proposed Development's zone of

influence. It was concerned about the Applicant's commitment to best practice vessel handling during construction.

- 6.2.14. The Applicant [REP1-001] submitted a Marine Mammal Clarification Note [REP1-002] which concluded that, factoring in the proposed mitigation, there would be no adverse effects on the integrity of sites with these features. It was agreed therefore that LSE could not be excluded for marine mammal SACs within the Proposed Development's zone of influence.

### **LSE from the Proposed Development In Combination**

- 6.2.15. The Applicant's approach, as described in section 7 of the RIAA [REP8-055] was to assume that where the potential for LSE had been identified for the Proposed Development alone, in-combination effects could also arise. The RIAA states that consideration was also given to the potential for effects that were too insignificant to lead to LSE alone, to lead to in-combination effects. However, in the Applicant's view, as the approach to dealing with identifying LSE was highly precautionary, no examples of this were identified either by the Applicant or through consultation.
- 6.2.16. The in-combination effects identified by the Applicant were therefore the same as the effects from the Proposed Development alone (see Table A.1 of [OD-021]). The ExA notes that this approach appears to consider effects on European sites both alone and in combination rather than alone or in combination with other plans or projects as the Habitats Regulations require. However, no evidence emerged during the course of the Examination which leads the ExA to conclude that any potential in-combination effects have been missed from the Applicant's assessment.
- 6.2.17. The Applicant undertook a cumulative effects assessment as part of the ES. The methods used to identify the potential zones of influence associated with the Proposed Development and the plans or projects which could interact with it are described in ES Vol 1, Annex 3.1 [APP-042]. The plans and projects included in the in-combination assessment were based on those identified through the cumulative effects assessments reported in the relevant chapters of the ES, and then subject to further refinement as described in section 7 of the RIAA [REP8-055].
- 6.2.18. As with the cumulative effects assessment in the ES, the Applicant classed the different plans or projects into a series of tiers. The tiers were defined on the stage that the plan or project has reached and the degree of certainty associated with the assessment of environmental impacts. The tiers used for the in-combination assessment are defined in Table 6 (all receptors other than marine mammals) and Table 7 (marine mammals) of the RIAA [REP8-055]. The Applicant chose to use different definitions of tiers for the marine mammal in-combination assessment to reflect the greater uncertainty about the overlap between activities which would generate underwater noise.
- 6.2.19. The plans and projects considered in the in-combination assessment are presented in the following tables in the RIAA [REP8-055]:
- Table 8: Subtidal and Intertidal Benthic Ecology;
  - Table 9: Marine mammals;
  - Table 10: Migratory fish; and
  - Tables 40 and 41: Offshore ornithology.
- 6.2.20. The Applicant chose to include the detailed assessment of in-combination effects in their assessment of effects on the integrity of the affected European/Ramsar sites.



## **LSE Assessment Outcomes**

- 6.2.21. The sites for which the Applicant concluded no LSE would occur from either the project alone or in combination with other projects and plans are presented in the RIES [OD-021], Annex 1, Table A.1. As noted above, while IPs raised concerns about the extent of the Applicant's screening for LSE, these were resolved in the course of the Examination. All the relevant ANCBs were in agreement with the Applicant's conclusions on LSE.
- 6.2.22. The ExA is satisfied, on the basis of the information provided, that the correct impact-effect pathways on each site have been assessed and is satisfied with the approach to the assessment of alone and in-combination likely significant effects.
- 6.2.23. Taking into account the reasoning set out above, the ExA considers that the Proposed Development is likely to have a significant effect from the impacts identified above on the qualifying features of the European sites as identified in Annex 1 of the RIES [OD-021] when considered alone, or in combination with other plans or projects.

## **6.3. CONSERVATION OBJECTIVES**

- 6.3.1. The conservation objectives for the sites and features identified in Table A.1 of the RIES [OD-021] were set out in Annex 3 of the RIAA [AS-022] and summarised in section 10 of [OD-021].
- 6.3.2. The ExA raised queries with the ANCBs about the conservation objectives used in the RIAA [PD-009] and obtained the following advice:
- JNCC [REP1-069] confirmed that the correct conservation objectives had been cited for the North Anglesey SAC;
  - DAERA NI [REP1-057] confirmed the conservation objectives to be correct for Rathlin Island SPA and Copeland Island SPA, however, they advised that further information be included for the North Channel SAC conservation objectives regarding harbour porpoise; and
  - NRW [REP1-080] confirmed it were not aware of any errors to the conservation objectives of Welsh European/Ramsar sites in the RIAA but noted that for grey seal and bottlenose dolphin features of SACs around Wales, the Supporting habitat conservation objective could be additionally listed as a relevant conservation objective.
- 6.3.3. The ExA queried if the conservation objectives provided for the Liverpool Bay SPA were adequate for the purposes of an appropriate assessment, given that they did not cover all the qualifying features of the SPA (common tern, little tern and common scoter were not included). NRW initially confirmed [REP1-080] that it was satisfied with the conservation objectives used in the Applicant's assessment of effects on Liverpool Bay SPA. However, it subsequently provided a link to the new Conservation Advice Package which includes updated conservation objectives for the site [REP5-047].
- 6.3.4. The Applicant stated that it had undertaken a review of the new conservation objectives and considered that they did not have any implications for the conclusions of the RIAA or its associated annexes [REP7-004]. NRW advised that although the conservation objectives had changed, it considered that the evidence provided by the Applicant was sufficient to allow a determination of the effects on the integrity of the SPA [REP5-047].

- 6.3.5. The ExA is satisfied that the SoS has access to the correct conservation objectives for use in his appropriate assessment of the Proposed Development.

## **6.4. FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY (AEoI)**

- 6.4.1. The sites and qualifying features listed in Annex 1 of the RIES [OD-021] above were further assessed by the Applicant to determine if they would be subject to AEoI from the Proposed Development, either alone or in combination with other plans or projects. The Applicant's assessment of effects from the Proposed Development alone was presented in section 10 of the RIAA [REP8-055]. Its approach to in-combination assessment was set out in section 7 and 11 of [REP8-055].

- 6.4.2. The ExA is satisfied, based on the information provided, that the correct impacts have been assessed. We are also satisfied that the scope of the Applicant's in-combination assessment is correct, and no additional plans or projects need to be considered.

### **Mitigation**

- 6.4.3. Table 3 of the RIAA [REP8-055] summarises the mitigation measures which would be implemented to avoid or reduce effects on European sites. These measures are not secured through the draft DCO but instead rely on conditions being attached to Marine Licences for the Proposed Development. The Applicant provided a Schedule of Mitigation and Monitoring and a Marine Licence Principles document, which was revised in the course of the Examination. The final versions were submitted at DL 8 ([REP8-016] and [REP8-014] respectively).

- 6.4.4. These documents describe the mitigation measures which would be secured through conditions on Marine Licences. In response to a question from the ExA [PD-009], the Applicant advised that it considers that its approach is in line with paragraph 4.10.3 of National Policy Statement EN-1 and the advice in the Planning Inspectorate's Advice Note 10 [REP1-007]. The Applicant cited the Inspector's report in the Morlais Demonstration Zone applications for a Transport and Works Act Order and deemed planning permission. It also referred to case law (cited as *The Queen on the Application of Devon Wildlife Trust v Teignbridge District Council v Rocklands Development Partnership* [2015] EWHC 2159 (Admin)). In this case, it was concluded that an outline planning permission could be granted on the grounds that the development could not begin until reserved matters applications were approved so there was no possibility of the objectives of the Habitats Directive being compromised by the outline decision. The Applicant considered that this was analogous to the current situation since the Proposed Development could not commence until the relevant marine licences have been secured [REP1-007].

- 6.4.5. The ExA queried whether the Marine Licence Principles document should be a certified document [PD-013]. The Applicant's response was that it did not consider that this document should be certified. In its view, as a matter of principle, the documents which should be certified are those which are specifically referred to and defined in the dDCO. As the marine licensing process is separate to the DCO application and there is no reference in the dDCO to the marine licence, it would not be appropriate for the Marine Licence Principles document to be certified [REP1-007].

- 6.4.6. NRW's Marine Licensing Team (MLT) advised that it agreed with the Applicant's approach in principle; it does not consider it appropriate to duplicate controls on the

Proposed Development in both the DCO and any marine licence issued in future [REP1-080]. The MLT confirmed that a marine licence application had been submitted by the Applicant [REP1-080]. The MLT also advised that, without prejudice to the determination of the marine licence, it is in general agreement with the Marine Licence Principles document. This is on the basis that the measures proposed are similar to measures included in other marine licences [REP1-080, REP5-039].

- 6.4.7. NRW, in its capacity as a statutory advisor, confirmed that it was satisfied with the mitigation measures proposed in the Marine Licence Principles document and the Schedule of Mitigation and Monitoring [REP5-039, REP8-048]. It provided additional advice on what it would prefer to see in terms of specific mitigation measures which is discussed further below. However, it also noted that the details of mitigation measures can be established post-DCO consent and that it would be consulted by the MLT during the marine licence determination.
- 6.4.8. The RSPB advocated additional mitigation in the form of an increased clearance distance between turbine blades and sea level to reduce seabird collision related mortality [REP5-042]. This was on the grounds that this approach has been followed by offshore wind farms in the North Sea [REP5-042, REP7-059]. The Applicant advised that as collision related mortality for the Proposed Development is predicted to be low, any increase in the air gap would not provide similar reductions in the mortality rates of key species [REP6-003, REP8-004].
- 6.4.9. Mitigation and monitoring approach related to marine licensing activities under MACAA are captured in the MLP [REP8-014]. The Applicant and NRW agree that the DCO is not required to duplicate powers or controls which are regulated by a Marine Licence. The ExA is satisfied that the mitigation and management plans (which would not form part of the DCO) will be secured as part of the ML process and outlined in the MLP [REP8-014]. The Marine Licence functions carried out by NRW MLT should adequately secure and control the mitigation measures required for the Proposed Development. In this respect the ExA also note that the DCO could not be implemented unless in accordance with the terms of a granted marine licence.

### **Sites for which AEol can be excluded**

#### **Sites and features where no concerns were raised**

- 6.4.10. The Applicant concluded that the Proposed Development would not result in AEol of any of the European sites assessed in the RIAA [REP8-055]. At the close of the Examination, the Applicant's conclusions had not been disputed by any IP in relation to the sites and features listed in Table 1 below. In addition, NRW confirmed that provided the mitigation measures listed in the Schedule of Mitigation and Monitoring and Marine Licence Principles document were secured, it is unlikely that AEol would arise, either alone or in combination with other plans or projects [REP8-048].
- 6.4.11. The ExA is satisfied on the basis of the information above, that AEol on these sites and their qualifying features can be excluded.

**Table 1: Sites for which the Applicant concluded no AEol and for which no IPs raised concerns**

European site(s)	Qualifying Feature(s)	AEol alone OR in-combination	Mitigation required to avoid AEol
Y Fenai a Bae Conwy/ Menai Strait and Conwy Bay SAC	<ul style="list-style-type: none"> <li>▪ Sandbanks which are slightly covered by sea water all the time</li> <li>▪ Reefs</li> <li>▪ Large shallow inlets and bays</li> <li>▪ Mudflats and sandflats not covered by seawater at low tide</li> <li>▪ Submerged or partially submerged sea caves</li> </ul>	No – see sections 10.1.1 and 11.1.1 of [REP8-055]	<p>Project Environmental Management Plan (PEMP) will contain measures to avoid accidental spills and contaminant releases</p> <p>No mitigation required for any other effect pathway</p>
Dee Estuary/ Aber Dyfrdwy SAC	<ul style="list-style-type: none"> <li>▪ Mudflats and sandflats not covered by seawater at low tide</li> <li>▪ Salicornia and other annuals colonizing mud and sand</li> <li>▪ Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>)</li> <li>▪ Estuaries</li> <li>▪ Sea lamprey</li> <li>▪ River lamprey</li> </ul>	No – see sections 10.1.3, 10.5 and 11.1.3 of [REP8-055]	<p>PEMP will contain measures to avoid accidental spills and contaminant releases</p> <p>PEMP will contain measures to reduce risk of introducing/spreading marine invasive non-native species (INNS)</p>

European site(s)	Qualifying Feature(s)	AEol alone OR in-combination	Mitigation required to avoid AEol
			<p>Use of cable burial/protection to reduce exposure to EMFs</p> <p>No mitigation required for any other effect pathway</p>
Afon Dyfrdwy a Llyn Tegid/River Dee and Bala Lake	<ul style="list-style-type: none"> <li>▪ Atlantic salmon</li> <li>▪ Sea lamprey</li> <li>▪ River lamprey</li> </ul>	No – see sections 10.5 and 11.5 of [REP8-055]	<p>PEMP will contain measures to avoid accidental spills and contaminant releases</p> <p>No mitigation required for any other effect pathway</p>
Dee Estuary SPA	<ul style="list-style-type: none"> <li>▪ Sandwich tern (non-breeding)</li> <li>▪ Common tern (breeding)a</li> <li>▪ Little tern (breeding)</li> <li>▪ Bar-tailed godwit (non-breeding)</li> <li>▪ Redshank (non-breeding)</li> <li>▪ Shelduck (non-breeding)</li> <li>▪ Teal (non-breeding)</li> <li>▪ Pintail (non-breeding)</li> <li>▪ Oystercatcher (non-breeding)</li> </ul>	No – see sections 10.3.4, Table 30, paragraphs 1006 – 1008, Table 32, sections 11.1.3 and 11.3 of [REP8-055]	No mitigation required for any effect pathway

European site(s)	Qualifying Feature(s)	AEol alone OR in-combination	Mitigation required to avoid AEol
	<ul style="list-style-type: none"> <li>▪ Grey plover (non-breeding)</li> <li>▪ Knot (non-breeding)</li> <li>▪ Dunlin (non-breeding)</li> <li>▪ Black-tailed godwit (non-breeding)</li> <li>▪ Curlew (non-breeding)</li> <li>▪ Waterbird assemblage</li> </ul>		
Anglesey Terns/ Morwenoliaid Ynys Mon SPA	<ul style="list-style-type: none"> <li>▪ Sandwich tern (breeding)</li> <li>▪ Roseate tern (breeding)</li> <li>▪ Common tern (breeding)</li> <li>▪ Arctic tern (breeding)</li> </ul>	No – see section 10.3.6, Table 30 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway
Ribble and Alt Estuaries SPA	Lesser black-backed gull (breeding)	No – see sections 10.3.7 and 11.3 of [REP8-055]	No mitigation required for any effect pathway
Morecambe Bay and Duddon Estuary SPA	<ul style="list-style-type: none"> <li>▪ Lesser black-backed gull (breeding and non-breeding)</li> <li>▪ Herring gull (breeding)b</li> <li>▪ Waterbird assemblage - great black-backed gull (breeding and non-breeding)</li> </ul>	No – see sections 10.3.8 and 11.3 of [REP8-055]	No mitigation required for any effect pathway
Bowland Fells SPA and pSPA	Lesser black-backed gull (breeding)	No – see sections 10.3.10 and 11.3 of [REP8-055]	No mitigation required for any effect pathway

European site(s)	Qualifying Feature(s)	AEol alone OR in-combination	Mitigation required to avoid AEol
Glannau Aberdaron ac Ynys Enlli/ Aberdaron Coast and Bardsey Island SPA	Manx shearwater (breeding)	No – see section 10.3.22, Table 29 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway
Copeland Islands SPA	Manx shearwater (breeding)	No – see section 10.3.23, Table 29 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway
Skomer, Skokholm and the Seas off Pembrokeshire/ Sgomer, Sgogwm a Moroedd Penfro SPA	<ul style="list-style-type: none"> <li>▪ Assemblage feature: Kittiwake (breeding and non-breeding)</li> <li>▪ Lesser black-backed gull (breeding)</li> <li>▪ Puffin (breeding)</li> <li>▪ Manx shearwater (breeding)</li> <li>▪ Storm petrel (breeding)</li> <li>▪ Assemblage features:</li> <li>▪ Guillemot (non-breeding)</li> <li>▪ Razorbill (non-breeding)</li> </ul>	No – see section 10.3.17, Table 29 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway
Rathlin Island SPA	Assemblage feature – puffin (breeding)	No – see section 10.3.18, Table 29 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway

European site(s)	Qualifying Feature(s)	AEol alone OR in-combination	Mitigation required to avoid AEol
Ynys Seiriol/ Puffin Island SPA	Cormorant (breeding)	No - see sections 10.3.3 and 11.3 of [REP8-055]	No mitigation required for any effect pathway
Traeth Lafan/ Layan Sands, Conway Bay SPA	<ul style="list-style-type: none"> <li>▪ Oystercatcher (breeding)</li> <li>▪ Curlew (breeding)</li> <li>▪ Great crested grebe (on passage)</li> <li>▪ Red-breasted merganser (wintering)</li> </ul>	No - see paragraphs 1006 – 1008, Table 32 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway
Aber Dyfi/ Dyfi Estuary SPA	Greenland white-fronted goose (wintering)	No - see paragraphs 1006 – 1008, Table 32 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway
Burry Inlet SPA	<ul style="list-style-type: none"> <li>▪ Shelduck (wintering)</li> <li>▪ Wigeon (wintering)</li> <li>▪ Teal (wintering)</li> <li>▪ Pintail (wintering)</li> <li>▪ Shoveler (wintering)</li> <li>▪ Oystercatcher (wintering)</li> <li>▪ Grey plover (wintering)</li> <li>▪ Knot (wintering)</li> <li>▪ Dunlin (wintering)</li> <li>▪ Curlew (wintering)</li> <li>▪ Redshank (wintering)</li> <li>▪ Turnstone (wintering)</li> </ul>	No - see paragraphs 1006 – 1008, Table 32 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway



European site(s)	Qualifying Feature(s)	AEol alone OR in-combination	Mitigation required to avoid AEol
	<ul style="list-style-type: none"> <li>Waterbird assemblage (wintering)</li> </ul>		
Severn Estuary SPA	<ul style="list-style-type: none"> <li>Bewick's swan (wintering)</li> <li>Dunlin (wintering)</li> <li>Gadwall (wintering)</li> <li>Greater white-fronted goose (wintering)</li> <li>Redshank (wintering)</li> <li>Shelduck (wintering)</li> <li>Waterbird assemblage (wintering)</li> </ul>	No - see paragraphs 1006 – 1008, Table 32 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway
Burry Inlet Ramsar site	<ul style="list-style-type: none"> <li>Ramsar criterion 5 – waterbird assemblage of international importance (wintering)</li> <li>Ramsar criterion 6 – species/populations occurring at levels of international importance:               <ul style="list-style-type: none"> <li>Pintail (wintering)</li> <li>Oystercatcher (wintering)</li> <li>Knot (wintering)</li> <li>Redshank (spring/autumn)</li> </ul> </li> </ul>	No - see paragraphs 1006 – 1008, Table 32 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway

European site(s)	Qualifying Feature(s)	AEol alone OR in-combination	Mitigation required to avoid AEol
Burry Inlet Ramsar site	<ul style="list-style-type: none"> <li>▪ Ramsar criterion 5 – waterbird assemblage of international importance (wintering)</li> <li>▪ Ramsar criterion 6 – species/populations occurring at levels of international importance:               <ul style="list-style-type: none"> <li>○ Pintail (wintering)</li> <li>○ Oystercatcher (wintering)</li> <li>○ Knot (wintering)</li> <li>○ Redshank (spring/autumn)</li> </ul> </li> </ul>	No - see paragraphs 1006 – 1008 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway
The Dee Estuary Ramsar site	<ul style="list-style-type: none"> <li>▪ Ramsar Criterion 1: Extensive intertidal mud and sand flats with large expanses of saltmarsh</li> <li>▪ Ramsar criterion 5 – waterbird assemblage of international importance (wintering)</li> <li>▪ Ramsar criterion 6 – species/populations occurring at levels of international importance:</li> </ul>	No – see section 10.3.4, paragraphs 1006 – 1008, Table 32 and sections 11.1.3 and 11.3 of [REP8-055]	No mitigation required for any effect pathway

European site(s)	Qualifying Feature(s)	AEol alone OR in-combination	Mitigation required to avoid AEol
	<ul style="list-style-type: none"> <li>○ Redshank (peak counts in spring/autumn)</li> <li>○ Shelduck (wintering)</li> <li>○ Teal (wintering)</li> <li>○ Pintail (wintering)</li> <li>○ Oystercatcher (wintering)</li> <li>○ Grey plover (wintering)</li> <li>○ Knot (wintering)</li> <li>○ Dunlin (wintering)</li> <li>○ Black-tailed godwit (wintering)</li> <li>○ Curlew (wintering)</li> <li>○ Bar-tailed godwit (wintering)</li> </ul>		
Ribble and Alt Estuaries Ramsar site	<ul style="list-style-type: none"> <li>▪ Ramsar criterion 6 – species/populations occurring at levels of international importance:</li> </ul>	No – see sections 10.3.7 and 11.3 of [REP8-055]	No mitigation required for any effect pathway

European site(s)	Qualifying Feature(s)	AEol alone OR in-combination	Mitigation required to avoid AEol
	Lesser black-backed gull (breeding and non-breeding)		
Morecambe Bay Ramsar site	<ul style="list-style-type: none"> <li>▪ Ramsar criterion 6 – species/populations occurring at levels of international importance: <ul style="list-style-type: none"> <li>○ Herring gull (breeding)</li> <li>○ Lesser black-backed gull (breeding and non-breeding)</li> </ul> </li> </ul>	No – see sections 10.3.9 and 11.3 of [REP8-055]	No mitigation required for any effect pathway
Severn Estuary Ramsar site	<ul style="list-style-type: none"> <li>▪ Ramsar criterion 5 – waterbird assemblage of international importance (wintering)</li> <li>▪ Ramsar criterion 6 – species/populations occurring at levels of international importance: <ul style="list-style-type: none"> <li>○ Bewick's swan (wintering)</li> <li>○ Dunlin (wintering)</li> <li>○ Gadwall (wintering)</li> </ul> </li> </ul>	No - see paragraphs 1006 – 1008, Table 32 and section 11.3 of [REP8-055]	No mitigation required for any effect pathway

European site(s)	Qualifying Feature(s)	AEol alone OR in-combination	Mitigation required to avoid AEol
	<ul style="list-style-type: none"> <li>○ Greater white-fronted goose (wintering)</li> <li>○ Redshank (wintering)</li> <li>○ Shelduck (wintering)</li> <li>▪ Waterbird assemblage including pintail, teal and ringed plover</li> </ul>		

### **Sites with marine mammal qualifying features**

6.4.12. The Applicant assessed the potential for AEoI for the following SACs with marine mammals as qualifying features:

- Gogledd Môn Forol/North Anglesey Marine (harbour porpoise);
- Dynesfeydd Môn Forol SAC (harbour porpoise);
- Ceredigion Bay/Bae Ceredigion (grey seal and bottlenose dolphin);
- North Channel SAC (harbour porpoise);
- Pen Llŷn a'r Sarnau/Lleyn Peninsula and the Sarnau SAC (grey seal and bottlenose dolphin);
- Gorllewin Cymru Forol/West Wales Marine (harbour porpoise); and
- Sir Benfro Forol SAC/Pembrokeshire Marine (grey seal).

6.4.13. The Applicant's assessment is presented in section 10.2 for the Proposed Development alone and 11.2 for in-combination effects in [REP8-055].

### **Sites with harbour porpoise qualifying features**

6.4.14. LSE were identified from underwater noise during construction and decommissioning from piling and clearance of unexploded ordnance (UXO). The ecological effects which could arise from this are:

- Permanent threshold shift (PTS) onset (a proxy for the risk of injury to marine mammals); and
- Disturbance to harbour porpoise.

6.4.15. The Applicant's assessment related the effects of PTS-onset to the conservation objective common to all the SACs to ensure that marine mammal features are maintained as a viable component of the site. Based on the assessments in Volume 2, Chapter 7 of the ES [REP8-081], the Applicant concluded that with the use of a Marine Mammal Mitigation Protocol (MMMP), effects on any of the marine mammal SAC features would be of negligible significance. The MMMP would include proposals for soft start and ramp-up of piling. A draft outline MMMP has been provided by the Applicant [REP8-069].

6.4.16. Disturbance from vessels during construction would be minimised by the use of best practice vessel handling protocols which would be agreed with JNCC and NRW [REP8-055].

6.4.17. In relation to disturbance from underwater noise, the Applicant considered the effect of disturbance on harbour porpoise SAC features by referring to the conservation objective for all SACs to avoid significant disturbance of the species. The objective defines noise disturbance as significant if harbour porpoise are excluded from more than 20% of the relevant area of the site on any given day or an average of 10% of the relevant area of the site over a season.

6.4.18. The Applicant assessed the extent of the area that would be disturbed in several different ways:

- the dose-response approach for piling;
- the Effective Deterrent Response (EDR) approach for piling and clearance of UXO;
- the Temporary Threshold Shift (TTS) -onset approach for clearance of UXO; and
- the EDR approach for UXO clearance.

- 6.4.19. The dose-response approach for piling is stated to exclude potential disturbance on all the harbour porpoise SACs apart from the Gogledd Môn Forol/North Anglesey Marine SAC. Using this approach, 5.31% of the SAC area is predicted to be affected by piling at the closest location to the SAC within the array area (Table 13 of [REP8-055]). This is below the thresholds in the conservation objectives.
- 6.4.20. The EDR approach to assessment of disturbance from piling/UXO clearance is based on the assumption that disturbance will be limited to a 26km range. The only SAC which the Applicant considered could be affected was the Gogledd Môn Forol/North Anglesey Marine SAC. The area of the SAC that would be disturbed using this approach would be 0.24% of the SAC area.
- 6.4.21. In relation to the TTS-onset approach for UXO clearance, the Applicant carried out noise modelling [APP-105]. Based on a maximum charge of 164kg, located at the point of the array closest to North Anglesey Marine SAC, the maximum range TTS-onset range is predicted to be 16km ( $SPL_{peak}$ ) or 3.3km ( $SEL_{ss}$ ). This would not overlap with the Gogledd Môn Forol/North Anglesey Marine SAC and so would not lead to disturbance of animals within the site.
- 6.4.22. NRW raised concerns about the Applicant's assessment [RR-015]. The concerns related to:
- Inadequate justification for the absence of assessment of cumulative PTS in the RIAA;
  - Insufficient grounds to conclude that PTS-onset risk has a negligible impact on harbour porpoise when cumulative PTS-onset has not been included in the MMMP;
  - The need for additional modelling to allow a more detailed assessment of PTS onset and disturbance, including Interim Population Consequences of Disturbance (iPCoD); and
  - Use of dose-response curves to estimate the area of habitat disturbed on the grounds that it is not currently possible to equate probability of population response to loss of habitat / loss of habitat quality. It noted that the conservation objectives for the SAC include the avoidance of significant disturbance to the harbour porpoise population, based on the area of the SAC affected. NRW advised that an area-based assessment should be undertaken to determine the extent of habitat that would be insonified to a level which might cause significant disturbance.
- 6.4.23. The Applicant provided further justification for its approach in its Marine Mammal Clarification Note [REP1-002] in relation to its approach to modelling cumulative PTS and the results of modelling cumulative PTS in iPCoD as requested by NRW. It confirmed that the final version of the MMMP would include mitigation for cumulative PTS unless evidence and guidance at the time suggested otherwise. NRW agreed with this approach [REP3-020, REP8-048].
- 6.4.24. NRW advised that after carrying out its own iPCoD modelling, it had concluded that the combination of PTS and disturbance to the population which indicates that AEoI on all harbour porpoise SACs in the Celtic and Irish Seas Marine Mammal Management Unit (MMMU) can be excluded [REP1-080]. It does not consider that reliance on the industry standard guidance (JNCC (2010) Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals) would necessarily mitigate the effects of cumulative PTS but is content on the basis of the results from its own modelling that AEoI from this pathway can be excluded [REP1-080].

- 6.4.25. NRW also confirmed [REP1-080] that the Applicant's modelling (as reported in REP1-002]) demonstrates there is no significant effect at the population level and consider that they can be relied upon to rule out AEol to the North Anglesey Marine SAC and all other SACs with harbour porpoise feature in the MMMU in relation to auditory injury.
- 6.4.26. In relation to determining the area of the SAC which would be insonified during construction, the Applicant [REP1-002] provided reviewed a range of different criteria for assessing disturbance impacts to expand the assessment presented in the RIAA and concluded that whichever approach to assessing disturbance is considered, considerably less than 20% of the area of the North Anglesey Marine SAC would be disturbed on a daily basis. NRW confirmed [REP1-080, REP3-020, REP3-026] their satisfaction that no further information would be required in this regard.
- 6.4.27. NRW also initially flagged concerns about discrepancies in the Applicant's cumulative effects assessment. The Applicant submitted a Cumulative Effects Assessment clarification note [REP2-028]. NRW advised that although [REP2-028] failed to explain some details of the assessment, it did not consider that this had a material effect on the conclusions of the assessment [REP3-026, REP8-048, REP8-100].
- 6.4.28. As noted in section 1.2 above, NRW raised concerns about the Applicant's decision to exclude LSE from vessel collision during construction, leading to this effect being carried through to the assessment of integrity stage. The Applicant provided additional information on the embedded mitigation measures which would be secured through conditions on the marine licence. It stated that these measures would reduce collision risk as far as practically possible [REP1-002].
- 6.4.29. NRW's final position, as summarised in its SoCG with the Applicant [REP8-048], was that it considered the mitigation measures described in the RIAA, the MMMP, the Schedule of Mitigation and Monitoring and Marine Licence Principles to be appropriate and adequate. It also confirmed that it considers it unlikely that AEol would arise on SACs designated for marine mammals from the Proposed Development alone or in combination with other plans or projects.
- 6.4.30. JNCC advised [REP1-069] that it agreed with the Applicant's conclusions in Table 57 of the RIAA [APP-027] in relation to underwater noise from piling. However, it initially raised concerns about the effectiveness of the mitigation proposed by the Applicant in relation to reducing the effectiveness of auditory injury to negligible levels. Following the Applicant's commitment to including relevant mitigation measures in the final MMMP, JNCC agreed that AEol can be excluded, provided a suitable MMMP is agreed prior to construction beginning and that spatial/temporal thresholds to reduce disturbance are not breached [REP3-024, REP4-029]. It also considered that a separate MMMP may be required if UXO clearance is undertaken.
- 6.4.31. At D5, the Applicant reiterated its approach to the assessment of PTS related to UXO clearance and noted that UXO clearance is not part of the licensable activities within its DCO application. If UXO clearance is required, a separate ML would be sought from NRW [REP5-004]. In response to a question from the ExA, the Applicant also provided a template UXO specific marine mammal mitigation plan [REP4-008].
- 6.4.32. In response to a question from the ExA [PD-017], JNCC confirmed that it agreed with the Applicant's intention to seek a marine licence for UXO clearance if required



at a later stage [REP7-054]. This was on the grounds that there is too little information available at this stage to undertake a full assessment. In the event that a marine licence application is submitted, it would require a full assessment and a mitigation plan to be agreed with the ANCBs and the regulator. JNCC is content with the outline mitigation measures for UXO clearance.

### **Sites with bottlenose dolphin and grey seal qualifying features**

- 6.4.33. The Applicant's assessment considered the effect of disturbance from underwater noise (linked to piling and UXO clearance) but did not identify LSE from auditory injury. As noted in section 1.2 above, NRW considered that LSE should also be identified for disturbance from vessel traffic, a position that the ExA concurs with. No other potential LSE were identified by any IP.
- 6.4.34. No other concerns were raised in relation to the Applicant's assessment as presented in the RIAA for these features. As indicated in above, NRW's final position was that it was satisfied that AEol were unlikely on sites with marine mammal features provided the mitigation measures outlined by the Applicant are delivered [REP8-048].
- 6.4.35. The ExA is satisfied that, subject to the delivery of the mitigation measures described in the RIAA, Schedule of Mitigation and Monitoring and Marine Licence Principles document, AEol from the Proposed Development can be excluded, both alone and in combination with other plans or projects on all marine mammal SAC features.

### **Sites with ornithological qualifying features**

- 6.4.36. The Applicant's assessment is provided in sections 10.3 (effects from the Proposed Development alone) and 11.3 (in-combination effects with other plans and projects). As noted in this Chapter (Table 1- Sites for which the Applicant concluded no AEol and for which no IPs raised concerns), for the majority of the sites with ornithological features included in the Applicant's assessment, no concerns were raised either by IPs or the ExA in relation to the conclusion of no AEol. However, the RSPB raised concerns in relation to the assessment of effects on the following:
- Grassholm SPA – collision related mortality to gannet population during operation;
  - Ailsa Craig SPA - collision related mortality to gannet population during operation; and
  - Bae Lerpwl/Liverpool Bay SPA – disturbance and displacement for all phases of the Proposed Development.

### **Sites with gannet as qualifying features**

- 6.4.37. The RSPB raised concerns on the following points ([RR-024], [REP1-089], [REP1-090], [REP2-058], REP5-042]):
- It did not agree with the 98.9% avoidance rate used in the Applicant's collision risk modelling (CRM) because this avoidance rate may not accurately capture seasonal variations in gannet behaviour. It considers that 98% avoidance rate is more appropriate for breeding gannets;
  - The Applicant's assessment applies a reduction of 60 – 80% to baseline densities in the CRM to account for macro-avoidance of turbines. The RSPB noted that the evidence supporting this approach is still being assessed by NE and JNCC. It does not accept the use of this approach until the results of these

assessments have been reported. It is also concerned that evidence on macro-avoidance by gannets is based on observations of non-breeding birds and may not reflect the behaviour of breeding birds;

- The RSPB considers that the recent outbreak of Highly Pathogenic Avian Influenza (HPAI) is likely to have a severe impact on seabird populations (an outbreak is ongoing in Grassholm SPA), making them less resilient to any additional mortality from offshore wind farms. It considers that a Population Viability Analysis (PVA) for gannet should therefore be carried out; and
- The Applicant's assessment has not fully apportioned collision impacts to any of the SPAs within foraging range of the Proposed Development or carried out a PVA to determine the implications of the collision-related mortality on the affected SPA populations.

6.4.38. The RSPB advised the methods it considered appropriate for to use in CRM for gannet [REP5-042].

6.4.39. The Applicant's position is that its assessment is sound because [REP1-001, REP2-002, REP5-004, REP6-003]:

- The 98.9% avoidance rate for gannet comes from joint ANCB guidance, its use was agreed during the Evidence Plan process and it has been used in other offshore wind farm cases. Even if a 98% avoidance rate was used this would increase collision estimates by a factor of 1.8 which would not lead to a significant effect on gannet populations;
- The assessment of collision risk for gannets as presented in [APP-097] used the standard approach agreed with NRW and did not involve the use of a separate macro-avoidance factor. The density of birds input into CRM were based on 24 months of site-specific aerial survey. The Applicant was aware that guidance on the inclusion of macro-avoidance rates for gannet in CRM was being updated. It consulted the ANCBs during the Evidence Plan process on a suitable approach. This led to the use of reduced bird densities as presented in [APP-097] alongside the standard approach. It noted that NE had advised in other recent offshore wind farm examinations that it was likely to conclude that a macro-avoidance reduction of 65-85% in bird densities is likely to be appropriate;
- The baseline survey data for the Applicant's assessments were collected before the first confirmed cases of HPAI in the UK. The Biologically Defined Minimum Population Scales (BDMPS) (the non-breeding season population) may alter over the operational life of the Proposed Development *...due to external factors such as HPAI or climate change. This would not affect the conclusions of the HRA as any change in the wider BDMPS would result in the same degree of change to the baseline for AYM.* This is stated to be in line with the recent guidance note on HPAI published by NE. PVA was not undertaken because the effects on baseline mortality from the combined effects of displacement and collision-related mortality were predicted to have negligible effects; and
- The Applicant proposes to submit all apportionment sheets to NRW Marine Licensing team in its response to the marine licence consultation. PVA was not undertaken as the predicted in-combination effects for each gannet colony would be an increase of less than 1% of baseline mortality which is indistinguishable from natural population fluctuations.

6.4.40. The RSPB did not accept the Applicant's position that the same proportion of the BDMPS population would be affected before and after the outbreak of HPAI. It cited evidence that the choice of foraging hotspots is determined by colony sizes. Changes to colony size as a result of HPAI would lead to changes in foraging site selection and potential changes to the numbers of birds within the area affected by the Proposed Development. It considered that the Applicant's conclusion that the in-

combination mortality would be less than 1% of background mortality was not robust until more up to date colony counts are carried out in 2023 [REP5-042].

- 6.4.41. The Applicant and the RSPB undertook further discussions during the Examination. While the RSPB did not agree with the Applicant's choice of avoidance rates, it agreed that since gannet numbers recorded in surveys was low during the breeding system, the level of impact would also be low [REP7-059]. It also agreed that the Applicant had followed the CRM approach recommended by the ANCBs and recognised that the Applicant had provided CRM assessments which did not include macro-avoidance factors. Overall, despite the RSPB's remaining reservations about some aspects of the Applicant's CRM, it agreed that AEol could be excluded for the gannet features of the Ailsa Craig and Grassholm SPAs from the Proposed Development alone and in combination with other plans and projects.
- 6.4.42. In response to the ExA's Second Written Questions [PD-015]) NRW advised that it did not consider further surveys were required following the outbreak of HPAI [REP5-039]. While repeating the surveys might detect fewer birds within the study area, NRW considered that the existing surveys represent the best available evidence for the area. Given this position, and that PVA was not required before the HPAI outbreak NRW did not consider that PVA is required. In addition, GPS tracking has shown that foraging gannets from Grassholm SPA are unlikely to occur in the area during the breeding period.
- 6.4.43. NRW [REP5-039] further advised that it considered there were no outstanding issues relating to CRM. It considered that emerging evidence supports the use of gannet macro-avoidance in CRM and this approach is consistent with the approach recommended by NE. It agreed provided the mitigation described in the Schedule of Mitigation and Monitoring and the Marine Licence Principles document is delivered there would be no AEol alone or in combination ([REP5-039] and REP8-049]).
- 6.4.44. The ExA notes that the Applicant, NRW and the RSPB agree that the numbers of gannet recorded in site surveys are low, minimising the number of birds at risk of collision-related mortality. We are content that the Applicant has applied appropriate methods for CRM as advised by the ANCBs. We therefore conclude that the breeding population of gannet on the SPA would not be affected by collision related mortality to an extent that the conservation objective on population sizes would be undermined.
- 6.4.45. The ExA considers that similar reasoning applies to the Ailsa Craig SPA; delivery of the relevant conservation objective (to ensure the population of the species as a viable component of the site) would not be undermined by the Proposed Development.
- 6.4.46. AEol on the Grassholm and Ailsa Craig SPAs can be excluded, both alone and in combination with other plans or project, subject to the delivery of the relevant mitigation.

#### **Bae Lerpwl/Liverpool Bay SPA**

- 6.4.47. The Applicant's conclusions on AEol were only challenged in relation to the direct disturbance and displacement of red-throated diver. The RSPB considered that, as the Proposed Development is adjacent to the SPA, evidence from published research suggests that the birds are likely to be displaced from part of the SPA, reducing the functional size of the SPA which would be contrary to the conservation

objectives [RR-024, REP1-089, REP1-090]. The RSPB also supplied copies of scientific papers supporting this position [REP1-089, REP2-058].

- 6.4.48. The Applicant advised that it had been agreed with NRW that the observed behaviour of red-throated divers in Liverpool Bay SPA is inconsistent with behaviour seen elsewhere. Displacement of red-throated divers by offshore wind farms is more limited than that shown elsewhere (based on the evidence from the baseline surveys for the Proposed Development and the monitoring surveys for the Gwynt y Môr offshore wind farm) [REP1-001, REP2-002, REP5-004]. The Applicant queried the relevance of the studies cited by the RSPB based on data collected in the German Bight and Southern North Sea to Liverpool Bay but also stated that the assessment in the RIAA has taken account of the published research referred to in the RSBP's representations [REP5-004].
- 6.4.49. In response to a question from the ExA [PD-015], the Applicant provided further justification for its approach to defining stable age structure but noted that although this point was not agreed with NRW, this did not preclude NRW concluding this did not affect the outcomes of the assessment [REP5-004].
- 6.4.50. NRW advised that it did not fully agree with the Applicant's approach to assessing displacement but was able to agree with the conclusions of the assessment [REP1-080, REP3-020]. It agreed that published evidence shows that offshore wind farms cause disturbance and displacement to red-throated divers but also that these studies have reported variations in the extent of displacement effects. NRW cited published evidence that seasonal and spatial factors may affect the specific response of the birds to offshore wind farms. It also noted that the survey and analytical methods used by different studies might also affect the robustness of the conclusions [REP5-039]. However, it also noted that the Applicant's assessment was not consistent with observations of displacement in other parts of the SPA, with the monitoring of the Burbo Bank Extension offshore wind farm showing large scale displacement with the SPA.
- 6.4.51. NRW, in conjunction with JNCC undertook an analysis of red throated diver data within the Gwynt y Môr offshore wind farm and buffers around the windfarm boundary. This windfarm was selected as it was considered to represent a situation analogous to that of the Proposed Development which is adjacent to but not within the SPA (unlike the Burbo Bank Extension). Comparison of the number of birds at SPA designation versus those present after construction at Gwynt y Môr showed that the number of birds had decreased within the wind farm boundary but increased within a 4km buffer zone outside the boundary. There appeared to be little difference in the number of birds within the 1km boundary buffer but increased numbers of birds were observed in the 2-3 km and 3-4 km buffers [REP5-039].
- 6.4.52. NRW acknowledged the limitations of the data used but considered that it is the best available dataset to undertake analysis of displacement of red throated divers. It also noted that the Applicant had undertaken a different analysis but had reached comparable conclusions [REP5-039]. However, given that the results of both analyses are inconsistent with observations from other parts of Liverpool Bay and elsewhere in Europe, it considered that comprehensive validation monitoring should be undertaken before, during and after construction [RR-015, REP1-080, REP5-039, REP8-048].
- 6.4.53. NRW also considered [RR-015, REP1-080, REP8-048] that a vessel traffic management plan would be necessary during operation to avoid/reduce disturbance and displacement. It is satisfied that this can be secured through a condition on the

marine licence and is willing to work with the Applicant to develop the plan. If this is in place then NRW agrees that AEoI would not arise either alone or in combination with other plans and projects [RR-015, REP1-80, REP5-039, REP8-048].

6.4.54. As noted in section 1.3 above, NRW provided updated conservation objectives for the SPA at D5 [REP5-047]. The Applicant concluded that the new conservation objectives did not have any implications for the conclusions of the RIAA [REP7-004]. NRW concurred with this position. It advised that it remains satisfied that when the updated conservation objectives are considered [REP7-056]:

- the abundance of the population would be maintained;
- the overall distribution of the population would remain the same;
- levels of disturbance would not be sufficient to affect the population numbers, distribution or use of habitat within the site; and
- supporting habitat would be maintained.

6.4.55. The RSPB continued to maintain its position throughout the Examination that there was evidence from numerous studies of displacement of red throated divers resulting from disturbance. It considered it unlikely that this would not also arise in this case and therefore the conservation objective to maintain the distribution of the birds within the SPA would be undermined [REP7-059, REP8-052].

6.4.56. The ExA notes that red-throated divers are highly sensitive to disturbance and displacement. However, the advice presented by both the Applicant and NRW/JNCC (based on survey data gathered in the vicinity of the SPA) supports the conclusion that the distribution of the birds within the SPA would not be significantly affected. Adverse effects on the integrity of the SPA as a result of the Proposed Development alone or in combination with other plans or projects can therefore be excluded.

## **6.5. HRA CONCLUSIONS**

6.5.1. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoS.

6.5.2. Thirty-six European sites and their qualifying features were considered in the Applicant's assessment of LSE. Of these, LSE was excluded for two sites. The remaining sites and features for which LSE could not be excluded are listed in Table A.1 of the RIES [OD-021].

6.5.3. The methodology and outcomes of the Applicant's screening for LSE on European sites was subject to some discussion and scrutiny, however, by the end of the Examination, the sites and features for which LSE were identified were not disputed by any IP. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.

6.5.4. The ExA's findings are that AEoI can be excluded on all the identified European sites as a result of the Proposed Development alone or in combination with other plans or projects. This conclusion is subject to delivery of the mitigation measures described in the Schedule of Mitigation and Monitoring and Marine Licence Principles document. The Marine Licence functions carried out by NRW MLT should adequately secure and control the mitigation measures required for the Proposed

Development. In this respect the ExA also note that the DCO could not be implemented unless in accordance with the terms of a granted marine licence.

- 6.5.5. As the Proposed Development could not be constructed without a marine licence, and the marine licence would be subject to HRA, the ExA is satisfied that the relevant mitigation will be secured before consent can be given. The ExA considers that there is sufficient information before the SoS to enable them to undertake an appropriate assessment.

## **7. GOOD DESIGN**

### **7.1. INTRODUCTION**

- 7.1.1. This chapter considers good design. Because the topic is overarching, the chapter is not based on any specific chapter of the Environmental Statement (ES) but includes details from various areas.
- 7.1.2. The chapter is organised in a different way to many of the other report chapters as it incorporates and cross references issues relating to good design from preceding chapters. Due to this, the Applicant's case is considered within the Issues considered in the Examination and the ExA's consideration is based around whether the Proposed Development meets the policy considerations. Therefore, this chapter is split into the following sections:
- Policy considerations;
  - Issues considered in the Examination, including the Applicant's case;
  - ExA's considerations; and
  - Conclusions

### **7.2. POLICY CONSIDERATIONS**

#### **Overarching National Policy Statement for Energy (EN-1)**

- 7.2.1. NPS EN-1 states (paragraph 4.5.1) that the visual appearance of a building is sometimes considered to be the most important factor in good design, but that high quality and inclusive design goes far beyond aesthetic considerations. It notes that the functionality of an object — be it a building or other type of infrastructure — including fitness for purpose and sustainability, is equally important. Applying good design to energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic as far as possible.
- 7.2.2. NPS EN-1 acknowledges that the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area (paragraph 4.5.1), and that the Secretary of State (SoS) needs to be satisfied that energy infrastructure developments are sustainable and, having regard to regulatory and other constraints, are as attractive, durable and adaptable (including taking account of natural hazards such as flooding) as they can be. In so doing, the SoS should satisfy themselves that the Applicant has taken into account both functionality (including fitness for purpose and sustainability) and aesthetics (including its contribution to the quality of the area in which it would be located) as far as possible (paragraph 4.5.3).
- 7.2.3. Whilst the Applicant may not have any or very limited choice in physical appearance of some energy infrastructure, there may be opportunities for the Applicant to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation. Furthermore, the design and sensitive use of materials in any associated development such as electricity substations will assist in ensuring that such development contributes to the quality of the area (paragraph 4.5.3).
- 7.2.4. Applicants should be able to demonstrate in their application documents how the design process was conducted and how the proposed design evolved. Where a number of different designs were considered, Applicants should set out the reasons

why the favoured choice has been selected. In considering applications the SoS should take into account the ultimate purpose of the infrastructure and bear in mind the operational, safety and security requirements which the design has to satisfy (paragraph 4.5.4). Paragraph 4.5.5 states that the Applicant should consider taking independent professional advice on the design aspects of a proposal.

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

- 7.2.5. NPS EN-3 notes that proposals for renewable energy infrastructure should demonstrate good design in respect of landscape and visual amenity, and in the design of the project to mitigate impacts such as noise and effects on ecology.

### **National Policy Statement for Electricity Networks Infrastructure (EN-5)**

- 7.2.6. NPS EN-5 states that NPS EN-1 sets out the principles for good design that should be applied to all energy infrastructure.

### **Draft NPS**

- 7.2.7. The Draft Overarching National Policy Statement for Energy (NPS dEN-1) largely mirrors the text of NPS EN-1 but stresses that Applicants should consider how good design can be applied to a project during the early stages of a project lifecycle and states that design principles should be established from the outset of a project to guide the development from conception to operation (para 4.6.2). Paragraph 4.6.3 notes that Applicants should seek to embed opportunities for nature inclusive design within the design process and paragraph 4.6.4 notes that many of the wider impacts of a development, such as landscape and environmental impacts will be important factors in the design process and that the assessment of impacts should be for the design life of the scheme.
- 7.2.8. The Draft National Policy Statement for Renewable Energy Infrastructure (NPS dEN-3) reiterates the contents of NPS EN-3. The Draft National Policy Statement for Electricity Networks Infrastructure (NPS dEN-5) mirrors NPS EN-5 but also states that the Secretary of State should bear in mind that infrastructure must in the first instance be safe and secure, and that the functional design constraints of safety and security may limit an applicant's ability to influence the aesthetic appearance of that infrastructure.

### **National policy, development plans and other local policies**

- 7.2.9. Policy 17 of the Future Wales National Plan 2040 (February 2021) states that new strategic grid infrastructure should be designed to minimise visual impact on nearby communities.
- 7.2.10. Technical Advice Note 12: Design (TAN12) states that good strategic planning can help to avoid development diminishing landscape diversity within Wales by ensuring that renewable energy technologies are sited within areas which are best able to accommodate them.
- 7.2.11. Policy RD1 of the Denbighshire Local Development Plan (LDP) 2006-2021 states that development proposals will be supported provided that they respect the site and surroundings in terms of design, does not unacceptably affect the amenity of local residents or prominent public views and incorporates suitable landscaping measures.



- 7.2.12. Supplementary Planning Guidance published by Denbighshire County Council (DCC) in April 2016 on Renewable Energy states that design is a material consideration in the planning process and that the Council believes that good siting and design of wind farms is important for all parties. This SPG also notes that effective and early consultation with key stakeholders and the general public are important processes within the design process.

## **7.3. ISSUES CONSIDERED IN THE EXAMINATION**

- 7.3.1. Various relevant representations (RR) considered design in the wider sense, concerning the design of the scheme as a whole and specific impacts which this may cause. Wilson Fearnall on behalf of GBL and IM Kerfoot Discretionary Trust [RR-037] specifically referred to design in their RR, considering that the Applicant had failed to engage and communicate effectively over key design issues including the cable route, temporary mitigation areas and permanent access rights and that the proposal included insufficient design confidence at application stage.
- 7.3.2. A Design Principles Document (DPD) was submitted with the application [APP-308]. The DPD sets out the design and landscaping parameters that the Applicant proposed to apply to the OnSS [Onshore Substation] when undertaking detailed design (paragraph 7) and includes a summary of the scheme, an introduction to the design / Rochdale envelope approach and the OnSS, some indicative plans, detail on site context, proposed details, landscape and design principles, and measures to secure design matters in the draft Development Consent Order (dDCO). The DPS provided details of a Gas Insulated or an Air Insulated switchgear substation design (GIS / AIS).
- 7.3.3. The ExA's first written questions (ExQ1) [PD-009], [PD-010] asked various questions of the Applicant regarding good design, including questions over how the provisions of NPS EN-1 were met for all areas of the Proposed Development, comparative sizes of the proposed OnSS and other nearby substations and requesting detailed drawings. The Applicant was also asked whether they had a design champion designated to the project, whether a design review panel would be useful, and if a Design Guide / Code should be certified and secured in the dDCO. DCC were also asked if they had sufficient design expertise to ensure good design of the OnSS when discharging relevant requirements. Further questions were raised over the level of detail contained within the DPS when compared to other recent DCOs, and the choice of AIS or GIS.
- 7.3.4. Issue Specific Hearing 3 (ISH3) was held on 8 December 2022 in respect of the OnSS site and specifically considered good design as part of the hearing [EV-018].

### **Policy compliance**

- 7.3.5. The Applicant stated in relation to good design [REP1-007] that they were somewhat constrained in their site selection process due to the 2017 Extensions round criteria (see Chapter 9, Site Selection and Alternatives for further details) but that through consultation and iterative design they have sought to minimise all environmental impacts as far as is practicable while retaining an economically viable project.

### **Comparable size of OnSS**

- 7.3.6. The Applicant's answer [REP1-007] to ExQ1 in relation to the size of the OnSS in comparison to nearby substations for Gwynt y Môr and Burbo Bank offshore wind farms stated that the OnSS would be larger than these existing substations but its

size is a reflection of a trend towards higher voltages which creates more efficient transmission networks. However, more detailed drawings were not possible at this stage as the assessment has taken place based on maximum parameters.

### **Design Champion, Design Panel process, Design Guide, and the DPD.**

- 7.3.7. The Applicant noted [REP1-007] that it was considering appointing a design champion and that it was of the view that sharing this role amongst various key roles would be optimum. It would carry out the role of a design review panel in house as opposed to an informed ‘critical friend’ out with of the development team. A separate design guide / code was not considered necessary due to the DPS being secured through the dDCO. DCC did not respond to the question relating to in house design skills and the Applicant considered that the DPS provided enough detail at this stage.
- 7.3.8. The DPD was subsequently updated at Deadline 3 [REP3-013]. In essence this added a new chapter to the DPS covering a Design Champion and design review panel. A sole design champion was nominated, namely the Applicant’s Head of Engineering for Offshore Wind. A design review panel would be implemented. This would be in-house but independent from the project team.
- 7.3.9. At ISH3 [REP3a-005] the Applicant stated that detailed substation design is a multi-disciplinary matter which is complex and requires a balance to be struck between the need for an economic and efficient design as required under the 1989 Electricity Act, the requirement to ensure design safety in construction and operation, good design, and adherence to National Grid’s prescriptive standards for substation design. They considered this was best achieved by leading the design review internally and bringing in external experts as required. They also noted meetings which had taken place between the Applicant and the Design Commission for Wales and noted that no other comments had been received on the DPD. In response to a suggestion from Natural Resources Wales (NRW) they confirmed that they would look at colour options for fencing. Further details on colours and rationale over choice was included in an update to the DPD at D4 [REP4-009].
- 7.3.10. DCC were asked at ISH3 about in house skills – they responded that they expected a planning performance agreement would be agreed with the Applicant to ensure that they were able to contact in relevant design skills as and when required [EV-018a]. The Applicant agreed with this approach and stated that they would discuss this with DCC. It is likely that such an agreement would cover the discharge of all DCO requirements rather than just the DPS [REP5-004].
- 7.3.11. The ExA also raised a question at ISH3 [REP3a-005] over the design implications of stacked temporary site welfare units during construction, particularly near to the Registered Park and Garden of Bodelwyddan Castle. An update to the DPD at D4 [REP4-009] stated that this would be considered as part of the detailed design and the height of these units approved by DCC as part of the final Code of Construction Practice.
- 7.3.12. In response to a question in the ExA’s second written questions (ExQ2) [PD-017] the Design Review Process section of the DPD was substantially reviewed at D4 [REP4-009] to provide details of a ‘design guide’ and consultation on this design guide, including with local residents. A system of feedback and who this would be taken into account was also included. A question was asked on this topic in the ExA’s third written questions (ExQ3) [PD-0016], suggesting an indicative timeline be provided within the DPD so that interested parties could see in a clear way how the

design guide would fit into the overall process. This was added to the DPD in a revision submitted at D7 [REP7-028].

- 7.3.13. A further question in ExQ2 [PD-015] considered whether the land adjacent to the OnSS could be used for alternative uses – for instance for an extension to the adjacent nature reserve, or for recreational opportunities. The Applicant welcomed this opportunity and stated that they would discuss with NRW and DCC once final mitigation, compensation and enhancement measures are agreed. [REP5-004]. A follow up question at ExQ3 [PD-017] led to the DPD being updated at D7 to include a commitment to engage with DCC and NRW on such possibilities [REP7-028].
- 7.3.14. In response to a question at ExQ2 [PD-015] the DPD was updated to include a summary of the site selection process so that interested parties could gain an understanding of why the site for the OnSS was chosen [REP5-020].

### **AIS / GIS substation choice**

- 7.3.15. It was maintained [REP1-007] that leaving the option of having an AIS or GIS was an established approach and had been used in other schemes such as Triton Knoll and Gwynt y Môr, and that Hornsea 4 had retained flexibility in terms of transmission systems in the consent envelope. The Applicant was of the view that there are design advantages and disadvantages in both technologies (AIS and GIS) and that neither would be 'better' in design terms, with GIS having a smaller footprint but taller buildings and AIS having shorter buildings but a larger footprint (and more visual 'clutter'), and GIS being in general more enclosed than the more open AIS option. These matters were reiterated at ISH3 [REP3a-005].
- 7.3.16. A further question in ExQ2 [PD-015] considered whether the Applicant's answers on AIS or GIS lent itself to a GIS solution providing more benefits in design terms to an AIS substation. The question also asked whether clarity at this stage on design could assist local residents. The Applicant was of the view [REP5-004] that this was not the case and that the height of GIS structures can reduce the ability of them to assimilate into the local landscape when compared to the lower height of AIS structures. They maintained that both options had different benefits. It was also noted that GIS substations have issues in terms of the use of SF6 gas (the insulating gas) which is a greenhouse gas, more potent than CO<sub>2</sub>. GIS SF6 free switchgear was being developed but timescales are unclear at the moment and may not be feasible within the timescales of the proposed development [REP5-004].

### **Other design related matters**

- 7.3.17. Landscaping provisions and ecological improvements noted in Volume One, sections 5.8 and 5.3 (and secured within the oLEMP and requirements in the dDCO) aim to provide biodiversity enhancement around the OnSS area. Such measures seek to improve connectivity between existing habitats for species and improvements to the woodland context of the area.

## **7.4. ExA's CONSIDERATION**

- 7.4.1. The ExA's consideration below proceeds through the topic based upon the requirements for good design within NPS EN-1, NPS EN-3, and NPS EN-5. This has been broken down by the ExA into the following two categories:

- Design evolution and process; and
- Sustainable infrastructure, sensitive to place and an appearance that demonstrates good aesthetic as far as possible.

## Design evolution and process

- 7.4.2. In its answer to ExQ1.5.2 [REP1-007] the Applicant notes the restriction with site selection offshore due to the 2017 Extensions round criteria that led to the identification of the offshore array for the proposed development (site selection in general is considered in more detail in Chapter 9 of this report). Nevertheless, the ExA notes that design evolution took place in the offshore array prior to the submission of the application by the reduction in the array at its western end to reduce impacts upon the Isle of Anglesey Area of Outstanding Natural Beauty and Eryri National Park. The provisions to minimise lighting of the proposed turbines to the lowest permissible intensity level, as secured by Requirement (R) 3 of the dDCO would also assist in reducing visual effects of the proposed offshore array.
- 7.4.3. Design evolution also took place in the onshore site selection process, from landfall through the onshore cable route to the selection of the proposed OnSS site (again, considered in more detail in Chapter 9 of this report).
- 7.4.4. The DPD evolved considerably through the Examination process and the ExA considers that the final version [REP7-028] is a far more comprehensive, detailed, and useful document than that originally submitted [APP-308]. Significant alterations were added, including:
- D3 - Design champion and design review details
  - D4 - Design guide and consultation proposals, Colours of proposed OnSS and construction considerations, included stacked cabins
  - D5 - Site selection (evolution and process) details added
  - D7 - Iterative timeline for design guide and consultation added, commitment to consider use of land surrounding OnSS
- 7.4.5. Although it would have been preferable if the DPD was originally submitted with such details included the evolution of the DPD during the Examination and the evidence of the design process within this period accords with NPS EN-1 and demonstrates how the design process was conducted and that the proposed design has evolved. The ExA notes the nature of the Rochdale envelope approach provides value in allowing design flexibility and refinement of project design but this does produce difficulties for interested parties to know exactly what is proposed in development terms.
- 7.4.6. However, the incorporation of a **Design Champion**, the **Design Panel process**, and the **Design Guide** into the **DPD** has improved the DPD significantly in terms of information for interested parties and providing guidance over design changes post consent. The DPD will be a certified document within the dDCO and R6 of the dDCO makes provision for design to be in accordance with the DPD. The ExA considers that the DPD is a useful document and will assist considerably in the detailed design of the document moving forward. The design process remains inside the business fully and there is no provision for external auditing (in terms of a 'critical friend') but the Applicant has demonstrated to a certain extent the adequate level of in-house skills available.

## Sustainable infrastructure, sensitivity to place and good aesthetics

- 7.4.7. The siting of the landfall and the proposed cable route in general, as shown in the site selection demonstrates good design. Measures to avoid sensitive areas where possible took place as part of this route refinement.

- 7.4.8. The lack of any firm conclusion regarding the choice of an **AIS** or **GIS substation** for the OnSS site was disappointing. The ExA considers that selecting one or the other would have assisted, both in terms of subsequent landscape mitigation options, but also to give interested parties, including local residents, more of a firm idea of how the proposed development's substation would appear. However, the nature of the Rochdale envelope in this respect is accepted and although the ExA considers that a GIS substation would have the potential to assimilate more successfully into the landscape than an AIS option, particularly given the nearby commercial / industrial aesthetic of the St Asaph Business Park, the issues regarding SF6 gas insulation are acknowledged. The ideal situation would perhaps result in a non-SF6 GIS substation on the site but the ExA accept the uncertainties resulting from this nascent technology. The alterations to the DPS to incorporate a design guide and consultation around this will also assist in this respect too.
- 7.4.9. The ExA accept that there are limiting factors in both design choices and the restrictions placed on the Applicant by the provisions of the Electricity Act 1989, but the proposed substation would alter the landscape of the site from a rural one to a more industrial one. Landscaping measures and proposals and ecological improvements (detailed in Volume One, sections 5.8 and 5.3) would help in this regard in softening the effect of the proposed OnSS but such measures would take time to establish. The inclusion of engagement with NRW and DCC over future uses of land for mitigation, whether for public access, nature purposes (or both) would help to assimilate the development, in time, into the local landscape and provide benefits for local residents, the users of the business park, and for the natural environment.
- 7.4.10. The **size of the proposed OnSS when compared** to other existing local substations was justified by the Applicant and the ExA consider the sizes proposed, and as secured by R7 of the dDCO [AS-053], are reasonable and appropriate. There is the potential for such size, in terms of footprint, height, and mass to reduce during detailed design as well, and the provisions of the DPS and R7 would assist in this regard. The ExA raised concerns over the capabilities of DCC (in terms of availability of design expertise) to successfully discharge such requirements but the ExA considers that the stated provision of a Planning Performance Agreement would assist in this regard.
- 7.4.11. The proposed biodiversity enhancements contained within the oLEMP [REP7-026] around the OnSS area, including the provisions for better connectivity between the existing habitats of Bodelwyddan registered park and garden and the Glascoed Nature Reserve for species (Great Crested Newts and birds) would provide benefits to the local biodiversity. The proposals also have the potential to, in time, improve the woodland context of the area.

## **7.5. CONCLUSIONS**

- 7.5.1. The ExA has reviewed the effects of the Proposed Development and the proposed mitigation measures in relation to Good Design.
- 7.5.2. With regards to NPS EN-1, the ExA considers that the Applicant has taken into account both functionality (including fitness for purpose and sustainability) and aesthetics (including its contribution to the quality of the area in which it would be located) as far as possible through the evolution of the design process. While, as above, the lack of decision over the choice of insulation for the proposed OnSS is disappointing, the reasons for this are acknowledged and good design in terms of siting relative to existing landscape character, landform and vegetation has been

demonstrated. Moving forward the process, guided by the DPS, the design and sensitive use of materials in the OnSS substations would assist in ensuring that such development contributes to the quality of the area as far as possible when considered the nature of the development.

- 7.5.3. The Applicant has demonstrated how the design process was conducted and how the proposed design evolved. The lack of independent professional advice on the design aspects of the proposal, both at Examination stage and at detailed stage is disappointing and contrary to paragraph 4.5.5 of NPS EN-1. However, the Applicant has detailed reasons why they consider this not to be appropriate and these are accepted by the ExA. Overall good design has been demonstrated and the Proposed Development accords in this respect with NPS EN1, EN-3 and EN-5.
- 7.5.4. The improvement to the DPS during the Examination details how the design process has evolved and opportunities for nature inclusive design within the process have been embedded in the scheme via the oLEMP. The proposed development accords with the NPS draft EN-1, dEN-3 and dEN-5.
- 7.5.5. For the same reasons as above, the proposed development complies with Policy 17 of the Future Wales National Plan 2040 (February 2021), Technical Advice Note 12: Design (TAN12), Policy RD1 of the Denbighshire Local Development Plan (LDP) 2006-2021 and with the DCC Supplementary Planning Guidance on Renewable Energy.
- 7.5.6. With the identified mitigation secured by various requirements of the dDCO (including, but not limited to Rs 3, 4, 6, 7, 8, 9, 10, 13, 17, 19 and 26) and various secured documents, including most relevantly the DPS, the ExA concludes that the Proposed Development complies with relevant policy and guidance on Good Design. Therefore, the ExA considers that there are no matters relating to Good Design which would weigh for or against the Order being made.

## **8. OTHER OVERARCHING MATTERS - OTHER PROJECTS AND PROPOSALS**

### **8.1. INTRODUCTION**

8.1.1. This Chapter considers the effects of the proposed development when considering the effects of other development, using the tests set out in the Overarching National Policy Statement (NPS) for Energy (EN-1), the NPS for Renewable Energy Infrastructure (EN-3) and the NPS for Transmission Systems (EN-5).

8.1.2. The Chapter addresses:

- Policy considerations;
- The Applicant's case;
- The ExA's consideration; and
- Conclusions.

### **8.2. POLICY CONSIDERATIONS**

8.2.1. Schedule 4, Part 5 (e) of Regulation 14 (2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) states that Environmental Statements (ES) should include a description of the likely significant effects of the development on the environment resulting from the cumulation of effects with other existing and / or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources.

8.2.2. Paragraph 4.1.3 of NPS EN-1 states that when considering any proposed development, and when weighing its adverse impacts against its benefits, the Secretary of State (SoS) should take into account its potential adverse impacts, including any long term and cumulative adverse impacts. Paragraph 4.2.5 states that when considering cumulative effects, the ES should provide information on how the effects of the applicant's proposal would combine and interact with the effects of other development (including projects for which consent has been sought or granted, as well as those already in existence) and that the SoS should consider how the accumulation of, and interrelationship between, effects might affect the environment, economy or community as a whole, even though they may be acceptable when considered on an individual basis with mitigation measures in place (paragraph 4.2.6).

8.2.3. Section 4.9 of EN-1 states that, so that the cumulative effect of different elements of the same project can be considered together, the Government envisages that wherever possible, applications for new generating stations and related infrastructure should be contained in a single application. This is reiterated in paragraph 2.3.1 of the NPS EN-5.

#### **Draft policy**

8.2.4. The draft Overarching National Policy Statement for Energy (September 2021) largely reiterates the provisions of NPS EN-1 in considering cumulative effects.

#### **Welsh policy**

8.2.5. The Welsh National Marine Plan (November 2019) sets out a need to address cumulative effects within Policy Aim 219, stating that proposals should demonstrate

that they have considered any cumulative effects of proposal including those associated with other known and planned projects and activities.

- 8.2.6. Future Wales, the National Plan 2040 (Welsh Government) includes details of areas pre assessed for wind energy (PAWE) where the Government has modelled the likely impact on the landscape and has found them to be capable of accommodating development in an acceptable way. There is a presumption in favour of large-scale wind energy development (including repowering) in these areas. PAWE Area 1 is a large area set to the south of Colwyn Bay.

### **Guidance**

- 8.2.7. The Planning Inspectorate (the Inspectorate) Advice Note 17, Cumulative effects assessment (AN17) states that in the context of NPS EN-1 paragraph 4.2.5 'other existing development and / or approved development' is taken to include existing developments and existing plans and projects that are 'reasonably foreseeable'. AN17 contains details of a staged approach to Cumulative Effects Assessment (CEA) which involves a long list, short list, information gathering and assessment, with 'other existing development and / or approved development' types listed in Table 2. Within this table Tier 2 projects are listed as 'projects on the Planning Inspectorate's Programme of Projects where a scoping report has been submitted.
- 8.2.8. AN17 goes on to state that an assessment should be provided for all Tier 1 and Tier 2 projects *where possible* and that *in preparing the assessment, it should not be forgotten that a key purpose of the ES is to enable the examination necessary to inform decisions.*

## **8.3. THE APPLICANT'S CASE**

- 8.3.1. Table 1 of the ES Volume 1 Chapter 3, Environmental Impact Assessment Methodology [REP8-056] states that each topic includes a CEA in its respective chapter. A longlist of projects that are considered for CEA is described within ES Volume 1 Annex 3.1, Cumulative Effects Assessment [APP-042], following the advice in AN17. The longlist is then refined into a shortlist for each individual topic. Paragraph 3.7.2 of [REP8-056] notes that in assessing the potential for cumulative effects the CEA can only consider the publicly available project information, which may require certain assumptions or qualitative assessments.
- 8.3.2. [APP-042] notes that the longlist of projects includes projects occurring within a 'large study area around the proposed development array area and its associated export cable corridor', generally encompassing a large area of the Irish Sea (offshore) and parts of North Wales (onshore). Information on relevant projects was gleaned from various sources, including the Inspectorate's website and the various North Wales planning authorities. All projects are allocated into 'tiers' reflecting their current status in the planning and development process and the level of detail available and then screened based on whether receptor pathways exist and the nature of any overlap.
- 8.3.3. Transboundary effects are those effects which may arise in the environment of other states outside the UK. The need to consider there are enshrined in the Espoo Convention, which is transposed into UK law by regulation 32 of the EIA Regulations. The treaty covers the British Crown dependency of the Isle of Man. A transboundary screening exercise was undertaken by the Applicant which is contained within ES Volume 1 Annex 3.2 [APP-043]. Potential transboundary effects are considered as and when relevant in each topic chapter.



## **8.4. ISSUES CONSIDERED IN THE EXAMINATION**

- 8.4.1. The ExA's first written questions (ExQ1) [PD-009] asked the Applicant for updates on the progress of the proposals for the new offshore wind farms of Mona and Morgan and any changes that this may make to the assessment of the proposed development. A general question to all interested parties at ExQ1 was also made requesting details of any projects not documented in the ES that are relevant and need to be considered. Denbighshire County Council (DCC), Conwy County Borough Council (CCBC), and the Applicant were also requested to provide an update on any planning applications that have been submitted, or consents that have been granted, since the Application was submitted that could either affect the Proposed Development or be affected by the Proposed Development and whether these would affect the conclusions reached in the ES.

### **Mona and Morgan**

- 8.4.2. CCBC raised concerns in their relevant representation [RR-002] that the proposal would cause both sequential and in-combination cumulative effects with other offshore wind farms, including existing offshore wind farms, and this would increase the dominance and duration of windfarms as a seascape feature. The Applicant stated in their response to ExQ1 [REP1-007] that Mona and Morgan were included in the long list of projects in the CEA but were screened out of consideration as there was not enough detailed design information or enough certainty on timescales to enable a meaningful assessment to be undertaken. They noted that both had received Scoping Opinions from the Secretary of State (SoS) but considered these to be high level documents with insufficient detail included for CEA purposes, noting that both projects would also have to undertake CEAs of their own that would include consideration of the proposed development. They did note that Mona is anticipating grid connection at Bodelwyddan and was consulting on onshore substation locations in the vicinity of the Proposed Development's Onshore substation (OnSS) location but maintained there was insufficient information available.
- 8.4.3. At Issue Specific Hearing 2 (ISH2) the question of Mona was raised, with the ExA noting that the project fell into the Tier 2 category of AN17 where an assessment should be provided where possible. The Applicant considered that the Scoping Opinion did not consider a project boundary that has been refined beyond the offshore area tendered and does not include any certainty on the export cable corridor, landfall and onshore cables and substation so the scheme is not sufficiently defined at this stage [REP3a-004].
- 8.4.4. A follow up question on the subject in ExQ2 [PD-015] raised the fact that the Scoping Report for Mona details the maximum number of turbines proposed and their maximum tip height, rotor diameter, and construction details and that consultation has taken place on three potential landfall locations and seven potential substation locations (all in the vicinity of Bodelwyddan). In response the Applicant [REP5-004] stated that very little of the information specified in AN17 is available, noting that the scoping process for Mona and Morgan was undertaken at an early stage and lacked sufficient reliable information or the necessary detail for the Applicant to undertake a cumulative assessment, considering that there is insufficient onshore detail, and the project design still includes significant uncertainty regarding landfall location and onshore substation site. They were of the view that any cumulative assessment based on the information available in the Scoping Report and Scoping Opinion would be highly speculative and that any such

cumulative assessment would not be sound or would assist in the determination of the Proposed Development.

- 8.4.5. A final question at ExQ3 [PD-017] requested further evidence that *existing* in the context of paragraph 5(e) of Schedule 4 of the EIA Regulations, equates to projects that are consented or are built out. The Applicant maintained their view [REP7-004] that a CEA is not required as insufficient information regarding those projects is available upon which to undertake a meaningful assessment. This was elaborated upon at D8 [REP8-039] in a detailed response stating the Applicant's view that confirmed information that can be obtained from the current project descriptions is very limited and indicative by reference to very broad parameters.
- 8.4.6. The Applicant was of the view that any assessment prior to further site refinement, and prior to information with a high degree of certainty being made available, could prematurely and inaccurately identify cumulative effects, resulting in a substantial lack of confidence in any conclusions reached. This also has the potential to unfairly prejudice the site selection and refinement processes of those projects before a detailed appraisal is available. Reference was also made to caselaw in support of these views but the Applicant noted that should the situation change and significant and substantial assessment material be published in respect of either Mona or Morgan projects, it will be open to the SoS to seek submissions on cumulative assessment and to consult upon them before reaching a final decision.

#### **Other projects or proposals and adequacy of CEA**

- 8.4.7. Natural Resources Wales (NRW) noted in their response to ExQ1 [REP1-080] that they considered the CEA to be comprehensive, however they did state they also had potential concerns in how the CEA differentiated between fish / shellfish and marine mammals for the same impact pathway of underwater noise and considered that some projects were screened in for assessment in the screening matrices but excluded in the CEA assessment.
- 8.4.8. Such examples included Mona and Morgan being screened in the inclusion in the matrices for fish and marine mammals but not included in the CEA assessment for marine mammals. Similar was found for Morecambe Wind Farm. NRW also raised queries over why Morlais tidal project and Valorous offshore floating windfarm were screened out of the Marine mammals CEA and Greenlink interconnector project was missing.
- 8.4.9. In response to this issue the Applicant submitted a CEA Clarification Note [REP2-028]. This acknowledged the difference in the CEA applied to the fish and marine mammals assessments and considered that due to the lack of detailed information available on the specific proposals that it was not possible to meaningfully carry out a CEA and that there would consequently be no change to the CEA in these respects. Clarification on hearing sensitive fish was also provided. NRW responded to these issues at D3 [REP3-026] agreeing that the clarification note addressed their concerns regarding fish and noting that although the note still failed to address concerns over the differences in projects involved in the assessment they do not consider this to have a material effect on the conclusions.
- 8.4.10. Rhyl Flats Wind Farm Limited [REP1-087] noted that the CEA or the wider ES did not assess wake loss impacts of the proposed development upon Rhyl Flats or explain why this had been scoped out. This issue is considered further in Volume One, section 5.14 Socioeconomics of this Report.

- 8.4.11. CCBC [RR-002], [REP1-054], [REP1-055] raise the issue of the PAWE and note the significant investment in renewable energy in the Conwy area, raising a concern that this had not been considered in the CEA. CCBC recognise that the ES notes the uncertainty associated with the potential offshore wind farm development within the PAWE areas (geographical extent and locations of WTGs as well as their height and number) and considers that there is no actual development to consider in the CEA other than that considered previously. However, CCBC note Future Wales sets a presumption in favour of large-scale wind energy development in these areas and that Policy 18 of this plan (relating to unacceptable adverse impacts on landscape) does not apply to sites within the PAWE areas, providing a high degree of probability that large-scale wind energy development within PAWE areas will be approved. CCBC consider that cumulative impacts of such development should be acknowledged as being potentially significant. These representations are reiterated in the Eryri National Park responses (including on behalf of the North Wales Local Planning Authorities) [RR-006], [REP1-091].
- 8.4.12. NRW also raised the issue of PAWE in their relevant representation [RR-080] considering that three such PAWE areas have the potential for significant adverse effects.
- 8.4.13. In response [REP1-001], [REP2-002], [REP2-003] the Applicant confirmed their view that there is a high level of uncertainty associated with the potential onshore wind farm development within the PAWE regarding the geographical extent and location of WTGs as well as their height and number and no actual development to consider in the CEA. They were of the view that while recognising that onshore wind farms may come forward within the PAWE areas no quantifiable assessment is included within the assessment chapter and noted that where onshore wind farm developments do come forward within the PAWE areas, the applications would have to include the Proposed Development within their cumulative Seascape, Landscape and Visual Impact Assessments (SLVIA).
- 8.4.14. A signed Statement of Common Ground [REP8-047] was submitted by the Applicant at D8 on behalf of themselves and NRW. This stated agreement between the parties over the contents of the SLVIA regarding cumulative effects with existing offshore windfarms but there remained disagreement over the potential for significant adverse cumulative effects from future windfarms located in leased and PAWE areas.

### **Planning applications and consents**

- 8.4.15. In response to ExQ1 the Applicant undertook a review of planning applications [REP1-007] within the vicinity of the proposed development but considered that the timing, scale and location of these schemes meant that none required detailed consideration and that the conclusions in the ES remained unchanged. They also noted that Elwy Solar Farm, which had been included in the ES, had been refused by the Welsh Government.
- 8.4.16. A comprehensive list of major planning applications which are extant or pending determination within the vicinity of the onshore works was contained within the LIR submitted by DCC [REP1-056]. The ExA's attention was drawn to consents for major coastal defence schemes, including the completed East Rhyl scheme, and the consented Central Rhyl and the Central Prestatyn schemes. DCC noted that owing to the close proximity of these consented schemes to the landfall location, there is the potential for cumulative effects should construction phases overlap or run concurrently, in particular on residential and public amenity. They also stated

that the East Rhyl scheme had only recently been completed and that this scheme used similar land as construction compounds and laydown areas as those proposed by the Applicants for landfall.

## **8.5. THE ExA'S CONSIDERATION**

### **Mona and Morgan**

- 8.5.1. The publicly available scoping report for Mona<sup>3</sup> details the boundary of the project with a potential array area within it. Figure 3.1 identifies a large array scoping boundary with a wide onshore transmission scoping search area from Rhyl to Colwyn Bay. There would be up to 107 turbines with a maximum height of 324m to blade tip. The project would connect to the onshore National Grid substation at Bodelwyddan as a result of the National Grid identifying this as the preferred connection point. While constraints are mapped, no potential cable routes are shown.
- 8.5.2. The Morgan scoping report shows the array boundaries and has the same number of turbines and height of turbines as Mona. Morgan would connect to the National Grid substation at Penwortham in Lancashire (along with the Morecambe wind farm project).
- 8.5.3. On reflection and on consideration of the information available on the Mona and Morgan project pages, the ExA is satisfied that the information publicly available is too limited to allow a reasonable cumulative assessment to be carried out. While there is more information available on Mona, including the acknowledgement of Bodelwyddan as the preferred connection point to National Grid, there is no indication of which way the cables may be routed or which side of the National Grid substation the connection will be made (or how close the project substation would be located to NG Bodelwyddan or the proposed OnSS for the Proposed Development).
- 8.5.4. It is also agreed that any cumulative assessment based on the information available in the Scoping Report and Scoping Opinion would be speculative and that any such subsequent cumulative assessment may not be sound or would assist in the determination of the Proposed Development. The ExA also note that Mona and Morgan will require CEAs themselves which will need to take account of the Proposed Development.
- 8.5.5. More detailed information may be forthcoming during the period following the closure of the Examination, and the SoS may wish to satisfy themselves that any such information that may or has come forward has been assessed in due course. In this respect it is noted that at the close of Examination both windfarms are predicted to be submitted in the first quarter of 2024 (based on the project pages of the Inspectorate's website), after the due decision date.

### **Other projects or proposals and adequacy of CEA**

- 8.5.6. The issues raised by NRW concerning differentiation in the CEA were largely resolved and while the ExA note that not everything was agreed between the parties

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<sup>3</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/wales/mona-offshore-wind-farm/>

in this respect it is also noted that NRW do not consider that this would have any material effect on the conclusions.

- 8.5.7. The issue of PAWE was raised by various parties. However, the ExA considers that it is reasonable for the Applicant to consider those projects which have been consented, constructed, or are known about. Simply because there are various zone or zones where there is a presumption in favour of renewable energy is not reasonably enough for a CEA to be carried out. The Applicant cannot know how many schemes or turbines, the height of such schemes, or where in the PAWE areas the schemes may arise and the ExA consider that the details and conclusions of the CEA is reasonable in this regard.

### **Planning applications and consents**

- 8.5.8. The ExA is satisfied that, based on the information within the application and from the Examination, there are no planning applications or consents which would affect the CEA other than those already considered within it.
- 8.5.9. The cumulative construction effects of the proposed development at landfall in combination with the recently completed flood defence scheme for East Rhyl and the consented schemes for Central Rhyl and Prestatyn are considered within Volume One, section 5.13 Public Health and Nuisance of this Report.

## **8.6. CONCLUSIONS**

- 8.6.1. The ExA concludes that the ES provides information on how the effects of the Applicant's Proposed Development would combine and interact with the effects of other development (including projects for which consent has been sought or granted, as well as those already in existence) and that information on the accumulation of, and interrelationship between, effects might affect the environment, economy or community as a whole. The Proposed Development complies with NPS EN-1 in this respect and with the EIA Regulations.
- 8.6.2. Furthermore, the Proposed Development also complies with the Welsh National Marine Plan and the ExA accepts that a separate assessment was not required for Mona and Morgan (or the PAWE areas or other projects mentioned, for instance the North Wales Tidal Energy project) and that such assessments would not be reasonably possible – or the information that they would have provided may not be sound due to the limited availability of information in the public domain. The ExA therefore considers that the proposal also complies with AN17.
- 8.6.3. The ExA considers that there are no matters relating to other projects and proposals which would weigh for or against the Order being made.

## **9. SITE SELECTION AND ALTERNATIVES**

### **9.1. INTRODUCTION**

9.1.1. This Chapter considers the alternatives considered by the Applicant and the degree of design flexibility sought by the Applicant in relation to the tests set out in the Overarching National Policy Statement (NPS) for Energy (EN-1), the NPS for Renewable Energy Infrastructure (EN-3) and the NPS for Transmission Systems (EN-5).

9.1.2. The Chapter addresses:

- Policy considerations;
- The Applicant's case;
- The Examining Authority's (ExA's) consideration; and
- Conclusions

### **9.2. POLICY CONSIDERATIONS**

9.2.1. There is a general requirement to address alternatives in the EIA process based on Regulation 14 (2) (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) and this should provide an 'indication of the main reasons for the option chosen, taking into account the effects of the development on the environment.'

9.2.2. Section 4.4 of NPS EN-1 does not contain any general requirement to consider alternatives or to establish whether the Proposed Development represents the best option. However, it notes that applicants must include information about the main alternatives they have studied in their ES and that there are also certain specific legislative or policy requirements under which alternatives must be considered.

9.2.3. NPS EN-1 identifies the circumstances where there is a requirement to consider alternatives as follows:

- Under specific circumstances in relation to the requirements of the Habitats Regulations Assessment (HRA) (at paragraphs 4.4.1 and 4.4.2). This is addressed in Chapter 6 of this Report;
- Development should seek to avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives (paragraph 5.3.7). These matters are addressed in Volume One, section 5.3 Biodiversity, Ecology and Natural Environment of this Report;
- In respect of flood risk, a sequential test should be applied as part of site selection (paragraph 5.7.9), with a preference for location in Flood Zone 1 (paragraph 5.7.13). This matter is addressed in Volume One, section 5.4 Flood Risk and Water Quality of this Report; and
- In respect of Areas of Outstanding Natural Beauty (AONB), consideration should be given to the scope for developing outside the designated area (paragraph 5.9.10).

9.2.4. Paragraph 4.4.3 of NPS EN-1 sets out principles which guide decisions about what weight should be given to alternatives. These include:

- The consideration of alternatives in order to comply with policy requirements should be carried out in a proportionate manner;

- Alternatives not among the main alternatives studied by the Applicant should only be considered to the extent that they are both important and relevant; and
- Alternative proposals which are vague can be excluded on the grounds that they are not important and relevant.

9.2.5. In common with many applications for offshore wind farms it was not possible at the time of the application for all aspects of this Proposed Development to be settled in precise detail. The established Rochdale Envelope approach to design and assessment was used; paragraphs 4.2.7 and 4.2.8 of NPS EN-1 state that this may be the case but that where this occurs the Applicant is asked to explain in its application which elements of the proposal have yet to be finalised, and the reasons why this is the case. The ES should set out what the maximum extent or worst-case effects of the proposed development may be and assess, on that basis, the upper boundary of the effects which the project could have, using the Rochdale Envelope approach.

9.2.6. Paragraphs 2.6.42 to 2.6.45 of NPS EN-3 reiterates NPS EN-1 in this respect and notes that the following details of a proposed scheme may be unknown at the time of application:

- The precise location and configuration of turbines and associated development;
- The turbine and offshore platform foundation type;
- The turbine blade tip height;
- Cable type and route; and
- The locations of offshore and / or onshore substations.

9.2.7. NPS EN-3 also states (paragraph 2.6.44) that any consent granted should be flexible enough to enable the micro-siting of elements of the proposed wind farm offshore during its construction phase, where scope for this is sought at the application stage.

9.2.8. NPS EN-5 notes that the general location of electricity network projects is often determined by the location of a particular generating station and the existing network infrastructure taking electricity to centres of energy use, giving a locationally specific beginning and end to a line (paragraph 2.2.2) but there will usually be some flexibility around the location of associated substations and applicants will give consideration to how these are placed in the local landscape (paragraph 2.2.5).

9.2.9. The draft Overarching National Policy Statement for Energy (NPS dEN-1) largely reiterates EN-1 but does stress that only alternatives that can meet the objectives of the proposed development need be considered.

### 9.3. THE APPLICANT'S CASE

9.3.1. The Applicant's description of the site selection approach and consideration of alternatives is contained within the ES Volume 1 Chapter 4 [APP-044] and accompanying annexes [APP-045] and [APP-046]. This chapter is arranged in chronological order to describe the stages of design iteration to the point of submission, from the identification of the offshore array area and the grid connection location to the identification of offshore cable and landfall zones to onshore cable and substation zones to project refinement stages.

#### Horlock Rules

9.3.2. The Horlock Rules are a set of guidelines produced by National Grid to assist those responsible for siting and designing substations to mitigate the environmental

effects of such developments. [APP-044] details how the Applicant has considered these rules in the application, including consideration of local context, landform, habitats, environmental designations and visual, noise and other environmental effects. Design of the substations area and cable routes are also considered.

### **Offshore Site Selection**

- 9.3.3. In 2017 the Crown Estate (TCE) launched an opportunity for existing wind farms to apply for project extensions. Such projects were required to meet specific criteria, including on siting matters. Paragraph 79 of [APP-044] details how the siting of an extension to the Gwynt y Môr is spatially limited, with extensions to the north not possible without blocking international shipping routes and extensions to the south and east limited by the location of existing wind farms.
- 9.3.4. Following submission, TCE undertook a plan level HRA and in August 2019 announced the conclusion of this HRA, confirming that an extension to Gwynt y Môr could progress to an award of development rights.

### **Grid connection point**

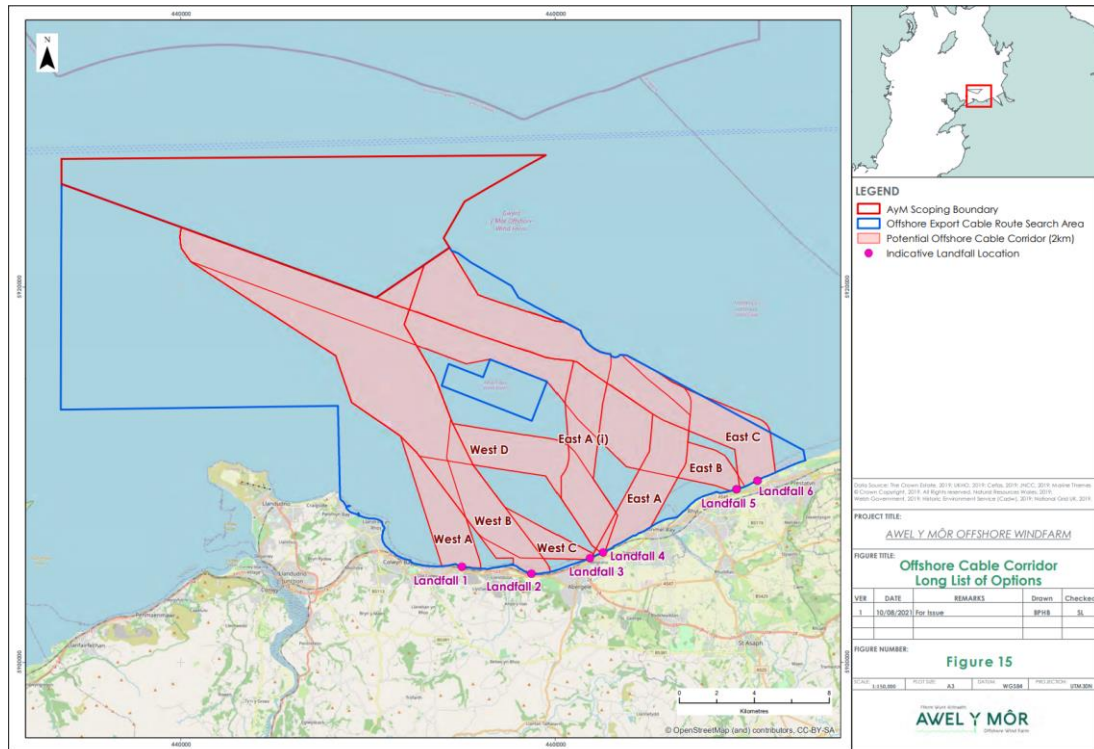
- 9.3.5. Identification of the onshore point of connection was undertaken by National Grid (NGET). Following their CION process (Connection and Infrastructure Options Note), which aims to ensure that the most economic and efficient connection option is developed, while considering other aspects such as environmental impact, cost benefit analysis, and technology risk, NG advised the Applicant that its preferred grid connection location would be at the existing NG substation at Bodelwyddan (Paragraph 87 of [APP-044]).
- 9.3.6. An Area of Search (AoS) was then defined for the four elements of transmission infrastructure (offshore cable corridor, landfall, onshore cable corridor, onshore substation) between the identified offshore array site and grid connection point.

### **Refinement of options**

- 9.3.7. Array options were prepared for consultation with relevant stakeholders, although it was recognised by the Applicant that any extension to the existing Gwynt y Môr windfarm would likely result in significant effects (Paragraph 123 of [APP-044]). Potential offshore cable routes and landfall locations were identified, and these are shown below:

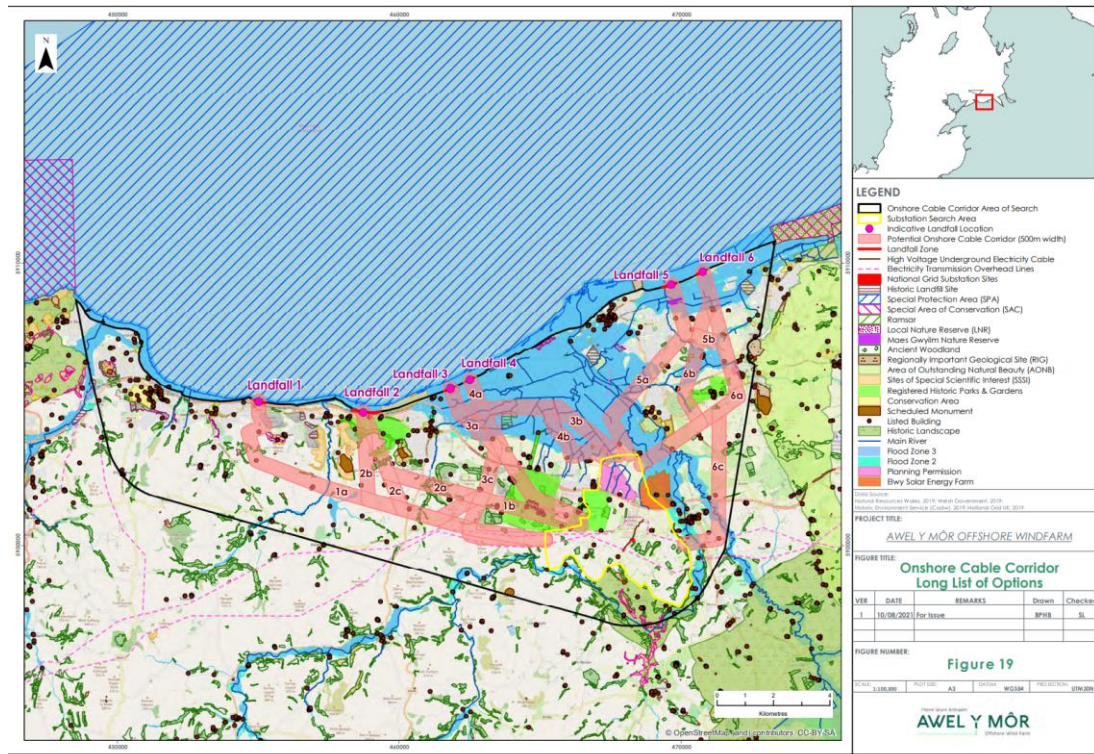


**Figure 1: Offshore Cable Corridor Long List of Options (Figure 15 of [APP-045])**



- 9.3.8. Landfall options 1, 2 and 6 were ruled out following assessment and engineering feasibility studies and hence the offshore cable corridors associated with these landfalls were also ruled out (West A, West B, and East C). Further consultation primarily with Natural Resources Wales, North Wales Wildlife Trust, and Cadw raised concern over impacts on the Constable Bank sandbank feature and a protected offshore wreck. The impact on the sandbank led to the ruling out of West C route, leaving East A and East B and landfalls 5 and 6.
- 9.3.9. At the same time onshore cable routes were considered; details are provided below.

**Figure 2: Onshore Cable Corridor Long List of Options (Figure 19 of [APP-044])**



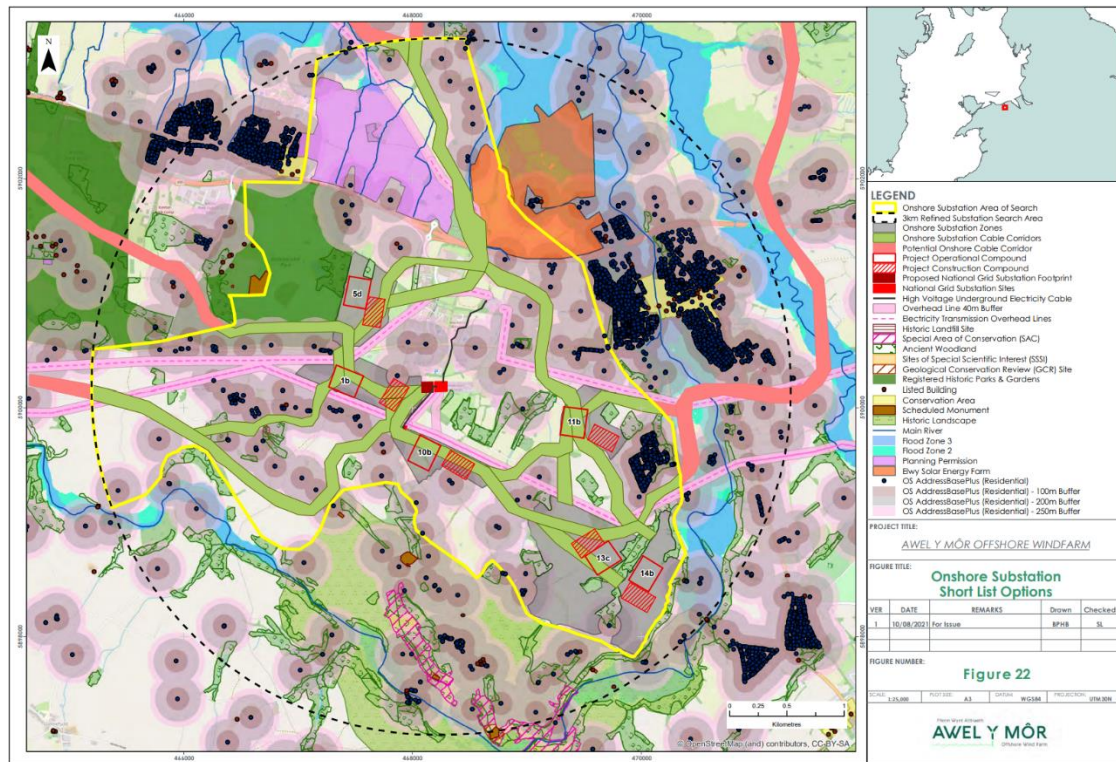
- 9.3.10. Due to offshore screening ruling out landfall options many of the above cable routes were ruled out (largely those from landfall location 1, 2 and 6). Consultation with Cadw considered that routes 3a and 3b were likely to have significant effects on registered historic parks and gardens. 5c was understood to have the most effect on archaeology due to it being the longest route and routes from landfall 4 had a number of constraints. Ultimately cable route 5a, from landfall location 5 was considered to have the most potential. This route was refined in the vicinity of Bodelwyddan to avoid a planning Key Strategic Site from DCC's Local Development Plan.

### Substation options

- 9.3.11. 14 initial substation sites were originally considered, roughly located to the north, west, southwest, south, southeast and east of the existing Bodelwyddan NGET Substation to the south of St Asaph Business Park. Following further assessment and consultation responses three options were taken forward, denoted as Option 5d, 10b and 11b.



**Figure 3: Onshore Substation Short List Options (Figure 22 of [APP-044])**



- 9.3.12. Substation Zone 10b was ruled out due to its proximity to residential properties and as the associated cable routes had already been identified as sub optimal, due to landfall and offshore issues. Substation Zone 11 had 'broadly' positive stakeholder feedback although would have been visible from a number of properties to the northwest and from St Asaph cathedral. Constraints relating to Substation Zone 5 related to the setting of Bodelwyddan Park, as well as flood risk, and landscape receptors and views from residential properties. Following further assessment, it was determined that Zone 5 had a greater availability of land for potential mitigation over Zone 11, which was more constrained by the proximity of woodland, residential properties and overhead lines. Zone 5 was therefore considered to be the preferred option.

## Conclusions

- 9.3.13. The process outlined above resulted in a refined array boundary area, a single preferred offshore cable corridor search area of 1km width, a landfall to the east of Rhyl, a preferred onshore cable corridor of 100m in width and a preferred substation site to the northwest of the NG substation at Bodelwyddan.

## Further refinement

- 9.3.14. Following the PIER and statutory consultation, further modifications were made reducing the array footprint from 88km<sup>2</sup> to 78km<sup>2</sup>, reducing the number of wind turbine generators (WTGs) from 91 to a maximum of 50, commitments to use trenchless techniques in various locations, the reduction in width of the onshore cable corridor to 40m to 60m and a reduced substation zone. WTG height was kept at the same height and the layouts used for the ES formed the basis of the Maximum Design Scenario, or worst-case scenario.

- 9.3.15. Further work on the final design for submission resulted in the scheme examined in this report. Environmental aspects were altered, including reducing the number of larger WTGs to 34 (from 50) (or 50 smaller WTGs), an adaptive lighting management plan to reduce night-time impacts from the offshore array, the use of trenchless techniques under Rhyl Golf Club adjacent to landfall, a refined location for the crossing of the A55 and other mitigation and compensatory areas for ecological and landscape related impacts.

## **9.4. THE EXA'S CONSIDERATION**

- 9.4.1. Site selection and the consideration of alternatives was not a substantial issue at Examination. Wilson Fearnall on behalf of GBL and IM Kerfoot Discretionary Trust [RR-037] stated that the applicant had failed to fully consider suitable alternative proposals. Various questions were asked at ExQ1 [PD-009] requesting further details of:
- Construction timings and temporary construction compounds;
  - Indicative substation layouts;
  - Electrical output;
  - The location of the proposed array in relation to Rhyl Flats offshore windfarm;
  - The proposed extension to the NG substation and whether this affected the location of the proposed onshore substation (OnSS);
  - Cable corridor choices;
  - Details of the inter-link array cable between the Proposed Development and Gwynt y Môr (GyM); and
  - Consideration of the Government / Ofgem Offshore Transmission Network Review.
- 9.4.2. The Applicant noted in response [REP1-007] that further surveys to inform detailed design are expected to take place before the indicative construction start date of Q1 2026, but further surveys would also take place within the construction stage. Construction activities, annotated cross sections of the OnSS, and duration for phases of works at landfall, the onshore cable route, and the OnSS were not able to be provided until detailed design has taken place. Temporary construction compounds plan layouts were provided in Appendix E to [REP1-007] and the Applicant referred to indicative OnSS drawings within the Onshore Project Description [APP-062] and visualisations in the Landscape and Visual Chapter Appendix [APP-181] to [APP-189]. Indicative Air Insulated and Gas Insulated substation drawings were also provided in Appendix F to [REP1-007].
- 9.4.3. The electrical output of the project is not defined precisely, other than to confirm that it is over 350 megawatts (MW) (Answer to ExQ1.16.5 [REP1-007]), although the ExA note that WTG Note [APP-299] states that the projects turbines will have a capacity of a minimum of 11.5MW each, giving a total with 50 WTGs of over 550MW.
- 9.4.4. The applicant confirmed that the proposed array is located 5.1km away from the closest point of Rhyl Flats array. This distance was not refuted by Rhyl Flats in their response at [REP2-057].
- 9.4.5. The answer to ExQ1.16.8 [REP1-007] stated that the location of the anticipated extension to the NGET substation did not directly affect the early shortlisting process and identification of possible substation zones. It is also noted in this respect that NGET state themselves in their answer to ExQ3 [REP7-055] that it

*should be possible to provide the Promoter's connection via the existing substation*

– in other words, the proposal does not necessitate a direct extension to the NG substation.

- 9.4.6. Queries over cable corridor options discounted (ExQ1.16.9-11) were responded to by the Applicant [REP1-007], with justification expanded upon further to the application documents. It was confirmed that the existing transmission network for GyM was not of sufficient capacity to handle the power output from the Proposed Development, and although the option to upgrade this network was considered, this would have required two further cables and an extension to the existing substation at Bodelwyddan. This would have had a similar impact to the proposed development works while interrupting GyM operations.
- 9.4.7. The Offshore Transmission Review (OTR) was given *careful review* in the Applicant's Grid Connection and Cable Details Statement [APP-296] and while the Applicant had reviewed recent Secretary of State decision letters these refer to EN-3 which they considered the Proposed Development complied with [REP1-007]. Furthermore, NG has confirmed that projects in scope for the OTR do not include the Proposed Development [REP1-007].
- 9.4.8. Issue Specific Hearing 3 (ISH3) was held on 8 December 2022 and considered the OnSS site and specifically considered site selection as part of good design [EV-018]. The Applicant considered that a critical part of good design is the selection of the right site [REP3a-005], noted the various consultation processes undertaken and confirmed that the guiding principle for locating the OnSS had been to achieve an economic and efficient connection. There were two critical reasons for the OnSS being as close to the NG SS as possible, namely, firstly to minimise the length of costly 400kV cable and secondly to minimise the amount of reactive compensation needed.

## CONCLUSIONS

- 9.4.9. The ExA and the SoS must consider alternatives and site selection for the specific purposes identified in statute and in NPSs EN-1, EN-3 and (in respect of the transmission development) EN-5. This requires consideration of alternatives for the purposes of:
- HRA;
  - EIA, and within that:
    - avoiding significant harm to biodiversity and geological conservation interests;
    - assessing and responding to flood risk in certain circumstances;
    - avoidance of harm or mitigation of development effects within an AONB; and
    - addressing the combination of EA1989 duties and the CION process for transmission system siting.
- 9.4.10. Site selection processes are important and relevant considerations only in so far as they form part of an element of the consideration of alternatives. All questions asked by the ExA were answered satisfactorily and the responses to queries regarding cable options and inter linkages with Gwynt y Môr and Rhyl Flats (in respect of distance apart) were reasonable.
- 9.4.11. While there is a prospect of alternative policy approaches arising from the OTR, the Applicant's comments regarding this issue are noted and agreed. At the time of the

close of the Examination the Applicant is entitled to consideration under the current applicable policy framework.

- 9.4.12. In relation to HRA considerations, the ExA notes in Chapter 6 of this Report that, subject to mitigation, adverse effect on integrity (AEoI) can be excluded on all the identified European sites as a result of the Proposed Development alone or in combination with other plans or projects.
- 9.4.13. It follows from the above and the consideration of alternatives elsewhere that the ExA is satisfied that no alternative locations or sites exist for the offshore wind farm array that would present a feasible alternative solution.
- 9.4.14. From conclusions in Volume one, sections 5.3, 5.4 and 5.8 in respect of biodiversity, flood considerations, and AONBs the ExA finds that adequate regard has been had to alternatives and that the legislative (the EIA regulations) and policy requirements in this regard have been met.
- 9.4.15. NPS EN-5 Section 2.2 is clear that it is not the role of the ExA to second-guess the judgement of an Applicant or NG in respect of the siting of transmission infrastructure, and that the Applicant or NGET's siting choices are at their own risk, within the framework provided by NPS EN-1 paragraph 4.4.1. It is sufficient in this respect to consider whether alternatives have as a matter of fact been appraised. The ExA consider that they have been.
- 9.4.16. The ExA therefore concludes that:
- the consideration of alternatives has been sufficient to inform any need to engage the 'no alternatives' test of the Habitats Regulations and has been sufficient for EIA purposes to enable site avoidance and or mitigation in relation to environmental, biodiversity, flood risk and geological significance. All relevant due processes have been carried out to a reasonable degree.
- 9.4.17. Therefore, the ExA considers that there are no matters relating to site selection and alternatives which would weigh for or against the Order being made.

# **10. THE PLANNING BALANCE – CONCLUSIONS ON THE CASE FOR DEVELOPMENT CONSENT**

## **10.1. INTRODUCTION**

- 10.1.1. National Policy Statement (NPS) EN-1 (Overarching Energy), NPS EN-3 (Renewable Energy) and NPS EN-5 (Electricity Networks Infrastructure) as designated in July 2011 provide the primary basis for making decisions on development consent applications for renewable energy offshore wind farms nationally significant infrastructure projects (NSIPs) in Wales by the Secretary of State (SoS). The Examining Authority's (ExA) conclusions on the case for development consent in respect of the application have therefore been reached within the context of the policies contained in these NPSs. Regard has been had to Welsh National Policy and to important and relevant considerations arising from the Local Impact Report (LIR) and other policy sources including the Development Plan. However, in reaching the conclusions set out in this Chapter, the ExA has taken all other relevant law and policy into account.

## **10.2. THE MAIN ISSUES**

- 10.2.1. The ExA's conclusions on the effects of the Proposed Development and its performance against relevant policy and legislation are summarised below, drawing on the analysis of planning considerations set out in detail in the below Sections and Chapters.

- 10.2.2. The main planning merits issues in the Examination were as follows:

- Section 5.2 Aviation
- Section 5.3 Biodiversity Offshore
- Section 5.4 Biodiversity Onshore
- Section 5.5 Flood Risk and Water Quality
- Section 5.6 Ground Conditions and Land Use
- Section 5.7 Historic Environment
- Section 5.8 Seascape, Landscape and Visual
- Section 5.9 Landscape and Visual
- Section 5.10 Marine and Coastal Physical Processes
- Section 5.11 Marine Commercial
- Section 5.12 Marine Natural
- Section 5.13 Marine Water and Sediment Quality
- Section 5.14 Public Health and Nuisance
- Section 5.15 Socioeconomics
- Section 5.16 Tourism and Recreation
- Section 5.17 Traffic and Transport
- Section 5.18 Other Considerations

### *Overarching Analysis*

- Chapter 6 Habitats Regulation Assessment
- Chapter 7 Good Design
- Chapter 8 Other overarching matters – other projects and proposals
- Chapter 9 Project description and site selection – alternatives

- 10.2.3. Full consideration has been given to the LIR submitted by Denbighshire County Council (DCC) [REP1-056]. This concluded that the proposed development would have:

- A neutral effect during construction on:
  - Principle of development/climate change; and
  - Hydrology, Hydrogeology and Flood Risk.
- A negative effect during construction on:
  - Seascape, Landscape and Visual Impact (relating to offshore works);
  - Onshore Landscape and Visual Impact;
  - Tourism and Recreation;
  - Onshore Biodiversity and Nature Conservation;
  - Ground Conditions and Land Use;
  - Onshore Archaeology and Built Heritage;
  - Traffic and Transport; and
  - Residential / Public Amenity.
- A positive effect during construction on:
  - Socioeconomics.
- A neutral effect during operation on:
  - Tourism and Recreation;
  - Onshore Biodiversity and Nature Conservation;
  - Hydrology, Hydrogeology and Flood Risk; and
  - Traffic and Transport.
- A negative effect during operation on:
  - Seascape, Landscape and Visual Impact (relating to offshore works);
  - Onshore Landscape and Visual Impact;
  - Ground Conditions and Land Use;
  - Onshore Archaeology and Built Heritage; and
  - Residential / Public Amenity.
- A positive effect during operation on:
  - Principle of development/climate change; and
  - Socioeconomics.

10.2.4. Such effects are considered in the relevant report chapters. DCC also considered that should development consent be granted then they considered it necessary to secure a package of landscape contributions in consideration of the harm caused by the Proposed Development. The LIR also states that DCC agree that the Proposed Development would have strategic benefits in terms of increased renewable energy generation, would contribute to the de-carbonisation of the energy supply network and towards combating the climate emergency, and that the principle of a new offshore windfarm of the scale proposed is considered to be in general accordance with national and local planning policies.

## 10.3. THE PLANNING BALANCE

10.3.1. Conclusions are drawn here in relation to the planning balance. These are of relevance to the consideration of the Planning Act 2008 (PA2008) s104(2) (the application of NPS policy and of all other important and relevant considerations), s104(3) (conformity with NPS policy) and s104(7) (the balance to be struck between the benefits and the adverse effects of the Proposed Development).



- 10.3.2. Conclusions are carried forward from each of the Chapters considering planning merits. For each Chapter, the ExA has reached a summary conclusion on weight for the purposes of the planning balance. These weights are described in paragraph 5.1.5 of the report.
- 10.3.3. Summarised findings in respect of each of the main issues are set out below. However, it is important to note that the need for the development was not in dispute during the Examination and in the interest of balance this is briefly considered below.

### **Need**

- 10.3.4. NPS EN-1 states that energy is vital to economic prosperity and social well-being and so it is important to ensure that the UK has secure and affordable energy (paragraph 2.1.2) and that the Government is committed to meeting our legally binding target to cut greenhouse gas emissions by at least 80% by 2050, compared to 1990 levels (para 2.2.1). Para 2.2.6 states that the UK needs to wean itself off a high carbon energy mix: to reduce greenhouse gas emissions, and to improve the security, availability and affordability of energy through diversification.
- 10.3.5. Paragraph 3.1.1 to 3.1.4 of EN-1 states that the UK needs all the types of energy infrastructure covered by the NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions, that the SoS should therefore assess all applications for development consent for renewable energy on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in this Part. The SoS should give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for development consent under PA2008.
- 10.3.6. Draft NPS EN-1 (DEN-1) (September 2021) notes that the original (and extant) iteration of EN-1 was drafted when the UK had a greenhouse gas (GHG) emission reduction of at least 80% by 2050. In June 2019 the UK legislated for a 2050 net zero GHG emissions target and in April 2021 the Government announced the sixth carbon budget and as a result will legislate to reduce GHG emissions by some 78% by 2035 compared to 1990 levels (paragraph 2.2.4).
- 10.3.7. DEN-1 states that the objectives for the energy system are to ensure the UK supply of energy always remains secure, reliable, affordable, and consistent with meeting the target to cut GHG emissions to net zero by 2050, including through delivery of the carbon budgets and nationally determined contributions, requiring a step change in the decarbonisation of the energy system. DEN-1 states that wind energy is one of the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply, with analysis showing that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind (and solar). As part of delivering this, government announced a target of 40 gigawatts (GW) of offshore wind by 2030. This was upgraded to 50GW in the April 2022 UK Government Energy Security Statement.
- 10.3.8. Planning Policy Wales (PPW) (Edition 11, February 2021) states that low carbon electricity must become the main source of energy for the country and that the benefits of renewable energy as part of the overall commitment to tackle the climate emergency and increase energy security is of paramount importance. Future Wales, the National Plan 2040, states that Wales can become a world leader in renewable energy technologies and policy 17 states that The Welsh Government strongly

supports the principle of developing renewable and low carbon energy from all technologies and at all scales to meet the Country's future energy needs and details the target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency.

- 10.3.9. NPS EN-1 therefore illustrates a demonstrated and urgent need for renewable energy and that substantial weight should be given to the contribution which projects would make towards satisfying that need.
- 10.3.10. The Proposed Development would make a significant contribution towards the delivery of renewable energy (providing clean energy for approximately 500,000 homes) and meeting approximately 6% of Wales' electricity consumption, contributing towards Wales' target of 70% renewables by 2030, and the UK's deployment target of 50GW by 2030 [REP8-083].
- 10.3.11. The proposed development would have a capacity of a minimum of 550MW [APP-299] and would make a substantial contribution towards the delivery of renewable energy. Given the scale and urgency of the need for renewable energy **the ExA gives very substantial weight to such benefits for the Order being made.**

### **Aviation**

- 10.3.12. The ExA agrees that impacts during construction and decommissioning of the Proposed Development would not be significant, due to the proposed notification, marking and lighting of the proposed offshore array.
- 10.3.13. The ExA agree that for the creation of obstacles in the environment, notification, marking and lighting of the wind turbine generators (WTGs) would reduce the risk to an acceptable level, and that impact would not be significant.
- 10.3.14. The Proposed Development would have an adverse effect on aviation safety, by the creation of 'clutter' upon the screens of air traffic controllers of NATS for the Great Dun's Fell and St Anne's radars. However, the ExA notes the agreement of NATS to the proposed mitigation and secured in the rDCO as Requirement (R) 25. On this basis the ExA agrees that such mitigation reduces the effect of the Proposed Development to not significant.
- 10.3.15. The ExA agrees that the Proposed Development has the potential cumulatively with other existing and proposed wind farms to have a significant adverse effect on aviation safety. However, based on the evidence submitted the ExA agrees that the proposed mitigation as secured in the rDCO will reduce the impact to be not significant. With the proposed Requirement, the Proposed Development would comply with NPS EN-1 in that the safety of UK aerodromes, aircraft and airspace would not be adversely affected by new energy infrastructure. The ES adequately details relevant effects, consultation and potential impacts and the proposed Requirement is of the 'Grampian' style specifically referred to in paragraph 5.4.18 of NPS EN-1.
- 10.3.16. With the identified mitigation as secured by the imposition of R25 in the rDCO, the ExA concludes that the Proposed Development would not have an adverse effect on aviation safety. **Therefore, the ExA considers that there are no matters relating to aviation which would weigh for or against the Order being made.**

## **Biodiversity, Ecology and Natural Environment**

### **Offshore Ornithology**

- 10.3.17. The ExA considers the summary of consultation in [APP-099], and the Evidence Plan [APP-301] including relevant Annex [APP-302] demonstrates meaningful and appropriate consultation has taken place.
- 10.3.18. Baseline characterisation is included [APP-095] and the responses to further questions on potential biases during the Examination [REP5-004] means the ExA is satisfied with the baseline data and that it meets the needs of NPS EN-3.
- 10.3.19. In taking the view on consultation, baseline characterisation, and outcomes of the EIA the ExA has considered NRW Statement of Common Ground (SoCG) offshore [REP8-048] position which shows agreement on these points. The ExA has also considered RSPB SoCG [REP8-052] agreed position on the adequacy of consultation and baseline characterisation being fit for purpose, and notes that there is agreement on the outcomes of the EIA.
- 10.3.20. The Applicant (post PEIR) reduced the maximum number of WTGs from ninety-one to fifty and reduced the array area from 88 km<sup>2</sup> to 78 km<sup>2</sup>. A minimum blade clearance of 22m above MHWS is secured in the rDCO R2. The Vessel Traffic Management Plan (VTMP) (embedded within the Project Environmental Management Plan (PEMP)) and the suite of other marine template plans [REP4-008] are to be secured as part of the Marine Licence (ML) process and outlined in the MLP [REP8-014]. As mentioned previously the ExA has included in the rDCO additional provisions in Article 3 to address construction since Articles 4 and 5 related to operate and maintain. The ML functions carried out by NRW MLT should adequately secure and control the mitigation measures required for the Proposed Development. Altogether, the above points are considered by the ExA to be appropriate mitigation measures.
- 10.3.21. The cumulative effects assessment predicts no significant residual effects. The ExA notes the proposed offshore windfarms of Mona and Morgan were considered in the EIA cumulative effects assessment [APP-042] but were screened out of further assessment due to lack of meaningful information. The Applicant provided further information related to its approach to Mona and Morgan in [REP8-039]. These matters are covered further under 'Other Projects and Proposals', Chapter 8 of this report.
- 10.3.22. The ExA is content that the provisions of NPS EN-1, NPS EN-3 and the relevant legislative and policy tests for offshore ornithology has been met. The ExA is satisfied that the ES has considered the relevant impacts through the project stages and agrees that residual effects, inter-relationships effects and transboundary effects are not significant in EIA terms. However, the impacts of the Proposed Development and the residual effects means the ExA cannot ascribe an overall neutral position on offshore ornithology.
- 10.3.23. **The ExA gives limited weight against the Order being made for issues related to offshore ornithology.**

### **Marine Mammals**

- 10.3.24. The ExA considers the consultation report [APP-024], the summary of consultation [REP8-081], consultation information [APP-301] and details of an Expert Topic Group involved in marine mammal matters as identified in the Evidence Plan Report

Appendix Part 1 [APP-302] demonstrates that meaningful and appropriate consultation has taken place.

- 10.3.25. In taking the view on consultation, baseline characterisation [REP8-08], and outcomes of the relevant assessments, the ExA has considered NRW SoCG offshore [REP8-048], JNCC SoCG [REP4-029] and NWWT SoCG [REP7-047] position which shows no dispute and agreement on these points.
- 10.3.26. The project design phase reduced the maximum number of WTGs to fifty and reduced the array area to 78 km<sup>2</sup>. The DoMMMP [REP8-069] is secured in the rDCO [AS-053, Article 40] and also is included in the MLP [REP8-014, condition 35]. The final MMMP would be secured as a condition of relevant ML(s) and would include mitigating injury ranges predicted using cumulative PTS metrics unless evidence or guidance at the time suggest otherwise. The VTMP (embedded within the PEMP) and the suite of other marine template plans [REP4-008] are to be secured as part of the ML process as outlined in the MLP [REP8-014]. As mentioned previously the ExA has included in the rDCO additional provisions in Article 3 to address construction since Articles 4 and 5 relate to operate and maintain. The ML functions carried out by NRW MLT should adequately secure and control the mitigation measures required for the Proposed Development. Altogether, the above points are considered by the ExA to be appropriate mitigation measures.
- 10.3.27. The ExA has utilised the definition of offshore environmental net gain given in NPS dEN-1 to examine whether the Proposed Development aims to leave the natural environment in a measurably better state than beforehand with opportunities for enhancements. The ExA acknowledges there is currently no formal requirement by the Welsh Government or NRW for marine net gain in Wales, and the Applicant's position that it considers it unnecessary to commit to opportunities for offshore environmental net gain due to no significant residual effects on the marine environment.
- 10.3.28. Nevertheless, the Planning Act 2008: Guidance on the process for carrying out a review of existing National Policy Statements Transition between National Policy Statements paragraph 26 states *Where a review is undertaken and a decision is made not to suspend the existing National Policy Statement (in whole or in part), it will continue to have effect for the purposes of the Planning Act. Any emerging draft National Policy Statements are potentially capable of being important and relevant considerations in the decision-making process, but the extent to which they are relevant is a matter for the relevant Secretary of State to consider with regard to the specific circumstances of each Development Consent Order application.*
- 10.3.29. In light of the above guidance on transition between National Policy Statements the ExA draws attention that the Proposed Development does not commit to offshore environmental net gain and leave the natural environment in a measurably better state than beforehand. The Proposed Development commits to no enhancement measures although during the ML process there could be enhancement considerations.
- 10.3.30. The cumulative effects assessment predicts no significant residual effects. The ExA notes the proposed offshore windfarms of Mona and Morgan were considered in the EIA cumulative effects assessment<sup>4</sup> [APP-042] but were screened out of further assessment due to lack of meaningful information. The Applicant provided further

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<sup>4</sup> Projects listed as EnBW and BP 1 - Round 4, and EnBW and BP 2 - Round 4

information related to its approach to Mona and Morgan in [REP8-039]. These matters are covered further under 'Other Projects and Proposals', Chapter 8 of this report.

- 10.3.31. NWWT SoCG [REP7-047] shows that although there is no agreement on ecological monitoring it agrees there would be no material impact in the assessment conclusion. The ExA reiterates that whilst the monitoring approach is appropriate for EIA, constraining the monitoring to potentially only the first four piles is a missed opportunity to gather further relevant data for future offshore windfarms. NPS EN-3 paragraph 2.6.71 promotes ecological monitoring to identify actual impact to enable further useful information to be published relevant to future projects. An assessment of the accuracy of the original predictions would improve the evidence base for future mitigation and compensation measures enabling better decision-making in future EIAs (and HRAs) and would more usefully align with NPS dEN-3.
- 10.3.32. Nevertheless, the ExA is content that the provisions of the currently designated NPS EN-1, NPS EN-3 and the relevant legislative and policy tests for marine mammals have been met. The ExA is satisfied that the ES has considered the relevant impacts through the project stages and agrees that residual effects, inter-relationships effects and transboundary effects are not significant in EIA terms. However, the impacts of the Proposed Development and the residual effects means the ExA cannot ascribe an overall neutral position on marine mammals.
- 10.3.33. **The ExA gives limited weight against the Order being made for issues related to marine mammals.**

### **Onshore Biodiversity, Ecology and Natural Environment**

- 10.3.34. The ExA considers the consultation, baseline data, and outcomes of the assessments were meaningful and appropriate. In taking this view the ExA has considered DCC adequacy of consultation response, the relevant representations and responses, the LIR [REP1-056] and the agreed positions of Natural Resources Wales (NRW) SoCG onshore [REP8-049] and DCC SoCG [REP7-049].
- 10.3.35. The ExA considers the project design has taken account of protected species and habitats by avoidance where feasible and has also provided areas for translocation of species. The Proposed Development shows how it has taken opportunities to conserve biodiversity, and at the OnSS site a range of enhancement measures have been identified. The ExA considers these to be appropriate and the approach accords with the principle of NPS EN-1 to avoid significant harm to biodiversity and enables good design opportunities for biodiversity.
- 10.3.36. DCC LIR [REP1-056] references to onshore biodiversity and nature conservation and relevant LDP Policies. Section 15 of the LIR concludes DCC assessment of impact during construction to be negative, and neutral during operation; and DCO requirements would be an acceptable mechanism to secure necessary ecological mitigation, compensation, and enhancement.
- 10.3.37. The rDCO would secure the stages of authorised development (R5), the code of construction practice (R10), Landscape and Ecology Management Plan (R13), the European protected species onshore including nationally protected species (R14). The rDCO under Article 40 (certification of plans) lists a suite of documents such as the Outline Landscape and Ecology Management Plan (oLEMP).

- 10.3.38. The ExA agrees with the Applicant that construction impacts in relation to air quality, hydrology and noise in respect of ecological receptors would not be significant. The ExA is satisfied that operational noise and lighting from the OnSS would not have a significant effect on ecological receptors. The rDCO secures the following requirements: Code of construction practice (R13), Control of noise during operational stage (R18), Control of operational artificial light emissions (R19), and Onshore decommissioning (R22) which satisfies NPS EN-1.
- 10.3.39. Altogether, the ExA considers these to be appropriate measures to have in place for the Proposed Development and the ExA recognises that NRW and DCC are content with outline management plans approach for the pre-commencement stage.
- 10.3.40. The ExA is satisfied that the ES has considered the relevant impacts through the project stages and complies with NPS EN-1 and NPS dEN-1 related to protected species and habitats.
- 10.3.41. The Proposed Development approach to ecological networks and resilience of ecosystems would be compliant with the relevant sections of NPS EN-1, NPS dEN-1, and relevant Welsh plans and policies objectives. However the ExA is disappointed with the three-year aftercare period not reflecting the ES short-term impact duration (less than five years). A reinstated habitat that dies or is damaged in year four (beyond aftercare period) could put at risk an integral fully functional ecological network and lessens the resilience of an ecosystem. The ExA also notes that landowner agreements on reinstatement or replacement of hedgerows (beyond the OnSS) places a level of risk and uncertainty on habitat and species. The calculated loss of hedgerow (worst case) would be 6,806m and the temporary loss of Important Hedgerow (under the Hedgerow Regulations) at the onshore ECC including associated infrastructure would be 2,530m. Hence the ExA preference would be for a longer aftercare period of five years. We note provisions for this are covered by the oLEMP [REP7-026] and ultimately by the future LEMP and suggest this may be worthy of consideration by DCC and NRW in this regard.
- 10.3.42. The ExA agrees that cumulative effects would not be significant, residual effects during operation / decommissioning would not be significant, the inter-related effects would not be significant and there would be no transboundary effects. However as mentioned above, the aftercare period and the need for landowner agreements means the ExA cannot ascribe an overall positive impact in terms of onshore ecology, biodiversity and natural environment due to the Proposed Development.
- 10.3.43. **The ExA gives limited weight against the Order being made for issues related to onshore biodiversity, ecology, and natural environment.**

### **Flood Risk and Water Quality**

- 10.3.44. As in respect of compliance with the requirements of the water framework directive (WFD), the ExA has reviewed the Applicant's WFD Compliance Assessment and considered all representations made during the Examination. The ExA is satisfied that the Proposed Development would be compliant with the objectives of the WFD and would not result in the deterioration in status of any relevant WFD waterbodies.
- 10.3.45. Paragraph 5.7.13 of NPS EN-1 stipulates that preference should be given to locating projects in Flood Zone A. The proposed OnSS is located within Flood Zone A and is therefore outside of both the tidal and fluvial floodplain. As the proposed site for the OnSS lies within Flood Zone A, the Justification Test for the Technical Advice Note 15: development, flooding and coastal erosion (TAN15) acceptability

criteria is not applicable, and this is further confirmed in the OnSS Flood Consequence Assessment (FCA).

- 10.3.46. As a result of the OnSS FCA, the ExA is satisfied that the perceived level of flood risk potentially caused by the OnSS would be low. Additionally, the ExA is satisfied that R16 of the rDCO, which requires the detailed surface water and drainage details to be provided to DCC for approval following detailed design, would provide adequate control in respect of drainage matters.
- 10.3.47. In terms of the ECC, the ExA is satisfied that the ECC FCA provided comprehensive evidence that the proposed works within Flood Zone C meet the requirements of the Justification Test and are found to be acceptable. Furthermore, following updates made to both FCAs during the Examination, both assessments were based on the most recent climate change allowances and guidance from NRW. Additionally, the proposed mitigation measures, including those detailed within the outline Construction Method Statement (oCMS) and the principles for control of surface water in all work areas as detailed in the outline Code of Construction Practice (oCoCP) are considered satisfactory by the ExA.
- 10.3.48. As such, the ExA is satisfied that the Applicant has fully addressed fluvial, coastal and tidal flood risk associated with the construction and operation of the Proposed Development.
- 10.3.49. The ExA acknowledges that the development of the OnSS is likely to result in the construction of low permeability surfacing which would increase the rate of surface water runoff from the site. An outline surface water drainage scheme has been provided as part of the OnSS FCA and includes a sustainable drainage system (SuDS) based surface water drainage scheme which would manage rainfall runoff from the proposed OnSS and is designed so as not to increase flood risk locally or in the wider area.
- 10.3.50. The construction of the onshore export cable corridor (ECC) would require temporary management of surface water along the route. The ExA considers that principles for the management of surface water during construction along the onshore ECC are satisfactorily detailed in the onshore ECC FCA.
- 10.3.51. The ExA is satisfied that the Applicant has fully addressed drainage requirements associated with the construction and operation of the Proposed Development. The ExA is therefore content that the required drainage associated with the Proposed Development would be satisfactorily mitigated and managed.
- 10.3.52. The ExA notes that all construction work would be undertaken in accordance with the final Pollution Prevention and Emergency Incident Response Plan (PPEIRP), secured by R10 of the rDCO. The Applicant's submissions with respect to water quality and pollution control has been fully considered by the ExA and where necessary, further clarification was sought on matters of detail throughout the Examination. Considering both the submitted evidence and further detail provided during the Examination, the ExA is satisfied that the Applicant's approach to water quality and pollution control is appropriate.
- 10.3.53. The ExA is satisfied that TAN15 has been complied with as the Proposed Development is largely directed away from areas at high risk of flooding. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of chapter 6.6 of PPW11 and Policies RD1 and VOE6 of the DCCLDP.

10.3.54. The ExA is satisfied that the Applicant has fully addressed the flood risk and possible effects on water quality associated with the construction and operation of the Proposed Development and has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed. Consequently, the ExA considers that the Applicant's assessment of flood risk and water quality complies with the policy aims of NPS EN-1, EN-3 and EN-5 and where relevant, draft NPS EN-1.

10.3.55. **The ExA therefore finds that the issue of flood risk and water quality does not weigh for or against the Order being made.**

### **Historic Environment**

10.3.56. The ES complies with the requirements of NPS EN-1 in providing a description of the significance of the heritage assets affected by the Proposed Development and the contribution of their setting to that significance, with a level of detail proportionate to the importance of the heritage assets. In a similar way the ES complies with Policy SOC\_05 of the Welsh National Marine Plan.

10.3.57. Unlike the draft EN-1, NPS EN-1 does not specifically refer to the concept of 'less than substantial harm' but notes that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that gardens; and that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss.

10.3.58. The proposed development would not lead to the substantial harm or total loss of significance of any designated heritage asset as defined in EN-1. However, as described in the Historic Environment section (Volume One, section 5.6), harm would be caused to various heritage assets, including those assets which the proposal would have minor and moderate adverse effects in EIA terms. Under the terms of Draft EN-1, the proposal would cause less than substantial harm to these assets; the ExA consider that those assets subject to minor harm ( Barn to NW of Faenol Brodor; Bodelwyddan Castle and Registered Park and Garden; Penmon Historic Landscape (HLW); Creuddyn and Conwy HLW; Llandudno Conservation Area (CA); Penrhyn Registered Park and Garden) would be at the lower end of the scale of less than substantial harm and those caused moderate harm (Llandudno Pier, Puffin Island Monastic Settlement) would be at the higher end of less than substantial harm.

10.3.59. Mitigation provided by the landscape / heritage fund, or the Tourism fund could potentially provide a benefit in terms of the visitor experience of such heritage assets, enabling visitors to better appreciate the significance of such assets. Such funds could comply with paragraph 5.9.14 of Draft EN-1. However, in the absence of any firm details of this work, the ExA is unable to place any firm weight upon such benefits.

10.3.60. The Proposed Development would also be contrary to PPW11 and to policy VOE1 of the DCCDLP. However, in respect of cultural heritage matters and the onshore effects of the proposal, the Proposed Development would comply with policy VOE10 of the DCCDLP.

10.3.61. As noted above, paragraph 5.18.5 of NPS EN-1 states that any harmful impact on the significance of a designated heritage asset should be weighed against the public



benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. It is noted that the proposed development would not lead to the substantial harm or total loss of significance of any designated heritage asset.

- 10.3.62. The ExA has had regard to the provisions of the Infrastructure Planning (Decisions) Regulations 2010. When taking all these aspects into the round, the ExA concludes that the Proposed Development would have an adverse effect on the Historic Environment. **Given the harm caused to varying heritage assets the ExA ascribes moderate weight to matters relating to the historic environment against the Order being made.**

### **Ground Conditions and Land Use**

- 10.3.63. The ExA is satisfied that the Applicant undertook a robust assessment of soil quality and resources. As stated in NPS EN-1, paragraph 5.10.8 the ExA is content that the Applicant has sought to identify any effects on soil quality and minimised impacts through appropriate mitigation measures. The provisions of the final SMP would be secured through the CoCP and R10 of the rDCO. The ExA considers that the content of R10 is adequate to ensure no significant adverse effects on soil resources from the Proposed Development.
- 10.3.64. The majority of Best Most Versatile Agricultural Land (BMVAL) land to be permanently lost would be within subgrade 3b, which represents poorer quality land. No agricultural land in grades 1 or 2 is to be permanently lost as a result of the Proposed Development. In terms of subgrade 3a, 1.5ha of this subgrade is to be permanently lost during the construction and operation phases of the OnSS.
- 10.3.65. The ExA is therefore satisfied that in line with paragraph 5.10.8 of NPS EN-1 the Applicant has, as far as practicable, through consultation and design iterations, sought to minimise impacts on BMVAL and where possible would utilise poorer quality land.
- 10.3.66. Little harm was identified in respect of most landholdings, as the majority of land is required temporarily during the construction of the onshore ECC and is to be returned to its original use. The ExA is also content that measures within the CoCP and final Soil Management Plan (SMP), where practicable, would provide adequate levels of mitigation and minimise adverse effects. It is however acknowledged that in respect of Faenol Brodor, over half of the holding would be removed from agricultural operations due to the OnSS and associated access, mitigation, compensation, and enhancement areas. However, the ExA is satisfied that compensation would be payable to the landowner that would adequately compensate for the impact. Additionally, the ExA considers that any potential effect on this holding would be necessary to allow for the construction and operation of a renewable energy scheme.
- 10.3.67. The ExA is also satisfied with the measures contained in both the CoCP and oSMP which confirm that a qualified Land Agent would be employed to ensure that information on existing agricultural management and soil / land conditions would be obtained, recorded, and verified by way of a detailed pre-construction condition survey. The Land Agent would also undertake site inspections during construction to monitor working practices and ensure landowners' and farmers' reasonable requirements are fulfilled. The Land Agent would also retain a function with regards to agreeing reinstatement measures following completion of the works.

- 10.3.68. The ExA notes that the potential for contaminants contained within excavated ground and stockpiled materials is unlikely. However, should contamination occur or be discovered during construction, the ExA is satisfied that the approach detailed within the oPPEIRP is appropriate.
- 10.3.69. The ExA considers that the Applicant has addressed the effects relating to mineral safeguarding in accordance with the relevant policies within NPS EN-1.
- 10.3.70. The ExA is satisfied that, in accordance with PPW 11, the Applicant has given appropriate consideration to the protection of soils and ground conditions, and this is demonstrated in the mitigation measures contained within the oCoCP, oSMP and oPPEIRP. The ExA is also satisfied that the design of the Proposed Development has been optimised to reduce the overall land take, where practicable. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of Policy PSE 15 of the DCCLDP.
- 10.3.71. Consequently, the ExA considers that the Applicant's assessment of ground conditions and land use and the proposed mitigation measures, would comply with the policy aims of NPS EN-1 and where relevant, the draft NPS EN-1.
- 10.3.72. Whilst the ExA notes the moderate significant adverse residual effect in respect of Faenol Brodor, taken in the round **the ExA ascribes limited weight to the matters relating to ground conditions and land use against the making of the Order.**

### **Seascape, Landscape and Visual (regarding proposed offshore works)**

- 10.3.73. There would be a range of significant and non-significant adverse effects on seascape, landscape and visual receptors, predominantly along the North Wales coast, including some coincidental to and within the setting of statutory designated landscapes, including the Isle of Anglesey Area of Outstanding Natural Beauty (IoA AONB), the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (CRDV AONB), Eryri National Park (ENP), and non-statutory designated landscapes, including the Great Orme Heritage Coast (GOHC) and the North Anglesey Heritage Coast (NAHC). Adverse effects would also arise to some of the special qualities of the statutory designated landscapes. The harm identified would conflict with the statutory purpose to conserve and enhance the natural beauty of AONBs and NPs. The ExA affords substantial weight to the conservation of the natural beauty of the IoA AONB, the CRDV AONB and ENP.
- 10.3.74. The ExA notes that NPS EN-1 recognises that the fact that a proposed project will be visible from within a designated area should not in itself be a reason for refusing consent. The ExA also accepts that the Applicant has aimed to avoid, as far as possible, compromising the purposes of designation and has had regard to sensitive design taking into account various siting, operational, and other relevant constraints. The ExA is also mindful that the geographical extents of adverse effects on designated landscapes would be relatively limited when considering the IoA AONB, CRDV AONB and ENP designations as a whole and that the Proposed Development would conflict with only a limited number of their respective special qualities. The ExA also considers that the Proposed Development would be in general conformity with NPS EN-1, NPS EN-3 and NPS EN-5 (and with the drafts of these NPSs) in relation to seascape, landscape and visual matters. R2 of the rDCO adequately secures the offshore array parameters and R3 of the rDCO adequately secures lighting limits associated with the proposed array.

- 10.3.75. Nonetheless, having regard to the harms identified, the ExA attributes substantial weight to adverse effects on seascape, landscape and visual matters relating to the proposed offshore works against the Order being made.
- 10.3.76. The proposed landscape enhancement scheme would compensate for some of the seascape, landscape and visual harms identified and would provide benefits to designated landscapes (including IoA AONB, ENP and GOHC) over the longer term, including in respect of some of their special qualities. This scheme would be secured under R26 of the rDCO. The ExA affords moderate weight to the benefits of the landscape enhancement scheme for the making of the Order, albeit this does not affect the overall conclusions on the adverse effects identified above, as the scheme would not directly mitigate these effects.
- 10.3.77. The landscape enhancement scheme would not strictly mitigate the harm caused by the Proposed Development to the identified seascape, landscape and visual receptors, as the scheme would not screen or minimise the visual effects of the proposed WTGs on the receptors. However, the landscape enhancement scheme could provide other benefits and would potentially enhance the identified receptors and their special qualities. **Overall, and when taken in the round, this would reduce the overall weight the ExA ascribes to harm arising from the adverse effects on seascape, landscape and visual matters from the Proposed Development. However, this weighting would remain within the boundaries of substantial harm, albeit set at the lower end of this scale.**

#### **Landscape and Visual (regarding proposed onshore works)**

- 10.3.78. NPS EN-1 acknowledges that virtually all nationally significant energy infrastructure projects will have effects on the landscape and that all proposed energy infrastructure is likely to have visual effects for receptors around proposed sites. NPS EN-5 also recognises that new substations can give rise to landscape and visual impacts. The ExA is satisfied that the Applicant has undertaken an appropriate landscape and visual assessment and has adequately identified the effects of the Proposed Development on landscape and visual receptors.
- 10.3.79. On the basis of the evidence, and noting DCC's SoCG on the matter, the ExA considers that a five-year landscape replacement period, in combination with a LEMP detailing planting, management and maintenance measures, would be sufficient to ensure the likely long-term effectiveness of landscaping.
- 10.3.80. The onshore elements of the Proposed Development (ECC and OnSS) would give rise to some localised significant effects on landscape features, landscape character and visual receptors during construction. The presence of the OnSS would also give rise to some localised significant effects on landscape character and visual receptors during the early years of its operation. As a result of the establishment and maturing of proposed landscape planting, the ExA is satisfied that such significant effects would diminish considerably by Year 15 for most receptors. The exception to this would be limited to users of the Public Rights of Way (PRoW) to the immediate north of the OnSS site, in the vicinity of Viewpoint 1. Visual effects would remain significant for these receptors due to the ability to obtain views towards the OnSS through gaps in vegetation, given the limitations for tree and woodland planting directly above buried cables. Some short-term and localised significant effects on landscape character and visual receptors would also arise during decommissioning.

- 10.3.81. NPS EN-1 and NPS EN-3 promote the sensitive design of energy infrastructure and highlight that siting, colours, materials and landscaping can assist with minimising landscape and visual harm. The ExA is satisfied that such matters have been suitably addressed by the Applicant.
- 10.3.82. Mitigation and control for the avoidance and reduction of adverse landscape and visual effects, where reasonable and appropriate, would be adequately secured through the rDCO. This includes the following requirements: R6 (substation works, including layout, scale, colour and materials); R7 (onshore design parameters); R8 (provision of landscaping); R9 (implementation and maintenance of landscaping); R10 (code of construction practice, including construction method statement, soil management plan and artificial light emissions plan); R13 (landscape and ecology management plan); R17 (restoration of land used temporarily for construction); R19 (control of operational artificial light emissions); and R22 (onshore decommissioning).
- 10.3.83. Taking the above matters into account, the ExA is satisfied that the Proposed Development would accord with NPS EN-1, NPS EN-3 and NPS EN-5 (and with the drafts of these NPSs) in respect of landscape and visual matters relating to the proposed onshore works. The ExA is also satisfied that there would be compliance with DLP Policies VOE2 and VOE10 in this regard. **Furthermore, given significant effects in respect of landscape and visual matters would be limited and localised, the ExA attributes moderate weight relating to these matters against the Order being made.**

### **Marine and Coastal Physical Processes**

- 10.3.84. The ExA is satisfied that the Applicant has fully addressed the possible marine and coastal physical process effects associated with the construction, operation and decommissioning of the Proposed Development. Additionally, the ExA is content that the Applicant has demonstrated that effects associated with the Proposed Development could be satisfactorily mitigated and managed. Whilst such mitigation sits outside of the Examination process, the ExA is satisfied that the ML functions carried out by NRW Marine Licencing Team would adequately secure and control the mitigation measures required for the Proposed Development.
- 10.3.85. With regards to climate change considerations, the ExA is satisfied that the Applicant has identified and considered potential climate changes, such as sea level rise and such changes are fully considered within the assessment. As such, as required by NPS EN-1, the ExA considers that the Applicant has fully addressed the vulnerability and resilience of the Proposed Development to coastal change.
- 10.3.86. In respect of cumulative effects, the ExA is aware that two impacts were not considered in the assessment due to a lack of available information. The ExA accepts the reasoning provided and considers that other potential projects which may be forthcoming would require cumulative environmental assessments themselves which would need to take account of the Proposed Development.
- 10.3.87. Consequently, the ExA considers that the Applicant's assessment of marine and coastal physical processes fully complies with the policy aims of NPS EN-1 and EN-3 and where relevant the draft NPS EN-1 and EN-3. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of Policies SOC\_08, SOC\_09, SOC\_11 and GOV\_01 of the Welsh Marine Plan and relevant policies in PPW11.

- 10.3.88. **Therefore, the ExA considers that there are no matters relating to marine and coastal processes which would weigh for or against the Order being made.**

### **Marine – Commercial**

- 10.3.89. The Applicant has undertaken relevant consultation, identified recognised sea lanes, and considered safety zones. The ExA considers the Applicant has demonstrated that the continuity of search and rescue activities has been considered and its approach satisfies NPS EN-3.
- 10.3.90. Trinity House and the MCA (subject to ML conditions) are satisfied with the conclusion of the NRA. The Chamber of Shipping (CoS) recognise the risks are not overly significant for powered allision incident, and from drifting and unpowered allision. This is due to a low frequency of risk and would have no material impact on the assessment conclusion. The ExA is satisfied that the NRA had regard to advice from statutory advisors and is adequate and meets the needs of NPS EN-3.
- 10.3.91. The Schedule of Mitigation and Monitoring [REP8-016], the ES Chapter Shipping and Navigation [APP-055], and the MLP [REP8-014] identifies proposed mitigation measures to be secured in the ML.
- 10.3.92. The ExA is content that Maritime and Coastguard Agency guidance and International Maritime Organisation guidance has been taken into consideration and that the relevant provisions of NPS EN-3 have been met. The ExA is satisfied that the ES has considered the relevant impacts through the project stages and agrees that residual effects, inter-relationships effects and transboundary effects are not significant in EIA terms. **The ExA considers there are no matters relating to shipping and navigation which would weigh for or against the Order being made.**

### **Marine – Natural**

- 10.3.93. For benthic ecology, the ExA agree that impacts during construction, operation and decommissioning of the Proposed Development would not be significant, due to the proposed mitigation measures provided by the PEMP, MPCP, CSIP, SPP and the Biosecurity Plan. Such measures are to be secured within the ML, which falls under the jurisdiction of NRW. While the ExA agree that residual impacts from marine INNS would be low this remains not significant. In the intertidal area the CoCP secured in the rDCO (R10) would adequately manage INNS.
- 10.3.94. For fish and shellfish, the ExA agrees that impacts during construction, operation and decommissioning of the Proposed Development would not be significant, due to the proposed mitigation measures provided by the PEMP, MPCP, CSIP, and SPP. Such measures are to be secured within the ML, which falls under the jurisdiction of NRW.
- 10.3.95. With the identified mitigation as secured by the imposition of R10 in the rDCO and the measures in the ML, the ExA concludes that the Proposed Development would not have an adverse effect on Marine (Natural) Matters. **While minor impacts have been identified, the ExA ascribe limited weight to matters relating to Marine (Natural) against the Order being made.**

### **Marine Water and Sediment Quality**

- 10.3.96. The ExA examined all the Applicant's submitted assessments and considered the specific concerns raised by NRW during the Examination. The ExA notes that by the

end of the Examination all the initial issues raised by NRW had been addressed and agreement reached, as reflected in their final SoCG.

- 10.3.97. In respect of compliance with the requirements of the WFD, the ExA has reviewed the Applicant's WFD Compliance Assessment. The ExA is satisfied that the Proposed Development would be compliant with the objectives of the WFD and would not result in the deterioration in any designated water body or protected area and would not jeopardise the attainment of good status or the potential to achieve good ecological and chemical status.
- 10.3.98. On this basis the ExA considers that the Applicant has addressed the effects relating to possible adverse impacts in respect of meeting the environmental objectives established under the WFD, as detailed in paragraph 5.15.1 of NPS EN-1.
- 10.3.99. Accordingly, the ExA is satisfied that the Applicant has fully addressed the possible marine water and sediment quality effects associated with the construction, operation and decommissioning of the Proposed Development and has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed.
- 10.3.100. Consequently, the ExA considers that the Applicant's assessment of marine water and sediment quality and proposed mitigation measures, which would be secured in the ML, complies with the policy aims of NPS EN-1 and EN-3 and where relevant, the draft NPS EN-1 and EN-3. There are no other important or relevant considerations which bear on the design or mitigation or security in the rDCO. **Therefore, the ExA considers that there are no matters relating to marine water and sediment quality which would weigh for or against the Order being made.**

### **Public Health and Nuisance**

- 10.3.101. The ExA is satisfied with both the methodology and assessment of noise and vibration during the construction and operation of the Proposed Development, and that there would be effects on commercial or residential receptors during the operation of the OnSS would not be significant. The construction of the proposed development would likely create a level of noise and disturbance for Cwybr Fawr residents, but with mitigation this would be no significant harmful effects.
- 10.3.102. The ExA considers that the Applicant has used the correct methodology for assessing the effects of noise from offshore construction and that no amendments to R4 of the rDCO are necessary. With suggested changes to working hours on a Saturday in R15 of the rDCO, the ExA considers that harm to residential receptors during construction would be minor.
- 10.3.103. The ExA is content that the Applicant has fully addressed the possible air quality effects associated with construction, operation and decommissioning of the Proposed Development and has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed, including a CoCP and this would be secured by R10 in the rDCO.
- 10.3.104. The ExA is satisfied that the Applicant has fully addressed the possible light pollution effects associated with construction, operation and decommissioning of the Proposed Development and has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed and this would be appropriately secured by R19 in the rDCO.

10.3.105. The ExA considers that the Applicant has fully addressed the possible human health effects associated with construction, operation and decommissioning of the Proposed Development and has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed with mitigation, where necessary secured through the rDCO including R21 and R22 which provide for the management of offshore and onshore decommissioning and any potential harmful effects to human health from these activities.

10.3.106. **The ExA finds overall that the impact of the proposal on human health and nuisance carries limited weight against the Order being made.**

### **Socioeconomics**

10.3.107. The ExA is satisfied that the Applicant has undertaken an appropriate assessment in terms of socioeconomics and the assessment adequately identified the effects of the Proposed Development.

10.3.108. The ExA notes that a moderate significant beneficial effect was identified in respect of the economy for both North Wales and the Wales national level during the operation phase, which is significant in EIA terms. The cumulative effect of construction on the North Wales economy was also reported as moderate beneficial, which is significant in EIA terms.

10.3.109. The ExA considers that such a beneficial effect could be further enhanced through the final Skills and Employment Strategy which has the potential to facilitate positive and meaningful training and employment commitments by the Applicant. The production of the outline Skills and Employment Strategy also complies with paragraph 5.13.9 of the draft EN-1.

10.3.110. Consequently, the ExA considers that the Applicant's assessment of socioeconomics fully complies with the policy aims of NPS EN-1, and where relevant the draft NPS EN-1. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of relevant Welsh national and local planning policies.

10.3.111. The ExA has considered all matters relating to socioeconomics and has weighed the identified harm in respect of the Feanol Brodor landholding against the wider identified public benefits of the Proposed Development.

10.3.112. **The ExA ascribes moderate weight in favour of matters relating to Socioeconomics for the making of the Order.** This weighting does not include tourism and recreation, which is considered below.

### **Tourism and Recreation**

10.3.113. The ExA is satisfied that the Applicant has undertaken appropriate assessments in terms of tourism and recreation and the assessment adequately identified the effects of the Proposed Development.

10.3.114. Harm to the tourism visitor economy in respect of Llandundo and the Great Orme is predicted at the end of the construction phase and during the early operation phase. Whilst noting to a certain extent that people's perception of their own likely future actions, and those of others, may produce a stronger reaction than in reality, the ExA accepts that some harm would occur in respect of this particular sector of the tourism economy. Noting the importance of the tourism economy in this location,

such harm would be significantly reduced once the early operational phase is complete and would result in a neutral effect on the tourist economy long-term.

- 10.3.115. The ExA is satisfied that mitigation and controls for the avoidance and reduction of adverse tourism and recreation effects, where reasonable and appropriate, would be adequately secured through the rDCO. This includes R10 of the rDCO, with regard to the outline Public Access Management Plan (oPAMP), oCMS and oCCP.
- 10.3.116. Taking the above matters into account, the ExA is satisfied that the Proposed Development would accord with NPS EN-1 and EN-3 in respect of tourism and recreation.
- 10.3.117. Additionally, the ExA is of the view that the Applicant has also provided sufficient information to satisfy the requirements of the relevant policies in the LDP and in terms of PPW11 and TAN16, in terms of improving the cultural well-being of North Wales and the protection of existing tourism and recreation facilities.
- 10.3.118. **Therefore, the ExA attributes limited weight to matters relating to tourism and recreation against the making of the Order.**

### **Traffic and Transport**

- 10.3.119. The ExA is satisfied that the Applicant has fully assessed and addressed the possible traffic and transport effects associated with construction, operation and decommissioning of the Proposed Development. The assessment has considered possible disruption to rail and road and includes an outline Travel Plan [APP-321] which contains demand management measures and promotes the use of sustainable forms of transport. The oPAMP [REP7-024] would minimise potential disruption to walking and cycling routes. The Applicant has demonstrated that such risks associated with the Proposed Development can be satisfactorily mitigated and managed and that appropriate mitigation would be secured via R10 of the rDCO.
- 10.3.120. Consequently, the ExA considers that the Applicant's assessment of traffic and transport effects fully complies with the policy aims of NPS EN-1 and EN-3, PPW, TAN 18 and DCCLDP Policies.
- 10.3.121. **The ExA therefore finds that the issue of traffic and transport carries limited weight against the Order being made.**

### **Other considerations**

- 10.3.122. The ExA is satisfied that matters relating to mitigation in respect of waste and materials management would be adequately provided for and are appropriately secured through the rDCO. Thus, the Proposed Development would meet all legislative and policy requirements relating to waste management, including those of NPS EN-1 and detailed in the draft NPS EN-1.
- 10.3.123. The ExA has considered waste and materials management and confirms that there are no other matters that appear to indicate against the grant of development consent or indicate a need to change the DCO in respect of them.
- 10.3.124. The management of offshore materials and waste would be controlled by Articles and Conditions in the ML. Whilst such licencing considerations sit outside of the Examination, the ExA is satisfied that the proposed approach is reasonable and provides sufficient clarity.



- 10.3.125. **Therefore, the ExA considers that there are no matters relating to waste and materials management which would weigh for or against the Order being made.**

### ***Overarching analysis***

#### **Habitats Regulations Assessment (HRA)**

- 10.3.126. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoS.
- 10.3.127. Thirty-six European sites and their qualifying features were considered in the Applicant's assessment of Likely Significant Effect (LSE). Of these, LSE was excluded for two sites. The remaining sites and features for which LSE could not be excluded are listed in Table A.1 of the Report on the Implications for European Sites (RIES) [OD-021].
- 10.3.128. The methodology and outcomes of the Applicant's screening for LSE on European sites was subject to some discussion and scrutiny, however, by the end of the Examination, the sites and features for which LSE were identified were not disputed by any IP. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.
- 10.3.129. The ExA's findings are that Adverse Effects on Integrity (AEol) can be excluded on all the identified European sites as a result of the Proposed Development alone or in combination with other plans or projects. This conclusion is subject to delivery of the mitigation measures described in the Schedule of Mitigation and Monitoring and Marine Licence Principles document. The ML functions carried out by NRW MLT should adequately secure and control the mitigation measures required for the Proposed Development. In this respect the ExA also note that the DCO could not be implemented unless in accordance with the terms of a granted ML.
- 10.3.130. **As the Proposed Development could not be constructed without a ML, and the marine licence would be subject to HRA, the ExA is satisfied that the relevant mitigation would be secured before consent can be given. The ExA considers that there is sufficient information before the SoS to enable them to undertake an appropriate assessment.**

#### **Good Design**

- 10.3.131. The Applicant has demonstrated how the design process was conducted and how the proposed design evolved. The lack of independent professional advice on the design aspects of the proposal, both at Examination stage and at detailed stage is disappointing and contrary to paragraph 4.5.5 of NPS EN-1. However, the Applicant has detailed reasons why they consider this not to be appropriate and these are accepted by the ExA. Overall good design has been demonstrated and the proposal accords in this respect with NPS EN1, EN-3 and EN-5.
- 10.3.132. The improvement to the DPS during the Examination details how the design process has evolved and opportunities for nature inclusive design within the process have been embedded in the scheme via the oLEMP [REP7-026]. The Proposed Development accords with the draft NPS EN-1.

- 10.3.133. For the same reasons as above, the Proposed Development complies with Policy 17 of the Future Wales National Plan 2040 (February 2021), Technical Advice Note 12: Design (TAN12), Policy RD1 of the DCCLDP and with the DCC Supplementary Planning Guidance on Renewable Energy.
- 10.3.134. With the identified mitigation secured by various Requirements of the rDCO (including, but not limited to R3, R4, R6, R7, R8, R9, R10, R13, R17, R19 and R26) and various secured documents, including most relevantly the Design Principles Document, the ExA concludes that the proposed development complies with relevant policy and guidance on Good Design. **Therefore, the ExA considers that there are no matters relating to Good Design which would weigh for or against the Order being made.**

### **Other projects and proposals**

- 10.3.135. The ExA concludes that the ES provides information on how the effects of the Applicant's Proposed Development would combine and interact with the effects of other development (including projects for which consent has been sought or granted, as well as those already in existence) and that information on the accumulation of, and interrelationship between, effects might affect the environment, economy or community as a whole. The Proposed Development complies with NPS EN-1 in this respect and with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA regulations).
- 10.3.136. Furthermore, the Proposed Development also complies with the Welsh National Marine Plan and the ExA accepts that separate assessments were not required for Mona and Morgan (or the PAWE areas) and that such assessments would not be reasonably possible – or the information that they would have provided may not be sound due to the limited availability of information in the public domain. The ExA therefore considers that the proposal also complies with PAN17.
- 10.3.137. **On the basis of the information available at the close of the Examination, the ExA considers that there are no matters relating to other projects and proposals which would weigh for or against the Order being made on.**

### **Alternatives**

- 10.3.138. Site selection processes are important and relevant considerations only in so far as they form part of an element of the consideration of alternatives that is required to be carried out. All questions asked by the ExA were answered satisfactorily and the responses to queries regarding cable options and inter linkages with Gwynt y Môr and Rhyl Flats (in respect of distance apart) were reasonable.
- 10.3.139. The ExA is satisfied that no alternative locations or sites exist for the offshore wind farm array that would present a feasible alternative solution.
- 10.3.140. The ExA is satisfied that the consideration of alternatives has been sufficient to inform any need to engage the 'no alternatives' test of the Habitats Regulations and has been sufficient for EIA purposes to enable site avoidance and or mitigation in relation to environmental, biodiversity, flood risk and geological significance. All relevant due processes have been carried out.
- 10.3.141. **The ExA considers that there are no matters relating to project description, site selection and alternatives which would weigh for or against the Order being made.**

## **10.4. OVERALL CONCLUSIONS ON THE CASE FOR DEVELOPMENT CONSENT**

- 10.4.1. This chapter summarises the benefits and disbenefits of the Proposed Development. The purpose of this section is to consider them together to reach a recommendation as to whether the case is made for granting development consent.
- 10.4.2. The Proposed Development would meet relevant Government policy set out in NPS EN-1, NPS EN-3, and NPS EN-5. As a matter of law, a decision on the application in accordance with any relevant NPS (PA2008 S104 (2) (a) and S104(3)) also indicates that development consent should be granted unless a relevant consideration arising from the following subsections of PA2008 (S104 (4) to (8)) applies.
- 10.4.3. Regard has been paid to the LIR (PA2008 s104(2)(b), to prescribed matters (PA2008 s104(2)(c)) and to all other important and relevant policy (including but not limited to the Development Plan) and to other important and relevant matters identified in this Report (PA2008 s104(2)(d).
- 10.4.4. The Proposed Development would provide extensive benefits at the national scale, for both Wales and the wider UK, and would provide significant renewable energy generation capacity, providing clear energy for approximately 500,000 homes and meeting approximately 6% of Wales' electricity consumption, contributing towards Wales' target of 70% renewables by 2030, and the UK's deployment target of 50 GW by 2030 [REP8-083].
- 10.4.5. The Proposed Development would have a capacity of a minimum of 550MW [APP-299] and would make a substantial contribution towards the delivery of renewable energy. Given the scale and urgency of the need for renewable energy the ExA gives very substantial weight to such benefits for the Order being made. Moderate weight is also apportioned to the socioeconomic benefits of the Proposed Development and to the proposed landscape enhancement scheme (secured by R26 of the rDCO).
- 10.4.6. On the other hand, a range of negative impacts of the Proposed Development have been identified. Substantial weight is given to harm which would be caused to seascape, landscape and visual matters from the offshore works and moderate weight to harm caused to the historic environment and to landscape and visual matters by the onshore works. Harm would also be caused in matters of offshore ornithology, marine mammals, biodiversity, ground conditions and land use, marine (natural) matters, public health and nuisance, tourism and recreation, and traffic and transport. For these latter subjects limited weight has been ascribed, largely due to the mitigation measures identified and adequately secured within the rDCO and the ML.
- 10.4.7. When considering all matters in the round the ExA considers that the very substantial benefits of the Proposed Development scheme, primarily in terms of both the scale and the national need for the urgently required renewable energy that the Proposed Development would provide, but also in terms of local socioeconomic benefits, are sufficient to outweigh the negative impacts that have been identified in relation to the construction and operation of the Proposed Development at the local/regional scale. The harm identified is substantial but the very substantial benefits of the Proposed Development in addressing the need for renewable energy development identified in NPS EN-1 would outweigh those effects.

- 10.4.8. With respect to the PA2008 s104(7) the ExA therefore finds that the benefits of the Proposed Development would outweigh its adverse impacts and the ExA recommends that, for the reasons set out in the Report, the SoS should grant development consent.

# 11. COMPULSORY ACQUISITION AND RELATED MATTERS

## 11.1. INTRODUCTION

11.1.1. The application includes proposals for the compulsory acquisition (CA) and temporary possession (TP) of land and rights over land, relating to the proposed onshore works. The Applicant is seeking these powers to:

- acquire land permanently within the Order limits;
- temporarily possess land within the Order limits;
- acquire existing rights and restrictive covenants over some of the land within the Order limits (AH check);
- extinguish existing rights and restrictive covenants over some of the land within the Order limits;
- create new rights and restrictive covenants over some of the land within the Order limits; and
- temporarily suspend existing rights and restrictive covenants over some of the land within the Order limits,

in order to construct, operate and maintain the Proposed Development or to facilitate it, or for purposes incidental to it.

11.1.2. This Chapter records how those proposals and related issues were examined.

## 11.2. LEGISLATIVE REQUIREMENTS

11.2.1. The application includes a request for CA and TP powers. The source of those powers is contained in the Applicant's preferred draft Development Consent Order (dDCO) submitted at the end of the Examination [AS-053]. All further references to the dDCO in this Chapter relate to this version.

11.2.2. The CA powers can only be granted if the conditions set out in s122 and s123 of the Planning Act 2008 (PA2008), together with relevant guidance in "*Guidance Related to Procedures for the Compulsory Acquisition of Land*", DCLG, September 2013 (the former Department for Communities and Local Government) (DCLG CA Guidance) are met.

11.2.3. Section 122(2) of PA2008 states that the land subject to CA must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. In respect of land required for the development, the DCLG CA Guidance sets out that the land to be taken must be no more than is reasonably required for the purposes of the development, is no more than is reasonably necessary and is proportionate.

11.2.4. Section 122(3) of PA2008 requires that there must be a compelling case in the public interest to acquire the land compulsorily. The DCLG CA Guidance states at paragraphs 12 and 13 that the Secretary of State (SoS) will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the CA will outweigh the private loss that would be suffered by those whose land is to be acquired. In balancing public interest against private loss, CA must be justified in its own right.

11.2.5. Section 123 of PA2008 relates to land to which authorisation of CA can cover. S123(1) permits CA if one of the following conditions in subsections (2) to (4) is met:

(2) a request was made for CA; (3) that all persons with an interest in the land consent to the inclusion of the provision; or (4) the prescribed procedure has been followed in relation to the land. In the case of the current application the first of these conditions is met. The DCLG CA Guidance also sets out a number of general considerations to be addressed when CA powers are sought. These are that:

- all reasonable alternatives to CA (including modifications to the development) have been explored;
- the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate;
- the Applicant has a clear idea of how the land which it is proposing to acquire will be used;
- there is a reasonable prospect of the requisite funds becoming available; and
- the purposes for which the CA of land are included in the application are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.

- 11.2.6. Finally, paragraph 25 of the DCLG CA Guidance states that applicants should seek to acquire land by negotiation wherever practicable.
- 11.2.7. S130 of PA2008 relates to National Trust (NT) land. S131 of PA2008 applies to the CA of common land, open space or fuel or field garden allotments and s132 applies to the CA of rights over such land. Such land and NT land is defined as 'special category land' under Regulation 2 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations). In all these cases PA2008 indicates that an order granting development consent would be subject to special parliamentary procedure unless the SoS is satisfied that one of the relevant subsections applies and that fact is recorded in the Order. Special Category Land is considered later in this section and is relevant for s132 of PA2008 only.
- 11.2.8. S127 of PA2008 applies to land acquired by a statutory undertaker (SU) for the purpose of their undertaking where a representation is made about the application for the DCO and not withdrawn. S127(5) states that an order granting development consent may include provision authorising the creation of a new right over SUs' land providing that it can be done without serious detriment to the carrying out of the undertaking or any detriment can be made good by the undertaker.
- 11.2.9. In line with S135 of PA2008, an order granting development consent may include provision authorising the CA of an interest in Crown land only: i) if the interest is held by or on behalf of the Crown; and ii) that the appropriate Crown authority consents to the acquisition.
- 11.2.10. S138 of PA2008 provides for an order to include provision for the extinguishment of the relevant rights, or the removal of the relevant apparatus of SUs only if the SoS is satisfied that such actions are necessary for the purposes of carrying out the development to which it relates.
- 11.2.11. Further to Part 1 of Schedule 5 to PA2008, TP powers are capable of being within the scope of a DCO. PA2008 and the DCLG CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as for CA powers because, by definition, such powers do not seek to permanently deprive or amend a person's interests in land. However, they must be justifiable and compatible with human rights tests as discussed below.

- 11.2.12. The Neighbourhood Planning Act 2017 (NPA2017) has been enacted and contains provisions which amount to a codification of new TP practice. In recognition of the greater extent to which TP is being sought by scheme promoters and of the extended durations to which TP can be sought, the NPA2017 provisions in general terms provide for enhancements to the rights of Affected Persons (APs) subject to TP, with a view to ensuring that they have equivalent or proportionate rights to notice and relevant compensation to those already available to APs subject to CA. However, at the date of submission of this Report to the SoS, the relevant provisions had not yet commenced.

### **11.3. THE REQUEST FOR CA AND TP POWERS**

- 11.3.1. The application dDCO [APP-018] and all subsequent versions submitted by the Applicant up to the latest dDCO (Revision O) [AS-053] submitted at the end of the Examination include provisions intended to authorise the CA of land and rights over land. The application thus included a request for CA as per s123(2). Powers for the TP of land were also sought.
- 11.3.2. Accordingly, the application was accompanied by a Book of Reference (BoR) [APP-023], a Statement of Reasons (SoR) [APP-021], a Funding Statement (FS) [APP-022], Onshore Land Plan [APP-009], Crown Land Plan [APP-015], Special Category Land Plan [APP-008], Street Works and Access Plan [APP-011], Temporary Stopping Up of Public Rights of Way Plans [APP-012] and Works Plan [APP-010]. Taken together, these documents describe the land sought by the Applicant together with the reasons why the land is required and the basis under which compensation would be funded.
- 11.3.3. The Examination and the Applicant's due diligence processes led to changes to some of this documentation. By the close of the Examination, the most up-to date versions were as follows:
- BoR (Revision I) submitted at D8 [REP8-025];
  - SoR (Revision G) submitted at D8 [REP8-019];
  - FS (Revision C) submitted at D7 [REP7-030];
  - Onshore Land Plan (Revision E) submitted at D6 [REP6-028];
  - Crown Land Plan (Revision D) submitted at D6 [REP6-034];
  - Special Category Land Plan (Revision D) submitted at D6 [REP6-027];
  - Street Works and Access Plan (Revision D) submitted at D6 [REP6-030];
  - Temporary Stopping Up of Public Rights of Way Plan (Revision D) submitted at D6 [REP6-031]; and
  - Works Plan (Revision D) submitted at D6 [REP6-029].
- 11.3.4. References to the BoR, SoR, FS, Onshore Land Plans, Crown Land Plans, Special Category Land Plans, Street Works and Access Plans, Temporary Stopping up of Public Rights of Way Plans and Works Plans in this Chapter from this point should be read as references to the latest revisions cited above. It should be particularly noted that all Land Plan plot references employed in this Chapter are correct as per the most recently submitted version [REP6-028].
- 11.3.5. In addition to the above documents, the Applicant provided a BoR Schedule of Changes, which was updated during the course of the Examination, with the final version submitted at D8 [REP8-027].
- 11.3.6. Land over which CA and / or TP powers are sought is referred to in this Chapter as the Order land.

## **Proposed changes**

- 11.3.7. There were no formal requests made for any changes to the Application.
- 11.3.8. During the course of the Examination, the Applicant removed Plots 26 and 69a from the Order land as they were no longer considered to be required. This is recorded in the BoR Schedule of Changes [REP8-027] and had no material implications for the Application. Relevant plans were also updated to reflect the removal of these plots from the Order land.

## **11.4. THE PURPOSE FOR WHICH LAND IS REQUIRED**

- 11.4.1. The relevant Order land and purposes for which the CA and TP powers are required are set out in the BoR [REP8-025] and SoR [REP8-019].
- 11.4.2. CA is sought for land that would be required or used permanently for the construction, operation and maintenance of the Proposed Development. The main powers authorising the CA of land are contained in Article (Art) 18 (compulsory acquisition of land). This article would allow the undertaker to acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or is incidental to it, subject to the provisions of Art 19 (time limit for exercise of authority to acquire land compulsorily), Art 20 (compulsory acquisition of rights and imposition of restrictive covenants) and Art 27 (temporary use of land for carrying out the authorised development).
- 11.4.3. Art 19 would limit the time allowed for exercising CA (and TP) powers to seven years from the day the Order is made.
- 11.4.4. Art 20 would limit the undertaker's powers of CA to acquire only the rights or impose only the restrictive covenants specified in Schedule 7 of the dDCO relating to the Order land also specified in this schedule.
- 11.4.5. Art 27 would allow the undertaker to enter on and take possession of land set out in Schedule 6 of the dDCO, in order to facilitate the construction of the authorised development. The article would time limit such possession to one year after the date of completion of the relevant part of the authorised development. Art 27 would also prevent the undertaker from acquiring compulsorily this land or rights over this land or imposing restrictive covenants over this land.
- 11.4.6. Art 31 makes provision to prevent the Applicant exercising CA powers until guarantees or alternative forms of security in respect of the liabilities to pay compensation are in place and have been approved.
- 11.4.7. The Land Plans [REP6-028] reflect the above and identify the following:
- Land shaded pink - permanent CA of land;
  - Land shaded blue - CA of rights and TP of land; and
  - Land shaded yellow - TP of land only.
- 11.4.8. Other CA powers sought by the Applicant include Art 22 which provides for the extinguishment of all existing private rights over land subject to CA and suspension of those rights over land subject to TP, as necessary, and Art 24 which allows the Applicant to acquire the subsoil beneath the land, as required. Art 26 would allow the Applicant to enter on, appropriate and use land above and below streets in the Order limits without having to acquire any part of the street or easement right in it.



- 11.4.9. Art 28 provides for the Applicant to take TP of land within the Order limits required for the purpose of maintaining the authorised development and to construct such temporary works as may be reasonably necessary for that purpose. This general power would be allowed during the period which the authorised development exports electricity to the national electricity transmission network. However, any TP would be time limited for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.
- 11.4.10. Art 29 and Art 30 address the CA of SUs' land, including powers to remove or reposition apparatus belonging to SUs.
- 11.4.11. CA of interests in Crown land is sought. Part 4 of the BoR [REP8-025] identifies the plots within which the Crown has an interest, and these are shown on the Crown Land Plans [REP6-034]. The BoR identifies that the land is held by the following relevant Crown authorities: The King's Most Excellent Majesty In Right Of His Crown (The Crown Estate); the Secretary of State (SoS) for Wales; the Welsh Ministers; and the National Assembly for Wales. Art 37 includes a provision for the CA of Crown interests. This is discussed further below.
- 11.4.12. The route of the Proposed Development would also require the CA of rights and TP of land which falls into 'special category land' (defined as land forming part of NT land, a common, open space, or fuel or field garden allotment). Part 5 of the BoR and the Special Category Land Plan [REP6-027] identifies the plots that fall within this category. These plots are identified / defined as 'open space' and are subject to s132 of PA2008.

## 11.5. EXAMINATION OF THE CA AND TP CASE

- 11.5.1. The examination of the application included consideration of all submitted written material relevant to CA and TP with the processes involved is described below.

### **Written process**

- 11.5.2. Of the 60 Relevant Representations (RRs) received, the following were from parties affected or potentially affected by CA or TP (Affected Persons or APs), including statutory undertakers:

- Denbighshire County Council (DCC) [RR-001];
- SP Energy Networks (SPEN) on behalf of (o.b.o) SP Manweb Plc (SPM) [RR-013];
- National Grid Electricity Transmission Plc (NGET) [RR-014];
- Natural Resources Wales (NRW) [RR-015];
- The Crown Estate (TCE) [RR-016];
- Diamond Transmission Corporation (parent company of Diamond Transmission Partners BBE) [RR-017];
- Memoria Ltd [RR-030 and RR-031];
- Wilson Fearnall o.b.o GBL and IM Kerfoot Discretionary Trust [RR-037];
- Davis Meade Property Consultants (DMPC) o.b.o Mr JB and Mrs E Evans [RR-038];
- DMPC o.b.o Mr HG & Mrs ME Hughes [RR-039];
- DMPC o.b.o The Estate of the Late Mr Wynford Davies [RR-040];
- DPMC o.b.o Mr AEM (Arthur Elwy Morris) Owen [RR-041];
- Rostons on behalf of (o.b.o) Mr Ivor Beech [RR-042];
- Rostons o.b.o Mr Hugh Wynne-Davies [RR-043];

- Rostons o.b.o The Executor of the Estate of the Late George Edward Brookes [RR-044];
- Rostons o.b.o Kelly Proffitt [RR-045];
- Rostons o.b.o Toni Mayne [RR-046];
- Rostons o.b.o of Helen Owen Proffitt [RR-047];
- Rostons o.b.o of Richard David Proffitt [RR-048];
- Rostons o.b.o Rachel Georgina Hughes [RR-049];
- Rostons o.b.o Sandra Archdale [RR-050];
- Rostons o.b.o Janet Johnson [RR-051]; and
- Martin Griffiths [RR-054].

11.5.3. Other APs who made written submissions during the course of the Examination included:

- Network Rail Infrastructure Ltd (NRIL) (or Eversheds Sutherland (International) LLP o.b.o NRIL) [AS-038, REP1-081, REP1-082, REP3-027 and REP8-014];
- Dŵr Cymru / Welsh Water (DC) [REP1-058 to REP1-061]
- Ethan Homer [AS-044];
- Charlotte Bowers [AS-050];
- Amy Evans (and Martin Griffiths) [REP6-051 and REP8-113];
- Carter Jonas LLP o.b.o the Trustees of the Bodrhyddan Estate Maintenance Fund and the Bodrhyddan Farming Company Ltd [AS-048]

11.5.4. The ExA's first written questions (ExQ1) [PD-009] included questions relevant to the Applicant's case for CA and TP. ExQ1 also requested the Applicant to complete a Compulsory Acquisition Schedule (CA Schedule) taking account of the positions expressed in RRs and to update this during the course of the Examination. Additionally, the Applicant was asked to prepare and to update as required, tables identifying and responding to any representations made by SUs with land or rights to which PA2008 s127 and s138 apply.

11.5.5. The Applicant provided a Table of Compulsory Acquisition and Temporary Possession Objections (CA Schedule) at D1 [REP1-012], with a final version submitted at D8 [REP8-023]. This included information on relevant statutory undertakers (SU). The Applicant also provided a document titled Update on Negotiation with Landowners, Occupiers and Statutory Undertakers and Other Utilities (Negotiations Document) at D1 (Appendix C of [REP1-007]), with a final version submitted at D8 [REP8-021].

## **Hearings**

11.5.6. Whilst no APs specifically requested one, a Compulsory Acquisition Hearing (CAH1) was held on 28 February 2023 [EV-019 to EV-028] where parties subject to CA and TP proposals could be heard. The hearings were held to orally examine any objections, the Applicant's case for CA and TP powers and to seek updates on negotiations. Matters relating to SUs and protective provisions were discussed at CAH1 and, as necessary, at ISH1 on 21 September 2022 [EV-010 to EV-014b] and ISH4 on 1 March 2023 [EV-020 and EV-029 to EV-036].

## **Site Inspection**

11.5.7. Unaccompanied Site Inspections (USI) [EV-001 to EV-004d] enabled the ExA to view much of the land subject to CA and TP proposals from public highways and public rights of way. The ExA was also able to gain an appreciation of the general extent of land being sought to be acquired permanently and temporarily during USI.

In addition, an Accompanied Site Inspection (ASI) [PD-012] enabled the ExA to view more of the land subject to CA and TP proposals.

### **General consideration**

- 11.5.8. The Applicant's general case for CA and TP is set out in the SoR [REP8-019]. The Applicant considers that:
- the conditions in s122 of PA2008 are met and the tests in the DCLG CA Guidance are satisfied;
  - all of the land subject to CA and TP powers is necessary to construct, operate, maintain and mitigate the Proposed Development and is necessary to achieve its objectives;
  - extent of the land sought for CA and TP is reasonable and proportionate and is no more than is reasonably required for the purposes of the Proposed Development;
  - the Applicant has a clear idea of how it intends to use the land which would be subject to CA and TP;
  - all reasonable alternatives to CA (including modifications to the Proposed Development) have been explored;
  - the Applicant has engaged with all Affected Persons with a view to acquiring land interests by agreement and is continuing this process;
  - there is the necessary funding available;
  - the exercise of the CA and TP powers that are sought is necessary and proportionate to the extent that interference with private land and rights is required;
  - in the absence of CA and TP powers, it would not be possible to proceed with the Proposed Development, and the public benefits of the Proposed Development would not be realised; and
  - there is a compelling case in the public interest to include the CA and TP powers sought by the Applicant in the DCO; and
  - the interference with human rights is both proportionate and justified.
- 11.5.9. The ExA's first written questions (ExQ1) [PD-009] included questions relevant to the Applicant's case for CA and TP, including justification of the need for the acquisition / possession of specific plots of land and the extent of land within each plot. The ExA also asked the Applicant how and to what extent CA and TP had been taken into account in the consideration in alternatives. The ExA also asked further written questions (ExQ2 [PD-015] and ExQ3 [PD-017]) relevant to the Applicant's case for CA / TP and explored this further at CAH1 [EV-019 and EV-021 to EV-028]. Matters which were addressed included, amongst other things, justification for the width of the cable corridor, the selection of the cable corridor route through certain plots, the need for flexibility, the approach to trenched or trenchless crossings, the degree of TP of land associated with Rhyl Golf Club, the size of Plot 417 where the proposed onshore substation and associated ecological, landscape and drainage works would be located, the sizes and locations of temporary construction compounds, the need for and location of temporary ecological mitigation areas and the need to include the degree of land within the Order limits as proposed relating to the potential future extension of the NGET Bodelwyddan substation to the south of St Asaph Business Park (on the basis that this does not form part of the application).
- 11.5.10. Consideration of alternatives is provided in ES Volume 1, Chapter 4: Site Selection and Alternatives [APP-044] and provides the scheme evolution, including the options considered, and the reasons for their rejection in favour of the preferred option. The Consultation Report [APP-024 to APP-026] and the Planning Statement

[REP8-083] also provide information on alternatives. None of the alternative options would obviate the need for CA and TP and the cable route and substation location has taken into account viability and technical issues and the findings of environmental assessments to avoid, reduce or mitigate potentially adverse impacts where possible. Moreover, the scope of the CA and TP powers is limited to that which is necessary. In addition, the Applicant has demonstrated, through the CA Schedule [REP8-023] and Negotiations Document [REP8-021], that it has made adequate efforts to seek voluntary agreements with APs. Chapter 9 of this Report considers site selection and alternatives in greater detail and concludes that the Applicant's approach to this matter is appropriate and acceptable.

- 11.5.11. The SoR [REP8-019] provides the justification for the CA or TP for each plot identified on the Land Plan [REP6-028] and the Works Plan [REP6-029] demonstrates that the Applicant has a clear idea of how it intends to use the land which would be subject to CA and TP. The Applicant has sought to achieve a balance between minimising land take and securing sufficient land to ensure delivery of the Proposed Development, noting that the detailed design is yet to be developed and some flexibility is required. If less land proves to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the land that is required. The CA powers are also required to override any existing rights and interests in land, in so far as their continuance would be inconsistent with the Proposed Development, as well as grant the right to take TP of land for construction and maintenance purposes. Without these rights the Proposed Development could not be delivered. The Applicant has thus sought to ensure that land to be taken is reasonable and proportionate and is the minimum necessary.
- 11.5.12. The SoR [REP8-019] states that the Applicant has undertaken a thorough and diligent land referencing and investigatory exercise to identify land interests. In response to ExQ1, the Applicant also provided details of the land referencing methodology used (Appendix P of [REP1-007]), which included: initial Land Registry searches of the Order land; ongoing Land Registry searches to capture any changes in title; reviews of registered titles and plans; checks through UK and foreign Companies House websites; use of letters, questionnaires, site notices and site visits to gather further information, including in respect of any 'unknown' land interests; follow-up letters, emails and telephone calls where necessary; and the use of various sources of mapping information and information available from relevant organisations.
- 11.5.13. The Applicant highlighted, in response to ExQs, that the large number of unknown occupier interests in the BoR associated with Plots 96, 97 and 98 (at Lyons Robin Hood Holiday Camp) had arisen as a result of the land use as a caravan park and that caravans are leased on a short-term basis. The Applicant also highlighted that it had made reasonable endeavours to identify these occupiers through the hand delivery of land interest questionnaires and statutory notices to the caravan park reception and the erection of site notices at the entrance to the caravan park. At CAH1, the Applicant pointed out that the rights sought were unlikely to have any impact on caravans as they would not need to be moved to install cables below ground, given the use of trenchless techniques in this area (as set out in the Crossing Schedule [APP-121] and outline Onshore Construction Method Statement [REP7-020]), and no active use would be disrupted [REP8-006].
- 11.5.14. In term of demonstrating a compelling case in the public interest for the acquisition of land and rights, the Applicant highlights in the SoR [REP8-019] and Planning Statement [REP8-083] that the Proposed Development:

- would make a significant contribution to meeting national need for energy infrastructure, including of the renewable type proposed, in accordance with policy set out in National Policy Statement (NPS) EN-1.
- would, by providing enough electricity for approximately 500,000 households, greatly assist with achieving energy security, at the same time as dramatically reducing greenhouse gas emissions.
- would contribute to the delivery of the 30GW of renewable energy envisaged in NPS EN-1 and the ambition to deliver 50GW of offshore wind by 2030 as set out in the UK Government's April 2022 Energy Security Strategy.
- would contribute to meeting national, European and global targets on carbon dioxide reduction in line with the Climate Change Act 2008.
- would contribute to meeting policy objectives for the UK to transition to a lower carbon economy.
- would contribute to mitigating climate change, with subsequent benefits for biodiversity.
- would contribute to the economy, both nationally and locally, through job creation, skills and training opportunities and increases in off-peak tourism; and
- would provide landscape enhancements to offset harm to designated landscapes (including Anglesey Area of Outstanding Natural Beauty and Eryri National Park).

11.5.15. Having regard to the above and to the Applicant's responses to the ExA's written questions and discussions at CAH1, the ExA is satisfied with the Applicant's conclusions on the generality of the case. However, the overarching conclusion on CA and TP cannot be reached until any individual objections and all other relevant and important considerations have been addressed.

### Consideration of Individual Objections and Issues

11.5.16. This section sets out the ExA's consideration of objections or issues raised by APs (individuals and statutory parties) and SUs in respect of CA and / or TP and the Applicant's responses to those. It sets out the AP's name, the general location of the land interests and the identification of plots subject to CA of land, CA of rights and TP of land; or TP of land only (as shown on the Onshore Land Plans [REP6-028] in pink, blue and yellow respectively).

### DCC

#### Land throughout the Order limits

- **CA of land:** Plot 416
- **CA of rights and TP of land:** Plots 1, 8, 11, 14, 28, 29, 30, 31, 32, 33, 34, 35, 36, 41, 42, 48, 51, 53, 55, 56, 58, 61, 63, 66, 76, 78, 82, 83, 87, 89, 90, 91, 125, 131, 135, 136, 140, 142, 143, 151, 153, 154, 155, 156, 157, 158, 162, 177, 178, 179, 180, 186, 187, 196, 198, 199, 200, 213, 214, 216, 217, 222, 225, 226, 233, 235, 238, 239, 240, 241, 242, 244, 250, 260, 262, 263, 281, 288, 291, 293, 296, 298, 299, 300, 302, 304, 305, 309, 316, 318, 319, 320, 321, 322, 337, 344, 355, 360, 371, 374, 376, 380, 381, 382, 383, 384, 386, 387, 388, 389, 390, 393, 394, 398, 400, 401, 402, 418, 419, 420, 421, 422, 423, 425, 426, 429, 430, 431, 432, 440, 444, 446, 448, 457, 458, 462, 468, 491 and 496
- **TP of land only:** Plots 2, 3, 4, 5, 6, 7, 9, 10, 13, 15, 18, 19, 20, 21, 22, 23, 24, 25, 27, 37, 38, 39, 40, 43, 44, 45, 46, 47, 49, 50, 52, 54, 57, 59, 60, 62, 64, 65, 67, 68, 69, 70, 71, 72, 73, 74, 75, 79, 81, 84, 85, 86, 88, 92, 93, 95, 172, 197, 210, 211, 212, 215, 219, 223, 224, 227, 228, 229, 230, 232, 234, 283, 284, 289, 290, 310, 311, 312, 313, 315, 323, 325, 326, 327, 329, 330, 332, 333, 338, 340, 342, 343, 345, 370, 404, 424, 441, 443, 449, 450, 451, 455, 493 and 499

**Interests:** Category 1 including as landowner / lessee / occupier; Category 2 including in respect of access or bridleways; and Category 3.

**Status summary:** No formal objection to CA / TP

- 11.5.17. The SoR [REP8-019] sets out that the purposes for the powers sought for the CA of land include: for the development of the OnSS; fencing; creation of new access; landscaping; ecological works; and the ongoing maintenance and management of landscaping and ecological works.
- 11.5.18. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for safe operational access with suitable visibility; for access to facilitate construction; for temporary construction compound; for temporary working areas; for mitigation purposes; and for access to the National Grid substation.
- 11.5.19. DCC submitted a RR [RR-001] identifying that it was the host authority for the onshore works and that it was reviewing the application documents with the intention to make more detailed representations at a later date. DCC's RR noted that its concerns during the pre-application stage had included the landfall interaction with coastal defences and Rhyl Golf Course and operational impacts associated with the onshore substation in terms of visual amenity and landscape character, including cumulative effects, and the setting of heritage assets. CA / TP matters were not referred to in DCC's RR. DCC's LIR [REP1-056] set out further details of its concerns surrounding the Proposed Development, though with no reference to CA / TP matters. In all other DCC submissions [REP3a-020, REP5-046, REP7-051 and REP7-052], CA / TP was not raised as a concern. Nor was CA / TP raised as a concern by DCC at CAH1 [EV-019 and EV-021 to EV-028]. Furthermore, the Statement of Common Ground (SoCG) (relating to onshore works) between the DCC and the Applicant [REP7-049] does not identify CA / TP as a matter in dispute. It follows that the ExA does not consider that DCC is objecting to CA or TP.
- 11.5.20. The matters raised by DCC have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.21. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that the Applicant issued Heads of Terms to DCC on 10 March 2023 which were understood by the Applicant to be in an agreed final form. The Applicant intends to continue to engage with DCC with a view to concluding a voluntary agreement.
- 11.5.22. Should voluntary negotiations not be completed, the ExA is satisfied that the powers sought for the CA / TP in respect of all plots in which DCC has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

## **Memoria Ltd**

### **Land in the vicinity of Denbighshire Memorial Park and Crematorium (the Crematorium)**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 431, 438, 439, 445 and 447
- **TP of land only:** Plot 442

**Interests:** Category 1 including as owner of subsoil; Category 2 including in respect of access or maintenance; and Category 3.

**Status summary:** No formal objection to CA / TP

- 11.5.23. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for safe operational access with suitable visibility; for access to facilitate construction; to improve visibility splays; and for mitigation purposes.
- 11.5.24. Memoria Ltd, owner of the Crematorium, submitted a RR [RR-030] raising a concern around the Applicant looking to occupy the Crematorium site during construction. Memoria Ltd notes in its RR that the Crematorium is an important and frequently used public service facility, the use of which is sensitive and requires a peaceful, tranquil environment to operate. It is further noted that the ground around the crematorium is consecrated given that cremated remains are buried across the site. Memoria Ltd considers that with this in mind, the route planned for the Proposed Development should be diverted away from the Crematorium. A RR was also submitted by Genesis Town Planning on behalf of Memoria Ltd [RR-031] which included concerns around impacts on the operation of the Crematorium and its users from noise and disturbance associated with construction traffic along Glascoed Road and vehicles using a proposed access route within in a field adjacent to the Crematorium for operational maintenance purposes. Some alternative routes to these were suggested. Neither of the RRs specifically referred to CA / TP and it follows that the ExA does not consider that Memoria Ltd is specifically objecting to CA or TP.
- 11.5.25. The matters raised by Memoria Ltd have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.26. The CA Schedule [REP8-023] sets out that the interest of Memoria Ltd in Plot 431 relates to a subsoil interest within the confines of the public adopted highway and that the rights sought over this plot, in respect of the creation of permanent visibility splays, would not interfere with this interest. With regards to the other plots, which lie to the south of the Crematorium site, Memoria Ltd enjoys a right of access over them. The CA Schedule [REP8-023] sets out that the Applicant does not intend to interfere with these rights in the course of exercising the rights sought over these plots. In response to ExQ2 [PD-015], the Applicant clarified [REP5-004] that this would be the case throughout all stages of the Proposed Development, including during its construction. The ExA has no substantive reasons to consider otherwise. None of the plots within which Memoria Ltd hold an interest form part of the active Crematorium site.
- 11.5.27. The ExA is satisfied that the powers sought for the CA of rights and TP of land in respect of all plots in which Memoria Ltd has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

### **Rostons o.b.o Mr Raymond Ivor Beech**

#### **Land in the vicinity of Abergele Road and in the vicinity Bodelwyddan Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 275, 278, 280, 285, 286, 287 and 291
- **TP of land only:** Plots 274, 276, 277, 279, 282, 284, 289, 325, 326, 327, 328 and 329

**Interests:** Category 1 including as landowner / owner of subsoil; Category 2 in respect of access, right of way, drainage and a right to pass for agricultural purposes; and Category 3.

**Status summary:** No formal objection to CA / TP

- 11.5.28. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; for a temporary construction compound; and for temporary working areas.
- 11.5.29. Rostons o.b.o Mr Raymond Ivor Beech submitted a RR [RR-042] raising concerns around the amount of the land that Mr Raymond Ivor Beech occupies and farms which would be affected during construction and operation with resulting effects on production and food security. Concerns were also raised around construction traffic causing congestion on the A525 and human health matters in respect of the proximity of construction compounds to residential properties. The RR did not specifically refer to CA / TP matters and no further submissions were made in respect of Mr Raymond Ivor Beech.
- 11.5.30. The matters raised by Rostons o.b.o Mr Raymond Ivor Beech have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.31. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that Heads of Terms were agreed in principle between the Applicant and Rostons o.b.o Mr Raymond Ivor Beech on 13 January 2023, that the Applicant has dealt with queries raised in the interim and that signed Heads of Terms were anticipated by the end of March. The Applicant intends to continue to engage with Rostons o.b.o Mr Raymond Ivor Beech with a view to concluding a voluntary agreement.
- 11.5.32. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Mr Raymond Ivor Beech has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

### **Rostons o.b.o Mr Hugh Wynne-Davies**

#### **Land between the railway and Dyserth Road, land to the east of the A525 / A547 and land to the west of the A525**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 100, 101, 102, 103, 105, 106, 114, 115, 116, 118, 125, 126, 129, 131, 189, 190, 191, 192, 193, 194, 196, 198, 199, 201, 202, 209, 213, 246, 247, 250, 252, 253, 254, 255 and 256



- **TP of land only:** Plots 104, 107, 108, 109, 110, 111, 112, 119, 120, 121, 127, 128, 195, 197, 248, 249 and 251

**Interests:** Category 1 including as landowner / owner of subsoil / occupier; Category 2 including in respect of access and drainage; and Category 3

**Status summary:** No formal objection to CA / TP

- 11.5.33. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for the installation and retention of transition joint bays; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; for a temporary construction compound; for temporary working areas; and for mitigation purposes.
- 11.5.34. Rostons o.b.o Mr Hugh Wynne-Davies submitted a RR [RR-043] raising concerns around the amount of agricultural land to be acquired, particularly in relation to construction compounds, and resulting impacts on food security. The RR highlighted that land should be returned in a proper and productive condition. Concerns were also raised around additional traffic using Dyserth Road and highway safety as a result. The RR did not specifically refer to CA / TP matters and no further submissions were made in respect of Mr Hugh Wynne-Davies.
- 11.5.35. The matters raised by Rostons o.b.o Mr Hugh Wynne-Davies have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.36. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that Heads of Terms were agreed in principle between the Applicant and Rostons o.b.o Mr Hugh Wynne-Davies on 13 January 2023, that the Applicant has dealt with queries raised in the interim and that signed Heads of Terms were anticipated by the end of March. The Applicant intends to continue to engage with Rostons o.b.o Mr Hugh Wynne-Davies with a view to concluding a voluntary agreement.
- 11.5.37. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Mr Hugh Wynne-Davies has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

#### **DMPC o.b.o Mr JB and Mrs E Evans**

**Land associated with and in the vicinity of the proposed onshore substation site and Faenol Bropor farm**

- **CA of land:** Plots and 417
- **CA of rights and TP of land:** Plots 401, 402, 403, 407, 408, 409, 410, 412, 413, 415, 419, 425 and 432
- **TP of land only:** Plots 404, 405, 406, 411 and 414

**Interests:** Category 1 including as landowner / owner of subsoil / occupier.

**Status summary:** Objection to CA / TP

- 11.5.38. The SoR [REP8-019] sets out that the purposes for the powers sought for the CA of land include: for the development of the OnSS; fencing; creation of new access;

landscaping; ecological works; and the ongoing maintenance and management of landscaping and ecological works.

- 11.5.39. The SoR [REP8-019] sets out that the purposes for the powers sought for the CA of rights and TP of land include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for safe operational access with suitable visibility; for access to facilitate construction; for temporary working areas; for drainage; and for mitigation purposes
- 11.5.40. DMPC o.b.o Mr JB and Mrs E Evans submitted a RR [RR-038] raising concerns around: the viability of the Faenol Bropor agricultural enterprise as a result of the degree land acquisition and ancillary works; screening measures; and lasting effects on the retained property. In response to the ExA's first written questions (ExQ1) [PD-009], concerns around viability were expanded on [REP1-104], identifying that in excess of 54% (approximately 34ha) of land associated with the farm, which primarily supports livestock, would be subject to CA of land with a further 6% subject to temporary occupation and use, thus rendering the business unsustainable. Concerns were also raised that the amount of land subject to CA would be excessive, given that the onshore substation would occupy around 5ha and taking into account the norm for a 10% biodiversity net gain and the amount of land needed for screening purposes. The response also suggested landscape requirements of the dDCO were somewhat non-specific and coniferous species would be preferable to increase the screening effect between the substation and Faenol Bropor farmhouse. In addition, the response highlighted that appropriate land restoration, minimum cable depths, field access, water provision, appropriate field sizes and boundary reinstatement would be necessary for the retained farmland, and that it would be beneficial for ownership of part of a severed field to be retained in order to maintain a watercourse.
- 11.5.41. DMPC o.b.o Mr JB and Mrs E Evans also submitted a Written Representation (WR) [REP1-103] reiterating the above concerns, along with addressing other matters including long term landscape maintenance, drainage, gated access, private water supply, telephone cables, driveway access, surface intrusive apparatus, clarification of works and the Applicant's compliance with the Money Laundering and Terrorist Financing and Transfer of Funds (Information on the payer) Regulations 2017 (as amended). Submission [REP5-037] addressed some of these matters also.
- 11.5.42. DMPC o.b.o Mr JB and Mrs E Evans attended ISH3 [EV-018 to EV-018i] and CAH1 [EV-019 and EV-021 to EV-028] where the above concerns were raised and discussed further.
- 11.5.43. The matters raised by DMPC o.b.o Mr JB and Mrs E Evans have largely been considered in other chapters of this Report where necessary and relevant. Nonetheless, for ease of reference and given the substantive outstanding objection to CA / TP by this AP, the ExA's consideration of the matters, having had regard to the Applicant's responses to these [REP1-001, REP2-002, REP2-003, REP6-003, REP8-003 and REP8-037], along with the Applicant's responses to relevant written questions [REP1-007, REP5-004 and REP7-004] and discussions between the ExA, DMPC o.b.o Mr JB and Mrs E Evans and the Applicant at ISH3 and CAH1, are as follows:

- Viability - given the degree of permanent land take from the Faenol Bropor agricultural unit, the ExA considers that the effects on the business would be adverse and significant.
- Screening and long-term landscape maintenance - proposed woodland planting would assist with mitigating longer term adverse visual effects from Faenol Bropor and the rDCO and oLEMP make adequate provision for its establishment and long-term maintenance.
- Land restoration, appropriate field sizes, minimum cable depths, water provision, driveway access, telephone cables, field access, boundary reinstatement and management, drainage and surface intrusive apparatus - the rDCO and relevant environmental management documents make provision for appropriate land restoration; once restored, field sizes of retained land would be of a similar size; the Applicant has confirmed cables would be buried to the requested depths (at least 0.9m); the Applicant has made adequate provision for the ongoing non-potable water supply to Faenol Bropor from a well; cables would be installed under the driveway using trenchless techniques so access would not be affected; the rDCO includes protective provisions for telecommunications providers; the Applicant accepted that continued access to retained agricultural land was necessary, as was the installation and maintenance of new boundaries where necessary and these matters were subject to ongoing discussions - the ExA has no substantive reasons to consider that the matters could not be suitably resolved; the rDCO and outline drainage strategy make adequate provision for water management; and the specifics of any surface intrusive apparatus would be available at the detailed design stage and discussed with the landowner at the time, noting that this should be kept to a minimum and sited to cause least disruption to farming operations.
- Compliance with money laundering legislation - this is considered further in the Availability and Adequacy of Funds section below, with the ExA concluding that it has no material concerns in this regard.
- The amount of land to be subject to freehold acquisition (CA of land) (i.e. plots 416 and 417) - the ExA explored the need for all the land to be permanently acquired in considerable detail. The Applicant's principal reasons for acquiring this land are to enable the accommodation of the OnSS and access to it, the provision of ecological mitigation, the provision of landscaping to mitigate landscape and visual effects, the provision of drainage and water management, the provision of ecological enhancement in compliance with planning policy (as agreed with DCC and NRW) and to allow for the on-going maintenance of the landscape and ecological features. The Applicant highlighted that the size of the plots, particularly the extensive Plot 417, is necessary to allow for some flexibility for detailed design. Furthermore, by acquiring all the land in Plot 417, this would alleviate the potential for isolated or severed parcels of land with limited farming potential. The ExA is of the view that the need to compulsorily acquire the land within Plots 416 and 417 has been adequately demonstrated by the Applicant.

11.5.44. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that, with regard to CA of land, a meeting was held between the parties on 9 March 2023 where the latest proposed updates to the Heads of Terms were discussed. The Applicant believes the Heads of Terms to be substantively agreed subject to further discussion around commercial terms, enabling works indemnity and anti-money laundering procedures. With regard to CA of rights and TP of land, proposed updates to the Heads of Terms were discussed at the same meeting and updated Heads of Terms issued by the Applicant to DMPC o.b.o Mr JB and Mrs E Evans on 10 March 2023. The Applicant intends to continue to engage with DMPC o.b.o Mr JB and Mrs E Evans with a view to concluding a voluntary agreement.

11.5.45. Whilst DMPC o.b.o Mr JB and Mrs E Evans queried how they could be certain that reasonable voluntary negotiations would continue beyond the Examination period [REP8-126], this is not something which the ExA can control. Nonetheless, as evidenced in the CA Schedule [REP8-023] and Negotiations document [REP8-021], the Applicant has been proactive in negotiations during the Examination and highlighted during CAH1 that it was within their interest, as well as the landowners', to continue this process.

11.5.46. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of land and rights and TP of land in respect of all plots in which Mr JB and Mrs E Evans have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

**DMPC o.b.o Mr HG & Mrs ME Hughes**

**Land to the south of Glascoed Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 423, 425, 426, 427 and 435
- **TP of land only:** Plots 424, 433 and 434

**Interests:** Category 1 including as landowner / owner of subsoil / occupier.

**Status summary:** No formal objection to CA / TP

11.5.47. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for safe operational access with suitable visibility; for access to facilitate construction; for a temporary construction compound; for temporary working areas; and for mitigation purposes.

11.5.48. DMPC o.b.o Mr HG & Mrs ME Hughes submitted a RR [RR-039] noting concerns around the adverse impact of the proposed cabling works in respect of their land and associated reinstatement standards. In response to the ExA's first written questions (ExQ1 [PD-009]), the concerns were expanded on [REP1-102], identifying that the viability of the affected parts of the agricultural unit depends on the implementation of appropriate soil protection and land reinstatement standards, albeit with concerns over lasting disturbance regardless. The RR indicates that the land affected makes up a limited proportion of the entire agricultural unit, albeit that no specific percentage has been provided. Mention was made of previous utility schemes severely damaging soil structure. Minimum cable depths were highlighted as being important for carrying out certain operations, such as mole-ploughing.

11.5.49. DMPC o.b.o Mr HG & Mrs ME Hughes also submitted representations [REP1-101] and responses to ExQ2 [REP5-036] reiterating some of the above concerns, along with addressing other matters including reduced prospects for development potential, visibility splay requirement clarifications, potential tree loss and resulting implications for the Welsh Government Sustainable Farming Scheme and temporary field severance and resulting impact on ability to farm entire field area.

11.5.50. None of the representations made by DMPC o.b.o Mr HG & Mrs ME Hughes made specific reference to CA / TP.

11.5.51. The matters raised by DMPC o.b.o Mr HG & Mrs ME Hughes have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.

- 11.5.52. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that a meeting was to be held between the Applicant and DMPC o.b.o Mr HG & Mrs ME Hughes on 16 March 2023 with a view to finalising Heads of Terms, albeit it is likely that these would be reviewed by Mr HG & Mrs ME Hughes' solicitor prior to signing. The Applicant intends to continue to engage with DMPC o.b.o Mr HG & Mrs ME Hughes with a view to concluding a voluntary agreement.
- 11.5.53. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Mr HG & Mrs ME Hughes have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

**DMPC o.b.o The Estate of the Late Mr Wynford Davies**

**Land to the south of Bodelwyddan Road, in the vicinity of Nant-y-Faenol Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** N/A
- **TP of land only:** Plots 330, 331, 332, 343

**Interest:** Category 1 including as landowner / owner of subsoil.

**Status summary:** No formal objection to TP

- 11.5.54. The SoR [REP8-019] sets out that the purposes for the powers sought include: for access to facilitate construction; and to improve visibility splays.
- 11.5.55. DMPC o.b.o The Estate of the Late Mr Wynford Davies submitted a RR [RR-040] raising concerns around a potential adverse impact of cabling and ancillary works on the land farmed and associated reinstatement standards. The RR did not specifically refer to CA / TP matters and the only further submission by DMPC o.b.o The Estate of the Late Mr Wynford Davies [REP1-105] set out that no written representations were to be submitted and that it was not necessary to respond to relevant ExQ1.
- 11.5.56. The matters raised by Rostons o.b.o The Estate of the Late Mr Wynford Davies have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.57. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that a letter was sent to the land interest on 19 May 2022 confirming that no permanent rights were being sought over the land owned by The Estate of the Late Mr Wynford Davies and that a licence to undertake visibility splay works would be entered into between the respective parties in due course.
- 11.5.58. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the TP of land in respect of all plots in which The Estate of the Late Mr Wynford Davies has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

**DMPC o.b.o The Estate of Mr AEM Owen**

**Land in the vicinity of NGET's Bodelwyddan substation**

- **CA of land:** N/A

- **CA of rights and TP of land:** Plots 453, 456, 457, 459, 460, 461, 462, 465, 467, 480, 482, 485, 486 and 487
- **TP of land only:** Plots 452, 454, 463, 475 and 476

**Interests:** Category 1 including as lessee or tenant / occupier.

**Status summary:** No formal objection to CA / TP

- 11.5.59. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for safe operational access with suitable visibility; for access to facilitate construction; to improve visibility splays; for a temporary construction compound; for mitigation purposes; and for connection works and access to the National Grid substation.
- 11.5.60. DMPC o.b.o Mr AEM Owen submitted a RR [RR-041] raising concerns around a potential adverse impact of cabling and ancillary works on land farmed and associated reinstatement standards. The RR did not specifically refer to CA / TP matters and the only further submission by DMPC o.b.o The Estate of Mr AEM Owen [REP1-100] set out that no written representations were to be submitted and that it was not necessary to respond to relevant ExQ1.
- 11.5.61. The matters raised by DMPC o.b.o Mr AEM Owen have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.62. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that the Applicant provided comments on 14 March 2023 to DMPC on a marked-up Heads of Terms for an occupier's consent agreement it had received on 23 February 2023 and that a meeting was to be held between the parties on 16 March 2023 to progress matters. The Applicant intends to continue to engage with DMPC o.b.o Mr AEM Owen with a view to concluding Heads of Terms for an occupier's consent agreement.
- 11.5.63. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Mr AEM Owen has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

#### **Wilson Fearnall o.b.o GBL and IM Kerfoot Discretionary Trust**

##### **Land between Dyserth Road and The Flash**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 131, 134, 135, 136, 140, 141, 142, 143, 144, 145, 146, 147 and 148
- **TP of land only:** Plots 132, 133, 137 and 138

**Interests:** Category 1 including as landowner / owner of subsoil / occupier; Category 2 including in respect of right to take water and use a waterpipe; and Category 3.

**Status summary:** Objection to CA / TP

- 11.5.64. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of

underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; for temporary working areas; and for mitigation purposes.

- 11.5.65. Wilson Fearnall o.b.o GBL and IM Kerfoot submitted a RR [RR-037] setting out concerns regarding engagement and communication, response to consultation feedback, consideration of alternatives, land rights, local planning policy, use of temporary mitigation areas and inadequate demonstration of a compelling case in the public interest for CA. Further submissions [REP1-099, REP5-034, REP7-053 and REP8-112] either expanded on these concerns or raised additional concerns, including around impacts on the viability of the agricultural holding, duration and specification of haul roads, acquisition of permanent rights and effects on development or diversification potential, the duration of rights sought and resulting blight, the removal of Plot 145 and part of Plot 142 from the Order land and the movement and reconfiguration of Plots 140, 141, 143, 144 and 145.
- 11.5.66. Most of the matters raised by Wilson Fearnall o.b.o GBL and IM Kerfoot have been considered in other chapters / sections of this Report where necessary and relevant. Nonetheless, for ease of reference and given the substantive outstanding objection to CA / TP by this AP, the ExA's consideration of the matters, having had regard to the Applicant's responses to these [REP1-001, REP2-005, REP6-003 and REP8-004], along with the Applicant's responses to relevant written questions [REP1-007, REP5-004 and REP7-004] and discussions between the ExA and the Applicant at CAH1 (Wilson Fearnall o.b.o GBL and IM Kerfoot attended CAH1 virtually but did not make oral representations), are as follows:
- Adequate engagement – the Applicant's consultation report sets out its consultation process and how it acted on feedback. No concerns were raised during the Acceptance period in respect of the Adequacy of Consultation. The ExA is satisfied that consultation was undertaken in an appropriate manner and that the CA Schedule [REP8-023] and Negotiations document [REP8-021] demonstrate that the Applicant has engaged with all relevant APs throughout the Examination period.
  - Alternatives - Consideration of alternatives is provided in ES Volume 1, Chapter 4: Site Selection and Alternatives [APP-044] and provides the scheme evolution, including the options considered, and the reasons for their rejection in favour of the preferred option. The Consultation Report [APP-024 to APP-026] and the Planning Statement [REP8-083] also provide information on alternatives. None of the alternative options would obviate the need for CA and TP and the cable route and substation location has taken into account viability and technical issues and the findings of environmental assessments to avoid, reduce or mitigate potentially adverse impacts where possible. The ExA is satisfied that alternatives have been adequately considered.
  - Temporary mitigation areas – the ExA considers that the Applicant has demonstrated that these are required, or potentially required to mitigate adverse ecological effects, including in respect of protected species.
  - Viability – the agricultural land in which GBL and IM Kerfoot hold interests would eventually be restored to its current use and the ExA is satisfied that the rDCO and relevant environmental management documents make provision for appropriate land restoration. This would include land used for haul roads. Whilst this may have a short-term effect on the farm business, any financial loss would be compensated for, and given that the land would be restored, the ExA considers long-term effects on viability to be unlikely.
  - Planning policy and development / diversification potential - the ExA understands that DCC's emerging local plan is at an early stage and that none

of the land in which GBL and IM Kerfoot hold interests in is identified for potential housing allocation or is currently being promoted for allocation. The ExA is also not aware of any other detailed plans to develop the land or to diversify it. Given the linear nature of the Proposed Development and the rights sought, the Applicant highlighted that the land could potentially be incorporated into any future housing development as open space. Nonetheless, without any detailed plans or any strong evidence that the land is likely to be allocated, the ExA does not consider this a matter which warrants further exploration at this time.

- Duration of rights - the ExA is satisfied that there are rights sought by the Applicant which would need to endure over the relevant plots of land / cable route over the lifetime of the Proposed Development and potentially during its decommissioning. Whilst these rights might legally persist beyond this time, if no longer required for the purposes of the Proposed Development, such rights should not act as a barrier to any potential future development of the land in which GBL and IM Kerfoot hold an interest and should not give rise to blight. This is also considered to be the case in respect of the rights sought for temporary mitigation areas, which would be required for a shorter period. In addition, the Applicant highlighted that there is no ability through the DCO process to acquire time limited rights. The ExA has no compelling reasons to consider otherwise.
- Plots 140, 141, 142, 143, 144 and 145 - the ExA is satisfied with the Applicant's explanation that these plots are necessary to serve the purposes of access, temporary mitigation areas and the ECC and that the ECC route and plots of land identified have been determined from their use as existing accesses and to avoid environmental constraints.
- Demonstration of a compelling case in the public interest - the ExA concludes on this matter below.

11.5.67. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that the Applicant provided a substantive response to queries around rights required for the purpose of the creation and maintenance of ecological mitigation areas on 13 March 2023 and arranged a meeting on 23 March 2023 to progress Heads of Terms. It is the Applicant's understanding that commercial terms present the most significant barrier to the progression of Heads of Terms with further discussion between the parties being required to agree a way forward. The Applicant intends to continue to engage with Wilson Fearnall o.b.o GBL and IM Kerfoot with a view to concluding a voluntary agreement. The Applicant highlighted that the Wilson Fearnall o.b.o GBL and IM Kerfoot confirmed that the land was vacant at the time of the submission of the latest CA Schedule [REP8-023] and Negotiations document [REP8-021] at D8, albeit negotiations were ongoing with a third party in respect of a new tenancy.

11.5.68. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which GBL and IM Kerfoot have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

## **Rostons o.b.o The Executor of the Estate of the Late George Edward Brookes**

### **Land to the north and south of Bodelwyddan Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 294, 296, 298, 306, 317, 318, 319 and 322
- **TP of land only:** Plot 323



**Interests:** Category 1 including as landowner / owner of subsoil; Category 2 including in respect of right of way and access; and Category 3.

**Status summary:** No formal objection to CA / TP

- 11.5.69. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; and for temporary working areas.
- 11.5.70. Rostons o.b.o The Executor of the Estate of the Late George Edward Brookes submitted a RR [RR-044] setting out concerns relating to noise, light and dust pollution for residential receptors at Fferm and Cwybr Fawr from proposed construction compounds, effects on agricultural land and resulting food security, effects on recreational horse-riding opportunities at Fferm, effects on the wider Cwybr Fawr business and local economy, and highway safety along Bodelwyddan Road and the A525. The RR did not specifically refer to CA / TP matters and no further submissions were made in respect of The Executor of the Estate of the Late George Edward Brookes.
- 11.5.71. The matters raised by Rostons o.b.o The Executor of the Estate of the Late George Edward Brookes have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.72. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that Heads of Terms were agreed in principle between the Applicant and Rostons o.b.o The Executor of the Estate of the Late George Edward Brookes on 13 January 2023, that the Applicant has dealt with queries raised in the interim and that signed Heads of Terms were anticipated by the end of March. The Applicant intends to continue to engage with Rostons o.b.o The Executor of the Estate of the Late George Edward Brookes with a view to concluding a voluntary agreement.
- 11.5.73. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which The Executor of the Estate of the Late George Edward Brookes have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

#### **Rostons o.b.o Kelly Proffitt**

##### **Land to the north of Bodelwyddan Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 306 and 317
- **TP of land only:** Plot 324

**Interests:** Category 1 including as landowner / occupier.

**Status summary:** No formal objection to CA / TP

- 11.5.74. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable

corridor and to land for management and maintenance purposes; for access to facilitate construction; and for temporary working areas.

- 11.5.75. Rostons o.b.o Kelly Proffitt submitted a RR [RR-045] setting out concerns relating to noise, light and dust pollution for residential receptors at Fferm and Cwybr Fawr from proposed construction compounds, effects on agricultural land and resulting food security, effects on recreational horse-riding opportunities at Fferm, effects on the wider Cwybr Fawr business and local economy, and highway safety along Bodelwyddan Road and the A525. The RR did not specifically refer to CA / TP matters and no further submissions were made in respect of Kelly Proffitt.
- 11.5.76. The matters raised by Rostons o.b.o Kelly Proffitt have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.77. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that Heads of Terms were agreed in principle between the Applicant and Rostons o.b.o Kelly Proffitt on 13 January 2023, that the Applicant has dealt with queries raised in the interim and that signed Heads of Terms were anticipated by the end of March. The Applicant intends to continue to engage with Rostons o.b.o Kelly Proffitt with a view to concluding a voluntary agreement.
- 11.5.78. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Kelly Proffitt has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

#### **Rostons o.b.o Toni Mayne**

##### **Land to the north of Bodelwyddan Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 306 and 317
- **TP of land only:** Plot 324

**Interests:** Category 1 including as landowner / occupier.

**Status summary:** No formal objection to CA / TP

- 11.5.79. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; and for temporary working areas.
- 11.5.80. Rostons o.b.o Toni Mayne submitted a RR [RR-046] setting out concerns relating to noise, light and dust pollution for residential receptors at Fferm and Cwybr Fawr from proposed construction compounds, effects on agricultural land and resulting food security, effects on recreational horse-riding opportunities at Fferm, effects on the wider Cwybr Fawr business and local economy, and highway safety along Bodelwyddan Road and the A525. The RR did not specifically refer to CA / TP matters and no further submissions were made in respect of Toni Mayne.
- 11.5.81. The matters raised by Rostons o.b.o Toni Mayne have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.

- 11.5.82. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that Heads of Terms were agreed in principle between the Applicant and Rostons o.b.o Toni Mayne on 13 January 2023, that the Applicant has dealt with queries raised in the interim and that signed Heads of Terms were anticipated by the end of March. The Applicant intends to continue to engage with Rostons o.b.o Toni Mayne with a view to concluding a voluntary agreement.
- 11.5.83. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Toni Mayne has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

**Rostons o.b.o Richard David Proffitt**

**Land to the north of Bodelwyddan Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 295, 297, 301, 305, 306 and 317
- **TP of land only:** Plot 324

**Interests:** Category 1 including as landowner / occupier.

**Status summary:** No formal objection to CA / TP

- 11.5.84. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; and for temporary working areas.
- 11.5.85. Rostons o.b.o Richard David Proffitt submitted a RR [RR-048] setting out concerns relating to noise, light and dust pollution for residential receptors at Fferm and Cwybr Fawr from proposed construction compounds, effects on agricultural land and resulting food security, effects on recreational horse-riding opportunities at Fferm, effects on the wider Cwybr Fawr business and local economy, and highway safety along Bodelwyddan Road and the A525. The RR did not specifically refer to CA / TP matters and no further submissions were made in respect of Richard David Proffitt.
- 11.5.86. The matters raised by Rostons o.b.o Richard David Proffitt have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.87. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that Heads of Terms were agreed in principle between the Applicant and Rostons o.b.o Richard David Proffitt on 13 January 2023, that the Applicant has dealt with queries raised in the interim and that signed Heads of Terms were anticipated by the end of March. The Applicant intends to continue to engage with Rostons o.b.o Richard David Proffitt with a view to concluding a voluntary agreement.
- 11.5.88. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Richard David Proffitt has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

## **Rostons o.b.o Helen Owen Proffitt**

### **Land between the A525 and the River Clwyd and land to the north and south of Bodelwyddan Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 220, 233, 235, 236, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 250, 252, 254, 255, 294, 295, 296, 297, 298, 301, 302, 304, 305, 306, 309, 316, 317, 318, 319, 322, 335, 336, 337 and 342
- **TP of land only:** Plots 218, 221, 231, 232, 234, 237, 248, 249, 251, 303, 307, 308, 310, 313, 314, 323, 324, 333, 334, 338 and 339

**Interests:** Category 1 including as landowner / owner of subsoil / occupier; Category 2 including in respect of drainage and access; and Category 3.

**Status summary:** No formal objection to CA / TP

- 11.5.89. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; for temporary working areas; to improve visibility splays; and for a temporary construction compound.
- 11.5.90. Rostons o.b.o Helen Owen Proffitt submitted a RR [RR-047] setting out concerns relating to noise, light and dust pollution for residential receptors at Fferm and Cwybr Fawr from proposed construction compounds, effects on agricultural land and resulting food security, effects on recreational horse-riding opportunities at Fferm, effects on the wider Cwybr Fawr business and local economy, and highway safety along Bodelwyddan Road and the A525. A joint submission from Rostons o.b.o parties including Helen Owen Proffitt [AS-045], expanded on concerns in respect of effects on the Cwybr Fawr business, including in respect of its residential lettings, caravan storage, equine livery yard, touring site for leisure caravans, events field and agricultural land. It was suggested that effects could be reduced by locating the cable route as close to the boundary with the A525 as possible, directional drilling below the entirety of the land and removing or reducing the size of construction compounds. The representations did not specifically refer to CA / TP.
- 11.5.91. The matters raised by Rostons o.b.o Helen Owen Proffitt have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.92. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that Rostons o.b.o Helen Owen Proffitt had not identified any further issues beyond those which were raised at a meeting between the parties on 13 January 2023 and which the Applicant had provided a response to. It is the Applicant's understanding that Heads of Terms have been agreed in principle with Rostons o.b.o Helen Owen Proffitt and that signed Heads of Terms were anticipated by the end of March. The Applicant intends to continue to engage with Rostons o.b.o Helen Owen Proffitt with a view to concluding a voluntary agreement.
- 11.5.93. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Helen Owen Proffitt has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

## **Rostons o.b.o Rachel Georgina Hughes**

### **Land between the A525 and the River Clwyd and land to the north and south of Bodelwyddan Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 220, 233, 235, 236, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 250, 252, 254, 255, 302, 304, 309, 316, 318, 319, 322, 335, 336, 337 and 342
- **TP of land only:** Plots 218, 221, 231, 232, 234, 237, 248, 249, 251, 303, 307, 308, 310, 313, 314, 323, 333, 334, 338 and 339

**Interests:** Category 1 including as landowner / owner of subsoil / occupier; Category 2 including in respect of drainage and access; and Category 3.

**Status summary:** No formal objection to CA / TP

- 11.5.94. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; for a temporary construction compound; for construction working areas; and to improve visibility splays.
- 11.5.95. Rostons o.b.o Rachel Georgina Hughes submitted a RR [RR-049] setting out concerns relating to noise, light and dust pollution for residential receptors at Fferm and Cwybr Fawr from proposed construction compounds, effects on agricultural land and resulting food security, effects on recreational horse-riding opportunities at Fferm, effects on the wider Cwybr Fawr business and local economy, and highway safety along Bodelwyddan Road and the A525. A joint submission from Rostons o.b.o parties including Rachel Georgina Hughes [AS-045], expanded on concerns in respect of effects on the Cwybr Fawr business, including in respect of its residential lettings, caravan storage, equine livery yard, touring site for leisure caravans, events field and agricultural land. It was suggested that effects could be reduced by locating the cable route as close to the boundary with the A525 as possible, directional drilling below the entirety of the land and removing or reducing the size of construction compounds. The representations did not specifically refer to CA / TP.
- 11.5.96. The matters raised by Rostons o.b.o Rachel Georgina Hughes have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.97. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that Rostons o.b.o Rachel Georgina Hughes had not identified any further issues beyond those which were raised at a meeting between the parties on 13 January 2023 and which the Applicant had provided a response to. It is the Applicant's understanding that Heads of Terms have been agreed in principle with Rostons o.b.o Rachel Georgina Hughes and that signed Heads of Terms were anticipated by the end of March. The Applicant intends to continue to engage with Rostons o.b.o Rachel Georgina Hughes with a view to concluding a voluntary agreement.
- 11.5.98. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Rachel Georgina Hughes has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

## **Rostons o.b.o Sandra Archdale**

### **Land between the A525 and the River Clwyd and land to the north and south of Bodelwyddan Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 220, 233, 235, 236, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 250, 252, 254, 255, 302, 304, 309, 316, 318, 319, 322, 335, 336, 337 and 342
- **TP of land only:** Plots 218, 221, 231, 234, 237, 248, 249, 251, 303, 307, 308, 310, 313, 314, 323, 333, 334, 338 and 339

**Interests:** Category 1 including as landowner / owner of subsoil / occupier; Category 2 including in respect of drainage and access; and Category 3.

**Status summary:** No formal objection to CA / TP

- 11.5.99. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; for a temporary construction compound; for construction working areas; and to improve visibility splays.
- 11.5.100. Rostons o.b.o Sandra Archdale submitted a RR [RR-050] setting out concerns relating to noise, light and dust pollution for residential receptors at Fferm and Cwybr Fawr from proposed construction compounds, effects on agricultural land and resulting food security, effects on recreational horse-riding opportunities at Fferm, effects on the wider Cwybr Fawr business and local economy, and highway safety along Bodelwyddan Road and the A525. A joint submission from Rostons o.b.o parties including Sandra Archdale [AS-045], expanded on concerns in respect of effects on the Cwybr Fawr business, including in respect of its residential lettings, caravan storage, equine livery yard, touring site for leisure caravans, events field and agricultural land. It was suggested that effects could be reduced by locating the cable route as close to the boundary with the A525 as possible, directional drilling below the entirety of the land and removing or reducing the size of construction compounds. The representations did not specifically refer to CA / TP.
- 11.5.101. The matters raised by Rostons o.b.o Sandra Archdale have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.102. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that Rostons o.b.o Sandra Archdale had not identified any further issues beyond those which were raised at a meeting between the parties on 13 January 2023 and which the Applicant had provided a response to. It is the Applicant's understanding that Heads of Terms have been agreed in principle with Rostons o.b.o Sandra Archdale and that signed Heads of Terms were anticipated by the end of March. The Applicant intends to continue to engage with Rostons o.b.o Sandra Archdale with a view to concluding a voluntary agreement.
- 11.5.103. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Sandra Archdale has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

## **Rostons o.b.o Janet Johnson**

### **Land between the A525 and the River Clwyd and land to the north and south of Bodelwyddan Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 220, 233, 235, 236, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 250, 252, 254, 255, 302, 304, 309, 316, 318, 319, 322, 335, 336, 337 and 342
- **TP of land only:** Plots 218, 221, 231, 232, 234, 237, 248, 249, 251, 303, 307, 308, 310, 313, 314, 323, 333, 334, 338 and 339

**Interests:** Category 1 including as landowner / owner of subsoil / occupier; Category 2 including in respect of drainage and access; and Category 3.

**Status summary:** No formal objection to CA / TP

- 11.5.104. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; for a temporary construction compound; for construction working areas; and to improve visibility splays.
- 11.5.105. Rostons o.b.o Janet Johnson submitted a RR [RR-051] setting out concerns relating to noise, light and dust pollution for residential receptors at Fferm and Cwybr Fawr from proposed construction compounds, effects on agricultural land and resulting food security, effects on recreational horse-riding opportunities at Fferm, effects on the wider Cwybr Fawr business and local economy, and highway safety along Bodelwyddan Road and the A525. A joint submission from Rostons o.b.o parties including Janet Johnson [AS-045], expanded on concerns in respect of effects on the Cwybr Fawr business, including in respect of its residential lettings, caravan storage, equine livery yard, touring site for leisure caravans, events field and agricultural land. It was suggested that effects could be reduced by locating the cable route as close to the boundary with the A525 as possible, directional drilling below the entirety of the land and removing or reducing the size of construction compounds. The representations did not specifically refer to CA / TP.
- 11.5.106. The matters raised by Rostons o.b.o Janet Johnson have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.107. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that Rostons o.b.o Janet Johnson had not identified any further issues beyond those which were raised at a meeting between the parties on 13 January 2023 and which the Applicant had provided a response to. It is the Applicant's understanding that Heads of Terms have been agreed in principle with Rostons o.b.o Janet Johnson and that signed Heads of Terms were anticipated by the end of March. The Applicant intends to continue to engage with Rostons o.b.o Janet Johnson with a view to concluding a voluntary agreement.
- 11.5.108. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Janet Johnson has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

## **Martin Griffiths and Amy Evans**

### **Land along Glascoed Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plot 420
- **TP of land only:** N/A

**Interests:** Category 2 including in respect of access; and Category 3

**Status summary:** No formal objection to CA / TP

- 11.5.109. The SoR [REP8-019] sets out that the purposes for the powers sought include: for safe operational access with suitable visibility.
- 11.5.110. Martin Griffiths submitted a RR [RR-054] setting out concerns relating to the speed limit along Glascoed Road as reported in the application documents, visual effects of and noise and light pollution from the OnSS, impact on wildlife and property devaluation. Martin Griffiths, along with Amy Evans, submitted a further representation [REP3-032] raising additional concerns around air quality, highlighting changes relating to proposed projects (including in respect of energy) since the date of their homebuyer survey and highlighting a recent request for information in respect of one of these. In addition, Martin Griffiths and Amy Evans raised concerns around their confidence in and the effectiveness of DCC to represent their interests, effects on the enjoyment of their home and blight [REP6-051 and REP8-113]. None of these representations made any specific reference to CA / TP matters relating to the plot in which Martin Griffiths and Amy Evans have an interest and these APs did not attend CAH1.
- 11.5.111. Most of the matters raised by Martin Griffiths and Amy Evans have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.112. With regard to blight, the Applicant highlighted during and as a result of CAH1 [EV-023, EV-027, REP7-005 and REP8-006] the reasons it considered this would not arise as a result of the Proposed Development. The Applicant also provided written responses to the concerns raised by Martin Griffiths and Amy Evans, including in respect of blight. The ExA also asked written questions (ExQ1 [PD-009]) around blight matters which the Applicant responded to [REP1-007]. In summary, the Applicant takes the view that any blight claims would be unlikely given that relevant assessments have concluded there would be no residual significant effects on any residential receptors which would give rise to a statutory nuisance and that appropriate mitigation would be secured through environmental management plans and requirements of the dDCO where necessary. The ExA is satisfied with this conclusion.
- 11.5.113. The ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Martin Griffiths and Amy Evans has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

## **Carter Jonas LLP o.b.o the Bodrhyddan Farming Company Ltd**

### **Land between The Flash and the A525 / A457**

- **CA of land:** N/A



- **CA of rights and TP of land:** Plots 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 160, 162, 163, 164, 165, 166, 167, 168, 169, 174, 175, 177, 183, 184, 185, 186, 187, 188, 200, 204, 206 and 207
- **TP of land only:** Plots 159, 161, 170, 171, 172, 173, 176, 181, 182 and 205

**Interests:** Category 1 including as lessee or tenant; Category 2 including in respect of access; and Category 3

**Status summary:** No formal objection to CA / TP

- 11.5.114. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; for construction working areas; for a temporary construction compound; and for mitigation purposes.
- 11.5.115. Carter Jonas LLP made a joint representation o.b.o the Bodrhyddan Farming Company (and the 'Trustees of the Bodrhyddan Estate Maintenance Fund' (considered below)) [AS-048] raising concerns around soil management and effects on best and most versatile agricultural land, also questioning its loss for proposed environmental gain. Other concerns relating to effects on Rhuddlan Castle and the Applicant's engagement with landowners were also raised. No specific reference was made to CA / TP and no further submissions were made by The Bodrhyddan Farming Company.
- 11.5.116. The matters raised by the Bodrhyddan Farming Company have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.117. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that at a meeting on 6 March 2023, the appointed agent indicated a willingness to enter into substantive negotiations on the basis that ecological mitigation area extents were now acceptable for progressing a voluntary occupier's consent agreement. Updated Heads of Terms were subsequently issued to the appointed agent on 14 March 2023. The Applicant intends to continue to engage with the Bodrhyddan Farming Company with a view to concluding an occupier's consent agreement.
- 11.5.118. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which the Bodrhyddan Farming Company Ltd has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

**Carter Jonas LLP o.b.o the 'Trustees of the Bodrhyddan Estate Maintenance Fund' (James Vernon, Owain Grenville Rowley-Conwy, Ralph Collins and Thomas Rowley-Conwy)**

#### **Land between The Flash and the A525 / A457**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 153, 158, 160, 162, 163, 164, 165, 166, 167, 168, 169, 175, 177, 183, 186, 187, 188 and 200
- **TP of land only:** Plots 161, 170, 171, 176 and 182

**Interests:** Category 1 as landowner.

**Status summary:** No formal objection to CA / TP

- 11.5.119. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; for construction working areas; and for mitigation purposes.
- 11.5.120. Carter Jonas LLP made a joint representation o.b.o the ‘Trustees of the Bodrhyddan Estate Maintenance Fund’ (and the Bodrhyddan Farming Company (considered above)) [AS-048] raising concerns around soil management and effects on best and most versatile agricultural land, also questioning its loss for proposed environmental gain. Other concerns relating to effects on Rhuddlan Castle and the Applicant’s engagement with landowners were also raised. No specific reference was made to CA / TP.
- 11.5.121. The ExA noted that the ‘Trustees of the Bodrhyddan Estate Maintenance Fund’ did not appear in the BoR and queried this with the Applicant (ExQ3 [PD-017]). The Applicant confirmed that the ‘Trustees of the Bodrhyddan Estate Maintenance Fund’ comprise James Vernon, Owain Grenville Rowley-Conwy, Ralph Collins and Thomas Rowley-Conwy, who do appear in the BoR. The ExA was satisfied with this explanation.
- 11.5.122. The matters raised by the ‘Trustees of the Bodrhyddan Estate Maintenance Fund’ have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.123. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the most recent position is that at a meeting on 6 March 2023, the appointed agent indicated a willingness to enter into substantive negotiations on the basis that ecological mitigation area extents were now acceptable for progressing a voluntary agreement. Updated Heads of Terms were subsequently issued to the appointed agent on 14 March 2023. The Applicant intends to continue to engage with the Bodrhyddan Farming Company with a view to concluding a voluntary agreement.
- 11.5.124. Should voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which the ‘Trustees of the Bodrhyddan Estate Maintenance Fund’ (James Vernon, Owain Grenville Rowley-Conwy, Ralph Collins and Thomas Rowley-Conwy) has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

**Glyndwr University o.b.o Glyndwr Innovations Limited**

**Land to the south of the A55**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 399 and 400
- **TP of land only:** Plot 404

**Interests:** Category 2 including in respect of rights; and Category 3

**Status summary:** No formal objection to CA / TP matters

- 11.5.125. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of

underground cables and ancillary infrastructure; for construction working area; for access to facilitate construction; and for mitigation.

- 11.5.126. Glyndwr University on behalf of Glyndwr Innovations Limited submitted a RR [RR-035] setting out concerns relating to noise and vibration effects on its business operations, which predominantly consist of precision optical systems which rely on vibration-sensitive machinery. Glyndwr Innovations Limited is located with St Asaph Business Park. The RR did not specifically refer to CA / TP matters and no further submissions were made in respect of either Glyndwr Innovations Limited or Glyndwr University.
- 11.5.127. The matters raised by Glyndwr University on behalf of Glyndwr Innovations Limited have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.128. Glyndwr Innovations Limited is not listed in the BoR [REP8-025]. However, Glyndwr University is listed in the BoR and, for completeness, is included in the CA Schedule [REP8-023]. The CA Schedule sets out that Glyndwr University benefits from rights over Plots 399, 400 and 404 in relation to the passage and running of services through conduits. However, it is noted in the CA Schedule that it is not proposed that these rights would be interfered with in the exercising of the temporary and permanent rights being sought by the Applicant over these plots.
- 11.5.129. The ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which Glyndwr University has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

### **Ethan Homer**

#### **Land along Glascoed Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plot 420
- **TP of land only:** N/A

**Interests:** Category 2 in respect of right of access; and Category 3

**Status summary:** No formal objection to CA / TP

- 11.5.130. The SoR [REP8-019] sets out that the purposes of the powers sought include: for safe operational access with suitable visibility.
- 11.5.131. Ethan Homer did not submit a RR but indicated a wish to attend the ASI and ISH3 [AS-044]. No particular concerns, including any relating to CA / TP matters, were raised as part of this submission. Ethan Homer attended neither the ASI nor ISH3 and made no further representations during the course of the Examination. It follows that the ExA does not consider that Ethan Homer is objecting to CA or TP.
- 11.5.132. The rights Ethan Homer enjoys are for access to his property over a stretch of pavement. The SoR sets out that these rights would not be affected as a result of the Proposed Development and that the permanent rights sought by the Applicant in respect of Plot 420 relate primarily to the prevention of future activities which would reduce the visibility function. The ExA also notes that Article 12 of the dDCO [AS-053] makes provision for pedestrian access to property during construction works.

- 11.5.133. The ExA is satisfied that the rights sought for the CA of rights in respect of the plot in which Ethan Homer has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

**Charlotte Bowers**

**Land along Glascoed Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plot 419
- **TP of land only:** N/A

**Interests:** Category 1 in respect of owner of subsoil; and Category 3

**Status summary:** No formal objection to CA / TP

- 11.5.134. The SoR [REP8-019] sets out that the purposes of the powers sought include: for safe operational access with suitable visibility.
- 11.5.135. Charlotte Bowers did not submit a RR but made a representation [AS-050] raising concerns around effects on: green belt land; ecology; farmland and productive capacity; property value; visual amenity; health, including from electromagnetic radiation; and the enjoyment of her home as a result of noise from the proposed OnSS. The representation did not specifically refer to CA / TP matters. No further representations were made by Charlotte Bowers. It follows that the ExA does not consider that Charlotte Bowers is objecting to CA or TP.
- 11.5.136. The matters raised by Charlotte Bowers have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.137. The CA Schedule [REP8-023] sets out that the rights sought by the Applicant over Plot 419, relating to the creation of permanent visibility splays, would not interfere with the subsoil interest Charlotte Bowers holds in the plot.
- 11.5.138. The ExA is satisfied that the rights sought for the CA of rights in respect of the plot in which Charlotte Bowers has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

**Mr Meirick Lloyd Davies**

**Land along Glascoed Road**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plot 420
- **TP of land only:** N/A

**Interests:** Category 2 in respect of right of access; and Category 3

**Status summary:** No formal objection to CA / TP

- 11.5.139. The SoR [REP8-019] sets out that the purposes of the powers sought include: for safe operational access with suitable visibility.
- 11.5.140. Mr Meirick Lloyd Davies did not submit a RR but attended ISH3 and CAH1, raising concerns around visual effects from his property arising from the construction and operation of the proposed OnSS and the obstructing of open views resulting from

the positioning of proposed landscaping. Concerns around blight were also raised at CAH1. The oral representation did not specifically refer to CA / TP matters and it follows that the ExA does not consider that Mr Meirick Lloyd Davies is objecting to CA or TP.

- 11.5.141. The landscape and visual matters raised by Mr Meirick Lloyd Davies have been considered in other chapters of this Report where necessary and relevant, and the conclusions reached on them need not be repeated here.
- 11.5.142. With regard to blight, the Applicant highlighted [EV-023, EV-027, REP7-005 and REP8-006] the reasons it considered this would not arise as a result of the Proposed Development, pointing also to responses to other IP concerns in this regard [REP7-003]. The ExA also asked written questions (ExQ1 [PD-009]) around blight matters which the Applicant responded to [REP1-007]. In summary, the Applicant takes the view that any blight claims would be unlikely given that relevant assessments have concluded there would be no residual significant effects on any residential receptors which would give rise to a statutory nuisance and that appropriate mitigation would be secured through environmental management plans and requirements of the dDCO where necessary. The ExA is satisfied with this conclusion.
- 11.5.143. Mr Meirick Lloyd Davies enjoys access rights over Plot 420 to his property. The SoR sets out that these rights would not be affected as a result of the Proposed Development and that the permanent rights sought by the Applicant in respect of Plot 420 relate primarily to the prevention of future activities which would reduce the visibility function. The ExA also notes that Article 12 of the dDCO [AS-053] makes provision for pedestrian access to property during construction works.
- 11.5.144. The ExA is satisfied that the rights sought for the CA of rights in respect of the plot in which Mr Meirick Lloyd Davies has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

### **SU Land, Rights and Apparatus**

- 11.5.145. S127 of PA2008 applies to land acquired by SUs for the purposes of their undertaking, and places restrictions on the CA, or CA of a new right, of such land where a representation is made in relation to a DCO application and is not withdrawn by the close of the Examination of that application. The dDCO (Article 29) [AS-053] includes provision to authorise the CA of land and rights held by SUs for the purposes of their undertaking.
- 11.5.146. If s127 applies, CA of SU's land can only be authorised if the SoS is satisfied:
- that the land can be purchased and not replaced without serious detriment to the SU or, if purchased, can be replaced by other land belonging to or available for purchase by the undertakers without detriment (s127(3)); or
  - the right can be purchased without serious detriment to the SU or, any detriment to the SU, in consequence of the acquisition of the right, can be made good by the undertaker by the use of other land belonging to or available for acquisition by them (s127(6)).
- 11.5.147. S138 of PA2008 applies where an Order authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a relevant right or there is on, under or over the land relevant apparatus.

- 11.5.148. S138(4) provides that an Order may include provision for the extinguishment of the relevant right or the removal of relevant apparatus only if the SoS is satisfied that the extinguishment, or removal, is necessary for the purpose of carrying out the development to which the Order relates. The dDCO (Requirement 29) [AS-053] includes such a provision.
- 11.5.149. At the close of the Examination the Applicant's position in relation to these matters is contained in the CA Schedule [REP8-023] and Negotiations document [REP8-021]. Submissions received by and matters surrounding the relevant SUs are summarised below.
- 11.5.150. Matters relating to offshore SUs, including Rhyl Flats Wind Farm, North Hoyle Wind Farm and EirGrid, are covered in other chapters of this Report, including the Socioeconomics and DCO chapters (Volume One, section 5.14 and Volume Two, Chapter 12 respectively).

## **NRIL**

### **Land in the vicinity of the Robin Hood Holiday Camp and the adjoining railway**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 97 and 99
- **TP of land only:** Plots 94, 96 and 98

**Interests:** Category 1 including as landowner; and Category 2 including in respect of restrictive covenants; and Category 3.

**Status summary:** Objection withdrawn

- 11.5.151. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for access to facilitate construction; and for construction working areas.
- 11.5.152. NRIL is a SU responsible for maintaining and operating the country's railway infrastructure and associated estate. NRIL's submissions [AS-038, REP1-081, REP1-082 and REP3-027] during the Examination raised concerns around the use of the Applicant's proposed CA powers, the adequacy of proposed protective provisions and the need for an asset protection agreement relating to the Applicant's need to route cables for the Proposed Development below and in the vicinity of a railway line to the south of Rhyl [AS-038, REP1-081, REP1-082 and REP3-027]. With NRIL as an owner of some of the Order land (Plot 99), this initially engaged s127 of PA2008.
- 11.5.153. However, the Applicant and NRIL were involved in negotiations throughout the Examination, which culminated in NRIL informing the ExA at D8 that a private agreement had been reached, that it was satisfied with the Applicant's inclusion of amended protective provisions within the dDCO and that its objections were withdrawn [REP8-114].
- 11.5.154. The ExA is thus satisfied that s127 of PA2008 is no longer engaged in respect of NRIL. The ExA is also satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138 of the PA2008 and that there would be no serious detriments to NRIL's undertaking.

## **DC**

## Land throughout the Order land

- **CA of land:** Plots 416 and 417
- **CA of rights and TP of land:** Plots 14, 63, 78, 89, 91, 97, 153, 154, 158, 160, 162, 163, 164, 165, 166, 167, 168, 169, 175, 177, 183, 186, 187, 188, 200, 214, 216, 233, 238, 239, 242, 252, 253, 254, 255, 256, 261, 262, 263, 264, 265, 265, 267, 268, 269, 272, 275, 278, 280, 281, 291, 296, 298, 306, 309, 322, 358, 359, 360, 361, 362, 366, 368, 372, 373, 402, 407, 408, 409, 410, 412, 413, 415, 418, 419, 420, 421, 422, 423, 425, 426, 430, 432, 436, 437, 461, 462, 467, 470, 471, 472, 480, 482, 483, 484, 485, 486, 487, 490, 496 and 497
- **TP of land only:** Plots 13, 16, 21, 22, 62, 64, 68, 79, 80, 81, 92, 95, 96, 98, 161, 170, 171, 176, 182, 210, 211, 212, 232, 234, 270, 271, 271, 273, 274, 276, 277, 279, 283, 284, 290, 310, 311, 312, 323, 325, 328, 331, 351, 357, 405, 406, 411, 414, 475, 476, 477, 493 and 499

**Interests:** Category 1 including as landowner and occupier; Category 2 including in respect of water apparatus, rights to lay and maintain apparatus, access, entry and rights of way; and Category 3.

**Status summary:** Issues settled, and objection withdrawn

- 11.5.155. The SoR [REP8-019] sets out that the purposes for the powers sought for the CA of land include: for the development of the OnSS; fencing; creation of new access; landscaping; ecological works; and the ongoing maintenance and management of landscaping and ecological works.
- 11.5.156. The SoR [REP8-019] sets out that the purposes for the powers sought for CA of rights and TP of land include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for safe operational access with suitable visibility; for drainage; to improve visibility splays; for access to facilitate construction; for construction working areas; for a temporary construction compound; for access and works to the National Grid substation; and for mitigation purposes.
- 11.5.157. DC is a SU with water infrastructure assets within the Order land. DC's main concerns during the Examination related to the adequate protection of its assets and the approval process for sustainable drainage systems [REP1-058 to REP1-061]. With DC as an owner of some of the Order land (Plots 253 and 256), this initially engaged s127 of PA2008.
- 11.5.158. However, the Applicant and DC were involved in negotiations throughout the Examination, which culminated in a joint statement signed by both parties [REP8-092] agreeing the protective provisions to be included within the dDCO for DC and setting out that there were no outstanding matters of disagreement. The ExA is satisfied that the protective provisions as set out in the joint statement were included in the dDCO [AS-053] at the end of the Examination and that as a result, DC's issues were settled, and its objections effectively withdrawn.
- 11.5.159. The ExA is thus satisfied that s127 of PA2008 is no longer engaged in respect of DC. The ExA is also satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138 of PA2008 and that there would be no serious detriments to DC's undertaking.

## **NGET**

### **Land associated with and in the vicinity of the Bodelwyddan substation to the south of St Asaph Business Park**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 428, 436, 437, 466, 469, 470, 471, 472, 473, 479, 480, 481, 482, 483, 484, 485, 488, 489, 490, 491, 492 and 497
- **TP of land only:** Plots 464, 474, 475, 476, 477 and 495

**Interests:** Category 1 including as lessee or tenant / occupier; Category 2 including in respect of electricity apparatus, restrictive covenants, easements and access; and Category 3.

**Status summary:** Objection withdrawn

- 11.5.160. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for safe operational access with suitable visibility; for access to facilitate construction; for construction working areas; to improve access; for a temporary construction compound; and for mitigation purposes.
- 11.5.161. NGET is a SU with assets within and within proximity to the Order land that form part of the national electricity transmission network. NGET's main concerns related to the protection of these assets and also to the safeguarding of parts of the Order land for the potential future extension of its Bodelwyddan substation [RR-014, REP1-071 to REP1-074, REP5-038, REP6-047, AS-049, REP7-055 and REP8-095 to REP8-097]. This substation, which the Proposed Development would connect into, is located to the south of the St Asaph Business Park and may require extending in the future to accommodate connections associated with this or other projects.
- 11.5.162. The Applicant and NGET were involved in negotiations throughout the Examination, which culminated in NGET informing the ExA near the end of the Examination that a private agreement had been reached, that it was satisfied with the Applicant's inclusion of amended protective provisions within the dDCO and that its objections were withdrawn [AS-057].
- 11.5.163. The ExA is satisfied that s127 of PA2008 was never engaged as NGET is not identified as a landowner. The ExA is also satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138 of PA2008 and that there would be no serious detriments to NGET's undertaking.

## **SPEN o.b.o SPM**

### **Land throughout the Order land**

- **CA of land:** Plot 417
- **CA of rights and TP of land:** Plots 8, 14, 76, 82, 83, 89, 91, 97, 112, 114, 116, 118, 140, 141, 142, 143, 154, 192, 194, 209, 216, 220, 222, 226, 235, 238, 240, 241, 242, 243, 246, 247, 250, 252, 253, 256, 263, 272, 293, 296, 309, 317, 320, 321, 322, 335, 346, 347, 353, 354, 358, 359, 360, 365, 367, 368, 371, 372, 373, 374, 376, 377, 378, 382, 386, 391, 392, 394, 395, 396, 397, 398, 399, 400, 426, 428, 431, 432, 435, 436, 437, 438, 453, 456, 457, 459, 460, 461, 462, 465, 467, 468, 469, 478, 480, 482, 483, 484, 485, 486, 487, 488, 489, 490 and 492



- **TP of land only:** Plots 15, 16, 17, 20, 21, 22, 79, 80, 81, 92, 93, 94, 95, 96, 98, 111, 123, 197, 212, 219, 237, 248, 249, 270, 271, 308, 341, 348, 351, 352, 357, 370, 375, 452, 454, 463, 475, 476, 477, 493, 494, 495, 498 and 499

**Interests:** Category 1 including as lessee or tenant / occupier; Category 2 including in respect of electricity apparatus, to lay and maintain electricity cables, access, to fell obstructing trees, to install and maintain overhead electricity cables, to lay and maintain gas pipeline and restrictive covenants; and Category 3.

**Status summary:** Issues settled, and objection withdrawn

- 11.5.164. The SoR [REP8-019] sets out that the purposes for the powers sought for the CA of land include: for the development of the OnSS; fencing; creation of new access; landscaping; ecological works; and the ongoing maintenance and management of landscaping and ecological works.
- 11.5.165. The SoR [REP8-019] sets out that the purposes for the powers sought for the CA of rights and TP of land include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for safe operational access with suitable visibility; for access to facilitate construction; for construction working areas; to improve visibility splays; for a temporary construction compound; for access and works to the National Grid substation; and for mitigation purposes.
- 11.5.166. SPM is a SU as a licensed distribution network operator with electrical infrastructure assets within the Order land. SPM's main concerns related to the adequate protection of its assets and the suitable wording of protective provisions in this regard [RR-013, REP1-094 and REP3-030]. As well as submitting representations in writing, SPEN o.b.o SPM, made oral representations at ISH1 [EV-010 to EV-14b].
- 11.5.167. However, the Applicant and SPEN o.b.o SPM were involved in negotiation throughout the Examination, which culminated in a joint statement signed by both parties [REP7-045] agreeing that the Applicant had included acceptable protective provisions within the dDCO and setting out that there were no outstanding matters of disagreement. The ExA is satisfied that SPM's issues were settled, and its objections effectively withdrawn.
- 11.5.168. The ExA is satisfied that s127 of PA2008 was never engaged as SPM is not identified as a landowner. The ExA is also satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138 of PA2008 and that there would be no serious detriments to SPM's undertaking.

#### **Diamond Transition Corporation (parent company of Diamond Transmission Partners BBE)**

##### **Land throughout the Order land**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 1, 34, 36, 41, 48, 51, 53, 58, 76, 82, 83, 85, 91, 97, 100, 101, 102, 103, 114, 115, 116, 118, 126, 127, 129, 139, 154, 257, 346, 347, 353, 354, 358, 359, 360, 361, 362, 366, 368, 490, 491, 492 and 497
- **TP of land only:** Plots 2, 37, 38, 39, 40, 45, 46, 47, 49, 50, 54, 55, 57, 59, 69, 70, 71, 72, 73, 74, 75, 81, 84, 86, 87, 88, 92, 94, 96, 98, 104, 111, 112, 113, 117, 119, 120, 121, 122, 123, 124, 128, 130, 341, 348, 351, 352, 357, 475, 495, 498 and 499

**Interests:** Category 2 including in respect of electricity apparatus, entry, right of way, access, easements, to lay and maintain cables, services and apparatus and to install and maintain electricity lines; and Category 3.

**Status summary:** No formal objection to CA / TP matters

- 11.5.169. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for the installation and retention of transition joint bays; to allow access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; for construction working areas; for a temporary construction compound; and for mitigation purposes.
- 11.5.170. Diamond Transmission Corporation is a SU responsible for the generation and transmission of electricity. Diamond Transmission Corporation submitted a RR [RR-017] setting out that it owned assets within the Order land that would be crossed or affected through proximity of potential works, though raised no specific concerns relating to CA / TP matters. No further submissions were made by this SU during the Examination. The Applicant clarified [REP1-007] that Diamond Transmission Corporation is a parent company of Diamond Transmission Partners BBE, who appear in the BoR.
- 11.5.171. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the Applicant has not included specific protective provisions for Diamond Transmission Corporation in the dDCO but has included protective provisions for electricity, gas, water and sewerage undertakers generally, in Part 1 of Schedule 9 of the dDCO. The Applicant received no comments from Diamond Transmission Corporation on these protective provisions.
- 11.5.172. The ExA is satisfied that s127 of PA2008 is not engaged as Diamond Transmission Corporation / Diamond Transmission Partners BBE is not identified as a landowner. The ExA is also satisfied that the powers sought by the Applicant are necessary for the Proposed Development and, given the lack of any formal objection to CA / TP matters or to the protective provisions in Part 1 of Schedule 9 of the dDCO, consistent with s138 of PA2008. The ExA is satisfied that there would be no serious detriments to the undertaking of Diamond Transmission Corporation / Diamond Transmission Partners BBE.

## **NRW**

### **Land in the vicinity of the proposed landfall at Rhyl and land south of the River Clwyd**

- **CA of land:** N/A
- **CA of rights and TP of land:** Plots 8, 14, 260, 262 and 263
- **TP of land only:** Plots 13 and 25

**Interests:** Category 2 including in respect of access; and Category 3.

**Status summary:** No formal objection to CA / TP matters

- 11.5.173. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; and for construction working areas.

- 11.5.174. NRW was initially identified in the BoR [APP-023] as the landowner of Plot 26, which contained a fenced area housing a pumping station, and over which TP was sought by the Applicant. NRW is also identified in the CA Schedule [REP8-023] and Negotiations document [REP8-021] as a SU with its undertaking being that of 'statutory regulator'. On the basis of these factors, s127 of PA2008 was likely to have been engaged.
- 11.5.175. However, Plot 26 was subsequently removed from the Order land at D2 and the BoR and relevant plans updated accordingly. In response to ExQ1 [PD-015], the Applicant clarified that the removal of the plot was because it had identified that access over the land was not required to deliver the Proposed Development [REP5-004].
- 11.5.176. NRW submitted a RR [RR-015] covering a number of topic areas but made no reference to CA / TP or land interest matters. Matters relating to those topic areas have been considered in other chapters of this Report where necessary. No CA / TP or land interest matters were raised by NRW in any further written representations or during any Issue Specific Hearings held. NRW also confirmed it did not wish to attend any CAH or Open Floor Hearing [REP1-079] and did not do so. In addition, NRW confirmed that it required no protective provisions [REP5-039]. Furthermore, none of the SoCG between NRW and the Applicant [REP8-047 to REP8-049] identify CA / TP as a matter in dispute. It follows that the ExA does not consider that NRW is objecting to CA or TP.
- 11.5.177. The CA Schedule [REP8-023] notes that the Applicant does not intend to interfere with NRW's access rights in the course of exercising the rights sought over the plots in which NRW hold and interest. However, should any necessary voluntary negotiations not be completed, the ExA is satisfied that the rights sought for the CA of rights and TP of land in respect of all plots in which NRW has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
- 11.5.178. The ExA is also satisfied that s127 of PA2008 is no longer / is not engaged in respect of NRW, as the only plot in which NRW held landowner interests was removed from the Order land. The ExA is also satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138 of PA2008 and that there would be no serious detriments to NRW's undertaking.

#### **Other Statutory Undertakers**

- 11.5.179. The Negotiations document [REP8-021] includes a number of other SUs with interests in the Order land, including: Wales and West Utilities Ltd; Gwynt y Môr OFTO plc; Openreach Ltd; Zayo Group UK Ltd; Centrica plc; Vodafone Ltd; and ESP Electricity Ltd. None of the interests are identified as landowner interests and none of these SUs made any representations or raised any concerns or objections during the Examination. As such, s127 of PA2008 is not engaged in respect of these SUs.
- 11.5.180. Part 1 of Schedule 9 of the dDCO includes protective provisions for electricity, gas, water and sewerage undertakers in general. Part 5 of Schedule 9 of the dDCO includes protective provisions for operators of electronic communications code networks. The Negotiations document [REP8-021] sets out that the Applicant

received no comments on these from Openreach Ltd, Zayo Group UK Ltd, Centrica plc, Vodafone Ltd or ESP Electricity Ltd.

- 11.5.181. In respect of Wales and West Utilities Ltd, the Negotiations document [REP8-021] identifies that the Applicant received a request from this SU late in the Examination for bespoke protective provisions. The wording of the protective provisions was subsequently agreed by the parties and included in Part 9 of Schedule 9 of the dDCO [AS-053].
- 11.5.182. In respect of Gwynt y Môr OFTO plc, the Negotiations document [REP8-021] indicates that the Applicant received no comments on the general protective provisions in the dDCO but that negotiations were ongoing over Heads of Terms regarding permanent access rights sought over plots 488 and 489 in which this SU holds a leaseholder interest. The Applicant expects to conclude a voluntary agreement in this regard. In the absence of any representations by Gwynt y Môr OFTO plc, the ExA has no substantive reasons to consider otherwise. However, if voluntary negotiations are not completed, the ExA is satisfied that the rights sought in respect of the plots in which NRW has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.
- 11.5.183. In respect of the plots in which the above mentioned other statutory undertakers hold interests, the ExA is satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138 of PA2008 and that there would be no serious detriments to any of the SU's undertakings.

### **Special Category Land**

- 11.5.184. Special Category Land is defined in Regulation 2 of the Infrastructure Planning (applications: Prescribed Forms and Procedure) Regulations 2009 as *land identified as forming part of a common, open space, National Trust land or fuel or field garden allotment*. There is no Order land comprising common land, NT land or fuel or field garden allotments. However, the Applicant is seeking CA of rights or TP of land over land identified as open space. This engages s132 of PA2008. No open space would be subject to CA of land and as such, s131 of PA2008 is not relevant.
- 11.5.185. S132(2) of PA2008 states that an order granting development consent which authorises the CA of a right over open space will be subject to special parliamentary procedure unless: a) the SoS is satisfied that one of subsections (3) to (5) applies; and b) that fact, and the subsection concerned, are recorded in the Order or otherwise in the instrument or other document containing the Order. Subsection (3) applies if the order land, when burdened with the order right, will be no less advantageous than it was before to: (a) the persons in whom it is vested; (b) other persons, if any, entitled to rights of common or other rights; and (c) the public.
- 11.5.186. The affected plots and rights sought are set out in Part 5 of the BoR [REP8-025] and are shown on the Special Category Land Plan [REP6-027]. These are as follows:
- **CA of land:** N/A
  - **CA of rights and TP of land:** Plots 1, 6, 8, 11, 12, 14, 28, 29, 30, 31, 32, 33, 34, 35, 36, 41, 42, 48, 51, 53, 55, 56, 58, 61, 63, 66, 76, 77, 82 and 83
  - **TP of land only:** 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, 70, 71, 72, 73, 74, 75, 80, 81, 84, 85 and 86

- 11.5.187. The open space identified by the Applicant is largely in the vicinity of the area of landfall and predominantly comprises areas of beach, footways, grassed areas and access roads. The Applicant highlights that the open space identified has no formal designation but that it has taken a precautionary approach on the basis that the land is used by the public.
- 11.5.188. The SoR [REP8-019] sets out that the purposes for the powers sought include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for access to facilitate construction; and for a temporary construction compound. Restrictive covenants would, amongst other things, prevent any construction over cables which may prevent access to them.
- 11.5.189. The SoR [REP8-019] sets out that:
- cables would be installed below the beach and footways;
  - once the cables are installed there will be no interference with the current use of the land;
  - access to the cable corridor in the foreshore / beach area would be taken over existing accesses where possible;
  - accesses over the beach area, which would not follow an existing route, would extend some distance out to allow access around groynes without interfering with them and would only be used for inspection and maintenance purposes;
  - restrictive covenants would be consistent with the function of open space;
- 11.5.190. It is the Applicant's view that, given the above, while there would 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 would not render the open space any less advantageous than it is at present to relevant persons or the public. As such, s132(3) of PA2008 applies and there is no requirement for special parliamentary procedure.
- 11.5.191. No IPs raised any concerns in respect of open space and DCC confirmed it was satisfied with the Applicant's conclusions of the matter [REP5-046].
- 11.5.192. The ExA asked written questions [PD-009] around the matter of open space and was satisfied with the responses. This included responses from the Applicant [REP1-007], including its consideration that Rhyl Golf Club was not considered to be open space given that it is privately owned, there is no right for the general public to use it and as such it does not fall within the definition of open space as per s19 of the Acquisition of Land Act 1981.
- 11.5.193. Based on the above, the ExA concludes that special parliamentary procedure under s132 of the PA2008 does not apply because:
- when burdened with the Order rights, the open space land would be no less advantageous than it was before, in accordance with s132(3) of PA2008; and
  - in respect of s132(2)(b) of PA2008, the Applicant has recorded this within the dDCO (bottom of page 3) [AS-053].

### **Crown Land**

- 11.5.194. S135(1) of PA2008 precludes the CA of interests in Crown land unless the land is *held otherwise than by or on behalf of the Crown*, and the appropriate Crown authority consents to the acquisition. S135(2) precludes a DCO from including any

provision applying to Crown land or Crown rights without consent from the appropriate Crown authority.

- 11.5.195. The SoR [REP8-019] sets out that the offshore elements of the Proposed Development, including the array and cabling, would be situated within seabed / land owned and managed by The Crown Estate (TCE), and that no CA of land or rights is proposed in this area. For reference, this area is shown on the Offshore Land Plan [REP3a-011]. Furthermore, the Applicant highlights that an agreement for lease for the array area has already been finalised with TCE and a further agreement for lease for the cable area is being progressed. Accordingly, the Applicant considers that s135 of PA2008 is not relevant to offshore works and land in this instance. The ExA is satisfied that this is the case.
- 11.5.196. The BoR [REP8-025] identifies plots subject to Crown interests (held by: The King's Most Excellent Majesty In Right Of His Crown (TCE); and the SoS For Wales, the Welsh Ministers and the National Assembly for Wales, which come under the guise of 'the Welsh Government') and these are shown on the Crown Land Plan [REP6-034]. The BoR sets out the powers sought by the Applicant, as follows:
- **CA of land:** Plots 416
  - **CA of rights and TP of land:** Plots 1, 6, 11, 28, 29, 31, 32, 35, 48, 53, 55, 56, 58, 61, 255, 257, 258, 259, 363, 364, 365, 371, 372, 373, 374, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 407, 408, 409, 410, 412, 413, 415, 468 and 469
  - **TP of land:** Plots 2, 3, 4, 5, 7, 10, 12, 23, 27, 38, 39, 44, 45, 46, 47, 49, 52, 54, 57, 59, 60, 369, 370, 375, 404, 405, 406, 411 and 414
- 11.5.197. In addition, Article 37 (Crown rights) of the dDCO [AS-053] includes provision for the acquisition of Crown interests. In line with s135 of PA2008, the consent of the relevant Crown authorities is therefore required.
- 11.5.198. Crown land is largely concentrated around three areas: landfall at Rhyl, including the beach (TCE interests); the River Clwyd (TCE interests); and the A55 and land to the north and south of it (SoS for Wales, Welsh Ministers and the National Assembly for Wales interests). There is also a single plot of Crown land located along a track in the vicinity of the NGET substation to the south of St Asaph Business Park (National Assembly for Wales interests).
- 11.5.199. The SoR [REP8-019] sets out that the purposes for the powers sought for the CA of land include: for the development of the OnSS; fencing; creation of new access; landscaping; ecological works; and the ongoing maintenance and management of landscaping and ecological works.
- 11.5.200. The SoR [REP8-019] sets out that the purposes for the powers sought for CA of rights and TP of land include: for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure; for operational access to the cable corridor and to land for management and maintenance purposes; for drainage; for access to facilitate construction; for construction working areas; for a temporary construction compound; and for mitigation purposes.
- 11.5.201. The CA Schedule [REP8-023] and Negotiations document [REP8-021] set out that the Applicant has consulted the relevant Crown authorities and has requested approval under s135 of PA2008 for the inclusion in the Order limits of those parcels

in which the abovementioned Crown authorities hold an interest. The ExA requested updates to this situation throughout the Examination from the Applicant as well as asking for updates from the relevant Crown authorities and whether any impediments to consent were envisaged (ExQ1 [PD-009] and ExQ2 [PD-015]).

- 11.5.202. The following provides a summary in respect of submissions received by and matters surrounding the relevant Crown authorities:

#### **TCE**

- TCE submitted a RR [RR-016] stating that its interest in the project was that the Applicant holds an Agreement of Lease from TCE.
- In response to ExQ2, TCE set out that it was engaged with the Applicant in respect of the necessary consents under s135 of PA2008 and would be considering the matter further [REP5-043].
- TCE submission [REP7-060] was responding to ExQ3 and was unrelated to onshore Crown land matters.
- The CA Schedule [REP8-023] and Negotiations document [REP8-021] indicate that the latest position with TCE is that: comments are to be provided imminently by the Applicant in respect of Heads of Terms and relate to minor points only; with regard to s135 of PA2008, a fee undertaking has been provided as well as supporting information requested by TCE, and the Applicant expects consent to be granted shortly.

#### **SoS for Wales, Welsh Ministers and the National Assembly for Wales (Welsh Government)**

- Welsh Government submission [REP1-097] was a cohesive and coordinated response from across policy areas. It recognised the general benefits of the project and indicated general support for it. The submission also provided a response to ExQ1, including in respect of matters relating to national parks, carbon assessments, offshore transmission network review, ecology, soil management, agricultural land, archaeology, decommissioning, socio-economics, health, the Welsh language, dDCO provisions and traffic and transport, including protective provisions in respect of the A55, which the Welsh Government indicated would be required, and the application of s61 of the New Roads and Street Works Act 1991.
- Welsh Government submission [AS-043] requested for it to attend the ASI to view locations relating to the A55.
- Welsh Government submission [REP5-044] responded to ExQ2, addressing a variety of matters, including in respect of Crown land interests and s135 of PA2008. On this matter, the Welsh Government stated that information would be provided direct to the Applicant through relevant ongoing discussions.
- The Applicant indicated it was in continued discussions with the Welsh Government around s135 consent [REP7-004 and REP8-006].
- Welsh Government submissions [REP7-061 and REP8-110] related solely to Welsh language matters.
- The CA Schedule [REP8-023] and Negotiations document [REP8-021] indicate that the latest position (at the time of their submission) is that the Applicant is awaiting a response from the Welsh Government on Heads of Terms and engagement is continuing with a view to concluding all land agreements. The documents also set out that negotiations are ongoing with the Welsh Ministers on protective provisions and the disapplication of s61 of the New Roads and Street Works Act 1991.

- Welsh Government submission [REP8-111] confirmed agreement in principle to cabling below the A55, subject to certain provisions, and agreement to the disapplication of s61 of the New Roads and Street Works Act 1991.
- Welsh Government submissions [AS-051 and AS-052] subsequently confirmed that the Welsh Ministers, as Highway Authority for the Strategic Road Network (including the A55), had agreed the protective provisions for cabling works within the vicinity of and under the A55.

11.5.203. At the close of the Examination, Crown consent had not been specifically received from any of the relevant Crown authorities. This was disappointing and notwithstanding the prompting of the Crown authorities by the ExA and the Applicant. In the absence of consents from the relevant Crown authorities, the ExA concludes that the Order cannot authorise the CA or TP of those plots of land and / or interests which are Crown land because the requirement in s135(1) and s135(2) of PA2008 have not been met. However, the ExA is not aware of any impediments to the granting of Crown consent by the relevant Crown authorities.

11.5.204. The SoS would therefore need to ensure that Crown consents are forthcoming from the relevant Crown authorities prior to any grant of development consent and the recommendation to the SoS to grant development consent is subject to Crown consents being forthcoming.

11.5.205. The ExA notes an inconsistency between the BoR [REP8-025] and the Crown Land Plan [REP6-034], insofar as the Crown Land Plan identifies 'The King's Most Excellent Majesty In Right Of His Crown' (i.e. TCE) as having interest in the land within the legends on Sheet Nos 4 and 5, whereas the BoR identifies the SoS For Wales, the Welsh Ministers or the National Assembly for Wales (the Welsh Government) as the relevant land interest.

### **Other land interests**

11.5.206. The ExA is satisfied that, with respect to all other land interests, the rights sought for the CA of land, CA of rights and TP of land are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

### **Human Rights Act 1998 considerations**

11.5.207. The Human Rights Act 1998 places the European Convention on Human Rights (ECHR) into UK statute. The ECHR is subscribed to by member states of the Council of Europe. ECHR rights are enforceable in the domestic courts but with final recourse to the European Court of Human Rights. The ECHR, the Council of Europe and the European Court of Human Rights are not EU institutions and are unaffected by the UK's decision to leave the EU.

11.5.208. Relevant provisions of the ECHR that are normally engaged by CA and / or TP proposals include:

- Article 6 – the right to due process in civil proceedings, including a public hearing before an independent and impartial tribunal;
- Article 8 – the right to respect for private and family life and the home is relevant where property that is a home is affected; and
- Article 1 of the First Protocol – the right to the peaceful enjoyment of property and not to be deprived of this other than in the public interest.



- 11.5.209. Chapter 12 of the SoR [REP8-019] deals with human rights and with compliance with the relevant provisions of the ECHR and fair compensation. The ExA also asked a number of written questions [PD-009] on human rights matters, to which the Applicant adequately responded, and addressed human rights matters at CAH1 [EV-019 and EV-021 to EV-028].
- 11.5.210. The SoR was amended by the Applicant at D8 to remove reference to Article 8 of the ECHR, on the basis that there are no residential properties affected by the Proposed Development. Nonetheless, it is likely that there would be some land associated with residential properties and used by the occupiers of these properties which would be affected, albeit largely temporarily, for example, paddock land to ride horses. On this basis, the ExA has taken a precautionary approach and has had regard to Article 8 of the ECHR as well as Article 6 and Article 1 of the First Protocol.
- 11.5.211. The Applicant concludes that, in respect of Article 6 and Article 1 of the First Protocol, any infringement of the ECHR rights of those whose interests in the land might be affected by the exercise of powers of CA would be proportionate and legitimate, would be in the public interest and would be in accordance with national and European law.
- 11.5.212. The ExA concurs with this view (and considers the same to be the case in respect of Article 8), given the need to acquire land and rights to deliver the Proposed Development and the lack of suitable alternatives, and concludes that the CA and TP sought is compatible with the Human Rights Act 1998 and the ECHR.

#### **Availability and Adequacy of Funds**

- 11.5.213. The Applicant provided a Funding Statement [APP-022] which set out the estimated cost of the Proposed Development to be £1.81 billion, including costs relating to construction, development, project management, financing, land acquisition / compensation and operation. With regard to land acquisition / compensation costs, the Applicant estimated this would be in the region of £11.2 million.
- 11.5.214. The FS set out that the Applicant would be responsible for providing funding to cover the abovementioned costs, noting that the Applicant comprises a partnership between Siemens Project Ventures GmbH, SWM UK Wind ONE Limited and RWE Renewables UK Swindon Limited, with the backing from their parent companies Siemens AG, Stadtwerke München GmbH and RWE AG respectively. The FS set out that each of these companies have substantial assets in their own right and considerable experience in infrastructure development.
- 11.5.215. The FS also highlighted that Article 31 of the dDCO would ensure that powers of compulsory acquisition cannot be exercised unless and until the SoS is satisfied that funding for the potential liability for compensation has been secured.
- 11.5.216. As a result of the ExA's written questions and discussions during CAH1, the FS was updated during the course of the Examination, with the final version submitted at D7 [REP7-030]. This sets out a revised estimated cost of the Proposed Development to be £2.26 billion and revised estimated land acquisition / compensation costs to be £15.4 million. The revised FS [REP7-030] also includes additional account information relevant to the companies of which the Applicant comprises.
- 11.5.217. No IPs / APs raised any substantive concerns relating to the availability of funding for land acquisition / compensation costs. The exception to this was DMPC o.b.o Mr

JB and Mrs E Evans, who requested further evidence of the Applicant's compliance with the Money Laundering and Terrorist Financing and Transfer of Funds (Information on the payer) Regulations 2017 (as amended). The ExA understands that at the close of the Examination, this matter was to be the subject of further discussions between the Applicant and DMPC o.b.o Mr JB and Mrs E Evans. However, the ExA is not aware of any compelling reasons as to why this matter could not be resolved between the parties. In addition, the ExA considers it likely to be a common procedural matter between parties during the course of the buying and selling of land and property. Accordingly, the ExA has no material concerns in this regard.

- 11.5.218. In light of the above, the ExA is satisfied with the Applicant's FS and appendices, and responses to questions posed during the Examination, and concludes that there is a reasonable prospect of the requisite funds for acquisition becoming available within the necessary timescale, to meet all financial liabilities arising from the exercise of the CA and TP powers sought. Moreover, Article 31 of the dDCO provides the ExA with further confidence that this would be the case.

## **11.6. CONCLUSIONS**

- 11.6.1. S122 and s123 of PA2008 sets out the purposes for which CA may be authorised. The ExA is satisfied that the legal interests in all the plots of land included in the BoR [REP8-025] and shown on the Land Plans [REP6-028] would be required for the Proposed Development with respect to both CA and TP powers. In respect of land subject to CA for the Proposed Development, the land to be taken is no more than is reasonably required and the proposed land-take is proportionate.
- 11.6.2. The ExA has considered whether the public benefit in delivering the Proposed Development would outweigh the private loss. Having considered individual cases, the ExA is satisfied that this would be the case.
- 11.6.3. Concerning s122(3), the ExA is satisfied, and recommend to the SoS that a compelling case in the public interest exists for the following reasons:
- the development for which the land is sought would be in accordance with national policy as set out in NPS EN-1, NPS EN-3 and NPS EN-5 and development consent should be granted;
  - NPS EN-1 identifies a critical need for renewable energy of the type that is the subject of this application;
  - there is a need to secure the land and rights required to deliver the Proposed Development and to construct it within a reasonable timeframe;
  - the Proposed Development represents a significant public benefit to weigh in the balance;
  - the private loss to those affected has been mitigated through the selection of the land and the minimisation of the extent of the rights and interests proposed to be acquired;
  - the private losses suffered are not such as to outweigh the public benefits that would accrue from the grant of the CA and TP powers which are sought;
  - the Applicant has, to the extent possible, explored all reasonable alternatives to the CA of the rights and interests sought, although for a project of this nature it is reasonable that the Applicant should retain CA and TP powers in a made Order, as a guarantee against the possible failure of voluntary agreements which if left unmitigated could cause substantial timescale and delivery cost over-runs that would not be in the public interest;
  - there are no viable alternatives which ought to be preferred;

- funding is available to meet any compensation liabilities for CA and / or TP and the dDCO makes provision to ensure this; and
- CA and TP for the Proposed Development can be delivered in a manner in full accord with all relevant human rights considerations.

- 11.6.4. In respect of s127 of PA2008, this provision does not apply given that: NRIL and DC confirmed that their issues were settled and their objections to the Proposed Development withdrawn [REP8-114 and REP8-092]; and Plot 26, in which NRW held a landowner interest, was removed from the Order land.
- 11.6.5. In respect of s138 of PA2008, the ExA is satisfied that the powers sought by the Applicant in relation to SUs are necessary for the Proposed Development and consistent with this section of PA2008 and that there would be no serious detriments to any SU's undertaking.
- 11.6.6. With regard to special category land there is no NT land that engages s130 of PA2008 and there is no common, open space or fuel or field garden allotment land that engages s131 of PA2008. However, as compulsory acquisition of rights is sought over land identified as open space, this engages s132 of PA2008. The ExA is satisfied that the relevant Order land, when burdened with the Order right, would be no less advantageous than it was before to all relevant persons and the public in accordance with s132(3) of PA2008 and accordingly, would not be subject to special parliamentary procedure. There are no other considerations relating to special category land under PA2008 that need to be taken into account.
- 11.6.7. As far as human rights are concerned, the ExA is satisfied that the Examination has ensured a fair and public hearing, that any interference with human rights arising from implementation of the Proposed Development is proportionate and strikes a fair balance between the rights of the individual and the public interest and that compensation would be available in respect of any quantifiable loss. There is no disproportionate or unjustified interference with human rights (Article 6, Article 8 and Article 1 of the First Protocol of ECHR) so as to conflict with the provisions of the Human Rights Act 1998. The ExA also considers that there are no implications arising which conflict with the Public Sector Equality Duty (PSED) in terms of groups disproportionately affected.
- 11.6.8. The case for CA powers needs to be based on the case for the Proposed Development overall. The ExA has shown in Chapter 10 of this Report that it has reached the view that development consent should be granted. As set out above, the ExA is satisfied that the CA powers sought by the Applicant are justified and should be granted because the ExA has concluded that there is a compelling case in the public interest for land and relevant interests where appropriate to be compulsorily acquired. The ExA is satisfied that the land subject to proposed CA is necessary to the Proposed Development, that the CA is legitimate and sufficient to justify interfering with the human rights of those affected, and that the public benefit of enabling the Proposed Development to go ahead would outweigh the private losses to individuals concerned.
- 11.6.9. The BoR [REP8-025] and the Crown Land Plans [REP6-034] identify that various plots comprise Crown land. The BoR identifies that in respect of these plots, the Applicant is seeking either TP, acquisition of new rights, imposition of restrictive covenants or freehold acquisition. In addition, Article 37 (Crown rights) of the dDCO [AS-053] includes provision for the acquisition of Crown interests. In line with s135 of PA2008, the consent of the relevant Crown authorities is required. However, at the close of the Examination, Crown consent had not been specifically received

from any of the relevant Crown authorities. In the absence of such consents, the ExA concludes that the Order cannot authorise the CA or TP of those plots of land and / or interests which are Crown land because the requirements in s135(1) and s135(2) of PA2008 have not been met. However, the ExA is not aware of any impediments to the granting of Crown consent by the relevant Crown authorities.

### **Overall conclusion**

- 11.6.10. The ExA recommends the approval of the requested CA / TP powers to implement the Proposed Development, which, as shown in Chapter 10 of this Report, the ExA considers that the case for granting development consent has been made. This recommendation is subject to the Crown giving consent for the CA of Crown land in accordance with s135, prior to the SoS's decision.

## **12. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS**

### **12.1. INTRODUCTION**

- 12.1.1. A draft Development Consent Order (dDCO) (Revision D) [APP-018] and Explanatory Memorandum (EM) [APP-019] were submitted by the Applicant as part of the application for development consent. The EM describes the purpose of the dDCO as originally submitted, and each of its articles and schedules.
- 12.1.2. The submission version dDCO [APP-018] was broadly based on the Model Provisions (MP), as set out in the now-repealed Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, but departed from those clauses to draw upon drafting used in made Orders for energy development under the Planning Act 2008 (PA2008). There has been a change of approach to the use of MP since the Localism Act 2011, and although they provide a starting point for the consideration of the dDCO, precedent cases are generally more appropriate. The EM [APP-019] notes and explains variations made in the dDCO compared to the MP. The submission version dDCO [APP-018] and subsequent iterations are in the form of a statutory instrument as required by section (s) 117(4) of PA2008.
- 12.1.3. The dDCO was updated several times during the course of the Examination, as was the EM. This chapter provides an overview of the changes made to the dDCO during the Examination process, between the application dDCO [APP-018] and the final dDCO [AS-053]. It then considers changes made to the final dDCO in order to arrive at the recommended Development Consent Order (rDCO) in Appendix D to this Report.

### **12.2. THE DCO AS APPLIED FOR**

- 12.2.1. This section records the structure of the dDCO. It is based on the Applicant's final dDCO [AS-053], and is as follows:
- Part 1 (Preliminary): Article 1 sets out how the Order may be cited and when it comes into force. Article 2 sets out the meaning of the various terms of the Order;
  - Part 2 (Principal Powers): Articles 3, 4 and 5 provide for the grant of development consent for the Proposed Development and allow it to be constructed, operated and maintained. Article 6 sets out who has the benefit of the powers of the Order and how those powers can be transferred. Article 7 relates to the disapplication of legislative provisions and Article 8 relates to defence to proceedings in respect of statutory nuisance;
  - Part 3 (Streets): Articles 9 to 13 provide powers in relation to street works. These include matters relating to the application of the New Roads and Street Works Act 1991 as well as the temporary stopping up of rights of way, temporary restriction of use of streets and access to works;
  - Part 4 (Supplemental Powers): Articles 14 to 17 provide supplemental powers relating to the discharge of water, the authority to survey and investigate the land, protective works to buildings and removal of human remains;
  - Part 5 (Powers of Acquisition): Articles 18 to 31 provide powers in relation to the compulsory acquisition (CA) and temporary possession (TP) of land; and
  - Part 6 (Miscellaneous and General): Articles 32 to 44 relate to the application of landlord and tenant law, operations affecting trees and hedgerows, trees subject to tree preservation orders, abatement of works abandoned or decayed, saving

provisions for Trinity House, Crown rights, protective provisions, operational land for the purposes of the Town and Country Planning Act 1990, certification of documents, service of notices, no double recovery, requirements appeals and arbitration.

- 12.2.2. There are thirteen Schedules to the Order, providing for the description of the Authorised Development (Schedule 1), Requirements which apply to it (Schedule 2), streets subject to street works (Schedule 3), temporary stopping up or restriction of streets and rights of way (Schedule 4), access to works (Schedule 5), land of which only TP may be taken (Schedule 6), land in which only new rights may be acquired (Schedule 7), modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants (Schedule 8) protective provisions (Schedule 9), removal of hedgerows (Schedule 10), procedure for the discharge of Requirements and appeals (Schedule 11), arbitration rules (Schedule 12), and documents to be certified (Schedule 13).
- 12.2.3. The Examining Authority (ExA) finds that the structure of the Applicant's final dDCO [AS-053] as outlined above is fit for purpose and no changes to the structure are recommended.

## **12.3. CHANGES DURING EXAMINATION**

- 12.3.1. The Applicant updated the dDCO several times prior to and during the Examination, responding to issues raised in advice under s51 of PA2008, questions, to Written Representations (WRs) and as a consequence of the hearing process. At each revision, the Applicant submitted a clean copy, a copy showing tracked changes from the previous clean copy version and a table of amendments documenting the changes. The versions of the updated dDCO submitted by the Applicant were as follows:
- Revision E (prior to Examination) [AS-014] (clean) and [AS-015] (tracked);
  - Revision F (DL1) [REP1-008] (clean) and [REP1-009] (tracked);
  - Revision G (DL2) [REP2-014] (clean) and [REP2-015] (tracked);
  - Revision H (DL3) [REP3-006] (clean) and [REP3-007] (tracked);
  - Revision I (DL3a) [REP3a-016] (clean) and [REP3a-017] (tracked);
  - Revision J (DL5) [REP5-009] (clean) and [REP5-010] (tracked);
  - Revision K (DL6) [REP6-005] (clean) and [REP6-006] (tracked);
  - Revision L (DL7) [REP7-006] (clean) and [REP7-007] (tracked);
  - Revision M (DL8) [REP8-009] (clean) and [REP8-010] (tracked);
  - Revision N (DL8) [REP8-118] (clean) and [REP8-119] (tracked); and
  - Revision O (Closing) [AS-053] (clean), [AS-054] (tracked), and [AS-055] (showing changes to s51 submission).
- 12.3.2. The Applicant's Schedule of Changes to the dDCO submitted as a closing submission [AS-056] provides a documentation of all changes made to the dDCO prior to and during the Examination.
- 12.3.3. Similarly, the EM was updated throughout the Examination as the dDCO evolved. The versions of the EM submitted by the Applicant were as follows:
- Revision B [APP-019];
  - Revision C [REP1-017] (clean) and [REP1-053] (tracked); and
  - Revision D [REP8-012] (clean) and [REP8-013] (tracked)

- 12.3.4. The ExA chose not to publish a Schedule of Changes to the Applicant's dDCO, and instead picked up outstanding matters in written questions and issue specific hearings.
- 12.3.5. The ExA does not report on every change made in the updated versions of the dDCO, as some were the result of typographical or grammatical errors, were minor changes, reflected updated documents, or were changes in the interests of clarity or consistency following discussion between the Applicant and relevant interested parties, or as a result of our written questions (The Applicant's Schedule of Changes to the dDCO submitted at a closing submission [AS-056] provides full details of all such changes). Accordingly, and in the interest of conciseness, the ExA has focussed on key changes made in the updated versions of the dDCO.
- 12.3.6. The key changes to the dDCO during the Examination, and the reasons for these changes, are set out in Table 2 below.

**Table 2: Key changes to the dDCO during Examination**

dDCO version	Key changes and reasons
<b>Version E</b> [AS-014] (clean) [AS-015] (tracked)	Various corrections and alterations – see [AS-056] for full details
<b>Version F</b> [REP1-008] (clean) [REP1-009] (tracked)	<p>Removal of reference to a single appointed person and clarification that the ExA comprises of five members, in response to ExQ1.6.2 [PD-009].</p> <p>Change to the definition of commence to include further details of what onshore site preparation works comprise and inclusion of Works 3 and 3A (intertidal area) into onshore works definition (and various related changes). In response to ExQ1.6.11 [PD-009] and to clarify control of works.</p> <p>Addition of new Requirement (R) (20) for Outline Skills and Employment Strategy and associated changes. In response to a query from Isle of Anglesey County Council [RR-004].</p> <p>Removal of various terms to be secured by the Marine Licence and additional terms in response to ExQ1 [PD-009].</p> <p>Alteration to Article 27 (temporary use of land for carrying out the authorised development), in response to a query from the ExA in ISH 1 [EV-011], [EV-013] to limit the circumstances in which rights can be acquired in the land listed in Schedule 6.</p>

	<p>Creation of a new Schedule (13) for list of certified documents (to replace previous Article 40), for clarity and in response to ExQ1.6.20 [PD-009].</p> <p>Amendment to Table 4 and Schedule 2, R7 to clarify maximum parameters for an air or gas insulated switchgear (AIS/GIS) substation, in response to ExA questions at ISH1 [EV-011], [EV-013]</p> <p>Addition of Natural Resources Wales (NRW) to approval line for Code of Construction Practice (R10), in response to ExQ1.6.31 [PD-009]</p> <p>Schedule 9, Part 7 – Protective provisions for Rhyl Flats Wind Farm (RFWF) added, following agreement with RFWF over these.</p>
<p><b>Version G</b></p> <p>[REP2-014] (clean)</p> <p>[REP2-015] (tracked)</p>	<p>NRW added as consultee for discharge of R6 and R8 in response to request from NRW [REP1-080]</p> <p>Further amendment to R17 to take account of onshore definition changes made to Version F, in response to ExQ1.6.11 [PD-009]</p> <p>Change to the wording of R19 (lighting) following comments from Denbighshire County Council (DCC) in their Local Impact Report (LIR) [REP1-056]</p>
<p><b>Version H</b></p> <p>[REP3-006] (clean)</p> <p>[REP3-007] (tracked)</p>	<p>Welsh Ministers added as a consultee for discharge of R10 following a request from the Welsh Ministers [REP1-097]</p> <p>Schedule 9 – Change to protective provisions for SP Manweb, following agreement.</p>
<p><b>Version I</b></p> <p>[REP3a-016] (clean)</p> <p>[REP3a-017] (tracked)</p>	<p>Sub paragraph (1) of Article 44 (Arbitration) following a request from Trinity House [REP3-031]</p> <p>Clarification of R8 and R9 (landscaping) for ease of understanding.</p>
<p><b>Version J</b></p> <p>[REP5-009] (clean)</p> <p>[REP5-010] (tracked)</p>	<p>Alteration to Article 27 (Temporary Use of land for carrying out the authorised development) to include reference to Schedule 7, in response to ExQ2 [PD-015]</p> <p>Schedule 2 paragraph 2 amended to ensure there is no material difference in the size and appearance of the wind turbines, and to clarify distances between such turbines in response to ExQ2 [PD-015]</p> <p>Alteration to R3 (Aviation safety) to ensure all relevant aviation safety requirements are adhered to and to</p>



	<p>ensure lighting operates at lowest permissible level to mitigate night-time effects.</p> <p>Alteration to R18 (noise) to clarify noise locations following discussions with DCC.</p> <p>Outline code of construction document suite included in Schedule 13 (Documents to be certified), following ExQ2 [PD-015].</p>
<p><b>Version K</b></p> <p>[REP6-005] (clean)</p> <p>[REP6-006] (tracked)</p>	<p>R4 (Offshore Noise) amended to clarify the operation of the Requirement.</p> <p>Details of heights added to R7 (Detailed Design Parameters Onshore) to provide details of maximum height of AIS and GIS reactive compensation buildings, following a request from the ExA.</p> <p>New R (25) added for the purposed of allowing NRW to retain their regulatory function in respect of crossing flood defences or watercourses (<i>subsequently removed at D7 following discussions with NRW</i>).</p> <p>Removal of Plot 6a from Schedule 6 (Land of which only temporary possession may be taken)</p> <p>New protective provision introduced to Schedule 9 for the benefit of Conwy County Borough Council (CCBC)</p> <p>Update to certified documents in Schedule 13 following ExQ2 [PD-015]</p>
<p><b>Version L</b></p> <p>[REP7-006] (clean)</p> <p>[REP7-007] (tracked)</p>	<p>Article 7 (Application and modification of legislative provisions) amended to remove regulation 12 of the Environment Permitting (England and Wales) Regulations 2016 at the request of NRW.</p> <p>To ensure clarity over the extent of temporary possession powers sought under Article 27, article added to and amended (in response to ExQ3.6.1 [PD-017])</p> <p>Article 31 (Funding) added to refer to Articles 26 and 30, following a question from the ExA at Compulsory Acquisition Hearing 1 [EV-021], [EV-022], [EV-023], [EV-024].</p> <p>Amendment to R4 (Offshore noise) to detail the Leq period following questions at Issue Specific Hearing (ISH) 4 [EV-029], [EV-030], [EV-031].</p> <p>Addition of implementation clauses to R8 (landscaping), R12 (onshore archaeology) and R21</p>

	<p>(Skills and Employment Strategy) following questions at ISH 4 [EV-029], [EV-030], [EV-031]</p> <p>Inclusion of Work No 31 in R16 (Surface and Foul Water Drainage) following questions at ISH 4 [EV-029], [EV-030], [EV-031].</p> <p>Amendments to R18 (Noise) to include representative locations and noise levels following agreement with DCC.</p> <p>New R25 (Great Dun Fell and St Annes Primary Radar Mitigation Scheme) following agreement with National Air Traffic Services (NATS).</p> <p>Addition of paragraph to Schedule 11 (Approval of matters specified in Requirements) to ensure that the Schedule covers every application (and subsequent fees), whether the application seeks to discharge a Requirement in whole or in part following questions at ISH 4 [EV-029], [EV-030], [EV-031].</p> <p>Outline offshore piling noise monitoring plan added as certified document to Schedule 13 following questions at ISH 4 [EV-029], [EV-030], [EV-031].</p>
<p><b>Version M</b></p> <p>[REP8-009] (clean)</p> <p>[REP8-010] (tracked)</p>	<p>New R26 (Landscape Enhancement Scheme) added following discussions with North Wales local planning authorities.</p> <p>Various changes and amendments following final checks.</p> <p>Changes to the protective provisions for Dŵr Cymru Cyfyngedig, Network Rail Infrastructure Limited, RFWF, and Wales and West Utilities following agreement.</p> <p>Changes to the protective provisions for Welsh Ministers following discussions.</p> <p>Updates to Schedule 13 (documents to be certified) in response to Rule 17 letter of 9 March 2022 [PD-018]</p>
<p><b>Version O</b></p> <p>[AS-053] (clean)</p> <p>[AS-054] (tracked)</p> <p>[AS-055] (s51 changes)</p>	<p>Changes to the protective provisions for Welsh Ministers and National Grid Electricity Transmission following agreement.</p>

## 12.4. DISCUSSION OF MATTERS OF CONTENTION

- 12.4.1. This section of the Report addresses important matters which have not been agreed between any IP and the Applicant by the end of the Examination and certain matters which have been the subject of the ExA's written questions and / or discussion at hearings about potential changes to the Applicant's final dDCO [AS-053]. Table 3 then sets out those DCO provisions that the ExA recommend are changed. For ease of reference in Table 3, text shown in red identifies insertion of new recommended text, while text shown with a strike through is suggested for deletion. The recommended changes are reflected in the rDCO at Appendix D.
- 12.4.2. The DCO details those works which are the nationally significant infrastructure project as defined in sections 14 and 15 of the PA2008 (work no 1) and associated development as defined in section 115(2) of the PA2008 (all other works).
- 12.4.3. Many matters were agreed during Examination, as evidenced by Table 2 above and [AS-056]. However, the following key matters were discussed during the Examination and are worthy of extra exploration:
- Marine Licence matters and crossover with the dDCO
  - Working hours
  - Pre-commencement works
  - Wake effects
  - Skills and Employment Strategy
  - Landscape Fund
  - North Hoyle Wind Farm (NHWF) and potential need for protective provisions
  - Community Linguistic Statement
  - Time limits

### **Marine Licence Matters**

- 12.4.4. As explained in Chapter 4, as the Proposed Development is situated in Welsh waters, a separate Marine Licence (ML) is needed from NRW under the Marine and Coastal Access Act 2009. The DCO therefore does not contain powers or controls which sit within the ML regime. The MLs will be applied for in parallel with the DCO.
- 12.4.5. A 'Marine Licence Principles' document at each of the Examination deadlines was submitted by the Applicant, with the final version being [REP8-014]. This document provides a tabulation of the proposed principles which are anticipated to inform the MLs for the Proposed Development, subject to the licences being granted by NRW.
- 12.4.6. To the ExA's knowledge, no DCO has been implemented in Wales with a separate ML to date. ISH1, held on 21 September 2022 [EV-010] contained an agenda item which asked:
- 4. Consents, licences and other agreements*
- The ExA will ask for views from the Applicant and IPs on the linkages and relationship between the dDCO and the Marine Licence and the need or otherwise for matching requirements or similar in both documents.*
- 12.4.7. NRW stated [REP1-080] that they agreed with the current approach proposed by the Applicant whereby the DCO does not contain powers or controls which also sit within the ML. If one regime of regulation must deal with something according to law (the regime under the Marine and Coastal Access Act 2009) and it can deal with it adequately (for which NRW as a competent regulatory will do so), it would lead to

unnecessary complexity if another regime (the DCO regime), which does not need to make the same provision, did so; there should be avoidance of potential regulatory overlap which can give rise to problems in respect of implementation and enforcement of any duplicated consents.

- 12.4.8. They were also of the view that if the ExA did not agree with this approach, they required clarity as to whether any measures, controls and provisions relevant to licensable activities will be included in the DCO, and if so, that consistency can be ensured with any corresponding conditions in the marine licence and that enforcement provisions are appropriately secured.
- 12.4.9. The Applicant [REP1-006] noted NRW's submissions that there was no difficulty in law provided the Secretary of State (SoS) as the DCO decision maker was confident that matters would be dealt with appropriately under a separate decision-making regime and fully concurred with NRW's submissions.
- 12.4.10. At ISH1, the ExA referred the Applicant to the Swansea Bay Tidal Generating Station DCO as a potential way of separating legislatively the ML and DCO. The Applicant noted that of the two Articles in this DCO one refers to dredging which was not relevant, and the other (Article 16) *simply provides that the authority under that DCO does not remove the need to obtain a marine licence, it is a statement of the law* [REP1-019]. They considered that this was not needed as there is nothing in the DCO which could be taken as seeking to obviate the need to obtain a ML.
- 12.4.11. In relation to inter-tidal areas, the applicant explained at ISH4 that there is a jurisdictional overlap between DCC, who have competence landward of Mean Low Water Springs (MLWS), and NRW, who have competence seaward of Mean High Water Springs (MHWS). The Applicant advised that the discharge of DCO Requirements and ML conditions in this area would require cooperation between DCC and NRW, but stated that this something which occurs often and it is therefore expected that NRW will limit its competence to marine issues, and DCC to onshore. [REP8-007].
- 12.4.12. An update at ISH4 also stated that significant progress had been made on the Proposed Development ML application. Throughout the examination, the Applicant has been liaising with NRW on the ML application. The Marine Licence Principles (MLP) document is intended to provide information during the DCO process on what will be included within the ML, and the Applicant has been updating the MLP throughout the Examination.
- 12.4.13. A further question on the legislative separation of the DCO and the ML was asked at ISH4. The Applicant referred to Articles 4 and 5 of the dDCO [AS-053] which state:

***Operation of generating station***

*4.—(1) The undertaker is authorised to use and operate the authorised development for which development consent is granted by this Order.*

*2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation that may be required from time to time to authorise the operation of the authorised development.*

***Power to maintain the authorised development***

*5.—(1) Subject to paragraph (2), the undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.*

*(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain any further licence under Part 4 (marine licensing) of the 2009 Act for the offshore works.*

### **ExA's Consideration**

- 12.4.14. It is clear that there is agreement between the Applicant and NRW over the need to avoid duplication in the DCO and the ML and the ExA is persuaded by the argument that if one regime of regulation must deal with something according to law and it can deal with it adequately (for which NRW as a competent regulatory would do so), it would lead to unnecessary complexity if another regime (the DCO regime), made the same provisions.
- 12.4.15. Nevertheless, the ExA is cognisant of the fact that the ES provided with the application identifies a range of offshore environmental effects of the proposed development, but for which the mitigation measures lie outside the DCO process (within the ML). The ExA considers it important to ensure that the rDCO is as clear as possible that the Order does not override or overrule the need to obtain a ML, even inadvertently.
- 12.4.16. The Articles identified above by the Applicant clearly state that the Order does not relieve the undertaker of any requirement to obtain a ML to authorise the operation (A4(2)) or maintain the offshore works (A5(2)). However, it could be argued that this does not cover the construction of the proposed development, merely its operation and maintenance.
- 12.4.17. Article 3 of the dDCO concerns the development consent and states:

#### ***Development consent etc. granted by the Order***

*3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—*

*(a) development consent for the authorised development; and*

*(b) consent for the ancillary works;*

*to be carried out within the Order limits.*

*(2) Subject to the requirements, the offshore works must be constructed within the Order limits seaward of MLWS and the onshore works must be constructed within the Order limits landward of MLWS.*

- 12.4.18. The ExA considers that this Article could be usefully added to, to state that no provision of the Order obviates the need to obtain a ML prior to commencement of the authorised development and to clearly state the precedence between the Order and the ML to avoid any future potential uncertainty.
- 12.4.19. The ExA therefore recommends the dDCO is amended as in Table 3 below in the rDCO.

### **Construction hours**

- 12.4.20. Volume One, section 5.13 Public Health and Nuisance, details the concerns of DCC in relation to the construction hours set out in their LIR [REP1-056]. DCC noted particular concerns over proposed construction hours at the landfall location, noting that residents in the vicinity of this location has already been exposed to extended

periods of construction disturbance from the works for the East Rhyl coastal defence scheme, and more disruption likely from other consented major coastal defence works.

- 12.4.21. R15 of the dDCO [AS-053] states that construction of the onshore works and construction related traffic may only take place between the hours of 0700 and 1900 from Monday to Saturday, with no activity on Sundays or bank holidays.

**ExA's Consideration**

- 12.4.22. The Public Health and Nuisance section (Volume One, section 5.13) provides the reasoning for the ExA's conclusion that these working hours should be reduced on a Saturday (to 0700 to 1300). This would provide local residents, whether at landfall, along the cable route or close to the onshore substation some respite from noise from construction works. The ExA therefore recommends the dDCO is amended as in Table 3 below in the rDCO.

**Wake effects**

- 12.4.23. Volume One, section 5.14 Socioeconomics, details the discussions held in the Examination concerning potential wake effects between the Applicant and RFWF.

**ExA's Consideration**

- 12.4.24. The ExA concluded in Volume One, section 5.14 that NPS EN-3 does apply to offshore wind effects on other existing windfarms, and that an assessment should therefore have been provided by the Applicant, and the proposal does not in this respect comply with NPS EN-3 paragraph 2.6.179
- 12.4.25. The Applicant does not contest the RFWF predicted effect of 2% on the energy output of RFWF, although it considers this is based on the maximum design scenario so in reality it will be lower [REP7-004]. On the basis of the evidence provided during the Examination the ExA agrees with this figure.
- 12.4.26. A wake loss of up to 2% is estimated to result in a loss of up to 26,000 MWh in the remaining life span of RFWF, but this life span could be extended. The ExA does not consider that this 2% effect would affect the future viability of RFWF and that when balancing the 2% (or less) figure against the energy benefits of the Proposed Development this provides moderate weight against the scheme.
- 12.4.27. Volume One, section 5.14 Socioeconomics recommends that the final detailed design of the scheme seeks to minimise or negate the effects of the proposal on RFWF (eg by turbine location and siting), to comply with NPS EN-3 paragraph 2.6.186. This would potentially reduce effects further than the 2% figure.
- 12.4.28. The ExA is aware that this is the first time (to their knowledge) that such a Requirement would have been imposed on a DCO and that in effect this could be seen as creating a precedent. Nevertheless, the ExA considers that it is justified in this case, for the reasons given above, in the Socio-Economics Chapter, and to accord with NPS EN-3. The ExA also note that such circumstances may become more common with increasing offshore wind energy development and that each case must be considered on its own merits. The wording of the proposed Requirement is detailed below and within Table 3:

*(1) No part of any wind turbine generator shall be erected as part of the authorised development until an assessment of any wake effects and*

*subsequent design provisions to mitigate any such identified effects as far as possible has been submitted to and approved in writing by the Secretary of State, in order to mitigate the impact of the authorised development on the energy generation of Rhyl Flats Wind Farm. The assessment must be based on the scope of this Order as granted.*

- (2) *The authorised development shall be carried out in accordance with the approved details.*

### **Landscape enhancement scheme**

- 12.4.29. The Seascape, Landscape and Visual section (Volume One, section 5.7) contains details of a proposed landscape enhancement scheme which emerged during the Examination. Such a scheme would be based on providing landscape enhancements for the Isle of Anglesey (IoA) Area of Outstanding Natural Beauty (AONB), Eryri National Park (ENP) and Great Orme Heritage Coast (GOHC) as these designated areas are where significant effects are predicted to occur. A draft s106 was issued to the relevant local planning authorities but was not entered into the Examination. At ISH4 the ExA explored the potential inclusion of a Requirement in the DCO should a s106 agreement not be agreed prior to the close of the Examination.
- 12.4.30. At D8 an update note was submitted [REP8-123] which contained the wording of a proposed new Requirement (26) to address the landscape enhancement scheme. A signed joint position statement was also submitted at the same deadline [REP8-122], signed by the Applicant and the relevant parties, and a SoCG between the parties [REP8-124] states that the landscape enhancement opportunities would have the potential to offset the adverse effects of the proposed development.
- 12.4.31. NRW stated [REP8-100], [REP8-047] that while enhancements would not directly mitigate the visual impacts of the development or alleviate concerns regarding their significance, enhancement measures should support the purpose of conservation and enhancement of natural beauty of designated landscapes. They considered that a section 106 agreement (under the auspices of the Town and Country Planning Act 1990) would be the appropriate mechanism for such measures but took some comfort through the inclusion of a Requirement. A landscape enhancement principles document [REP8-093] was also submitted; this document was included in the final dDCO [AS-053] under Schedule 13 as a document to be certified.

### **ExA's Consideration**

- 12.4.32. R26 of the dDCO [AS-053] states:

*26.—(1) Work No. 1 must not be commenced until a scheme for the provision of landscape enhancement in accordance with the landscape enhancement scheme principles document has been submitted and approved by the relevant planning authority following consultation with NRW, the Isle of Anglesey County Council, Eryri National Park Authority and Conwy County Borough Council.*

*(2) The landscape enhancement scheme shall set out appropriate measures to compensate for the impact of the authorised development on the protected landscapes of Eryri National Park, the Isle of Anglesey Area of Outstanding Natural Beauty (including Anglesey Heritage Coast) and Great Orme Heritage Coast.*

*(3) The landscape enhancement scheme shall be implemented as approved.*

*(4) In this requirement “landscape enhancement scheme principles document” means the document certified as such by the Secretary of State under article 40.*

- 12.4.33. Paragraph 4.1.7 of NPS EN-1 sets out that requirements should only be imposed that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects and that the guidance in Circular 11/95, as revised, on “The Use of Conditions in Planning Permissions” or any successor to it, should be taken into account. With the exception of Appendix A (model conditions) which is retained, Circular 11/95 has been cancelled and replaced by Planning Practice Guidance (PPG) which was launched in March 2014. The ExA has thus taken the PPG into account as necessary. While the PPG does not apply in Wales, it is relevant in so far as it is linked to via NPS EN-1, which does.
- 12.4.34. The ExA is aware that, from the evidence provided, the 'Landscape enhancement scheme' to be secured under R26 is likely to involve a planning obligation / financial contribution. The PPG sets out that where the six tests would be met, it may be possible to use a negatively worded condition to prohibit development authorised until a specified action has been taken, for example, the entering into of a planning obligation requiring the payment of a financial contribution. Nonetheless, the PPG also sets out that negatively worded conditions limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases and that it is preferable for any planning obligation or other agreement to be entered into prior to granting permission.
- 12.4.35. However, the PPG also goes on to state that, in exceptional circumstances, a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes). Furthermore, where consideration is given to using a negatively worded condition of this sort, it is important that the local planning authority discusses with the applicant before planning permission is granted the need for a planning obligation or other agreement and the appropriateness of using a condition and that heads of terms or principal terms need to be agreed prior to planning permission being granted to ensure that the test of necessity is met and in the interests of transparency.
- 12.4.36. The ExA considers that the Proposed Development is a complex scheme. It would give rise to a range of adverse seascape, landscape and visual effects and would also conflict with the statutory purposes of preserving and enhancing the natural beauty of designated landscapes. A number of statutory bodies raise substantive concerns with the Proposed Development on this basis. While the Applicant and the statutory bodies recognise that the 'Landscape enhancement scheme' would not fully mitigate such harms, there is general consensus that it would compensate for the harms identified and deliver a range of benefits for the relevant designated landscapes. The ExA concurs with this conclusion. In addition, the principal terms of the 'Landscape enhancement scheme' have been discussed with and largely agreed by the relevant parties.
- 12.4.37. Accordingly, the ExA is satisfied that exceptional circumstances have been demonstrated and that R26 would meet the relevant tests of NPS EN-1 and of the PPG. It is also worth highlighting again here, as mentioned in section 5.8 (Volume One) of this Report, that the Applicant has highlighted that a similar approach was



taken in respect of the Morlais tidal energy scheme, which was endorsed as appropriate by the relevant Inspector and the Welsh Government.

- 12.4.38. Notwithstanding the above, the ExA is also aware that a completed planning obligation may be submitted to the SoS prior to the determination of the application, negating the need for R26.

### **Skills and Employment**

- 12.4.39. The Socioeconomics section (Volume One, section 5.14) details discussions undertaken as part of the Examination in relation to a skills and employment strategy. This issue was first raised by the Isle of Anglesey in their Relevant Representation [RR-004] and was accepted by the Applicant in ISH1. Subsequently R20, stating that no stage of the authorised development may commence until such a strategy has been submitted to and approved by DCC was included in the dDCO [AS-053].

### **ExA's Consideration**

- 12.4.40. The Applicant has confirmed that R20 is not mitigation in relation to an effect as a result of the development and the ExA therefore is not entirely convinced that such a Requirement would meet the six tests (particularly that of necessity) detailed in the above section (relating to landscape). However, notwithstanding this, there is clear precedent for such a Requirement in numerous DCOs and it is evident that the Requirement would deliver significant benefits of the proposed development to local areas. The ExA also notes the willingness of the Applicant to propose such a Requirement, and the support of various local planning authorities to such a scheme. The ExA therefore recommends the Requirement is retained in its current form on the rDCO.

### **Pre-commencement provisions and onshore and offshore definitions.**

- 12.4.41. A common theme of discussions during the Examination centred on the definitions of 'commence' (and therefore also what works would constitute pre-commencement works) and 'onshore and 'offshore'. As detailed above, changes were made to such details (in Articles 2, 3, Schedule 1, R10, R12, R13, R14) at D1 (dDCO Version F). The ExA asked various questions of the Applicant, DCC, and NRW in both written form and at ISH1 and ISH4 about the definitions.
- 12.4.42. In response to ExQ1.6.10 the Applicant amended [REP1-007] the definition of 'commence' within the dDCO to define works excluded and confirmed that pre-commencement works would fall within the control of various different environmental works, including, depending on the nature of the works, the onshore Archaeological written scheme of investigation (WSI) [APP-147], the outline Code of Construction Practice [REP7-018] and the Outline Landscape and Ecology Management Plan [REP7-026], or R14 (for European Protected Species).
- 12.4.43. For the definition of onshore and offshore works, the Applicant, in response to ExQ1.6.11 [REP1-007], clarified the definition to ensure that works landward of the MLWS mark would be termed as onshore, and works seaward of this mark offshore. This meant in effect that DCC would be responsible for works in the intertidal area (between the MLWS and the MHWS and these would be covered under the DCO.
- 12.4.44. A further question from the ExA at ExQ3.0.4 [PD-017] raised queries over whether pre-commencement works in the inter-tidal area would be controlled where relevant by DCC. The Applicant confirmed this to be the case and stated [REP7-004] in

relation to a further question (ExQ3.0.3) concerning pre commencement works offshore that pre-construction works would be defined in the Marine Licence and that they anticipated further discussions occurring with NRW over the extent and control of such works.

### **ExA's Consideration**

- 12.4.45. The ExA considered it important to ensure that the definitions of onshore, offshore and commence were clearly stated and delineated in the dDCO, partially because of the importance of clarity, but also given that in this case mitigation measures are effectively to be secured under the Marine Licence as opposed to the DCO, and so are outside of the control of the ExA and the SoS.
- 12.4.46. Following changes made by the Applicant to the dDCO during the Examination, the ExA considers that such terms are now appropriately delineated and that there is clarity for all relevant parties.

### **NHWF matters**

- 12.4.47. NHWF submitted a RR [RR-019] raising a number of concerns including:
- Effects of cable crossings, lack of protective provisions and potential for an alternative proposed cable route to avoid this;
  - Encroachment of the proposed cable into a designated restricted zone around NHWF requiring consent from NHWF for this under its lease agreement with The Crown Estate; and
  - Indemnities.
- 12.4.48. NHWF made other written submissions throughout the Examination and attended a number of Hearings, including ISH1 and CAH1 [REP1-083, REP1-084, REP1-085, REP2-054, REP2-055, REP3-028, REP4-046, REP5-040, REP6-049, REP7-057 and REP8-101 to REP8-105].
- 12.4.49. By the end of the Examination, NHWF's concerns around alternative cable routes were resolved. However, agreement had not been reached between NHWF and the Applicant on cable crossing matters, the need for protective provisions and indemnities, despite protracted negotiations. This affects whether NHWF would give its consent on works within the designated restricted zone. The Applicant provided a document at D8 detailing the differences between the parties [REP8-043] and also set out relevant matters in its closing submission [REP8-117]. NHWF's closing submission [REP8-105] set out its views on the matters.
- 12.4.50. In summary, both parties accept that a cable crossing agreement is required and that they intend to continue active discussions on the matter. The Applicant states that if such an agreement is not forthcoming by the time the ExA issues its recommendation report, it intends to provide the SoS with a set of protective provisions for consideration. NHWF provided a set of protective provisions at D5 [REP5-040], which were updated at D8 [REP8-104] to include provisions on expenses which NHWF notes are similar to those in a draft crossing agreement seen by the Applicant (though not seen by the ExA). NHWF points to the Norfolk Boreas Offshore Wind Farm Order 2021 as an example of where protective provisions have been used in respect of cable crossings.
- 12.4.51. The main areas of disagreement between the parties are understood by the ExA to relate to the following matters:

- Whether NHWF should be subject to costs for reciprocal indemnities and insurance against possible damage to the Proposed Development's cables for carrying out future works on its own cables;
- Whether the Applicant's indemnities should be capped; and
- Whether the Applicant should provide additional protection to NHWF in case of any temporary curtailment of generation during the Proposed Development's connection to the grid.

#### **ExA's consideration**

- 12.4.52. The ExA has considered the views / submissions of both parties carefully. In respect of reciprocal indemnities, the ExA understands that NHWF has agreed to the principle of seeking consent from the Applicant for any future works to its cables in the vicinity of those of the Proposed Development. Such consenting should minimise any potential for damage to the cables of the Proposed Development from such works. Moreover, it seems unreasonable to the ExA for NHWF to incur additional insurance or indemnity costs due to works undertaken by the Applicant to facilitate the operation of the Proposed Development. On the matter of capping indemnities, NHWF highlights that indemnities are not capped in respect of protective provisions for other statutory undertakers. Notwithstanding this, the ExA considers it unreasonable for the Applicant to seek to cap its indemnities for the protection of NHWF as this may affect NHWF's operations should any costs incurred exceed the cap. The ExA also considers that the Applicant should make provision to cover the costs of any temporary curtailment of generation from NHWF should this occur during any enabling works necessary to operate the Proposed Development (such as grid connections).
- 12.4.53. Finally, in light of a lack of a crossing agreement between the parties at the close of the Examination, the ExA considers that should this not be forthcoming, protective provisions for NHWF would be justified. Given the ExA's above consideration and that only NHWF has provided wording for protective provisions, the ExA takes the view that these should be included in Schedule 9 of the rDCO.
- 12.4.54. The wording submitted by NHWF have therefore been included in the rDCO. These were submitted at D8, and published three days prior to the close of the Examination and the ExA received no substantive comments on them between then and the close.

#### **Community Linguistic Statement (CLS)**

- 12.4.55. Volume One, section 5.14 Socioeconomics, details the discussions held in the Examination concerning a CLS between the Welsh Government and the Applicant.

#### **ExA's Consideration**

- 12.4.56. The importance of the Welsh language and Welsh identity is understood by the ExA. The Welsh language is a key part of the region's culture and identity and the ExA is aware that Welsh is the primary language spoken in several communities, as well as having a significant presence in many workplaces and education institutions.
- 12.4.57. The ExA is satisfied that, following the amendments made to the CLS [REP6-023] at Deadline (D) 6, the content of CLS would ensure full compliance with Policy RD 5 of the DCCLDP, which states that in all planning application *the needs and interests of the Welsh language will be taken into account*.

- 12.4.58. Through the development of the CLS, the ExA is satisfied that it has been adequately demonstrated by the Applicant that the Proposed Development would not have any significant negative effect on the Welsh language. Furthermore, appropriate efforts are to be employed by the Applicant to ensure the promotion of the Welsh language during both the construction and operational phases and further language measures would be contained with the Supply Chain Plan.
- 12.4.59. However, it is not clear to the ExA how the CLS would be secured. Given the importance of the document, the ExA considers it appropriate that it is included as a Certified Document in Schedule 13 of the rDCO.

### **Time limits**

- 12.4.60. Article 19 (Time limit for exercise of authority to acquire land compulsorily) and Schedule 2, R1 (Time limits for commencement) both allow seven years as opposed to the more standard five-year time frame. ExQ1.6.22 [PD-009] requested that the Applicant justify these additional two years.
- 12.4.61. The Applicant [REP1-007] responded:

*A 7-year period for commencement is required due to the scale of the project, and the need to bid into Contract for Difference (CfD) rounds, the timing of which is currently unknown and is outside the control of the Applicant. The Applicant cannot bid into CfD rounds until consent for the project has been obtained. The dates for future CfD rounds have not yet been announced and the Applicant can only bid into these once they are opened. The Applicant accordingly requires time to bid into a round, receive the outcome and then procure the necessary works to progress the project before it can be commenced, and a 7-year period would allow for this to happen.*

### **ExA's consideration**

- 12.4.62. The Applicant's response to ExQ1.6.22 provides evidence of the need for a seven-year period for commencement rather than five and, given the need for bidding within the CfD process, a scheme outside of the Applicant's control, this appears justified in the view of the ExA. Such time limits have therefore been retained within the rDCO.

### **Certification of documents**

- 12.4.63. Schedule 13 of the rDCO contains documents to be certified. The ExA is aware that this list is reasonably substantial. However, we consider that all documents are relevant and require certification to control the overall limits and parameters of the Proposed Development.

### **Minor typographical errors**

- 12.4.64. The Applicant's final dDCO [AS-053] contains some minor typographical errors, which the ExA has highlighted in Table 3, below. Changes have also been made to update document references in Schedule 13.

### **ExA's conclusion**

- 12.4.65. This section of the report summarises the ExA's recommended changes to the preferred dDCO (Version O, [APP-053]) in the rDCO (Volume Two, Appendix D), for the reasons detailed above.

**Table 3: DCO Provisions Recommended to be Changed**

Provision	Suggested change	ExA's Comment
Article 3	<p>Add new subsections to this article (3) and (4) so that the revised Article reads as follows:</p> <p><b><i>Development consent etc. granted by the Order</i></b></p> <p>3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—</p> <p>(a) development consent for the authorised development; and</p> <p>(b) consent for the ancillary works;</p> <p>to be carried out within the Order limits.</p> <p>(2) Subject to the requirements, the offshore works must be constructed within the Order limits seaward of MLWS and the onshore works must be constructed within the Order limits landward of MLWS.</p> <p>(3) No provision of this Order obviates the need to obtain a marine licence(s) under Part 4 of the 2009 Act before commencement of the DCO, or to comply with the conditions of any marine licence(s), and nothing in this Order in any way limits the enforcement powers in respect of a marine licence(s) under Part 4 of the 2009 Act</p> <p>(4) In the event of any inconsistency between the provisions of this Order and a marine licence, then the terms of the marine licence will take precedence.</p>	See the ExA's discussion in paras 12.4.4 to 12.4.19 above.
Article 12(6)	<p>(6) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph <del>(5)</del>, (4), that street authority is deemed to have granted consent.</p>	Typographical error
Description of Works, Work No 31A, page 38.	<p>Work <del>No.</del> 31A—</p>	Typographical error

Provision	Suggested change	ExA's Comment
R12 (3)	(3) Pre-commencement surveys and investigations, including those necessary to allow production of any scheme required under sub-paragraph (1) must only take place in accordance <b>with</b> the applicable details set out in the onshore WSI.	Typographical error
R15	Alter part (1) of R15 to read as follows:  <b>Construction hours</b>  15.—(1) Except as otherwise agreed in the code of construction practice and subject to sub-paragraphs (2) to (4), construction of the onshore works and construction-related traffic movements to or from the site of the relevant work may take place only between the hours of 0700 and 1900 from Monday to <b>Friday and 0700 and 1300 on</b> Saturdays, with no activity on Sundays or bank holidays.	See the ExA's discussion in paras 12.4.20 to 12.4.22 above.
R18 (2)(b)	(b) with <del>the</del> a microphone placed at least 1.5 m above the ground in free-field conditions (being at least 3.5 m from the nearest vertical reflecting surface).	Typographical error
R18 (3)	(3) In the event of a complaint to the relevant planning authority relating to noise <del>im</del> issions from the operation of Work No. 31A which may reasonably be expected to result in levels above those allowed by paragraph (1)—	Typographical error
R26 (1)	(1) Work No. 1 must not be commenced until a scheme for the provision of landscape enhancement in accordance with the landscape enhancement scheme principles document has been submitted <b>to</b> and approved by the relevant planning authority following consultation with NRW, the Isle of Anglesey County Council, Eryri National Park Authority and Conwy County Borough Council.	Typographical error
New Requirement	Add a new Requirement (No 27) as follows:  <b>Wake effects</b>	See the ExA's discussion in paras 12.4.23

Provision	Suggested change	ExA's Comment
	<p>27. – (1) No part of any wind turbine generator shall be erected as part of the authorised development until an assessment of any wake effects and subsequent design provisions to mitigate any such identified effects as far as possible has been submitted to and approved in writing by the Secretary of State, in order to mitigate the impact of the authorised development on the energy generation of Rhyl Flats Wind Farm. The assessment must be based on the scope of this Order as granted.</p> <p>(2) The authorised development shall be carried out in accordance with the approved details.</p>	to 12.4.28 above
Schedule 9 Protective Provisions, Part 3, Paragraph 29	29. The undertaker, in the case of the powers conferred by article 16 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus or to the Bodelwyddan Site without the written consent of National Grid which will not unreasonably be withheld.	Typographical error
Schedule 9 Protective Provisions, Part 3, Paragraph 30 (3)	(3) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.	Typographical error

Provision	Suggested change	ExA's Comment
Schedule 9 Protective Provisions, Part 3, Paragraph 31	31.—(1) If, in the exercise of the powers conferred by this Order the undertaker acquires any interest in or possesses temporarily any Order land in which any apparatus is placed, that apparatus must not be removed under this Part and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (5).	Typographical error
Schedule 9 Protective provisions	<p><b>Insert new protective provision (Part 11) for the benefit of North Hoyle Wind Farm Limited.</b></p> <p><b>Application</b></p> <p>1. The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and North Hoyle Wind Farm Limited.</p> <p><b>Interpretation</b></p> <p>2. In this part—</p> <p>“Company” means North Hoyle Wind Farm Limited (company number 02904841) whose registered address is at 5th Floor, 20 Fenchurch street. London, England, EC3M 3BY;</p> <p>“Company cables” means the export cables leading from North Hoyle wind farm to their onshore grid connection;</p> <p>“crossing points” means the points at which the Company cables and the undertaker cables cross each other;</p> <p>“force majeure event” means any cause beyond the reasonable control of the undertaker, and which the undertaker by the exercise of reasonable diligence is unable to prevent, avoid or remove, and in relation to which the undertaker has exercised and is exercising the standard of a reasonable and prudent operator provided that a lack of funds shall not constitute a force majeure event;</p> <p>“method statement” means such designs, details and procedures for performance of the work as</p>	See the ExA's discussion in paras 12.4.47 to 12.4.54 above



Provision	Suggested change	ExA's Comment
	<p>are sufficient to enable the Company (acting reasonably) to satisfy itself as to the safety and security of the Company cables and the technical adequacy of the work, such designs, details and procedures shall as a minimum include—</p> <p>(a) construction methods and programmes;</p> <p>(b) vessel handling and positioning systems;</p> <p>(c) stabilisation details;</p> <p>(d) details of the vertical and horizontal separation between the Company cables and the undertaker cables;</p> <p>(e) details of the proposed protection measures for the Company cables and provision of such protective works (whether temporary or permanent) as the Company may reasonably require for the safety and operation of the Company cables;</p> <p>(f) the proposed timetable for the work;</p> <p>(g) location, layout and profile of the crossing of the Company cables by the undertaker cables;</p> <p>(h) specification of the installation equipment;</p> <p>(i) inspection and safety methods; and</p> <p>(j) copies of the approved cable burial risk assessment and cable route burial protocol;</p> <p>“North Hoyle wind farm” means the offshore wind farm operated by the Company to the north east of Work No.2, the location of which is shown on Sheet No. 2 of the works plans;</p> <p>“specified work” means any operation (including the anchoring of vessels) within 500 metres of the Company cables, including any work for the laying of the undertaker cables, crossing of the Company cables and the installation and any maintenance or remedial work of whatever nature (including removal) on the undertaker cables;</p> <p>“standard of a reasonable and prudent operator” means seeking in good faith to perform its</p>	

Provision	Suggested change	ExA's Comment
	<p>contractual obligations, and in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances and complying with applicable law; and “undertaker cables” means the submarine AC power export cables to be installed by the undertaker in terms of Work No.2.</p> <p><b>Requirement for approval of method statement and surveys</b></p> <p>3. The undertaker must at least 3 months before commencing construction of any specified work supply to the Company a method statement for the reasonable approval of the Company and the specified work must not be commenced or undertaken except in accordance with such method statement as has been approved in writing by the Company, settled by arbitration under article 44 (arbitration) or as may be agreed to be varied from time to time, such agreement not to be unreasonably withheld or delayed.</p> <p>4. If by the expiry of 28 days, beginning on the date on which the method statement was supplied to the Company under paragraph 3, the Company has not communicated approval or disapproval, the Company is deemed to have approved the method statement as supplied.</p> <p>5.—(1) The undertaker shall, at its own cost, carry out all surveys reasonably necessary to confirm the actual position of the Company cables prior to the commencement of any specified work unless otherwise agreed with the Company in writing, such agreement not to be unreasonably withheld or delayed provided that—</p> <p>(a) The Company shall provide on request, any reasonable assistance in locating the Company cables which shall include provision of any as-laid/post-installation survey data relating to the Company Cables in the possession and/or control of the Company; and</p>	

Provision	Suggested change	ExA's Comment
	<p>(b) If, following the provision of such reasonable assistance, the position of the Company cables has not been identified by the undertaker, the Company and the undertaker shall discuss and use all reasonable endeavours to agree upon a suitable method for carrying out the specified work.</p> <p>6. In granting its approval (or deemed approval) of the method statement the Company shall not be under any duty to ensure the accuracy, correctness or completeness of the method statement.</p> <p>Approval (or deemed approval) of the method statement by the Company shall not release the undertaker from any obligation or liability and shall not as between the undertaker and the Company be capable of amounting to negligence or contributory negligence on the part of the Company in the event of any claim or proceedings arising out of or in connection with the specified works unless the loss, damage or expense giving rise to such claim or proceeding is caused by the wilful misconduct of the Company.</p> <p>7. The undertaker shall use all reasonable endeavours to ensure the route of the undertaker cables shall be designed to cross the Company cables at a horizontal angle which is as close as possible to a right angle as is practicable having due regard to other route requirements.</p> <p><b>Requirement for notification of start of works</b></p> <p>8.—(1) The undertaker shall give the Company no less than 15 working days written notice of their intention to carry out any specified work providing—</p> <p>(a) the nature of the work; and</p> <p>(b) the anticipated dates of commencement and completion of the work</p> <p>(2) In the event of the work not being commenced within 15 working days of the anticipated date of commencement as notified by the undertaker pursuant to sub-paragraph (1) the</p>	

Provision	Suggested change	ExA's Comment
	<p>undertaker shall re-notify the information referred to in sub-paragraph (1).</p> <p><b>Carrying out of works</b></p> <p>9. The undertaker shall allow the Company all access to the Company cables as may be reasonably required by the Company for the purposes of maintenance when carrying out any specified works.</p> <p>10. The undertaker shall ensure that the specified works are carried out with all reasonable skill and care, in accordance with all relevant statutory obligations and in accordance with the method statement for the specified works approved or deemed approved under paragraph or such alternative designs, details and procedures which the undertaker may propose and the Company may accept from time to time at its sole discretion.</p> <p>11. Any contractor and/or subcontractor used by the undertaker for the purpose of the specified works shall be suitably qualified and experienced in carrying out the type of work for which it is engaged. The undertaker shall take and procure that its contractors and/or subcontractors shall take all such measures as ought reasonably to be taken in accordance with good offshore cable practice to avoid the risk of damage to the Company cables.</p> <p>12. Either during the installation or as soon as practicable after the installation of the undertaker cables, the crossing points shall be inspected by the undertaker or on its behalf, at the undertaker's expense, by means of a remotely operated vehicle or by divers or such other method as shall be reasonably agreed by the Company, to ascertain that the undertaker cables and the Company cables have the agreed vertical separation distance at the crossing points in accordance with the method statement approved in accordance with paragraph 3. In the event that the undertaker cables and the Company cables have been adequately vertically separated then the undertaker shall consult with the Company to determine the most appropriate course of action and the undertaker shall, at its</p>	

Provision	Suggested change	ExA's Comment
	<p>own expense then rectify the situation to provide such vertical separation.</p> <p>13.—(1) The undertaker shall provide the Company with the actual as-laid route of the undertaker cables in the vicinity of the Company cables by—</p> <p>(a) provision of co-ordinates of the crossing points within 48 hours after completion of installation of the undertaker cables in the vicinity of the cables; and</p> <p>(b) provision of charted information of the crossing points as soon as practicable after the completion of the installation of the undertaker cables.</p> <p>14. The undertaker shall ensure that the risk of dropped object, anchoring, grounding, vessel drift-off, impact from jack-up legs etc. will be adequately assessed and precautions taken to minimise such risks as far as reasonably possible.</p> <p><b>Future specified works</b></p> <p>15. Following the installation of the undertaker cables, the undertaker shall use all reasonable endeavours to consult the Company in good faith regarding any future specified work which may be required to the undertaker cables. The undertaker and Company shall work together to accommodate any such future specified work if this is required and shall use all reasonable endeavours to agree the timings and methods for any future specified work to be undertaken, such agreement not to be unreasonably withheld or delayed by the Company.</p> <p>16. Notwithstanding the provisions of paragraph 15, if any future specified work is required which is of an urgent or emergency nature, the Company and the undertaker shall use all reasonable endeavours to undertake such work in an expeditious manner and shall work together in good faith to enable such future specified work to be undertaken as required and the undertaker shall give the Company as much written notice as is reasonably possible in light of the emergency or urgency before undertaking</p>	

Provision	Suggested change	ExA's Comment
	<p>such future specified work (including all relevant details of the proposed future specified work).</p> <p>17.—(1) Subject to paragraph 16, where the undertaker requires to carry out any future specified work then the undertaker shall—</p> <p>(a) provide the Company with not less than 1 months notification of its intention to carry out any such future specified work;</p> <p>(b) provide the Company with all such reasonable information concerning the future specified work and the procedures for the conduct of the future specified work as the Company may reasonably require and the provisions of paragraphs 3 to 14 shall apply to any such future specified work mutatis mutandis except that</p> <p>(i) the time period for providing a method statement under paragraph 3 shall be 1 month prior to the commencement of the future specified work;</p> <p>(ii) the time period for approving a method statement under paragraph 4 shall be 15 working days</p> <p>(iii) the time period for advising the anticipated dates of commencement and completion of the future specified work under paragraph 8 shall be 10 working days.</p> <p><b>Works on Company cables</b></p> <p>18.—(1) The Company shall be entitled, at the Company's expense, to carry out any operation required to re-lay, maintain, renew or remove the Company cables in the vicinity of and over the undertaker cables if such work becomes necessary for any reason provided that, when the Company proposes to undertake such work they shall follow the procedure set out in paragraphs 15 to 17</p> <p>which applies with the following modifications—</p> <p>(a) The references to the "the undertaker" shall be read as references to "the Company";</p>	

Provision	Suggested change	ExA's Comment
	<p>(b) The references to "The Company" shall be read as references to "the undertaker"; and</p> <p>(c) The references to "future specified work" shall be read as "work permitted under paragraph 18."</p> <p><b>Restrictions on anchors and moorings</b></p> <p>19. The Company shall not deploy anchors or other ground mooring equipment within 250 metres of the Company cables unless in accordance with DNV Standards or otherwise except on obtaining, for the those cables or ground mooring equipment, written agreement of the Company (or the written agreement of representative of the Company supervising the work in terms of paragraph 25.</p> <p><b>Indemnity and liabilities</b></p> <p>20.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works (including without limitation any specified work carried out by the undertaker or any subsidence resulting from any such work), any damage is caused to any apparatus or property of the Company or there is any interruption or reduction in any electricity supply by the Company or the Company becomes liable to pay any amount to any third party, the undertaker will—</p> <p>(a) bear and pay on demand accompanied by an invoice or claim from the Company the cost reasonably and properly incurred by the Company in making good such damage or restoring the supply;</p> <p>(b) indemnify without limitation the Company for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the Company by reason or in consequence of any such damage, interruption or reduction or the Company becoming liable to any third party as aforesaid</p>	

Provision	Suggested change	ExA's Comment
	<p>other than arising from any default by the Company; and</p> <p>(c) Indemnify without limitation the Company for any and all claims, proceedings, damages (whether in contract or tort), costs (including reasonable legal costs), demands, liabilities, or expenses incurred by the Company which arises out of or in connection with any pollution caused by or which arises out of any specified work or in consequence of the construction, use, maintenance or failure of any of the authorised development carried out by or on behalf of the undertaker.</p> <p>(2) The fact that any act or thing may have been done by the Company on behalf of the undertaker or in accordance with a plan or method statement approved by the Company or in accordance with any requirement of the Company or as a consequence of the authorised development or under its supervision does not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this paragraph where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not materially accord with the approved plan (or as otherwise agreed between the undertaker and the Company.</p> <p>(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—</p> <p>(a) any damage or interruption to the extent that it is attributable to the wilful misconduct of the Company;</p> <p>(b) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.</p> <p>(4) The Company must give the undertaker reasonable notice of any claim or demand and no settlement, admission of liability or compromise or demand, unless payment is required in connection with a statutory</p>	



Provision	Suggested change	ExA's Comment
	<p>compensation scheme, is to be made without first consulting the undertaker and considering its representation.</p> <p>21.—(1) The undertaker shall be responsible for the recovery or removal and when appropriate the marking or lighting of any wreck or debris arising from or relating to or in connection with its carrying out of a specified work when required by—</p> <p>(a) any applicable law or governmental authority;</p> <p>(b) any applicable consent or third party agreement that the Company is subject and/or a party</p> <p>to; or</p> <p>(c) where such wreck or debris is interfering with the Company's operations or is a hazard to fishing or navigation,</p> <p>and shall be liable for, and shall indemnify and hold harmless the Company, from and against any and all claims, proceedings, damages (whether in contract or tort), costs (including reasonable legal costs), demands, liabilities, or expenses incurred by the Company which arises out of or in connection with any such wreck or debris, whether or not the negligence or breach of duty (whether statutory or otherwise) of the Company contributed to such wreck or debris.</p> <p>22.—(1) In the event of the undertaker being liable for damage to the Company's cables, the Company may at its discretion either—</p> <p>(a) require the undertaker to repair the damage; or</p> <p>(b) carry out the repair work itself.</p> <p>(2) Should the Company elect to carry out the repair work itself, the Company shall use all reasonable endeavours to minimise costs and shall take all reasonable action to repair the Company cables as soon as practicable. The repairs shall be effected with due regard to the technical requirements of the Company's cables and nothing in this paragraph shall oblige the</p>	

Provision	Suggested change	ExA's Comment
	<p>Company to accept a standard of repair that would adversely affect the technical performance of the affected cable.</p> <p>23. In the event of the undertaker being liable for damage to the Company Cables, the Company shall use all reasonable endeavours to notify the undertaker of the existence of the damage to the Company cables as soon as practicable after the existence of such damage is known.</p> <p>24. The undertaker shall use reasonable endeavours to procure that any policies of insurance of the undertaker shall contain waiver of subrogation rights which reflect the provisions of this Part.</p> <p><b>Representatives</b></p> <p>25.—(1) The Company shall be entitled to have not more than 2 representatives present while any specified work is being carried out by the undertaker whose role shall be as follows—</p> <p>(a) Any cost and logistics associated with onboarding and the services of the Company representatives shall be covered by the undertaker.</p> <p>(b) Any representatives must be suitably qualified and experienced and must comply with the Maritime Labour Convention 2006 Regulations.</p> <p>(c) The Representatives may be located on any vessel carrying out the specified work and shall have full and free access at all times to all activities related to the specified work.</p> <p>(d) The undertaker shall afford the representatives its full cooperation in the execution of the representative's duties under this paragraph.</p> <p>(e) The representatives only function is to safeguard the interests of the Company and he/she/they shall have no duty to ensure or procure the doing of anything for the benefit of undertaker or to prevent anything which may be to the detriment of the undertaker respectively,</p>	

Provision	Suggested change	ExA's Comment
	<p>provided however that the representatives shall act in good faith at all times.</p> <p><b>Insurance</b></p> <p>26.—(1) The undertaker shall arrange insurance as follows—</p> <p>(a) The undertaker shall at all times when carrying out specified work, insure at its own cost for its liability under paragraphs 20 and 21 for the sum of twenty million pounds sterling (£20,000,000) for any one incident (or series of connected incidents) and forty million pounds sterling (£40,000,000) in total for any incident or series of incidents, related or unrelated, in any 12 month period.;</p> <p>(b) All such policies of insurance shall be placed with are placed with an insurance office approved to do business in Germany or the United Kingdom; and</p> <p>(c) The undertaker shall provide the Company with evidence of that such insurance is in place (via a brokers' confirmation or similar) as may be reasonably requested by the Company from time to time.</p> <p><b>Force majeure</b></p> <p>27.—(1) The undertaker shall not be responsible for any failure to fulfil any paragraph of this Part if and to the extent that fulfilment has been delayed or temporarily prevented by a force majeure event which has been notified in accordance with the following provisions—</p> <p>(a) In the event of a force majeure event, the undertaker shall notify the Company as soon as practicable and in any event not later than 10 working days after the undertaker became aware of the event or circumstance giving the full particulars thereof and shall use all reasonable endeavours to remedy the situation without delay;</p> <p>(b) Following notification of a force majeure event in accordance with sub-paragraph (1)(b), the undertaker and the Company shall meet without delay (and thereafter at regular intervals)</p>	

Provision	Suggested change	ExA's Comment
	<p>to discuss the effect of the force majeure event with a view to agreeing a mutually acceptable course of action to minimise any effects of such occurrence.</p> <p>(c) The undertaker shall at all times use all reasonable endeavours to avoid, overcome and minimise any delay in the performance of this Part as a result of any force majeure event.</p> <p>(d) If the undertaker is affected by force majeure event whilst any of its vessels or equipment are engaged in the performance of a specified work they shall ensure that all reasonable steps are taken to ensure the protection of the Company cables from damage and shall immediately notify the Company of any such steps taken.</p> <p>(e) The undertaker shall give notice to the Company when it ceases to be affected by the force majeure event and shall as soon as reasonably possible after the cessation of the force majeure event resume performance of its obligations under this Part.</p> <p><b>Costs and expenses</b></p> <p>28.—(1) The undertaker shall pay the Company on demand all reasonable charges, costs and expenses incurred by the Company in direct consequence of any work carried out by the Company under this Part Agreement including without limitation—</p> <p>(a) The approval of method statements;</p> <p>(b) the carrying out of protective works (including any temporary protective works and their removal;</p> <p>(c) The supervision or monitoring of any specified work by the undertaker including the cost of appointing representatives in terms of paragraph 25; and</p> <p>(d) The survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any specified work.</p>	

Provision	Suggested change	ExA's Comment
Schedule 12 Arbitration Rules. Paragraph 7 (1)	7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be confidential and will only be <del>publically</del> publicly disclosed where required by law or with the agreement of both parties.	Typographical error
Schedule 13	Addition of new document to be certified:  Community Linguistic Statement [REP6-023]	See the ExA's discussion in paras 12.4.55 to 12.4.59 above
Schedule 13	Various changes made to document references	Changes made to reflect final references and for precision.
Explanatory Note	This Order grants development consent for, and authorises the construction, operation and maintenance of an offshore wind farm generating station located approximately 11km from the coast of Denbighshire, together with associated development. This Order imposes requirements in connection with the development and authorises the compulsory <del>acquisition</del> purchase of land (including rights in land) and the right to use land and to override easements and other rights.	Typographical error

## 12.5. CONCLUSIONS

- 12.5.1. The ExA has considered all iterations of the dDCO as provided by the Applicant, from the submission version [APP-018] to the final version [AS-053] and has considered the degree to which the Applicant's final version has addressed outstanding matters.
- 12.5.2. A number of matters are the subject of recommendations in this Chapter and are included in the rDCO in Volume Three, Appendix D of this Report.
- 12.5.3. Taking all matters raised in this Chapter and all matters relevant to the DCO raised in the remainder of this Report fully into account, should the SoS for Energy Security and Net Zero be minded to make the DCO, it is recommended to be made in the form set out in Volume Three, Appendix D of this Report.

## **13. SUMMARY OF FINDINGS AND CONCLUSIONS**

### **13.1. INTRODUCTION**

- 13.1.1. This Chapter summarises the Examining Authority's (ExA) conclusions arising from the Report as a whole and sets out our recommendation to the Secretary of State (SoS) for Energy Security and Net Zero.

### **13.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS**

- 13.2.1. In relation to s104 of the Planning Act 2008 (PA2008) the ExA concludes that making the recommended Development Consent Order (rDCO) would be in accordance with the Overarching National Policy Statement for Energy (NPS EN-1), the National Policy Statement for Renewable Energy Infrastructure (NPS EN-3), and the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) (all designated in 2011) and would not substantially conflict with relevant development plan policy and other relevant policy, all of which have been taken into account in this Report. The ExA has also had regard to the Local Impact Report (LIR) from Denbighshire County Council (DCC) in reaching its conclusions.
- 13.2.2. The ExA's findings are that Adverse Effects on Integrity (AEoI) can be excluded on all the identified European sites as a result of the Proposed Development alone or in combination with other plans or projects. This conclusion is subject to delivery of the mitigation measures described in the Schedule of Mitigation and Monitoring and Marine Licence Principles document. The Marine Licence (ML) functions carried out by Natural Resources Wales Marine Licencing Team should adequately secure and control the mitigation measures required for the Proposed Development. In this respect the ExA also note that the DCO could not be implemented unless in accordance with the terms of a granted ML.
- 13.2.3. As the Proposed Development could not be constructed without a ML, and the marine licence would be subject to HRA, the ExA is satisfied that the relevant mitigation would be secured before consent can be given. The ExA considers that there is sufficient information before the Secretary of State to enable them to undertake an appropriate assessment.
- 13.2.4. The ExA has considered the case for Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights in order to implement the Proposed Development. The ExA is satisfied that the legal interests in all the plots of land included in the Book of Reference (BoR) [REP8-025] and shown on the Land Plans [REP6-028] would be required for the Proposed Development with respect to both CA and TP powers. In respect of land subject to CA for the Proposed Development, the land to be taken is no more than is reasonably required and the proposed land-take is proportionate. The Applicant has a clear idea of how it intends to use the land and funds are available for the implementation of the Proposed Development.
- 13.2.5. The ExA has had regard to the provisions of the Human Rights Act 1998, in particular, Article 6, Article 8 and Article 1 of the First Protocol. The ExA is satisfied that the Examination has ensured a fair and public hearing, that any interference with human rights arising from implementation of the Proposed Development is proportionate and strikes a fair balance between the rights of the individual and the public interest and that compensation would be available in respect of any quantifiable loss. There is no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

- 13.2.6. The ExA has also had regard to the Public Sector Equality Duty (PSED) throughout the Examination and in producing this Report. The PSED is considered in Chapter 3 of the Report. The Proposed Development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, the ExA is satisfied there would be no breach of the PSED.
- 13.2.7. With regard to all other matters and representations received, the ExA is satisfied that there are no important and relevant matters that would individually or collectively lead to a different recommendation from that below.
- 13.2.8. With the mitigation proposed through the rDCO in Appendix D of this Report, there are no adverse impacts arising from the Proposed Development that would outweigh its benefits. The ExA is thus satisfied that the Proposed Development would meet the tests in s104 of PA2008.
- 13.2.9. Furthermore, there is nothing to indicate that the application should be decided other than in accordance with the currently designated NPS EN-1, EN-3 and EN-5.

### **Matters for the attention of the SoS**

- 13.2.10. The DCO chapter (Volume Two, Chapter 12) raises a number of matters which the ExA wishes to flag for the attention of the SoS, including the proposed requirements to address wake effects, landscape enhancement, and skills and employment.
- 13.2.11. The DCO chapter (Volume Two Chapter 12) details discussions at the Examination with regards to a protective provision for North Hoyle Wind Farm (NHWF). Both parties (NHWF and the Applicant) accept that a cable crossing agreement is required and that they intend to continue active discussions on the matter. The Applicant states that if such an agreement is not forthcoming by the time the ExA issues its recommendation report, it intends to provide the SoS with a set of protective provisions for consideration. The ExA has inserted the suggested protective provisions submitted by NHWF [REP8-104] in the rDCO. These were submitted at D8 and published three days prior to the close of the Examination and the ExA received no substantive comments on them between then and the close.
- 13.2.12. As explained in Chapter 4, as the Proposed Development is situated in Welsh waters, a separate Marine Licence (ML) is needed from Natural Resources Wales under the Marine and Coastal Access Act 2009. The DCO therefore does not contain powers or controls which sit within the ML regime. The DCO chapter (Volume Two Chapter 12) contains a detailed summary of such matters and recommends that Article 3 of the rDCO is amended to ensure that no provision of the Order obviates the need to obtain a ML prior to commencement of the DCO and to clearly state the precedence between the Order and the ML to avoid any future potential uncertainty.
- 13.2.13. At the close of the Examination, Crown consent had not been specifically received from any of the relevant Crown authorities. In the absence of consents from the relevant Crown authorities, the ExA concludes that the Order cannot authorise the CA or TP of those plots of land and / or interests which are Crown land because s135(1) and s135(2) of PA2008 has not been met. However, the ExA is not aware of any impediments to the granting of Crown consent by the relevant Crown authorities.

- 13.2.14. Chapter 8.6 of this Report concludes on other projects and proposals. The ExA accepts that a separate assessment was not required for Mona and Morgan (or other projects mentioned) and that such assessments would not be reasonably possible – or the information that they would have provided may not be sound due to the limited availability of information in the public domain. If more detailed information on Mona and Morgan windfarms is forthcoming during the period following the closure of the Examination, such information may be required to be assessed as part of the requirement to assess the cumulative impact of this project with these pending projects. In this respect it is noted that at the close of Examination both windfarms are predicted to be submitted in the first quarter of 2024 (based on the project pages of the Planning Inspectorate’s website), after the due decision date.
- 13.2.15. As stated in paragraph 13.2.1, the ExA concludes that, with reference to s104 of the Planning Act 2008 (PA2008), making the recommended Development Consent Order (rDCO) would be in accordance with the Overarching National Policy Statement for Energy (NPS EN-1), the National Policy Statement for Renewable Energy Infrastructure (NPS EN-3), and the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) (all designated in 2011). The report also considers elements of the consultation drafts of these documents dating from September 2021. The ExA is aware that the SoS released new drafts of NPS EN-1, EN-3, and EN-5 for consultation on 30 March 2023. These have not been considered in this Report as they were published following the closure of the Examination. The ExA is not aware of any matters in these drafts which would cause it to amend any part of the recommendation, but has not considered these in depth.

### **13.3. RECOMMENDATION**

- 13.3.1. Subject to paragraphs 13.2.10 to 13.2.15 of this Report, for all of the above reasons, and in the light of the ExA’s findings and conclusions on important and relevant matters set out in the Report, the ExA recommends that the SoS makes the Awel y Môr Offshore Wind Farm DCO in the form recommended at Appendix D of this Report.





The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

## **AWEL Y MÔR OFFSHORE WIND FARM**

Examining Authority's Report  
of Findings and Conclusions  
and

Recommendation to the Secretary of State for  
Energy Security and Net Zero

### **VOLUME THREE**

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#### **Examining Authority**

**Jonathan Hockley** BA(Hons) DipTP MRTPI, Panel Lead

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20 June 2023

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# REPORT GUIDE

This Report is divided into three volumes.

## **Volume One**

- Introductory Matters and Context
  - Chapters 1 – 4
- Chapter 5 - Findings and Conclusions in relation to the Planning Issues
  - 5.1 Introduction
  - 5.2 Aviation
  - 5.3 Biodiversity, Ecology and Natural Environment
  - 5.4 Flood Risk and Water Quality
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  - 5.7 Seascape, Landscape and Visual
  - 5.8 Landscape and Visual
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  - 5.10 Marine - Commercial Fisheries, Shipping and Navigation
  - 5.11 Marine - Natural
  - 5.12 Marine Water and Sediment Quality
  - 5.13 Public Health and Nuisance
  - 5.14 Socioeconomics
  - 5.15 Tourism and Recreation
  - 5.16 Traffic and Transport
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- Overarching Analysis
  - Chapter 6 Habitats Regulation Assessment
  - Chapter 7 Good Design
  - Chapter 8 Other projects and proposals
  - Chapter 9 Site selection and alternatives
- The Planning Balance
  - Chapter 10 Conclusions on the Case for Development Consent
- Land, Rights and Statutory Provisions
  - Chapter 11 Compulsory Acquisition and Related Matters
  - Chapter 12 The Draft Development Consent Order and Related Matters
- Conclusions
  - Chapter 13 Summary of Findings and Conclusions

## **Volume Three**

- Appendices
  - Appendix A - Events in pre-Examination and Examination
  - Appendix B - The Examination Library
  - Appendix C - List of Abbreviations

- Appendix D - The Recommended Development Consent Order

# **Appendix A:**

## **Events in pre-Examination and Examination**

The table below lists the main events that occurred during the pre-Examination and Examination stages, and the Procedural Decisions taken by the Examining Authority.

Examination and the Procedural Decisions taken by the Examining Authority.

Date	Event
27 – 29 June 2022	Unaccompanied Site Inspections
1 – 4 August 2022	Unaccompanied Site Inspections
23 August 2022	Issue by the ExA of: <ul style="list-style-type: none"> <li>Notification of the Preliminary Meeting</li> </ul>
9 September 2022	<b>Procedural Deadline A</b>  For receipt by the ExA of: <ul style="list-style-type: none"> <li>Responses to the Rule 6 Letter</li> <li>Written submissions on Examination procedure and timetable</li> <li>Requests to be held at the Preliminary meeting</li> </ul>
5 – 7 September 2022	Unaccompanied Site Inspections
20 September 2022	Preliminary meeting held
21 September 2022	Issue Specific Hearing (ISH) 1 – The draft Development Consent Order (dDCO)
22 September 2022	Open Floor Hearing 1
27 September 2022	Issue by the ExA of: <ul style="list-style-type: none"> <li>Examination Timetable</li> <li>ExA's First Written Questions (ExQ1)</li> </ul>
24 October 2022	<b>Deadline 1 (D1)</b>  For receipt by the ExA of: <ul style="list-style-type: none"> <li>Written summaries of oral submissions to hearings</li> <li>Any post-hearing submissions requested by the ExA</li> <li>Responses to ExA's ExQ1</li> <li>An updated dDCO in clean and tracked versions</li> <li>A Schedule of Changes to the dDCO</li> <li>Comments on Relevant Representations (RRs)</li> <li>Local Impact Report (LIR) from Local Authorities</li> <li>Initial Statements of Common Ground (SoCG) requested by ExA</li> <li>Progressed Statement of Commonality for SoCG</li> <li>Comments on any updated application documents</li> <li>The Compulsory Acquisition (CA) Schedule</li> <li>Updated Book of Reference (BoR) and Schedule of Changes to the BoR and tracked versions</li> <li>An application documents tracker</li> <li>Initial National Policy Statement (NPS) tracker</li> <li>Written representations (WRs) (including summaries of all WRs exceeding 1500 words)</li> <li>Any further information requested by the ExA under Rule 17</li> <li>Notification of wish to speak at an Open Floor Hearing</li> <li>Notification of wish to speak at a Compulsory Acquisition Hearing</li> <li>Comments and suggestions on Applicant's draft ASI arrangements and itinerary and requests to attend ASI</li> </ul>

	<ul style="list-style-type: none"> <li>• Notification by any Statutory Parties who have not submitted a RR of their wish to be considered as an IP</li> <li>• Applicant's update on the Marine Licence (ML) submission and progress</li> </ul>
9 November 2022	<p><b>Deadline 2 (D2)</b></p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Responses to comments on RRs</li> <li>• Comments on responses to ExA's ExQ1</li> <li>• Comments on LIRs</li> <li>• Any further information requested by the ExA under Rule 17</li> <li>• Comments on any revised dDCO</li> <li>• An updated CA Schedule in clean and tracked versions</li> <li>• Updated BoR and Schedule of Changes to the BoR and tracked versions</li> <li>• An updated dDCO in clean and tracked versions</li> <li>• An updated Schedule of Changes to the dDCO</li> <li>• An updated application documents tracker in clean and tracked versions</li> <li>• An updated NPS tracker in clean and tracked versions</li> <li>• Progressed SoCG</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any other submissions received at D1</li> <li>• Comments on WRs</li> <li>• Update on the ML</li> </ul>
23 November 2022	<p><b>Deadline 3 (D3)</b></p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Responses to comments on LIRs</li> <li>• An updated dDCO in clean and tracked versions</li> <li>• An updated CA Schedule in clean and tracked versions</li> <li>• Updated BoR and Schedule of Changes to the BoR and tracked versions</li> <li>• An updated Schedule of Changes to the dDCO</li> <li>• An updated application documents tracker in clean and tracked versions</li> <li>• An updated NPS tracker in clean and tracked versions</li> <li>• Any further information requested by the ExA under Rule 17</li> <li>• Progressed SoCG</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any other submissions received at D2</li> <li>• Update on the ML</li> </ul>
5 December 2022	Unaccompanied Site Inspection
6 December 2022	Accompanied Site Inspection
7 December 2022	ISH2 – Seascape, Landscape and Visual Effects, including Cultural Heritage, Socio-economics and Recreation and Tourism Effects
8 December 2022	ISH3 – Onshore Substation Site and Related Matters
9 December 2022	Unaccompanied Site Inspection
16 December 2022	<b>Deadline 3a (D3a)</b>

	<p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Written summaries of oral submissions at hearings</li> <li>• Any post-hearing submissions requested by the ExA</li> </ul>
19 December 2022	<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> <li>• Requests for further information under Rule 17 of the Examination Procedure Rules</li> </ul>
23 January 2023	<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> <li>• ExA's Second Written Questions (ExQ2)</li> </ul>
30 January 2023	<p><b>Deadline 4 (D4)</b></p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Written summaries of oral submissions at hearings</li> <li>• Any post-hearing submissions requested by the ExA</li> <li>• An updated CA Schedule in clean and tracked versions</li> <li>• Updated BoR and Schedule of Changes to the BoR and tracked versions</li> <li>• An updated dDCO in clean and tracked versions</li> <li>• An updated Schedule of Changes to the dDCO</li> <li>• An updated application documents tracker in clean and tracked versions</li> <li>• An updated NPS tracker in clean and tracked versions</li> <li>• Any further information requested by the ExA under Rule 17</li> <li>• Progressed SoCG</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any other submissions received at D3</li> <li>• Update on the ML</li> </ul>
6 February 2023	<p><b>Deadline 5 (D5)</b></p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Responses to ExQ2</li> <li>• Comments on any revised dDCO</li> <li>• Any further information requested by the ExA under Rule 17</li> <li>• An updated CA Schedule in clean and tracked versions</li> <li>• Updated BoR and Schedule of Changes to the BoR and tracked versions</li> <li>• An updated dDCO in clean and tracked versions</li> <li>• An updated Schedule of Changes to the dDCO</li> <li>• An updated application documents tracker in clean and tracked versions</li> <li>• An updated NPS tracker in clean and tracked versions</li> <li>• Progressed SoCG</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any other submissions received at D4</li> <li>• Update on the ML</li> </ul>
20 February 2023	<p><b>Deadline 6 (D6)</b></p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on responses to ExQ2</li> <li>• An updated CA Schedule in clean and tracked versions</li> </ul>



	<ul style="list-style-type: none"> <li>• Updated BoR and Schedule of Changes to the BoR and tracked versions</li> <li>• An updated dDCO in clean and tracked versions</li> <li>• An updated Schedule of Changes to the dDCO</li> <li>• An updated application documents tracker in clean and tracked versions</li> <li>• An updated NPS tracker in clean and tracked versions</li> <li>• Any further information requested by the ExA under Rule 17</li> <li>• Progressed SoCG</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any other submissions received at D5</li> <li>• Update on the ML</li> </ul>
22 February 2023	<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> <li>• The ExA's schedule of changes to the dDCO</li> <li>• Report on Implications for European Sites (RIES)</li> </ul>
27 February 2023	Access Required Site Inspection
28 February 2023	Compulsory Acquisition Hearing (CAH) <sup>1</sup>
1 March 2023	<p>ISH4 - matters relating to offshore environmental effects and the dDCO</p> <p>Issue by the ExA of:</p> <ul style="list-style-type: none"> <li>• ExA's Third Written Questions (ExQ3)</li> </ul>
2 March 2023	Unaccompanied Site Inspections
8 March 2023	<p><b>Deadline 7 (D7)</b></p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Responses to ExQ3</li> </ul>
15 March 2023	<p><b>Deadline 8 (D8)</b></p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Written summaries of oral submissions at hearings (if required)</li> <li>• Comments on the RIES</li> <li>• Comments on the ExA's proposed schedule of changes to the dDCO</li> <li>• Finalised SoCG</li> <li>• Finalised Statement of Commonality for SoCG</li> <li>• Finalised CA Schedule in clean and tracked versions</li> <li>• Updated BoR and Schedule of Changes to the BoR and tracked versions</li> <li>• A finalised application documents tracker</li> <li>• A finalised and validated version of the dDCO in clean and tracked versions</li> <li>• A finalised Schedule of Changes to the dDCO</li> <li>• Finalised BoR in clean and tracked versions</li> <li>• Finalised Statement of Reasons in clean and tracked versions</li> <li>• Finalised NPS tracker in clean and tracked versions</li> <li>• Any further information requested by the ExA under Rule 17</li> <li>• Comments on any other submissions received at D6</li> <li>• Updated LIRs</li> <li>• Closing submissions</li> <li>• Final update on the ML</li> </ul>

	<ul style="list-style-type: none"> <li>• Comments on responses to ExQ3</li> </ul>
20 March 2023	Close of the Examination
21 March 2023	Issue by the ExA of: <ul style="list-style-type: none"> <li>• Notification of completion of the Examination under section 99 of the Planning Act 2008</li> </ul>

# **Appendix B:**

## **Examination Library**

## **Fferm Wynt Alltraeth Awel y Môr**

### **Llyfrgell yr Archwiliad Wedi'i ddiweddaru –**

**21 Mawrth 2023**

Mae'r Llyfrgell Archwilio hon yn ymwneud â chais Fferm Wynt Alltraeth Awel y Môr. Mae'r llyfrgell yn rhestru pob dogfen a gyflwynwyd i'r archwiliad gan unrhyw barti ynghyd â dogfennau sydd wedi'u cyhoeddi gan yr Arolygiaeth Gynllunio. Mae'r holl ddogfennau a restrwyd wedi'u cyhoeddi ar y wefan Seilwaith Cenedlaethol a darperir hyperddolen ar gyfer pob dogfen. Rhoddir cyfeirnod unigryw i bob dogfen; bydd y cyfeirnodau hyn yn cael eu defnyddio yn yr Adroddiad ar y Goblygiadau i Safleoedd Ewropeaidd ac fe'u defnyddir yn Adroddiad Argymhellion yr Awdurdod Archwilio. Mae'r dogfennau yn y llyfrgell wedi'u categorïddio naill ai yn ôl y math o ddogfen neu yn ôl y terfyn amser ar gyfer eu cyflwyno.

## **Awel y Môr Offshore Wind Farm**

### **Examination Library Updated –**

**21 March 2023**

This Examination Library relates to the Awel y Môr Offshore Wind Farm application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Byddwch gystal â nodi'r canlynol:

- Mae hon y ddogfen weithio a bydd yn cael ei diweddarau bob hyn a hyn wrth i'r archwiliad fynd rhagddo.
- Mae cyngor o dan Adran 51 Deddf Cynllunio 2008 sydd wedi'i gyhoeddi gan yr Arolygiaeth, wedi'i gyhoeddi ar y Wefan Seilwaith Cenedlaethol ond nid yw wedi'i gynnwys yn y Llyfrgell Archwilio gan nad yw'r cyfryw gyngor yn ddogfen archwiliad.
- Mae'r ddogfen hon yn cynnwys cyfeiriadau at ddogfennau o'r pwynt y cyflwynwyd y cais.
- Mae trefn y dogfennau ym mhob isadran naill ai'n drefn gronolegol, rifol, neu'n drefn y wyddor ac nid yw'n rhoi blaenoriaeth na statws uwch i'r rheiny sydd wedi'u rhestru gyntaf.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

**EN010112 Fferm Wynt Alltraeth Awel y Môr / Awel y Môr Offshore  
Wind Farm**

**Llyfrgell yr Archwiliad – Mynegai / Examination Library - Index**

<b>Categori/Category</b>	<b>Reference/Cyfeirnod</b>
<p>Dogfennau Cais/<a href="#">Application Documents</a></p> <p>Fel y'i cyflwynwyd a fersiwn ddiwygiedig a dderbyniwyd cyn y Cyfarfod Rhagarweiniol. Unrhyw fersiwn ddiwygiedig a dderbyniwyd cyn cam yr Archwiliad i'w chadw o dan y Terfyn Amser a dderbyniwyd</p> <p>-----</p> <p>As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received</p>	APP-xxx
<p>Ymatebion Digonolrwydd yr Ymgynhoriad/<a href="#">Adequacy of Consultation responses</a></p>	AoC-xxx
<p>Cynrychioliadau Berthnasol/<a href="#">Relevant Representations</a></p>	RR-xxx
<p>Penderfyniadau Gweithdrefnol a Hysbysiadau gan yr Awdurdod Archwilio/<a href="#">Procedural Decisions and Notifications from the Examining Authority</a></p> <p>Mae'n cynnwys cwestiynau'r Awdurdod Archwilio, a55, ac a51 cyn derbyn</p> <p>-----</p> <p>Includes Examining Authority's questions, s55, and post acceptance s51</p>	PD-xxx
<p>Cyflwyniadau Ychwanegol/<a href="#">Additional Submissions</a></p> <p>Mae'n cynnwys unrhyw beth a dderbyniwyd yn y Cyfarfod Rhagarweiniol a gohebiaeth sydd naill ai'n berthnasol i benderfyniad</p>	AS-xxx

<p>gweithdrefnol neu sy'n cynnwys gwybodaeth ffeithiol yn ymwneud â'r archwiliad</p> <p>-----</p> <p>Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination</p>	
<p>Digwyddiadau a Gwrandawiadau/<a href="#">Events and Hearings</a></p> <p>Mae'n cynnwys agendâu ar gyfer gwrandawiadau ac archwiliadau safle, recordiadau sain, ymatebion i hysbysiadau, hysbysiadau gwrandawriad ymgeisydd, ac ymatebion i lythyrau Rheol 6 a Rheol 8</p> <p>-----</p> <p>Includes agendas for hearings and site inspections, audio recordings, responses to notifications, applicant's hearing notices, and responses to Rule 6 and Rule 8 letters</p>	EV-xxx
<p>Cynrychioliadau – erbyn y Terfyn Amser/<a href="#">Representations – by Deadline</a></p>	
<p>Terfyn Amser Gweithdrefnol A/<a href="#">Procedural Deadline A:</a></p>	PDA-xxx
<p>Terfyn Amser 1/<a href="#">Deadline 1:</a></p>	REP1-xxx
<p>Terfyn Amser 2/<a href="#">Deadline 2:</a></p>	REP2-xxx
<p>Terfyn Amser 3/<a href="#">Deadline 3:</a></p>	REP3-xxx
<p>Terfyn Amser 3a/<a href="#">Deadline 3a:</a></p>	REP3a-xxx
<p>Terfyn Amser 4/<a href="#">Deadline 4:</a></p>	REP4-xxx
<p>Terfyn Amser 5/<a href="#">Deadline 5:</a></p>	REP5-xxx

Terfyn Amser 6/ <a href="#">Deadline 6:</a>	REP6-xxx
Terfyn Amser 7 / <a href="#">Deadline 7:</a>	REP7-xxx
Terfyn Amser 8 / <a href="#">Deadline 8:</a>	REP8-xxx
Dogfennau Arall/ <a href="#">Other Documents</a>  Mae'n cynnwys gwybodaeth a127/131/138, tystysgrifau a56, a58 ac a59, a dogfennau trawsffiniol ----- Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents	OD-xxx



<b>EN010112 Fferm Wynt Alltraeth Awel y Môr / Awel y Môr Offshore Wind Farm</b>	
<b>Llyfrgell yr Archwiliad / Examination Library</b>	
<b>Dogfennau Cais / Application Documents</b>	
<p><b>Sylwch fod dogfennau a dderbyniwyd gan yr Arolygiaeth ar gael yn Saesneg yn unig. Bydd dogfennau a baratowyd gan yr Arolygiaeth ar gael yn ddwyieithog.</b></p> <p><b>Please note that documents which have been received by the Inspectorate are only available in English. Documents prepared by the Inspectorate will be available bilingually.</b></p>	
<b>Ffurflen Gais a Gwybodaeth / Application Form and Information</b>	
APP-001	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 1.1 Application Letter
APP-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 1.2 Section 55 Checklist
APP-003	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 1.3 Application Form
APP-004	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 1.4 Guide to the Application. <b>This has now been superseded by document AS-002</b>
APP-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 1.5 Copies of Section 48 Newspaper Notices
<b>Cynlluniau / Plans</b>	
APP-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.1 Location Plan <b>This has now been superseded by document AS-003</b>
APP-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.2 Land Plan (Offshore) <b>This has now been superseded by document REP3a-011</b>
APP-008	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.4 Special Category Land Plan <b>This has now been superseded by document AS-006</b>
APP-009	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.3 Land Plan (Onshore) <b>This has now been superseded by document AS-005</b>
APP-010	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.5 Works Plan <b>This has now been superseded by document AS-007</b>
APP-011	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.6 Street Works Access Plan <b>This has now been superseded by document AS-008</b>
APP-012	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.7 Temporary Stopping Up of Public Rights of Way Plan <b>This has now been superseded by document AS-009</b>
APP-013	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.8 Statutory / Non-statutory Nature Conservation Sites Plan <b>This has now been superseded by document AS-010</b>
APP-014	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	2.9 Statutory / Non-statutory Sites or Features or the Historic Environment Plan <b>This has now been superseded by document AS-004</b>
APP-015	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.10 Crown Land Plan <b>This has now been superseded by document AS-011</b>
APP-016	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.11 Water Bodies in a River Basin Management Plan <b>This has now been superseded by document AS-012</b>
APP-017	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 2.12 Hedgerow and Protected Tree Plan <b>This has now been superseded by document AS-013</b>
<b>Gorchymyn Caniatâd Datblygu drafft / Draft Development Consent Order</b>	
APP-018	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 3.1 Draft Development Consent Order <b>This has document has been amended by documents AS-014 and AS-015</b>
APP-019	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 3.2 Explanatory Memorandum <b>This has now been superseded by documents REP1-017 and REP1-053</b>
APP-020	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 3.3 Validation Report <b>This has now been superseded by document AS-017</b>
<b>Gwybodaeth Caffaeliad Gorfodol / Compulsory Acquisition Information</b>	
APP-021	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 4.1 Statement of Reasons <b>This has now been superseded by documents REP1-046 and REP1-047</b>
APP-022	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 4.2 Funding Statement <b>This has now been superseded by document AS-018</b>
APP-023	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 4.3 Book of Reference <b>This has now been superseded by document AS-020</b>
<b>Adroddiad Ymgynghori ac Atodiadau / Consultation Report and Appendices</b>	
APP-024	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 5.1 Consultation Report
APP-025	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 5.1.1 Consultation Report - Annex 1 - Consultation Report Appendices - Part 1 (A to D)
APP-026	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 5.1.2 Consultation Report - Annex 1 - Consultation Report Appendices - Part 2 (E to H)
<b>Adroddiad i Lywio Asesiad Priodol / Report to Inform Appropriate Assessment</b>	
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	6.6.10.5.61 ES Volume 6 - Annex 10.5 - SLVIA Visualisations- Figure 88 (Viewpoint 65 - A55 at jetty north Of Penmaen Rhos)
APP-291	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 6.6.10.5.62 ES Volume 6 - Annex 10.5 - SLVIA Visualisations- Figure 89 (Viewpoint 66 - Liverpool to Dublin Ferry route north of Great Orme)
APP-292	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 6.6.10.5.63 ES Volume 6 - Annex 10.5 - SLVIA Visualisations- Figure 90 (Viewpoint 67 - Liverpool to Dublin Ferry route north of Conwy Bay)
<b>Other Environmental Statement Documents</b>	
APP-293	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 6.7.1 Non-Technical Summary
APP-294	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 6.7.2 Crynodeb Annhechnegol (Non-Technical Summary Welsh Language)
APP-295	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 6.8.1 Scoping Opinion
APP-296	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 7.1 Grid Connection and Cable Details Statement
APP-297	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 7.2 Safety Zone Statement
APP-298	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.1 Planning Statement <b>This has now been superseded by document REP8-083</b>
APP-299	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.1.1 Wind Turbine Generator (WTG) Size Technical Note
APP-300	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.1.2 Planning Statement - Appendix 2 - Welsh National Marine Plan Policy Checklist
APP-301	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.2 Evidence Plan Report
APP-302	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.2.1 Evidence Plan Report - Annex - Appendices Part 1 (A to C)
APP-303	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.2.2 Evidence Plan Report - Annex - Appendices Part 2 (D to F)
APP-304	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.3 Outline Offshore Archaeological Written Scheme of Investigation
APP-305	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.4 Outline Landscape and Ecology Management Plan <b>This has now been superseded by documents REP1-034 and REP1-035</b>
APP-306	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.5 Fishing Liaison and Co-existence Plan <b>This has now been superseded by document REP1-033</b>
APP-307	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.7 Offshore Operations and Maintenance Plan
APP-308	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.8 Design Principles Document

	<b>This has now been superseded by documents REP3-013 and REP3-014</b>
APP-309	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.9 Disposal Site Characterisation
APP-310	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.11 Schedule of Mitigation <b>This has now been superseded by document REP1-018</b>
APP-311	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.12 Schedule of Monitoring <b>This has now been superseded by document REP2-024</b>
APP-312	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13 Outline Code of Construction Practice (oCoCP) <b>This has now been superseded by document REP1-051</b>
APP-313	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.1 oCoCP - Appendix 1 - Outline Construction Method Statement <b>This has now been superseded by document REP1-052</b>
APP-314	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.2 oCoCP - Appendix 2 - Outline Noise and Vibration Management Plan <b>This has now been superseded by documents REP2-019 and REP2-020</b>
APP-315	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.3 oCoCP - Appendix 3 - Outline Air Quality Management Plan <b>This has now been superseded by documents REP2-030 and REP2-031</b>
APP-316	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.4 oCoCP - Appendix 4 - Outline Soil Management Plan <b>This has now been superseded by documents REP1-038 and REP1-039</b>
APP-317	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.5 oCoCP - Appendix 5 - Outline Site Waste Management Plan <b>This has now been superseded by documents REP2-034 and REP2-035</b>
APP-318	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.6 oCoCP - Appendix 6 - Outline Pollution Prevention and Emergency Incident Response Plan <b>This has now been superseded by documents REP2-036 and REP2-037</b>
APP-319	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.7 oCoCP - Appendix 7 - Outline Construction Traffic Management Plan <b>This has now been superseded by documents REP2-038 and REP2-039</b>
APP-320	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.8 oCoCP - Appendix 8 - Outline Public Access Management Plan <b>This has now been superseded by documents REP1-036 and REP1-037</b>
APP-321	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	8.13.9 oCoCP - Appendix 9 - Outline Travel Plan
APP-322	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.10 oCoCP - Appendix 10 - Outline Artificial Light and Emissions Plan <b>This has now been superseded by documents REP2-044 and REP2-045</b>
APP-323	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.11 oCoCP - Appendix 11 - Outline Invasive Non-Native Species Management Plan <b>This has now been superseded by documents REP1-040 and REP1-041</b>
APP-324	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.13.12 oCoCP - Appendix 12 - Outline Construction Communications Plan <b>This has now been superseded by documents REP2-048 and REP2-049</b>
APP-325	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 8.16 Community Linguistic Statement <b>This has now been superseded by documents REP6-023 and REP6-024</b>
<b>Cynrychiolaeth Digonolrwydd yr Ymgynghoriad / Adequacy of Consultation Representations</b>	
AoC-001	<a href="#">Cyngor Bwrdeistref Sirol Conwy</a> Cynrychiolaeth Digonolrwydd Ymgynghori <a href="#">Conwy County Borough Council</a> Adequacy of Consultation Representation
AoC-002	<a href="#">Cyngor Gwynedd Council</a> Cynrychiolaeth Digonolrwydd Ymgynghori <a href="#">Cyngor Gwynedd Council</a> Adequacy of Consultation Representation
AoC-003	<a href="#">Cyngor Sir Ddinbych</a> Cynrychiolaeth Digonolrwydd Ymgynghori <a href="#">Denbighshire County Council</a> Adequacy of Consultation Representation
AoC-004	<a href="#">Cyngor Sir y Fflint</a> Cynrychiolaeth Digonolrwydd Ymgynghori <a href="#">Flintshire County Council</a> Adequacy of Consultation Representation
AoC-005	<a href="#">Cyngor Sir Ynys Môn</a> Cynrychiolaeth Digonolrwydd Ymgynghori <a href="#">Isle of Anglesey County Council</a> Adequacy of Consultation Representation
AoC-006	<a href="#">Powys County Council</a> Cynrychiolaeth Digonolrwydd Ymgynghori <a href="#">Powys County Council</a> Adequacy of Consultation Representation
AoC-007	<a href="#">Awdurdod Parc Cenedlaethol Eryri</a> Cynrychiolaeth Digonolrwydd Ymgynghori <a href="#">Snowdonia National Park Authority</a> Adequacy of Consultation Representation



AoC-008	<a href="#">Cyngor Bwrdeistref Sirol Wrexham</a> Cynrychiolaeth Digonolrwydd Ymgynghori <a href="#">Wrexham County Borough Council</a> Adequacy of Consultation Representation
<b>Cynrychiolaeth Berthnasol / Relevant Representations</b>	
<b>Awdurdodau Lleol / Local Authorities</b>	
RR-001	<a href="#">Denbighshire County Council</a>
RR-002	<a href="#">Conwy County Borough Council</a>
RR-003	<a href="#">Flintshire County Council</a>
RR-004	<a href="#">Isle of Anglesey County Council</a>
RR-005	<a href="#">Awdurdod Cynllunio Lleol Cyngor Gwynedd / Gwynedd Council Local Planning Authority</a>
RR-006	<a href="#">Snowdonia National Park</a>
<b>Cynghorau Tref / Cymuned - Town / Community Councils</b>	
RR-007	<a href="#">Llandudno Town Council</a>
RR-008	<a href="#">Betws yn Rhos and Llanellian yn Rhos Community Council</a>
RR-009	<a href="#">Llanddulas and Rhyd y Foel Community Council</a>
<b>Ymgynghoreion Statudol Eraill / Other Statutory Consultees</b>	
RR-010	<a href="#">Trinity House</a>
RR-011	<a href="#">Maritime and Coastguard Agency</a>
RR-012	<a href="#">Joint Nature Conservation Committee (JNCC)</a>
RR-013	<a href="#">SP Energy Networks</a>
RR-014	<a href="#">National Grid</a>
RR-015	<a href="#">Natural Resources Wales</a>
RR-016	<a href="#">The Crown Estate</a>
RR-017	<a href="#">Diamond Transmission Corporation</a>
RR-018	<a href="#">EirGrid</a>
RR-019	<a href="#">DLA Piper on behalf of North Hoyle Wind Farm Limited</a>
RR-020	<a href="#">DLA Piper on behalf of Rhyl Flats Wind Farm Limited</a>
<b>Ymgynghoreion Anstatudol / Non-Statutory Consultees</b>	
RR-021	<a href="#">Gwynedd Archaeological Planning Service</a>
RR-022	<a href="#">North Wales Wildlife Trust (Landscape)</a>
RR-023	<a href="#">North Wales Wildlife Trust (Marine)</a>
RR-024	<a href="#">Royal Society for the Protection of Birds (RSPB)</a>
RR-025	<a href="#">National Air Traffic Services Ltd</a>
RR-026	<a href="#">UK Chamber of Shipping</a>
RR-027	<a href="#">Department of Infrastructure, Isle of Man Government on behalf of Mrs Emily Curphey, Chair, Territorial Sea Committee</a>
RR-028	<a href="#">Cadw – Welsh Government</a>
RR-029	<a href="#">National Trust</a>
<b>Aelodau'r Cyhoedd a Busnesau / Members of the Public and Businesses</b>	
RR-030	<a href="#">Memoria Ltd</a>
RR-031	<a href="#">Genesis Town Planning on behalf of Memoria Ltd</a>
RR-032	<a href="#">Captain Haddock's Seafood</a>

RR-033	<a href="#">Manx Fish Producers Organisation</a>
RR-034	<a href="#">Envirowatch.EU</a>
RR-035	<a href="#">Glyndwr University on behalf of Glyndwr Innovations Limited</a>
RR-036	<a href="#">Sustainable Cymru</a>
RR-037	<a href="#">Wilson Fearnall on behalf of GBL and IM Kerfoot Discretionary Trust</a>
RR-038	<a href="#">Davis Meade Property Consultants (DMPC) on behalf of Mr JB &amp; Mrs E Evans</a>
RR-039	<a href="#">DMPC on behalf of Mr HG &amp; Mrs ME Hughes</a>
RR-040	<a href="#">DMPC on behalf of The Estate of the Late Mr Wynford Davies</a>
RR-041	<a href="#">DMPC on behalf of Mr AEM Owen</a>
RR-042	<a href="#">Rostons on behalf of Mr Ivor Beech</a>
RR-043	<a href="#">Rostons on behalf of Mr Hugh Wynne-Davies</a>
RR-044	<a href="#">Rostons on behalf of The Executor of the Estate of the Late George Edward Brookes</a>
RR-045	<a href="#">Rostons on behalf of Kelly Proffitt</a>
RR-046	<a href="#">Rostons on behalf of Toni Mayne</a>
RR-047	<a href="#">Rostons on behalf of Helen Owen Proffitt</a>
RR-048	<a href="#">Rostons on behalf of Richard David Proffitt</a>
RR-049	<a href="#">Rostons on behalf of Rachel Georgina Hughes</a>
RR-050	<a href="#">Rostons on behalf of Sandra Archdale</a>
RR-051	<a href="#">Rostons on behalf of Janet Johnson</a>
RR-052	<a href="#">Ray Knight</a>
RR-053	<a href="#">Ros Griffiths-Williams</a>
RR-054	<a href="#">Martin Griffiths</a>
RR-055	<a href="#">Martyn Hussey</a>
RR-056	<a href="#">Chris Baines</a>
RR-057	<a href="#">Jodi Cook</a>
RR-058	<a href="#">William Beament</a>
RR-059	<a href="#">Dr Jonathan F Dean</a>
RR-060	<a href="#">Carl Davies</a>
<b>Penderfyniadau Gweithdrefnol a Hysbysiadau gan yr Awdurdod Archwilio / Procedural Decisions and Notifications from the Examining Authority</b>	
PD-001	<a href="#">Hysbysiad o Benderfyniad i Dderbyn Cais</a> <a href="#">Notification of Decision to Accept Application</a>
PD-002	<a href="#">Cyngor Adran 51 i'r Ymgeisydd (Fersiwn Saesneg)</a> <a href="#">Section 51 advice to the Applicant (English language)</a>
PD-003	<a href="#">Cyngor Adran 51 i'r Ymgeisydd (Fersiwn Gymraeg)</a> <a href="#">Section 51 advice to the Applicant (Welsh language)</a>
PD-004	<a href="#">Rhestr Wirio Adran 55 (Fersiwn Saesneg)</a> <a href="#">Section 55 Checklist (English language)</a>
PD-005	<a href="#">Rhestr Wirio Adran 55 (Fersiwn Gymraeg)</a> <a href="#">Section 55 Checklist (Welsh language)</a>
PD-006	<a href="#">Penodi Awdurdod Archwilio</a> Hysbysiad o benodiad yr Awdurdod Archwilio <a href="#">Appointment of Examining Authority</a> Notice of appointment of the Examining Authority (ExA)



PD-007	<a href="#">Llythyr Rheol 6 – hysbysiad o’r cyfarfod rhagarweiniol a’r materion i’w trafod</a>  <a href="#">Rule 6 letter - Notification of the preliminary meeting and matters to be discussed</a>
PD-008	<a href="#">Rheol 8 - Hysbysiad o’r amserlen ar gyfer yr archwiliad</a>  <a href="#">Rule 8 letter - notification of timetable for the examination</a>
PD-009	<a href="#">Cwestiynau Ysgrifenedig Cyntaf yr Awdurdod Archwilio (ExQ1) (Saesneg)</a>  <a href="#">ExA’s First Written Questions (ExQ1) (English)</a>
PD-010	<a href="#">Cwestiynau Ysgrifenedig Cyntaf yr Awdurdod Archwilio (ExQ1) (Cymraeg)</a>  <a href="#">ExA’s First Written Questions (ExQ1) (Welsh)</a>
PD-011	<a href="#">Adran 102A Hon Thomas Rowley-Conwy - cymraeg</a>  <a href="#">Section 102A to Hon Thomas Rowley-Conwy - English</a>
PD-012	<a href="#">Rheol 13 a Rheol 16 - Hysbysiad o Wrandawiadau ac Archwiliad Safle â Chwmni - Cymraeg</a>  <a href="#">Rule 13 and Rule 16 - Notification of Hearings and Accompanied Site Inspection - English</a>
PD-013	<a href="#">Cais am Ragor o Wybodaeth gan Awel y Môr Wind Farm Limited a Chyfoeth Naturiol Cymru - Rheol 17 (Tachwedd 2022) - Cymraeg</a>  <a href="#">Request for Further Information from Awel y Môr Offshore Wind Farm Limited and Natural Resources Wales - Rule 17 (November 2022) - English</a>
PD-014	<a href="#">Rheol 17 - Cais am wybodaeth bellach gan yr Ymgeisydd (Cymraeg)</a>  <a href="#">Rule 17 - Request for further information from the Applicant (English)</a>
PD-015	<a href="#">Cwestiynau Ysgrifenedig Pellach yr Awdurdod Archwilio (ExQ2) (Cymraeg)</a>  <a href="#">Examining Authority’s Further Written Questions (ExQ2) (English)</a>
PD-016	<a href="#">Rheol 13 - Hysbysiad o wrandawiadau (Cymraeg)</a>  <a href="#">Rule 13 - Notification of Hearings (English)</a>
PD-017	<a href="#">Cwestiynau Ysgrifenedig Pellach yr Awdurdod Archwilio (ExQ3) (Cymraeg)</a>  <a href="#">Examining Authority’s Further Written Questions (ExQ3) (English)</a>
PD-018	<a href="#">Rheol 17 - Cais am ragor o wybodaeth (Ymgeisydd a Llywodraeth Cymru) (Cymraeg)</a>

	<a href="#">Rule 17 - Request for further information (Applicant and Welsh Government) (English)</a>
PD-019	<a href="#">Hysbysiad o gwblhau'r Archwiliad gan yr Awdurdod Archwilio (Cymraeg)</a> <a href="#">Notification of completion of the Examining Authority's Examination (English)</a>
<b>Cyflwyniadau Ychwanegol / Additional Submissions</b>	
AS-001	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority (ExA). Response to post-Acceptance s51 advice: Cover Letter
AS-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 1.4 Guide to the Application
AS-003	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.1 Location Plan <b>This has now been superseded by document REP1-031</b>
AS-004	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.1 Statutory / Non-statutory Sites or Features or the Historic Environment Plan <b>This has now been superseded by document REP3a-007</b>
AS-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.3 Land Plan (Onshore) <b>This has now been superseded by document REP1-022</b>
AS-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.4 Special Category Land Plan <b>This has now been superseded by document REP1-021</b>
AS-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.5 Works Plan <b>This has now been superseded by document REP1-032</b>
AS-008	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.6 Street Works and Access Plan <b>This has now been superseded by document REP3a-008</b>
AS-009	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.7 Temporary Stopping Up of Public Rights of Way Plan <b>This has now been superseded by document REP3-012</b>
AS-010	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	<p>Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.8 Statutory / Non-statutory Nature Conservation Sites Plan <b>This has now been superseded by document REP1-030</b></p>
AS-011	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.10 Crown Land Plan <b>This has now been superseded by document REP1-050</b></p>
AS-012	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.11 Water Bodies in a River Basin Management Plan <b>This has now been superseded by document REP3a-009</b></p>
AS-013	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 2.12 Hedgerow and Protected Tree Plan <b>This has now been superseded by document REP3a-010</b></p>
AS-014	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 3.1 Draft Development Consent Order Revision: E (Clean) <b>This has now been superseded by document REP1-008</b></p>
AS-015	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 3.1.2 Draft Development Consent Order Revision: E (Tracked Changes) <b>This has now been superseded by document REP1-009</b></p>
AS-016	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 3.3 Schedule of Changes <b>This has now been superseded by document REP1-010</b></p>
AS-017	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 3.3 Draft Development Consent Order validation report. Revision: B</p>
AS-018	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 4.2 Funding Statement <b>This has now been superseded by documents REP6-020 and REP6-021</b></p>
AS-019	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 4.3 Book of Reference (Tracked Changes) <b>This has now been superseded by document REP1-028</b></p>
AS-020	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 4.3 Book of Reference (Clean)</p>

	<b>This has now been superseded by document AS-020a</b>
AS-020a	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 4.3 Book of Reference (Clean) <b>This has now been superseded by document REP1-027</b>
AS-021	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 4.3.2 Schedule of Changes <b>This has now been superseded by document REP1-029</b>
AS-022	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 5.2.3 Report to Inform Appropriate Assessment (RIAA) Annex 3 - European Site Information
AS-023	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 5.4.1 Marine Licence Principles <b>This has now been superseded by documents REP1-025 and REP1-026</b>
AS-024	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 6.1.1 Environmental Statement (ES) Volume 1 - Chapter 1: Introduction
AS-025	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: ML-6.2.1.1 Offshore Project Description Audit
AS-026	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 6.2.7 ES Volume 2 - Chapter 7 - Marine Mammals <b>This has now been superseded by document REP8-081</b>
AS-027	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 6.2.10 ES Volume 2 - Chapter 10 - Seascape, Landscape and Visual Impact Assessment <b>This has now been superseded by document REP8-082</b>
AS-028	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 6.2.15 ES Volume 2 - Chapter 15 - Offshore Conclusions
AS-029	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 6.3.2 ES Volume 3 - Chapter 2 - Landscape and Visual Impact Assessment (LVIA) <b>This has now been superseded by document REP8-087</b>
AS-030	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 6.3.11 ES Volume 3 - Chapter 3.11 - Air Quality
AS-031	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: 6.5.5.8 ES Volume 5 - Annex 5.8: Breeding Bird Survey Report
AS-032	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 6.5.5.8.1 ES Volume 5 - Annex 5.8 - Appendix 4 CONFIDENTIAL Barn Owl Survey Results
AS-033	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 6.6.2.2.7.1 ES Volume 6 - Annex 2.2 - LVIA Figures - Figure 2.6 (Aerial Mapping with Proposed Development) <b>This has now been superseded by document REP7-039</b>
AS-034	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Accepted at the discretion of the ExA. Response to post-Acceptance s51 advice: 6.3.3 ES - Volume 3 - Chapter 3 - Socio-Economics <b>This has now been superseded by document REP8-088</b>
AS-035	<a href="#">UK Health Security Agency (UKHSA)</a> Additional Submission - Accepted at the discretion of the ExA
AS-036	<a href="#">Janet Finch-Saunders</a> Additional Submission - Accepted at the discretion of the ExA
AS-037	<a href="#">Natural England</a> Additional Submission - Accepted at the discretion of the ExA
AS-038	<a href="#">Network Rail</a> Additional Submission - Accepted at the discretion of the ExA
AS-039	<a href="#">Meath County Council</a> Additional Submission - Accepted at the discretion of the ExA
AS-040	<a href="#">Irish Whale and Dolphin Group</a> Additional Submission - Accepted at the discretion of the ExA
AS-041	<a href="#">Office of the Planning Regulator</a> Additional Submission - Accepted at the discretion of the ExA
AS-042	<a href="#">Davis Meade Property Consultants on behalf of Mr JB and Mrs E Evans</a> Additional Submission - Request to attend ASI on 6 December 2022 - Late Submission accepted at the discretion of the ExA

AS-043	<a href="#">Welsh Government</a> Additional Submission – Request to attend ASI on 6 December 2022 - Late Submission accepted at the discretion of the ExA
AS-044	<a href="#">Ethan Homer</a> Additional Submission – Request to attend ASI on 6 December 2022 - Late Submission accepted at the discretion of the ExA
AS-045	<a href="#">Rostons on behalf of Mrs H Proffitt, Mrs J Johnson, Mrs S Archdale and Mrs R Hughes</a> Additional Submission - Response to ExQ1 - Accepted at the discretion of the ExA
AS-046	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - Statement of Common Ground (SoCG) 8 - Cadw - Accepted at the discretion of the ExA <b>This has now been superseded by document REP4-028</b>
AS-047	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - SoCG 2 – Denbighshire County Council - Accepted at the discretion of the ExA <b>This has now been superseded by document REP6-044</b>
AS-048	<a href="#">Trustees of the Bodrhyddan Estate Maintenance Fund and Bodrhyddan Farming Company Ltd</a> Additional Submission - Accepted at the discretion of the ExA
AS-049	<a href="#">National Grid Electricity Transmission Plc</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-050	<a href="#">Charlotte Bowers</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-051	<a href="#">Welsh Government (Transport)</a> Additional Submission - Updated Cover Letter - Accepted at the discretion of the Examining Authority
AS-052	<a href="#">Welsh Government (Transport)</a> Additional Submission - Protective Provisions - Accepted at the discretion of the Examining Authority
AS-053	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - CS.4 Draft Development Consent Order (Clean) (Final Closing Submission) - Accepted at the discretion of the Examining Authority
AS-054	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - CS.4 Draft Development Consent Order (Tracked – Showing Changes from 17 March 2023) (Final Closing Submission) - Accepted at the discretion of the Examining Authority
AS-055	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - CS.4 Draft Development Consent Order (Tracked – Showing Changes from Section 51) (Final Closing Submission) - Accepted at the discretion of the Examining Authority

AS-056	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Additional Submission - CS.4.1 Schedule of Changes to the Draft DCO (Final Closing Submission) - Accepted at the discretion of the Examining Authority
AS-057	<a href="#">Addleshaw Goddard LLP on behalf of National Grid Electricity Transmission Plc</a> Additional Submission - Letter of Withdrawal - Accepted at the discretion of the Examining Authority
<b>Digwyddiadau a Gwrandawiadau / Events and Hearings</b>	
<b>Archwiliadau Safle a Gwrandawiadau / Site Inspections and Hearings</b>	
EV-001	<a href="#">Note of Unaccompanied Site Inspection 1 - 27 June 2022 to 29 June 2022 (English)</a>
EV-002	<a href="#">Note of Unaccompanied Site Inspection 1 - 27 June 2022 to 29 June 2022 (Welsh)</a>
EV-003	<a href="#">Note of Unaccompanied Site Inspection 2 - 1 August 2022 to 4 August 2022 (English)</a>
EV-004	<a href="#">Note of Unaccompanied Site Inspection 2 - 1 August 2022 to 4 August 2022 (Welsh)</a>
EV-004a	<a href="#">Nodyn o Archwiliad Safle Digwmni 3 - 5 Medi i 7 Medi 2022 (Cymraeg)</a>  <a href="#">Note of an Unaccompanied Site Inspection 3 - 5 September to 7 September 2022 (English)</a>
EV-004b	<a href="#">Nodyn o Archwiliad Safle Digwmni 4 - 14 a 15 Tachwedd 2022 (Cymraeg)</a>  <a href="#">Note of an Unaccompanied Site Inspection 4 - 14 and 15 November 2022 (English)</a>
EV-004c	<a href="#">Nodyn o Archwiliad Safle Digwmni 5 - 5 a 9 Rhagfyr 2022 (Cymraeg)</a>  <a href="#">Note of an Unaccompanied Site Inspection 5 - 5 and 9 December 2022 (English)</a>
EV-004d	<a href="#">Note of Unaccompanied Site Inspection 6 - 27 February and 2 March 2023 (Welsh)</a>  <a href="#">Note of Unaccompanied Site Inspection 6 - 27 February and 2 March 2023 (English)</a>
<b>Digwyddiadau a Gwrandawiadau / Events and Hearings</b>	
EV-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>



	Hysbysiad o Wrandawriad <a href="#">Awel y Môr Offshore Wind Farm Limited</a> Hearing Notice
EV-005a	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Notice for December hearings – 15 November 2022
EV-005b	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Notice for February/March hearings – 06 February 2023
<b>Cyfarfod Rhagarweiniol / Preliminary Meeting</b>	
EV-006	<a href="#">Recordiad o'r Cyfarfod Rhagarweiniol - 20 Medi 2022</a> <a href="#">Recording of Preliminary Meeting - 20 September 2022</a>
EV-007	<a href="#">Cyfarfod Rhagarweiniol - Trawsgrifiad - 20 Medi 2022</a> Bwriad y ddogfen hon yw i cynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad. <a href="#">Preliminary Meeting - Transcript - 20 September 2022</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-008	<a href="#">Nodyn Cyfarfod Rhagarweiniol – 20 Medi 2022</a> <a href="#">Preliminary Meeting Note – 20 September 2022</a>
EV-009	<b>REFERENCE NOT IN USE</b>
<b>Gwrandawriad Mater Penodol 1 – 21 Medi 2022 / Issue Specific Hearing 1 – 21 September 2022</b>	
EV-010	<a href="#">Agenda ar gyfer Gwrandawriad Mater Penodol 1 (ISH1) yn delio â materion yn ymwneud â'r Gorchymyn Caniatâd Datblygu drafft - 21 Medi 2022 (Cymraeg)</a> <a href="#">Agenda for Issue Specific Hearing 1 (ISH1) dealing with matters relating to the draft Development Consent Order (dDCO) - 21 September 2022</a>
EV-011	<a href="#">Recordiad o'r Gwrandawriad Mater Penodol 1 (ISH1) yn delio â materion yn ymwneud â'r Gorchymyn Caniatâd Datblygu drafft rhan 1 – 21 Medi 2022</a> <a href="#">Recording of Issue Specific Hearing 1 (ISH1) dealing with matters relating to the draft Development Consent Order part 1 – 21 September 2022</a>
EV-012	<a href="#">Gwrandawriad Mater Penodol (ISH1) yn delio â materion yn ymwneud â'r Gorchymyn Caniatâd Datblygu drafft rhan 1 - Trawsgrifiad - 21 Medi 2022</a> Bwriad y ddogfen hon yw i cynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad. <a href="#">Issue Specific Hearing 1 (ISH1) dealing with matters relating to the draft Development Consent Order part 1 - Transcript - 21 September 2022</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence



	voice to text and is unedited. The video recording remains as the primary record of the event.
EV-013	<a href="#">Recordiad o'r Gwrandawriad Mater Penodol 1 (ISH1) yn delio â materion yn ymwneud â'r Gorchymyn Caniatâd Datblygu drafft rhan 2 – 21 Medi 2022</a> <a href="#">Recording of Issue Specific Hearing 1 (ISH1) dealing with matters relating to the draft Development Consent Order part 2 – 21 September 2022</a>
EV-014	<a href="#">Gwrandawriad Mater Penodol (ISH1) yn delio â materion yn ymwneud â'r Gorchymyn Caniatâd Datblygu drafft rhan 2 - Trawsgrifiad - 21 Medi 2022</a> Bwriad y ddogfen hon yw i cynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad. <a href="#">Issue Specific Hearing 1 (ISH1) dealing with matters relating to the draft Development Consent Order part 2 - Transcript - 21 September 2022</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-014a	<a href="#">Pwyntiau gweithredu sy'n deillio o Wrandawriad Penodol Rhifyn 1 (ISH1) - Saesneg</a> Pwyntiau gweithredu sy'n deillio o Wrandawriad Penodol Rhifyn 1 (ISH1) yn delio â materion yn ymwneud â'r Gorchymyn Caniatâd Datblygu drafft (dDCO) – Dydd Mercher 21 Medi 2022 <a href="#">Action points arising from Issue Specific Hearing 1 (ISH1) - English</a> Action points arising from Issue Specific Hearing 1 (ISH1) dealing with matters relating to the draft Development Consent Order (dDCO) – Wednesday 21 September 2022
EV-014b	<a href="#">Pwyntiau gweithredu sy'n deillio o Wrandawriad Penodol Rhifyn 1 (ISH1) - Cymraeg</a> Pwyntiau gweithredu sy'n deillio o Wrandawriad Penodol Rhifyn 1 (ISH1) yn delio â materion yn ymwneud â'r Gorchymyn Caniatâd Datblygu drafft (dDCO) – Dydd Mercher 21 Medi 2022 <a href="#">Action points arising from Issue Specific Hearing 1 (ISH1) - Welsh</a> Action points arising from Issue Specific Hearing 1 (ISH1) dealing with matters relating to the draft Development Consent Order (dDCO) – Wednesday 21 September 2022
<b>Gwrandawriad Llawr Agored 1 - 22 Medi 2022 / Open Floor Hearing 1 - 22 September 2022</b>	
EV-015	<a href="#">Recordiad o'r Gwrandawriad Llawr Agored 1 (OFH1) - 22 Medi 2022</a> <a href="#">Recording of Open Floor Hearing 1 (OFH1) - 22 September 2022</a>
EV-016	<a href="#">Gwrandawriad Llawr Agored 1 (OFH1) Trawsgrifiad - 22 Medi 2022</a> Bwriad y ddogfen hon yw i cynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r

	<p>testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Open Floor Hearing 1 (OFH1) Transcript - 22 September 2022</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.</p>
<b>Gwrandawriad Materion Penodol 2 - 7 Rhagfyr 2022 / Issue Specific Hearing 2 - 7 December 2022</b>	
EV-017	<p><a href="#">Agenda ar gyfer ISH2 Morlun a materion cysylltiedig - Cymraeg</a></p> <p>Agenda ar gyfer Gwrandawriad Materion Penodol 2 (ISH2) yn ymdrin ag effeithiau'r gwaith alltraeth arfaethedig ar y morwedd, y dirwedd, yr effeithiau gweledol a materion cysylltiedig, gan gynnwys yr effeithiau ar dreftadaeth ddiwylliannol, materion economaidd-gymdeithasol a thwristiaeth.</p> <p><a href="#">Agenda for ISH2 Seascape and related matters - English</a></p> <p>Agenda for Issue Specific Hearing 2 (ISH2) dealing with seascape, landscape and visual effects of the proposed offshore works and related matters, including cultural heritage, socio-economics and tourism effects.</p>
EV-017a	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol (ISH2) ar faterion morwedd a materion cysylltiedig rhan 1 - 07 Rhagfyr 2022</a></p> <p><a href="#">Recording of Issue Specific Hearing (ISH2) on seascape and related issues part 1 - 07 December 2022</a></p>
EV-017b	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol (ISH2) ar faterion morwedd a materion cysylltiedig rhan 2 - 07 Rhagfyr 2022</a></p> <p><a href="#">Recording of Issue Specific Hearing (ISH2) on seascape and related issues part 2 - 07 December 2022</a></p>
EV-017c	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol (ISH2) ar faterion morwedd a materion cysylltiedig rhan 3 - 07 Rhagfyr 2022</a></p> <p><a href="#">Recording of Issue Specific Hearing (ISH2) on seascape and related issues part 3 - 07 December 2022</a></p>
EV-017d	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol (ISH2) ar faterion morwedd a materion cysylltiedig rhan 4 - 07 Rhagfyr 2022</a></p> <p><a href="#">Recording of Issue Specific Hearing (ISH2) on seascape and related issues part 4 - 07 December 2022</a></p>
EV-017e	<p><a href="#">Gwrandawriad Materion Penodol (ISH2) ar faterion morwedd a materion cysylltiedig rhan 1 - Trawsgrifiad - 07 Rhagfyr 2022</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partion â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p>

	<p><a href="#">Issue Specific Hearing (ISH2) on seascape and related issues part 1 - Transcript - 07 December 2022</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-017f	<p><a href="#">Gwrandawriad Materion Penodol (ISH2) ar faterion morwedd a materion cysylltiedig rhan 2 - Trawsgrifiad - 07 Rhagfyr 2022</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Issue Specific Hearing (ISH2) on seascape and related issues part 2 - Transcript - 07 December 2022</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-017g	<p><a href="#">Gwrandawriad Materion Penodol (ISH2) ar faterion morwedd a materion cysylltiedig rhan 3 - Trawsgrifiad - 07 Rhagfyr 2022</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Issue Specific Hearing (ISH2) on seascape and related issues part 3 - Transcript - 07 December 2022</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-017h	<p><a href="#">Gwrandawriad Materion Penodol (ISH2) ar faterion morwedd a materion cysylltiedig rhan 4 - Trawsgrifiad - 07 Rhagfyr 2022</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r</p>

	<p>cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Issue Specific Hearing (ISH2) on seascape and related issues part 4 - Transcript - 07 December 2022</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-017i	<p><a href="#">Gwrandawriad Mater Penodol 2 Prosiect Fferm Wynt Alltraeth Awel y Môr ar Bwyntiau Gweithredu yn ymwneud â'r Morlun a Materion Cysylltiedig</a></p> <p><a href="#">Action Points from Issue Specific Hearing 2 on Seascape and Related Matters - 7 December 2022</a></p>
<p><b>Gwrandawriad Materion Penodol 3 - 8 Rhagfyr 2022 / Issue Specific Hearing 3 - 8 December 2022</b></p>	
EV-018	<p><a href="#">Agenda ar gyfer ISH3 Safle is-orsaf arfaethedig - Cymraeg</a></p> <p>Agenda ar gyfer Gwrandawriad Materion Penodol 3 (ISH3) yn ymdrin â safle'r isbwerdy artraeth arfaethedig a materion cysylltiedig.</p> <p><a href="#">Agenda for ISH3 Proposed Substation Site - English</a></p> <p>Agenda for Issue Specific Hearing 3 (ISH3) dealing with the proposed onshore substation site and related matters.</p>
EV-018a	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol (ISH3) ar safle'r is-orsaf arfaethedig rhan 1 - 08 Rhagfyr 2022</a></p> <p><a href="#">Recording of Issue Specific Hearing (ISH3) on proposed substation site part 1 – 08 December 2022</a></p>
EV-018b	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol (ISH3) ar safle'r is-orsaf arfaethedig rhan 2 - 08 Rhagfyr 2022</a></p> <p><a href="#">Recording of Issue Specific Hearing (ISH3) on proposed substation site part 2 – 08 December 2022</a></p>
EV-018c	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol (ISH3) ar safle'r is-orsaf arfaethedig rhan 3 - 08 Rhagfyr 2022</a></p> <p><a href="#">Recording of Issue Specific Hearing (ISH3) on proposed substation site part 3 – 08 December 2022</a></p>
EV-018d	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol (ISH3) ar safle'r is-orsaf arfaethedig rhan 4 - 08 Rhagfyr 2022</a></p> <p><a href="#">Recording of Issue Specific Hearing (ISH3) on proposed substation site part 4 – 08 December 2022</a></p>
EV-018e	<p><a href="#">Gwrandawriad Materion Penodol (ISH3) ar safle'r is-orsaf arfaethedig rhan 1 - Trawsgrifiad - 08 Rhagfyr 2022</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r</p>

	<p>testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Issue Specific Hearing (ISH3) on proposed substation site part 1 - Transcript - 08 December 2022</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-018f	<p><a href="#">Gwrandawriad Materion Penodol (ISH3) ar safle'r is-orsaf arfaethedig rhan 2 - Trawsgrifiad - 08 Rhagfyr 2022</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Issue Specific Hearing (ISH3) on proposed substation site part 2 - Transcript - 08 December 2022</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-018g	<p><a href="#">Gwrandawriad Materion Penodol (ISH3) ar safle'r is-orsaf arfaethedig rhan 3 - Trawsgrifiad - 08 Rhagfyr 2022</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Issue Specific Hearing (ISH3) on proposed substation site part 3 - Transcript - 08 December 2022</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-018h	<p><a href="#">Gwrandawriad Materion Penodol (ISH3) ar safle'r is-orsaf arfaethedig rhan 4 - Trawsgrifiad - 08 Rhagfyr 2022</a></p>

	<p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Issue Specific Hearing (ISH3) on proposed substation site part 4 - Transcript - 08 December 2022</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-018i	<p><a href="#">Gwrandawriad Mater Penodol 3 Prosiect Fferm Wynt Alltraeth Awel y Môr ar Safle'r Is-orsaf a Materion Cysylltiedig – Pwyntiau Gweithredu</a></p> <p><a href="#">Action Points from Issue Specific Hearing 3 on the Substation Site and Related Matters - 8 December 2022</a></p>
<b>Gwrandawriad Caffael Gorfodol - 28 Chwefror 2023 / Compulsory Acquisition Hearing – 28 February 2023</b>	
EV-019	<p><a href="#">Agenda Gwrandawriad Caffael Gorfodol</a></p> <p><a href="#">Compulsory Acquisition Hearing Agenda</a></p>
EV-021	<p><a href="#">Recordiad o'r Gwrandawriad Caffael Gorfodol (CAH) - Rhan 1 - 28 Chwefror 2023</a></p> <p><a href="#">Recording of Compulsory Acquisition Hearing (CAH) - Part 1 - 28 February 2023</a></p>
EV-022	<p><a href="#">Recordiad o'r Gwrandawriad Caffael Gorfodol (CAH) - Rhan 2 - 28 Chwefror 2023</a></p> <p><a href="#">Recording of Compulsory Acquisition Hearing (CAH) - Part 2 - 28 February 2023</a></p>
EV-023	<p><a href="#">Recordiad o'r Gwrandawriad Caffael Gorfodol (CAH) - Rhan 3 - 28 Chwefror 2023</a></p> <p><a href="#">Recording of Compulsory Acquisition Hearing (CAH) - Part 3 - 28 February 2023</a></p>
EV-024	<p><a href="#">Recordiad o'r Gwrandawriad Caffael Gorfodol (CAH) - Rhan 4 - 28 Chwefror 2023</a></p> <p><a href="#">Recording of Compulsory Acquisition Hearing (CAH) - Part 4 - 28 February 2023</a></p>
EV-025	<p><a href="#">Gwrandawriad Caffael Gorfodol (CAH) - Trawsgrifiad - Rhan 1 - 28 Chwefror 2023</a></p>

	<p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Compulsory Acquisition Hearing (CAH) - Transcript - Part 1 - 28 February 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-026	<p><a href="#">Gwrandawriad Caffael Gorfodol (CAH) - Trawsgrifiad - Rhan 2 - 28 Chwefror 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Compulsory Acquisition Hearing (CAH) - Transcript - Part 2 - 28 February 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-027	<p><a href="#">Gwrandawriad Caffael Gorfodol (CAH) - Trawsgrifiad - Rhan 3 - 28 Chwefror 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Compulsory Acquisition Hearing (CAH) - Transcript - Part 3 - 28 February 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>



EV-028	<p><a href="#">Gwrandawriad Caffael Gorfodol (CAH) - Trawsgrifiad - Rhan 4 - 28 Chwefror 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Compulsory Acquisition Hearing (CAH) - Transcript - Part 4 - 28 February 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
<b>Gwrandawriad Mater Penodol 4 - 1 Mawrth 2023 / Issue Specific Hearing 4 – 1 March 2023</b>	
EV-020	<p><a href="#">Agenda Gwrandawriad Mater Penodol 4</a></p> <p><a href="#">Issue Specific Hearing 4 Agenda</a></p>
EV-029	<p><a href="#">Recordiad o Gwrandawriad Mater Penodol 4 (ISH4) - Rhan 1 - 01 Mawrth 2023</a></p> <p><a href="#">Recording of Issue Specific Hearing 4 (ISH4) - Part 1 - 01 March 2023</a></p>
EV-030	<p><a href="#">Recordiad o Gwrandawriad Mater Penodol 4 (ISH4) - Rhan 2 - 01 Mawrth 2023</a></p> <p><a href="#">Recording of Issue Specific Hearing 4 (ISH4) - Part 2 - 01 March 2023</a></p>
EV-031	<p><a href="#">Recordiad o Gwrandawriad Mater Penodol 4 (ISH4) - Rhan 3 - 01 Mawrth 2023</a></p> <p><a href="#">Recording of Issue Specific Hearing 4 (ISH4) - Part 3 - 01 March 2023</a></p>
EV-032	<p><a href="#">Gwrandawriad Mater Penodol 4 (ISH4) - Trawsgrifiad - Rhan 1 - 01 Mawrth 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Issue Specific Hearing 4 (ISH4) - Transcript - Part 1 - 01 March 2023</a></p>



	<p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-033	<p><a href="#">Gwrandawriad Mater Penodol 4 (ISH4) - Trawsgrifiad - Rhan 2 - 01 Mawrth 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Issue Specific Hearing 4 (ISH4) - Transcript - Part 2 - 01 March 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-034	<p><a href="#">Gwrandawriad Mater Penodol 4 (ISH4) - Trawsgrifiad - Rhan 3 - 01 Mawrth 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Oherwydd ymarferoldeb Microsoft Teams, mae'r trawsgrifiad yn arbennig o anghywir gyda'r iaith Gymraeg. Peidiwch â dehongli'r cyfieithiadau mor gywir. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Issue Specific Hearing 4 (ISH4) - Transcript - Part 3 - 01 March 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Due to the functionality of Microsoft Teams, the transcript is particularly inaccurate with the Welsh language. Please do not interpret the translations as accurate. The video recording remains as the primary record of the event.</p>
EV-035	<p><a href="#">Rhestr Weithredu - CAH 28 Chwefror 2023 (Cymraeg)</a></p> <p><a href="#">Action List - CAH 28 February 2023 (English)</a></p>
EV-036	<p><a href="#">Rhestr Weithredu - ISH4 1 Mawrth 2023 (Cymraeg)</a></p> <p><a href="#">Action List - ISH4 1 March 2023 (English)</a></p>
<b>Cynrychiolaethau / Representations</b>	

## **Terfyn Amser Gweithdrefnol A - 8 Medi 2022 / Procedural Deadline A – 8 September 2022**

### **Deadline for receipt by the ExA of:**

- Notification of wish to speak at the Preliminary Meeting
- Notification of wish to speak at the Open Floor Hearing
- Notification of wish to speak at the first Issue Specific Hearing on the draft Development Consent Order (dDCO)
- Applicant's proposed itinerary for an Accompanied Site Inspection (ASI)

PDA-001	<a href="#">Towyn &amp; Kinmel Bay Town Council</a> Procedural Deadline A Submission
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PDA-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Procedural Deadline A Submission
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## **Terfyn Amser 1 – 24 Hydref 2022 / Deadline 1 – 24 October 2022**

### **Terfyn amser i'r Awdurdod Archwilio dderbyn:**

- Crynodebau ysgrifenedig o gyflwyniadau llafar i'r gwrandawladau
- Unrhyw gyflwyniadau ôl-wrandawriad a geisiwyd gan yr Awdurdod Archwilio
- Ymatebion i ExQ1 yr Awdurdod Archwilio
- dDCO wedi'i ddiweddarau mewn fersiwn lân a fersiwn sy'n dangos newidiadau
- Atodlen o Newidiadau i'r dDCO
- Sylwadau ar Sylwadau Perthnasol (RRs)
- Adroddiad ar yr Effaith Leol (LIR) gan Awdurdodau Lleol
- Datganiadau Tir Cyffredin (SoCG) cychwynnol a geisiwyd gan yr Awdurdod Archwilio
- Symud ymlaen â Datganiad Cyffredin Datganiadau Tir Cyffredin
- Sylwadau ar unrhyw ddogfennau cais wedi'u diweddarau
- Yr Atodlen Caffaeliad Gorfodol
- Llyfr Cyfeirnodau (BoR) wedi'i ddiweddarau ac Atodlen Newidiadau i'r BoR a fersiynau sy'n dangos newidiadau (os oes angen)
- Traciwr dogfennau'r cais
- Traciwr Datganiadau Polisi Cenedlaethol (NPS) cychwynnol
- Sylwadau ysgrifenedig (yn cynnwys crynodebau o'r holl sylwadau ysgrifenedig dros 1500 o eiriau)
- Unrhyw wybodaeth ychwanegol a geisiwyd gan yr Awdurdod Archwilio o dan Reol 17
- Hysbysiad o ddymuniad i siarad mewn Gwrandawriad Llawr Agored
- Hysbysiad o ddymuniad i siarad mewn Gwrandawriad Caffaeliad Gorfodol
- Sylwadau ac awgrymiadau ar drefniadau ac amserlen deithio ASI drafft yr Ymgeisydd a cheisiadau i fynychu ASI.
- Hysbysiad gan unrhyw Bartïon Statudol nad ydynt wedi cyflwyno Sylwadau Perthnasol o'u dymuniad i gael eu hystyried yn Barti â Buddiant
- Diweddariad yr Ymgeisydd ar gyflwyno'r Drwydded Forol (ML) a chynnydd

### **Deadline for receipt by the ExA of:**

- Written summaries of oral submissions to hearings
- Any post-hearing submissions requested by the ExA
- Responses to ExA's ExQ1
- An updated dDCO in clean and tracked versions
- A Schedule of Changes to the dDCO
- Comments on Relevant Representations (RRs)
- Local Impact Report (LIR) from Local Authorities
- Initial Statements of Common Ground (SoCG) requested by ExA
- Progressed Statement of Commonality for SoCG
- Comments on any updated application documents
- The Compulsory Acquisition (CA) Schedule
- Updated Book of Reference (BoR) and Schedule of Changes to the BoR and tracked versions (if required)
- An application documents tracker

<ul style="list-style-type: none"> <li>• Initial National Policy Statement (NPS) tracker</li> <li>• Written representations (WRs) (including summaries of all WRs exceeding 1500 words)</li> <li>• Any further information requested by the ExA under Rule 17</li> <li>• Notification of wish to speak at an Open Floor Hearing</li> <li>• Notification of wish to speak at a Compulsory Acquisition Hearing</li> <li>• Comments and suggestions on Applicant's draft ASI arrangements and itinerary and requests to attend ASI.</li> <li>• Notification by any Statutory Parties who have not submitted a RR of their wish to be considered as an IP</li> <li>• Applicant's update on the Marine Licence (ML) submission and progress</li> </ul>	
REP1-001	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.1 Applicant's Response to Relevant Representations
REP1-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.2 Marine Mammal Clarification Note
REP1-003	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.3 Fish and Shellfish Clarification Note
REP1-004	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.4 Application Errata List <b>This has now been superseded by documents REP8-053 and REP8-054</b>
REP1-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.5 National Policy Statement Tracker <b>This has now been superseded by document REP3-003</b>
REP1-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.6 Written Summaries of Oral Submissions to ISH1 (dDCO) and the OFH
REP1-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.7 Applicant's Response to the Examining Authority's (ExA) First Written Questions (ExQ1)
REP1-008	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.8 Draft Development Consent Order (Clean) <b>This has now been superseded by document REP2-014</b>
REP1-009	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.9 Draft Development Consent Order (Tracked) <b>This has now been superseded by document REP2-015</b>
REP1-010	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.10 Schedule of Changes to the Draft Development Consent Order <b>This has now been superseded by document REP2-016</b>
REP1-011	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.11 Applicant's Statement of Commonality for Statements of Common Ground (SoCG) <b>This has now been superseded by document REP2-027</b>
REP1-012	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.12 Table of Compulsory Acquisition and Temporary Possession Objections <b>This has now been superseded by documents REP2-007 and REP2-008</b>
REP1-013	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	Deadline 1 Submission - 1.13 Application Document Tracker <b>This has now been superseded by document REP2-001</b>
REP1-014	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.14 Applicant's Update on the Marine Licence Submission and Progress <b>This has now been superseded by document REP2-021</b>
REP1-015	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.15 Marine Water and Sediment Quality Clarification Note
REP1-016	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.16 Marine Ornithology Great Orme Assessment <b>This has now been superseded by documents REP3a-006 and REP3a-019</b>
REP1-017	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.17 Explanatory Memorandum (Clean) <b>This has now been superseded by document REP8-012</b>
REP1-018	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.18 Schedule of Mitigation <b>This has now been superseded by document REP2-024</b>
REP1-019	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.19 Applicant's Response to ISH1 (dDCO) Actions
REP1-020	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.20 Vessel Emissions Clarification Note
REP1-021	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.21 Special Category Land Plan <b>This has now been superseded by document REP6-027</b>
REP1-022	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.22 Land Plan (Onshore) <b>This has now been superseded by document REP5-031</b>
REP1-023	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.23 Plan of Watercourse Crossings: Part 1 (Figures 1-5)
REP1-024	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.23 Plan of Watercourse Crossings: Part 2 (Figures 6-10)
REP1-025	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.24 Marine Licence Principles (Clean) <b>This has now been superseded by document REP2-022</b>
REP1-026	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.25 Marine Licence Principles (Tracked) <b>This has now been superseded by document REP2-023</b>
REP1-027	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.26 Book of Reference (Clean) <b>This has now been superseded by document REP2-011</b>
REP1-028	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.27 Book of Reference (Tracked) <b>This has now been superseded by document REP2-012</b>
REP1-029	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	<p>Deadline 1 Submission - 1.28 Book of Reference – Schedule of Changes</p> <p><b>This has now been superseded by document REP2-013</b></p>
REP1-030	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.29 Statutory / Non-statutory Nature Conservation Sites Plan</p> <p><b>This has now been superseded by document REP6-032</b></p>
REP1-031	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.30 Location Plan</p> <p><b>This has now been superseded by document REP6-026</b></p>
REP1-032	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.31 Works Plan</p> <p><b>This has now been superseded by document REP6-029</b></p>
REP1-033	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.32 Fisheries Liaison and Co-Existence Plan</p>
REP1-034	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.33 Outline Landscape and Ecology Management Plan (Clean)</p> <p><b>This has now been superseded by document REP2-010</b></p>
REP1-035	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.34 Outline Landscape and Ecology Management Plan (Tracked)</p> <p><b>This has now been superseded by document REP2-009</b></p>
REP1-036	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.35 Outline Code of Construction Practice (oCoCP) - Appendix 8 - Outline Public Access Management Plan (Clean)</p> <p><b>This has now been superseded by document REP2-041</b></p>
REP1-037	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.36 oCoCP - Appendix 8 - Outline Public Access Management Plan (Tracked)</p> <p><b>This has now been superseded by document REP2-040</b></p>
REP1-038	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.37 oCoCP- Appendix 4 - Outline Soil Management Plan (Clean)</p> <p><b>This has now been superseded by document REP2-033</b></p>
REP1-039	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.38 oCoCP - Appendix 4 - Outline Soil Management Plan (Tracked)</p> <p><b>This has now been superseded by document REP2-032</b></p>
REP1-040	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.39 oCoCP - Appendix 11 - Outline Invasive Non-Native Species Management Plan (Clean)</p> <p><b>This has now been superseded by document REP2-047</b></p>
REP1-041	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 1 Submission - 1.40 oCoCP - Appendix 11 - Outline Invasive Non-Native Species Management Plan (Tracked)</p> <p><b>This has now been superseded by document REP2-046</b></p>
REP1-042	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p>

	Deadline 1 Submission - 1.41 Onshore ECC Flood Consequence Assessment (Clean)
REP1-043	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.42 Onshore ECC Flood Consequence Assessment (Tracked)
REP1-044	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.43 Proposed Substation Flood Consequences Assessment
REP1-045	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.43 Proposed Substation Flood Consequences Assessment: Appendix A - Proposed Substation Preliminary Outline Drainage Strategy
REP1-046	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.44 Statement of Reasons (Tracked) <b>This has now been superseded by document REP5-013</b>
REP1-047	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.45 Statement of Reasons (Clean) <b>This has now been superseded by document REP5-012</b>
REP1-048	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.46 Rhyl Flats Restriction Zone in Proximity to Awel y Môr Cable Corridor
REP1-049	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.47 Table of Environmental Statement Conclusions
REP1-050	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.48 Crown Land Plan <b>This has now been superseded by document REP6-034</b>
REP1-051	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.49 Outline Code of Construction Practice (oCoCP) <b>This has now been superseded by documents REP2-042 and REP2-043</b>
REP1-052	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.50 oCoCP- Appendix 1 - Construction Method Statement <b>This has now been superseded by documents REP2-017 and REP2-018</b>
REP1-053	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 1 Submission - 1.51 Explanatory Memorandum (Tracked) <b>This has now been superseded by document REP8-013</b>
REP1-054	<a href="#">Conwy County Borough Council</a> Deadline 1 Submission - Response to ExQ1
REP1-055	<a href="#">Conwy County Borough Council</a> Deadline 1 Submission - Written Representation
REP1-056	<a href="#">Denbighshire County Council</a> Deadline 1 Submission - Local Impact Report with Appendices
REP1-057	<a href="#">Department of Agriculture, Environment and Rural Affairs (DAERA)</a> Deadline 1 Submission - Response to ExQ1
REP1-058	<a href="#">Dŵr Cymru Welsh Water</a>



	Deadline 1 Submission - Cover Letter
REP1-059	<a href="#">Dŵr Cymru Welsh Water</a> Deadline 1 Submission - Conditions for Development
REP1-060	<a href="#">Dŵr Cymru Welsh Water</a> Deadline 1 Submission - Sewer Plans 1-5
REP1-061	<a href="#">Dŵr Cymru Welsh Water</a> Deadline 1 Submission - Water Plans 1-4
REP1-062	<a href="#">Gwynedd Archaeological Planning Service</a> Deadline 1 Submission - Response to ExQ1
REP1-063	<a href="#">Gwynedd Archaeological Planning Service</a> Deadline 1 Submission - Written Representation and Summary
REP1-064	<a href="#">Gwynedd Council</a> Deadline 1 Submission - Cover Email
REP1-065	<a href="#">Gwynedd Council</a> Deadline 1 Submission - Supplementary Planning Guidance
REP1-066	<a href="#">Gwynedd Council</a> Deadline 1 Submission - Anglesey and Gwynedd Joint LDP (Welsh)
REP1-067	<a href="#">Gwynedd Council</a> Deadline 1 Submission - Response to ExQ1
REP1-068	<a href="#">Isle of Anglesey County Council</a> Deadline 1 Submission - Written Representation
REP1-069	<a href="#">Joint Nature Conservation Committee (JNCC)</a> Deadline 1 Submission - Response to ExQ1
REP1-070	<a href="#">Maritime and Coastguard Agency</a> Deadline 1 Submission - Written Representation and Response to ExQ1
REP1-071	<a href="#">National Grid Electricity Transmission PLC (NGET)</a> Deadline 1 Submission - Written Representation
REP1-072	<a href="#">National Grid Electricity Transmission PLC (NGET)</a> Deadline 1 Submission - Written Representations Annex - Protective Provisions
REP1-073	<a href="#">Addleshaw Goddard LLP on behalf of National Grid Electricity Transmission PLC (NGET)</a> Deadline 1 Submission - Notification of wish to attend any Open Floor Hearing and Compulsory Acquisition Hearing that may be scheduled
REP1-074	<a href="#">Addleshaw Goddard LLP on behalf of National Grid Electricity Transmission PLC (NGET)</a> Deadline 1 Submission - Response to ExQ1
REP1-075	<a href="#">National Trust</a> Deadline 1 Submission - Written Representation
REP1-076	<a href="#">National Trust</a> Deadline 1 Submission - Response to ExQ1
REP1-077	<a href="#">NATS Safeguarding</a> Deadline 1 Submission - Response to ExQ1
REP1-078	<a href="#">Natural Resources Wales</a> Deadline 1 Submission - Request to attend Accompanied Site Inspection
REP1-079	<a href="#">Natural Resources Wales</a>

	Deadline 1 Submission - Confirmation of non-attendance at the Compulsory Acquisition Hearing and Open Floor Hearing
REP1-080	<a href="#">Natural Resources Wales</a> Deadline 1 Submission - Written Representation and Response to ExQ1 with further information letter referenced in section 4 of the Written Representation
REP1-081	<a href="#">Eversheds Sutherland (International) LLP on behalf of Network Rail Infrastructure Limited</a> Deadline 1 Submission - Written Representation and Response to ExQ1
REP1-082	<a href="#">Eversheds Sutherland (International) LLP on behalf of Network Rail Infrastructure Limited</a> Deadline 1 Submission - Request to be considered as an Interested Party
REP1-083	<a href="#">North Hoyle Wind Farm Limited</a> Deadline 1 Submission - Response to ExQ1
REP1-084	<a href="#">North Hoyle Wind Farm Limited</a> Deadline 1 Submission - Written summary of oral submissions to Issue Specific Hearing 1
REP1-085	<a href="#">North Hoyle Wind Farm Limited</a> Deadline 1 Submission - Written Representation
REP1-086	<a href="#">Rhyl Flats Wind Farm Limited</a> Deadline 1 Submission - Written summary of oral submissions to Issue Specific Hearing 1
REP1-087	<a href="#">Rhyl Flats Wind Farm Limited</a> Deadline 1 Submission - Response to ExQ1
REP1-088	<a href="#">Rhyl Flats Wind Farm Limited</a> Deadline 1 Submission - Written Representation and Summary
REP1-089	<a href="#">Royal Society for the Protection of Birds</a> Deadline 1 Submission - Response to ExQ1
REP1-090	<a href="#">Royal Society for the Protection of Birds</a> Deadline 1 Submission - Written Representation and Summary with References
REP1-091	<a href="#">Snowdonia National Park Authority</a> Deadline 1 Submission - North Wales Local Planning Authorities' Joint Written Representation Annex - Review of LVIA and SLVIA
REP1-092	<a href="#">Snowdonia National Park Authority</a> Deadline 1 Submission - Response to ExQ1
REP1-093	<a href="#">Snowdonia National Park Authority</a> Deadline 1 Submission - North Wales Local Planning Authorities' Joint Written Representation - Response to LVIA and SLVIA
REP1-094	<a href="#">SP Energy Networks</a> Deadline 1 Submission - Response to ExQ1
REP1-095	<a href="#">Trinity House</a> Deadline 1 Submission - Written Representation
REP1-096	<a href="#">Trinity House</a> Deadline 1 Submission - Response to ExQ1
REP1-097	<a href="#">Welsh Government</a> Deadline 1 Submission - Response to ExQ1
REP1-098	<a href="#">Carl Davies</a> Deadline 1 Submission - Response to ExQ1



REP1-099	<a href="#">Wilson Fearnall Ltd on behalf of GBL and IB Kerfoot Discretionary Trust</a> Deadline 1 Submission - Comments on Applicant's proposed Accompanied Site Inspection
REP1-100	<a href="#">Davis Meade Property Consultants (DMPC) on behalf of Mr AEM Owen</a> Deadline 1 Submission - Response to ExQ1
REP1-101	<a href="#">DMPC on behalf of Mr G and Mrs ME Hughes</a> Deadline 1 Submission - Written Representation
REP1-102	<a href="#">DMPC on behalf of Mr G and Mrs ME Hughes</a> Deadline 1 Submission - Response to ExQ1
REP1-103	<a href="#">DMPC on behalf of Mr JB and Mrs E Evans</a> Deadline 1 Submission - Written Representation
REP1-104	<a href="#">DMPC on behalf of Mr JB and Mrs E Evans</a> Deadline 1 Submission - Response to the ExQ1
REP1-105	<a href="#">DMPC on behalf of The Estate of the Late Mr Wynford Davies</a> Deadline 1 Submission - Response to ExQ1
REP1-106	<a href="#">Rostons on behalf of Mr R and Mrs H Proffitt</a> Deadline 1 Submission - Response to ExQ1 with Appendices

## **Terfyn Amser 2 – 9 Tachwedd 2022/ Deadline 2 – 9 November 2022**

### **Terfyn amser i'r Awdurdod Archwilio dderbyn:**

- Ymatebion i sylwadau ar Sylwadau Perthnasol
- Sylwadau ar ymatebion i ExQ1 yr Awdurdod Archwilio
- Sylwadau ar LIRs
- Unrhyw wybodaeth ychwanegol a geisiwyd gan yr Awdurdod Archwilio o dan Reol 17
- Sylwadau ar unrhyw dDCO diwygiedig
- Atodlen CA wedi'i diweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau
- BoR wedi'i ddiweddaru ac Atodlen Newidiadau i'r BoR a fersiynau sy'n dangos newidiadau (os oes angen)
- dDCO wedi'i ddiweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau
- Atodlen Newidiadau wedi'i diweddaru i'r dDCO
- Traciwr dogfennau diweddaredig y cais mewn fersiwn lân a fersiwn sy'n dangos newidiadau
- Traciwr NPS wedi'i ddiweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau
- Symud ymlaen â Datganiadau Tir Cyffredin (SoCG)
- Symud ymlaen â Datganiad Cyffredinedd Datganiadau Tir Cyffredin
- Sylwadau ar unrhyw gyflwyniadau eraill a dderbyniwyd adeg D1
- Sylwadau ar Sylwadau Ysgrifenedig
- Diweddariad ar y Drwydded Forol (ML) (os oes angen)

### **Deadline for receipt by the ExA of:**

- Responses to comments on RRs
- Comments on responses to ExA's ExQ1
- Comments on LIRs
- Any further information requested by the ExA under Rule 17
- Comments on any revised dDCO
- An updated CA Schedule in clean and tracked versions
- Updated BoR and Schedule of Changes to the BoR and tracked versions (if required)
- An updated dDCO in clean and tracked versions
- An updated Schedule of Changes to the dDCO
- An updated application documents tracker in clean and tracked versions
- An updated NPS tracker in clean and tracked versions (if required)
- Progressed SoCG
- Progressed Statement of Commonality for SoCG
- Comments on any other submissions received at D1

<ul style="list-style-type: none"> <li>• Comments on WRs</li> <li>• Update on the ML (if required)</li> </ul>	
REP2-001	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.1 Application Document Tracker <b>This has now been superseded by document REP3-001</b>
REP2-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.2 Applicant's Response to Written Representations
REP2-003	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.3 Applicant's Comments on Responses to the Examining Authority's (ExA) First Written Questions (ExQ1)
REP2-004	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.4 Comments on Denbighshire County Council's Local Impact Report (LIR)
REP2-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.5 Comments on Other Submissions Received at Deadline 1
REP2-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.6 Comments on Land Use Consultants' Review of LVIA and SLVIA
REP2-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.7 Table of Compulsory Acquisition and Temporary Possession Objections (Clean) <b>This has now been superseded by document REP4-039</b>
REP2-008	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.8 Table of Compulsory Acquisition and Temporary Possession Objections (Tracked) <b>This has now been superseded by document REP4-040</b>
REP2-009	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.9 Outline Landscape and Ecology Management Plan (Tracked) <b>This has now been superseded by document REP4-012</b>
REP2-010	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.10 Outline Landscape and Ecology Management Plan (Clean) <b>This has now been superseded by document REP4-011</b>
REP2-011	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.11 Book of Reference (Clean) <b>This has now been superseded by document REP4-041</b>
REP2-012	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.12 Book of Reference (Tracked) <b>This has now been superseded by document REP4-042</b>
REP2-013	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.13 Book of Reference - Schedule of Changes <b>This has now been superseded by document REP4-043</b>
REP2-014	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.14 Draft Development Consent Order (Clean) <b>This has now been superseded by document REP3-006</b>

REP2-015	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.15 Draft Development Consent Order (Tracked) <b>This has now been superseded by document REP3-007</b>
REP2-016	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.16 Schedule of Changes to the Draft Development Consent Order <b>This has now been superseded by document REP3-008</b>
REP2-017	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.17 Outline Code of Construction Practice (oCoCP) - Appendix 1 - Outline Construction Method Statement (Tracked) <b>This has now been superseded by document REP4-018</b>
REP2-018	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.18 oCoCP - Appendix 1 - Outline Construction Method Statement (Clean) <b>This has now been superseded by document REP4-017</b>
REP2-019	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.19 oCoCP - Appendix 2 - Outline Noise and Vibration Management Plan (Tracked)
REP2-020	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.20 oCoCP - Appendix 2 - Outline Noise and Vibration Management Plan (Clean)
REP2-021	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.21 Applicant's Update on the Marine Licence Submission and Progress <b>This has now been superseded by document REP4-025</b>
REP2-022	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.22 Marine Licence Principles (Clean) <b>This has now been superseded by document REP4-023</b>
REP2-023	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.23 Marine Licence Principles (Tracked) <b>This has now been superseded by document REP4-024</b>
REP2-024	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.24 Schedule of Mitigation <b>This has now been superseded by documents REP4-021 and REP4-022</b>
REP2-025	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.25 Update on Negotiation with Landowners, Occupiers and Statutory Undertakers and Other Utilities (Tracked) <b>This has now been superseded by document REP3-004</b>
REP2-026	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.26 Update on Negotiation with Landowners, Occupiers and Statutory Undertakers and Other Utilities (Clean) <b>This has now been superseded by document REP3-005</b>
REP2-027	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.27 Applicant's Statement of Commonality for Statement of Common Ground (SoCG) <b>This has now been superseded by document REP3-011</b>

REP2-028	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.28 Cumulative Effects Assessment Clarification Note
REP2-029	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.29 Assessment of the Visual Effects from the Glascoed Nature Reserve
REP2-030	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.30 oCoCP - Appendix 3 - Outline Air Quality Management Plan (Tracked)
REP2-031	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.31 oCoCP - Appendix 3 - Outline Air Quality Management Plan (Clean)
REP2-032	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.32 oCoCP - Appendix 4 - Outline Soil Management Plan (Tracked) <b>This has now been superseded by document REP4-016</b>
REP2-033	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.33 oCoCP - Appendix 4 - Outline Soil Management Plan (Clean) <b>This has now been superseded by document REP4-015</b>
REP2-034	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.34 oCoCP - Appendix 5 - Outline Site Waste Management Plan (Tracked)
REP2-035	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.35 oCoCP - Appendix 5 - Outline Site Waste Management Plan (Clean)
REP2-036	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.36 oCoCP - Appendix 6 - Outline Pollution Prevention and Emergency Incident Response Plan (Tracked)
REP2-037	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.37 oCoCP - Appendix 6 - Outline Pollution Prevention and Emergency Incident Response Plan (Clean)
REP2-038	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.38 oCoCP - Appendix 7 - Outline Construction Traffic Management Plan (Tracked) <b>This has now been superseded by document REP4-036</b>
REP2-039	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.39 oCoCP - Appendix 7 - Outline Construction Traffic Management Plan (Clean) <b>This has now been superseded by document REP4-035</b>
REP2-040	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.40 oCoCP - Appendix 8 - Outline Public Access Management Plan (Tracked) <b>This has now been superseded by document REP4-034</b>
REP2-041	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 2 Submission - 2.41 oCoCP - Appendix 8 - Outline Public Access Management Plan (Clean) <b>This has now been superseded by document REP4-033</b>
REP2-042	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	<p>Deadline 2 Submission - 2.42 Outline Code of Construction Practice (oCoCP) (Tracked)</p> <p><b>This has now been superseded by document REP4-020</b></p>
REP2-043	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 2 Submission - 2.43 Outline Code of Construction Practice (oCoCP) (Clean)</p> <p><b>This has now been superseded by document REP4-019</b></p>
REP2-044	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 2 Submission - 2.44 oCoCP - Appendix 10 - Outline Artificial Light and Emissions Plan (Tracked)</p>
REP2-045	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 2 Submission - 2.45 oCoCP - Appendix 10 - Outline Artificial Light and Emissions Plan (Clean)</p>
REP2-046	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 2 Submission - 2.46 oCoCP - Appendix 11 - Outline Invasive Non-Native Species Management Plan (Tracked)</p> <p><b>This has now been superseded by document REP8-041</b></p>
REP2-047	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 2 Submission - 2.47 oCoCP - Appendix 11 - Outline Invasive Non-Native Species Management Plan (Clean)</p> <p><b>This has now been superseded by document REP8-040</b></p>
REP2-048	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 2 Submission - 2.48 oCoCP - Appendix 12 - Outline Construction Communications Plan (Tracked)</p> <p><b>This has now been superseded by document REP6-043</b></p>
REP2-049	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 2 Submission - 2.49 oCoCP - Appendix 12 - Outline Construction Communications Plan (Clean)</p> <p><b>This has now been superseded by document REP6-042</b></p>
REP2-050	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 2 Submission - 2.50 SoCG 11 - Maritime and Coastguard Agency</p> <p><b>This has now been superseded by document REP7-048</b></p>
REP2-051	<p><a href="#">Flintshire County Council</a></p> <p>Deadline 2 Submission - Withdrawal from Examination Process</p>
REP2-052	<p><a href="#">DEFA Isle of Man Government</a></p> <p>Deadline 2 Submission - Comments on responses to ExQ1</p>
REP2-053	<p><a href="#">Gwynedd Archaeological Planning Service</a></p> <p>Deadline 2 Submission - Comments from any other submissions received at Deadline 1</p>
REP2-054	<p><a href="#">North Hoyle Wind Farm Limited</a></p> <p>Deadline 2 Submission - Responses to Relevant Representations at Deadline 1</p>
REP2-055	<p><a href="#">North Hoyle Wind Farm Ltd</a></p> <p>Deadline 2 Submission - Comments on responses to ExQ1</p>
REP2-056	<p><a href="#">Rhyl Flats Wind Farm Limited</a></p> <p>Deadline 2 Submission - Responses to Relevant Representations at Deadline 1</p>
REP2-057	<p><a href="#">Rhyl Flats Wind Farm Limited</a></p> <p>Deadline 2 Submission - Comments on responses to ExQ1</p>
REP2-058	<p><a href="#">Royal Society for the Protection of Birds</a></p>

	Deadline 2 Submission - Written Representation additional references
<b>Terfyn Amser 3 - 23 Tachwedd 2022/ Deadline 3 – 23 November 2022</b>	
<b>Terfyn amser i'r Awdurdod Archwilio dderbyn:</b>	
<ul style="list-style-type: none"> <li>• Ymatebion i sylwadau ar LIRs</li> <li>• dDCO wedi'i ddiweddarau mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• Atodlen CA wedi'i diweddarau mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• BoR wedi'i ddiweddarau ac Atodlen Newidiadau i'r BoR a fersiynau sy'n dangos newidiadau (os oes angen)</li> <li>• Atodlen Newidiadau wedi'i diweddarau i'r dDCO</li> <li>• Traciwr dogfennau diweddaedig y cais mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• Traciwr NPS wedi'i ddiweddarau mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• Unrhyw wybodaeth ychwanegol a geisiwyd gan yr Awdurdod Archwilio o dan Reol 17</li> <li>• Symud ymlaen â Datganiadau Tir Cyffredin (SoCG)</li> <li>• Symud ymlaen â Datganiad Cyffredinedd Datganiadau Tir Cyffredin</li> <li>• Sylwadau ar unrhyw gyflwyniadau eraill a dderbyniwyd adeg D2</li> <li>• Diweddariad ar y Drwydded Forol (os oes angen)</li> </ul>	
<b>Deadline for receipt by the ExA of:</b>	
<ul style="list-style-type: none"> <li>• Responses to comments on LIRs</li> <li>• An updated dDCO in clean and tracked versions</li> <li>• An updated CA Schedule in clean and tracked versions</li> <li>• Updated BoR and Schedule of Changes to the BoR and tracked versions (if required)</li> <li>• An updated Schedule of Changes to the dDCO</li> <li>• An updated application documents tracker in clean and tracked versions</li> <li>• An updated NPS tracker in clean and tracked versions (if required)</li> <li>• Any further information requested by the ExA under Rule 17</li> <li>• Progressed SoCG</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any other submissions received at D2</li> <li>• Update on the ML (if required)</li> </ul>	
REP3-001	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.1 Application Documents Tracker <b>This has now been superseded by document REP4-002</b>
REP3-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.2 Comments on Submissions Received at Deadline 2
REP3-003	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.3 National Policy Statement Tracker <b>This has now been superseded by documents REP8-032 and REP8-033</b>
REP3-004	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.4 Update on Negotiations with Landowners, Occupiers, Statutory Undertakers and Other Utilities (Tracked) <b>This has now been superseded by document REP4-038</b>
REP3-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.5 Update on Negotiations with Landowners, Occupiers, Statutory Undertakers and Other Utilities (Clean) <b>This has now been superseded by document REP4-037</b>
REP3-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>



	Deadline 3 Submission - 3.6 Draft Development Consent Order (Clean) <b>This has now been superseded by document REP3a-016</b>
REP3-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.7 Draft Development Consent Order (Tracked) <b>This has now been superseded by document REP3a-017</b>
REP3-008	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.8 Schedule of Changes to the Draft Development Consent Order <b>This has now been superseded by document REP3a-018</b>
REP3-009	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.9 Clarification Note on Predicted Impacts Apportioned to Isle of Man Designated Sites
REP3-010	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.10 Equalities Impact Report
REP3-011	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.11 Statement of Commonality for Statement of Common Ground (SoCG) <b>This has now been superseded by document REP3a-015</b>
REP3-012	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.12 Temporary Stopping Up of Public Rights of Way Plan <b>This has now been superseded by document REP6-031</b>
REP3-013	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.13 Design Principles Document (Clean) <b>This has now been superseded by document REP4-009</b>
REP3-014	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.14 Design Principles Document (Tracked) <b>This has now been superseded by document REP4-010</b>
REP3-015	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.15 Level B Harassment Threshold Comparison Note
REP3-016	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.16 Applicant's Response to Natural Resources Wales (NRW) REP1-080 3.1.24 to 3.1.25
REP3-017	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.17 Staging of Onshore Works
REP3-018	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.18 SoCG 4 - Isle of Anglesey County Council <b>This has now been superseded by document REP8-046</b>
REP3-019	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.19 SoCG 5 - Natural Resources Wales (Seascape, Landscape and Visual Impact Assessment) <b>This has now been superseded by document REP6-040</b>
REP3-020	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.20 SoCG 6 - Natural Resources Wales (Offshore) <b>This has now been superseded by document REP6-039</b>

REP3-021	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.21 SoCG 7 - Natural Resources Wales (Onshore) <b>This has now been superseded by document REP5-030</b>
REP3-022	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.22 SoCG 9 - National Trust <b>This has now been superseded by document REP5-029</b>
REP3-023	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.23 SoCG 12 - Trinity House <b>This has now been superseded by document REP4-030</b>
REP3-024	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3 Submission - 3.24 SoCG 15 - The Joint Nature Conservation Committee (JNCC) <b>This has now been superseded by document REP4-029</b>
REP3-025	<a href="#">NATS</a> Deadline 3 Submission - Confirmation of non-attendance at hearings
REP3-026	<a href="#">Natural Resources Wales</a> Deadline 3 Submission - Written Submission
REP3-027	<a href="#">Network Rail Infrastructure Limited</a> Deadline 3 Submission - Confirmation of non-attendance at hearings
REP3-028	<a href="#">North Hoyle Wind Farm Ltd</a> Deadline 3 Submission - Written Submission
REP3-029	<a href="#">Rhyl Flats Windfarm Ltd</a> Deadline 3 Submission - Written Submission
REP3-030	<a href="#">SP Energy Networks</a> Deadline 3 Submission - Written Submission
REP3-031	<a href="#">Trinity House</a> Deadline 3 Submission - Comments on any other submissions received at D2
REP3-032	<a href="#">Martin Griffiths</a> Deadline 3 Submission - Written Submission
REP3-033	<a href="#">Martyn Hussey</a> Deadline 3 Submission - Written Submission
<b>Terfyn Amser 3a - 16 Rhagfyr 2022/ Deadline 3a – 16 December 2022</b>  <b>Terfyn amser i'r Awdurdod Archwilio dderbyn:</b>  <ul style="list-style-type: none"> <li>• Crynodebau ysgrifenedig o gyflwyniadau llafar yn y gwrandawiadau</li> <li>• Unrhyw gyflwyniadau ôl-wrandawriad a geiswyd gan yr Awdurdod Archwilio</li> </ul> <b>Deadline for receipt by the ExA of:</b>  <ul style="list-style-type: none"> <li>• Written summaries of oral submissions at hearings</li> <li>• Any post-hearing submissions requested by the ExA</li> </ul>	
REP3a-001	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.1 Guide to the Applicant's Deadline 3a Submission



REP3a-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> 3a.2 Applicant's Response to Rule 17 Letter dated 15 November 2022
REP3a-003	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.3 Comments on Submissions Received at Deadline 3
REP3a-004	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.4 Written Summary of Oral Submissions at ISH2 (Seascape and Related Matters)
REP3a-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.5 Written Summary of Oral Submission at ISH3 (Proposed Substation Site and Related Matters)
REP3a-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.6 Marine Ornithology Great Orme Assessment (Tracked)
REP3a-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.7 Statutory / Non-Statutory Sites or Features of the Historic Environment Plan <b>This has now been superseded by document REP6-033</b>
REP3a-008	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.8 Street Works and Access Plans <b>This has now been superseded by document REP6-030</b>
REP3a-009	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.9 Water Bodies in a River Basin Management Plan <b>This has now been superseded by document REP6-035</b>
REP3a-010	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.10 Hedgerow and Protected Tree Plan <b>This has now been superseded by document REP6-036</b>
REP3a-011	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.11 Land Plan Offshore
REP3a-012	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.12 Schedule of Changes to Plans <b>This has now been superseded by document REP5-032</b>
REP3a-013	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.13 Applicant's Response to Natural Resources Wales Marine License Team Request for Further Information
REP3a-014	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.14 Applicant's Response to Marine Licence Application Comments
REP3a-015	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.15 Applicant's Statement of Commonality for SoCG <b>This has now been superseded by document REP4-006</b>
REP3a-016	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.16 Draft Development Consent Order (Clean) <b>This has now been superseded by document REP5-009</b>

REP3a-017	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.17 Draft Development Consent Order (Tracked) <b>This has now been superseded by document REP5-010</b>
REP3a-018	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.18 Schedule of Changes to the Draft DCO <b>This has now been superseded by document REP5-011</b>
REP3a-019	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 3a Submission - 3a.19 Marine Ornithology Great Orme Assessment (Clean)
REP3a-020	<a href="#">Denbighshire County Council</a> Deadline 3a Submission - Post-hearing submission requested by the ExA
REP3a-021	<a href="#">Natural Resources Wales</a> Deadline 3a Submission - Written summaries of oral submissions at hearings
REP3a-022	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Cover Letter
REP3a-023	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation Letter
REP3a-024	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (NRW Advisory)
REP3a-025	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Guide to the Marine License Application
REP3a-026	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Works Application Form
REP3a-027	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (Public Representation)
REP3a-028	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (MCA)
REP3a-029	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (Isle of Man)
REP3a-030	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (IACC)
REP3a-031	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (RCAHMW)

REP3a-032	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (JNCC)
REP3a-033	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (CEFAS)
REP3a-034	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (Janet Finch-Saunders MS)
REP3a-035	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (RSPB)
REP3a-036	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (Defence Infrastructure Organisation)
REP3a-037	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (Cadw)
REP3a-038	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (NATS Safeguarding)
REP3a-039	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (The Crown Estate)
REP3a-040	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (Clwyd-Powys Archaeological Trust)
REP3a-041	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Application Consultation (NFFO)
REP3a-042	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Marine Licence Plan Areas Map
REP3a-043	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Listed Buildings
REP3a-044	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - Further Information Document List
REP3a-045	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - ES 6.2.1

REP3a-046	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - 6.7.1 Non-technical summary
REP3a-047	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales - ML-1.10
REP3a-048	<a href="#">Natural Resources Wales</a> Response to Rule 17 Letter dated 15 November 2022 - Natural Resources Wales
REP3a-049	<a href="#">Llanddulas and Rhyd Y Foel Community Council</a> Deadline 3a Submission - Post-hearing submission requested by the ExA
<p><b>Terfyn Amser 4 – 30 Ionawr 2023 / <a href="#">Deadline 4 – 30 January 2023</a></b></p> <p><b>Terfyn amser i'r Awdurdod Archwilio dderbyn:</b></p> <ul style="list-style-type: none"> <li>• Crynodebau ysgrifenedig o gyflwyniadau llafar yn y gwrandawladau (os caiff ei ddal)</li> <li>• Unrhyw gyflwyniadau ôl-wrandawriad a geisiwyd gan yr Awdurdod Archwilio</li> <li>• Atodlen CA wedi'i diweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• BoR wedi'i ddiweddaru ac Atodlen Newidiadau i'r BoR a fersiynau sy'n dangos newidiadau (os oes angen)</li> <li>• dDCO wedi'i ddiweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• Atodlen Newidiadau wedi'i diweddaru i'r dDCO</li> <li>• Traciwr dogfennau diweddaredig y cais mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• Traciwr NPS wedi'i ddiweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• Unrhyw wybodaeth ychwanegol a geisiwyd gan yr Awdurdod Archwilio o dan Reol 17</li> <li>• Symud ymlaen â Datganiadau Tir Cyffredin (SoCG)</li> <li>• Symud ymlaen â Datganiad Cyffredinedd Datganiadau Tir Cyffredin</li> <li>• Sylwadau ar unrhyw gyflwyniadau eraill a dderbyniwyd adeg D3</li> <li>• Diweddariad ar y Drwydded Forol (os oes angen)</li> </ul> <p><b>Deadline for receipt by the ExA of:</b></p> <ul style="list-style-type: none"> <li>• Written summaries of oral submissions at hearings (if held)</li> <li>• Any post-hearing submissions requested by the ExA</li> <li>• An updated CA Schedule in clean and tracked versions</li> <li>• Updated BoR and Schedule of Changes to the BoR and tracked versions (if required)</li> <li>• An updated dDCO in clean and tracked versions</li> <li>• An updated Schedule of Changes to the dDCO</li> <li>• An updated application documents tracker in clean and tracked versions</li> <li>• An updated NPS tracker in clean and tracked versions (if required)</li> <li>• Any further information requested by the ExA under Rule 17</li> <li>• Progressed SoCG</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any other submissions received at D3</li> <li>• Update on the ML (if required)</li> </ul>	
REP4-001	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.1 Guide to the Applicant's Deadline 4 Submission
REP4-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.2 Document Tracker <b>This has now been superseded by document REP5-002</b>
REP4-003	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.3 Applicant's Response to ISH2 and ISH3 Action Points
REP4-004	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	Deadline 4 Submission - 4.4 Comments on Submissions Received at Deadline 3a
REP4-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.5 Applicant's Response to Rule 17 Letter dated 19 December 2022
REP4-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.6 Applicant's Statement of Commonality for SoCG <b>This has now been superseded by document REP5-008</b>
REP4-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.7 Outline Skills and Employment Strategy
REP4-008	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.8 Applicant's Response to R17Q1.1
REP4-009	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.9 Design Principles Document (Clean) <b>This has now been superseded by document REP5-020</b>
REP4-010	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.9 Design Principles Document (Tracked) <b>This has now been superseded by document REP5-021</b>
REP4-011	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.10 Outline Landscape and Ecology Management Plan (Clean) <b>This has now been superseded by document REP7-026</b>
REP4-012	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.10 Outline Landscape and Ecology Management Plan (Tracked) <b>This has now been superseded by document REP7-027</b>
REP4-013	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.11 Statement of Common Ground (SoCG) 3 - Conwy County Borough Council <b>This has now been superseded by document REP8-045</b>
REP4-014	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.12 SoCG 10 - Isle of Man Government <b>This has now been superseded by document REP8-051</b>
REP4-015	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.13 Outline Code of Construction Practice (oCoCP) – Appendix 4 - Outline Soil Management Plan (Clean) <b>This has now been superseded by document REP5-018</b>
REP4-016	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.13 oCoCP – Appendix 4 - Outline Soil Management Plan (Tracked) <b>This has now been superseded by document REP5-019</b>
REP4-017	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.14 oCoCP – Appendix 1 - Outline Onshore Construction Method Statement (Clean) <b>This has now been superseded by document REP5-014</b>
REP4-018	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	<p>Deadline 4 Submission - 4.14 oCoCP – Appendix 1 - Outline Onshore Construction Method Statement (Tracked)</p> <p><b>This has now been superseded by document REP5-015</b></p>
REP4-019	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.15 Outline Code of Construction Practice (oCoCP) (Clean)</p> <p><b>This has now been superseded by document REP5-016</b></p>
REP4-020	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.15 Outline Code of Construction Practice (oCoCP) (Tracked)</p> <p><b>This has now been superseded by document REP5-017</b></p>
REP4-021	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.16 Schedule of Mitigation and Monitoring (Clean)</p> <p><b>This has now been superseded by document REP7-034</b></p>
REP4-022	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.16 Schedule of Mitigation and Monitoring (Tracked)</p> <p><b>This has now been superseded by document REP7-035</b></p>
REP4-023	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.17 Marine Licence Principles (Clean)</p> <p><b>This has now been superseded by document REP6-013</b></p>
REP4-024	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.17 Marine Licence Principles (Tracked)</p> <p><b>This has now been superseded by document REP6-014</b></p>
REP4-025	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.18 Applicant's Update on the Marine Licence Submission and Progress</p> <p><b>This has now been superseded by document REP6-015</b></p>
REP4-026	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.19 Review of Table 8 of the Landscape and Visual Impact Assessment (LVIA)</p>
REP4-027	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.20 Visual Effects from Faenol-Bropor</p> <p><b>This has now been superseded by documents REP7-037 and REP7-038</b></p>
REP4-028	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.21 SoCG 8 - Cadw</p>
REP4-029	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.22 SoCG 15 - JNCC</p>
REP4-030	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.23 SoCG 12 - Trinity House</p>
REP4-031	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.24 SoCG 13 - UK Chamber of Shipping</p>
REP4-032	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.25 SoCG 16 - North Wales Wildlife Trust</p> <p><b>This has now been superseded by document REP7-047</b></p>
REP4-033	<p><a href="#">Awel y Môr Offshore Wind Farm Limited</a></p> <p>Deadline 4 Submission - 4.26 oCoCP – Appendix 8 - Outline Public Access Management Plan (Clean)</p>



	<b>This has now been superseded by document REP7-024</b>
REP4-034	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.26 oCoCP – Appendix 8 - Outline Public Access Management Plan (Tracked) <b>This has now been superseded by document REP7-025</b>
REP4-035	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.27 oCoCP – Appendix 4 - Outline Construction Traffic Management Plan (Clean)
REP4-036	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.27 oCoCP – Appendix 7 - Outline Construction Traffic Management Plan (Tracked)
REP4-037	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.28 Update on Negotiations with Landowners, Occupiers, Statutory Undertakers and Other Utilities (Clean) <b>This has now been superseded by document REP5-025</b>
REP4-038	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.28 Update on Negotiations with Landowners, Occupiers, Statutory Undertakers and Other Utilities (Tracked) <b>This has now been superseded by document REP5-026</b>
REP4-039	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.29 Table of Compulsory Acquisition and Temporary Possession Objections (Clean) <b>This has now been superseded by document REP5-027</b>
REP4-040	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.29 Table of Compulsory Acquisition and Temporary Possession Objections (Tracked) <b>This has now been superseded by document REP5-028</b>
REP4-041	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.30 Book of Reference (Clean) <b>This has now been superseded by document REP5-022</b>
REP4-042	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.30 Book of Reference (Tracked) <b>This has now been superseded by document REP5-023</b>
REP4-043	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.30.1 Book of Reference - Schedule of Changes <b>This has now been superseded by document REP5-024</b>
REP4-044	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 4 Submission - 4.31 SoCG 1 - North Wales Local Planning Authorities (Seascape, Landscape and Visual Impacts Assessment) <b>This has now been superseded by document REP8-044</b>
REP4-045	<a href="#">Natural Resources Wales</a> Deadline 4 Submission
REP4-046	<a href="#">North Hoyle Wind Farm Ltd</a> Deadline 4 Submission
REP4-047	<a href="#">Rhyl Flats Windfarm Ltd</a> Deadline 4 Submission - Comments on Table 5 of the Applicant's Deadline 3 Representations

REP4-048	<a href="#">Rhyl Flats Windfarm Ltd</a> Deadline 4 Submission - Appendix 1
<b>Terfyn Amser 5 - 6 Chwefror 2023/ <a href="#">Deadline 5 – 6 February 2023</a></b>  <b>Terfyn amser i'r Awdurdod Archwilio dderbyn:</b> <ul style="list-style-type: none"> <li>• Ymatebion i ExQ2 (os oes angen)</li> <li>• Sylwadau ar unrhyw dDCO diwygiedig</li> <li>• Unrhyw wybodaeth ychwanegol a geisiwyd gan yr Awdurdod Archwilio o dan Reol 17</li> <li>• Atodlen CA wedi'i diweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• BoR wedi'i ddiweddaru ac Atodlen Newidiadau i'r BoR a fersiynau sy'n dangos newidiadau (os oes angen)</li> <li>• dDCO wedi'i ddiweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• Atodlen Newidiadau wedi'i diweddaru i'r dDCO</li> <li>• Traciwr dogfennau diweddaredig y cais mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• Traciwr NPS wedi'i ddiweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau</li> <li>• Symud ymlaen â Datganiadau Tir Cyffredin (SoCG)</li> <li>• Symud ymlaen â Datganiad Cyffredinedd Datganiadau Tir Cyffredin</li> <li>• Sylwadau ar unrhyw gyflwyniadau eraill a dderbyniwyd adeg D4</li> <li>• Diweddariad ar y Drwydded Forol (os oes angen)</li> </ul> <b>Deadline for receipt by the ExA of:</b> <ul style="list-style-type: none"> <li>• Responses to ExQ2 (if required)</li> <li>• Comments on any revised dDCO</li> <li>• Any further information requested by the ExA under Rule 17</li> <li>• An updated CA Schedule in clean and tracked versions</li> <li>• Updated BoR and Schedule of Changes to the BoR and tracked versions (if required)</li> <li>• An updated dDCO in clean and tracked versions</li> <li>• An updated Schedule of Changes to the dDCO</li> <li>• An updated application documents tracker in clean and tracked versions</li> <li>• An updated NPS tracker in clean and tracked versions (if required)</li> <li>• Progressed SoCG</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any other submissions received at D4</li> <li>• Update on the ML (if required)</li> </ul>	
REP5-001	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.1 Guide to the Applicant's Deadline 5 Submission
REP5-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.2 Document Tracker <b>This has now been superseded by document REP6-002</b>
REP5-003	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.3 Comments on Submissions Received at Deadline 4
REP5-004	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.4 Applicant's Response to the Examining Authority's Second Written Questions (ExQ2)
REP5-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.5 Gwynt y Môr Abnormal Indivisible Load Investigation
REP5-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.6 Life Cycle Assessment for the Awel y Môr Offshore Windfarm
REP5-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>



	Deadline 5 Submission - 5.7 Designated Landscapes and Relevant Tests
REP5-008	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.8 Applicant's Statement of Commonality for Statements of Common Ground (SoCG) <b>This has now been superseded by document REP6-038</b>
REP5-009	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.9 Draft Development Consent Order (Clean) <b>This has now been superseded by document REP6-005</b>
REP5-010	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.9 Draft Development Consent Order (Tracked) <b>This has now been superseded by document REP6-006</b>
REP5-011	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.9.1 Schedule of Changes to the Draft DCO <b>This has now been superseded by document REP6-007</b>
REP5-012	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.10 Statement of Reasons (Clean) <b>This has now been superseded by document REP6-008</b>
REP5-013	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.10 Statement of Reasons (Tracked) <b>This has now been superseded by document REP6-009</b>
REP5-014	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.11 Outline Code of Construction Practice (oCoCP) - Appendix 1 - Outline Onshore Construction Method Statement (Clean) <b>This has now been superseded by document REP6-045</b>
REP5-015	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.11 oCoCP - Appendix 1 - Outline Onshore Construction Method Statement (Tracked) <b>This has now been superseded by document REP6-046</b>
REP5-016	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.12 Outline Code of Construction Practice (Clean) <b>This has now been superseded by document REP7-018</b>
REP5-017	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.12 Outline Code of Construction Practice (Tracked) <b>This has now been superseded by document REP7-019</b>
REP5-018	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.13 oCoCP- Appendix 4 - Soil Management Plan (Clean) <b>This has now been superseded by document REP7-022</b>
REP5-019	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.13 oCoCP - Appendix 4 - Soil Management Plan (Tracked) <b>This has now been superseded by document REP7-023</b>
REP5-020	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.14 Design Principles Document (Clean)

	<b>This has now been superseded by document REP7-028</b>
REP5-021	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.14 Design Principles Document (Tracked) <b>This has now been superseded by document REP7-029</b>
REP5-022	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.15 Book of Reference (Clean) <b>This has now been superseded by document REP6-010</b>
REP5-023	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.15 Book of Reference (Tracked) <b>This has now been superseded by document REP6-011</b>
REP5-024	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.15.1 Book of Reference – Schedule of Changes <b>This has now been superseded by document REP6-012</b>
REP5-025	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.16 Update on Negotiations with Landowners, Occupiers, Statutory Undertakers and Other Utilities (Clean) <b>This has now been superseded by document REP6-016</b>
REP5-026	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.16 Update on Negotiations with Landowners, Occupiers, Statutory Undertakers and Other Utilities (Tracked) <b>This has now been superseded by document REP6-017</b>
REP5-027	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.17 Table of Compulsory Acquisition and Temporary Possession Objections (Clean) <b>This has now been superseded by document REP6-018</b>
REP5-028	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.17 Table of Compulsory Acquisition and Temporary Possession Objections (Tracked) <b>This has now been superseded by document REP6-019</b>
REP5-029	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.18 SoCG 9 - National Trust <b>This has now been superseded by document REP8-050</b>
REP5-030	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.19 SoCG 7 - Natural Resources Wales (Onshore) <b>This has now been superseded by document REP8-049</b>
REP5-031	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.20 Land Plan (Onshore) <b>This has now been superseded by document REP6-028</b>
REP5-032	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 5 Submission - 5.21 Schedule of Changes to Plans <b>This has now been superseded by document REP6-037</b>
REP5-033	<a href="#">Isle of Anglesey County Council</a> Deadline 5 Submission - Response to ExQ2
REP5-034	<a href="#">Wilson Fearnall Ltd on behalf of GBL and IB Kerfoot Discretionary Trust</a> Deadline 5 Submission - Response to ExQ2

REP5-035	<a href="#">Gwynedd Archaeological Planning Service</a> Deadline 5 Submission - Response to ExQ2
REP5-036	<a href="#">DMPC on behalf of Mr G &amp; Mrs ME Hughes</a> Deadline 5 Submission - Response to ExQ2
REP5-037	<a href="#">DMPC on behalf of Mr JB &amp; Mrs E Evans</a> Deadline 5 Submission - Response to ExQ2
REP5-038	<a href="#">National Grid Electricity Transmission PLC (NGET)</a> Deadline 5 Submission - Response to ExQ2
REP5-039	<a href="#">Natural Resources Wales</a> Deadline 5 Submission - Response to ExQ2
REP5-040	<a href="#">North Hoyle Wind Farm Limited</a> Deadline 5 Submission
REP5-041	<a href="#">Rhyl Flats Windfarm Ltd</a> Deadline 5 Submission - Response to ExQ2
REP5-042	<a href="#">Royal Society for the Protection of Birds</a> Deadline 5 Submission - Response to ExQ2
REP5-043	<a href="#">The Crown Estate</a> Deadline 5 Submission - Response to ExQ2
REP5-044	<a href="#">Welsh Government</a> Deadline 5 Submission - Response to ExQ2
REP5-045	<a href="#">Conwy County Borough Council</a> Deadline 5 Submission - Response to ExQ2
REP5-046	<a href="#">Denbighshire County Council</a> Deadline 5 Submission - Response to ExQ2 - Late Submission accepted at the discretion of the Examining Authority
REP5-047	<a href="#">Natural Resources Wales</a> Deadline 5 Submission - Addendum to [REP5-039] Conservation Objectives for Liverpool Bay Special Protection Area - Late Submission accepted at the discretion of the Examining Authority

### **Terfyn Amser 6 - 20 Chwefror 2023/ [Deadline 6 - 20 February 2023](#)**

#### **Terfyn amser i'r Awdurdod Archwilio dderbyn:**

- Sylwadau ar ymatebion i ExQ2
- Atodlen CA wedi'i diweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau
- BoR wedi'i ddiweddaru ac Atodlen Newidiadau i'r BoR a fersiynau sy'n dangos newidiadau (os oes angen)
- dDCO wedi'i ddiweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau
- Atodlen Newidiadau wedi'i diweddaru i'r dDCO
- Traciwr dogfennau diweddaredig y cais mewn fersiwn lân a fersiwn sy'n dangos newidiadau
- Traciwr NPS wedi'i ddiweddaru mewn fersiwn lân a fersiwn sy'n dangos newidiadau
- Unrhyw wybodaeth ychwanegol a geisiwyd gan yr Awdurdod Archwilio o dan Reol 17
- Symud ymlaen â Datganiadau Tir Cyffredin (SoCG)
- Symud ymlaen â Datganiad Cyffredinedd Datganiadau Tir Cyffredin
- Sylwadau ar unrhyw gyflwyniadau eraill a dderbyniwyd adeg D5
- Diweddariad ar y Drwydded Forol (os oes angen)

#### **Deadline for receipt by the ExA of:**

- Comments on responses to ExQ2
- An updated CA Schedule in clean and tracked versions
- Updated BoR and Schedule of Changes to the BoR and tracked versions (if required)
- An updated dDCO in clean and tracked versions
- An updated Schedule of Changes to the dDCO
- An updated application documents tracker in clean and tracked versions
- An updated NPS tracker in clean and tracked versions (if required)
- Any further information requested by the ExA under Rule 17

<ul style="list-style-type: none"> <li>• Progressed SoCG</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any other submissions received at D5</li> <li>• Update on the ML (if required)</li> </ul>	
REP6-001	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.1 Guide to the Applicant's Deadline 6 Submission
REP6-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.2 Documents Tracker <b>This has now been superseded by document REP7-002</b>
REP6-003	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.3 Applicant's Comments on Responses to the Examining Authority's Second Written Questions (ExQ2)
REP6-004	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.4 Draft National Policy Statement Tracker <b>This has now been superseded by documents REP8-030 and REP8-031</b>
REP6-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.5 Draft Development Consent Order (Clean) <b>This has now been superseded by document REP7-006</b>
REP6-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.5 Draft Development Consent Order (Tracked) <b>This has now been superseded by document REP7-007</b>
REP6-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.5.1 Schedule of Changes to the Draft DCO <b>This has now been superseded by document REP7-008</b>
REP6-008	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.6 Statement of Reasons (Clean) <b>This has now been superseded by document REP7-032</b>
REP6-009	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.6 Statement of Reasons (Tracked) <b>This has now been superseded by document REP7-033</b>
REP6-010	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.7 Book of Reference (Clean) <b>This has now been superseded by document REP7-011</b>
REP6-011	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.7 Book of Reference (Tracked) <b>This has now been superseded by document REP7-012</b>
REP6-012	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.7.1 Book of Reference – Schedule of Changes <b>This has now been superseded by document REP7-013</b>
REP6-013	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.8 Marine Licence Principles (Clean) <b>This has now been superseded by document REP7-009</b>
REP6-014	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.8 Marine Licence Principles (Tracked) <b>This has now been superseded by document REP7-010</b>

REP6-015	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.9 Applicant's Update on the Marine Licence Submission and Progress <b>This has now been superseded by document REP8-018</b>
REP6-016	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.10 Update on Negotiation with Landowners, Occupiers and Statutory Undertakers and Other Utilities (Clean) <b>This has now been superseded by document REP7-014</b>
REP6-017	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.10 Update on Negotiation with Landowners, Occupiers and Statutory Undertakers and Other Utilities (Tracked) <b>This has now been superseded by document REP7-015</b>
REP6-018	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.11 Table of Compulsory Acquisition and Temporary Possession Objections (Clean) <b>This has now been superseded by document REP7-016</b>
REP6-019	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.11 Table of Compulsory Acquisition and Temporary Possession Objections (Tracked) <b>This has now been superseded by document REP7-017</b>
REP6-020	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.12 Funding Statement (Clean) <b>This has now been superseded by document REP7-030</b>
REP6-021	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.12 Funding Statement (Tracked) <b>This has now been superseded by document REP7-031</b>
REP6-022	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.13 Landscape Enhancement Package and Tourism Fund Update
REP6-023	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.14 Community Linguistic Statement (Clean)
REP6-024	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.14 Community Linguistic Statement (Tracked)
REP6-025	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.15 Note on Substation Building Heights
REP6-026	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.16 Location Plan <b>This has now been superseded by document REP8-090</b>
REP6-027	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.17 Special Category Land Plan
REP6-028	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.18 Land Plan (Onshore)
REP6-029	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.19 Works Plan
REP6-030	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.20 Street Works and Access Plan
REP6-031	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	Deadline 6 Submission - 6.21 Temporary Stopping Up of Public Rights of Way Plan
REP6-032	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.22 Statutory / Non-statutory Nature Conservation Sites Plan
REP6-033	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.23 Statutory / Non-statutory Sites or Features of the Historic Environment Plan
REP6-034	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.24 Crown Land Plan
REP6-035	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.25 Water Bodies in a River Basin Management Plan
REP6-036	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.26 Hedgerow and Protected Tree Plan
REP6-037	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.27 Schedule of Changes to Plans <b>This has now been superseded by document REP8-091</b>
REP6-038	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.28 Applicant's Statement of Commonality for Statements of Common Ground (SoCG) <b>This has now been superseded by document REP7-044</b>
REP6-039	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.29 SoCG 6 – Natural Resources Wales (Offshore) <b>This has now been superseded by document REP8-048</b>
REP6-040	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.30 SoCG 5 – Natural Resources Wales (Seascape, Landscape and Visual Impact Assessment) <b>This has now been superseded by document REP8-047</b>
REP6-041	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.31 Outline Offshore Piling Noise Monitoring Plan
REP6-042	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.32 Outline Code of Construction Practice (oCoCP) Appendix 12 Outline Construction Communications Plan (Clean)
REP6-043	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.32 oCoCP Appendix 12 Outline Construction Communications Plan (Tracked)
REP6-044	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.33 SoCG 2 – Denbighshire County Council <b>This has now been superseded by document REP7-049</b>
REP6-045	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.34 oCoCP Appendix 1 Outline Onshore Construction Method Statement (Clean) <b>This has now been superseded by document REP7-020</b>
REP6-046	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 6 Submission - 6.34 oCoCP Appendix 1 Outline Onshore Construction Method Statement (Tracked)



	<b>This has now been superseded by document REP7-021</b>
REP6-047	<a href="#">National Grid Electricity Transmission PLC (NGET)</a> Deadline 6 Submission
REP6-048	<a href="#">Natural Resources Wales</a> Deadline 6 Submission
REP6-049	<a href="#">North Hoyle Wind Farm Limited</a> Deadline 6 Submission
REP6-050	<a href="#">Rhyl Flats Wind Farm Limited</a> Deadline 6 Submission
REP6-051	<a href="#">Amy Evans and Martin Griffiths</a> Deadline 6 Submission
<b>Terfyn Amser 7 – 8 Mawrth 2023/ Deadline 7 – 8 March 2023</b>  <b>Terfyn amser i'r Awdurdod Archwilio dderbyn:</b> <ul style="list-style-type: none"> <li>• Ymatebion i ExQ3 (os oes angen)</li> </ul> <b>Deadline for receipt by the ExA of:</b> <ul style="list-style-type: none"> <li>• Responses to ExQ3 (if required)</li> </ul>	
REP7-001	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.1 Guide to the Applicant's Deadline 7 Submission
REP7-002	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.2 Document Tracker <b>This has now been superseded by document REP8-002</b>
REP7-003	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.3 Comments on Submissions Received at Deadline 6
REP7-004	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.4 Applicant's Response to the Examining Authority's Third Written Questions (ExQ3)
REP7-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.5 Applicant's Response to CAH and ISH4 Actions
REP7-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.6 Draft Development Consent Order (Clean) <b>This has now been superseded by document REP8-009</b>
REP7-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.6 Draft Development Consent Order (Tracked) <b>This has now been superseded by document REP8-010</b>
REP7-008	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.6.1 Schedule of Changes to the Draft DCO <b>This has now been superseded by document REP8-011</b>
REP7-009	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.7 Marine Licence Principles (Clean) <b>This has now been superseded by document REP8-014</b>
REP7-010	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.7 Marine Licence Principles (Tracked)

	<b>This has now been superseded by document REP8-015</b>
REP7-011	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.8 Book of Reference (Clean) <b>This has now been superseded by document REP8-025</b>
REP7-012	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.8 Book of Reference (Tracked) <b>This has now been superseded by document REP8-026</b>
REP7-013	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.8.1 Book of Reference - Schedule of Changes <b>This has now been superseded by document REP8-027</b>
REP7-014	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.9 Update on Negotiation with Landowners, Occupiers and Statutory Undertakers and Other Utilities (Clean) <b>This has now been superseded by document REP8-021</b>
REP7-015	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.9 Update on Negotiation with Landowners, Occupiers and Statutory Undertakers and Other Utilities (Tracked) <b>This has now been superseded by document REP8-022</b>
REP7-016	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.10 Table of Compulsory Acquisition and Temporary Possession Objections (Clean) <b>This has now been superseded by document REP8-023</b>
REP7-017	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.10 Table of Compulsory Acquisition and Temporary Possession Objections (Tracked) <b>This has now been superseded by document REP8-024</b>
REP7-018	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.11 Outline Code of Construction Practice (oCoCP) (Clean)
REP7-019	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.11 Outline Code of Construction Practice (oCoCP) (Tracked)
REP7-020	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.12 oCoCP - Appendix 1 - Outline Onshore Construction Method Statement (Clean)
REP7-021	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.12 oCoCP - Appendix 1 - Outline Onshore Construction Method Statement (Tracked)
REP7-022	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.13 oCoCP - Appendix 4 - Soil Management Plan (Clean)
REP7-023	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.13 oCoCP - Appendix 4 - Soil Management Plan (Tracked)
REP7-024	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.14 oCoCP - Appendix 8 - Public Access Management Plan (Clean)
REP7-025	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>



	Deadline 7 Submission - 7.14 oCoCP - Appendix 8 - Public Access Management Plan (Tracked)
REP7-026	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.15 Outline Landscape and Ecology Management Plan (Clean)
REP7-027	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.15 Outline Landscape and Ecology Management Plan (Tracked)
REP7-028	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.16 Design Principles Document (Clean)
REP7-029	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.16 Design Principles Document (Tracked)
REP7-030	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.17 Funding Statement (Clean)
REP7-031	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.17 Funding Statement (Tracked)
REP7-032	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.18 Statement of Reasons (Clean) <b>This has now been superseded by document REP8-019</b>
REP7-033	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.18 Statement of Reasons (Tracked) <b>This has now been superseded by document REP8-020</b>
REP7-034	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.19 Schedule of Mitigation and Monitoring (Clean) <b>This has now been superseded by document REP8-016</b>
REP7-035	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.19 Schedule of Mitigation and Monitoring (Tracked) <b>This has now been superseded by document REP8-017</b>
REP7-036	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.20 Agricultural Land Classification Report at the Onshore Substation Site
REP7-037	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.21 Visual Effects from Faenol-Bropor (Clean)
REP7-038	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.21 Visual Effects from Faenol-Bropor (Tracked)
REP7-039	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.22 Category 6 - Environmental Statement - Volume 6 - Annex 2.2 - LVIA Figures – Figure 2.6 (Aerial Mapping with Proposed Development)
REP7-040	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.23 The Anglesey AONB Management Plan
REP7-041	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.24 The Clwydian Range and Dee Valley AONB Management Plan 2014 - 2019
REP7-042	<a href="#">Awel y Môr Offshore Wind Farm Limited</a>

	Deadline 7 Submission - 7.25 The Clwydian Range and Dee Valley AONB Management Plan 2020 - 2025
REP7-043	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.26 The Eryri (Snowdonia) National Park Partnership Plan
REP7-044	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.27 Applicant's Statement of Commonality for SoCG <b>This has now been superseded by document REP8-042</b>
REP7-045	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.28 Joint Statement with SP Manweb
REP7-046	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.29 Update on Negotiations with Rhyl Flats Wind Farm Limited and North Hoyle Wind Farm Limited at Deadline 7 <b>This has now been superseded by document REP8-043</b>
REP7-047	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.30 Statement of Common Ground 16 - North Wales Wildlife Trust
REP7-048	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.31 Statement of Common Ground 11 - Maritime and Coastguard Agency
REP7-049	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 7 Submission - 7.32 Statement of Common Ground 2 - Denbighshire County Council
REP7-050	<a href="#">Conwy County Borough Council</a> Deadline 7 Submission - Response to ExQ3
REP7-051	<a href="#">Denbighshire County Council</a> Deadline 7 Submission - Response to ExQ3
REP7-052	<a href="#">Denbighshire County Council</a> Deadline 7 Submission - Response to ISH4 Action List
REP7-053	<a href="#">Wilson Fearnall Ltd on behalf of GBL and IB Kerfoot Discretionary Trust</a> Deadline 7 Submission - Response to ExQ3
REP7-054	<a href="#">Joint Nature Conservation Committee (JNCC)</a> Deadline 7 Submission - Response to ExQ3
REP7-055	<a href="#">National Grid Electricity Transmission PLC (NGET)</a> Deadline 7 Submission - Response to ExQ3
REP7-056	<a href="#">Natural Resources Wales</a> Deadline 7 Submission - Response to ExQ3
REP7-057	<a href="#">North Hoyle Wind Farm Limited</a> Deadline 7 Submission
REP7-058	<a href="#">Rhyl Flats Wind Farm Ltd</a> Deadline 7 Submission
REP7-059	<a href="#">Royal Society for the Protection of Birds</a> Deadline 7 Submission - Response to ExQ3
REP7-060	<a href="#">The Crown Estate</a> Deadline 7 Submission - Response to ExQ3
REP7-061	<a href="#">Welsh Government</a> Deadline 7 Submission - Response to ExQ3

REP7-062	<a href="#">Davis Meade Property Consultants on behalf of Mr JB &amp; Mrs E Evans</a> Deadline 7 Submission - Response to ExQ3
<p><b>Terfyn Amser 8 – 15 Mawrth 2023/Deadline 8 – 15 March 2023</b></p> <p><b>Terfyn amser i’r Awdurdod Archwilio dderbyn:</b></p> <ul style="list-style-type: none"> <li>• Crynodebau ysgrifenedig o gyflwyniadau llafar yn y gwrandawriadau (os oes angen)</li> <li>• Sylwadau ar y RIES (os oes angen)</li> <li>• Sylwadau ar atodlen newidiadau arfaethedig yr Awdurdod Archwilio i’r dDCO (os oes angen)</li> <li>• Datganiad Tir Cyffredin (SoCG) Terfynol</li> <li>• Datganiad Cyffredinedd Terfynol ar gyfer y Datganiad Tir Cyffredin</li> <li>• Atodlen CA Derfynol mewn fersiwn lân a fersiwn sy’n dangos newidiadau</li> <li>• BoR wedi’i ddiweddarau ac Atodlen Newidiadau i’r BoR a fersiynau sy’n dangos newidiadau (os oes angen)</li> <li>• Traciwr dogfennau terfynol y cais</li> <li>• Fersiwn derfynol ac wedi’i dilysu o’r dDCO mewn fersiwn lân a fersiwn sy’n dangos newidiadau</li> <li>• Atodlen Newidiadau derfynol i’r dDCO</li> <li>• BoR terfynol mewn fersiwn lân a fersiwn sy’n dangos newidiadau</li> <li>• Datganiad o Resymau terfynol mewn fersiwn lân a fersiwn sy’n dangos newidiadau</li> <li>• Traciwr NPS terfynol mewn fersiwn lân a fersiwn sy’n dangos newidiadau</li> <li>• Unrhyw wybodaeth ychwanegol a geisiwyd gan yr Awdurdod Archwilio o dan Reol 17 (os oes angen)</li> <li>• Sylwadau ar unrhyw gyflwyniadau eraill a dderbyniwyd adeg D6</li> <li>• LIRs wedi’u diweddarau</li> <li>• Cyflwyniadau cloi</li> <li>• Diweddariad terfynol ar y Drwydded Forol</li> <li>• Sylwadau ar ymatebion i ExQ3 (os oes angen)</li> </ul> <p><b>Deadline for receipt by the ExA of:</b></p> <ul style="list-style-type: none"> <li>• Written summaries of oral submissions at hearings (if required)</li> <li>• Comments on the RIES (if required)</li> <li>• Comments on the ExA’s proposed schedule of changes to the dDCO (if required)</li> <li>• Finalised SoCG</li> <li>• Finalised Statement of Commonality for SoCG</li> <li>• Finalised CA Schedule in clean and tracked versions</li> <li>• Updated BoR and Schedule of Changes to the BoR and tracked versions (if required)</li> <li>• A finalised application documents tracker</li> <li>• A finalised and validated version of the dDCO in clean and tracked versions</li> <li>• A finalised Schedule of Changes to the dDCO</li> <li>• Finalised BoR in clean and tracked versions</li> <li>• Finalised Statement of Reasons in clean and tracked versions</li> <li>• Finalised NPS tracker in clean and tracked versions</li> <li>• Any further information requested by the ExA under Rule 17 (if required)</li> <li>• Comments on any other submissions received at D6</li> <li>• Updated LIRs</li> <li>• Closing submissions</li> </ul>	

<ul style="list-style-type: none"> <li>• Final update on the ML</li> <li>• Comments on responses to ExQ3 (if required)</li> </ul>	
REP8-001	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.1 Guide to the Applicant's Deadline 8 Submission
REP8-002	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.2 Application Document Tracker <b>This has now been superseded by document REP8-115</b>
REP8-003	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.3 Applicant's Comments on Submissions Received at Deadline 7
REP8-004	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.4 Applicant's Comments on Responses to the Examining Authority's Third Written Questions (ExQ3)
REP8-005	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.5 Applicant's Response to the Rule 17 Letter Dated 09 March 2023
REP8-006	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.6 Written Summary of Oral Submissions to the CAH (Compulsory Acquisition Hearing)
REP8-007	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.7 Written Summary of Oral Submissions to ISH4 (Offshore Environmental Effects and the draft Development Consent Order)
REP8-008	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.8 The Applicant's Comments on the RIES
REP8-009	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.9 Draft Development Consent Order (Clean) <b>This has now been superseded by document REP8-118</b>
REP8-010	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.9 Draft Development Consent Order (Tracked) <b>This has now been superseded by document REP8-119</b>
REP8-011	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.9.1 Schedule of Changes to the Draft DCO <b>This has now been superseded by document REP8-121</b>
REP8-012	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.10 Explanatory Memorandum (Clean)
REP8-013	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.10 Explanatory Memorandum (Tracked)
REP8-014	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.11 Marine Licence Principles (Clean)
REP8-015	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.11 Marine Licence Principles (Tracked)
REP8-016	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.12 Schedule of Mitigation and Monitoring (Clean)

REP8-017	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.12 Schedule of Mitigation and Monitoring (Tracked)
REP8-018	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.13 Applicant's Update on the Marine Licence Submission and Progress
REP8-019	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.14 Statement of Reasons (Clean)
REP8-020	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.14 Statement of Reasons (Tracked)
REP8-021	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.15 Update on Negotiations with Landowners, Occupiers, Statutory Undertakers and other Utilities (Clean)
REP8-022	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.15 Update on Negotiations with Landowners, Occupiers, Statutory Undertakers and other Utilities (Tracked)
REP8-023	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.16 Table of Compulsory Acquisition and Temporary Possession Objections (Clean)
REP8-024	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.16 Table of Compulsory Acquisition and Temporary Possession Objections (Tracked)
REP8-025	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.17 Book of Reference (Clean)
REP8-026	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.17 Book of Reference (Tracked)
REP8-027	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.17.1 Book of Reference Schedule of Changes
REP8-028	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.18 Consents and Licences Required Under Other Legislation (Clean)
REP8-029	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.18 Consents and Licences Required Under Other Legislation (Tracked)
REP8-030	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.19 Draft National Policy Statement Tracker (Clean)
REP8-031	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.19 Draft National Policy Statement Tracker (Tracked)
REP8-032	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.20 National Policy Statement Tracker (Clean)
REP8-033	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.20 National Policy Statement Tracker (Tracked)
REP8-034	<a href="#">Awel y Môr Offshore Wind Farm</a>

	Deadline 8 Submission - 8.21 Applicant's Response to Marine Licence Re-Consultation Comments
REP8-035	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.22 Landscape Enhancement Package and Tourism Fund Update <b>This has now been superseded by document REP8-123</b>
REP8-036	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.23 Applicant's Comments on NSIP Action Plan and Opportunities for Offshore Environmental Net Gain
REP8-037	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.24 Note on Opportunities for Ecological Enhancement and Connectivity at the OnSS Site
REP8-038	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.25 Note on the Weight to be Given to Enhancement
REP8-039	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.26 Applicant's Further Response to ExQ3.0.7
REP8-040	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.27 Outline Code of Construction Practice - Appendix 11 - Outline Invasive Non-Native Species Management Plan (Clean)
REP8-041	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.27 Outline Code of Construction Practice - Appendix 11 - Outline Invasive Non-Native Species Management Plan (Tracked)
REP8-042	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.28 Applicant's Statement of Commonality for Statement of Common Ground (SoCG) <b>This has now been superseded by document REP8-125</b>
REP8-043	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.29 Update on Negotiations with Rhyl Flats Wind Farm Limited and North Hoyle Wind Farm Limited at Deadline 8
REP8-044	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.30 SoCG 1 - North Wales Local Planning Authorities (Seascape, Landscape and Visual Impacts Assessment) <b>This has now been superseded by document REP8-124</b>
REP8-045	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.31 SoCG 3 - Conwy County Borough Council
REP8-046	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.32 SoCG 4 - Isle of Anglesey County Council
REP8-047	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.33 SoCG 5 - Natural Resources Wales (Seascape, Landscape and Visual Impact Assessment)
REP8-048	<a href="#">Awel y Môr Offshore Wind Farm</a>



	Deadline 8 Submission - 8.34 SoCG 6 - Natural Resources Wales (Offshore)
REP8-049	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.35 SoCG 7 - Natural Resources Wales (Onshore)
REP8-050	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.36 SoCG 9 - National Trust
REP8-051	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.37 SoCG 10 - Isle of Man Government
REP8-052	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.38 SoCG 14 - The Royal Society for the Protection of Birds
REP8-053	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.39 Application Errata List (Clean)
REP8-054	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.39 Application Errata List (Tracked)
REP8-055	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.40 Report 5.2: Report to Inform Appropriate Assessment (RIAA)
REP8-056	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.41 Environmental Statement (ES) Volume 1 - Chapter 3: Environmental Impact Assessment Methodology
REP8-057	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.42 ES Volume 2 - Chapter 6: Fish and Shellfish Ecology
REP8-058	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.43 ES Volume 2 - Chapter 11: Offshore Archaeology and Cultural Heritage
REP8-059	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.44 ES Volume 2 - Chapter 14: Inter-relationships
REP8-060	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.45 ES Volume 3 - Chapter 1: Onshore Project Description
REP8-061	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.46 ES Volume 3 - Chapter 5: Onshore Biodiversity and Nature Conservation
REP8-062	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.47 ES Volume 3 - Chapter 6: Ground Conditions and Land Use
REP8-063	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.48 ES Volume 3 - Chapter 7: Hydrology, Hydrogeology and Flood Risk
REP8-064	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.49 ES Volume 3 - Chapter 8: Onshore Archaeology and Cultural Heritage
REP8-065	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.50 ES Volume 3 - Chapter 10: Noise and Vibration
REP8-066	<a href="#">Awel y Môr Offshore Wind Farm</a>

	Deadline 8 Submission - 8.51 ES Volume 3 - Chapter 13: Onshore Conclusions
REP8-067	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.52 ES Volume 4 - Annex 3.1: Water Framework Directive Compliance Assessment
REP8-068	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.53 ES Volume 4 - Annex 7.1: Marine Mammal Baseline Characterisation
REP8-069	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.54 ES Volume 4 - Annex 7.2: Draft Outline Marine Mammal Mitigation Protocol
REP8-070	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.55 ES Volume 5 - Annex 5.1: Preliminary Ecological Appraisal Report
REP8-071	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.56 ES Volume 5 - Annex 5.7: Dormouse Survey Report
REP8-072	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.57 ES Volume 6 - Annex 2.3: LVIA Visualisations - Figure 2.18 (Viewpoint 1: Bridlepath nr Faenol-broper)
REP8-073	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.58 ES Volume 6 - Annex 2.3: LVIA Visualisations - Figure 2.19 (Viewpoint 2: St Asaph, Business Park)
REP8-074	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.59 ES Volume 6 - Annex 2.3: LVIA Visualisations - Figure 2.20 (Viewpoint 3: Glascoed Rd)
REP8-075	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.60 ES Volume 6 - Annex 2.3: LVIA Visualisations - Figure 2.21 (Viewpoint 4: A55)
REP8-076	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.61 ES Volume 6 - Annex 2.3: LVIA Visualisations - Figure 2.22 (Viewpoint 5: Minor Rd, Groesffordd)
REP8-077	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.62 ES Volume 6 - Annex 2.3: LVIA Visualisations - Figure 2.23 (Viewpoint 6: Bodelwyddan Castle)
REP8-078	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.63 ES Volume 6 - Annex 2.3: LVIA Visualisations - Figure 2.24 (Viewpoint 7: St Asaph)
REP8-079	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.64 ES Volume 6 - Annex 2.3: LVIA Visualisations - Figure 2.25 (Viewpoint 8: Rhuddlan)
REP8-080	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.65 ES Volume 6 - Annex 2.3: LVIA Visualisations - Figure 2.26 (Viewpoint 9: Y Foel)
REP8-081	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.66 ES Volume 2 - Chapter 7: Marine Mammals
REP8-082	<a href="#">Awel y Môr Offshore Wind Farm</a>



	Deadline 8 Submission - 8.67 ES Volume 2 - Chapter 10: Seascape, Landscape and Visual Impact Assessment
REP8-083	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.68 Planning Statement
REP8-084	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.69 ES Volume 2 - Chapter 2: Marine Geology, Oceanography and Physical Processes
REP8-085	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.70 ES Volume 2 - Chapter 4: Offshore Ornithology
REP8-086	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.71 ES Volume 2 - Chapter 8: Commercial Fisheries
REP8-087	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.72 ES Volume 3 - Chapter 2: Landscape and Visual Impact Assessment
REP8-088	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.73 ES Volume 3 - Chapter 3: Socioeconomics
REP8-089	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.74 Joint Position Statements with Isle of Anglesey County Council, Eryri National Park and Conwy County Borough Council <b>This has now been superseded by document REP8-122</b>
REP8-090	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.75 Location Plan
REP8-091	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.76 Schedule of Changes to Plans
REP8-092	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.77 Joint Statement with Dwr Cymru / Welsh Water
REP8-093	<a href="#">Awel y Môr Offshore Wind Farm</a> Deadline 8 Submission - 8.78 Landscape Enhancement Scheme Principles
REP8-094	<a href="#">Joint Nature Conservation Committee</a> Deadline 8 Submission - Comments on the RIES
REP8-095	<a href="#">Addleshaw Goddard LLP on behalf of National Grid Electricity Transmission Plc</a> Deadline 8 Submission - Cover Letter
REP8-096	<a href="#">Addleshaw Goddard LLP on behalf of National Grid Electricity Transmission Plc</a> Deadline 8 Submission - Protective Provisions in relation to Awel Y Môr DCO
REP8-097	<a href="#">Addleshaw Goddard LLP on behalf of National Grid Electricity Transmission Plc</a> Deadline 8 Submission - Keadby 3 DCO
REP8-098	<a href="#">NATS Safeguarding</a> Deadline 8 Submission - Letter of Withdrawal
REP8-099	<a href="#">Natural England</a> Deadline 8 Submission - Comments on the RIES
REP8-100	<a href="#">Natural Resources Wales</a>

	Deadline 8 Submission
REP8-101	<a href="#">North Hoyle Wind Farm Ltd</a> Deadline 8 Submission - Written Summary of Oral Submission at CAH
REP8-102	<a href="#">North Hoyle Wind Farm Ltd</a> Deadline 8 Submission - Response to Deadline 6 Submissions
REP8-103	<a href="#">North Hoyle Wind Farm Ltd</a> Deadline 8 Submission - Comments on Deadline 7 Submissions
REP8-104	<a href="#">North Hoyle Wind Farm Ltd</a> Deadline 8 Submission - Protective Provisions
REP8-105	<a href="#">North Hoyle Wind Farm Ltd</a> Deadline 8 Submission - Closing Submission
REP8-106	<a href="#">Rhyl Flats Windfarm Ltd</a> Deadline 8 Submission - Written Summary of Oral Submission at CAH
REP8-107	<a href="#">Rhyl Flats Windfarm Ltd</a> Deadline 8 Submission - Response to Deadline 6 Submissions
REP8-108	<a href="#">Rhyl Flats Windfarm Ltd</a> Deadline 8 Submission - Comments on Deadline 7 Submissions
REP8-109	<a href="#">Rhyl Flats Windfarm Ltd</a> Deadline 8 Submission - Closing Submission
REP8-110	<a href="#">Welsh Government</a> Deadline 8 Submission - Response to Rule 17
REP8-111	<a href="#">Welsh Government (Transport)</a> Deadline 8 Submission
REP8-112	<a href="#">Wilson Fearnall Ltd on behalf of GBL and IB Kerfoot Discretionary Trust</a> Deadline 8 Submission - Comments on Applicants response to ExQ3
REP8-113	<a href="#">Amy Evans and Martin Griffiths</a> Deadline 8 Submission
REP8-114	<a href="#">Eversheds Sutherland (International) LLP on behalf of Network Rail</a> Deadline 8 Submission - Letter of Withdrawal
<b>Cyflwyniadau Hwyr / Late Submissions</b>	
REP8-115	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.1 Guide to the Applicant's Closing Submission - Accepted at the discretion of the Examining Authority
REP8-116	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.2 Document Tracker (Closing Submission) - Accepted at the discretion of the Examining Authority
REP8-117	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.3 Applicant's Closing Submission - Accepted at the discretion of the Examining Authority
REP8-118	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.4 Draft Development Consent Order (Clean) (Closing Submission) - Accepted at the discretion of the Examining Authority

	<b>This has now been superseded by document AS-053</b>
REP8-119	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.4 Draft Development Consent Order (Tracked – Showing Changes from D8) (Closing Submission) - Accepted at the discretion of the Examining Authority <b>This has now been superseded by document AS-054</b>
REP8-120	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.4 Draft Development Consent Order (Tracked - Showing Changes from Application) (Closing Submission) - Accepted at the discretion of the Examining Authority
REP8-121	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.4.1 Schedule of Changes to the Draft DCO (Closing Submission) - Accepted at the discretion of the Examining Authority <b>This has now been superseded by document AS-056</b>
REP8-122	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.5 Joint Position Statement with Isle of Anglesey County Council, Eryri National Park, Conwy County Borough Council and Denbighshire County Council (Closing Submission) - Accepted at the discretion of the Examining Authority
REP8-123	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.6 Landscape Enhancement Package and Tourism Fund Update (Closing Submission) - Accepted at the discretion of the Examining Authority
REP8-124	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.7 Statement of Common Ground 1 - North Wales Local Planning Authorities (Seascape, Landscape and Visual Impacts Assessment) (Closing Submission) - Accepted at the discretion of the Examining Authority
REP8-125	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Deadline 8 Submission - Late Submission - CS.8 Applicant's Statement of Commonality for SoCG (Closing Submission) - Accepted at the discretion of the Examining Authority
REP8-126	<a href="#">Davis Meade Property Consultants on behalf of Mr JB &amp; Mrs E Evans</a> Deadline 8 Submission - Late Submission - Written Summary of Oral Submission at CAH - Accepted at the discretion of the Examining Authority
<b>Dogfennau Eraill/ Other Documents</b>	
OD-001	<a href="#">Rheoliad 32 - Hysbysiad/Llythr Ymgynyngori o Republic of Ireland AYMO - Regulation 32 - Notification response from Republic of Ireland Redacted new</a>
OD-002	<a href="#">Hysbysiad Gazette Llundain</a> AYMO - London Gazette Notice
OD-003	<a href="#">Rheoliad 32 - Sgrinio Trawsffiniol</a>

	<a href="#">AYMO - Regulation 32 Transboundary Screening</a>
OD-004	<a href="#">Hysbysiad A56 yr Ymgeisydd o gais a dderbyniwyd</a> <a href="#">Applicant's S56 notice of accepted application</a>
OD-005	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Hysbysiad Rheoliad 16 <a href="#">Awel y Môr Offshore Wind Farm Limited</a> Regulation 16 Notice
OD-006	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Rhybudd a56 yr Ymgeisydd o gais wedi'i dderbyn <a href="#">Awel y Môr Offshore Wind Farm Limited</a> Section 56 Certificate
OD-007	<a href="#">Awel y Môr Offshore Wind Farm Limited</a> Rhybudd a59 yr Ymgeisydd o gais wedi'i dderbyn <a href="#">Awel y Môr Offshore Wind Farm Limited</a> Section 59 Certificate
OD-008	<a href="#">Notification of Other Person status (Welsh)</a> Department of Agriculture, Environment and Rural Affairs (DAERA)
OD-009	<a href="#">Notification of Other Person status</a> Department of Agriculture, Environment and Rural Affairs (DAERA)
OD-010	<a href="#">Notification of Other Person status (Welsh)</a> Ministère de l'écologie du développement durable et de l'énergie (France)
OD-011	<a href="#">Notification of Other Person status</a> Ministère de l'écologie du développement durable et de l'énergie (France)
OD-012	<a href="#">Notification of Other Person status (Welsh)</a> Department of Housing, Local Government and Heritage (Ireland)
OD-013	<a href="#">Notification of Other Person status</a> Department of Housing, Local Government and Heritage (Ireland)
OD-014	<a href="#">Notification of Other Person status (Welsh)</a> Natural England
OD-015	<a href="#">Notification of Other Person status</a> Natural England
OD-016	<a href="#">Notification of Other Person status (Welsh)</a> NatureScot
OD-017	<a href="#">Notification of Other Person status</a> NatureScot
OD-018	<a href="#">Notification of Other Person status (Welsh)</a> Janet Finch-Saunders MS
OD-019	<a href="#">Notification of Other Person status</a> Janet Finch-Saunders MS
OD-020	<a href="#">Rheoliad 32 - Hysbysiad/Llythyr Ymgynghori o France</a> <a href="#">AYMO - Regulation 32 - Consultation response from France</a>
OD-021	<a href="#">Adroddiad ar y Goblygiadau i Safleoedd Ewropeaidd (RIES)</a> Cyhoeddwyd gan yr Awdurdod Archwilio - 22 Chwefror 2023  <a href="#">Report on the Implications for European Sites (RIES)</a> Issued by the Examining Authority - 22 February 2023

	<b>Although this document is listed with an 'Other Document' (OD) reference, it was published as a Procedural Decision by the ExA.</b>
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# **Appendix C:**

## **List of Abbreviations**

## Abbreviations used

<b>AA</b>	Appropriate Assessment
<b>AADT</b>	Annual Average Daily Traffic
<b>AEoI</b>	Adverse Effect on Integrity
<b>AIL</b>	Abnormal Indivisible Load
<b>AIS</b>	Air Insulated Substation/Switchgear (page
<b>AIsm</b>	Automatic Identification System
<b>ALAR</b>	Abnormal Load Assessment Report
<b>ALARP</b>	As Low As Reasonably Practicable
<b>ALC</b>	Agricultural Land Classification
<b>ALEMP</b>	Artificial Light and Emissions Management Plan
<b>AMAAA</b>	Ancient Monuments and Archaeological Areas Act 1979
<b>amsl</b>	above mean sea level
<b>ANCB</b>	Appropriate Nature Conservation Body
<b>AONB</b>	Area of Outstanding Natural Beauty
<b>AoS</b>	Area of Search
<b>AQMA</b>	Air Quality Management Area
<b>AR</b>	Allocation Round
<b>Art</b>	Article
<b>ASI</b>	Accompanied Site Inspection
<b>ASNW</b>	Ancient semi-natural woodland
<b>ATC</b>	Automatic Traffic Count
<b>ATR</b>	Active Travel Routes
<b>AyM</b>	Awel y Môr
<b>BDMPS</b>	Biologically Defined Minimum Population Scales
<b>BEIS</b>	Department for Business, Energy and Industrial Strategy
<b>BMVAL</b>	Best and Most Versatile Agricultural Land
<b>BoR</b>	Book of Reference
<b>BRAG</b>	Black red amber green
<b>CA</b>	Compulsory Acquisition
<b>CAA</b>	Civil Aviation Authority
<b>CAH</b>	Compulsory Acquisition Hearing
<b>CBRA</b>	Cable Burial Risk Assessment
<b>CCA2008</b>	Climate Change Act 2008
<b>CCBC</b>	Conwy County Borough Council
<b>cd</b>	Candela
<b>CDLSCA</b>	Conwy and Denbighshire Landscape Sensitivity and Capacity Assessment for Wind Energy Development (2013)
<b>CEA</b>	Cumulative Effects Assessment

<b>Cefas</b>	Centre for the Environment, Fisheries and Aquaculture
<b>CfD</b>	Contract for Difference
<b>CL:AIRE</b>	Contaminated Land: Applications in Real Environments
<b>CLS</b>	Community Linguistic Statement
<b>CMS</b>	Construction Method Statement
<b>CoCP</b>	Code of Construction Practice
<b>COLREGS</b>	Convention on the International Regulations for Preventing Collisions at Sea
<b>CoS</b>	Chamber of Shipping
<b>CRDV</b>	Clwydian Range and Dee Valley
<b>CRM</b>	Collision Risk Modelling
<b>CRoW Act</b>	Countryside and Rights of Way Act 2000
<b>CSIP</b>	Cable Specification and Installation Plan
<b>CTMP</b>	Construction Traffic Management Plan
<b>D</b>	Deadline
<b>DAERANI</b>	Department of Agriculture, Environment and Rural Affairs, Northern Ireland
<b>DAM</b>	Development Advice Map
<b>DC</b>	Dŵr Cymru / Welsh Water
<b>DCC</b>	Denbighshire County Council
<b>DCCLDP</b>	DCC Local Development Plan (2006-2021)
<b>DCLG</b>	Department for Communities and Local Government
<b>DCO</b>	Development Consent Order
<b>dDCO</b>	Draft Development Consent Order
<b>DECC</b>	Department of Energy & Climate Change
<b>DEFRA</b>	Department for Environment, Food and Rural Affairs
<b>DLUHC</b>	Department for Levelling Up, Housing and Communities
<b>DMRB</b>	Design Manual for Roads and Bridges
<b>DO</b>	Dissolved Oxygen
<b>DoMMMP</b>	Draft Outline Marine Mammal Mitigation Protocol
<b>DoWCoP</b>	Definition of Waste Code of Practice
<b>DPD</b>	Design Principles Document
<b>ECC</b>	Export Cable Corridor
<b>ECHR</b>	European Convention on Human Rights
<b>ECow</b>	Ecological Clerk of Works
<b>EDR</b>	Effective Deterrent Radius
<b>EEA</b>	European Economic Area
<b>EIA</b>	Environmental Impact Assessment
<b>EM</b>	Explanatory Memorandum
<b>EMF</b>	Electromagnetic Field



<b>ENP</b>	Eryri National Park
<b>ENPA</b>	Eryri National Park Authority
<b>EPR</b>	Environmental Permitting (England and Wales)
<b>EPUK</b>	Environmental Protection UK
<b>EPSL</b>	European Protected Species Licence
<b>ERCoP</b>	Emergency Response Cooperation Plan
<b>ES</b>	Environmental Statement
<b>ETG</b>	Expert Topic Group
<b>EUWA2018</b>	EU (Withdrawal) Act 2018
<b>EUWA2020</b>	EU (Withdrawal) Act 2020
<b>ExA</b>	Examining Authority
<b>FCA</b>	Flood Consequence Assessment
<b>FCC</b>	Flintshire County Council
<b>FLCEP</b>	Fisheries Liaison and Co-existence Plan
<b>FLO</b>	Fisheries Liaison Officer
<b>FLOWW</b>	Fishing Liaison with Offshore Wind and Wet Renewables Group
<b>FMfP</b>	Flood Map for Planning
<b>FOC</b>	Frequency of Occurrence
<b>FRAP</b>	Flood Risk Activity Permit
<b>FS</b>	Funding Statement
<b>FTE</b>	Full Time Equivalent
<b>FWNP</b>	Future Wales – The National Plan 2040
<b>GC</b>	Gwynedd Council
<b>GCN</b>	Great Crested Newts
<b>GEART</b>	Guidelines on the Environmental Assessment of Road Traffic
<b>GFPS</b>	Gas Fired Power Station
<b>GIS</b>	Gas Insulated Substation/Switchgear?
<b>GOHC</b>	Great Orme Heritage Coast
<b>GPG</b>	Good Practice Guide
<b>GPS</b>	Global Positioning System
<b>GVA</b>	Gross Value Added
<b>GyM</b>	Gwynt y Môr
<b>HDD</b>	Horizontal Directional Drilling
<b>HGV</b>	Heavy Goods Vehicle
<b>HoTs</b>	Heads of Term
<b>HPAI</b>	Highly Pathogenic Aviation Influenza
<b>HRA</b>	Habitats Regulations Assessment
<b>IAP1</b>	Initial Assessment of Principal Issues
<b>IAQM</b>	Institute of Air Quality Management

<b>ICNIRP</b>	International Commission on Non-Ionizing Radiation Protection
<b>IEMA</b>	Institute of Environmental Management and Assessment
<b>IMO</b>	International Maritime Organization
<b>INNS</b>	Invasive Non-Native Species
<b>IoA</b>	Institute of Acoustics
<b>IoACC</b>	Isle of Anglesey County Council
<b>IoM</b>	Isle of Man Government
<b>IP</b>	Interested Person
<b>iPCoD</b>	Interim Population Consequences of Disturbance
<b>ISH</b>	Issue Specific Hearing
<b>JNCC</b>	Joint Nature Conservation Committee
<b>km</b>	kilometres
<b>LBCA Act</b>	Planning (Listed Buildings and Conservation Areas) Act
<b>LCA</b>	Landscape Character Area
<b>LDF</b>	Local Development Framework
<b>LDP</b>	Local Development Plan
<b>LDV</b>	Light Duty Vehicle
<b>LEMP</b>	Landscape and Ecology Management Plan
<b>LIR</b>	Local Impact Report
<b>LNR</b>	Local Nature Reserve
<b>LPA</b>	Local Planning Authority
<b>LRN</b>	Local Road Network
<b>LSE</b>	Likely Significant Effects
<b>LUC</b>	Land Use Consultants
<b>LVIA</b>	Landscape and Visual Impact Assessment
<b>LWS</b>	Local Wildlife Site
<b>m</b>	metres
<b>m<sup>2</sup></b>	Square Metres
<b>MaCA</b>	Marine Character Area
<b>MarLIN</b>	Marine Life Information Network
<b>MCA</b>	Maritime and Coastguard Agency
<b>MDS</b>	Maximum Design Scenario
<b>MGN</b>	Marine Guidance Note
<b>MHWS</b>	Mean High Water Springs
<b>ML</b>	Marine Licence
<b>MLP</b>	Marine Licence Principles
<b>MLT</b>	Marine Licensing Team
<b>MLWS</b>	Mean Low Water Springs
<b>MMO</b>	Marine Management Organisation
<b>MMP</b>	Materials Management Plan

<b>MoD</b>	Ministry of Defence
<b>MPCP</b>	Marine Pollution Contingency Plan
<b>MW</b>	Megawatts
<b>NAHC</b>	North Anglesey Heritage Coast
<b>NATS</b>	National Air Traffic Services
<b>NE</b>	Natural England
<b>NERC Act</b>	Natural environment and Rural Communities Act 2006
<b>NGET</b>	National Grid Electricity Transmission plc
<b>NHWF</b>	North Hoyle Wind Farm
<b>NLCA</b>	National Landscape Character Areas
<b>NMWTRA</b>	North and Mid Wales Trunk Road Agent
<b>NRA</b>	Navigational Risk Assessment
<b>NRIL</b>	Network Rail Infrastructure Ltd
<b>NRW</b>	Natural Resource Wales
<b>NS</b>	NatureScot
<b>NT</b>	National Trust
<b>NtM</b>	Notice to Mariners
<b>NO<sub>x</sub></b>	Nitrogen Oxides
<b>NPACA</b>	National Parks and Access to the Countryside Act 1949
<b>NPS</b>	National Policy Statement
<b>NRA</b>	Navigational Risk Assessment
<b>NRIL</b>	Network Rail Infrastructure Limited
<b>NRW</b>	Natural Resources Wales
<b>NRW MLT</b>	Natural Resources Wales Marine Licensing Team
<b>NRMM</b>	Non-Road Mobile Machinery
<b>NSIP</b>	Nationally Significant Infrastructure Project
<b>NSR</b>	Noise Sensitive Receptor
<b>NT</b>	National Trust
<b>NVMP</b>	Noise and Vibration Management Plan
<b>NWLPA</b>	North Wales Local Planning Authorities
<b>NWWT</b>	North Wales Wildlife Trust
<b>oALEMP</b>	outline Artificial Light and Emissions Plan
<b>O&amp;M</b>	Operation and Maintenance
<b>oAQMP</b>	outline Air Quality Management Plan
<b>oCCP</b>	outline Construction Communications Plan
<b>oCoCP</b>	outline Code of Construction Practice
<b>oCMS</b>	outline Construction Method Statement
<b>oCTMP</b>	outline Construction Traffic Management Plan
<b>offCMS</b>	offshore Construction Method Statement
<b>oINNSMP</b>	outline Invasive Non-Native Species Management Plan

<b>OL</b>	Order Limits
<b>oLEMP</b>	outline Landscape and Ecology Management Plan
<b>OMP</b>	Ornithology Monitoring Plan
<b>OnSS</b>	Onshore Substation
<b>oNVMP</b>	outline Noise and Vibration Management Plan
<b>oOAWSI</b>	outline Offshore Archaeological Written Scheme of Investigation
<b>OP</b>	Other Person
<b>oPAMP</b>	outline Public Access Management Plan
<b>oPPEIRP</b>	outline Pollution Prevention and Emergency Incident
<b>OREI's</b>	Offshore Renewable Energy Installations
<b>oSES</b>	outline Skills and Employment Strategy
<b>oSWMP</b>	outline Site Waste Management Plan
<b>oSMP</b>	outline Soil Management Plan
<b>oTP</b>	Outline Travel Plan
<b>OTR</b>	Offshore Transmission Review
<b>PA2008</b>	Planning Act 2008
<b>PAWS</b>	Plantation on Ancient Woodland Site
<b>PAH</b>	Polycyclic Aromatic Hydrocarbons
<b>PAMP</b>	Public Access Management Plan
<b>PAWE</b>	Pre Assessed Areas for Wind Energy
<b>PEIR</b>	Preliminary Environmental Information Report
<b>PEMP</b>	Project Environmental Management Plan
<b>PHW</b>	Public Health Wales
<b>PINS</b>	Planning Inspectorate
<b>PM</b>	Preliminary Meeting
<b>PPEIRP</b>	Pollution Prevention and Emergency Incident Response
<b>PPG</b>	Planning Practice Guidance
<b>PPV</b>	Peak Particle Velocity
<b>PPW</b>	Planning Policy Wales
<b>PRoW</b>	Public Rights of Way
<b>PSED</b>	Public Sector Equality Duty
<b>PSR</b>	Primary Surveillance Radar
<b>PTS</b>	Permanent Threshold Shift
<b>PVA</b>	Population Visibility Analysis
<b>R</b>	Requirement
<b>rDCO</b>	Recommended Development Consent Order
<b>RR</b>	Relevant Representation
<b>RFWF</b>	Rhyl Flats Wind Farm
<b>RIAA</b>	Report to Inform Appropriate Assessment

<b>RIES</b>	Report on Implications for European Sites
<b>RPG</b>	Registered Park and Garden
<b>RR</b>	Relevant Representation
<b>RSPB</b>	Royal Society for the Protection of Birds
<b>RTD</b>	Red Throated Diver
<b>s106</b>	Section 106 of the Town and Country Planning Act 1990
<b>SAC</b>	Special Area of Conservation
<b>SABP</b>	St Asaph Business Park
<b>SAR</b>	Search and Rescue
<b>SCA</b>	Seascape Character Area
<b>Sch</b>	Schedule
<b>SFCA</b>	Strategic Flood Consequence Assessment
<b>SGLP</b>	Special Category Land Plans
<b>SLA</b>	Special Landscape Area
<b>SLVIA</b>	Seascape, Landscape and Visual Impact Assessment
<b>SNCBs</b>	Statutory Nature Conservation Bodies
<b>SNP</b>	Snowdonia National Park
<b>SOC</b>	Severity of Consequence
<b>SoCG</b>	Statement(s) of Common Ground
<b>SoR</b>	Statement of Reasons
<b>SoS</b>	Secretary of State
<b>SoSESNZ</b>	Secretary of State for Energy Security and Net Zero
<b>SPA</b>	Special Protection Area
<b>SPEN</b>	SP Energy Networks
<b>SPG</b>	Supplementary Planning Guidance
<b>SPM</b>	SP Manweb plc
<b>SPMP</b>	Scour Protection Management Plan
<b>SPP</b>	Scour Protection Plan
<b>SPP</b>	Special Parliamentary Procedure
<b>SSSI</b>	Site of Special Scientific Interest
<b>SU</b>	Statutory Undertaker
<b>SuDS</b>	Sustainable Drainage Systems
<b>SWMP</b>	Site Waste Management Plan
<b>TAN</b>	Technical Advice Note
<b>TCC</b>	Temporary Construction Compound
<b>TCE</b>	The Crown Estate
<b>TP</b>	Temporary Possession
<b>TPO</b>	Tree Preservation Order
<b>TSUPRoW</b>	Temporary Stopping Up of Public Rights of Way Plan
<b>TTS</b>	Temporary Threshold Shift

<b>UK</b>	United Kingdom
<b>UKCP18</b>	UK Climate Projections 2018
<b>UNEP</b>	United Nations Environment Programme
<b>USI</b>	Unaccompanied Site Inspection
<b>UXO</b>	Unexploded Ordnance
<b>VMS</b>	Vessel Monitoring System
<b>VTMP</b>	Vessel Traffic Management Plan
<b>VP</b>	Viewpoint
<b>WaFD</b>	Waste Framework Directive
<b>WCA 1981</b>	Wildlife and Countryside Act 1981
<b>WCP</b>	Wales Coast Path
<b>WFD</b>	Water Framework Directive
<b>WFDCA</b>	Water Framework Directive Compliance Assessment
<b>WBFGW</b>	The Well-being of Future Generations (Wales) Act 2015
<b>WNMP</b>	Welsh National Marine Plan
<b>WR</b>	Written Representation
<b>WTG</b>	Wind Turbine Generator
<b>ZoI</b>	Zone of Influence
<b>ZTV</b>	Zone of Theoretical Visibility

# **Appendix D:**

## **Recommended Development Consent Order**

202[ ] No.

**INFRASTRUCTURE PLANNING**

**The Awel y Môr Offshore Wind Farm Order 202[●]**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>		***

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008<sup>(1)</sup> (the “2008 Act”) for an Order granting development consent.

The application was examined by a panel of 5 members (appointed by the Secretary of State) in accordance with Part 6 of the 2008 Act and carried out in accordance with the Infrastructure Planning (Examination Procedure) Rules 2010<sup>(2)</sup>.

The panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 74(2) of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State has considered the [representations made and not withdrawn], and the report and recommendation of the panel, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017<sup>(3)</sup>, and, as a national policy statement as effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

[The Secretary of State is satisfied that the open space forming special category land specified in the land plans and special category land plan (as defined in article 2 of this Order), when burdened with any new rights authorised to be compulsorily acquired under this Order, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.]

[The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application [with modifications which in the

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(1) 2008 c. 29. Section 37 was amended by sections 128(2) and 137(5) and Schedule 13, Part 1, paragraphs 1 to 5 of the Localism Act 2011 (c. 20).  
 (2) S.I. 2010/103. This instrument was amended by S.I. 2012/635  
 (3) S.I. 2017/572.

opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application].

The Secretary of State, in exercise of the powers conferred by sections [114, 115, 120 and 132, and schedule 5] to the 2008 Act, makes the following Order:

## PART 1

### Preliminary

#### Citation and commencement

**1.** This Order may be cited as the Awel y Môr Offshore Wind Farm Order 202[•] and comes into force on [•] 202[•].

#### Interpretation

**2.**—(1) In this order—

“1961 Act” means the Land Compensation Act 1961(**4**);

“1965 Act” means the Compulsory Purchase Act 1965(**5**);

“1980 Act” means the Highways Act 1980(**6**);

“1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(**7**);

“1989 Act” means the Electricity Act 1989(**8**);

“1990 Act” means the Town and Country Planning Act 1990(**9**);

“1991 Act” means the New Roads and Street Works Act 1991(**10**);

“2003 Act” means the Communications Act 2003(**11**);

“2004 Act” means the Energy Act 2004(**12**);

“2008 Act” means the Planning Act 2008;

“2009 Act” means the Marine and Coastal Access Act 2009(**13**);

“address” includes any number or address used for the purposes of electronic transmission;

“ancillary works” means the ancillary works described in Part 2 of Schedule 1 (ancillary works) and any other works authorised by this Order that are not development within the meaning of section 32 of the 2008 Act;

“apparatus” has the same meaning as in section 105(1) of the 1991 Act;

“authorised development” means the development and associated development described in Part 1 of Schedule 1 (authorised development) and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act;

“bank holiday” means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(**14**);

“book of reference” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order;

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(4) 1961 c. 33.

(5) 1965 c. 56.

(6) 1980 c. 66.

(7) 1981 c. 66.

(8) 1989 c. 29.

(9) 1990 c. 8.

(10) 1991 c. 22.

(11) 2003 c. 21.

(12) 2004 c. 20. Section 105 was amended by section 69 of the Energy Act 2008 (c. 32).

(13) 2009 c. 23.

(14) 1971 c. 80

“building” includes any structure or erection or any part of a building, structure or erection;

“buoy” means any floating device used for navigational purposes or measurement purposes, including wave buoys, LiDAR and guard buoys;

“business day” means a day other than a Saturday or Sunday or a bank holiday in England and Wales;

“cable” means up to 400kV cables for the transmission of electricity and includes direct lay cables, cables laid in cable ducts or protective covers, and further includes fibre optic and other communications cables either within the cable or laid alongside;

“cable circuits” means a number of electrical conductors necessary to transmit electricity between two points within the authorised development comprising up to three electrical conductors, which may be attached together or take the form of single cables, and in either case the circuit may include one or more auxiliary cables for the purpose of control, monitoring, protection or general communications;

“cable crossings” means the crossing of existing sub-sea cables, pipelines or other existing infrastructure by the cables authorised by this Order together with cable protection;

“cable ducts” means conduits for the installation of cables;

“cable protection” means measures to protect cables from physical damage including but not limited to concrete mattresses, with or without frond devices, and/or rock placement, the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices and rock and gravel burial;

“carriageway” has the same meaning as in the 1980 Act;

“commence” means carry out a material operation, as defined in section 155 of the 2008 Act comprised in or for the purposes of the authorised development other than onshore works comprising surveying or investigatory works including archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions; preparatory works to existing infrastructure and diversion and laying of utilities and services; creation of any temporary means of access; site clearance including vegetation clearance; erection of screening and fencing, site security works, creation of temporary hard standing, or the temporary display of site notices or advertisements, and “commencement”, “commenced” and cognate expressions are to be construed accordingly;

“design principles document” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

“environmental statement” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order;

“foundation” means any of: a monopile, multi-leg pin-piled jacket, mono suction caisson, multi-leg suction caisson jacket, mono gravity based system or multi-leg gravity based system jacket;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete with a base which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“hedgerow and protected tree plan” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order;

“highway authority” means in relation to the A55, the Welsh Ministers, and in relation to any other highway Denbighshire County Council;

“HVAC” means high voltage alternating current;

“inter-array cables” means the cables linking the wind turbine generators to each other and to the other offshore works;

“jacket foundation” means a steel jacket/lattice-type structure constructed of steel, fixed to the seabed with steel pin piles or steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“joint bay” means an excavation formed to enable the jointing of the cables;

“jointing” means a process by which two or more cables are connected to each other by means of cable joints within a joint bay;

“land plans” means the documents certified as such by the Secretary of State under article 40 for the purposes of this Order;

“LiDAR” means a light detection and ranging system used to measure weather and sea conditions;

“location plan” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order;

“m” means metres and “m<sup>2</sup>” means square metres;

“maintain” includes inspect, repair, adjust or alter the authorised development, and remove, reconstruct or replace any part, provided that such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement and any derivative of “maintain” is to be construed accordingly;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“mean low water springs” or “MLWS” means the average height of all low waters above Chart Datum;

“monopile foundation” means a steel or concrete pile, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“offshore works” means Work Nos. 1, 1A, 2 and 2A and any related further associated development in connection with those Works;

“onshore works” means Work Nos. 3 to 41 inclusive and any related further associated development in connection with those Works;

“onshore WSI” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the works plan within which the authorised development may be carried out;

“outline code of construction practice” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order;

“outline drainage strategy” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order;

“outline landscape and ecology management plan” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order;

“outline skills and employment strategy” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order;

“pin piles” means steel or concrete cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“platforms” means the offshore structures housing or incorporating electrical equipment such as switchgear and transformers and high voltage reactive controls, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, vessel charging facilities, communication and control systems, auxiliary and uninterruptible power supplies, energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“relevant planning authority” means Denbighshire County Council;

“requirements” means those matters set out in Part 1 of Schedule 2 (requirements) to this Order;

“special category land plan” means the plan certified as such by the Secretary of State under article 40 for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act;

“street” means a street within the meaning of section 48 of the 1991 Act<sup>(15)</sup>, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act<sup>(16)</sup>;

“street works and access plan” means the plan certified as such by the Secretary of State under article 40 for the purposes of this Order;

“substation” means in relation to the onshore works an HVAC substation compound sited at Bodelwyddan containing electrical equipment (including power transformers, gantries, switchgear, reactive compensation equipment, electrical protection equipment devices (disconnectors, circuit breakers), cooling, harmonic filters, cables and back-up generators), control buildings, lightning protection masts, communications masts, access including internal roads, fencing and other associated equipment, structures or buildings;

“suction caisson foundation” means a tubular steel structure which partially or fully penetrates the seabed and associated equipment, including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“temporary mitigation area” means land in which temporary mitigation will be undertaken as identified on the works plan and described in the outline landscape and ecology management plan;

“temporary stopping up of public rights of way plan” means the plan certified as such by the Secretary of State under article 40 for the purposes of this Order;

“trenchless installation technique compound” means a construction site associated with the cable or cable circuit works where horizontal directional drilling or other trenchless construction technique is proposed including hard standings, lay down and storage areas for construction materials and equipment, areas for spoil, areas for vehicular parking, bunded storage areas, areas comprising water and bentonite tanks, pumps and pipes, areas for welfare facilities including offices and canteen and washroom facilities, wheel washing facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

“trenchless installation techniques” means the installation of electrical circuits and/or cables by means of boring techniques for installing cable ducts including horizontal directional drilling, pipe jacking/horizontal auger boring and micro-boring;

“tribunal” means the Lands Chamber of the Upper Tribunal;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means 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;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment including communications equipment, fixed to a foundation or transition piece; and

“works plan” means the plan or plans certified as such by the Secretary of State under article 40 for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or

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(15) Section 48 was amended by section 124 (1) and (2) of the Local Transport Act 2008 (c. 26).

(16) “Street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015.

rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions, areas and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(6) References in this Order to numbered works are references to the works as numbered in Part 1 of Schedule 1 (authorised development).

## **PART 2**

### **Principal Powers**

#### **Development consent etc. granted by the Order**

**3.**—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—

- (a) development consent for the authorised development; and
- (b) consent for the ancillary works;

to be carried out within the Order limits.

(2) Subject to the requirements, the offshore works must be constructed within the Order limits seaward of MLWS and the onshore works must be constructed within the Order limits landward of MLWS.

(3) No provision of this Order obviates the need to obtain a marine licence(s) under Part 4 of the 2009 Act before commencement of the authorised development, or to comply with the conditions of any marine licence(s), and nothing in this Order in any way limits the enforcement powers in respect of a marine licence(s) under Part 4 of the 2009 Act.

(4) In the event of any inconsistency between the provisions of this Order and a marine licence, then the terms of the marine licence will take precedence.

#### **Operation of generating station**

**4.**—(1) The undertaker is authorised to use and operate the authorised development for which development consent is granted by this Order.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation that may be required from time to time to authorise the operation of the authorised development.

#### **Power to maintain the authorised development**

**5.**—(1) Subject to paragraph (2), the undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain any further licence under Part 4 (marine licensing) of the 2009 Act for the offshore works.

#### **Benefit of the Order**

**6.**—(1) Subject to this article, the provisions of this Order have effect solely for the benefit of the undertaker.

- (2) Subject to paragraph (3), the undertaker may with the written consent of the Secretary of State—
- (a) transfer to another person (the “transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and
  - (b) grant to another person (the “lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.
- (3) Where this paragraph applies, no consent of the Secretary of State is required. This paragraph applies where—
- (a) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply, etc.) of the 1989 Act; or
  - (b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
    - (i) no such claims have been made;
    - (ii) any such claim has been made and has been compromised or withdrawn;
    - (iii) compensation has been paid in final settlement of any such claim;
    - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or
    - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable.
- (4) Where an agreement has been made in accordance with paragraph (3) references in this Order to the undertaker, will include references to the transferee or lessee.
- (5) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (3) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.
- (6) Where paragraph (3) applies, the undertaker must provide written notification to the Secretary of State and the relevant planning authority at least 14 days prior to transferring and/or granting any benefit.

### **Application and modification of legislative provisions**

**7.** The following enactments do not apply in relation to the construction of any work or the carrying out of any operation for the purpose of or in connection with, the construction of the authorised development or any maintenance of any part of the authorised development—

- (a) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the authority) to the Water Resources Act 1991<sup>(17)</sup>;
- (b) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991<sup>(18)</sup>;
- (c) sections 23 (prohibition on obstructions etc. in watercourses) and 30 (authorisation of drainage works in connection with a ditch) of the Land Drainage Act 1991<sup>(19)</sup>; and
- (d) the provisions of the Neighbourhood Planning Act 2017<sup>(20)</sup> in so far as they relate to the temporary possession of land under articles 27 (temporary use of land for carrying out the authorised development) and 28 (temporary use of land for maintaining the authorised development) of this Order.

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<sup>(17)</sup> 1991 c. 57. Paragraph 5 was amended by section 100(1) and (2) of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 (c. 23), paragraph 49 of Schedule 25 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c. 25), section 224 of, and paragraph 24 of Schedule 16, and Part 5(B) of Schedule 22, to, the Marine and Coastal Access Act 2009 and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

<sup>(18)</sup> 1991 c. 59. Section 66 was amended by paragraph 38 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and section 86(3) of the Water Act 2014 (c. 21).

<sup>(19)</sup> 1991 c. 59. Section 23 was amended by section 120(1) of and the paragraph 192 of Schedule 22 to, the Environment Act 1995 and section 31 of, and paragraphs 25 and 32 of Schedule 2 to, the Flood and Water Management Act 2010 (c. 29.).

<sup>(20)</sup> 2017 c. 20.



## **Defence to proceedings in respect of statutory nuisance**

**8.**—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990(**21**) in relation to a nuisance falling within paragraphs (d), (fb), (g) and (ga) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(**22**);
- (b) is a consequence of the construction or maintenance of the authorised development and cannot reasonably be avoided; or
- (c) is a consequence of the use of the authorised development and cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site) of the Control of Pollution Act 1974(**23**) does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

## **PART 3**

### **Streets**

#### **Street works**

**9.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus under the street;
- (d) maintain apparatus under the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

#### **Application of the 1991 Act**

**10.**—(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

- (a) the carrying out of works under article 9 (street works); and
- (b) the temporary stopping up, temporary alteration or temporary diversion of a street by the undertaker under article 12 (temporary restriction of use of streets);

whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

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(21) 1990 c 43. Amended by section 103 of the Clean Neighbourhoods and Environment Act 2005 (c. 16.). There are other amendments not relevant to this Order.

(22) 1974 c.40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c.55), paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995. There are other amendments to the 1974 Act which are not relevant to the Order.

(23) 1974 c. 40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), paragraph 15 of Schedule 3 to the Environmental Protection Act 1990 and Paragraph 1 of Schedule 24 to the Environment Act 1995.

(2) The provisions of the 1991 Act<sup>(24)</sup> are—

- (a) subject to paragraph (3), section 55 (notice of starting date of works);
- (b) section 57 (notice of emergency works);
- (c) section 60 (general duty of undertakers to co-operate);
- (d) section 68 (facilities to be afforded to street authority);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all provisions of that Act that apply for the purposes of the provisions referred to in sub-paragraphs (a) to (g).

(3) Section 55 of the 1991 Act as applied by paragraph (2) has effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(4) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 56(d) (power to give directions as to timing of street works);
- (b) section 56A(e) (power to give directions as to placing of apparatus);
- (c) section 58(f) (restriction on works following substantial road works);
- (d) section 58A(g) (restriction on works following substantial street works);
- (e) section 61(protected streets); and
- (f) schedule 3A(h) (restriction on works following substantial street works).

### **Temporary stopping up of rights of way**

**11.**—(1) The undertaker may, in connection with the carrying out of the authorised development, temporarily stop up each of the public rights of way specified in column (1) of Schedule 4 (rights of way to be temporarily stopped up or restricted) to the extent specified in column (2), by reference to the letters shown on the temporary stopping up of public rights of way plan.

(2) The rights of way specified in Schedule 4 (rights of way to be temporarily stopped up or restricted) may not be temporarily stopped up under this article unless a diversion for the stopped up section of that right of way, is first provided by the undertaker to the standard defined in the public access management plan forming part of the code of construction practice to be approved in accordance with the requirements set out in Schedule 2 (requirements), to the reasonable satisfaction of the highway authority.

(3) The relevant diversion route provided under paragraph (2) will be subsequently maintained by the undertaker until the re-opening of the relevant right of way specified in paragraph (1).

(4) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

### **Temporary restriction of use of streets**

**12.**—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limiting paragraph (1), the undertaker may use any street temporarily stopped up under the powers conferred by this article within the Order limits as a temporary working site.

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<sup>(24)</sup> Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c. 18.).

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily stop up or use as a temporary working site any street without the consent of the street authority, which may attach reasonable conditions to the consent.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (4), that street authority is deemed to have granted consent.

### **Access to works**

**13.** The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access for the purposes of the authorised development within the Order limits from the streets listed in Schedule 5 (access to works) and shown on the street works and access plan; and as part of Work No. 41.

## **PART 4**

### **Supplemental powers**

#### **Discharge of water**

**14.—**(1) Subject to paragraphs (3) and (4) below the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may inspect, lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or by the undertaker pursuant to paragraph (1) is determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991<sup>(25)</sup>.

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to paragraph (1) except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of, or construct any works in, under, over or within eight metres of, any watercourse forming part of a main river, or within 16 metres of a tidally influenced main river without the prior written consent of Natural Resources Wales.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016<sup>(26)</sup>.

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<sup>(25)</sup> 1991 c. 56. Section 106 was amended by sections 43(2) and 35(8)(a) and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c.43) and sections 99 and 36(2) of the Water Act 2003 (c. 37.). There are other amendments to this section which are not relevant to this Order.

<sup>(26)</sup> S.I. 2016/1154.

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, Natural Resources Wales, an internal drainage board or a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016 have the same meaning as in those Regulations.

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

### **Authority to survey and investigate the land**

**15.**—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or
  - (b) in a private street without the consent of the street authority;
- but such consent must not be unreasonably withheld or delayed

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (4)(a) in the case of a highway authority; or
  - (b) under paragraph (4)(b) in the case of a street authority;
- that authority is deemed to have granted consent.

(7) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

### **Protective work to buildings**

**16.**—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of five years beginning with the day on which that part of the authorised development first becomes operational.

(3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building, the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land that is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a power under paragraph (1) to carry out protective works to a building;
- (b) a power under paragraph (3) to enter a building and land within its curtilage;
- (c) a power under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a power under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise the power and, in a case falling within sub-paragraph (a), (c) or (d), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of ten days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 44 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which powers under this article have been exercised for any loss or damage arising to them by reason of the exercise of the powers.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of five years beginning with the day on which the part of the authorised development carried out in the vicinity of the building first becomes operational it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development;

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies in respect of the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works”, in relation to a building, means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused to the building by the carrying out, maintenance or use of the authorised development; and

- (b) any works the purpose of which is to remedy any damage that has been caused to the building by the carrying out, maintenance or use of the authorised development.

### **Removal of human remains**

17.—(1) Before the undertaker carries out any development or works which will or may disturb any human remains in the Order land it must remove those human remains from the Order land, or cause them to be removed, in accordance with the following provisions of this article.

(2) Before any such remains are removed from the Order land the undertaker must give notice of the intended removal, describing the Order land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the Order land.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant planning authority.

(4) At any time within fifty-six days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred in the specific land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium;

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(7) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(8) If—

- (a) within the period of fifty-six days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the Order land;
- (b) such notice is given and no application is made under paragraph (6) within fifty-six days after the giving of the notice but the person who has given the notice fails to remove the remains within a further period of fifty-six days;
- (c) within fifty-six days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice under paragraph (4) relates cannot be identified;

subject to paragraph (9), the undertaker must remove the remains and cause them to be re-interred in such burial ground, or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but

that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(10) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (3).

(11) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(12) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(13) Section 25 (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) of the Burial Act 1857<sup>(27)</sup> is not to apply to a removal carried out in accordance with this article.

## PART 5

### Powers of acquisition

#### Compulsory acquisition of land

**18.**—(1) The undertaker may acquire compulsorily so much of the Order land as is required to carry out or to facilitate, or is incidental to, the authorised development.

(2) This article is subject to paragraph (2) of article 20 (compulsory acquisition of rights) and paragraph (8) of article 27 (temporary use of land for carrying out the authorised development).

#### Time limit for exercise of authority to acquire land compulsorily

**19.**—(1) After the end of the period of 7 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 (compulsory Purchase under Acquisition of Land Act of 1946) of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act<sup>(28)</sup> as applied by article 23 (application of the 1981 Act).

(2) The authority conferred by article 27 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

#### Compulsory acquisition of rights

**20.**—(1) The undertaker may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) Subject to articles 22 (private rights) and 29 (statutory undertakers) in the case of the Order land specified in column (1) of Schedule 7 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of new rights in the land or the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

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<sup>(27)</sup> 1857 c.81

<sup>(28)</sup> Section 4 was amended by sections 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

(3) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 10 of Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants)), where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictions) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) In any case where the acquisition of new rights or the imposition of restrictive covenants under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

### **Compulsory acquisition of land: minerals**

**21.** Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 are incorporated in this Order, subject to the following modifications—

- (a) paragraph 8(3) is not incorporated;
- (b) for “acquiring authority” substitute “undertaker”; and
- (c) for “undertaking” substitute “authorised development”.

### **Private rights**

**22.—**(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition under article 18 (compulsory acquisition of land) cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 18—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act **(29)**

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 18 (compulsory acquisition of rights) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

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**(29)** Section 11(1) was amended by paragraph 14(3) of Schedule 4 to the Acquisition of Land Act 1981 (c. 67.) paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and section 186(2) of the Housing and Planning Act 2016 (c. 22.).



(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 29 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of the land;

(iii) the undertaker's entry onto the land; or

(iv) the undertaker taking temporary possession of the land;

that any or all of those paragraphs do not apply to any right specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement referred to in paragraph (6)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person;

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

### **Application of the 1981 Act**

**23.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied, has effect with the following modifications.

(3) In section 1 (application of Act) for sub-section (2) substitute—

“This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”

(4) Omit section 5 (earliest date for execution of declaration).

(5) Omit section 5A (time limit for general vesting declaration).

(6) In section 5B(1) (extension of time limit during challenge)—

(a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and

(b) for “the three year period mentioned in section 5A” substitute “the seven year period mentioned in article 19 (time limit for exercise of authority to acquire land compulsorily) of the Awel y Môr Offshore Wind Farm Order 202[•]”.

(7) In section 6 (notices after execution of declaration) for sub-section (1)(b) substitute—

“on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 of the Planning Act 2008,”.

(8) In section 7 (constructive notice to treat) in sub-section (1)(a) omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

“But see article 24 (acquisition of subsoil only) of the Awel y Môr Offshore Wind Farm Order 202[•] which excludes the acquisition of subsoil from this Schedule”.

(10) References to the 1965 Act in the 1981 Act are to be constructed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act and as modified by article 25 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of the land under this Order.

### **Acquisition of subsoil only**

**24.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 18 (compulsory acquisition of land) and paragraph (1) of article 20 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in the subsoil of land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 25 (modification of Part 1 of the 1965 Act) or paragraph 10 of Schedule 8 as the case may be) from applying where the undertaker acquires any part of, or rights in a cellar, vault, arch or other construction forming part of a house, building or factory.

(4) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only—

- (a) Schedule 2A to the 1965 Act (as modified by article 25 (modification of Part 1 of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

### **Modification of Part 1 of the 1965 Act**

**25.**—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as set out in paragraphs (2) to (5).

(2) In section 4A(1) (extension of time limit during challenge)(a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act, the seven year period mentioned in article 19 (time limit for exercise of authority to acquire land compulsorily) of the Awel y Môr Wind Farm Order 202[•]”.

(3) In section 11A (powers of entry: further notice of entry)—

- (a) in sub-section (1)(a), after “land” insert “under that provision”; and
- (b) in sub-section (2), after “land” insert “under that provision”.

(4) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “article 19 (time limit for exercise of authority to acquire land compulsorily) of the Awel y Môr Offshore Wind Farm Order 202[•]”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

- (a) for paragraphs 1(2) and 14(2) substitute—

“But see article 26(3) (acquisition of subsoil only) of the Awel y Môr Offshore Wind Farm Order 202[•] which excludes the acquisition of subsoil only from this Schedule”; and

- (b) at the end insert—

## “Part 4

### INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 16 (protective work to buildings), article 27 (temporary use of land for carrying out the authorised development) or article 28 (temporary use of land for maintaining the authorised development) of the Awel y Môr Offshore Wind Farm Order 202[●].”

#### **Rights under or over streets**

**26.**—(1) The undertaker may enter on and appropriate so much of the subsoil of or air-space over any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

#### **Temporary use of land for carrying out the authorised development**

**27.**—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 19 (time limit for exercise of authority to acquire land compulsorily)—

- (a) enter on and take temporary possession of—
  - (i) the land specified in column (1) of Schedule 6 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and
  - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised development;
- (e) construct any permanent works specified in relation to that land in column (3) of Schedule 6 (land of which only temporary possession may be taken), or any other mitigation works in connection with the authorised development; and
- (f) construct such works on that land as are mentioned in Part 1 (authorised development) of Schedule 1 (authorised development).

(2) Not less than three months before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 6 (land of which only temporary possession may be taken); or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1)(e); or
- (c) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker must not compulsorily acquire, acquire new rights over or impose restrictive covenants over the land referred to in paragraph (1)(a)(i) of this Order.

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13<sup>(30)</sup> (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) Paragraph (1)(a)(ii) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 18 (compulsory acquisition of land) or article 20 (compulsory acquisition of rights).

### **Temporary use of land for maintaining the authorised development**

**28.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order land if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

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<sup>(30)</sup> Section 13 was amended by sections 139 of, and paragraph 28 of Schedule 13, and paragraph 1 of Schedule 23 to the Tribunals Courts and Enforcement Act 2007 (c. 15.).

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article "the maintenance period", in relation to any part of the authorised development means the period during which the authorised development exports electricity to the national electricity transmission network

### **Statutory undertakers**

**29.** Subject to the provisions of Schedule 9 (protective provisions) the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land and described in the book of reference; and
- (b) extinguish the rights of, and remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

### **Recovery of costs of new connections**

**30.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 29 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 29 (statutory undertakers), any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
  - (b) the owner of a private sewer which communicated with that sewer;
- is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer

belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the 2003 Act<sup>(31)</sup>; and

“public utility undertaker” has the same meaning as in the 1980 Act.

## **Funding**

**31.**—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any Order land unless it has first put in place either—

- (a) a guarantee and the amount of that guarantee approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2); or
- (b) an alternative form of security and the amount of that security for that purpose approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2).

(2) The provisions are—

- (a) article 18 (compulsory acquisition of land);
- (b) article 20 (compulsory acquisition of rights);
- (c) article 22 (private rights);
- (d) article 24 (acquisition of subsoil only);
- (e) article 26 (rights under or over streets);
- (f) article 27 (temporary use of land for carrying out the authorised development);
- (g) article 28 (temporary use of land for maintaining the authorised development);
- (h) article 29 (statutory undertakers); and
- (i) article 30 (recovery of costs of new connections).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised

## **PART 6**

### **Miscellaneous and general**

#### **Application of landlord and tenant law**

**32.**—(1) This article applies to any agreement entered into by the undertaker under article 6 (benefit of Order) so far as it relates to the terms on which any land is subject to a lease granted by or under that agreement.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No enactment or rule of law to which paragraph (2) applies is to apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

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<sup>(31)</sup> 2003 c. 21.

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

### **Felling or lopping of trees and removal of hedgerows**

**33.**—(1) The undertaker may fell or lop any tree or shrub, or cut back its roots, within or encroaching upon land within the Order limits if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must—

- (a) do no unnecessary damage to any tree or shrub; and
- (b) pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.

(5) In this article “hedgerow” has the same meaning as in the Hedgerows Regulations 1997<sup>(32)</sup>.

### **Trees subject to tree preservation orders**

**34.**—(1) Subject to paragraph (2), the undertaker must not fell or lop or cut back the roots of any tree which is the subject of a tree preservation order.

(2) The undertaker may fell or lop any tree within or encroaching upon the Order limits that is subject to a tree preservation order which was made after 20 April 2022, or cut back its roots, if it reasonably believes it to be necessary in order to do so in order to prevent the tree—

- (a) from obstructing or interfering with onshore site preparation works the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting an unacceptable source of danger (whether to children or to other persons).

(3) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must not cause unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act does not apply.

(4) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(5) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

### **Abatement of works abandoned or decayed**

**35.** Where any of the offshore works or any part of them is abandoned or allowed to fall into decay, the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the

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(32) S.I 1997/1160

undertaker at its own expense either to repair, make safe and restore one or any of those works, or remove Work No. 1 or any relevant part of it, without prejudice to any notice served under section 105(2) (requirement to prepare decommissioning programmes) of the 2004 Act (33). The notice may also require the restoration of the site of the relevant part(s) of Work No 1.

### **Saving provisions for Trinity House**

**36.** Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

### **Crown rights**

**37.—**(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

### **Protective provisions**

**38.** Schedule 9 (protective provisions) has effect.

### **Operational land for the purposes of the 1990 Act**

**39.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

### **Certification of plans, etc.**

**40.—**(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all of the documents listed in Schedule 13 for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### **Service of notices**

**41.—**(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

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(33) Section 105(2) was substituted by section 69(2) of the Energy Act 2008 (c.32).



(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978<sup>(34)</sup> as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

### **No double recovery**

**42.** Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

### **Requirements, appeals, etc.**

**43.—**(1) Sub-section (1) of section 78 (right to appeal against planning decisions and failure to take such decision) of the 1990 Act applies to the development consent granted by this Order and to the requirements except that it is modified so as to read for the purposes of this Order only as follows—

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<sup>(34)</sup> 1978 c. 30.

(a) after “local planning authority” insert “or Secretary of State”;

(b) after sub-section (b) insert the following—

“refuse or fails to determine an application for any consent, agreement or approval of that authority required by a requirement imposed on a grant of development consent or contained in a development consent order, or grant it subject to conditions; or”;

(c) after sub-section (1), insert the following—

“(1A) Where the appeal under sub-section (1) relates to a decision by the Secretary of State, the appeal will be decided by a Secretary of State who would not be responsible for determining an application for development consent with the subject matter of the Awel y Môr Offshore Wind Farm Order 202[ ] section 103(1) of the 2008 Act applied.”.

(2) Sections 78 (right to appeal against planning decisions and failure to take such decisions) and 79 (determination of appeals) of the 1990 Act have effect in relation to any appeal under the terms of this article except that the Secretary of State in question is the Secretary of State who would be responsible for determining an application for development consent with the subject matter of this Order if section 103(1) (Secretary of State is to decide applications) of the 2008 Act applied.

### Arbitration

**44.**—(1) Subject to article 36 (saving provisions for Trinity House) any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled in arbitration in accordance with the rules at Schedule 12 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Signed by authority of the Secretary of State for Business, Energy and Industrial Strategy

Date

*Signed*  
Title  
Department

## SCHEDULE 1

Article 3 and 4

### Authorised development

#### PART 1

##### Authorised development

A nationally significant infrastructure project as defined in sections 14 (Nationally significant infrastructure projects: general) and 15 (generating stations) of the 2008 Act which is located in the Irish Sea approximately 11 kilometres from the coast of North Wales and, comprising—

*Work No. 1*—

- (a) an offshore wind turbine generating station with a gross electrical output capacity of over 350 megawatts, comprising up to 50 wind turbine generators each fixed to the seabed by a foundation, and further comprising (b) to (f) below;
- (b) up to two offshore substation platforms each fixed to the seabed by a foundation;
- (c) one meteorological mast fixed to the seabed by a foundation;

- (d) floating buoys;
- (e) installation of subsea cable circuit to the Gwynt y Môr Offshore Wind Farm including cable crossings and cable protection; and
- (f) a network of subsea inter-array cables between (a), (b), (c), (d) and (e) including cable crossings and cable protection;

and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising—

#### Offshore

*Work No. 1A*— Installation of a subsea cable circuit to the Gwynt y Môr Offshore Wind Farm, and alteration of existing scour protection, cable protection and cable crossings.

*Work No. 2*— Installation of up to two subsea cable circuits between Work No. 1 and Work No. 3 including up to three cable ducts (if required), cable protection and cable crossings.

*Work No. 2A*— Cofferdam works including piling and creation of pits for trenchless installation techniques.

#### Intertidal and in the County of Denbighshire

*Work No. 3*—

- (a) installation of up to two subsea cable circuits between Work No. 2 and Work No. 4 including up to three cable ducts (if required), cable protection and cable crossings;
- (b) cofferdam works including piling and creation of pits for trenchless installation techniques, trenchless installation technique works including the creation of entrance and exit pits;
- (c) removal and remediation of groynes; and
- (d) construction and use of haul roads, temporary construction working areas, cable installation vessel anchoring and laydown area.

*Work No. 3A*— Temporary working area including use for cable installation vessel anchoring.

Work Nos. 1, 1A, 2, 2A, 3 and 3A are to be constructed seaward of MHWS within the area delineated by the co-ordinates shown on the location plan and listed in the Table 1 below, and within the area for each Work No. as shown on the works plan—

**Table 1**

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
A	53° 19' 56.591" N	3° 27' 34.474" W
B	53° 19' 56.903" N	3° 27' 34.589" W
C	53° 19' 57.216" N	3° 27' 34.704" W
D	53° 19' 57.287" N	3° 27' 34.739" W
E	53° 19' 57.477" N	3° 27' 34.801" W
F	53° 19' 57.571" N	3° 27' 35.234" W
G	53° 19' 59.287" N	3° 27' 44.509" W
H	53° 20' 01.946" N	3° 27' 55.679" W
I	53° 20' 06.255" N	3° 28' 11.773" W
J	53° 20' 26.855" N	3° 29' 10.391" W
K	53° 20' 37.646" N	3° 30' 06.246" W
L	53° 20' 47.343" N	3° 31' 39.900" W
M	53° 20' 50.884" N	3° 32' 13.851" W
N	53° 22' 14.257" N	3° 34' 55.252" W
O	53° 22' 58.820" N	3° 36' 30.530" W
P	53° 23' 04.561" N	3° 36' 37.916" W
Q	53° 23' 08.522" N	3° 36' 42.054" W

R	53° 23' 12.999" N	3° 36' 45.555" W
S	53° 23' 17.090" N	3° 36' 49.051" W
T	53° 23' 21.056" N	3° 36' 52.116" W
U	53° 23' 25.025" N	3° 36' 54.537" W
V	53° 23' 28.743" N	3° 36' 55.879" W
W	53° 23' 31.952" N	3° 36' 56.140" W
X	53° 23' 36.191" N	3° 36' 55.987" W
Y	53° 23' 41.939" N	3° 36' 54.249" W
Z	53° 23' 47.152" N	3° 37' 19.725" W
AA	53° 23' 48.620" N	3° 37' 27.526" W
AB	53° 23' 52.897" N	3° 37' 51.225" W
AC	53° 23' 59.322" N	3° 38' 24.147" W
AD	53° 24' 04.446" N	3° 38' 50.837" W
AE	53° 24' 15.695" N	3° 39' 49.463" W
AF	53° 24' 25.334" N	3° 40' 34.286" W
AG	53° 24' 35.822" N	3° 41' 23.083" W
AH	53° 24' 48.410" N	3° 42' 22.278" W
AI	53° 24' 50.783" N	3° 42' 33.447" W
AJ	53° 24' 58.061" N	3° 43' 09.291" W
AK	53° 25' 07.441" N	3° 43' 55.520" W
AL	53° 25' 18.073" N	3° 44' 45.489" W
AM	53° 25' 18.124" N	3° 44' 45.726" W
AN	53° 25' 57.263" N	3° 47' 53.732" W
AO	53° 26' 42.822" N	3° 51' 33.277" W
AP	53° 26' 45.640" N	3° 51' 46.880" W
AQ	53° 26' 54.174" N	3° 52' 28.086" W
AR	53° 27' 38.880" N	3° 52' 29.291" W
AS	53° 28' 07.642" N	3° 51' 49.081" W
AT	53° 29' 04.923" N	3° 51' 50.621" W
AU	53° 29' 08.519" N	3° 51' 50.717" W
AV	53° 29' 14.611" N	3° 51' 50.880" W
AW	53° 29' 16.731" N	3° 51' 50.937" W
AX	53° 29' 16.811" N	3° 51' 44.229" W
AY	53° 29' 16.893" N	3° 51' 37.376" W
AZ	53° 29' 26.671" N	3° 36' 37.688" W
BA	53° 29' 07.090" N	3° 37' 36.681" W
BB	53° 28' 41.908" N	3° 38' 47.993" W
BC	53° 28' 31.364" N	3° 39' 17.852" W
BD	53° 28' 05.012" N	3° 40' 32.271" W
BE	53° 27' 41.330" N	3° 40' 54.541" W
BF	53° 27' 41.174" N	3° 40' 54.481" W
BG	53° 27' 22.531" N	3° 40' 39.722" W
BH	53° 27' 17.024" N	3° 40' 24.467" W
BI	53° 27' 21.135" N	3° 39' 55.867" W
BJ	53° 27' 04.200" N	3° 39' 43.765" W
BK	53° 26' 57.347" N	3° 39' 24.931" W
BL	53° 27' 01.451" N	3° 38' 57.761" W
BM	53° 26' 43.034" N	3° 38' 42.126" W

BN	53° 26' 40.500" N	3° 38' 36.582" W
BO	53° 26' 36.947" N	3° 38' 17.215" W
BP	53° 26' 26.587" N	3° 37' 28.603" W
BQ	53° 26' 19.457" N	3° 37' 17.500" W
BR	53° 26' 11.113" N	3° 37' 16.494" W
BS	53° 26' 02.742" N	3° 37' 27.803" W
BT	53° 25' 52.313" N	3° 37' 34.518" W
BU	53° 25' 40.571" N	3° 39' 12.934" W
BV	53° 25' 55.147" N	3° 39' 50.832" W
BW	53° 25' 57.330" N	3° 39' 56.489" W
BX	53° 25' 59.460" N	3° 40' 02.100" W
BY	53° 25' 59.220" N	3° 40' 08.910" W
BZ	53° 25' 58.980" N	3° 40' 15.719" W
CA	53° 26' 00.000" N	3° 40' 21.929" W
CB	53° 26' 01.019" N	3° 40' 28.140" W
CC	53° 25' 24.660" N	3° 39' 50.219" W
CD	53° 24' 47.491" N	3° 38' 05.284" W
CE	53° 24' 19.284" N	3° 36' 02.274" W
CF	53° 24' 17.813" N	3° 36' 01.036" W
CG	53° 24' 16.556" N	3° 35' 59.908" W
CH	53° 24' 15.363" N	3° 35' 58.852" W
CI	53° 24' 13.551" N	3° 35' 57.286" W
CJ	53° 24' 11.718" N	3° 35' 55.685" W
CK	53° 24' 10.163" N	3° 35' 54.302" W
CL	53° 24' 08.373" N	3° 35' 52.701" W
CM	53° 24' 07.431" N	3° 35' 51.914" W
CN	53° 24' 06.483" N	3° 35' 51.299" W
CO	53° 24' 03.796" N	3° 35' 49.370" W
CP	53° 24' 02.815" N	3° 35' 48.597" W
CQ	53° 23' 59.916" N	3° 35' 46.150" W
CR	53° 23' 58.296" N	3° 35' 44.866" W
CS	53° 23' 57.375" N	3° 35' 44.109" W
CT	53° 23' 56.556" N	3° 35' 43.524" W
CU	53° 23' 55.242" N	3° 35' 42.675" W
CV	53° 23' 54.337" N	3° 35' 42.175" W
CW	53° 23' 53.214" N	3° 35' 41.575" W
CX	53° 23' 51.463" N	3° 35' 40.762" W
CY	53° 23' 49.840" N	3° 35' 40.023" W
CZ	53° 23' 49.135" N	3° 35' 39.620" W
DA	53° 23' 48.109" N	3° 35' 39.462" W
DB	53° 23' 46.163" N	3° 35' 39.041" W
DC	53° 23' 44.324" N	3° 35' 38.729" W
DD	53° 23' 43.233" N	3° 35' 38.535" W
DE	53° 23' 41.125" N	3° 35' 38.564" W
DF	53° 23' 39.301" N	3° 35' 38.732" W
DG	53° 23' 37.682" N	3° 35' 38.860" W
DH	53° 23' 36.950" N	3° 35' 38.850" W
DI	53° 23' 35.408" N	3° 35' 39.043" W

DJ	53° 23' 34.249" N	3° 35' 39.564" W
DK	53° 23' 33.464" N	3° 35' 39.813" W
DL	53° 23' 33.093" N	3° 35' 39.964" W
DM	53° 23' 32.980" N	3° 35' 39.997" W
DN	53° 23' 32.688" N	3° 35' 40.084" W
DO	53° 23' 32.256" N	3° 35' 40.198" W
DP	53° 23' 31.741" N	3° 35' 40.420" W
DQ	53° 23' 31.344" N	3° 35' 40.539" W
DR	53° 23' 30.663" N	3° 35' 40.717" W
DS	53° 23' 30.312" N	3° 35' 40.818" W
DT	53° 23' 29.994" N	3° 35' 40.911" W
DU	53° 23' 29.914" N	3° 35' 40.933" W
DV	53° 23' 29.832" N	3° 35' 40.973" W
DW	53° 23' 29.634" N	3° 35' 41.056" W
DX	53° 23' 29.502" N	3° 35' 41.118" W
DY	53° 23' 29.387" N	3° 35' 41.163" W
DZ	53° 23' 29.270" N	3° 35' 41.210" W
EA	53° 23' 29.181" N	3° 35' 41.244" W
EB	53° 23' 29.079" N	3° 35' 41.284" W
EC	53° 23' 28.953" N	3° 35' 41.334" W
ED	53° 23' 28.909" N	3° 35' 41.351" W
EE	53° 23' 28.880" N	3° 35' 41.409" W
EF	53° 23' 28.818" N	3° 35' 41.533" W
EG	53° 23' 28.748" N	3° 35' 41.667" W
EH	53° 23' 28.682" N	3° 35' 41.787" W
EI	53° 23' 28.405" N	3° 35' 42.245" W
EJ	53° 23' 28.131" N	3° 35' 42.634" W
EK	53° 23' 27.851" N	3° 35' 42.974" W
EL	53° 23' 27.602" N	3° 35' 43.238" W
EM	53° 23' 27.310" N	3° 35' 43.504" W
EN	53° 23' 26.906" N	3° 35' 43.805" W
EO	53° 23' 26.645" N	3° 35' 43.962" W
EP	53° 23' 26.165" N	3° 35' 44.180" W
EQ	53° 23' 25.842" N	3° 35' 44.279" W
ER	53° 23' 25.444" N	3° 35' 44.349" W
ES	53° 23' 25.068" N	3° 35' 44.365" W
ET	53° 23' 24.716" N	3° 35' 44.335" W
EU	53° 23' 24.468" N	3° 35' 44.288" W
EV	53° 23' 24.142" N	3° 35' 44.194" W
EW	53° 23' 23.875" N	3° 35' 44.088" W
EX	53° 23' 23.481" N	3° 35' 43.880" W
EY	53° 23' 23.251" N	3° 35' 43.729" W
EZ	53° 23' 23.012" N	3° 35' 43.548" W
FA	53° 23' 22.882" N	3° 35' 43.438" W
FB	53° 23' 22.734" N	3° 35' 43.303" W
FC	53° 23' 22.557" N	3° 35' 43.127" W
FD	53° 23' 22.112" N	3° 35' 42.600" W
FE	53° 23' 21.779" N	3° 35' 42.114" W

FF	53° 23' 21.513" N	3° 35' 41.653" W
FG	53° 23' 21.301" N	3° 35' 41.228" W
FH	53° 23' 21.074" N	3° 35' 40.697" W
FI	53° 23' 13.240" N	3° 35' 24.325" W
FJ	53° 23' 09.510" N	3° 35' 16.827" W
FK	53° 22' 44.082" N	3° 34' 23.783" W
FL	53° 21' 33.122" N	3° 32' 10.584" W
FM	53° 21' 20.903" N	3° 31' 45.816" W
FN	53° 21' 18.580" N	3° 31' 29.186" W
FO	53° 21' 06.879" N	3° 29' 50.362" W
FP	53° 20' 56.981" N	3° 28' 51.981" W
FQ	53° 20' 37.819" N	3° 27' 52.310" W
FR	53° 20' 31.441" N	3° 27' 32.461" W
FS	53° 20' 29.868" N	3° 27' 27.564" W
FT	53° 20' 29.239" N	3° 27' 25.217" W
FU	53° 20' 26.020" N	3° 27' 15.899" W
FV	53° 20' 25.601" N	3° 27' 15.520" W
FW	53° 20' 25.190" N	3° 27' 15.220" W
FX	53° 20' 24.502" N	3° 27' 14.846" W
FY	53° 20' 23.456" N	3° 27' 14.126" W
FZ	53° 20' 22.026" N	3° 27' 13.420" W
GA	53° 20' 21.377" N	3° 27' 13.087" W
GB	53° 20' 20.189" N	3° 27' 12.303" W
GC	53° 20' 15.453" N	3° 27' 09.555" W
GD	53° 20' 14.270" N	3° 27' 08.901" W
GE	53° 20' 13.460" N	3° 27' 08.493" W
GF	53° 20' 12.395" N	3° 27' 07.779" W
GG	53° 20' 11.610" N	3° 27' 07.036" W
GH	53° 20' 11.327" N	3° 27' 06.816" W
GI	53° 20' 11.090" N	3° 27' 06.631" W
GJ	53° 20' 10.973" N	3° 27' 06.540" W
GK	53° 20' 10.853" N	3° 27' 06.447" W
GL	53° 20' 10.475" N	3° 27' 06.152" W
GM	53° 20' 10.096" N	3° 27' 05.857" W
GN	53° 20' 08.741" N	3° 27' 04.994" W
GO	53° 20' 08.658" N	3° 27' 04.941" W
GP	53° 20' 08.625" N	3° 27' 04.920" W
GQ	53° 19' 59.650" N	3° 26' 59.204" W
GR	53° 19' 57.732" N	3° 26' 58.372" W
GS	53° 19' 57.493" N	3° 27' 00.000" W
GT	53° 19' 57.478" N	3° 27' 00.448" W
GU	53° 19' 57.578" N	3° 27' 01.284" W
GV	53° 19' 57.742" N	3° 27' 02.138" W
GW	53° 19' 57.772" N	3° 27' 02.631" W
GX	53° 19' 57.689" N	3° 27' 03.331" W
GY	53° 19' 57.535" N	3° 27' 03.969" W
GZ	53° 19' 57.282" N	3° 27' 05.123" W
HA	53° 19' 57.188" N	3° 27' 05.644" W

HB	53° 19' 57.091" N	3° 27' 06.176" W
HC	53° 19' 56.961" N	3° 27' 06.734" W
HD	53° 19' 56.748" N	3° 27' 07.500" W
HE	53° 19' 56.687" N	3° 27' 07.979" W
HF	53° 19' 56.646" N	3° 27' 08.421" W
HG	53° 19' 56.429" N	3° 27' 09.257" W
HH	53° 19' 56.265" N	3° 27' 09.705" W
HI	53° 19' 55.987" N	3° 27' 10.474" W
HJ	53° 19' 55.637" N	3° 27' 11.441" W
HK	53° 19' 55.347" N	3° 27' 12.258" W
HL	53° 19' 54.677" N	3° 27' 14.128" W
HM	53° 19' 54.315" N	3° 27' 15.153" W
HN	53° 19' 54.067" N	3° 27' 15.897" W
HO	53° 19' 54.019" N	3° 27' 16.041" W
HP	53° 19' 53.753" N	3° 27' 16.918" W
HQ	53° 19' 53.495" N	3° 27' 17.926" W
HR	53° 19' 53.279" N	3° 27' 18.892" W
HS	53° 19' 53.012" N	3° 27' 19.829" W
HT	53° 19' 52.813" N	3° 27' 20.530" W
HU	53° 19' 52.615" N	3° 27' 21.351" W
HV	53° 19' 52.571" N	3° 27' 21.579" W
HW	53° 19' 52.439" N	3° 27' 22.269" W
HX	53° 19' 52.020" N	3° 27' 25.023" W
HY	53° 19' 51.867" N	3° 27' 26.071" W
HZ	53° 19' 52.837" N	3° 27' 27.871" W
IA	53° 19' 56.346" N	3° 27' 34.384" W

In the County of Denbighshire:

*Work No. 4*— Installation of up to two buried cable circuits with up to three cable ducts (if required) between Work No. 3 and Work No. 5; including cable crossings, cable protection, cofferdam works including piling, trenchless installation technique works, creation of pits for trenchless installation techniques; cable trenching works and removal and remediation of groynes, construction of haul road, temporary construction working areas, cable installation vessel anchoring and laydown area.

*Work No. 5*— Installation of up to two buried cable circuits with up to 3 cable ducts (if required) between Work No. 4 and Work No. 8; including trenchless installation technique works, and temporary construction working areas and laydown area.

*Work No. 6*— Temporary working area including:

- (a) creation of construction access to Work Nos. 3, 3A, 4, 5, 6A and 7 from Rhyl Coast Road; including works to junctions and visibility splays and removal and remediation of groynes; and
- (b) trenchless installation technique works.

*Work No. 6A*— Within Work No. 6 construction of a temporary construction compound and laydown area.

*Work No. 7*— Creation of construction and operational access to Work Nos. 3, 3A, 4, 5, 6 and 6A from Rhyl Coast Road; including works to junctions and visibility splays, and removal and remediation of groynes, construction of a haul road, temporary construction working areas and laydown area.

*Work No. 7A*— Within Work No. 7, construction of a temporary construction compound and laydown area.

*Work No. 8*— Installation of up to two buried cable circuits with up to 3 cable ducts (if required) and—

- (a) construction of a haul road;



- (b) a temporary construction working area;
- (c) creation and improvement of accesses including works to junctions and visibility splays; and
- (d) improvement works to existing bridge.

*Work No. 8A*— Within Work No. 8, installation of:

- (a) up to two transition joint bays;
- (b) trenchless installation techniques including the creation of pits; and
- (c) a temporary construction compound.

*Work No. 9*— Installation of up to two buried cable circuits with cable ducts (if required) between Work No. 8 and Work No. 11 from the south of the landfall to Dyserth Road, approximately 734 m; cable ducts, trenchless installation technique pit works including the creation of entrance and exit pits, and cable trenching works; construction of a haul road, temporary construction accesses and working areas and laydown area, creation and improvement of accesses including works to junctions and visibility splays.

*Work No. 10*— Creation of construction access, construction of a haul road, temporary construction working areas and laydown, and creation and improvement of accesses to the public highway including works to junctions and visibility splays.

*Work No. 10A*— Within Work No. 10, the creation of a temporary construction compound of no more than 10,000 m<sup>2</sup>.

*Work No. 11*— Installation of up to two buried cable circuits with cable ducts (if required) between Work No. 9 and Work No. 15 from Dyserth Road to the A525/A547 highway, approximately 2,467 m; including cable ducts, trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works; construction of a haul road, temporary construction working areas and laydown area, creation and improvement of accesses including works to junctions and visibility splays.

*Work No. 12*— Creation of construction access, construction of a haul road, temporary construction working areas and laydown area and works to create a temporary crossing.

*Work No. 13*— Creation of construction access, construction of a haul road, temporary construction working areas and laydown area.

*Work No. 14*— Creation of construction access, construction of a haul road, temporary construction working area and laydown area, and creation and improvement of accesses to the public highway including works to junctions and visibility splays.

*Work No. 14A*— Within Work No. 14, the creation of a temporary construction compound of no more than 22,500 m<sup>2</sup>.

*Work No. 15*— Installation of up to two buried cable circuits with cable ducts (if required) between Work No. 11 and Work No. 18 from the A525/A547 highway to the river Ffyddion approximately 763 m; including cable crossings, trenchless technique pit works including the creation of entrance and exit pits and cable trenching works; construction of a haul road including watercourse crossing, temporary construction working areas and laydown area, creation and improvement of accesses.

*Work No. 16*— Creation of construction access, construction of a haul road, temporary working areas and laydown area, and creation and improvement of accesses to the public highway including works to junctions and visibility splays.

*Work No. 16A*— Within Work No. 16, the creation of a temporary construction compound of no more than 10,000 m<sup>2</sup>.

*Work No. 17*— Creation of construction access, construction of a haul road, temporary construction working areas and laydown area to north of the river Clwyd, and creation and improvement of accesses to public highway including works to junctions and visibility splays.

*Work No. 18*— Installation of up to two buried cable circuits with cable ducts (if required) between Work No. 15 and Work No. 19 from the river Ffyddion to the river Clwyd, approximately 485 m; including cable

ducts, trenchless technique pit works including the creation of entrance and exit pits and cable trenching works; construction of a haul road including watercourse crossing, temporary construction working area and laydown area and creation and improvement of accesses.

*Work No. 19*— Installation of up to two buried cable circuits within cable ducts (if required) between Work No. 18 and Work No. 21 from the river Clywd to the A547/Abergele Road approximately 1,003 m; including cable ducts, trenchless technique pit works including the creation of entrance and exit pits and cable trenching works; construction of a haul road, temporary construction working areas and laydown area, creation and improvement of accesses including works to junctions and visibility splays.

*Work No. 20*— Creation of construction access, construction of a haul road, temporary construction working areas and laydown area to north of the A547/Abergele Road, and creation and improvement of accesses to public highway including works to junctions and visibility splays.

*Work No. 20A*— Within Work No. 20, construction of temporary construction compound of no more than 22,500 m<sup>2</sup>.

*Work No. 21*— Installation of up to two buried cable circuits within cable ducts (if required) between Work No. 19 and Work No. 23; from the A547/Abergele Road to Bodelwyddan Road, approximately 1,021 m; including cable ducts, trenchless technique pit works including the creation of entrance and exit pits and cable trenching works; construction of a haul road, temporary construction working areas and laydown area, creation and improvement of accesses including works to junctions and visibility splays.

*Work No. 22*— Creation of construction access, construction of a haul road, temporary working area and laydown area to the north of Bodelwyddan Road, and creation and improvement of accesses to the public highway including works to junctions and visibility splays.

*Work No. 22A*— Within Work No. 22, construction of a temporary construction compound of no more than 10,000 m<sup>2</sup>.

*Work No. 23*— Installation of up to two buried cable circuits within cable ducts (if required) between Work No. 21 and Work No. 29 from Bodelwyddan Road to the south of the A55 highway, approximately 2,432 m; including cable ducts, trenchless technique pit works including the creation of entrance and exit pits and cable trenching works; construction of a haul road, temporary construction working areas and laydown area, creation and improvement of accesses including works to junctions and visibility splays.

*Work No. 24*— Creation of construction access, works to temporarily improve and increase visibility splays for the public highway during construction.

*Work No. 25*— Creation of construction access, construction of a haul road, temporary construction working areas and laydown area and improvements to existing bridge.

*Work No. 26*— Creation of construction access, construction of a haul road, temporary construction working areas and laydown area to the north of the A55 road and creation and improvement of accesses to public highway including works to junctions and visibility splays.

*Work No. 26A*— Within Work No. 26, the construction of a temporary construction compound of no more than 22,500 m<sup>2</sup>.

*Work No. 27*— Creation of construction access, construction of a haul road, temporary construction working areas and laydown area and creation and improvement of accesses to the public highway including works to junctions and visibility splays.

*Work No. 28*— Drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s).

*Work No. 29*— Installation of up to two buried cable circuits with cable ducts (if required) between Work No. 23 and Work Nos. 31 and 31A from south of the A55 highway to the electrical substation approximately 197 m, including:

- (a) cable ducts, trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;

- (b) construction of a haul road, temporary construction working areas and laydown area;
- (c) creation and improvement of accesses including works to junctions and visibility splay;
- (d) permanent landscaping, ecological and environmental works;
- (e) drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s); and
- (f) utilities connections area.

*Work No. 30*— An access, drainage and utilities works area comprising:

- (a) temporary construction working areas and laydown areas;
- (b) temporary access roads and haul road including temporary land re-profiling;
- (c) drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s);
- (d) permanent landscaping, ecological and environmental works; and
- (e) utilities connections.

*Work No. 30A*— Within Work No. 30, creation of a temporary construction compound and laydown area of no more than 37,500 m<sup>2</sup>.

*Work No. 31*— Creation of the substation compound area including:

- (a) land re-profiling and creation of platform or foundations for Work No. 31A;
- (b) security fencing;
- (c) landscaping;
- (d) utilities connections;
- (e) drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s);
- (f) temporary and permanent access roads;
- (g) temporary construction areas, lay down areas and haul roads;
- (h) installation of up to two buried cable circuits within cable ducts (if required);
- (i) installation of up to two buried 400kV cable circuits within cable ducts (if required);
- (j) cable crossings, cable protection, cable ducts, trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works; and
- (k) creation of permanent ecological and environmental mitigation works including habitat creation.

*Work No. 31A*— Within Work No. 31, construction of electrical substation infrastructure including:

- (a) a compound for electrical works necessary for the onward transmission of electricity (the “substation compound”) containing (but not limited to) switchgear and electrical equipment including power transformers, reactive compensation equipment, filters, cooling equipment, control and welfare buildings, lightning rods, internal roads, security fencing and other associated equipment, structures and buildings including noise-attenuation works; and
- (b) permanent security fencing and security gate.

*Work No. 32*— Installation of up to two buried 400kV cable circuits with cable ducts (if required) between Work No. 31 and Work No. 36 from the electrical substation to Glascoed Road; including:

- (a) cable ducts, trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (b) creation of construction access, construction of a haul road;
- (c) temporary construction working areas and laydown area;
- (d) creation and improvement of accesses including works to junctions and visibility splays;
- (e) permanent landscaping, ecological and environmental works;

- (f) drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s); and
- (g) utilities connections area.

*Work No. 33*— An access, drainage and utilities works area comprising:

- (a) temporary construction working areas and laydown area;
- (b) temporary access roads and haul road including temporary land re-profiling;
- (c) permanent access roads and visibility splays;
- (d) permanent landscaping, ecological and environmental works;
- (e) drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s); and
- (f) utilities connections.

*Work No. 34*— Creation of new temporary and permanent visibility splays and improvement of existing visibility splays.

*Work No. 35*— Permanent landscaping, ecological and environmental works, drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s), and utilities connections.

*Work No. 36*— Installation of up to two buried 400kV cable circuits with cable ducts (if required) between Work No. 32 and Work No. 40 from Glascoed Road to the National Grid substation approximately 912 m; including cable ducts, trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works; construction of a haul road, temporary construction working areas and laydown area, creation and improvement of accesses including works to junctions and visibility splays.

*Work No. 37*—

- (a) creation of construction access, construction of a haul road and temporary construction working areas; and
- (b) creation and improvement of accesses to public highway including works to junctions, creation of a new bellmouth junction and visibility splays.

*Work No. 37A*— Within Work No. 37, creation of a temporary construction compound and laydown area of no more than 10,000 m<sup>2</sup> to the south of Glascoed Road.

*Work No. 38*— Creation of construction access, creation and improvement of visibility splays, works to highway verges to improve existing visibility splays.

*Work No. 39*—

- (a) creation of construction access, construction of a haul road, temporary construction working areas and laydown area and creation and improvement of accesses to public highway including works to junctions and visibility splays; and
- (b) creation of permanent access, including works to connect the access to Glascoed Road.

*Work No. 39A*— Within Work No. 39, creation of a temporary construction compound and laydown area of no more than 10,000 m<sup>2</sup>.

*Work No. 40*— Electrical works to connect to the National Grid substation—

- (a) works needed to connect the authorised project to the National Grid substation at Bodelwyddan that National Grid is not required, under its transmission licence, to carry out itself including (but not limited to) cabling, cable sealing ends, circuit breakers, surge arrestors, dis-connectors, transformers, busbars and busbar clamp measuring equipment, relay marshalling rooms and electrical earthing works;
- (b) installation of up to two buried 400kV cable circuits with cable ducts (if required) between Work No. 36 and the national grid substation; including cable ducts, trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;

- (c) construction of a haul road, temporary construction compound and laydown area; and
- (d) creation of access roads to provide operational and maintenance access.

*Work No. 41*— Access roads to provide operational access from the public highways to Work Nos. 4 to 40 and any associated development.

and in connection with Work Nos. 1 to 3A and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as rock placement and the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) dredging;
- (d) the removal of material from the seabed required for the construction of Work Nos. 1 to 3 and the disposal of inert material of natural origin and/or dredged material within the Order limits produced during construction drilling, and seabed preparation for the installation of the foundations of the offshore structures or during seabed preparation for cable laying;
- (e) creation and use of temporary vessel laydown areas, use of cable anchors;
- (f) removal of static fishing equipment;
- (g) lighting; and
- (h) erection of temporary cofferdams during construction.

and in connection with Work Nos. 4 to 41 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) haul roads, ramps, watercourse and other temporary crossings, means of access and other vehicular and/or pedestrian means of access, including creation of new tracks and footpaths, and/or widening, upgrades, alterations and improvements of existing roads, tracks and footpaths;
- (b) bunds, embankments, swales, landscaping, fencing and boundary treatments and alteration of groynes;
- (c) provision of temporary and permanent ecological and environmental mitigation and compensation works;
- (d) spoil storage and associated control measures;
- (e) jointing bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable markers, tiles and tape, and lighting and other works associated with laying cables and/or pulling cables through cable ducts;
- (f) works for the provision of apparatus including cabling, water and electricity supply works, foul drainage provision, surface water management systems, temporary drainage during installations of cables and culverting;
- (g) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (h) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (i) landscaping works and habitat creation;
- (j) works for the benefit or protection of land affected by the authorised development;
- (k) working sites in connection with the construction of the authorised development, construction lay down areas and compounds and storage compounds;
- (l) works of restoration;
- (m) fencing or other means of enclosure; and

- (n) such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development.

## PART 2

### Ancillary works

Works within the Order limits which fall within the scope of the work assessed by the environmental statement comprising—

- (a) intrusive ground investigations including the making of boreholes and trial pits;
- (b) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised development;
- (c) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and
- (d) temporary works for the benefit or protection of land, watercourses or structures affected by the authorised development.

## SCHEDULE 2

Article 3

### Requirements

#### Time limits

1. The authorised development must commence no later than the expiration of seven years beginning with the date this Order comes into force.

#### Offshore design parameters

2.—(1) The wind turbine generators to be constructed or operated as part of the authorised development must be located within the area delineated by the co-ordinates in Table 2 and shown on sheet 2 of the works plan and, subject to any lighting approved under requirement 3, there must be no material difference in the size and appearance of the wind turbine generators.

**Table 2**

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
IC	53° 25' 18.124" N	3° 44' 45.726" W
ID	53° 25' 57.263" N	3° 47' 53.732" W
IE	53° 26' 42.823" N	3° 51' 33.278" W
IF	53° 29' 16.893" N	3° 51' 37.376" W
IG	53° 29' 26.671" N	3° 36' 37.688" W
IH	53° 29' 7.091" N	3° 37' 36.682" W
II	53° 28' 41.909" N	3° 38' 47.993" W
IJ	53° 28' 31.364" N	3° 39' 17.852" W
IK	53° 28' 5.013" N	3° 40' 32.272" W
IL	53° 27' 1.865" N	3° 41' 31.636" W
IM	53° 26' 45.454" N	3° 41' 14.509" W

(2) The offshore works must be constructed in accordance with the parameters assessed in the environmental statement and set out in Table 3.

**Table 3**

<i>Parameter</i>	<i>Value</i>
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Maximum number of wind turbine generators	50
Maximum total rotor swept area (m <sup>2</sup> )	2,500,412
Maximum height of wind turbine generators when measured from MHWS to the tip of the vertical blade (m)	332
Maximum rotor diameter of each wind turbine generator (m)	306
Minimum distance from MHWS to the lowest point of the rotating blade for each wind turbine generator (m)	22
Minimum distance between wind turbine generators (in all directions measured from the centre point of each wind turbine generator) (m)	830
Maximum pile diameter of single pile structures (m)	15
Maximum pile diameter of two or more pile structures (m)	8
Maximum total seabed footprint for wind turbine generators (excluding scour protection) (m <sup>2</sup> )	98,175
Maximum total seabed footprint for wind turbine generators (including scour protection) (m <sup>2</sup> )	570,209
Maximum width of any supporting structure (m) at mean sea level	15
Maximum number of offshore substations	2
Maximum dimensions of offshore substations: Height when measured from MHWS (m) Length (m) Topside area (m <sup>2</sup> )	77.3 80 4,000
Maximum total seabed footprint area for offshore substation foundations (excluding scour protection) (m <sup>2</sup> )	14,000
Maximum total seabed footprint area for offshore substation foundations (including scour protection) (m <sup>2</sup> )	21,600
Maximum volume of natural material for disposal (m <sup>3</sup> )	12,920,356
Maximum total volume of scour protection for wind turbine generators and offshore substations (m <sup>3</sup> )	952,282
Maximum number of meteorological masts	1
Maximum total seabed footprint area for meteorological mast foundations (excluding scour protection) (m <sup>2</sup> )	20
Maximum total seabed footprint area for meteorological mast foundations (including scour protection) (m <sup>2</sup> )	855
Maximum width of any supporting structure for meteorological mast (m)	5
Maximum number of any LIDAR measurement buoys	3
Maximum number of any permanent vessel buoys	3
Maximum total length of cables (km)	203.4
Maximum volume of cable protection (m <sup>3</sup> )	366,513
Maximum footprint of cable protection (m <sup>2</sup> )	474,476
Maximum number of cable crossings	19

### Aviation safety

3.—(1) The undertaker must exhibit such lights, with such shape, colour and character and at such times as are required by Air Navigation Order 2016 and/or determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority. Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed with the Ministry of Defence.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the offshore works, of the following—

- (a) the date of the commencement of construction of the offshore works;

- (b) the date any wind turbine generators are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any wind turbine generator, meteorological mast and offshore electrical platform to be constructed; and
- (e) the latitude and longitude of each wind turbine generator, meteorological mast and offshore electrical platform to be constructed; and

the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the offshore works.

(3) The lights installed in accordance with paragraph (1) will be operated at the lowest permissible lighting intensity level.

### **Offshore Noise**

4. Except in an emergency or with the prior written approval of the Secretary of State in consultation with the relevant planning authority, the noise generated during the construction of Work No.1 when measured at as close as practicable to the receptor OS Grid Reference 279980; 381977 must not, in onshore wind weather conditions, exceed 50 dB(A) Leq 1 hour between the hours of 2300 and 0700 when measured in accordance with British Standard BS5228:2009+A1:2014, 'Code of practice for noise and vibration control on construction and open sites'. Onshore wind weather conditions are when the receptor is downwind of the piling location by plus or minus 45 degrees.

### **Stages of authorised development**

5.—(1) The onshore works may not be commenced until notification has been submitted to the relevant planning authority detailing whether the onshore works will be constructed:

- (a) in a single stage; or
- (b) in two or more stages.

(2) The onshore works may not be commenced until details of the stages of the onshore works have been submitted to and approved by the relevant planning authority.

(3) The construction of the onshore works must follow the details provided under sub-paragraph (2) of this requirement.

### **Substation works**

6.—(1) Construction of Work No. 31A must not commence until details of—

- (a) the layout;
- (b) scale;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) the dimensions, colour and materials used for the buildings;
- (f) security fencing;
- (g) vehicular and pedestrian access, parking and circulation areas; and
- (h) proposed and existing functional services above and below ground, including drainage, power and communications cables and pipelines, manholes and supports;

have been submitted to and approved by the relevant planning authority following consultation with Natural Resources Wales as appropriate.

(2) The details submitted under sub-paragraph (1) of this requirement must be in accordance with requirement 7 (detailed design parameters onshore) and substantially in accordance with the design principles document.



(3) Work No. 31A must be carried out in accordance with the approved details.

### Detailed design parameters onshore

7.—(1) The onshore works must not exceed the parameters assessed in the environmental statement and set out in Table 4 and sub-paragraph (2).

**Table 4**

<i>Parameter</i>	<i>Value</i>
Maximum number of landfall transition joint bays	2
Maximum number of connection bays within Work No. 40	2

(2) In relation to Work No. 31A—

(a) if air insulated switchgear is installed—

- (i) the highest part of any reactive compensation building must not exceed 41.675m above Ordnance Datum and the highest part of any other building must not exceed 40.675m above Ordnance Datum;
- (ii) the highest part of any external electrical equipment or enclosure, excluding lightning rods, must not exceed 46.675m above Ordnance Datum;
- (iii) the total area of the fenced compound (excluding its accesses) must not exceed 50,000m<sup>2</sup>;
- (iv) the total number of lightning rods within the fenced compound area must not exceed 12 and the height of any lightning rod must not exceed 52.2m above Ordnance Datum;

(b) if gas insulated switchgear is installed—

- (i) the highest part of the main GIS building must not exceed 49.975m above Ordnance Datum;
- (ii) the highest part of any reactive compensation building must not exceed 42.475m above Ordnance Datum and subject to sub-paragraph (i) the highest part of any other building must not exceed 41.475m above Ordnance Datum;
- (iii) the highest part of any external electrical equipment or enclosure, excluding lightning rods, must not exceed 47.475m above Ordnance Datum;
- (iv) the total area of the fenced compound (excluding its accesses) must not exceed 30,000m<sup>2</sup>; and
- (v) the total number of lightning rods within the fenced compound area must not exceed 12 and the height of any lightning rod must not exceed 53m above Ordnance Datum.

(3) Trenchless installation techniques must be used to install the cable ducts and electrical circuits where identified in the crossings schedule for the purpose of passing under a relevant obstruction unless otherwise agreed by the relevant planning authority, following consultation with the relevant drainage boards, Natural Resources Wales and the highways authority.

(4) In this requirement “reactive compensation building” means any building housing electrical compensation equipment for Work No 31A.

### Provision of landscaping

8.—(1) Work No. 31A must not be commenced until a written landscaping scheme and associated work programme in accordance with the outline landscape and ecology management plan for Work No. 31A has been submitted to and approved by the relevant planning authority following consultation with Natural Resources Wales as appropriate.

(2) The written landscaping scheme must include details of all proposed hard and soft landscaping works including—

- (a) location, number, species, size and planting density of any proposed planting including any trees; and
- (b) implementation timetables for all landscaping works.

(3) The written landscaping scheme and associated work programme must be carried out in accordance with the approved details.

## **Implementation and maintenance of landscaping**

**9.**—(1) All landscaping works must be carried out in accordance with the landscaping scheme approved under requirement 8 (provision of landscaping).

(2) Any tree or shrub planted as part of an approved landscaping scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless a different species is otherwise agreed with the relevant planning authority.

## **Code of construction practice**

**10.**—(1) No stage of the onshore works may commence until for that stage a code of construction practice has been submitted to and approved by the relevant planning authority following consultation with Natural Resources Wales as appropriate and in relation to sub-paragraph 2(d) the Welsh Ministers.

(2) The code of construction practice must accord with the outline code of construction practice and include, as appropriate to the relevant stage —

- (a) construction method statement;
- (b) noise and vibration management plan;
- (c) air quality management plan;
- (d) soil management plan;
- (e) site waste management plan;
- (f) pollution prevention and emergency incident response plan;
- (g) construction traffic management plan;
- (h) public access management plan;
- (i) travel plan;
- (j) artificial light emissions plan;
- (k) invasive non-native species management plan; and
- (l) construction communications plan

(3) The code of construction practice approved in relation to the relevant stage of the onshore works must be followed in relation to that stage of the onshore works.

(4) Pre-commencement works must only take place in accordance with the relevant details set out in the outline code of construction practice as certified.

## **Highway accesses**

**11.**—(1) No new permanent means of access to a highway to be used by vehicular traffic, or any permanent alteration to an existing means of access to a highway used by vehicular traffic may be formed until written details of the design, layout and siting of that new or altered access have been submitted to and approved by the relevant planning authority in consultation with the highway authority.

(2) The highway accesses must be constructed in accordance with the approved details.

## **Onshore archaeology**

**12.**—(1) No stage of the onshore works may commence until for that stage an archaeological written scheme of investigation in accordance with the onshore WSI as appropriate for the relevant stage has been submitted to and approved by the relevant planning authority.

(2) The onshore works must be carried out in accordance with the approved details.

(3) Pre-commencement surveys and investigations, including those necessary to allow production of any scheme required under sub-paragraph (1) must only take place in accordance with the applicable details set out in the onshore WSI.

## **Landscape and Ecology management plan**

**13.**—(1) No stage of the onshore works may commence until for that stage a written landscape and ecology management plan in accordance with the outline landscape and ecology management plan as appropriate for the relevant stage, has, following consultation with Natural Resources Wales, been submitted to and approved by the relevant planning authority.

(2) The landscape and ecology management plan(s) submitted under sub-paragraph (1) must include an implementation timetable and must be implemented as approved.

(3) Pre-commencement works must only take place in accordance with the relevant details set out in the outline landscape and ecology management plan as certified.

## **European protected species onshore**

**14.**—(1) No stage of the onshore works other than surveying and investigation necessary to comply with this requirement may be undertaken until, for that stage, pre-construction survey work has been carried out to establish whether a European protected species or nationally protected species under the Wildlife and Countryside Act 1981 is present on any of the land affected, or likely to be affected, by any part of that stage of the onshore works.

(2) Where a European protected species or nationally protected species under the Wildlife and Countryside Act 1981 is shown to be present, the stage of the onshore works likely to affect the species must not commence until, after consultation with Natural Resources Wales, a scheme of protection and mitigation measures for that stage has been submitted to and approved by the relevant planning authority.

(3) Each stage of the onshore works which requires a scheme of protection and mitigation measures in accordance with sub-paragraph (2) of this requirement must be carried out in accordance with the approved scheme.

(4) In this paragraph, “European protected species” has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017.

(5) In this paragraph, “nationally protected species” means any species protected under the Wildlife and Countryside Act 1981.

## **Construction hours**

**15.**—(1) Except as otherwise agreed in the code of construction practice and subject to sub-paragraphs (2) to (4), construction of the onshore works and construction-related traffic movements to or from the site of the relevant work may take place only between the hours of 0700 and 1900 from Monday to Friday and 0700 and 1300 on Saturdays, with no activity on Sundays or bank holidays.

(2) If agreed in advance with the relevant planning authority, construction of the onshore works and construction-related traffic movements to or from the site of the relevant work may take place outside the hours specified in sub-paragraph (1) for certain identified works including—

- (a) where continuous periods of construction are required, for works such as concrete pouring and finishing, electrical circuit pulling and jointing and testing;
- (b) for the delivery and unloading of abnormal loads;
- (c) for the landfall works; and
- (d) for any other time-critical element of the onshore works.

(3) Except as provided in sub-paragraph (4), all construction works which are to be undertaken outside the hours specified in sub-paragraph (1) must be agreed in advance with the relevant planning authority.

(4) In respect of trenchless installation techniques where continuous 24-hour working has been assessed in the environmental statement, the undertaker must notify the relevant planning authority in advance of such works.

### **Surface and foul water drainage**

**16.**—(1) Work Nos. 31 and 31A must not commence until, for that numbered work, a written surface and foul water drainage plan (including details of any watercourse crossings and proposals for management and maintenance) has following consultation with Natural Resources Wales been submitted to and approved by the relevant planning authority. The surface and foul water drainage plan must be substantially in accordance with the principles set out in the outline drainage strategy.

(2) The surface and foul water drainage plan must be implemented in accordance with the approved details, prior to final commissioning of Work No. 31A.

### **Restoration of land used temporarily for construction**

**17.** Any land landward of MLWS which is used temporarily for construction of the onshore works and not ultimately incorporated in permanent works or approved landscaping must be reinstated within six months of completion of the relevant stage of the onshore works in accordance with details submitted to and approved by the relevant planning authority under sub-paragraph 10(2)(d).

### **Control of noise during operational stage**

**18.**—(1) The noise rating level for the operation of Work No. 31A must not exceed the following levels at a position representative of the façade, in free-field conditions, of, any building authorised or lawfully occupied for residential or accommodation purposes at the date of the granting of this Order, at each of the representative locations set out in (a) to (d) below:

- (a) 36 dB LAr,Tr at Gwelfryn (OS: 300654, 373889) or other nearby residential properties on Glascoed Road to the south west of Work No. 31A;
- (b) 36 dB LAr,Tr at Caer Delyn (OS 301339, 373960) or other nearby residential properties on Glascoed Road to the south east of Work No. 31A;
- (c) 39 dB LAr,Tr at Bodelwyddan Castle Hotel (OS 299967, 374819) or other nearby residential properties to the west of Work No. 31A; and
- (d) 41 dB LAr,Tr at Faenol Bropor (OS 301298, 374784) or other nearby residential properties to the north of Work No. 31A.

(2) The noise levels set out in sub-paragraph (1) are to be measured:

- (a) in accordance with British Standard BS4142:2014+A1:2019, Methods for rating and assessing industrial and commercial sound; and
- (b) with a microphone placed at least 1.5 m above the ground in free-field conditions (being at least 3.5 m from the nearest vertical reflecting surface).

(3) In the event of a complaint to the relevant planning authority relating to noise emissions from the operation of Work No. 31A which may reasonably be expected to result in levels above those allowed by paragraph (1)—

- (a) the undertaker must submit a proposed measurement and assessment procedure, based on the guidance and assessment methodology outlined in BS4142:2014, including a proposed measurement methodology and monitoring locations and the timings for the assessment and reporting to the relevant planning authority for approval; and
- (b) measurements must be undertaken in accordance with the approved procedure by an independent consultant appointed by the undertaker in order to determine compliance or otherwise with paragraph (1).

### **Control of operational artificial light emissions**

**19.**—(1) Work No. 31A and Work No. 33(c) must not be brought into operation until a written scheme for the management and mitigation of internal and external artificial light emissions from Work No. 31A and Work No.33(c) has been submitted to and approved by the relevant planning authority.

(2) The approved scheme for the management and mitigation of artificial light emissions must be implemented and maintained during the lifetime of Work No. 31A and Work No. 33(c).

## **Skills and Employment Strategy**

**20.**—(1) No stage of the authorised development may commence until a skills and employment strategy, substantially in accordance with the outline skills and employment strategy has been submitted to and approved by the relevant planning authority.

(2) The skills and employment strategy must be implemented in accordance with the approved details.

## **Offshore decommissioning**

**21.** No offshore works may commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) (requirement to prepare decommissioning programmes) of the 2004 Act has been submitted to the Secretary of State for approval.

## **Onshore decommissioning**

**22.**—(1) A written scheme of decommissioning for the onshore works must be submitted to and approved by the relevant planning authority at least six months prior to any decommissioning works commencing.

(2) The written scheme of decommissioning for the onshore works must include a code of construction practice and the approved scheme must be implemented as approved in the carrying out of any decommissioning works or relevant part of it.

## **Requirement for written approval**

**23.** Where under any of the above requirements the approval or agreement of the Secretary of State, the relevant planning authority or another person is required, that approval or agreement must be given in writing.

## **Amendments to approved details**

**24.** With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved or agreed by the Secretary of State, the relevant planning authority or another person.

## **Great Dun Fell and St Annes Primary Radar Mitigation Scheme**

**25.**—(1) No part of any wind turbine generator (excluding foundations) shall be erected as part of the authorised development until a primary radar mitigation scheme agreed in advance with the operator has been submitted to and approved in writing by the Secretary of State in order to mitigate the impact of the authorised development on the primary radar of the operator located at Great Dun Fell and St Annes and associated air traffic management operations.

(2) No part of any wind turbine generator (excluding foundations) shall be erected until the approved primary radar mitigation scheme has been implemented and the authorised development shall thereafter be operated fully in accordance with the approved scheme.

(3) In this requirement—

“operator” means NATS (En Route) plc, incorporated under the Companies Act (Company Number 4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hampshire PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of the Transport Act); and

“primary radar mitigation scheme” or “scheme” means a detailed scheme agreed with the operator which sets out the measures to be taken to mitigate the impact of the development on the primary radar located at Great Dun Fell and St Annes and air traffic management operations of the operator.

## Landscape enhancement scheme

26.—(1) Work No. 1 must not be commenced until a scheme for the provision of landscape enhancement in accordance with the landscape enhancement scheme principles document has been submitted to and approved by the relevant planning authority following consultation with NRW, the Isle of Anglesey County Council, Eryri National Park Authority and Conwy County Borough Council.

(2) The landscape enhancement scheme shall set out appropriate measures to compensate for the impact of the authorised development on the protected landscapes of Eryri National Park, the Isle of Anglesey Area of Outstanding Natural Beauty (including Anglesey Heritage Coast) and Great Orme Heritage Coast.

(3) The landscape enhancement scheme shall be implemented as approved.

(4) In this requirement “landscape enhancement scheme principles document” means the document certified as such by the Secretary of State under article 40.

## Wake effects

27.—(1) No part of any wind turbine generator shall be erected as part of the authorised development until an assessment of any wake effects and subsequent design provisions to mitigate any such identified effects as far as possible has been submitted to and approved in writing by the Secretary of State, in order to mitigate the impact of the authorised development on the energy generation of Rhyl Flats Wind Farm. The assessment must be based on the scope of this Order as granted.

(2) The authorised development shall be carried out in accordance with the approved details.

## SCHEDULE 3

Article 9

### Streets subject to street works

In the County of Denbighshire:

(1) <i>Street</i>	(2) <i>Extent as shown on the street works and access plan</i>
Ferguson Avenue, Rhyl	Between the points labelled AA and AB on sheet 2
Garford Road, Rhyl	Between the points labelled AC and AD on sheet 1
Rhyl Golf Club access	Between the points labelled AE and AF on sheet 1
Robin Hood Holiday Camp accesses	Between the points labelled AG and AH on sheets 1 and 2
B5119, Dyserth Road	Between the points labelled AI and AJ on sheet 3
B5119, Dyserth Road	Between the points labelled AK and AL on sheet 3
A525	Between the points labelled AM and AN on sheet 5
A547, eastern Rhuddlan bypass	Between the points labelled AO and AP on sheet 5
Tan-Yr-Eglwys Road	Between the points labelled AQ and AR on sheet 6
A547, Abergele Road	Between the points labelled AS and AT on sheet 6
Bodelwyddan Road	Between the points labelled AU and AV on sheet 7
Nant-Y-Faenol Road	Between the points labelled AW and AX on sheet 7
Junction 26 of the A55	Between the points labelled AY and AZ on sheet 9
Junction 26 of the A55	Between the points labelled BA and BB on sheet 9
Minor road to the north of St. Asaph Business Park	Between the points labelled BC and BD on sheet 9
B5381 Glascoed Road	Between the points labelled BE and BF on sheet 10
Minor road to the south of the B5381 Glascoed Road	Between the points labelled BG and BH on sheet 10
B5381 Glascoed Road	Between the points labelled BI and BJ on sheet 10

## SCHEDULE 4

Articles 11 and 12

### Rights of way to be temporarily stopped up or restricted

In the County of Denbighshire:

(1) <i>Street or right of way to be temporarily stopped up or restricted</i>	(2) <i>Extent of temporary stopping up or restriction</i>
Footpath DE/206/5	Between points Ax and Ay as shown on sheets 3 and 4 of the temporary stopping up of public rights of way plan
Footpath DE/206/3	Between points Bx and By as shown on sheet 4 of the temporary stopping up of public rights of way plan
Footpath DE/206/44	Between points Ca and Cb and Cx and Cy as shown on sheet 5 of the temporary stopping up of public rights of way plan
Footpath DE/206/18	Between points Dx, Dy and Dz as shown on sheet 5 of the temporary stopping up of public rights of way plan
Footpath DE/206/46	Between points Ex and Ey as shown on sheet 5 of the temporary stopping up of public rights of way plan
Footpath DE/206/20	Between points Fa and Fb and Fx and Fy as shown on sheet 5 of the temporary stopping up of public rights of way plan
Footpath DE/206/23	Between points Gx and Gy as shown on sheet 5 of the temporary stopping up of public rights of way plan
Footpath DE/206/24 and Footpath 206/22	Between points Hx and Hy as shown on sheet 5 of the temporary stopping up of public rights of way plan
Footpath DE/206/29	Between points Ix and Iy as shown on sheet 6 of the temporary stopping up of public rights of way plan
Footpath DE/201/12	Between points Jx and Jy as shown on sheet 6 of the temporary stopping up of public rights of way plan
Footpath DE/206/40	Between points Kx and Ky as shown on sheet 7 of the temporary stopping up of public rights of way plan
Footpath DE/201/4	Between points Lx and Ly as shown on sheet 7 of the temporary stopping up of public rights of way plan
Footpath DE/201/7	Between points Mx and My (sheet 8) and Nx and Ny (sheets 8 and 9) as shown on the temporary stopping up of public rights of way plan
Footpath DE/201/9	Between points Ox and Oy as shown on sheet 9 of the temporary stopping up of public rights of way plan
Footpath DE/105/7	Between points Px and Py as shown on sheet 10 of the temporary stopping up of public rights of way plan

## SCHEDULE 5

Article 13

### Access to works

In the county of Denbighshire

(1) <i>Reference as shown on the street works and access plan</i>	(2) <i>Description of new access</i>

AC-A	From the public highway Ferguson Avenue for access to temporary works during construction, and operational access as shown on sheet 2 of the street works and access plan
AC-B1	Over and from the Rhyl Golf Club access to temporary works area during construction; no heavy goods vehicle access is to be taken over this access as shown on sheet 1 of the street works and access plan
AC-B2	From the public highway Garford Road for access to temporary works during construction and operational access as shown on sheet 1 of the street works and access plan
AC-C1	Over and from the existing Robin Hood Holiday Camp access to temporary works area during construction; no heavy goods vehicle access is to be taken over this access as shown on sheets 1 and 2 of the street works and access plan
AC-C2	Over and from the existing Robin Hood Holiday Camp access to temporary works area during construction; no heavy goods vehicle access is to be taken over this access as shown on sheets 1 and 2 of the street works and access plan
AC-C3	Over and from the existing Robin Hood Holiday Camp access to temporary works area during construction; no heavy goods vehicle access is to be taken over this access as shown on sheets 1 and 2 of the street works and access plan
AC-D	From the public highway B5119 Dyserth Road and the existing access track for access to temporary works during construction, and operational access as shown on sheet 3 of the street works and access plan
AC-E	From the public highway B5119 Dyserth Road to temporary works area to the north of that highway during construction as shown on sheet 3 of the street works and access plan
AC-F	From the public highway B5119 Dyserth Road to temporary works area to the south of that highway during construction as shown on sheet 3 of the street works and access plan
AC-G	From the public highway A547, eastern Rhuddlan bypass, for access to temporary works during construction and operational access as shown on sheet 5 of the street works and access plan
AC-H	From the public highway A525 to temporary works area during construction as shown on sheet 5 of the street works and access plan
AC-I	Over and from the existing access to the sewage treatment works at Tan-Yr-Eglwys Road for access to temporary works during construction and operational access as shown on sheet 6 of the street works and access plan
AC-J	From the public highway A547 Abergele Road to temporary works area during construction as shown on sheet 6 of the street works and access plan
AC-K	From the public highway A547 Abergele Road to temporary works area during construction as shown on sheets 6 and 7 of the street works and access plan
AC-L	From the public highway Bodelwyddan Road to temporary works area during construction as shown on sheet 7 of the street works and access plan
AC-M	From the public highway Bodelwyddan Road to temporary works area during construction as shown on sheet 7 of the street works and access plan
AC-N1	From the public highway Nant-Y-Faenol Road to temporary works area during construction as shown on sheet 7 of the street works and access plan
AC-N2	From the public highway Nant-Y-Faenol Road to temporary works area during construction as shown on sheet 7 of the street works and access plan
AC-O1	Over and from the existing farm access from Junction 26 of the A55 public highway for access to temporary works during construction, and operational access as shown on sheets 8 and 9 of the street works and access plan



AC-O2	Over and from the existing farm access from Junction 26 of the A55 public highway to temporary works area during construction as shown on sheets 8 and 9 of the street works and access plan
AC-P	Over and from the minor road to the north of St. Asaph Business Park as shown on sheet 9 of the street works and access plan
AC-Q1	From the public highway B5381 Glascoed Road to temporary works area during construction as shown on sheets 9 and 10 of the street works and access plan
AC-Q2	From the public highway B5381 Glascoed Road to temporary works area during construction as shown on sheets 9 and 10 of the street works and access plan
AC-R1	From the minor road to the south of B5381 Glascoed Road to temporary works area during construction as shown on sheet 10 of the street works and access plan
AC-R2	From the minor road to the south of B5381 Glascoed Road to temporary works area during construction as shown on sheet 10 of the street works and access plan
AC-S	From the public highway B5381 Glascoed Road, over and from the existing National Grid access, for access to temporary works during construction, and operational access as shown on sheet 10 of the street works and access plan

## SCHEDULE 6

Article 27

### Land of which only temporary possession may be taken

In the County of Denbighshire:

<i>(1) Number of plot shown on land plans</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of authorised development</i>
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, 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
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
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	Associated development (f) for 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	Associated development (f) for 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	Associated development (f) for 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
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

# SCHEDULE 7

Article 20

## Land in which only new rights etc. may be acquired

In the County of Denbighshire:

(1) <i>Number of plot shown on land plans</i>	(2) <i>Purpose for which rights may be acquired</i>
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	<p>Cable rights and restrictive covenants</p> <p><b>1. Cable rights</b></p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <ul style="list-style-type: none"> <li>(a) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the electricity cables (including the removal of materials including spoil) in, under, over and/or on the Land, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the “cables”), and in doing so, to use or resort to trenchless installation techniques including (but not limited to) directional drilling beneath sea defences, watercourses, roads and railways;</li> <li>(b) enter, be on, and break open and break up the surface of the Land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity along the cables;</li> <li>(c) to benefit from continuous vertical and lateral support for the authorised development;</li> <li>(d) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the cables;</li> <li>(e) construct and install and thereafter use the Land for all necessary purposes for the commissioning, construction, repair, testing and maintenance of the cables in, on or under the Land;</li> <li>(f) place and use plant, machinery, structures and temporary structures within the Land for the purposes of the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables and to erect temporary signage and provide measures for the benefit of public and personnel safety;</li> <li>(g) erect fencing, gates, walls, barriers or other means of enclosure, and create secure working areas and compounds including trenchless installation technique compounds and working areas;</li> <li>(h) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal is being carried out;</li> </ul>

	<ul style="list-style-type: none"> <li>(i) effect access to the highway;</li> <li>(j) make such investigations in or on the Land as required;</li> <li>(k) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed would obstruct or interfere with the operation of the cables;</li> <li>(l) remove and discharge water from the Land, and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, install, use, inspect, maintain, adjust, alter, renew, repair, test or cleanse drainage schemes on the Land or reinstate the any existing drainage scheme on the Land;</li> <li>(m) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers);</li> <li>(n) remove fences and structures within the Land during any period during which construction, maintenance, repair or renewal is being carried out (subject to erection of any temporary stock-proof fencing as is reasonably required and the re-instatement or suitable replacement of the fences or structures following the exercise of the rights);</li> <li>(o) store and stockpile materials (including excavated material);</li> <li>(p) create boreholes and trial excavation pits for the purposes of intrusively surveying the land and monitoring the use of any trenchless installation technique, to keep in place and monitor the same through construction, maintenance repair, replacement or decommissioning and to reinstate the Land;</li> <li>(q) to excavate materials below ground level, including soils, and to store and re-use or dispose of the same, and in so excavating to undertake any works, including works of protection or removal of archaeological remains as may be required by any written scheme of investigation approved under this Order;</li> <li>(r) lay out temporary paths and bridleways for public use;</li> <li>(s) to install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna;</li> <li>(t) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land and/or in accordance with any necessary licences relating to protected species and/or wildlife; and</li> <li>(u) (in an emergency only when the cables are temporarily unusable) to lay down, install, use, maintain and inspect underground cables, telephone signalling and fibre-optic cables and ancillary equipment, associated works and other conducting media together with conduits or pipes for containing the same in and under the Land.</li> </ul>
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	<p><b>2. Restrictive covenants</b></p> <p>A restrictive covenant over the Land for the benefit of the remainder of the Order land to—</p> <ul style="list-style-type: none"> <li>(a) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto);</li> <li>(b) prevent anything to be done by way of hard surfacing of the Land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised development nor make it materially more difficult or expensive to maintain the authorised development);</li> <li>(c) to prevent anything to be done by way of excavation of any kind in the Land nor any activities which would alter, increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities (being ploughing to no deeper than 0.6m for the purposes of arable farming) or are required to be carried out by National Grid in order to exercise their statutory functions or rights in relation to their apparatus (if any) within the Land;</li> <li>(d) to prevent the planting or growing within the Land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development);</li> <li>(e) to prevent anything being done which may interfere with free flow and passage of electricity or telecommunications through the cables or support for the authorised development;</li> <li>(f) to prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and</li> <li>(g) to prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of ecological mitigation areas or areas of habitat creation including any ploughing or grazing without the prior written consent of the undertaker.</li> </ul>
100	<p>Cable rights, transition joint bay rights and restrictive covenants</p> <p><b>1. Cable rights</b></p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <ul style="list-style-type: none"> <li>(a) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the electricity cables (including the removal of materials including spoil) in, under, over and/or on the Land, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the “cables”), and in doing so, to use or resort to</li> </ul>

	<p>trenchless installation techniques including (but not limited to) directional drilling beneath sea defences, watercourses, roads and railways;</p> <p>(b) enter, be on, and break open and break up the surface of the Land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity along the cables;</p> <p>(c) to benefit from continuous vertical and lateral support for the authorised development;</p> <p>(d) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the cables;</p> <p>(e) construct and install and thereafter use the Land for all necessary purposes for the commissioning, construction, repair, testing and maintenance of the cables in, on or under the Land;</p> <p>(f) place and use plant, machinery, structures and temporary structures within the Land for the purposes of the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables and to erect temporary signage and provide measures for the benefit of public and personnel safety;</p> <p>(g) erect fencing, gates, walls, barriers or other means of enclosure, and create secure working areas and compounds including trenchless installation technique compounds and working areas;</p> <p>(h) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal is being carried out;</p> <p>(i) effect access to the highway;</p> <p>(j) make such investigations in or on the Land as required;</p> <p>(k) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed would obstruct or interfere with the operation of the cables;</p> <p>(l) remove and discharge water from the Land, and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, install, use, inspect, maintain, adjust, alter, renew, repair, test or cleanse drainage schemes on the Land or reinstate the any existing drainage scheme on the Land;</p> <p>(m) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers);</p> <p>(n) remove fences and structures within the Land during any period during which construction, maintenance, repair or renewal is being carried out (subject to erection of any temporary stock-proof fencing as is</p>
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	<p>reasonably required and the re-instatement or suitable replacement of the fences or structures following the exercise of the rights);</p> <ul style="list-style-type: none"> <li>(o) store and stockpile materials (including excavated material);</li> <li>(p) create boreholes and trial excavation pits for the purposes of intrusively surveying the land and monitoring the use of any trenchless installation technique, to keep in place and monitor the same through construction, maintenance repair, replacement or decommissioning and to reinstate the Land;</li> <li>(q) to excavate materials below ground level, including soils, and to store and re-use or dispose of the same, and in so excavating to undertake any works, including works of protection or removal of archaeological remains as may be required by any written scheme of investigation approved under this Order;</li> <li>(r) lay out temporary paths and bridleways for public use;</li> <li>(s) to install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna;</li> <li>(t) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land and/or in accordance with any necessary licences relating to protected species and/or wildlife; and</li> <li>(u) (in an emergency only when the cables are temporarily unusable) to lay down, install, use, maintain and inspect underground cables, telephone signalling and fibre-optic cables and ancillary equipment, associated works and other conducting media together with conduits or pipes for containing the same in and under the Land.</li> </ul> <p><b>2. Transition joint bay rights</b></p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <ul style="list-style-type: none"> <li>(a) lay down, install, adjust, alter, construct, create, use, maintain, repair, renew, upgrade, inspect, remove and replace transition joint bays; and</li> <li>(b) to adjust, alter, remove, replace, and create tunnels under sea defences including walls and groynes.</li> </ul> <p><b>3. Restrictive covenants</b></p> <p>A restrictive covenant over the Land for the benefit of the remainder of the Order land to—</p> <ul style="list-style-type: none"> <li>(a) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto);</li> <li>(b) prevent anything to be done by way of hard surfacing of the Land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised development nor make it materially more difficult or expensive to maintain the authorised development);</li> </ul>
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	<p>(c) to prevent anything to be done by way of excavation of any kind in the Land nor any activities which would alter, increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities (being ploughing to no deeper than 0.6m for the purposes of arable farming) or are required to be carried out by National Grid in order to exercise their statutory functions or rights in relation to their apparatus (if any) within the Land;</p> <p>(d) to prevent the planting or growing within the Land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development);</p> <p>(e) to prevent anything being done which may interfere with free flow and passage of electricity or telecommunications through the cables or support for the authorised development;</p> <p>(f) to prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and</p> <p>(g) to prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of ecological mitigation areas or areas of habitat creation including any ploughing or grazing without the prior written consent of the undertaker.</p>
<p>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</p>	<p>Cable rights and restrictive covenants under existing infrastructure</p> <p><b>1. Cable rights</b></p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <p>(a) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the electricity cables (including the removal of materials including spoil) in, under, over and/or on the Land, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the “cables”), and in doing so, to use or resort to trenchless installation techniques including (but not limited to) directional drilling beneath sea defences, watercourses, roads and railways;</p> <p>(b) enter, be on, and break open and break up the surface of the Land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity along the cables;</p> <p>(c) to benefit from continuous vertical and lateral support for the authorised development;</p> <p>(d) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the cables;</p>

	<ul style="list-style-type: none"> <li>(e) construct and install and thereafter use the Land for all necessary purposes for the commissioning, construction, repair, testing and maintenance of the cables in, on or under the Land;</li> <li>(f) place and use plant, machinery, structures and temporary structures within the Land for the purposes of the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables and to erect temporary signage and provide measures for the benefit of public and personnel safety;</li> <li>(g) erect fencing, gates, walls, barriers or other means of enclosure, and create secure working areas and compounds including trenchless installation technique compounds and working areas;</li> <li>(h) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal is being carried out;</li> <li>(i) effect access to the highway;</li> <li>(j) make such investigations in or on the Land as required;</li> <li>(k) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed would obstruct or interfere with the operation of the cables;</li> <li>(l) remove and discharge water from the Land, and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, install, use, inspect, maintain, adjust, alter, renew, repair, test or cleanse drainage schemes on the Land or reinstate the any existing drainage scheme on the Land;</li> <li>(m) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers);</li> <li>(n) remove fences and structures within the Land during any period during which construction, maintenance, repair or renewal is being carried out (subject to erection of any temporary stock-proof fencing as is reasonably required and the re-instatement or suitable replacement of the fences or structures following the exercise of the rights);</li> <li>(o) store and stockpile materials (including excavated material);</li> <li>(p) create boreholes and trial excavation pits for the purposes of intrusively surveying the land and monitoring the use of any trenchless installation technique, to keep in place and monitor the same through construction, maintenance repair, replacement or decommissioning and to reinstate the Land;</li> <li>(q) to excavate materials below ground level, including soils, and to store and re-use or dispose of the same, and in so excavating to undertake any works, including works of protection or removal of archaeological remains as may be required by any written scheme of investigation approved under this Order;</li> </ul>
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	<p>(r) lay out temporary paths and bridleways for public use;</p> <p>(s) to install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna;</p> <p>(t) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land and/or in accordance with any necessary licences relating to protected species and/or wildlife; and</p> <p>(u) (in an emergency only when the cables are temporarily unusable) to lay down, install, use, maintain and inspect underground cables, telephone signalling and fibre-optic cables and ancillary equipment, associated works and other conducting media together with conduits or pipes for containing the same in and under the Land.</p> <p><b>2. Restrictive covenants</b></p> <p>A restrictive covenant over the Land for the benefit of the remainder of the Order land to:</p> <p>(a) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction, erection or works of any kind (including the foundations or footings thereto) other than those related to works for the benefit of existing highway or railway infrastructure;</p> <p>(b) to prevent anything to be done by way of excavation of any kind in the Land nor any activities which would alter, increase or decrease ground cover or soil levels by greater than 1 metre whatsoever without the consent in writing of the undertaker, save where such works are reasonably required for the exercise of statutory functions or rights in relation any public highway or railway on the Land and will not damage, undermine or interfere with the cables;</p> <p>(c) to prevent the planting or growing within the Land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development);</p> <p>(d) to prevent anything being done which may interfere with free flow and passage of electricity or telecommunications through the cables or support for the authorised development; and</p> <p>(e) to prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development.</p>
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,	<p>Access rights</p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <p>(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of the Works, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the cables and connection into any adjacent cables and associated</p>

<p>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,</p>	<p>works, to take plant and equipment on to adjoining land and make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;</p> <ul style="list-style-type: none"> <li>(b) to construct, use, maintain and improve a permanent means of access including visibility splays, and retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway;</li> <li>(c) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair, renewal or decommissioning is being carried out;</li> <li>(d) erect temporary bridges and supporting or protective structures for the purposes of access to adjoining land;</li> <li>(e) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety;</li> <li>(f) fell, lop, cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be present on the Land for the purpose of enabling the right to pass and re-pass to adjoining land;</li> <li>(g) repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;</li> <li>(h) erect and remove temporary fencing, gates, walls, barriers or other means of enclosure; and</li> <li>(i) lay out temporary paths and bridleways for public use as temporary diversions for public rights of way which are interfered with during any period in which construction, maintenance, repair or renewal decommissioning is being carried out.</li> </ul>
<p>418, 419, 420, 421, 422, 423, 426, 427, 428, 430, 431, 432</p>	<p>Visibility splay and highway verge rights and restrictive covenants</p> <p><b>1. Visibility splay and highway verge rights</b></p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <ul style="list-style-type: none"> <li>(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of the Works, and make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;</li> <li>(b) to construct, use, maintain and improve visibility splays, and retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes and visibility splays for the purposes of accessing the Land, adjoining land and highway; and</li> <li>(c) fell, lop, cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be present on the Land for the purpose of maintaining visibility required for accesses.</li> </ul> <p><b>2. Restrictive covenants</b></p> <p>A restrictive covenant over the Land for the benefit of the remainder of the Order land to prevent anything to be done in or upon the Land or any part thereof</p>

	for the purpose of the erection of any buildings or construction, erection or works of any kind (including the foundations or footings thereto) which would interfere with use as a visibility splay, other than works undertaken by the highway authority.
145, 150, 160, 164, 168, 192, 409, 459	<p>Mitigation work areas access rights, mitigation rights and restrictive covenants</p> <p><b>1. Permanent access rights</b></p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <ul style="list-style-type: none"> <li>(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of the Works, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the cables and connection into any adjacent cables and associated works, to take plant and equipment on to adjoining land and make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;</li> <li>(b) to construct, use, maintain and improve a permanent means of access including visibility splays, and retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway;</li> <li>(c) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair, renewal or decommissioning is being carried out;</li> <li>(d) erect temporary bridges and supporting or protective structures for the purposes of access to adjoining land;</li> <li>(e) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety;</li> <li>(f) fell, lop, cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be present on the Land for the purpose of enabling the right to pass and re-pass to adjoining land;</li> <li>(g) repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;</li> <li>(h) erect and remove temporary fencing, gates, walls, barriers or other means of enclosure; and</li> <li>(i) lay out temporary paths and bridleways for public use as temporary diversions for public rights of way which are interfered with during any period in which construction, maintenance, repair or renewal decommissioning is being carried out.</li> </ul> <p><b>2. Temporary mitigation area works rights</b></p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <ul style="list-style-type: none"> <li>(a) install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding and</li> </ul>

	<p>other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;</p> <p>(b) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works and the installation of temporary barriers for the protection of fauna; and</p> <p>(c) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.</p> <p><b>3. Restrictive covenants</b></p> <p>A restrictive covenant over the Land for the benefit of the remainder of the Order land to prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of ecological mitigation areas or areas of habitat creation including any ploughing or grazing, during the period within which the undertaker is bound by any consent to maintain that ecological mitigation areas or areas of habitat creation, without the prior written consent of the undertaker.</p>
415	<p>Drainage rights and restrictive covenants</p> <p><b>1. Drainage rights</b></p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <p>(a) remove and discharge water from the Land and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, to lay down, install, adjust, alter, construct, create, use, maintain, repair, renew, upgrade, inspect, remove and replace a drainage scheme on the Land (the “drainage works”);</p> <p>(b) inspect, use mechanical excavation (including directional drilling and/or digging), reinstate, remove, move or alter such part or parts of any drainage system on the Land for the purposes of the drainage works (including connecting the drainage works to any land drain as at the date of the drainage works);</p> <p>(c) enter, be on, and break up the surface of the Land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of the drainage works;</p> <p>(d) store and stockpile materials (including excavated material);</p> <p>(e) create boreholes and trial excavation pits for the purposes of intrusively surveying the land and monitoring the use of any trenchless installation technique, to keep in place and monitor the same through construction, maintenance repair, replacement or decommissioning and to reinstate the Land;</p> <p>(f) to excavate materials below ground level, including soils, and to store and re-use or dispose of the same, and in so excavating, to undertake any works, including works of protection or removal of archaeological remains as may be required by any written scheme of investigation approved under this Order;</p>

	<p>(g) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of the drainage works;</p> <p>(h) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety for the purposes of the drainage works;</p> <p>(i) erect fencing, gates, walls, barriers or other means of enclosure, and create secure works areas or compounds including temporary trenchless installation technique compounds and working areas for the purposes of the drainage works;</p> <p>(j) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;</p> <p>(k) effect access to the highway;</p> <p>(l) make such investigations in or on the Land as required for the purposes of the drainage works;</p> <p>(m) use or resort to trenchless installation techniques including (but not limited to) directional drilling in connection with the drainage works;</p> <p>(n) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed obstruct or interfere with the drainage works;</p> <p>(o) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers);</p> <p>(p) to install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; and</p> <p>(q) to carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.</p> <p><b>2. Restrictive covenants</b></p> <p>A restrictive covenant over the Land for the benefit of the remainder of the Order land to—</p> <p>(a) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto); and</p> <p>(b) prevent anything to be done by way of hard surfacing of the Land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not</p>
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	cause damage to relevant part of the authorised development nor make it materially more difficult or expensive to maintain the authorised development).
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	<p>Temporary mitigation area works rights and restrictive covenants</p> <p><b>1. Temporary mitigation area works rights</b></p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <ul style="list-style-type: none"> <li>(a) install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;</li> <li>(b) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works and the installation of temporary barriers for the protection of fauna; and</li> <li>(c) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.</li> </ul> <p><b>2. Restrictive covenants</b></p> <p>A restrictive covenant over the Land for the benefit of the remainder of the Order land to prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of ecological mitigation areas or areas of habitat creation including any ploughing or grazing, during the period within which the undertaker is bound by any consent to maintain that ecological mitigation areas or areas of habitat creation, without the prior written consent of the undertaker.</p>
472, 473, 478, 479, 480, 481, 482, 483, 484, 485, 486	<p>National Grid substation works area rights</p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <ul style="list-style-type: none"> <li>(a) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the electricity cables (including the removal of materials including spoil) in, under, over and/or on the Land, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the “cables”);</li> <li>(b) enter, be on, and break open and break up the surface of the Land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity along the cables;</li> <li>(c) to benefit from continuous vertical and lateral support for the authorised development;</li> <li>(d) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing,</li> </ul>



	<p>renewing, inspecting the authorised development and for removing and replacing the cables;</p> <ul style="list-style-type: none"> <li>(e) to use, maintain, renew improve and alter existing accesses, roads, streets, tracks or ways over the Land, providing that such use is not exclusive and exercise of this right must not prevent or unreasonably inhibit use by other parties;</li> <li>(f) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair, renewal or decommissioning is being carried out;</li> <li>(g) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety;</li> <li>(h) fell, lop, cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be present on the Land for the purpose of enabling the right to pass and re-pass to adjoining land; and</li> <li>(i) remove and discharge water from the Land and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, to lay down, install, adjust, alter, construct, create, use, maintain, repair, renew, upgrade, inspect, remove and replace a drainage scheme on the Land; and</li> <li>(j) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers).</li> </ul>
487, 488, 489, 490, 491, 492, 496, 497	<p>National Grid substation access area rights</p> <p>Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <ul style="list-style-type: none"> <li>(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting the authorised development and for removing and replacing the cables;</li> <li>(b) to use, maintain, renew improve and alter existing accesses, roads, streets, tracks or ways over the Land, providing that such use is not exclusive and exercise of this right must not prevent or unreasonably inhibit use by other parties;</li> <li>(c) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair, renewal or decommissioning is being carried out;</li> <li>(d) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety;</li> </ul>

	<p>(e) fell, lop, cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be present on the Land for the purpose of enabling the right to pass and re-pass to adjoining land; and</p> <p>(f) remove and discharge water from the Land and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, to lay down, install, adjust, alter, construct, create, use, maintain, repair, renew, upgrade, inspect, remove and replace a drainage scheme on the Land; and</p> <p>(g) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers).</p>
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## SCHEDULE 8

Article 25

### Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants

#### Compensation enactments

**1.** The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restrictive covenant as they apply as respects compensation for the compulsory purchase of land and interests in land.

**2.—**(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification—

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5) (a) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act 1965 (as modified by paragraph 4(5) of Schedule 8 to the Awel y Môr Offshore Wind Farm Order 202[•]);
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (as substituted by paragraph 4(8) of Schedule 8 to the Awel y Môr Offshore Wind Farm Order 202[•]) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land, the authority is deemed for the purposes of sub-section (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”

**3.—**(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(35) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 4(3) of this Schedule—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable.

### **Application of Part 1 of the 1965 Act**

**4.**—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 25 (modification of Part 1 of the 1965 Act) to the acquisition of land under article 18 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 20 (compulsory acquisition of rights)—

- (a) with the modifications specified in sub-paragraph 4(2); and
- (b) with such other modifications as may be necessary.

(2) The modifications referred to in sub-paragraph (1) are set out in the following provisions of this Schedule.

**5.** References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

**6.** For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

**7.** The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

**8.** Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by sub-section (1) of that section (as it applies to a compulsory acquisition), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A<sup>(36)</sup> (powers of entry: further notices of entry), 11B<sup>(37)</sup> (counter-notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

**9.** Section 20 (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is

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(36) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).

(37) Section 11B was inserted by section 187(2) of the above Act.

actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

**10.** Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 25(4) is also modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

**11.** For Schedule 2A of the 1965 Act substitute—

## **“SCHEDULE 2A**

Section 8

### **COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT**

#### **Introduction**

**1.**—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 23 (application of the 1981 Act) of the Awel y Môr Offshore Wind Farm Order 202[•] in respect of the land to which the notice to treat relates.

(2) But see article 24 (acquisition of subsoil only) of the Awel y Môr Offshore Wind Farm Order 202[•] which excludes the acquisition of subsoil only from this Schedule.

(3) In this Schedule, “house” includes any park or garden belonging to a house.

#### **Counter-notice requiring purchase of land**

**2.** A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

**3.** A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

#### **Response to counter-notice**

**4.** On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat;
- (b) accept the counter-notice; or
- (c) refer the counter-notice to the Upper Tribunal.

**5.** The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

**6.** If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

**7.** If the authority do not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

**8.** If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

### **Determination by the Upper Tribunal**

**9.** On a referral under paragraph 6, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory; or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

**10.** In making the determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant;
- (b) the use to be made of the right or covenant proposed to be acquired or imposed; and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

**11.** If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 9, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

**12.** If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

**13.—(1)** If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

**(2)** If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.

**14.** Any dispute as to the compensation is to be determined by the Upper Tribunal.”

## **SCHEDULE 9**

Article 38

### **Protective provisions**

#### **PART 1**

##### **Protection for electricity, gas, water and sewerage undertakers**

**1.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the utility undertaker in question.

**2.** In this Part—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of a utility undertaker within paragraph (a) of the definition of that term, electric lines or electrical plant (as defined in the Electricity Act 1989<sup>(38)</sup>), belonging to or maintained by that licence holder;

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(38) 1989 c.29.

- (b) in the case of a utility undertaker within paragraph (b) of the definition of that term, any mains, pipes or other apparatus belonging to or maintained by that gas transporter within the meaning of Part 1 of the Gas Act 1986<sup>(39)</sup> for the purposes of gas supply;
- (c) in the case of a utility undertaker within paragraph (c) of the definition of that term, mains, pipes or other apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and
- (d) in the case of a utility undertaker within paragraph (d) of the definition of that term—
  - (i) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991<sup>(40)</sup>; and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date) of that Act<sup>(41)</sup>,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; and

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the onshore works, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

### **On street apparatus and offshore works**

**3.** This Part does not apply to—

- (a) apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; and
- (b) the offshore works.

### **Acquisition of land**

**4.** Regardless of any provision of this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

### **Removal of apparatus**

**5.—(1)** If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker’s apparatus is relocated or

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<sup>(39)</sup> 1986 c.44.

<sup>(40)</sup> 1991 c.56.

<sup>(41)</sup> Section 104 was amended by section 42(3) of the Flood and Water Management Act 2010 (c.29).

diverted, that apparatus must not be removed under this Part, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 44 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 44 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

### **Facilities and rights for alternative apparatus**

**6.—**(1) Where, in accordance with the provisions of this Part, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 44 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised development, the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights

enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

7.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, the provisions of this Part apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

### **Expenses and costs**

8.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses agreed with the undertaker in advance and reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).

(2) The value of any apparatus removed under the provisions of this Part must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 44 (arbitration) to be necessary then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—



- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**9.—**(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2) any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

## **Miscellaneous**

**10.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## **PART 2**

### **For the protection of Dŵr Cymru Cyfyngedig (DC)**

**11.** For the protection of DC referred to in this Part 2 of Schedule 9, the following provisions, unless otherwise agreed in writing between the undertaker and DC, have effect.

**12.** In this Part of this Schedule:

“accessories” has the same meaning as that set out in section 219 WIA 1991 but also includes any feature or aspect of a design that is intended to receive or facilitate the receipt of rainwater or surface water and which is part of a sustainable drainage system;

“DC apparatus” means all apparatus or accessories vested in or belonging to DC for the purpose of carrying on its statutory undertaking including reservoirs, water treatment works and waste water treatment works;

“clearance area” means the area of land:

- (a) within 3 metres either side of the centre line of any public sewer or public water main that is less than 300mm in diameter; or

(b) within 6 metres either side of a public sewer or public water main where the public sewer or public water main is 300mm in diameter or more.

“DC” means Dŵr Cymru Cyfyngedig, a limited company registered in Wales under Company No. 2366777 and having its registered office at Dwr Cymru Welsh Water, Linea, Fortran Road, St Mellons, Cardiff, Wales, CF3 0LT or its properly authorised agents or sub-contractors;

“draft specification” means a detailed plan, cross-section and description of the works to be prepared by the undertaker (including, without limitation, a method statement and risk assessment setting out the intention in respect of the works, construction methods and programmes, position of the affected DC apparatus and intended works;

“emergency works” has the same meaning as in section 52 of the 1991 Act;

“functions” has the same meaning as in section 219 WIA 1991 and includes powers and duties;

“in” in a context referring to DC apparatus in land includes a reference to DC apparatus under, over or upon land; and

“sustainable drainage system” means any structure designed to receive rainwater and other surface water where such structure includes any feature or aspect of design that is intended to receive or facilitate the receipt of rainwater except a public sewer or a natural watercourse;

“WIA 1991” means the Water Industry Act 1991 c.56 as amended;

“works” means any works forming part of the authorised development in, on, over or under any land purchased, held, or used under this Order that are within 15 metres measured in any direction of any DC apparatus, or reasonably likely to affect any DC apparatus together with all ancillary actions relating hereto; and

for the avoidance of doubt, all other terms are as defined in Part 2 of this Schedule or Article 2 of this Order.

**13.—**(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker is not to acquire any DC apparatus or its accessories or override or extinguish any easement or other interest of DC or acquire any land or other interest of DC identified in the book of reference or create any new rights over the same otherwise than by agreement with DC (not to be unreasonably withheld or delayed) in accordance with the provisions of this Schedule.

(2) Sub-paragraph (1) does not apply to the powers conferred on the undertaker by this Order to interfere temporarily with DC’s rights to access DC apparatus or accessories but subject always to paragraphs 17 and 18 of this Part and to the undertaker giving DC 28 days notice of such interference.

### **Precedence of the WIA 1991**

**14.—**(1) Regardless of any provision of this Order and this Schedule the undertaker must comply fully with all provisions of the WIA 1991 in relation to any use of, any connection with or any actions or omissions which in any way affect the DC apparatus and nothing in this Order releases the undertaker from the requirement to comply with the provisions of the WIA 1991 in relation to any use of, any connection with or any actions or omissions which in any way affect the DC apparatus, including without limitation:

- (a) sections 41-44 of the WIA 1991 in respect of water main requisitions;
- (b) section 45 of the WIA 1991 in respect of any connections to a water main;
- (c) sections 98-101 of the WIA 1991 in respect of sewer requisitions;
- (d) section 102 of the WIA 1991 in respect of the adoption of sewers and disposal works;
- (e) section 104 of the WIA 1991 in respect of the adoption of any sewers, drains or sewage disposal works as part of the development;
- (f) sections 106 to 109 of the WIA 1991 (inclusive) in respect of any connections to public sewers;
- (g) section 111 of the WIA 1991 in respect of the restrictions on use of public sewers;
- (h) sections 158 and 159 of the WIA 1991 in respect of statutory rights of access to DC apparatus;
- (i) section 174 of the WIA 1991 in respect of offences of interference with works etc;
- (j) section 178 of the WIA 1991 in respect of obstruction of sewerage works etc;

(k) section 185 of the WIA 1991 in respect of the removal, diversion or alteration of DC apparatus.

(2) The arbitration provisions at article 44 of this Order must not apply where DC uses a warrant of entry in accordance with the provisions of the WIA 1991.

### **Protection of DC apparatus**

**15.**—(1) Not less than 28 days before starting the execution of any works that are within the clearance area or will, or could reasonably foreseeably affect, any DC apparatus the removal or alteration of which has not been required by the undertaker under paragraph 14(1), the undertaker must submit to DC written notice together with a draft specification. For the purposes of preparing the draft specification DC must, following a written request and subject to such reasonable conditions as may be imposed by DC (including in respect of payment of its reasonable costs in meeting the request), provide the undertaker with copies of such plans and records of its apparatus as may be held by DC.

(2) DC is to examine the draft specification submitted under sub-paragraph 15(1) and give its written consent or proposed amendments (each not to be unreasonably withheld or delayed) to the draft specification (including the proposed commencement date and anticipated completion date) within 28 days from the date of receipt (and in the event of amendments the process in this sub-paragraph 15(2) will be repeated where those amendments are not accepted by the undertaker). For the avoidance of doubt, DC's proposed amendments may include such reasonable requirements for the alteration (including but not limited to the extension of DC apparatus) or otherwise for the protection of DC apparatus, or for securing access to it.

(3) If after the expiry of 28 days DC has not communicated approval or disapproval under sub-paragraph 15(2), the undertaker may write to DC at [DeveloperServicesassetenquiries@dwrcymru.com](mailto:DeveloperServicesassetenquiries@dwrcymru.com) or such other address as DC may appoint instead for that purpose and notify the undertaker in writing clearly stating that no response has been received from DC under sub-paragraph 15(2) and that a response must be provided to the undertaker within 14 days from the date of receipt of the correspondence sent under this sub-paragraph 15(3) and if no response is received within 14 days from the date of receipt DC is deemed to have approved the plans as supplied under sub-paragraph 15(2).

(4) Once approved under sub-paragraph 15(2) or 15(3), the draft specification is to become the specification and the works are to be executed only in accordance with the specification and such reasonable requirements as may be made in accordance with sub-paragraph 15(2) and DC is entitled to watch and inspect the execution of those works.

(5) Nothing in this paragraph 15 precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a draft specification instead of the draft specification previously submitted, and having done so the provisions of this paragraph 15 apply to and in respect of the new draft specification.

(6) The undertaker is not required to comply with sub-paragraph 15(1) in a case of emergency provided it has complied with paragraph 18 below save that the undertaker is to comply with sub-paragraphs 15(1) and (4) above in so far as is reasonably practicable in the circumstances.

(7) DC may opt to carry out any temporary and/or protective works specified under sub-paragraph 15(2) to DC apparatus, and if DC opts to do so it will:

- (a) agree the scope and timings of the works with the undertaker (and the undertaker must not unreasonably withhold or delay its agreement to the same);
- (b) provide an invoice together with supporting evidence of the estimated costs of the works on the basis of which it is to agree with undertaker the reasonable costs of the works to be met by the undertaker;
- (c) following agreement and payment of the costs, DC will as soon as reasonably practicable carry out and complete the works; and
- (d) notify the undertaker immediately in writing upon completion of the temporary and/or protective works.

(8) Where DC apparatus will be affected by the works the undertaker must determine the exact location of DC apparatus prior to any works being carried out by the undertaker.

(9) The undertaker must give DC at least 7 days' advance written notice of making any trial holes within 15 metres measured in any direction of any DC apparatus which must include details of the timings and location of the trial holes and allow a representative of DC to attend and observe these works.

(10) Any affected DC apparatus which is no longer required by DC but is not removed shall be transferred to the undertaker by way of a deed of transfer from DC at the undertaker's expense and on such terms as DC reasonably requires.

### **Suspension of works**

**16.—**(1) DC is entitled to instruct the undertaker to suspend the relevant works if in DC's reasonable and proper opinion the actions of the undertaker, or those of its contractor(s) or subcontractor(s) in carrying out the works, have caused damage to any DC apparatus. In the event of such instruction being given by DC

(2) the undertaker must procure that it and its contractor(s) and subcontractor(s) shall forthwith suspend or cease the works having due regard to health and safety factors and shall discuss and agree with DC the remedial actions required prior to resuming the works;

(3) the undertaker and DC must act reasonably and without delay in discussing and agreeing any remedial actions required prior to resuming the works;

(4) DC must submit to the undertaker within 5 days following the suspension, a written notice specifying the reasons for suspending the works;

(5) in the event that DC fails to supply the written notice within 5 days of suspension DC's instruction to suspend the works will be void and the undertaker will be entitled to recommence the works; and

(6) DC must commence, carry out and complete any remedial works pursuant to sub-paragraph 16(1), as soon as reasonably practicable and DC must give the undertaker notice immediately upon completion of such remedial works and on receipt of such notice the undertaker is entitled to resume the works.

(7) DCC is entitled to reclaim all reasonable costs of all remedial works undertaken in accordance with this paragraph 16.

### **Co-Operation**

**17.—**(1) In the event that either the undertaker or DC (for the purpose of this paragraph 16 "the party" or together "the parties") wishes to take any action which would impact on the ability of the undertaker to carry out the authorised development or DC to carry out its statutory functions, the parties must use reasonable endeavours to cooperate with one another in order to align work streams so to minimise or avoid disruption to the other party's works. In respect of the references to 'work' and 'works' in this sub-paragraph 17(1), to the extent that this refers to 'work' or 'works' to be undertaken by DC, the definition of works in paragraph 12 of this Part does not apply.

(2) Subject to paragraph 18, differences or disputes arising between the undertaker and DC under this Schedule will, unless otherwise agreed in writing between the undertaker and DC, be determined by arbitration in accordance with article 44 (arbitration) of the Order.

(3) For the avoidance of doubt whenever DC's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by DC is required, it must not be unreasonably withheld or delayed.

### **Emergency Works**

**18.—**(1) The undertaker is permitted to carry out emergency works provided that it first notifies DC of the proposed emergency works. For the avoidance of doubt, in the event that DC suffers any loss, cost or damage as a result of the emergency action taken by the undertaker without prior notification the indemnity in paragraph 19 will apply.

(2) DC must at all times be permitted to carry out any emergency works in relation to its DC apparatus within the Order limits in accordance with Part II Schedule 6 WIA 1991.

(3) Emergency works required in order for DC to fulfil its statutory functions under sub-paragraph 18(2) takes precedence over works to be carried out by the undertaker and, in such circumstances, the undertaker must reschedule its works accordingly.

(4) In respect of the references to ‘work’ and ‘works’ in this paragraph 18, to the extent that this is ‘work’ or ‘works’ to be undertaken by DC, the definition of works in paragraph 12 of this Part does not apply.

### **Damage to DC apparatus**

**19.**—(1) If, for any reason or in consequence of the construction of any of the works, any damage is caused to any DC apparatus (other than DC apparatus, the repair of which is not reasonably necessary in view of its intended removal for the purposes of the works), or there is any interruption in any service provided, or in the supply of any goods, by DC, the undertaker must—

- (a) bear and pay on demand accompanied by an invoice or claim by DC the cost reasonably and properly incurred and documented by DC in making good any damage or restoring the supply; and
- (b) make reasonable compensation to DC for any other expenses, loss, damages, penalty or costs incurred by DC, by reason or in consequence of any the damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect of—

- (a) any damage or interruption to the extent that it is attributable to the act, neglect or default of DC, its officers, employees, contractors or agents; and / or
- (b) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(3) DC must give the undertaker reasonable notice of any such claim or demand and no settlement, admission of liability or compromise or demand is to be made without the consent of the undertaker.

(4) Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and DC in respect of any DC apparatus laid or erected in land belonging to the undertaker on the date on which the Order is made.

(5) DC must use its reasonable endeavours to mitigate in whole or in part and to minimise any claims, costs, expenses, losses, damages, demands, and penalties to which the indemnity under this paragraph 19 applies. If requested to do so by the undertaker, DC must provide an explanation of how the claim has been minimised. The undertaker will only be liable under this paragraph 19 for claims reasonably incurred by DC.

## **PART 3**

### **For the protection of National Grid**

#### **Application**

**20.** The provisions of this Part have effect for the protection of National Grid unless otherwise agreed in writing between the undertaker and National Grid.

#### **Interpretation**

**21.**—(1) In this Part—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means :

- (a) electric lines or electrical plant as defined in the 1989 Act, belonging to or maintained by National Grid together with any replacement apparatus; and
- (b) such other apparatus constructed pursuant to the Order that becomes operational apparatus of the undertaker for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or must be lodged or which gives or will give access to apparatus; and
- (c) any electrical lines or electrical plant as defined in the 1989 Act, any mains, pipes, plant or other apparatus belonging to, operated or maintained by National Grid for the purposes of the construction, operation and maintenance of the Bodelwyddan Project, whether temporary or

permanent, and includes, where the context so requires, apparatus constructed as part of the authorised development and intended for the beneficial use by National Grid ("Bodelwyddan apparatus");

"authorised development" has the same meaning as in article 2 (interpretation) of this Order (unless otherwise specified) and includes any associated development authorised by the Order and for the purposes of this Part includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

"Bodelwyddan Project" means the proposed extension of the Bodelwyddan substation, diversion of gas pipeline and overhead electricity line upgrade to be undertaken by National Grid and any temporary construction compound and laydown area for such works;

"Bodelwyddan Site" includes –

- (a) land on which any Bodelwyddan apparatus is situated; and
- (b) land on which Bodelwyddan apparatus is anticipated to be situated which is necessary for the construction, use or maintenance of the Bodelwyddan Project (in so far as the same has been notified by National Grid in writing to the undertaker);

"commence" has the same meaning as in article 2 of this Order and commencement shall be construed to have the same meaning;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"functions" includes powers and duties;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid including construct, use, repair, alter, inspect, renew or remove the apparatus;

"National Grid" means National Grid Electricity Transmission PLC (Company No. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor company;

"National Grid connection works" means any part of Work Nos. 36, 39, 39A, 40 and 41 as described in Schedule 1 of this Order (authorised development);

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed; and

"specified works" means any of the authorised development or activities undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of, any apparatus the removal of which has not been required by the undertaker under paragraph 31(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 31(2) or otherwise; or
- (c) includes any of the activities that are referred to in National Grid's publication "Development near overhead lines" "ENA 43-8 and HSE's guidance note 6 "Avoiding Danger from Overhead Lines" and HSE's guidance note HSG47 "Avoiding danger from underground services".

## **Interaction with the Bodelwyddan Project**

**22.** Without limiting any other provision of this Part of this Schedule, the undertaker must use reasonable endeavours to avoid any conflict arising between the construction, maintenance and operation of the authorised development and the Bodelwyddan Project. For the purposes of this paragraph, "reasonable endeavours" means –

- (a) undertaking consultation on the detailed design and programming of the National Grid connection works and all works associated with or ancillary to the National Grid connection works to ensure that the design and programme for the National Grid connection works does not unreasonably impede or interfere with the Bodelwyddan Project;
- (b) having regard to the proposed programme of works for the Bodelwyddan Project as may be made available to the undertaker by National Grid and facilitating a co-ordinated approach to the programme, land assembly, and the carrying out of the National Grid connection works and the Bodelwyddan Project;
- (c) providing a point of contact for continuing liaison and co-ordination throughout the construction and operation of the authorised development; and
- (d) keeping National Grid informed on the programme of works for the authorised development.

### **National Grid connection works**

**23.** The undertaker must not except with the agreement of National Grid carry out the National Grid connection works, or any part of it.

**24.**—(1) Before beginning to construct any National Grid connection works, or any part of it, the undertaker must submit to National Grid plans of the relevant National Grid connection works (or part of it) and such further particulars available to it as National Grid may request within 21 days of receipt of the plans reasonably requested.

(2) Any National Grid connection works must not be constructed except in accordance with such plans as may be approved in writing by National Grid.

**25.**—(1) Any approval of National Grid required under this Schedule—

- (a) must not be unreasonably withheld or delayed;
- (b) in the case of a refusal must be accompanied by a statement of grounds or refusal; and
- (c) may be given subject to such reasonable requirements as National Grid may have in connection with the safe, economic and efficient construction, commissioning, operation, maintenance and future decommissioning of the Bodelwyddan Project or otherwise for the protection of Bodelwyddan apparatus,

provided always that in relation to a refusal under sub-paragraph (b) or any requirements requested pursuant to sub-paragraph (c) the undertaker shall be permitted to refer such matters to dispute resolution pursuant to paragraph 39.

(2) National Grid must employ reasonable endeavours to respond to the submission of any plans within a period of 56 days from the date of submission of the plans. If National Grid require further particulars, such particulars must be requested by National Grid no later than 21 days from the submission of plans and thereafter National Grid must employ reasonable endeavours to respond to the submission within 56 days from receipt of the further particulars.

**26.**—(1) The undertaker must give to National Grid not less than 14 days' notice in writing of its intention to commence construction of any National Grid connection works and notice in writing of its completion not later than 7 days after the date on which it is completed and National Grid will be entitled by its officer to watch and inspect the construction of such works.

(2) If any part of the National Grid connection works is constructed otherwise than in accordance with paragraph 24(2) above National Grid may by notice in writing identify the extent to which the National Grid connection works do not comply with the approved details and request the undertaker at the undertaker's own expense carry out remedial works so as to comply with the requirements of paragraph 24(2) of this Schedule or such alternative works as may be agreed with National Grid or as otherwise may be agreed between the parties.

(3) Subject to sub-paragraph (4), if within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (2) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, National Grid may execute the works specified in the

notice and any reasonable expenditure incurred by National Grid in so doing will be recoverable from the undertaker.

(4) In the event of any dispute as to whether sub-paragraph (2) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, National Grid will not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 39.

## **On Street Apparatus**

**27.** Except for paragraphs 28 (apparatus of National Grid in streets subject to temporary stopping up), 33 (retained apparatus: protection of National Grid as electricity undertaker), 35 (expenses) and 35 (indemnity) of this Schedule, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

## **Apparatus of National Grid in streets subject to temporary stopping up**

**28.**—(1) Without prejudice to the generality of any other protection afforded to National Grid elsewhere in the Order, where any street is stopped up under article 12 (temporary restriction of use of streets), if National Grid has any apparatus in the street or accessed via that street National Grid is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker will grant to National Grid, or will procure the granting to National Grid of, legal easements reasonably satisfactory to National Grid in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph affects any right of the undertaker or National Grid to require the removal of that apparatus under paragraph 31 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 33.

(2) Notwithstanding a temporary restriction under article 12 (temporary restriction of use of streets), National Grid is at liberty at all times to take all necessary access across any such street or to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion is in that street.

## **Protective works to buildings**

**29.** The undertaker, in the case of the powers conferred by article 16 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus or to the Bodelwyddan Site without the written consent of National Grid which will not unreasonably be withheld.

## **Acquisition of land**

**30.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker may not (a) acquire or take temporary possession of any land interest or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement or other interest of National Grid otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not unless otherwise agreed in writing with National Grid acquire any land forming part of the Bodelwyddan Site (such agreement not to be unreasonably withheld or delayed).

(3) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and



variations by all other third parties with an interest in the land at that time who are affected by such authorised development.

(4) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(5) Any agreement or consent granted by National Grid under paragraph 33 or any other paragraph of this Part must not be taken to constitute agreement under sub-paragraph (1).

### **Removal of apparatus**

**31.**—(1) If, in the exercise of the powers conferred by this Order the undertaker acquires any interest in or possesses temporarily any Order land in which any apparatus is placed, that apparatus must not be removed under this Part and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (5).

(2) If, for the purpose of executing any works comprised in the authorised development in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid a minimum of 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid to its satisfaction (taking into account paragraph 32(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

### **Facilities and rights for alternative apparatus**

**32.**—(1) Where, in accordance with the provisions of this Part, the undertaker affords to or secures National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker and agreed with National Grid under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those

facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the matter may be referred to arbitration under paragraph 39 (arbitration) and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case. In respect of the appointment of an arbitrator under this sub-paragraph, article 44 (arbitration) applies.

### **Retained apparatus: Protection of National Grid as Electricity Undertaker**

**33.—**(1) Not less than 56 days before the commencement of any specified works, the undertaker must submit to National Grid a plan and seek from National Grid details of the underground extent of their electricity tower foundations.

(2) In relation to works which will or may be situated on, over, under or within 15 metres measured in any direction of any apparatus, or which involve embankment works within 15 metres of any apparatus, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which they are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation and positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more adjacent electricity towers which are within the Order limits or within 10 metres of the Order limits, the plan to be submitted under sub-paragraph (1) must in addition to the matters set out in sub-paragraph (2) include a method statement describing—

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trench supporting structures;
- (d) details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
- (f) written details of the operations and maintenance regime for the cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and
- (h) evidence that trench collapse resistance and supporting structures bearing capacity are to be designed to support overhead line construction traffic of at least 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraph (2) or (3) applies until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraph (4) -

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (6) or (8);
- (b) may be given subject to such reasonable requirements as National Grid may have in connection with the safe and efficient construction, commissioning, operation and maintenance of the Bodelwyddan Project; and
- (c) and must not be unreasonably withheld or delayed.

(6) In relation to a work to which sub-paragraph (2) or (3) applies, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its

apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraph (2) or (3) must only be executed in accordance with the plan submitted under sub-paragraph (1) or as relevant sub-paragraph (6) as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5), (6), (8) or (9) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid is entitled to watch and inspect the execution of those works.

(8) Where under sub-paragraph (6) National Grid requires any protective works to be carried out either by itself or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to National Grid's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and National Grid must give 56 days' notice of its requirement for such works from the date of submission of a plan in line with this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraph (6) or (8) and in consequence of the works proposed by the undertaker reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 applies as if the removal of the apparatus had been required by the undertaker under paragraph 31(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised development, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (6), (7) and (8) in so far as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid's policies for development near overhead lines ENA 43-8 and the Health and Safety Executive's guidance note 6 "Avoiding danger from overhead power lines".

## **Expenses**

**34.—**(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus or alternative apparatus which may be required in consequence of the execution of any such works as are referred to in this Part including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid:
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 31(3); or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid.
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;

- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement settled by arbitration in accordance with article 44 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

## **Indemnity**

**35.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works (including without limitation works carried out by the undertaker under this Part or any subsidence resulting from any of these works), any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purpose of those works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party as aforesaid other than arising from any default by National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid as a consequence of the authorised development or under its supervision does not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of sub-paragraph (1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not materially accord with the approved plan or as otherwise agreed between the undertaker and National Grid.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, employees, contractors or agents; and
- (b) any authorised development or any other works authorised by this Part carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of this Order pursuant to section 156 of the 2008 Act or article 6 (benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”) any works yet to be executed and not falling within this sub-paragraph (b) are subject to the full terms of this Part including this paragraph in respect of such new apparatus.

(4) National Grid must give the undertaker reasonable notice of any claim or demand and no settlement, admission of liability or compromise or demand must be made, unless payment is required in connection with a statutory compensation scheme, without first consulting the undertaker and considering its representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

### **Enactments and agreements**

**36.** Save to the extent provided for to the contrary elsewhere in this Part or by agreement in writing between the undertaker and National Grid, nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**37.—**(1) Where in consequence of the proposed construction of any part of the authorised development the undertaker or National Grid requires the removal of apparatus under paragraph 31(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 33, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of National Grid’s undertaking and National Grid must use its best endeavours to co-operate with the undertaker for that purpose.

(2) Whenever National Grid’s consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker, or the taking of action by the undertaker is required, it must not be unreasonably withheld or delayed.

### **Access**

**38.** If in consequence of the agreement reached in accordance with paragraph 30(1) or the powers granted under this Order the access to any apparatus or the Bodelwyddan Site is materially obstructed, the undertaker must provide such alternative means of access to such apparatus or the Bodelwyddan Site as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**39.** Save for differences or disputes arising under paragraphs 31(2), 31(4), and 33 any difference or dispute arising between the undertaker and National Grid under this Part must, unless otherwise agreed in writing

between the undertaker and National Grid, be determined by arbitration in accordance with article 44 (arbitration).

## **Notices**

**40.** The plans submitted to National Grid by the undertaker pursuant to this Part must be submitted to <https://lsbud.co.uk/> or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **PART 4**

### **For the protection of SP Manweb as electricity undertaker**

## **Application**

**41.** The following provisions have effect for the protection of SP Manweb unless otherwise agreed in writing between the undertaker and SP Manweb.

## **Interpretation**

**42.** In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to enable SP Manweb to fulfil its statutory functions in a manner no less efficient than previously (to the reasonable satisfaction of SP Manweb);

“apparatus” means electric lines or electrical plant as defined in the 1989 Act, belonging to or maintained by SP Manweb together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of SP Manweb for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as is given to the term “authorised development” in article 2 of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Part of this Schedule;

“commence” has the same meaning as in article 2 of this Order and commencement must be construed to have the same meaning

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of SP Manweb including construct, use, repair, alter, inspect, renew or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“SP Manweb” means SP Manweb PLC (Company No. 02366937) whose registered office is at 3 Prenton Way, Prenton, CH43 3ET or any successor company;

“specified works” means any of the authorised development or activities undertaken in association with the authorised development which:

- (a) will or may be situated over, or within 15 metres (measured in any direction) of any apparatus the removal of which has not been required by the undertaker under paragraph 45(2) or otherwise;
- (b) is reasonably likely to adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 45(2) or otherwise; and/or
- (c) include any of the activities that are referred to in SP Manweb's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

### **On Street Apparatus**

**43.** Except for paragraphs 47, 48 and 49 of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of SP Manweb, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and SP Manweb are regulated by the provisions of Part 3 of the 1991 Act.

### **Acquisition of land**

**44.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire or take temporary possession of any land interest of SP Manweb or appropriate, acquire, extinguish, interfere with or override any easement or other interest or right and/or apparatus of SP Manweb otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between SP Manweb and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of SP Manweb and/or affects the provisions of any enactment or agreement regulating the relations between SP Manweb and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as SP Manweb reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between SP Manweb and the undertaker acting reasonably and which must be no less favourable on the whole to SP Manweb unless otherwise agreed by SP Manweb, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.

(3) Where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SP Manweb and/or other enactments relied upon by SP Manweb as of right or other use in relation to the apparatus, then the provisions in this Schedule must prevail.

(4) No agreement or consent granted by SP Manweb under any other paragraph of this Part of this Schedule constitutes agreement under sub-paragraph (1).

### **Removal of apparatus**

**45.**—(1) If, in the exercise of the agreement reached in accordance with paragraph 44 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of SP Manweb to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of SP Manweb in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any specified works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to SP Manweb at least 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order SP Manweb reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph

(3), secure any necessary consents for the alternative apparatus and afford to SP Manweb to its satisfaction (taking into account paragraph 45(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the use and maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, SP Manweb must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between SP Manweb and the undertaker.

(5) SP Manweb must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to SP Manweb of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SP Manweb and/or other enactments relied upon by SP Manweb as of right or other use in relation to the apparatus, then the provisions in this Schedule must prevail.

#### **Facilities and rights for alternative apparatus**

**46.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for SP Manweb facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and SP Manweb and must be no less favourable on the whole to SP Manweb than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by SP Manweb.

(2) If the facilities and rights to be afforded by the undertaker and agreed with SP Manweb under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to SP Manweb than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 53 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to SP Manweb as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case. In respect of the appointment of an arbitrator under this sub-paragraph, article 44 (arbitration) applies.

#### **Retained apparatus: Protection of SP Manweb as Electricity Undertaker**

**47.**—(1) Not less than 56 days before the commencement of any specified works the removal of which has not been required by the undertaker under paragraph 45(2), the undertaker must submit to SP Manweb a plan of the works to be executed and seek from SP Manweb details of the underground extent of their electricity tower foundations.

(2) In relation to specified works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to SP Manweb under sub-paragraph (1) must include a method statement which is consistent with the principles set out in the outline method statement dated 17 October 2022 provided by the undertaker to SP Manweb and show and describe—



- (a) the exact position of the specified works;
- (b) the level at which the specified works are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) In relation to any specified works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity supports or between any two or more adjacent electricity supports which are within the Order limits or within 10 metres of the Order limits, the plan to be submitted under sub-paragraph (1) must include a method statement which, in addition to the matters set out in sub-paragraph (2), must—

- (a) describe details of any cable trench design including route, dimensions, clearance to support foundations;
- (b) demonstrate that support foundations will not be affected prior to, during and post construction;
- (c) describe load bearing capacities of trench supporting structures;
- (d) describe details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) provide a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
- (f) provide written details of the operations and maintenance regime for the cable, including frequency and method of access;
- (g) provide an assessment of earth rise potential if reasonably required by SP Manweb's engineers;
- (h) provide evidence that trench collapse resistance and supporting structures bearing capacity are to be designed to 26 tonnes to take the weight of overhead line construction traffic.

(4) The undertaker must not commence any works to which sub-paragraph (2) or (3) applies until SP Manweb has given written approval of the plan so submitted provided that SP Manweb must not unreasonably delay notification of its approval or disapproval.

(5) Any approval of SP Manweb required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,
- (b) must not be unreasonably withheld or delayed.

(6) If after the expiry of 56 days SP Manweb has not communicated approval or disapproval, SP Manweb is deemed to have approved the plans as supplied.

(7) In relation to any work requiring the submission of a plan under sub-paragraph (1), SP Manweb may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus and SP Manweb must notify the undertaker of such modifications within a period of 56 days beginning with the date on which the plan required under sub-paragraph (1) has been submitted to SP Manweb.

(8) Works requiring the submission of a plan under sub-paragraph (1) must only be executed in accordance with the plan as approved or as amended from time to time by agreement between the undertaker and SP Manweb and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5), (7), (9) or (10) by SP Manweb for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and SP Manweb will be entitled to watch and inspect the execution of those works.

(9) Where SP Manweb reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to SP Manweb's reasonable satisfaction prior to the commencement of any authorised development (or

any relevant part thereof) for which protective works are required and SP Manweb must give 56 days' notice of such works from the date of submission of a plan pursuant to sub-paragraph (1) or (7) (except in an emergency).

(10) If SP Manweb in accordance with sub-paragraphs (8) or (10) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (7) to (9) apply as if the removal of the apparatus had been required by the undertaker under paragraph 45(2).

(11) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised development, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph must apply to and in respect of the new plan.

(12) The undertaker must not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to the SP Manweb notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (7), (8) and (9) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (13) at all times.

(13) At all times when carrying out any works authorised under the Order, the undertaker must comply with statutory requirements and guidelines for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines" in relation to any apparatus and aligning with SP Manweb guidelines.

## **Expenses**

**48.—**(1) Subject to the following provisions of this paragraph, the undertaker must pay to SP Manweb on demand all reasonable charges, costs and expenses reasonably incurred by SP Manweb in direct consequence of the execution of any authorised development including without limitation in respect of: —

- (a) any costs reasonably incurred by or compensation properly paid by SP Manweb in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by SP Manweb as a consequence of SP Manweb;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 45(3); and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting SP Manweb;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works(including any temporary protective works and their removal);
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 44 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to SP Manweb by virtue of sub-paragraph (1) will be reduced by the amount of that excess

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to SP Manweb in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on SP Manweb any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

## **Indemnity**

**49.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of SP Manweb, or if there is any interruption in any service provided, or in the supply of any goods by SP Manweb, or SP Manweb becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay on demand accompanied by an invoice or claim from SP Manweb the cost reasonably and properly incurred by SP Manweb in making good such damage or restoring the supply; and
- (b) indemnify SP Manweb for any other expenses, loss, demands, proceedings, damages, claims, penalties or costs incurred by or recovered from SP Manweb, by reason or in consequence of any such damage or interruption or SP Manweb becoming liable to any third party as aforesaid other than arising from any default of SP Manweb

provided that at all times SP Manweb will be under an obligation to take reasonable steps to mitigate its loss.

(2) The fact that any act or thing may have been done by SP Manweb on behalf of the undertaker or in accordance with a plan approved by SP Manweb or in accordance with any requirement of SP Manweb as a consequence of the authorised development or under its supervision does not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this paragraph where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not materially accord with the approved plan (or as otherwise agreed between the undertaker and SP Manweb pursuant to paragraph 48).

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of SP Manweb, its officers, employees, contractors or agents;
- (b) any authorised development and/or any other works authorised by this Part of this Schedule carried out by SP Manweb as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 6 (benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised development yet to be executed and not falling within this sub-paragraph 38(b) will be subject to the full terms of this Part of this Schedule including this paragraph in respect of such new apparatus; and / or

- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) SP Manweb must give the undertaker reasonable notice of any claim or demand and no settlement, admission of liability or compromise or demand, unless payment is required in connection with a statutory compensation scheme, is to be made without first consulting the undertaker and considering its representations.

### **Enactments and agreements**

**50.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between SP Manweb and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and SP Manweb in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**51.**—(1) Where in consequence of the proposed construction of any of the authorised development, the undertaker or SP Manweb requires the removal of apparatus under paragraph 45(2) or SP Manweb makes requirements for the protection or alteration of apparatus under paragraph 47, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of SP Manweb’s undertaking and SP Manweb must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever SP Manweb’s consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by SP Manweb is required, it must not be unreasonably withheld or delayed.

### **Access**

**52.** If in consequence of the agreement reached in accordance with paragraph 44(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable SP Manweb to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**53.** Save for differences or disputes arising under paragraphs 45(2), 45(4), 45(1) and 47 any difference or dispute arising between the undertaker and SP Manweb under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and SP Manweb, determined by arbitration in accordance with article 44 (arbitration).

## **PART 5**

### **Protection for operators of electronic communications code networks**

**54.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the operator in question.

**55.** In this Part—

“the 2003 Act” means the Communications Act 2003<sup>(42)</sup>;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

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(42) 2003 c. 21.

“the electronic communications code” has the same meaning as in section 106(43) (application of the electronic communications code) of the 2003 Act;

“electronic communications code network” means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 (infrastructure system) of that code; and

“operator” means the operator of an electronic communications code network.

**56.** The exercise of the powers conferred by article 29 (statutory undertakers) are subject to Part 10 (undertaker’s works affecting electronic communications apparatus) of the electronic communications code.

**57.—**(1) Subject to sub-paragraphs (2) to (4), if as a result of the authorised development or its construction, or of any subsidence resulting from the authorised development—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost agreed by the undertaker in advance and reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part must be referred to and settled by arbitration under article 44 (arbitration).

(5) This Part does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised project.

(6) Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

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(43) Section 106 was amended by section 4 of the Digital Economy Act 2017 (c. 30).

## PART 6

### For the protection of Network Rail Infrastructure Limited

**58.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Network Rail and, where paragraph 72 applies, any other person on whom rights or obligations are conferred by that paragraph.

**59.** In this Part—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail.

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail by the Secretary of State in exercise of powers under section 8 of the Railways Act 1993<sup>(44)</sup>;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006<sup>(45)</sup>) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment;

“regulatory consents” means any consent or approval required under:

- (a) the Railways Act 1993;
- (b) the network licence; and/or
- (c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

“specified work” means so much of any of the authorised development as is or is to be situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

**60.**—(1) Where under this Part Network Rail is required to give its consent, agreement or approval in respect of any matter, that consent, agreement or approval is subject to the condition that Network Rail

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<sup>(44)</sup> 1993 c. 43.

<sup>(45)</sup> 2006 c. 46.

complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised project under this Order.

**61.**—(1) The undertaker must not exercise the powers conferred by—

- (a) article 3 (development consent granted by the Order);
- (b) article 5 (power to maintain the authorised development);
- (c) article 14 (discharge of water);
- (d) article 15 (authority to survey and investigate the land);
- (e) article 18 (compulsory acquisition of land);
- (f) article 20 (compulsory acquisition of rights);
- (g) article 22 (private rights);
- (h) article 24 (acquisition of subsoil only);
- (i) article 27 (temporary use of land for carrying out the authorised development);
- (j) article 28 (temporary use of land for maintaining the authorised development);
- (k) article 29 (statutory undertakers);
- (l) article 33 (felling or lopping of trees and removal of hedgerows);
- (m) article 34 (trees subject to tree preservation orders);
- (n) the powers conferred by section 11(3) (power of entry) of the 1965 Act;
- (o) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;
- (p) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;
- (q) any powers under in respect of the temporary possession of land under the Neighbourhood Planning Act 2017;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 29 (statutory undertakers) or article 22 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

**62.—**(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 44 (arbitration).

(2) The approval of the engineer under sub-paragraph 62 (1) must not be unreasonably withheld or delayed, and if after 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not communicated disapproval of those plans and the grounds of disapproval—

- (a) the undertaker may serve on the engineer written notice requiring the engineer to communicate approval or disapproval within a further period of 28 days beginning with the date on which the engineer receives written notice from the undertaker; and
- (b) if by the expiry of the further 28 days the engineer has not communicated approval or disapproval, the engineer is deemed to have approved the plans as supplied.

(3) If after the expiry of 28 days beginning with the date on which written notice was served on the engineer under sub-paragraph (1), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unreasonable delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's reasonable opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation, decommissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and—

- (a) such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker, in either case without unreasonable delay; and
- (b) the undertaker must not commence the construction of the specified works in question until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

**63.—**(1) Any specified work and any protective works to be constructed by virtue of paragraph 62(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 62;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic on it and the use by passengers of railway property.

(2) If any damage to railway property or any interference or obstruction referred to in sub-paragraph (1)(d) is caused by the carrying out of, or in consequence of, the construction of a specified work, the undertaker must, regardless of any approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its employees, contractors or agents or any liability on Network Rail with respect to any damage, costs, expenses or loss attributable to the negligence of the undertaker or its employees, contractors or agents.



**64.** The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

**65.** Network Rail must at all times afford reasonable facilities to the undertaker and its employees, contractors or agents for access to any works carried out by Network Rail under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

**66.—**(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe and efficient operation of the railway of Network Rail, such alterations or additions may be carried out by Network Rail.

(2) If Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations or additions which have been reasonably incurred by Network Rail, including, in respect of any such alterations or additions as are to be permanent, a capitalised sum representing the increase.

(3) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work that in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, regardless of any approval of the specified work under paragraph 62(1), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(4) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 67, provide such details of the formula or method of calculation by which those sums have been calculated as the undertaker may reasonably require.

(5) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

**67.** The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses agreed in advance with the undertaker and reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker under paragraph 62(3) or in constructing any protective works under paragraph 62(4);
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, guards and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the reasonable opinion of the engineer, need to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**68.—**(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 62(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)-

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 62(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 62(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker’s apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail’s apparatus.

(7) In the event of EMI having occurred –

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker’s apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail’s apparatus in the investigation of such EMI;
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail’s apparatus or such EMI; and
- (d) the undertaker must co-operate with Network Rail and take any reasonable measures promptly to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail’s apparatus pursuant to sub-paragraphs (5) or (6) –

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail’s apparatus;

- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 62.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 72(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 67(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 44 (Arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

**69.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as to not adversely affect railway property.

**70.** The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**71.** Any additional expenses that Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the date on which this Order is made by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be paid by the undertaker to Network Rail.

**72.—(1)** The undertaker must—

- (a) pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part which may be occasioned to or reasonably incurred by Network Rail—
- (b) by reason of the construction or maintenance of a specified work or its failure; or
  - (i) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged on a specified work;
  - (ii) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst access to or egress from the authorised development;
  - (iii) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;
  - (iv) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development; and
- (c) indemnify Network Rail and keep Network Rail indemnified from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission.

(2) The fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision does not (if it was done without negligence on the part of Network Rail or its employees, contractors or agents) excuse the undertaker from any liability under this Part.

(3) Network Rail must give the undertaker reasonable written notice of any claim or demand made against Network Rail that the undertaker may be liable to pay under this Part and no settlement or compromise of such a claim or demand is to be made without the prior written consent of the undertaker.

(4) The sums payable by the undertaker under sub-paragraph (1) if relevant include a sum equivalent to the relevant costs.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (1) which relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph (4) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that train operator under sub-paragraph (5).

(7) In this paragraph—

“relevant costs” means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1)

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**73.** Network Rail must, on receipt of a request from the undertaker, provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part (including the amount of the relevant costs mentioned in paragraph 72) and with such information as may enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made under this Part (including any claim relating to those relevant costs).

**74.** In the assessment of any sums payable to Network Rail under this Part there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.

**75.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works plan or the land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

**76.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993.

**77.** The undertaker must give written notice to Network Rail where any application is proposed to be made by the undertaker for the Secretary of State’s consent under article 6 (benefit of the order) and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**78.** The undertaker must, no later than 28 days from the date that the documents referred to in article 40 (certification of plans etc.) are certified by the Secretary of State, provide a set of those documents to Network Rail in an electronic format.

## PART 7

### For the protection of Rhyl Flats Wind Farm Limited

#### Application

**79.** The provisions of this Part apply for the protection of the Company unless otherwise agreed in writing between the undertaker and the Company.

#### Interpretation

**80.** In this Part—

“apparatus” means the cables, anchors, moorings, vessels, stabilisation systems, structures or other infrastructure owned, occupied or maintained by the Company or its successor in title within the Rhyl Flats Lease Area;

“Company” means Rhyl Flats Wind Farm Limited (company number 05485961) whose registered office is at Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, SN5 6PB;

“construction” includes execution, placing and relaying, and “construct” and “constructed” must be construed accordingly;

“method statement” means a written statement setting out the methodology for implementation of the specified works including—

- (a) construction methods and programmes;
- (b) vessel handling and positioning systems;
- (c) trenching/cable burial details;
- (d) scour protection and mattress laying;
- (e) securing access by the Company to apparatus throughout the duration of the specified works (subject to paragraph 84 of this Part);
- (f) such further particulars available to it that the Company may reasonably require;

“plans” includes sections, drawings, calculations and details of the specified works including the extent, timing and duration of any proposed occupation of the Rhyl Flats Restriction Zone;

“Rhyl Flats Restriction Zone” means the 250m restriction zone around the perimeter of the Rhyl Flats Lease Area;

“Rhyl Flats Lease Area” means the land leased by the Crown Estate Commissioners to the Company for the operation of the Rhyl Flats Offshore Wind Farm;

“Rhyl Flats Offshore Wind Farm” means the offshore wind farm operated by the Company within the Rhyl Flats Lease Area;

“specified works” means works for the construction, maintenance or replacement of so much of Work No. 2 as is within 250 metres of the perimeter of the Rhyl Flats Lease Area, including survey works;

#### Consent for specified works

**81.** Where conditions are included in any consent granted by the Company pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by the Company.

**82.—(1)** The undertaker must not under the powers of this Order carry out any specified works without the consent of the Company, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions (including in relation to co-ordination of works between the undertaker and the Company) and if the Company does not respond within 56 days then consent is deemed to be given.

**(2)** Any application for consent pursuant to sub-paragraph (1) must be accompanied by—

- (a) plans of the specified works;
- (b) a method statement;

(c) such further particulars available to the undertaker that the Company may reasonably require.

(3) Any approval of the Company required under this paragraph may be made subject to such reasonable conditions as may be required for the protection of any apparatus or for the alteration of any apparatus required as a direct consequence of the specified works or for securing access to any apparatus;

(4) Where the Company requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to the Company's reasonable satisfaction.

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any specified works, new plans or a revised method statement instead of the plans or method statement previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans or method statement.

(6) The specified works must be carried out in accordance with the consent given, or deemed to be given, in terms of sub-paragraph (1).

**83.—**(1) The undertaker must give to the Company not less than 28 days' written notice of its intention to commence the undertaking of the specified works and, not more than 14 days after completion of their implementation, must give the Company written notice of the completion.

(2) The undertaker is not required to comply with paragraph 82 or sub-paragraph (1) in a case of emergency, but in that case it must give to the Company notice as soon as is reasonably practicable and a plan, sections and description of those works as soon as reasonable practicable subsequently and must comply with paragraph 82 in so far as is reasonably practicable in the circumstances.

(3) The Company is entitled to have not more than two representatives present while any specified works are being carried out by the undertaker and the following provisions shall apply to such representatives—

- (a) Any representatives must be suitably qualified and must comply with the Marine Labour Convention (2006) standards, guidelines and regulations;
- (b) The representatives may be located on any vessel carrying out specified works and must have full and free access at all times to all activities related to the specified works;
- (c) The undertaker must afford the representatives its full cooperation in the execution of the representatives' duties; and
- (d) The representatives' only function is to safeguard the interests of the Company and they shall have no duty to ensure or procure the doing of anything for the benefit of the undertaker or to prevent anything which may be to the detriment of the undertaker, provided however that the representatives must act in good faith at all times.

**84.—**(1) The undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by the Company to any apparatus unless agreed with the Company and in accordance with any reasonable conditions which may be required by the Company or where required by law or for health and safety reasons.

(2) The undertaker must give to the Company not less than 28 days' written notice of its intention to exercise powers which will prevent or interfere with the access by the Company to any apparatus.

**85.** To ensure its compliance with this Part, the undertaker must before carrying out any specified works and at the undertaker's own cost, carry out all surveys reasonably necessary to confirm the actual position of apparatus unless otherwise agreed with the Company in writing, such agreement not to be unreasonably withheld or delayed. The Company shall provide on request any reasonable assistance required from the Company of the location of any apparatus.

**86.** The undertaker and the Company must each act in good faith and use reasonable endeavours to co-operate with, and provide assistance to, each other as may be required to give effect to the provisions of this Part.

## Expenses

**87.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to the Company on demand all reasonable charges, costs and expenses reasonably incurred by the Company direct consequence of the execution of any specified works including without limitation in respect of—

- (a) the approval of plans and method statements;
- (b) the carrying out of protective works (including any temporary protective works and their removal); and
- (c) the survey of any land, apparatus or works, the inspection and monitoring of any specified works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such specified works referred to in this Part of this Schedule; and
- (d) any additional costs incurred in the decommissioning of Rhyl Flats Offshore Wind Farm as a result of the specified works,

## Indemnity

**88.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the carrying out of any specified works authorised by this Part or in consequence of the construction, use, maintenance or failure of any of the authorised development within 250 metres of the perimeter of the Rhyl Flats Lease Area by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out any specified works (including without limitation specified works carried out by the undertaker under this Part), there is any subsidence resulting from any of these specified works, or any damage is caused to any apparatus or property of the Company, or as consequence of the specified works, there is any interruption or reduction in any electricity generated by the Company, or the Company becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from the Company the cost reasonably and properly incurred by the Company in making good such damage or restoring the supply; and
- (b) indemnify the Company for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs reasonably and properly incurred by or recovered from the Company, by reason or in consequence of any such damage or interruption or the Company becoming liable to any third party as aforesaid other than arising from any default by the Company,

provided that at all times the Company will be under an obligation to take reasonable steps to mitigate its loss.

(2) The fact that any act or thing may have been done by the Company on behalf of the undertaker or in accordance with a plan or method statement approved by the Company or in accordance with any requirement of the Company as a consequence of the carrying out of any specified works or under its supervision does not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this paragraph unless the Company fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not materially accord with the approved plan or as otherwise agreed between the undertaker and the Company.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of the Company, its officers, employees, contractors or agents;
- (b) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) The Company must give the undertaker reasonable notice of any claim or demand and no settlement, admission of liability or compromise or demand, unless payment is required in connection with a statutory compensation scheme, is to be made without first consulting the undertaker and considering its representation.

(5) The Company must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

## **Arbitration**

**89.** Any dispute arising between the undertaker and the Company under this Part must be determined by arbitration under article 44 (arbitration).

## **PART 8**

### **For the protection of Conwy County Borough Council**

**90.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Conwy County Borough Council.

**91.** In this Part:

“OPNMP” means Offshore Piling Noise Monitoring Plan, being the plan prepared by the undertaker in accordance with the Outline OPNMP and approved by Conwy County Borough Council under this Part.

“Conwy County Borough Council” means a local authority having its principal offices at Bodlondob, Bangor Road, Conwy LL32 8DU, and any successor in function as local authority under Part 3 of the Environmental Protection Act 1990 for area of Conwy.

“Outline offshore piling noise monitoring plan” or “outline OPNMP” means the document certified as such by the Secretary of State under article 40 for the purposes of this Order.

**92.—**(1) Prior to the commencement of any offshore piling as part of the authorised development the undertaker must submit to, and have approved in writing by Conwy County Borough Council, an OPNMP.

(2) The OPNMP submitted and approved under sub-paragraph (1) must be in accordance with the outline OPNMP.

**93.—**(1) The undertaker may, at any time following approval of an OPNMP under paragraph 92, submit to Conwy County Borough Council for approval a revised OPNMP.

(2) Any revised OPNMP submitted and approved under sub-paragraph (1) must be in accordance with the outline OPNMP.

(3) Any revised OPNMP will not take effect unless and until approved in writing by Conwy County Borough Council.

(4) On the date upon which a revised OPNMP is approved under this paragraph, any other OPNMP previously approved will cease to have effect.

**94.** The authorised development must be carried out in accordance with the OPNMP approved under paragraph 92 or a revised OPNMP approved under paragraph 93.

**95.** The undertaker will give Conwy County Borough Council not less than 7 working days’ notice of the anticipated start date for offshore piling works forming part of the authorised development.

**96.** Nothing in any OPNMP may conflict with requirement 4 of Schedule 2 of this Order.

**97.** Any approval required under this Part must not be unreasonably withheld or delayed.

**98.** Any difference or dispute arising between the undertaker and Conwy County Borough Council under this Part must, unless otherwise agreed in writing between the undertaker and Conwy County Borough Council, be determined by arbitration in accordance with article 44 (arbitration).

## **PART 9**

### **For the protection of Wales and West Utilities**

**99.** For the protection of Wales and West Utilities as referred to in this part of this Schedule the provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Wales and West Utilities Limited.



**100. In this Part—**

“alternative apparatus” means alternative apparatus adequate to enable Wales and West Utilities to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by Wales and West Utilities for the purposes of gas supply; including any structure in which apparatus is or is to be lodged or which will give access to apparatus;

“authorised development” has the same meaning as in article 2 (interpretation) of this Order and (unless otherwise specified) for the purposes of this Schedule shall include associated development and the use and maintenance of the authorised development;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“security infrastructure” includes cameras, perimeter fencing, fencing and gates and any other security measures required in order to ensure an appropriate level of security in respect of the authorised development or any apparatus;

“specified work” means so much of any of the works comprised in the authorised development or activities undertaken in association with the authorised development which:

- (a) are in, on or under any land purchased, leased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which is not required under paragraph 104 of this Schedule; and/or
- (b) will or may be situated within 4 metres measured in any direction of any security infrastructure belonging to or maintained by Wales and West Utilities;

“Wales and West Utilities” means Wales and West Utilities Limited (Company No. 05046791) whose registered office is at Wales & West House, Spooner Close Coedkernew, Newport, South Wales, NP10 8FZ.

**On street apparatus and offshore works**

**101. This Part does not apply to—**

- (a) apparatus in respect of which the relations between the undertaker and Wales and West Utilities are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; and
- (b) the offshore works.

**Apparatus in streets subject to temporary restriction**

**102.** Regardless of the temporary restriction of use of streets under the powers conferred by article 12 (temporary restriction of use of streets), Wales and West Utilities is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the restriction was in that street.

**Acquisition of land**

**103.** Regardless of any provision of this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

**Removal of apparatus**

**104.—(1)** If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that

Wales and West Utilities' apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Wales and West Utilities.

(2) If, for the purpose of executing any works in, on or under any land purchased, leased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give Wales and West Utilities at least 28 days' written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Wales and West Utilities reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (4), afford to Wales and West Utilities the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, Wales and West Utilities must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between Wales and West Utilities and the undertaker or in default of agreement settled by arbitration in accordance with article 44 (arbitration).

(5) Wales and West Utilities must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 44 (arbitration), and after the grant to Wales and West Utilities of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

### **Facilities and rights for alternative apparatus**

**105.**—(1) Where, in accordance with the provisions of this Part, the undertaker affords to Wales and West Utilities facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Wales and West Utilities or in default of agreement settled by arbitration in accordance with article 44 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Wales and West Utilities than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Wales and West Utilities as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

**106.**—(1) Not less than 42 days before starting the execution of any specified works in, on or under any land purchased, held, leased, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 104(2), the undertaker must submit to Wales and West Utilities a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Wales and West Utilities for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Wales and West Utilities is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Wales and West Utilities under sub-paragraph (2) must be made within a period of 42 days beginning with the date on which a plan, section and description under sub-paragraph (1) is submitted to it.

(4) If Wales and West Utilities, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, the provisions of this Part apply as if the removal of the apparatus had been required by the undertaker under paragraph 104(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to Wales and West Utilities notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

### **Expenses and costs**

**107.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Wales and West Utilities the reasonable expenses reasonably incurred by Wales and West Utilities in, or in connection with, the inspection, removal, alteration or protection of any apparatus or security infrastructure or the construction of any new apparatus or security infrastructure which may be required in consequence of the execution of any such works as are referred to in paragraph 104(2) or any specified work.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule and provided that the change is not required by industry standard guidance or legislation—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 44 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Wales and West Utilities by virtue of sub-paragraph (1) will be reduced by the amount of that excess.

**108.**—(1) Subject to sub-paragraph (2) and (3) if by reason or in consequence of the construction of any such works referred to in paragraph 104(2) or any specified work any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Wales and West Utilities, or there is any interruption in any service provided, or in the supply of any goods, by Wales and West Utilities, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Wales and West Utilities in making good such damage or restoring the supply; and
- (b) make reasonable compensation to Wales and West Utilities for any other expenses, loss, damages, penalty or costs incurred by Wales and West Utilities,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Wales and West Utilities, its officers, servants, contractors or agents.

(3) Wales and West Utilities must give the undertaker reasonable notice of any claim or demand and no settlement, admission of liability or compromise or demand must be made, unless payment is required in connection with a statutory compensation scheme, without first consulting the undertaker and considering its representations.

### **Enactments and agreements**

**109.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and Wales and West Utilities in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## **PART 10**

### **For the protection of Welsh Ministers as Strategic Highway Authority**

#### **Application**

**110.** The provisions of this Part have effect for the protection of the Welsh Ministers (“the WM”) as the Highway Authority for the A55, in addition to all other applicable statutory protections, unless otherwise agreed in writing between the undertaker and the WM.

#### **Interpretation**

**111.** In this Part—

“strategic highway” means any part of the highway network including trunk roads or special roads which the WM are responsible for;

“NMWTRA” means the North and Mid Wales Trunk Road Agency, who act as the highway agents of the WM and exercise functions relating to the management and operation of the relevant part of the strategic highway on behalf of the WM pursuant to an agreement between the WM and Gwynedd Council under section 6 of the Highways Act 1980. In practice therefore, the procedural matters contained in this Part will be dealt with by NMWTRA on behalf of the WM; and

“works” means—

- (a) that part of Work No. 23 which requires the trenchless installation of the cable under the A55 highway; or
- (b) any other work forming part of the authorised development within or which affects or requires occupation of the strategic highway.

#### **Approvals**

**112.** The crossing of the A55 and its associated assets must only be carried out by trenchless techniques.

**113.—**(1) Prior to the commencement of the works the undertaker must obtain the written approval of the WM to such works.

(2) When requesting approval under sub-paragraph (1), the undertaker must submit to the WM:

- (a) Copy of location plan to a scale not less than 1/10,000 showing the location and/or proposed route and siting of the works;
- (b) Details of the methodology of the works;
- (c) Details of the proposed timing of the works;
- (d) Details of any traffic management measures (including signage) proposed in connection with the works; and
- (e) Where approval is sought for works to or within the carriageway of a strategic highway, evidence of NHSS (National Highways Sector Scheme) certification and Street Works Qualifications.

**114.** No crossing is to take place until a monitoring regime and the Geotechnical Design Report (GDR as defined by the DMRB CD622 Managing Geotechnical Risk) is agreed and certified by the WM.

**115.** Approval under this Part may be sought in one or more applications.

**116.** Any approval of the WM under this Part may be given subject to such reasonable requirements or conditions as the WM may determine.

**117.** The undertaker must contact any owners or operators of apparatus in, on, over, under or near the strategic highway including other statutory undertakers to ascertain whether their existing or proposed apparatus to within or under the strategic highway is likely to be affected by the works. The undertaker must comply with the requirements and conditions imposed by the owners or operators relating to the protection of existing apparatus in, on, over, under or near the strategic highway likely to be affected by the works.

**118.** The undertaker must pay a fee of £250 to the WM with any application for approval under this Part.

### **Indemnity**

**119.** The undertaker indemnifies the WM against any and all claims in respect of injury, damage or loss arising out of—

- (a) the placing or presence in the strategic highway of apparatus as part of the works; or
- (b) the excavation by any person of any works within the strategic highway.

**120.** The undertaker (or any person carrying out works on its behalf) must have and maintain in force for the duration of any works to or within the strategic highway network, public liability/third party insurance to the sum of £10 million covering its liability under paragraph 119. The undertaker must provide evidence of such insurance to the WM if requested.

### **Traffic management**

**121.** The undertaker must contact the NMWTRA, the WM RA Control Room, North Wales Traffic Management Centre, Ffordd Sam Parri, Morfa, Conwy, LL32 8HH – Telephone number 01492 564790 before erecting or removal of traffic management measures on the strategic highway on each occasion that erection or removal is required.

**122.** The undertaker must execute the works in strict accordance with the requirements contained in Chapter 8 of the Traffic Signs Manual (2009) as published by Her Majesty's Stationery Office HMSO and any amendments thereof.

### **Inspections**

**123.** The WM or any person authorised by them for this purpose is entitled to inspect any works to, within or under the strategic highway while such works are being carried out and following completion of such works.

**124.** Exercise of the right to inspect under paragraph 123 must be carried out reasonably, in compliance with any requirements of any health and safety requirements in place within the site of any works, and in accordance with the instructions of the undertaker.

**125.** If required by the WM, the undertaker must provide link boxes (on land outside the limits of the highway) for the purpose of inspecting and maintaining the apparatus under the highway.

**126.—(1)** The undertaker must compensate the WM in respect of any loss, damage, charge, cost or expense suffered or incurred by the WM as a result of the execution, use or maintenance of the works.

**(2)** Nothing sub-paragraph (1) imposes any liability on the undertaker with respect of any damage to the extent that it is attributable to the act, neglect or default of WM, its officers, employees, contractors or agents.

## **Reinstatement**

**127.** Any reinstatement of the strategic highway required in connection with or as a consequence of the works must be carried out in strict conformity with the Code of Practice “Specification for the Reinstatement of Openings in Highways”.

**128.—(1)** Where, in the reasonable opinion of the WM, any reinstatement carried out by the undertaker is defective, three defect inspections will be carried out comprising:

- (a) A joint inspection by the WM and the undertaker to determine the nature of the failure and what remedial works need to be carried out;
- (b) Inspection by or on behalf of the WM of remedial works in progress; and
- (c) Inspection by or on behalf of the WM when remedial works have been completed.

(2) The undertaker must pay an inspection fee of £47.50 for each inspection carried out under this paragraph.

**129.** Any and all costs associated with the reinstatement work will be met by the undertaker.

## **Notice of completion of Works**

**130.** The undertaker must notify the WM of the completion of works approved by the WM under this Part within 10 working days of such completion.

**131.** The undertaker must supply the WM with as built records of any apparatus sited within or under the strategic highway within 10 working days of the completion of works, including, in particular, the location and depth of any electrical cables on a plan to a scale of 1/500 with a longitudinal and vertical accuracy of + or - 100mm.

**132.** The undertaker must submit a Geotechnical Feedback Report (GFR as defined in the DMRB CD622 Managing Geotechnical Risk) including all monitoring results and as built drawings to the WM no later than six months from the date of completion.

**133.** After the apparatus has been placed, the undertaker must not carry out any further works or maintenance to the apparatus or works or any other works involving excavation within the boundaries of the strategic highway without the prior written approval of the WM, and any such works must be carried out and completed to the satisfaction of WM.

## **Arbitration**

**134.** Any difference or dispute arising between the undertaker and the WM under this Part must, unless otherwise agreed in writing between the undertaker and the WM, be determined by arbitration in accordance with article 44 (arbitration).

## **Notices**

**135.** The plans submitted to the WM by the undertaker pursuant to this Part must be submitted to North & Mid Wales Trunk Road Agent, Unit 5 Llys Britannia, Parc Menai, Bangor, Gwynedd, LL57 4BN and [streetworks@nmwtra.org.uk](mailto:streetworks@nmwtra.org.uk) or such other address as the WM may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **Cease of Use or Abandonment**

**136.** If the undertaker proposes to cease using or abandon the apparatus prior to the decommissioning of the onshore works or to part with his interest in the apparatus, the undertaker must give the WM at least 6 weeks' notice before doing so.

**137.** If the apparatus is abandoned or the consent is surrendered prior to the decommissioning of the onshore works, the WM may remove the apparatus or alter it in such a manner as they think fit and reinstate the street and may recover from the undertaker the expenses incurred in so doing, except that if the WM is

satisfied that the undertaker can within such reasonable time as the WM specify, remove the apparatus or alter it in such manner as the WM require and reinstate the street, the WM may authorise the undertaker to do so at his own expense.

**138.** If the undertaker proposes to part with his interest in the apparatus, he must before doing so, give notice to the WM stating to whom the benefit of the consent is to be transferred. The consent must be registered against the street in which the apparatus is installed so that the consent and responsibility transfers to the new owner(s) of the apparatus.

## **Maintenance**

**139.** The undertaker must maintain the apparatus in a good state of repair and condition. The undertaker must if required place and maintain within the limits of the said highway suitable permanent signs of a type and in positions to be approved by the WM for the purpose of indicating as nearly as possible the exact position under the highway in which the said apparatus is laid.

## **PART 11**

### **For the protection of North Hoyle Wind Farm Limited**

#### **Application**

**140.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and North Hoyle Wind Farm Limited.

#### **Interpretation**

**141.** In this part—

“Company” means North Hoyle Wind Farm Limited (company number 02904841) whose registered address is at 5th Floor, 20 Fenchurch street. London, England, EC3M 3BY;

“Company cables” means the export cables leading from North Hoyle wind farm to their onshore grid connection;

“crossing points” means the points at which the Company cables and the undertaker cables cross each other;

“force majeure event” means any cause beyond the reasonable control of the undertaker, and which the undertaker by the exercise of reasonable diligence is unable to prevent, avoid or remove, and in relation to which the undertaker has exercised and is exercising the standard of a reasonable and prudent operator provided that a lack of funds shall not constitute a force majeure event;

“method statement” means such designs, details and procedures for performance of the work as are sufficient to enable the Company (acting reasonably) to satisfy itself as to the safety and security of the Company cables and the technical adequacy of the work, such designs, details and procedures shall as a minimum include—

(a) construction methods and programmes;

(b) vessel handling and positioning systems;

(c) stabilisation details;

(d) details of the vertical and horizontal separation between the Company cables and the undertaker cables;

(e) details of the proposed protection measures for the Company cables and provision of such protective works (whether temporary or permanent) as the Company may reasonably require for the safety and operation of the Company cables;

(f) the proposed timetable for the work;

- (g) location, layout and profile of the crossing of the Company cables by the undertaker cables;
- (h) specification of the installation equipment;
- (i) inspection and safety methods; and
- (j) copies of the approved cable burial risk assessment and cable route burial protocol;

“North Hoyle wind farm” means the offshore wind farm operated by the Company to the north east of Work No.2, the location of which is shown on Sheet No. 2 of the works plans;

“specified work” means any operation (including the anchoring of vessels) within 500 metres of the Company cables, including any work for the laying of the undertaker cables, crossing of the Company cables and the installation and any maintenance or remedial work of whatever nature (including removal) on the undertaker cables;

“standard of a reasonable and prudent operator” means seeking in good faith to perform its contractual obligations, and in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances and complying with applicable law; and

“undertaker cables” means the submarine AC power export cables to be installed by the undertaker in terms of Work No.2.

#### **Requirement for approval of method statement and surveys**

**142.** The undertaker must at least 3 months before commencing construction of any specified work supply to the Company a method statement for the reasonable approval of the Company and the specified work must not be commenced or undertaken except in accordance with such method statement as has been approved in writing by the Company, settled by arbitration under article 44 (arbitration) or as may be agreed to be varied from time to time, such agreement not to be unreasonably withheld or delayed.

**143.** If by the expiry of 28 days, beginning on the date on which the method statement was supplied to the Company under paragraph 3, the Company has not communicated approval or disapproval, the Company is deemed to have approved the method statement as supplied.

—(1) The undertaker shall, at its own cost, carry out all surveys reasonably necessary to confirm the actual position of the Company cables prior to the commencement of any specified work unless otherwise agreed with the Company in writing, such agreement not to be unreasonably withheld or delayed provided that—

(a) The Company shall provide on request, any reasonable assistance in locating the Company cables which shall include provision of any as-laid/post-installation survey data relating to the Company Cables in the possession and/or control of the Company; and

(b) If, following the provision of such reasonable assistance, the position of the Company cables has not been identified by the undertaker, the Company and the undertaker shall discuss and use all reasonable endeavours to agree upon a suitable method for carrying out the specified work.

**144.** In granting its approval (or deemed approval) of the method statement the Company shall not be under any duty to ensure the accuracy, correctness or completeness of the method statement. Approval (or deemed approval) of the method statement by the Company shall not release the undertaker from any obligation or liability and shall not as between the undertaker and the Company be capable of amounting to negligence or contributory negligence on the part of the Company in the event of any claim or proceedings arising out of or in connection with the specified works unless the loss, damage or expense giving rise to such claim or proceeding is caused by the wilful misconduct of the Company.

**145.** The undertaker shall use all reasonable endeavours to ensure the route of the undertaker cables shall be designed to cross the Company cables at a horizontal angle which is as close as possible to a right angle as is practicable having due regard to other route requirements.

#### **Requirement for notification of start of works**



**146.** The undertaker shall give the Company no less than 15 working days written notice of their intention to carry out any specified work providing—

(a) the nature of the work; and

(b) the anticipated dates of commencement and completion of the work

(2) In the event of the work not being commenced within 15 working days of the anticipated date of commencement as notified by the undertaker pursuant to sub-paragraph (1) the undertaker shall re-notify the information referred to in sub-paragraph (1).

#### **Carrying out of works**

**147.** The undertaker shall allow the Company all access to the Company cables as may be reasonably required by the Company for the purposes of maintenance when carrying out any specified works.

**148.** The undertaker shall ensure that the specified works are carried out with all reasonable skill and care, in accordance with all relevant statutory obligations and in accordance with the method statement for the specified works approved or deemed approved under paragraph or such alternative designs, details and procedures which the undertaker may propose and the Company may accept from time to time at its sole discretion.

**149.** Any contractor and/or subcontractor used by the undertaker for the purpose of the specified works shall be suitably qualified and experienced in carrying out the type of work for which it is engaged. The undertaker shall take and procure that its contractors and/or subcontractors shall take all such measures as ought reasonably to be taken in accordance with good offshore cable practice to avoid the risk of damage to the Company cables.

**150.** Either during the installation or as soon as practicable after the installation of the undertaker cables, the crossing points shall be inspected by the undertaker or on its behalf, at the undertaker's expense, by means of a remotely operated vehicle or by divers or such other method as shall be reasonably agreed by the Company, to ascertain that the undertaker cables and the Company cables have the agreed vertical separation distance at the crossing points in accordance with the method statement approved in accordance with paragraph 3. In the event that the undertaker cables and the Company cables have been adequately vertically separated then the undertaker shall consult with the Company to determine the most appropriate course of action and the undertaker shall, at its own expense then rectify the situation to provide such vertical separation.

—(1) The undertaker shall provide the Company with the actual as-laid route of the undertaker cables in the vicinity of the Company cables by—

(a) provision of co-ordinates of the crossing points within 48 hours after completion of installation of the undertaker cables in the vicinity of the cables; and

(b) provision of charted information of the crossing points as soon as practicable after the completion of the installation of the undertaker cables.

**151.** The undertaker shall ensure that the risk of dropped object, anchoring, grounding, vessel drift-off, impact from jack-up legs etc. will be adequately assessed and precautions taken to minimise such risks as far as reasonably possible.

#### **Future specified works**

**152.** Following the installation of the undertaker cables, the undertaker shall use all reasonable endeavours to consult the Company in good faith regarding any future specified work which may be required to the undertaker cables. The undertaker and Company shall work together to accommodate any such future specified work if this is required and shall use all reasonable endeavours to agree the timings and methods for any future specified work to be undertaken, such agreement not to be unreasonably withheld or delayed by the Company.

**153.** Notwithstanding the provisions of paragraph 15, if any future specified work is required which is of an urgent or emergency nature, the Company and the undertaker shall use all reasonable endeavours to

undertake such work in an expeditious manner and shall work together in good faith to enable such future specified work to be undertaken as required and the undertaker shall give the Company as much written notice as is reasonably possible in light of the emergency or urgency before undertaking such future specified work (including all relevant details of the proposed future specified work).

—(1) Subject to paragraph 16, where the undertaker requires to carry out any future specified work then the undertaker shall—

(a) provide the Company with not less than 1 months notification of its intention to carry out any such future specified work;

(b) provide the Company with all such reasonable information concerning the future specified work and the procedures for the conduct of the future specified work as the Company may reasonably require and the provisions of paragraphs 3 to 14 shall apply to any such future specified work mutatis mutandis except that

(i) the time period for providing a method statement under paragraph 3 shall be 1 month prior to the commencement of the future specified work;

(ii) the time period for approving a method statement under paragraph 4 shall be 15 working days

(iii) the time period for advising the anticipated dates of commencement and completion of the future specified work under paragraph 8 shall be 10 working days.

#### **Works on Company cables**

**154.**—(1) The Company shall be entitled, at the Company's expense, to carry out any operation required to re-lay, maintain, renew or remove the Company cables in the vicinity of and over the undertaker cables if such work becomes necessary for any reason provided that, when the Company proposes to undertake such work they shall follow the procedure set out in paragraphs 15 to 17 which applies with the following modifications—

(a) The references to the “the undertaker” shall be read as references to “the Company”;

(b) The references to “The Company” shall be read as references to “the undertaker”; and

(c) The references to “future specified work” shall be read as “work permitted under paragraph 18.”

#### **Restrictions on anchors and moorings**

**155.** The Company shall not deploy anchors or other ground mooring equipment within 250 metres of the Company cables unless in accordance with DNV Standards or otherwise except on obtaining, for the those cables or ground mooring equipment, written agreement of the Company (or the written agreement of representative of the Company supervising the work in terms of paragraph 25.

#### **Indemnity and liabilities**

**156.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works (including without limitation any specified work carried out by the undertaker or any subsidence resulting from any such work), any damage is caused to any apparatus or property of the Company or there is any interruption or reduction in any electricity supply by the Company or the Company becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from the Company the cost reasonably and properly incurred by the Company in making good such damage or restoring the supply;

(b) indemnify without limitation the Company for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the Company by reason or in consequence of any such damage, interruption or reduction or the Company becoming liable to any third party as aforesaid other than arising from any default by the Company; and

(c) Indemnify without limitation the Company for any and all claims, proceedings, damages (whether in contract or tort), costs (including reasonable legal costs), demands, liabilities, or expenses incurred by the Company which arises out of or in connection with any pollution caused by or which arises out of any specified work or in consequence of the construction, use, maintenance or failure of any of the authorised development carried out by or on behalf of the undertaker.

(2) The fact that any act or thing may have been done by the Company on behalf of the undertaker or in accordance with a plan or method statement approved by the Company or in accordance with any requirement of the Company or as a consequence of the authorised development or under its supervision does not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this paragraph where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not materially accord with the approved plan (or as otherwise agreed between the undertaker and the Company).

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the wilful misconduct of the Company;

(b) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

**157.** The Company must give the undertaker reasonable notice of any claim or demand and no settlement, admission of liability or compromise or demand, unless payment is required in connection with a statutory compensation scheme, is to be made without first consulting the undertaker and considering its representation.

**158.**—(1) The undertaker shall be responsible for the recovery or removal and when appropriate the marking or lighting of any wreck or debris arising from or relating to or in connection with its carrying out of a specified work when required by—

(a) any applicable law or governmental authority;

(b) any applicable consent or third party agreement that the Company is subject and/or a party to; or

(c) where such wreck or debris is interfering with the Company's operations or is a hazard to fishing or navigation, and shall be liable for, and shall indemnify and hold harmless the Company, from and against any and all claims, proceedings, damages (whether in contract or tort), costs (including reasonable legal costs), demands, liabilities, or expenses incurred by the Company which arises out of or in connection with any such wreck or debris, whether or not the negligence or breach of duty (whether statutory or otherwise) of the Company contributed to such wreck or debris.

**159.**—(1) In the event of the undertaker being liable for damage to the Company's cables, the Company may at its discretion either—

(a) require the undertaker to repair the damage; or

(b) carry out the repair work itself.

(2) Should the Company elect to carry out the repair work itself, the Company shall use all reasonable endeavours to minimise costs and shall take all reasonable action to repair the Company cables as soon as practicable. The repairs shall be effected with due regard to the technical requirements of the Company's cables and nothing in this paragraph shall oblige the Company to accept a standard of repair that would adversely affect the technical performance of the affected cable.

**160.** In the event of the undertaker being liable for damage to the Company Cables, the Company shall use all reasonable endeavours to notify the undertaker of the existence of the damage to the Company cables as soon as practicable after the existence of such damage is known.

**161.** The undertaker shall use reasonable endeavours to procure that any policies of insurance of the undertaker shall contain waiver of subrogation rights which reflect the provisions of this Part.

## **Representatives**

**162.**—(1) The Company shall be entitled to have not more than 2 representatives present while any specified work is being carried out by the undertaker whose role shall be as follows—

**163.** Any cost and logistics associated with onboarding and the services of the Company representatives shall be covered by the undertaker.

**164.** Any representatives must be suitably qualified and experienced and must comply with the Maritime Labour Convention 2006 Regulations.

**165.** The Representatives may be located on any vessel carrying out the specified work and shall have full and free access at all times to all activities related to the specified work.

**166.** The undertaker shall afford the representatives its full cooperation in the execution of the representative's duties under this paragraph.

**167.** The representatives only function is to safeguard the interests of the Company and he/she/they shall have no duty to ensure or procure the doing of anything for the benefit of undertaker or to prevent anything which may be to the detriment of the undertaker respectively, provided however that the representatives shall act in good faith at all times.

## **Insurance**

**168.**—(1) The undertaker shall arrange insurance as follows—

(a) The undertaker shall at all times when carrying out specified work, insure at its own cost for its liability under paragraphs 20 and 21 for the sum of twenty million pounds sterling (£20,000,000) for any one incident (or series of connected incidents) and forty million pounds sterling (£40,000,000) in total for any incident or series of incidents, related or unrelated, in any 12 month period.;

(b) All such policies of insurance shall be placed with an insurance office approved to do business in Germany or the United Kingdom; and

(c) The undertaker shall provide the Company with evidence of that such insurance is in place (via a brokers' confirmation or similar) as may be reasonably requested by the Company from time to time.

## **Force majeure**

**169.**—(1) The undertaker shall not be responsible for any failure to fulfil any paragraph of this Part if and to the extent that fulfilment has been delayed or temporarily prevented by a force majeure event which has been notified in accordance with the following provisions—

(a) In the event of a force majeure event, the undertaker shall notify the Company as soon as practicable and in any event not later than 10 working days after the undertaker became aware of the event or circumstance giving the full particulars thereof and shall use all reasonable endeavours to remedy the situation without delay;

(b) Following notification of a force majeure event in accordance with sub-paragraph (1)(b), the undertaker and the Company shall meet without delay (and thereafter at regular intervals) to discuss the effect of the force majeure event with a view to agreeing a mutually acceptable course of action to minimise any effects of such occurrence.

(c) The undertaker shall at all times use all reasonable endeavours to avoid, overcome and minimise any delay in the performance of this Part as a result of any force majeure event.

(d) If the undertaker is affected by force majeure event whilst any of its vessels or equipment are engaged in the performance of a specified work they shall ensure that all reasonable steps are taken to ensure the protection of the Company cables from damage and shall immediately notify the Company of any such steps taken.

(e) The undertaker shall give notice to the Company when it ceases to be affected by the force majeure event and shall as soon as reasonably possible after the cessation of the force majeure event resume performance of its obligations under this Part.

### Costs and expenses

**170.**—(1) The undertaker shall pay the Company on demand all reasonable charges, costs and expenses incurred by the Company in direct consequence of any work carried out by the Company under this Part Agreement including without limitation—

(a) The approval of method statements;

(b) the carrying out of protective works (including any temporary protective works and their removal;

(c) The supervision or monitoring of any specified work by the undertaker including the cost of appointing representatives in terms of paragraph 25; and

(d) The survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any specified work

## SCHEDULE 10

Article 33, 34

### Removal of hedgerows

#### PART 1

#### Removal of hedgerows

In the County of Denbighshire:

(1) Grid coordinates		(2) Identifier as shown on the hedgerow and protected tree plan	(3) Grid coordinates		(4) Identifier as shown on the hedgerow and protected tree plan
Easting	Northing		Easting	Northing	
303694.0846	381911.9131	1a	303697.8586	381905.0715	1b
303747.2684	381877.2178	2a	303771.0719	381834.9262	2b
303731.6670	381509.4788	7a	303750.5039	381516.2848	7b
303522.8675	381300.6002	8a	303522.5569	381297.6998	8b
303523.3617	381298.6499	9a	303534.0117	381294.3764	9b
303490.1055	381310.6278	10a	303710.5880	381216.4533	10b
303807.8720	381203.4258	11c	303882.3816	381228.3244	11d
303895.3744	381226.2307	12a	303914.1387	381239.6365	12b
303426.7464	381308.5989	13a	303522.0693	381280.0256	13b
303531.6935	381283.1523	14a	303585.1852	381261.1725	14b
303588.5101	381260.2889	15a	303622.4724	381234.2211	15b
303522.7895	381274.1257	17a	303490.8352	381005.0604	17b
303531.0665	381272.8927	18a	303530.4510	381262.7995	18b
303519.7901	381144.0378	18c	303601.0972	381005.4255	18d
303566.2179	380965.3189	19a	303572.7694	380950.3519	19b
303574.4044	380948.2526	20a	303579.0346	380939.0641	20b

303688.1983	380564.9667	26a	303687.3823	380561.3249	26b
303869.7446	380292.9473	27a	303869.7690	380291.0761	27b
303253.0806	380056.8164	31a	303128.8170	379887.5737	31b
303153.2825	379910.0630	32a	303154.0471	379909.0274	32b
302993.3678	379759.8728	35a	302990.4299	379757.0127	35b
302820.6141	379933.5783	36a	302833.1582	379917.8984	36b
302846.4346	379899.6087	36c	302885.2082	379849.5469	36d
302648.4295	379819.0703	37a	302657.5400	379808.7100	37b
302660.2373	379805.4784	38a	302661.9802	379803.0489	38b
302675.6556	379762.0005	39a	302660.6878	379748.5218	39b
302625.2987	379205.6274	44a	302576.8766	379171.5079	44b
302458.0905	379296.3590	45a	302449.1863	379210.3617	45b
302299.0484	379049.9845	46a	302294.7828	379048.6532	46b
302291.7395	379047.6196	47a	302226.5132	379025.8103	47b
302223.9130	379024.7028	48a	302215.3100	379021.4800	48b
302209.5755	379018.1102	49a	302184.1972	379008.1654	49b
302179.5677	379006.0837	50a	302156.1181	378995.4916	50b
302126.3739	378983.1435	51a	302114.1056	378977.2881	51b
302119.3719	378967.4303	52a	302142.9106	378930.2708	52b
301893.0644	379192.4210	53a	301892.6839	379192.3103	53b
301877.1511	378770.4162	54a	301865.4827	378799.7144	54b
301600.4199	378757.4880	55a	301625.2856	378688.9217	55b
301059.8581	378019.0146	56a	301100.9220	377978.0528	56b
301113.6865	377975.7772	57a	301108.3404	377968.4173	57b
300926.1923	377821.3486	58a	300935.9832	377823.0802	58b
301040.8880	377844.2614	58c	301139.9519	377864.2193	58d
301178.2275	377772.9145	59a	301178.6556	377771.7190	59b
300942.8072	377718.6145	60a	301185.3991	377735.0844	60b
301135.6033	377716.5162	61a	301189.6392	377720.6219	61b
301398.1778	376945.6660	65a	301435.9200	376957.9363	65b
301439.6227	376959.1581	66a	301440.9751	376959.6109	66b
301340.5943	376933.0417	67a	301348.8754	376921.6067	67b
301483.6992	376927.2571	68a	301535.3155	376841.8586	68b
301543.2426	376952.1042	69a	301548.6748	376949.4996	69b
301411.4758	376798.4324	70a	301503.3601	376775.9686	70b
301251.2137	376687.3857	71a	301283.5989	376688.6272	71b
301351.6593	376721.5214	72a	301424.3480	376748.7635	72b
301417.1268	376726.5421	73a	301540.1800	376763.2900	73b
301597.8254	376784.5428	74a	301636.3689	376793.9926	74b
301329.9663	376605.4732	75a	301331.5838	376604.1338	75b
301380.0707	376571.3384	76a	301382.1983	376521.8701	76b
301385.6072	376577.4382	77a	301461.6221	376517.6106	77b
301386.2694	376507.8689	78a	301386.9338	376507.5883	78b
301399.6270	376499.4751	78c	301481.3858	376507.4326	78d
301321.1867	376207.2021	79a	301396.8043	376181.5731	79b
301360.7880	376071.1064	80a	301371.3661	376077.7757	80b
301376.4548	376079.6882	81a	301392.6899	376097.2130	81b
301552.7887	375768.6846	83a	301552.6985	375768.2212	83b
301505.8091	375661.6403	84a	301501.7356	375658.0956	84b
301550.8368	375454.9917	85a	301469.4976	375232.5125	85b
301295.5593	375356.8871	86a	301284.0562	375332.7066	86b

301291.9100	375331.2750	87a	301290.3919	375329.6637	87b
301522.1303	375141.2921	90a	301535.5542	375134.5978	90b
301538.8138	375132.6620	90c	301581.8807	375109.5212	90d
301441.4785	375160.9135	91a	301439.8971	375156.1940	91b
301336.5148	375073.2827	92a	301395.8226	375052.4328	92b
301429.8438	375040.3316	93a	301449.1740	375033.3333	93b
301335.7864	375063.5880	94a	301404.0815	375037.0075	94b
301331.2717	375003.5100	95a	301380.2115	374975.2830	95b
301330.5357	374993.7159	96a	301335.3257	374907.8518	96b
301324.3604	374881.7947	96c	301309.3147	374846.0413	96d
301362.2150	374954.4850	97a	301336.1819	374890.4259	97b
301333.1390	374882.8614	97c	301319.4721	374848.8857	97d
301310.4525	374774.2800	98a	301345.6859	374760.2155	98b
300885.5889	374785.5968	102a	300882.4936	374779.8038	102b
301068.0694	374773.3361	103a	301062.1915	374762.1000	103b
301061.0294	374759.8826	104a	301159.0155	374581.8607	104b
300617.5293	373912.2865	116a	300963.1597	373902.2300	116b
300704.5240	373901.8825	118a	300932.5488	373902.9225	118b
300878.1356	373911.5740	119a	300877.5953	373904.0986	119b
300939.9891	373898.0797	120a	300936.5500	373892.4050	120b
300975.0237	373891.9681	121a	301016.1933	373893.4556	121b
300976.9452	373891.6503	122a	300976.4263	373890.6580	122b
300894.6329	373528.5806	125a	300941.1543	373595.0381	125b
300944.6884	373598.7511	126a	300956.6017	373613.1682	126b
300962.2269	373620.1269	127a	300968.5937	373627.3246	127b
300955.9716	373637.9709	128a	300966.0851	373631.6772	128b
300991.1423	373476.2105	129a	301039.8634	373597.6916	129b
301046.4372	373596.3921	129c	301066.9583	373578.6478	129d
301082.6046	373563.8666	129e	301118.4151	373574.5454	129f
301158.2941	373641.0066	129g	301182.9117	373649.3082	129h
301213.8582	373651.0086	130a	301213.6000	373649.0000	130b
301680.6502	373632.7532	139a	301679.3321	373628.3198	139b
301678.0035	373624.3178	140a	301669.6626	373608.3788	140b
301680.4300	373523.6900	141a	301611.9363	373499.1482	141b
301608.0072	373492.9993	142a	301551.4680	373421.5144	142b
301574.9383	373423.9092	143a	301593.2298	373392.7753	143b
301992.6462	373912.9277	144a	302091.2795	373907.0990	144b

## PART 2

### Removal of important hedgerows

In the county of Denbighshire

(1) Grid coordinates		(2) Identifier as shown on the hedgerow and protected tree plan	(3) Grid coordinates		(4) Identifier as shown on the hedgerow and protected tree plans
Easting	Northing		Easting	Northing	

303602.6946	381758.4708	3a	303642.8454	381771.5142	3b
303747.1908	381733.2103	3c	303748.8867	381733.0910	3d
303599.6223	381695.4207	4a	303638.7066	381682.0271	4b
303636.5439	381653.9860	5a	303591.5423	381590.6678	5b
303550.5113	381537.4927	5c	303549.7134	381535.7033	5d
303582.5823	381481.0616	6a	303619.4508	381464.6001	6b
303722.4879	381503.1983	6c	303728.3984	381504.0994	6d
303716.8499	381215.3614	11a	303766.7680	381201.6167	11b
303587.2923	381261.4715	16a	303607.5208	381089.1316	16b
303454.2809	380858.6342	21a	303523.7908	380756.6575	21b
303406.4796	380732.4038	22a	303422.2253	380709.9264	22b
303514.6770	380717.4663	23a	303445.4284	380665.1886	23b
303423.3507	380707.4332	24a	303487.5907	380600.9906	24b
303423.0674	380615.7298	25a	303376.7054	380594.6071	25b
303313.8530	380273.2393	28a	303345.4800	380247.3600	28b
303351.1200	380243.9700	29a	303400.3981	380229.2530	29b
303182.7664	380181.7520	30a	303263.3023	380105.0588	30b
303014.5560	380054.8393	33a	303058.4786	379961.2907	33b
302824.3780	379936.0732	34a	302836.7643	379920.2888	34b
302848.9828	379903.4256	34c	302887.8670	379853.5545	34d
302789.8651	379524.1598	40a	302753.7921	379493.4291	40b
302742.3745	379469.4856	41a	302776.8746	379401.1245	41b
302709.7910	379260.3336	42a	302724.7899	379255.4606	42b
302761.8159	379245.2290	43a	302834.4002	379242.9368	43b
301198.4372	377549.3395	62a	301232.6212	377573.0609	62b
301297.7253	377264.2509	63a	301326.1962	377302.9632	63b
301349.0174	377107.7158	64a	301370.8906	377099.0665	64b
301586.3725	375794.1638	82a	301635.9165	375804.6369	82b
301651.5932	375242.3246	88a	301678.0414	375249.1403	88b
301589.5401	375105.1571	89a	301576.8578	375067.7877	89b
301310.4525	374774.2800	98a	301345.6859	374760.2155	98b
301310.4910	374772.9200	99a	301342.1147	374752.6604	99b
301359.3800	374747.9700	100a	301391.7012	374736.4793	100b
301329.3939	374747.0765	101a	301309.6110	374638.0282	101b
301161.6436	374590.3224	105a	301158.2411	374585.2414	105b
301166.7782	374571.3288	106a	301283.0116	374473.2354	106b
301162.5366	374566.1094	107a	301246.0330	374488.4123	107b
301150.8697	374563.7360	108a	301116.9195	374467.2253	108b
301037.6991	374514.0069	109a	301117.1940	374472.9876	109b
300969.3214	374532.8325	110a	301115.2139	374462.8914	110b
300924.5375	374427.5555	111a	300791.6201	374133.1351	111b
300689.2556	374015.4074	112a	300993.1389	374050.8012	112b
301078.1072	374365.3944	113a	300968.8765	373907.8090	113b
301221.3716	374398.3799	114a	301056.5277	374274.2700	114b
301005.5984	374014.0326	115a	301063.7304	373920.3772	115b
300967.9757	373904.1307	117a	301142.4425	373918.4309	117b
300743.3942	373751.4498	123a	300778.6163	373793.0664	123b
300828.3441	373619.4934	124a	300875.7020	373657.6045	124b
301110.0994	373518.5962	131a	301069.4548	373465.5816	131b
301269.3706	373633.6656	132a	301252.2281	373553.6398	132b
301250.3550	373550.3273	133a	301240.5413	373535.5265	133b



301239.0375	373533.6646	134a	301205.0121	373495.2077	134b
301386.9960	373645.5296	135a	301374.0034	373402.4933	135b
301308.3203	373454.5191	136a	301248.9954	373393.8751	136b
301240.2741	373386.0923	137a	301212.3840	373356.8455	137b
301517.2126	373640.7633	138a	301426.2316	373420.1446	138b

## SCHEDULE 11

Article 3

### Approval of matters specified in requirements

#### Interpretation

**1.** In this Schedule “application” means an application for any consent, agreement or approval required by a requirement whether or not the application seeks to discharge a requirement in whole or in part.

#### Applications made under requirements

**2.** Where an application has been made to the relevant planning authority for any agreement or approval required pursuant to a requirement included in this Order, the relevant planning authority must give notice to the undertaker of their decision, including the reasons, on the application, within a period of 13 weeks beginning with—

- (a) the day immediately following that on which the application is received by the relevant planning authority; or
- (b) such longer period as may be agreed by the undertaker and the relevant planning authority.

#### Further information

**3.—(1)** Where an application has been made under paragraph 2 the relevant planning authority has the right to request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) If the relevant planning authority considers further information is needed, and the requirement does not specify that consultation with a requirement consultee is required, it must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement indicates that consultation must take place with a consultee the relevant planning authority must issue the consultation to the requirement consultee within five working days of receipt of the application. Where the consultee requires further information they must notify the relevant planning authority in writing specifying the further information required within 21 days of receipt of the consultation. The relevant planning authority must notify the undertaker in writing specifying any further information requested by the consultee within five working days of receipt of such a request.

(4) In the event that the relevant planning authority does not give such notification as specified in sub-paragraphs (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

#### Provision of information by Consultees

**4.—(1)** Any consultee who receives a consultation under paragraph 3(3) must respond to that request within 28 days from receipt unless sub-paragraph (2) of this paragraph applies.

(2) Where any consultee requests further information in accordance with the timescales set out in paragraph 3(3) then they must respond to the consultation within ten working days from the receipt of the further information requested.

## Fees

5.—(1) Where an application is made to the relevant planning authority for agreement or approval in respect of a requirement the fee for the discharge of conditions as specified in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (Wales) Regulations 2015<sup>(46)</sup> (or any regulations replacing the same) is to be paid by the undertaker to the relevant planning authority in accordance with these regulations.

(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of the application being rejected as invalidly made.

## Appeal

6.—(1) The undertaker may appeal in the event that—

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions; or
- (b) within the time period specified in paragraph (2).

(2) The appeal process is to be as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal (together with the undertaker, these are the “appeal parties”);
- (b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (the “appointed person”) to determine the appeal and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (2);
- (c) the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal must submit written representations to the appointed person in respect of the appeal within ten working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties must make any counter-submissions to the appointed person within ten working days of receipt of written representations pursuant to sub-paragraph (2)(c); and
- (e) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (2)(d).

(3) The appointment of the person pursuant to sub-paragraph (2)(b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to consider the appeal, the appointed person must notify the appeal parties in writing specifying the further information required and the date by which the information is to be submitted and the appointed person must make any notification and set the date for the receipt of such further information having regard to the timescales in sub-paragraph (2).

(5) Any further information required under sub-paragraph (4) must be provided by the appeal party from whom the further information was requested to the appointed person and other appeal parties, the relevant planning authority and any consultee required to be consulted pursuant to the requirement the subject of the appeal on the date specified by the appointed person (the “specified date”), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten working days of the specified date but otherwise is to be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (2)(e).

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<sup>(46)</sup> S.I 2015/1522(W.179)

(6) On an appeal under this sub-paragraph, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not).

(7) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

(8) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case and may deal with the application as if it had been made to the appointed person in the first instance.

(9) The decision of the appointed person on an appeal is to be final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(10) If an approval is given by the appointed person pursuant to this paragraph, it is to be deemed to be an approval for the purpose of Schedule 11 as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(12) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Welsh Government's 'Development Management Manual Section 12 Annex: Award of costs' or any circular or guidance which may from time to time replace it.

## SCHEDULE 12

Article 44

### Arbitration rules

#### Primary objective

1.—(1) The primary objective of these arbitration rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within four months from the date the arbitrator is appointed pursuant to article 44 (arbitration) of the Order.

(2) The parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the parties. Any dispute which is not resolved amicably by the senior management of the parties within twenty business days of the dispute arising, or such longer period as agreed in writing by the parties, will be subject to arbitration in accordance with the terms of this Schedule.

(3) The arbitration will be deemed to have commenced when a party (the "claimant") serves a written notice of arbitration on the other party (the "respondent").

#### Time periods

2.—(1) All time periods in these arbitration rules will be measured in business days and this will exclude weekends and bank holidays.

(2) Time periods will be calculated from the day after the arbitrator is appointed which will be either—

- (a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the arbitrator is appointed by the Secretary of State.

## **Timetable**

**3.—**(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

- (a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant's contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the claimant's statements under sub-paragraph (2) by the arbitrator and respondent, the respondent must provide the claimant and the arbitrator with—

- (a) a written statement of defence responding to the claimant's statement of claim, its statement in respect of the nature of the difference, the legal and factual issues in the claimant's claim, its acceptance of any element(s) of the claimant's claim, its contentions as to those element(s) of the claimant's claim it does not accept;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
- (c) any objections it wishes to make to the claimant's statements, comments on the claimant's expert report(s) (if submitted by the claimant) and explanations for the objections.

(4) Within five days of the respondent serving its statements sub-paragraph (3), the claimant may make a statement of reply by providing both the respondent and the arbitrator with—

- (a) a written statement responding to the respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the respondent's submissions;
- (c) any expert report in response to the respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

## **Procedure**

**4.—**(1) The arbitrator will make an award on the substantive difference based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within five days of receiving the last submission, the arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within ten days of the arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any expert(s) attending the hearing may be asked questions by the arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the arbitrator will invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within ten days of the issues being provided; and
- (c) the form and content of a joint report will be as directed by the arbitrator and must be provided at least five days before the hearing.

(7) Within ten days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator will take these submissions into account in the award.

(8) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The arbitrator's award must include reasons. The parties will accept that the extent to which reasons are given is to be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

### **Arbitrator's powers**

**5.—**(1) The arbitrator has all the powers of the Arbitration Act 1996(a), including the non-mandatory sections, save where modified by these rules.

(2) There will be no discovery or disclosure, except that the arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no later than the statement of reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a redfern schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales and/or procedure—

- (a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then; and
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

### **Costs**

**6.—**(1) The costs of the arbitration will include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the arbitration.

(2) Subject to sub-paragraph (3), the arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

## Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be confidential and will only be publicly disclosed where required by law or with the agreement of both parties.

(2) The arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph prevents any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

## SCHEDULE 13

Article 40

### Documents to be certified

The following documents in Table 5 are the list referred to in article 40—

**Table 5**

<i>Document Number</i>	<i>Examination Library Reference</i>	<i>Name</i>	<i>Version</i>	<i>Date</i>
3a.11	REP3a-011	Land plan (Offshore)	B	16 December 2022
2.3	REP6-028	Land plan (Onshore)	E	20 February 2023
2.5	REP6-029	Works Plan	D	20 February 2023
4.3	REP8-025	Book of Reference	I	15 March 2023
Environmental Statement				
6.7.1.	APP-293	Non Technical Summary	B	20 April 2022
6.7.2.	APP-294	Non-Technical Summary (Welsh Language Version)	B	20 April 2022
6.8.1.	APP-295	Scoping Opinion	A	20 April 2022
Volume 1 – Introductory Chapters				
6.1.1.	AS-024	Volume 1, Chapter 1: Introduction	C	31 May 2022 (cover incorrectly states April 2022)
6.1.2.	APP-040	Volume 1, Chapter 2: Policy and Legislation	B	20 April 2022
6.1.3.	REP8-056	Volume 1, Chapter 3: Environmental Impact Assessment Methodology	C	15 March 2023
6.1.4.	APP-044	Volume 1, Chapter 4: Site	B	20 April 2022

		Selection and Alternatives		
6.1.3.1.	APP-042	Volume 1, Annex 3.1: Cumulative Effects Assessment	B	20 April 2022
6.1.3.2.	APP-043	Volume 1, Annex 3.2: Transboundary Screening	B	20 April 2022
6.1.4.1.	APP-045	Volume 1, Annex 4.1: SSA Identification of Area of Search Report	B	20 April 2022
6.1.4.2.	APP-046	Volume 1, Annex 4.2: SSA Shortlisting Outcomes Report	B	20 April 2022
Volume 2 – Offshore Chapters				
6.2.1.	APP-047	Volume 2, Chapter 1: Offshore Project Description	B	20 April 2022
6.2.2.	REP8-084	Volume 2, Chapter 2: Marine Geology, Oceanography and Physical Processes	C	15 March 2023
6.2.3.	APP-049	Volume 2, Chapter 3: Marine Water and Sediment Quality	B	20 April 2022
6.2.4.	REP8-085	Volume 2, Chapter 4: Offshore Ornithology	C	15 March 2023
6.2.5.	APP-051	Volume 2, Chapter 5: Benthic Subtidal and Intertidal Ecology	B	20 April 2022
6.2.6.	REP8-057	Volume 2, Chapter 6: Fish and Shellfish Ecology	C	15 March 2023
6.2.7.	REP8-081	Volume 2, Chapter 7: Marine Mammals	D	15 March 2023
6.2.8.	REP8-086	Volume 2, Chapter 8:	C	15 March 2023

		Commercial Fisheries		
6.2.9.	APP-055	Volume 2, Chapter 9: Shipping and Navigation	B	20 April 2022
6.2.10.	REP8-082	Volume 2, Chapter 10: Seascape, Landscape and Visual Impact Assessment	D	15 March 2023
6.2.11.	REP8-058	Volume 2, Chapter 11: Offshore Archaeology and Cultural Heritage	C	15 March 2023
6.2.12.	APP-058	Volume 2, Chapter 12: Other Marine Users and Activities	B	20 April 2022
6.2.13.	APP-059	Volume 2, Chapter 13: Military and Civil Aviation	B	20 April 2022
6.2.14.	REP8-059	Volume 2, Chapter 14: Inter-relationships	C	15 March 2023
6.2.15.	AS-028	Volume 2, Chapter 15: Offshore Conclusions	C (Document states Rev B, but is different to Rev B as submitted as APP-061)	31 May 2022 (Document states March 2022 but is different to Rev B APP-061)
Volume 3 – Onshore Chapters				
6.3.1.	REP8-060	Volume 3, Chapter 1: Onshore Project Description	C	15 March 2023
6.3.2.	REP8-087	Volume 3, Chapter 2: Landscape and Visual Impact Assessment	D	15 March 2023
6.3.3.	REP8-088	Volume 3, Chapter 3: Socio-Economics	D	15 March 2023
6.3.4.	APP-065	Volume 3, Chapter 4: Tourism and Recreation	B	20 April 2022
6.3.5.	REP8-061	Volume 3, Chapter 5:	C	15 March 2023



		Onshore Biodiversity and Nature Conservation		
6.3.6.	REP8-062 Document 8.47 of the Applicant's Deadline 8 submission	Volume 3, Chapter 6: Ground Conditions and Land Use	C	15 March 2023
6.3.7.	REP8-063	Volume 3, Chapter 7: Hydrology, Hydrogeology and Flood Risk	C	15 March 2023
6.3.8.	REP8-064	Volume 3, Chapter 8: Onshore Archaeology and Cultural Heritage	C	15 March 2023
6.3.9.	APP-070	Volume 3, Chapter 9: Traffic and Transport	B	20 April 2022
6.3.10.	REP8-065 Document 8.50 of the Applicant's Deadline 8 submission	Volume 3, Chapter 10: Noise and Vibration	C	15 March 2023
6.3.11.	AS-030	Volume 3, Chapter 11: Air Quality	C	31 May 2022 (cover incorrectly states April 2022)
6.3.12.	APP-073	Volume 3, Chapter 12: Public Health	B	20 April 2022
6.3.13.	REP8-066	Volume 3, Chapter 13: Onshore Conclusions	C	15 March 2023
<b>Volume 4 – Offshore Annexes</b>				
6.4.2.1.	APP-075	Volume 4, Annex 2.1: Physical Processes Baseline Technical Report	B	20 April 2022
6.4.2.2.	APP-076	Volume 4, Annex 2.2: Physical Processes Model Calibration	B	20 April 2022
6.4.2.3.	APP-077	Volume 4, Annex 2.3: Physical	B	20 April 2022

		Processes Modelling Results		
6.4.2.4.1	APP-078	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 1)	A	20 April 2022
6.4.2.4.2	APP-079	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 2)	A	20 April 2022
6.4.2.4.3	APP-080	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 3)	A	20 April 2022
6.4.2.4.4	APP-081	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 4)	A	20 April 2022
6.4.2.4.5	APP-082	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 5)	A	20 April 2022
6.4.2.4.6	APP-083	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 6)	A	20 April 2022
6.4.2.4.7	APP-084	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 7)	A	20 April 2022
6.4.2.4.8	APP-085	Volume 4, Annex 2.4: Seafloor and Shallow	A	20 April 2022

		Geological Results (Array) (Part 8)		
6.4.2.4.9	APP-086	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 9)	A	20 April 2022
6.4.2.4.10	APP-087	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 10)	A	20 April 2022
6.4.2.4.11	APP-088	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 11)	A	20 April 2022
6.4.2.4.12	APP-089	Volume 4, Annex 2.4: Seafloor and Shallow Geological Results (Array) (Part 12)	A	20 April 2022
6.4.2.5.1	APP-090	Volume 4, Annex 2.5: Seafloor and Shallow Geological Results (Offshore ECC) (Part 1)	A	20 April 2022
6.4.2.5.2	APP-091	Volume 4, Annex 2.5: Seafloor and Shallow Geological Results (Offshore ECC) (Part 2)	A	20 April 2022
6.4.2.5.3	APP-092	Volume 4, Annex 2.5: Seafloor and Shallow Geological Results (Offshore ECC) (Part 3)	A	20 April 2022

6.4.2.5.4	APP-093	Volume 4, Annex 2.5: Seafloor and Shallow Geological Results (Offshore ECC) (Part 4)	A	20 April 2022
6.4.3.1.	REP8-067	Volume 4, Annex 3.1: Water Framework Directive Compliance Assessment	C	15 March 2023
6.4.4.1.	APP-095	Volume 4, Annex 4.1: Offshore Ornithology Baseline Characterisation Report	B	20 April 2022
6.4.4.2.	APP-096	Volume 4, Annex 4.2: Offshore Ornithology Displacement	B	20 April 2022
6.4.4.3.	APP-097	Volume 4, Annex 4.3: Offshore Ornithology Collision Risk Modelling	B	20 April 2022
6.4.4.4.	APP-098	Volume 4, Annex 4.4: Migratory Collision Risk Modelling	B	20 April 2022
6.4.4.5.	APP-099	Volume 4, Annex 4.5: Offshore Ornithology Scoping and Consultation Responses	A	20 April 2022
6.4.4.6.	APP-100	Volume 4, Annex 4.6: Offshore Ornithology Population Viability Analysis	B	20 April 2022
6.4.5.1.	APP-101	Volume 4, Annex 5.1: Benthic Ecology Subtidal	A	20 April 2022

		Characterisation (Array)		
6.4.5.2.	APP-102	Volume 4, Annex 5.2: Benthic Ecology Subtidal Characterisation (Offshore ECC)	A	20 April 2022
6.4.5.3.	APP-103	Volume 4, Annex 5.3: Benthic Ecology Intertidal Characterisation	A	20 April 2022
6.4.6.1.	APP-104	Volume 4, Annex 6.1: Fish and Shellfish Ecology Technical Baseline	B	20 April 2022
6.4.6.2.	APP-105	Volume 4, Annex 6.2: Underwater Noise Technical Report	B	20 April 2022
6.4.7.1.	REP8-068	Volume 4, Annex 7.1: Marine Mammal Baseline Characterisation	C	15 March 2023
6.4.7.2.	REP8-069	Volume 4, Annex 7.2: Draft Outline Marine Mammal Mitigation Protocol	C	15 March 2023
6.4.7.3.	APP-108	Volume 4, Annex 7.3: Marine Mammal Quantitative Assessment Assumptions	B	20 April 2022
6.4.8.1.	APP-109	Volume 4, Annex 8.1: Commercial Fisheries Baseline Report	B	20 April 2022
6.4.8.2.	APP-110	Volume 4, Annex 8.2: Commercial Fisheries Consultation Record	B	20 April 2022
6.4.9.1.	APP-111	Volume 4, Annex 9.1: Navigation Risk Assessment	B	20 April 2022

6.4.10.1.	APP-112	Volume 4, Annex 10.1: SLVIA Methodology	A	20 April 2022
6.4.10.2.	APP-113	Volume 4, Annex 10.2: SLVIA Consultation	A	20 April 2022
6.4.10.3.	APP-114	Volume 4, Annex 10.3: SLVIA Simple Assessment	B	20 April 2022
6.4.10.4.	APP-115	Volume 4, Annex 10.4: SLVIA Visibility Data	B	20 April 2022
6.4.10.5.	APP-116	Volume 4, Annex 10.7: SLVIA Legislation and Policy	A	20 April 2022
6.4.11.1.	APP-117	Volume 4: Annex 11.1: Offshore Archaeology Desk Based Assessment	B	20 April 2022
6.4.12.1.	APP-118	Volume 4, Annex 12.1: Charter Angling Baseline Report	B	20 April 2022
6.4.12.1.1	APP-119	Volume 4, Annex 12.1: Charter Angling Baseline Report Annex B (Confidential)	N/A	20 April 2022
Volume 5 – Onshore Annexes				
6.5.1.1.	APP-121	Volume 5, Annex 1.1: Crossing Schedule	B	20 April 2022
6.5.2.1.	APP-122	Volume 5, Annex 2.1: LANDMAP Assessment	B	20 April 2022
6.5.4.1.	APP-123	Volume 5, Annex 4.1: Baseline information relating to recreation resources	B	20 April 2022
6.5.4.2.	APP-124	Volume 5, Annex 4.2: Seaside Tourism	A	20 April 2022

		Economics Employment Evidence		
6.5.5.1.	REP8-070	Volume 5, Annex 5.1: Preliminary Ecological Appraisal Report;	C	15 March 2023
6.5.5.2.	APP-125	Volume 5, Annex 5.2: Habitat and Hedgerow Survey Report.	A	20 April 2022
6.5.5.3.	APP-126	Volume 5, Annex 5.3: Wintering Bird Survey Report.	A	20 April 2022
6.5.5.4.	APP-127	Volume 5, Annex 5.4: Reptile Survey Report.	A	20 April 2022
6.5.5.5.	APP-128	Volume 5, Annex 5.5: Otter and Watervole Survey Report.	A	20 April 2022
6.5.5.6.	APP-129	Volume 5, Annex 5.6: Great Crested Newt Survey Report.	A	20 April 2022
6.5.5.7.	REP8-071	Volume 5, Annex 5.7: Dormouse Survey Report.	B	15 March 2023
Environmental Statement Volume 5, Annex 5.8.	AS-031	Volume 5, Annex 5.8: Breeding Bird Survey Report.	B	31 May 2022
6.5.5.8.1	AS-032	Volume 5, Annex 5.8: Appendix 4 CONFIDENTIAL Barn Owl Survey Results	A	31 May 2022
6.5.5.9.	APP-132, APP- 133	Volume 5, Annex 5.9: Badger Survey Report (Confidential and Public).	N/A	20 April 2022
6.5.5.10.	APP-134	Volume 5, Annex 5.10: Bat Survey Report.	N/A	20 April 2022
6.5.5.11.	APP-135	Volume 5, Annex 5.11: Noise Modelling	A	20 April 2022

		for Important Ornithological Features (Onshore)		
6.5.5.12.	APP-136	Volume 5, Annex 5.12: Consultation Feedback	A	20 April 2022
1.41	REP1-042	Volume 5, Annex 7.1: Onshore ECC Flood Consequence Assessment;	C	24 October 2022
1.43	REP1-044	Volume 5, Annex 7.2: Onshore Substation Flood Consequence Assessment;	C	24 October 2022
1.43 Appendix A	REP1-045	Volume 5, Annex 7.2: Onshore Substation Flood Consequence Assessment - Appendix A Outline Drainage Strategy	C	24 October 2022
6.5.7.3.	APP-139	Volume 5, Annex 7.3: Landfall HDD crossing Groundwater Risk Assessment;	A	20 April 2022
6.5.7.4.	APP-140	Volume 5, Annex 7.4: A525 HDD crossing Groundwater Risk Assessment;	A	20 April 2022
6.5.7.5.	APP-141	Volume 5, Annex 7.5: River Clwyd HDD crossing Groundwater Risk Assessment;	A	20 April 2022
6.5.7.6.	APP-142	Volume 5, Annex 7.6: A55 HDD crossing Groundwater Risk Assessment;	A	20 April 2022



6.5.8.1.	APP-143	Volume 5, Annex 8.1: Archaeological Desk-Based Assessment	B	20 April 2022
6.5.8.2.	APP-144	Volume 5, Annex 8.2: Designated Heritage Assets Scoping Exercise	B	20 April 2022
6.5.8.3.	APP-145	Volume 5, Annex 8.3: Detailed Gradiometer Survey Report	B	20 April 2022
6.5.8.4.	APP-146	Volume 5, Annex 8.4: Outline Onshore Archaeological Watching Brief 2021	B	20 April 2022
6.5.8.5.	APP-147	Volume 5, Annex 8.5: Onshore WSI	A	20 April 2022
6.5.9.1.	APP-148	Volume 5, Annex 9.1: Traffic and Transport Technical Baseline Report;	B	20 April 2022
6.5.9.2.	APP-149	Volume 5, Annex 9.2: Trip Generation and Distribution Calculations;	A	20 April 2022
6.5.9.3.	APP-150	Volume 5, Annex 9.3: Percentage Impact Calculations and Assessment Screening;	B	20 April 2022
6.5.10.1.	APP-151	Volume 5, Annex 10.1: Sound Level Meter Calibration Certificates.	A	20 April 2022
6.5.10.2.	APP-152	Volume 5, Annex 10.2: Sound Survey Results.	A	20 April 2022
6.5.10.3.	APP-153	Volume 5, Annex 10.3: Construction	A	20 April 2022

		Plant Sound Levels.		
6.5.10.4.	APP-154	Volume 5, Annex 10.4: Operational Substation Noise Modelling Results.	A	20 April 2022
6.5.12.1.	APP-155	Volume 5, Annex 12.1: Technical Note – Electro-Magnetic Frequencies	A	20 April 2022
Volume 6 – S/LVIA				
6.6.2.2.1	APP-156	Volume 6, Annex 2.2: LVIA Figures - Figure 2.1 (Site Location and Study Area)	A	20 April 2022
6.6.2.2.2	APP-157	Volume 6, Annex 2.2: LVIA Figures - Figure 2.2 (Landform)	A	20 April 2022
6.6.2.2.3	APP-158	Volume 6, Annex 2.2: LVIA Figures - Figure 2.3a (Landscape Character (National))	A	20 April 2022
6.6.2.2.4	APP-159	Volume 6, Annex 2.2: LVIA Figures - Figure 2.3b (Landscape Character (Regional))	A	20 April 2022
6.6.2.2.5	APP-160	Volume 6, Annex 2.2: LVIA Figures - Figure 2.4 (Landscape Designations)	A	20 April 2022
6.6.2.2.6	APP-161	Volume 6, Annex 2.2: LVIA Figures - Figure 2.5 (Principle Visual Receptors)	A	20 April 2022
6.6.2.2.7	REP7-039	Volume 6, Annex 2.2: LVIA Figures - Figure 2.6	C	08 March 2023

		(Aerial Mapping with Proposed Development)		
6.6.2.2.8	APP-163	Volume 6, Annex 2.2: LVIA Figures - Figure 2.7 (Context Photos)	A	20 April 2022
6.6.2.2.9	APP-164	Volume 6, Annex 2.2: LVIA Figures - Figure 2.8a (Substation Bare Ground ZTV with Viewpoints)	A	20 April 2022
6.6.2.2.10	APP-165	Volume 6, Annex 2.2: LVIA Figures - Figure 2.8b (Substation Screened ZTV with Viewpoints)	A	20 April 2022
6.6.2.2.11	APP-166	Volume 6, Annex 2.2: LVIA Figures - Figure 2.8c (Substation Screened ZTV with Viewpoints)	A	20 April 2022
6.6.2.2.12	APP-167	Volume 6, Annex 2.2: LVIA Figures - Figure 2.9a (LANDMAP Aspect Areas: Geological Landscape)	A	20 April 2022
6.6.2.2.13	APP-168	Volume 6, Annex 2.2: LVIA Figures - Figure 2.9b (LANDMAP Aspect Areas: Geological Landscape and Screened ZTV)	A	20 April 2022
6.6.2.2.14	APP-169	Volume 6, Annex 2.2: LVIA Figures - Figure 2.10a (LANDMAP Aspect Areas: Landscape Habitats)	A	20 April 2022
6.6.2.2.15	APP-170	Volume 6, Annex 2.2:	A	20 April 2022

		LVIA Figures - Figure 2.10b (LANDMAP Aspect Areas: Landscape Habitats and Screened ZTV)		
6.6.2.2.16	APP-171	Volume 6, Annex 2.2: LVIA Figures - Figure 2.11a (LANDMAP Aspect Areas: Cultural Landscape Services)	A	20 April 2022
6.6.2.2.17	APP-172	Volume 6, Annex 2.2: LVIA Figures - Figure 2.11b (LANDMAP Aspect Areas: Cultural Landscape Services and Screened ZTV)	A	20 April 2022
6.6.2.2.18	APP-173	Volume 6, Annex 2.2: LVIA Figures - Figure 2.12a (LANDMAP Aspect Areas: Historic Landscape)	A	20 April 2022
6.6.2.2.19	APP-174	Volume 6, Annex 2.2: LVIA Figures - Figure 2.12b (LANDMAP Aspect Areas: Historic Landscape and Screened ZTV)	A	20 April 2022
6.6.2.2.20	APP-175	Volume 6, Annex 2.2: LVIA Figures - Figure 2.13a (LANDMAP Aspect Areas: Visual and Sensory)	A	20 April 2022
6.6.2.2.21	APP-176	Volume 6, Annex 2.2: LVIA Figures - Figure 2.13b (LANDMAP	A	20 April 2022

		Aspect Areas: Visual and Sensory and Screened ZTV)		
6.6.2.2.22	APP-177	Volume 6, Annex 2.2: LVIA Figures - Figure 2.14 (Landscape Character: Landscape Designations and Screened ZTV)	A	20 April 2022
6.6.2.2.23	APP-178	Volume 6, Annex 2.2: LVIA Figures - Figure 2.15 (Principal Visual Receptors and Screened ZTV)	A	20 April 2022
6.6.2.2.24	APP-179	Volume 6, Annex 2.2: LVIA Figures - Figure 2.16 (Outline Landscape Mitigation Principles)	A	20 April 2022
6.6.2.2.25	APP-180	Volume 6, Annex 2.2: LVIA Figures - Figure 2.17 (Cumulative Developments)	A	20 April 2022
6.6.2.3.1	REP8-072	Volume 6, Annex 2.3: LVIA Visualisations - Figure 2.18 (Viewpoint 1: Bridlepath nr Faenol-broper)	B	15 March 2023
6.6.2.3.2	REP8-073	Volume 6, Annex 2.3: LVIA Visualisations - Figure 2.19 (Viewpoint 2: St Asaph, Business Park)	B	15 March 2023
6.6.2.3.3	REP8-074	Volume 6, Annex 2.3: LVIA Visualisations - Figure 2.20	B	15 March 2023

		(Viewpoint 3: Glascoed Rd)		
6.6.2.3.4	REP8-075	Volume 6, Annex 2.3: LVIA Visualisations - Figure 2.21 (Viewpoint 4: A55)	B	15 March 2023
6.6.2.3.5	REP8-076	Volume 6, Annex 2.3: LVIA Visualisations - Figure 2.22 (Viewpoint 5: Minor Rd, Groesffordd)	B	15 March 2023
6.6.2.3.6	REP8-077	Volume 6, Annex 2.3: LVIA Visualisations - Figure 2.23 (Viewpoint 6: Bodelwyddan Castle)	B	15 March 2023
6.6.2.3.7	REP8-078	Volume 6, Annex 2.3: LVIA Visualisations - Figure 2.24 (Viewpoint 7: St Asaph)	B	15 March 2023
6.6.2.3.8	REP8-079	Volume 6, Annex 2.3: LVIA Visualisations - Figure 2.25 (Viewpoint 8: Rhuddlan)	B	15 March 2023
6.6.2.3.9	REP8-080	Volume 6, Annex 2.3: LVIA Visualisations - Figure 2.26 (Viewpoint 9: Y Foel)	B	15 March 2023
6.6.10.4.1	APP-190	Volume 6, Annex 10.4: SLVIA Figures - Figure 1 (Array area and SLVIA Study Area with Cumulative Developments)	A	20 April 2022
6.6.10.4.2	APP-191	Volume 6, Annex 10.4:	A	20 April 2022

		SLVIA Figures - Figure 2a (Maximum Design Scenario A (332m blade tip))		
6.6.10.4.3	APP-192	Volume 6, Annex 10.4: SLVIA Figures - Figure 2b (Maximum Design Scenario B (252m blade tip))	A	20 April 2022
6.6.10.4.4	APP-193	Volume 6, Annex 10.4: SLVIA Figures - Figure 2c (Snowdonia National Park and Areas of Outstanding Natural Beauty)	A	20 April 2022
6.6.10.4.5	APP-194	Volume 6, Annex 10.4: SLVIA Figures - Figure 3 (Landform)	A	20 April 2022
6.6.10.4.6	APP-195	Volume 6, Annex 10.4: SLVIA Figures - Figure 4 (Seascape Character (National))	A	20 April 2022
6.6.10.4.7	APP-196	Volume 6, Annex 10.4: SLVIA Figures - Figure 5 (Seascape Character (Wales, Regional))	A	20 April 2022
6.6.10.4.8	APP-197	Volume 6, Annex 10.4: SLVIA Figures - Figure 6 (Landscape Character (National))	A	20 April 2022
6.6.10.4.9	APP-198	Volume 6, Annex 10.4: SLVIA Figures - Figure 7a (Landscape Character	A	20 April 2022

		(Wales, Regional))		
6.6.10.4.10	APP-199	Volume 6, Annex 10.4: SLVIA Figures - Figure 7b (Landscape Character (Wales, Regional) - Legend)	A	20 April 2022
6.6.10.4.11	APP-200	Volume 6, Annex 10.4: SLVIA Figures - Figure 8 (Landscape Planning Designations)	A	20 April 2022
6.6.10.4.12	APP-201	Volume 6, Annex 10.4: SLVIA Figures - Figure 9 (LANDMAP - Visual and Sensory Evaluation)	A	20 April 2022
6.6.10.4.13	APP-202	Volume 6, Annex 10.4: SLVIA Figures - Figure 10a (Baseline Light Pollution)	A	20 April 2022
6.6.10.4.14	APP-203	Volume 6, Annex 10.4: SLVIA Figures - Figure 10b (Tranquility)	A	20 April 2022
6.6.10.4.15	APP-204	Volume 6, Annex 10.4: SLVIA Figures - Figure 11 (Visual Receptors and Viewpoint Locations)	A	20 April 2022
6.6.10.4.16	APP-205	Volume 6, Annex 10.4: SLVIA Figures - Figure 12a (Blade Tip ZTV for MDS A)	A	20 April 2022
6.6.10.4.17	APP-206	Volume 6, Annex 10.4: SLVIA Figures - Figure 12b (Hub	A	20 April 2022



		height ZTV for MDS A)		
6.6.10.4.18	APP-207	Volume 6, Annex 10.4: SLVIA Figures - Figure 12c (Comparative Blade Tip ZTV MDS A (PEIR) and MDS A (ES))	A	20 April 2022
6.6.10.4.19	APP-208	Volume 6, Annex 10.4: SLVIA Figures - Figure 13a (Blade Tip ZTV for MDS B)	A	20 April 2022
6.6.10.4.20	APP-209	Volume 6, Annex 10.4: SLVIA Figures - Figure 13b (Hub Height ZTV for MDS B)	A	20 April 2022
6.6.10.4.21	APP-210	Volume 6, Annex 10.4: SLVIA Figures - Figure 13c (Comparative Blade Tip ZTV MDS B (PEIR) and MDS B (ES))	A	20 April 2022
6.6.10.4.22	APP-211	Volume 6, Annex 10.4: SLVIA Figures - Figure 14 (Horizontal Angle ZTV for MDS A)	A	20 April 2022
6.6.10.4.23	APP-212	Volume 6, Annex 10.4: SLVIA Figures - Figure 15 (Seascape Character (Wales, Regional) with Blade Tip ZTV)	A	20 April 2022
6.6.10.4.24	APP-213	Volume 6, Annex 10.4: SLVIA Figures - Figure 16a-b (Blade Tip ZTV (MDS A) with Landscape Character and	A	20 April 2022

		Viewpoint Locations)		
6.6.10.4.25	APP-214	Volume 6, Annex 10.4: SLVIA Figures - Figure 16c (Blade Tip ZTV (MDS A) with Landscape Character and Viewpoint Locations)	A	20 April 2022
6.6.10.4.26	APP-215	Volume 6, Annex 10.4: SLVIA Figures - Figure 17.1a-b (Blade Tip ZTV (MDS A) with Visual Receptors and Viewpoint Locations)	A	20 April 2022
6.6.10.4.27	APP-216	Volume 6, Annex 10.4: SLVIA Figures - Figure 17.1c (Blade Tip ZTV (MDS A) with Visual Receptors and Viewpoint Locations)	A	20 April 2022
6.6.10.4.28	APP-217	Volume 6, Annex 10.4: SLVIA Figures - Figure 17.2a-b (Hub Height Tip ZTV (MDS A) with Visual Receptors and Viewpoint Locations)	A	20 April 2022
6.6.10.4.29	APP-218	Volume 6, Annex 10.4: SLVIA Figures - Figure 17.2c (Hub Height Tip ZTV (MDS A) with Visual Receptors and Viewpoint Locations)	A	20 April 2022
6.6.10.4.30	APP-219	Volume 6, Annex 10.4: SLVIA Figures - Figure 18a-b (Blade Tip ZTV (MDS A) with	A	20 April 2022

		Landscape Designations and Viewpoint Locations)		
6.6.10.4.31	APP-220	Volume 6, Annex 10.4: SLVIA Figures - Figure 18c-d (Blade Tip ZTV (MDS A) with Landscape Designations and Viewpoint Locations)	A	20 April 2022
6.6.10.4.32	APP-221	Volume 6, Annex 10.4: SLVIA Figures - Figure 19 (Wales Coast Path with Blade Tip ZTV (MDS A))	A	20 April 2022
6.6.10.4.33	APP-222	Volume 6, Annex 10.4: SLVIA Figures - Figure 20 (Blade Tip ZTV (MDS) with Met Office Visibility Range Bands)	A	20 April 2022
6.6.10.4.34	APP-223	Volume 6, Annex 10.4: SLVIA Figures - Figure 21a-b (Hub Height Aviation Lighting ZTV (MDS A))	A	20 April 2022
6.6.10.4.35	APP-224	Volume 6, Annex 10.4: SLVIA Figures - Figure 22a-b (Hub Height Aviation Lighting ZTV (MDS B))	A	20 April 2022
6.6.10.4.36	APP-225	Volume 6, Annex 10.4: SLVIA Figures - Figure 23 (Comparative Blade Tip ZTV - MDS A and MDS B)	A	20 April 2022
6.6.10.4.37	APP-226	Volume 6, Annex 10.4: SLVIA Figures -	A	20 April 2022

		Figure 24 (Combined Cumulative Blade Tip ZTV for Operations Offshore Wind Farms)		
6.6.10.4.38	APP-227	Volume 6, Annex 10.4: SLVIA Figures - Figure 25 (Blade Tip ZTVs for MDS A and Combined Cumulative OWFs)	A	20 April 2022
6.6.10.4.39	APP-228	Volume 6, Annex 10.4: SLVIA Figures - Figure 26 (Combined Cumulative ZTV for Onshore Wind Farms (Isle of Anglesey))	A	20 April 2022
6.6.10.4.40	APP-229	Volume 6, Annex 10.4: SLVIA Figures - Figure 27 (Combined Cumulative ZTV for Onshore Wind Farms (Conwy and Denbighshire)	A	20 April 2022
6.6.10.5.1	APP-230	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 28 (Viewpoint 1 - Bull Bay near Amlwch - Wales Coast Path)	A	20 April 2022
6.6.10.5.2	APP-231	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 29 (Viewpoint 2 - Point Lynas - PRoW to North of Lighthouse)	A	20 April 2022
6.6.10.5.3	APP-232	Volume 6, Annex 10.5:	A	20 April 2022

		SLVIA Visualisations - Figure 30 (Viewpoint 3 - Mynydd Eilian - Near Trig Point)		
6.6.10.5.4	APP-233	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 31 (ViewPoint 4 - Moelfre Headland at Sculpture)	A	20 April 2022
6.6.10.5.5	APP-234	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 32 (ViewPoint 5 - Red Wharf Bay)	A	20 April 2022
6.6.10.5.6	APP-235	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 33 (ViewPoint 6 - Bwrdd Arthur - North of Trig Point)	A	20 April 2022
6.6.10.5.7	APP-236	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 34 (ViewPoint 7 - Penmon Point - North-East of Parking)	A	20 April 2022
6.6.10.5.8	APP-237	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 35 (ViewPoint 8 - Beaumaris - Wales Coast Path)	A	20 April 2022
6.6.10.5.9	APP-238	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 36 (ViewPoint 9 -	A	20 April 2022

		Bangor Pier - (Southern End))		
6.6.10.5.10	APP-239	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 37 (ViewPoint 10 - Carnedd Llewelyn)	A	20 April 2022
6.6.10.5.11	APP-240	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 38 (ViewPoint 11 - Llanfairfechan)	A	20 April 2022
6.6.10.5.12	APP-241	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 39 (ViewPoint 12 - Conwy Mountain)	A	20 April 2022
6.6.10.5.13	APP-242	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 40 (ViewPoint 13 - Great Orme - Near Summit Complex)	A	20 April 2022
6.6.10.5.14	APP-243	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 41 (ViewPoint 14 - Wales Coast Path Near Penrhyn (Traeth yr Ora))	A	20 April 2022
6.6.10.5.15	APP-244	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 42 (ViewPoint 15 - Great Orme – Café)	A	20 April 2022
6.6.10.5.16	APP-245	Volume 6, Annex 10.5: SLVIA Visualisations -	A	20 April 2022

		Figure 43 (ViewPoint 16 - Benlech Bay View Road)		
6.6.10.5.17	APP-246	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 44 (ViewPoint 17 - Penrhyn Castle Terrace)	A	20 April 2022
6.6.10.5.18	APP-247	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 45 (ViewPoint 18 - Llandudno Paddling Pool)	A	20 April 2022
6.6.10.5.19	APP-248	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 46 (ViewPoint 19 - Rhos-on-Sea)	A	20 April 2022
6.6.10.5.20	APP-249	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 47 (ViewPoint 20 - Bryn Euryn)	A	20 April 2022
6.6.10.5.21	APP-250	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 48 (ViewPoint 21 - Mynydd Marian)	A	20 April 2022
6.6.10.5.22	APP-251	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 49 (ViewPoint 22 - Abergele Promenade)	A	20 April 2022
6.6.10.5.23	APP-252	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 50 (ViewPoint 23 - Rhyl Aquarium)	A	20 April 2022

6.6.10.5.24	APP-253	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 51 (ViewPoint 24 - Graig Fawr)	A	20 April 2022
6.6.10.5.25	APP-254	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 52 (ViewPoint 25 - Prestatyn Nova Centre)	A	20 April 2022
6.6.10.5.26	APP-255	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 53 (ViewPoint 26 - Bryn-Ilwyn Viewpoint (Prestatyn Hillside Viewpoint, Gwaenysgor))	A	20 April 2022
6.6.10.5.27	APP-256	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 54 (ViewPoint 27 - Point of Ayr)	A	20 April 2022
6.6.10.5.28	APP-257	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 55 (ViewPoint 28 - Trwyn y Penrhyn Parking Layby)	A	20 April 2022
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6.6.10.5.30	APP-259	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 57	A	20 April 2022



		(ViewPoint 30 - Hilbre Point)		
6.6.10.5.31	APP-260	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 58 (ViewPoint 31 - Crosby)	A	20 April 2022
6.6.10.5.32	APP-261	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 59 (ViewPoint 32 - Formby Lifeboat Station (Formby Point))	A	20 April 2022
6.6.10.5.33	APP-262	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 60 (ViewPoint 33 - Southport (pier))	A	20 April 2022
6.6.10.5.34	APP-263	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 61 (ViewPoint 34 - Snowdon Summit)	A	20 April 2022
6.6.10.5.35	APP-264	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 62 (ViewPoint 35 - Blackpool Tower)	A	20 April 2022
6.6.10.5.36	APP-265	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 63 (ViewPoint 36 - Tal y Fan)	A	20 April 2022
6.6.10.5.37	APP-266	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 64 (ViewPoint 37 - Cefn Coch Stone Circle)	A	20 April 2022

6.6.10.5.38	APP-267	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 65 (ViewPoint 38 - Foel Fras)	A	20 April 2022
6.6.10.5.39	APP-268	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 66 (ViewPoint 39 - North Wales Path at Garreg Fawr)	A	20 April 2022
6.6.10.5.40	APP-269	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 67 (ViewPoint 40 - Above Capelulo – North Wales Path)	A	20 April 2022
6.6.10.5.41	APP-270	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 68 (ViewPoint 41 - Wales Coast Path North-East of Rhôs- Mynach-Fawr)	A	20 April 2022
6.6.10.5.42	APP-271	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 69 (ViewPoint 42 - Mynydd Bodafon - Trig Point)	A	20 April 2022
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		(ViewPoint 44 - Beaumaris Castle)		
6.6.10.5.45	APP-274	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 72 (ViewPoint 45 - Conwy Castle – Chapel Tower)	A	20 April 2022
6.6.10.5.46	APP-275	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 73 (ViewPoint 49 - Menai Suspension Bridge)	A	20 April 2022
6.6.10.5.47	APP-276	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 74 (ViewPoint 50 - Gwrych Castle – Terrace)	A	20 April 2022
6.6.10.5.48	APP-277	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 75 (ViewPoint 52 - Pen-y-Dinas Camp at Interpretation Sign)	A	20 April 2022
6.6.10.5.49	APP-278	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 76 (ViewPoint 53 - Puffin Island)	A	20 April 2022
6.6.10.5.50	APP-279	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 77 (ViewPoint 54 - y Foel (Common land and hill east of Dyserth))	A	20 April 2022
6.6.10.5.51	APP-280	Volume 6, Annex 10.5:	A	20 April 2022

		SLVIA Visualisations - Figure 78 (ViewPoint 55 - Footpath Above Cilgwyn Mawr)		
6.6.10.5.52	APP-281	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 79 (ViewPoint 56 - Pen-y-corddyn- mawr)	A	20 April 2022
6.6.10.5.53	APP-282	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 80 (ViewPoint 57 - Moelfre Isaf)	A	20 April 2022
6.6.10.5.54	APP-283	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 81 (ViewPoint 58 - Little Orme on the Wales Coast Path)	A	20 April 2022
6.6.10.5.55	APP-284	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 82 (ViewPoint 59 - Llandundo Promenade - Lifeboat Slipway)	A	20 April 2022
6.6.10.5.56	APP-285	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 83 (ViewPoint 60 - Foel Lus)	A	20 April 2022
6.6.10.5.57	APP-286	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 84 (ViewPoint 61 - Llandudno Promenade near Venue Cymru)	A	20 April 2022

6.6.10.5.58	APP-287	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 85 a-e (ViewPoint 62 - Great Orme – Marine Drive, Wales Coast Path near Toll Booth)	A	20 April 2022
6.6.10.5.59	APP-288	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 86 (ViewPoint 63 - A55 at Penmaenmawr)	A	20 April 2022
6.6.10.5.60	APP-289	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 87 (ViewPoint 64 - A55 at Puffin Roundabout, Dwygyfylch)	A	20 April 2022
6.6.10.5.61	APP-290	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 88 (ViewPoint 65 - A55 at jetty north of Penmaen Rhos)	A	20 April 2022
6.6.10.5.62	APP-291	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 89 (ViewPoint 66 - Liverpool to Dublin Ferry route north of Great Orme)	A	20 April 2022
6.6.10.5.63	APP-292	Volume 6, Annex 10.5: SLVIA Visualisations - Figure 90 (ViewPoint 67 - Liverpool to Dublin Ferry route north of Conwy Bay)	A	20 April 2022

Outline Code of Construction Practice				
8.13	REP7-018	Outline Code of Construction Practice	G	08 March 2023
8.13.1	REP7-020	Outline CoCP, Appendix 1, Outline Construction Method Statement	H	08 March 2023
2.20	REP2-020	Outline CoCP, Appendix 2, Outline Noise and Vibration Management Plan	C	09 November 2022
2.31	REP2-031	Outline CoCP, Appendix 3, Outline Air Quality Management Plan	C	09 November 2022
8.13.4	REP7-022	Outline CoCP, Appendix 4, Outline Soil Management Plan	G	08 March 2023
2.35	REP2-035	Outline CoCP, Appendix 5, Outline Site Waste Management Plan	C	09 November 2022
2.37	REP2-037	Outline CoCP, Appendix 6, Outline Pollution Prevention and Emergency Incident Response Plan	C	09 November 2022
8.13.7	REP4-035	Outline CoCP, Appendix 7, Outline Construction Traffic Management Plan	D	30 January 2023
8.13.8	REP7-024	Outline CoCP, Appendix 8, Outline Public Access Management Plan	F	08 March 2023
8.13.9	APP-321	Outline CoCP, Appendix 9,	B	20 April 2022

		Outline Travel Plan		
2.45	REP2-045	Outline CoCP, Appendix 10, Outline Artificial Light and Emissions Plan	C	09 November 2022
8.13.11	REP8-040	Outline CoCP, Appendix 11, Outline Invasive Non-Native Species Management Plan	E	15 March 2023
8.13.12	REP6-042	Outline CoCP, Appendix 12, Outline Communication Plan	C	20 February 2023
Other documents				
8.8	REP7-028	Design Principles Document	E	08 March 2023
8.4	REP7-026	Outline Landscape and Ecology Management Plan	E	08 March 2023
2.6	REP6-030	Street Works and Access Plan	D	20 February 2023
2.7	REP6-031	Temporary Stopping Up of Public Rights of Way Plan	D	20 February 2023
2.12	REP6-036	Hedgerow and Protected Tree Plan	D	20 February 2023
2.1	REP8-090	Location Plan	E	15 March 2023
2.4	REP6-027	Special Category Land Plan	D	20 February 2023
N/A	REP4-007	Outline Skills and Employment Strategy	B	30 January 2023
N/A	REP6-041	Outline Offshore Piling Noise Monitoring Plan	B	20 February 2023
N/A	REP8-093	Landscape Enhancement Scheme Principles Document	A	15 March 2023
6.14	REP6-023	Community Linguistic Statement	B	20 February 2023

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order grants development consent for, and authorises the construction, operation and maintenance of an offshore wind farm generating station located approximately 11km from the coast of Denbighshire, together with associated development. This Order imposes requirements in connection with the development and authorises the compulsory acquisition of land (including rights in land) and the right to use land and to override easements and other rights.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 40 (certification of plans, etc.) together with a copy of any guarantee or alternative form of security approved by the Secretary of State pursuant to article 31 (funding), may be inspected free of charge at the offices of RWE at Windmill Hill Business Park, Whitehill Way, Swindon Wiltshire, SN5 6PB.