



FIVE ESTUARIES OFFSHORE WIND FARM

STATEMENT OF REASONS (TRACKED)

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DEFINITIONS

Term, abbreviation, acronym or initialism	Definition
2008 Act	Planning Act 2008
2009 Regulations	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
Applicant	Five Estuaries Offshore Wind Farm Limited
Application	The application for development consent made to the Secretary of State for Energy Security and Net Zero by Five Estuaries Offshore Wind Farm Limited to construct and operate the proposed Five Estuaries offshore wind farm and associated development.
Conference of the Parties	The decision-making body of the United Nations Framework Convention on Climate Change.
CfD	Contract for Difference, the Government's primary mechanism for supporting new low carbon power infrastructure.
Convention	European Convention on Human Rights
CNP	critical national priority, as set out in National Policy Statements for Energy.
DCO	Development Consent Order
DESNZ	Department for Energy Security and Net Zero
DPD	Development Plan Documents, the statutory component parts of the local development framework.
EACN	The proposed National Grid East Anglia Connection Node Substation
ECC	Essex County Council
EN-1	Overarching NPS for Energy (DESNZ, 2023)
EN-3	Renewable Energy Infrastructure (DESNZ, 2023)
EN-5	Electricity Networks Infrastructure (DESNZ, 2023)
ES	Environmental Statement forming part of the Application.
Evidence Plan	The mechanism for the Applicant and statutory bodies to agree what information and evidence should be submitted in support of an NSIP application, as explained in the Consultation Report (application document 5.1).
GW	Gigawatt
HMLR	His Majesty's Land Registry
HoTs	Heads of Terms
LAG	Land Agent Group

Term, abbreviation, acronym or initialism	Definition
LBBG	Lesser black-backed gull
LIQ	Land interest questionnaires
MW	Megawatt
North Falls	North Falls Offshore Wind Farm
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NSIP	Nationally significant infrastructure project
OnSS	Onshore substation
Order	The Five Estuaries DCO, if made
Order Land	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.
Plot	Each piece or area of land identified individually in the Book of Reference; any reference to Plots or a numbered Plot shall be construed accordingly.
Scoping process	The process of identifying the issues to be addressed during the Environmental Impact Assessment process.
SPP	Special Parliamentary Procedure
Statement	This Statement of Reasons
TCC	Temporary Construction Compound
TCE	The Crown Estate
TJB	Transition Joint Bays
UNFCCC	United Nations Framework Convention on Climate Change
VE	Five Estuaries Offshore Wind Farm
Work	Those Works as defined in the Five Estuaries DCO.

1 STATEMENT OF REASONS

1.0 SUMMARY

- 1.0.1 This Statement of Reasons ('Statement') is submitted by Five Estuaries Offshore Wind Farm Limited (registered in England and Wales under company number 12292474 and having its registered office at Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, United Kingdom, SN5 6PB) ('the Applicant') to set out the reasons and justification for seeking powers of compulsory acquisition in the application for a development consent order (DCO) under the Planning Act 2008 ('2008 Act') for the Five Estuaries Offshore Wind Farm (herein referred to as 'VE').
- 1.0.2 VE is the proposed extension to the operational Galloper Offshore Wind Farm. VE includes provision for the construction, operation, maintenance and decommissioning of an offshore wind farm located approximately 37 kilometres off the coast of Suffolk at its closest point in the southern North Sea; including up to 79 wind turbine generators and associated infrastructure making landfall at Sandy Point between Frinton-on-Sea and Holland-on-Sea, the installation of underground cables, and the construction of an electrical substation and associated infrastructure near to the existing Lawford Substation to the west of Little Bromley in order to connect the development to National Grid's proposed East Anglia Connection Node substation, which would be located nearby. All onshore connection infrastructure would be located in the administrative area of Tendring District Council, within Essex County Council. VE will have an overall capacity of greater than 100 Megawatts (MW) and therefore constitutes a nationally significant infrastructure project (NSIP) under Sections 14 and 15 (3) of the Planning Act 2008.
- 1.0.3 A detailed description of the authorised development is included in Volume 6 Part 2 Chapter 1 (offshore) and Volume 6 Part 3 Chapter 1 (onshore) of the Environmental Statement (application documents 6.2.1 and 6.3.1).
- 1.0.4 This Statement has been prepared in accordance with the provisions of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ('the 2009 Regulations').
- 1.0.5 This Statement is required to support the Application because the draft DCO (application document 3.1), if made ('the Order'), would authorise the compulsory acquisition of interests or rights in land. The Order would also confer on the Applicant the additional powers below:
- > extinguishment of private rights over land;
 - > acquisition of subsoil only;
 - > rights under or over streets;
 - > imposition of restrictive covenants;
 - > temporary use of land for carrying out the authorised development; and
 - > temporary use of land for maintaining the authorised development.
- 1.0.6 This Statement forms part of the suite of documents submitted with the application for a DCO. This Statement should be read in conjunction with the other DCO application documents that relate to the compulsory acquisition powers sought by the Applicant, including:
- > Draft Development Consent Order (application document 3.1);
 - > Explanatory Memorandum (application document 3.2);

- > Land Plans (including Onshore Crown and Special Category Land Plans) (application documents 2.3, 2.17, 2.4 respectively);
 - > Works Plans (onshore) (application document number 2.5);
 - > Funding Statement (application document number 4.2);
 - > Book of Reference (application document number 4.1);
 - > Compensation Measures Funding Statement (application document number 5.5.10);
 - > Coordination document (application document number 9.30)
 - > Planning Statement (application document number 9.1).
- 1.0.7 The Applicant's rationale and justification for seeking powers of compulsory acquisition are set out below. The Applicant considers that there is a clear and compelling case in the public interest for the inclusion of powers of compulsory acquisition within the Order to secure the land and interests which are required for VE. The public benefit of allowing VE to proceed outweighs the infringement of private rights which would occur should powers of compulsory acquisition be granted and exercised.

1.1 INTRODUCTION

1.2 This Statement:

- > sets out the background against which the draft DCO is made, and provides a description of VE;
 - > summarises the need for VE;
 - > provides a statement of the statutory authority for the proposed acquisition of land and rights by the Applicant;
 - > describes the Order Land (the land and rights over land for which compulsory powers of acquisition are sought in the draft DCO) ;
 - > sets out the policy background;
 - > explains the relationship between the draft DCO and the Human Rights Act 1998;
 - > considers alternatives to compulsory acquisition and sets out the Applicant's justification for making the draft DCO;
 - > considers special categories of land;
 - > describes the nature of related consent/applications which will be required for VE;
 - > describes the case for acquisition of individual interests and rights and explains the Applicant's engagement with affected landowners and third parties; and
 - > considers the funding and financial implications of VE.
- 1.2.1 The purpose of the Order is to authorise the construction and operation of an offshore energy generating station which will help to meet the identified national need for new renewable energy generating capacity.
- 1.2.2 The Order sought includes powers to compulsorily acquire and land rights onshore which are required for the works necessary to connect the generating station to the national grid. The Applicant has attempted and continues to seek to acquire the land and rights required voluntarily, but has been unable to acquire all plots and rights to date, and accordingly requires to seek powers of compulsory acquisition.

2 BACKGROUND

2.1 BACKGROUND TO THE PROJECT

- 2.1.1 The Applicant proposes to develop an offshore energy generating station and related electrical connections and infrastructure.
- 2.1.2 The offshore generating station is a nationally significant infrastructure project ('NSIP') within sections 14(1)(a) and 15(3) of the 2008 Act. VE will have an overall capacity greater than 100 MW.
- 2.1.3 As the authorised development would be an NSIP, development consent must be obtained from the Secretary of State and an application for a development consent order must be made to the Secretary of State, care of the Planning Inspectorate, under section 37 of the 2008 Act.

2.2 ASSOCIATED DEVELOPMENT

- 2.2.1 The Order specifically authorises development which is associated with the NSIP. The Secretary of State may, under the provisions of section 115 of the 2008 Act, grant consent for development that is associated with the NSIP ("associated development") and ancillary works which are required to deliver the authorised development.
- 2.2.2 Guidance on associated development has been issued by the Secretary of State. In this guidance associated development is described as being "*typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project*" (paragraph 6) and requiring "*a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts. Associated development should not be an aim in itself but should be subordinate to the principal development*" (paragraph 5).
- 2.2.3 The works to create the electrical connections from the proposed offshore generating station to the national grid are associated development. This includes the offshore cables connecting to the onshore cables at the transition joint bays (TJBs), the onshore cables, the new electrical substation and associated works such as the creation of accesses, the improvement of junctions, landscaping, drainage works, diversion of utilities and environmental (including ornithological) mitigation. A number of other works will also be required for construction and maintenance works including creating secure working areas and temporary construction compounds, creating entrance and exit pits for trenchless installation techniques and temporary drainage and environmental mitigation measures.
- 2.2.4 In some cases, there may be some overlap between associated development and works which form part of the NSIP. All elements of the proposed development either constitute part of the NSIP or are associated development within the meaning of section 115 of the 2008 Act, and so can properly be authorised by the Order.

3 PROJECT DESCRIPTION

3.1 ABOUT FIVE ESTUARIES

- 3.1.1 VE is the proposed extension to the operational Galloper Offshore Wind Farm. The project includes provision for the construction, operation, maintenance and decommissioning of an offshore wind farm located approximately 37 kilometres off the coast of Suffolk at its closest point in the southern North Sea; including up to 79 wind turbine generators and associated infrastructure making landfall at Sandy Point between Frinton-on-Sea and Holland-on-Sea, the installation of underground cables, and the construction of an electrical substation and associated infrastructure near to the existing Lawford Substation to the west of Little Bromley in order to connect the development to National Grid's proposed East Anglia Connection Node substation, which would be located nearby.
- 3.1.2 A full project description is included in the Environmental Statement (ES), in particular Volume 6, Part 2, Chapter 1: Offshore Project Description and Volume 6, Part 3, Chapter 1: Onshore Project Description (application document numbers: 6.2.1 and 6.3.1).
- > The key offshore elements of VE will be as follows:
 - > Up to 79 offshore wind turbine generators, associated foundations;
 - > Up to 200 km of inter- array cables;
 - > Up to 2 offshore substation platforms; and
 - > Up to 196 km offshore export cables, each in its own trench within the overall cable corridor.
- 3.1.3 The key permanent onshore components of VE will include:
- > Infrastructure at landfall, where the offshore cables are brought ashore;
 - > Up to two transition joint bays (TJBs) connecting the offshore cables to the onshore cables;
 - > Underground cable ducts, joint pits and cables;
 - > The construction of the proposed onshore substation (OnSS); and
 - > Underground cable ducts, joint pits and cables for the grid connection from the proposed OnSS to the proposed new National Grid East Anglia Connection Node Substation (EACN).
 - > The onshore export cable corridor will be approximately 22 km from the landfall compound to the EACN substation.
- 3.1.4 VE has been working closely with North Falls Offshore Wind Farm project ('North Falls') in accordance with the need for the two projects to seek to co-ordinate transmission connection works under NPS EN-5. The co-ordination work undertaken is explained in more detail in the Co-ordination document (application document number 9.30) and summarised below.

- 3.1.5 Part of the co-ordinated strategy being followed is that, where practicable having regard to consenting and funding requirements (primarily that both projects are granted development consent and proceed past their respective Financial Investment Decision¹ milestone within suitable timeframes to allow co-ordinated works to be carried out), the projects will seek to minimise impacts on the environment and local communities by co-ordinating some development. The potential delivery scenarios are summarised in section 5.3 and set out in detail in the Co-ordination document (application document number 9.30).
- 3.1.6 The draft DCO sets out two 'build options' which cover the three delivery scenarios summarised in section 5.3:
- > "build option 1" means scenario 1 in which the first development will deliver works to support grid connection co-ordination, including the laying of onshore cable ducts for the second project;
 - > "build option 2" means scenarios 2 and 3 in which the undertaker only constructs those works required for VE.
- 3.1.7 The co-ordinated approach (build option 1), necessitates an increase in the width of the corridor and area of substation site over which compulsory powers are sought in order that the works can be carried out under the first DCO to be implemented. From the TJBs to the substation location the corridor has been designed to allow the installation of cables for VE and cable ducts for North Falls. North Falls would then install and operate the cables within the buried ducts under its own DCO. Within each cable section the VE cables and North Falls ducts are both shown as one work area, with the North Falls cables being work number 'A' to the relevant VE cable works number. The inclusion of Works to install a second set of ducts for North Falls means that the width of the corridor which may be acquired is slightly wider than it would be for VE in isolation. However, by following this approach, the following project efficiencies, with associated reduction in overall land take and environmental impacts, can be realised:
- > A single haul road to support construction from landfall to Bentley Road;
 - > Single access points at Temporary Construction Compounds (TCCs) from the highway network to service both projects, reducing both the number of physical works and reducing the extent of any traffic management measures required to ensure safety;
 - > Single crossing points on roads where site access is not required from the landfall to Bentley Road;
 - > Use of the same TCC therefore reducing the total number of TCCs and the area required (minimising the interference with use of land and area of land, volume of soils and extent of vegetation which is disturbed and requires to be restored); and
 - > Coordinated service connection (such as mains power, water, sewage) for TCCs.

¹ **Financial Investment Decision** is the point at which a project decides to make its major financial commitment. This typically comes at a point where certainty has increased (for example, securing the consents required for the project) and enables the procurement of equipment and contracts to move into the delivery and construction phases. FID for the major infrastructure projects generally comes after a DCO has been granted.

- 3.1.8 Further details of the construction methodology for the co-ordinated approach are set out in the Co-ordination document (application document number 9.30).
- 3.1.9 The substation sites for VE and North Falls have been co-located in one area designed to co-ordinate with the National Grid EACN proposals. While each project would retain the responsibility for separate substation builds, the following would be delivered jointly under build option 1 to reduce environmental impacts:
- > Common access route to the substations from Bentley Road;
 - > Common permanent access point and bellmouth from Ardleigh Road; and
 - > Aligned screening principles and advance planting for both projects.
- 3.1.10 Reduction in the potential impacts would mainly be associated with the reduction in overall land take, which include avoiding duplication of construction access works, and the associated reduction in construction traffic volumes.
- 3.1.11 Regardless of build option approach taken to deliver the onshore substation, co-locating with North Falls allows VE to keep impacts to a single area when considering cumulative development effects and have a lower overall land take when compared to locating the substations in different search areas.

3.2 OFFSHORE WINDFARM

- 3.2.1 The wind turbine generators will be located within Work No 1.
- 3.2.2 No compulsory acquisition is proposed for the offshore windfarm array area and its associated offshore infrastructure. An agreement for lease for the area array is already in place with The Crown Estate for the seabed area within which Work 1 will be situated. An Agreement for Lease is currently under discussion with The Crown Estate regarding the transmission assets.

3.3 ONSHORE CABLE ROUTE

- 3.3.1 The offshore cables come ashore between Holland-on-Sea and Frinton-on-Sea (Work Nos. 2, 2A and 3) under the beach to the south west of Frinton Golf Club. The cable corridor will pass under the intertidal area (Plots 02-001, 01-007), sea defence (Plot 01-008), country park (Plot 01-009) golf course (Plots 01-010, 02-005) agricultural land (Plot 01-012) and Kirby Brook (Plot 01-011) to reach the transition joint bays (TJBs) at Work Nos. 5/5A (Plot 02-004). In these locations the cables will be installed using trenchless installation techniques, minimising the disruption to the surface. It is not anticipated that there will be any interference with the use of the footway over the sea defence or the golf course.
- 3.3.2 At the TJBs (Work No 5/5A) (Plot 02-004) the offshore cables are joined to the onshore cables.

- 3.3.3 The onshore cables then cross primarily agricultural land (Work Nos.5/5A, 6/6A, 7/7A) (Plots 02-005, 02-008, 02-009, 02-010, 03-001, 03-003), passing under Clacton Road (Plots 03-004, 03-007, 03-009), back into agricultural land (Plots 03-011, 03-014) and then under Little Clacton Road (Plots 04-001, 04-002). Open cut installation will be used in agricultural land, with road crossings using either open cut or trenchless techniques such as horizontal directional drills (HDD). The cable route then heads north through agricultural land, where there is an off-route haul road (Work Nos. 7/7a, 7C & 7D) (Plots 04-003, 04-004, 04-005, 04-006, 04-008, 04-009, 04-010, 04-011, 04-012, 04-013, 04-020, 05-001, 05-002, 05-013). The route then crosses the Walton-on-the-Naze to Colchester railway to the west of Kirby Cross (Plot 05-014) which will be crossed using trenchless installation to prevent any disturbance or interruption to the railway. The route then continues north where an off-route haul road (Work Nos. 8/8A and 8C) (Plots 05-019, 05-020, 05-021, 05-022, 05-024) is included to avoid some woodland before crossing Thorpe Road (Works No. 9A) (Plot 06-001), Sneating Hall Lane (Plot 06-014) and Damant's Farm Lane (Plot 06-018) which are separated by agricultural land (Plots 06-010, 06-011, 06-013, 06-015, 06-017). From here, the route takes a north westerly direction through agricultural land (Plots 07-011, 07-007) crossing Landermere Road (Plot 07-013), more agricultural land (Plots 08-008, 08-011, 08-012, 08-013, 08-014) and Golden Lane (Plot 08-018). Crossing further agricultural land (Plots 08-019, 08-020, 08-021, 08-022, 08-026, 09-010), the haul road (Work No 9F) (Plots 08-024, 08-025) splits from the cable corridor due to ecological constraints, continuing to a temporary construction compound (Work No 9B) (Plots 09-003) to the north of Tendring Road (Plots 09-002, 09-04). Off route haul roads are provided for throughout this section of the route (Work Nos 9C, 9D, 9E) (Plots 07-002, 07-003, 07-004, 07-005, 07-009, 07-010 07-012, 08-002, 08-003 08-004, 08-005, 08-006, 08-007).
- 3.3.4 The cable corridor then splits to avoid residential properties and the junction of Thorpe Road (Plot 09-009), Swan Road (Plot 09-012) and Tendring Road (Plot 09-007). There is a temporary construction compound at this junction (Works No. 10B) (Plots 09-015, 09-016, 09-018, 09-019, 09-021). The route continues in a north-westerly direction (Works No. 10/10A) (Plots 09-008, 09-013, 09-014, 09-017, 09-020, 09-024, 09-025, 10-001, 10-010) with an off route haul road (Work No 10C) (Plots 10-004, 10-005, 10-006, 10-007) to cross Tendring Brook. The cable then crosses agricultural land (Work Nos 11/11A) (Plot 10-011) and Lodge Lane (Plot 10-011) through agricultural land (Plots 10-013, 11-001, 11-006), crossing Wolves Hall Lane (Plot 11-007), agricultural land (Plots 11-008, 11-009, 11-012) and Stones Green Road (Plot 11-018). An off road haul road is intended to be used to cross this road (Plots 11-013, 11-014, 11-015, 11-017, 12-002, 12-003) to avoid a number of mature trees. The route then crosses a final stretch of agricultural land (Plot 12-004) before reaching the A120 road at Horsley Cross (Plot 12-012), part of the strategic road network. A temporary construction compound (Work No. 11B) (Plot 12-006, 12-007) will be provided to the south of the A120 at the Horsley Cross Roundabout.

- 3.3.5 The cable continues through agricultural land in an easterly direction through open land (Work No 12/12A) (Plots 12-013, 13-007, 13-008), crossing Clacton Road (Plot 13-018, 13-019), where there will be two temporary construction compounds (Works Nos. 12B and 12C) (Plots 13-009, 13-010, 13-012, 13-015, 13-016, 13-017). The route then passes through agricultural land (Plots 13-022, 13-023, 14-001, 14-004, 14-005) reaching Bentley Road, (Plots 14-026, 14-027, 14-028, 14-029) Temporary construction compounds will be provided for in the land adjoining Bentley Road (Works Nos. 14B and 14C) (Plots 14-006, 14-015, 14-022, 14-023, 14-024).
- 3.3.6 Moving east through agricultural land (Plots 14-029, 14-031, 14-037, 14-038, 14-039, 14-040, 14-041, 14-042, 14-043, 14-044, 14-045, 14-046, 16-008, 16-009, 16-012, 16-013) the cable will cross Spratts Lane (Plots 16-002, 16-003, 16-004, 16-005, 16-006, 16-007), Barlon Road (Plot 16-014, 16-015, 16-015, 16-016, 16-017, 16-018, 16-019) and further agricultural land and a farm track (Plots 16-012, 16-013, 16-020, 16-021, 17-001, 17-002, 17-009, 17-010, 17-011). Here an off-route haul road (Work Nos. 14D) (Plots 16-022, 17-003, 17-005) follows field boundaries to Ardleigh Road.
- 3.3.7 At Ardleigh Road (Plots 17-020, 17-021) the cable reaches the substation (Work No. 15/15A) (Plots 17-015, 17-016, 17-017, 17-018, 17-019, 17-020, 17-022, 17-023, 17-024, 17-025, 17-026, 17-028, 17-029) to be constructed as part of VE. Freehold acquisition is sought for the substation area as the development of the substation, fencing of it, creation of new access, drainage and landscaping will be a permanent change of use of the land, removing it from its current agricultural use. The degree of interference required and the need of the Applicant to be able to control the land, including excluding access by anyone other than authorised persons to the substation, mean that the current landowner could not continue to use this land and freehold acquisition is appropriate and justified.
- 3.3.8 To the west of the new VE substation, the cable corridor will connect that to National Grid's proposed East Anglia Connection Node substation, in the vicinity of the existing 132kV substation to the south of Lawford (Work No. 16), (Plots 17-030, 17-031, 18-001, 18-002). Some flexibility is required in this area as it is not yet known where the connection to the substation will be created. National Grid are currently designing this substation, and VE requires to be able to connect into the substation as directed by National Grid having regard to the design of those works. Accordingly, the cable corridor currently allows connection to the substation to be routed to any point around the EACN to ensure that the appropriate connection can be made once the connection location is specified by National Grid.

3.4 ACCESS

- 3.4.1 Work No.17 comprises a number of accesses (Plots 02-002, 02-003, 02-007, 03-005, 03-013, 03-015, 03-016, 03-017, 03-018, 04-014, 04-015, 04-016, 04-017, 04-018, 04-019, 05-003, 05-004, 05-005, 05-006, 05-009, 05-012, 05-015, 05-016, 05-017, 05-018, 05-025, 05-026, 06-003, 06-004, 06-006, 06-012, 06-016, 07-001, 07-004, 07-008, 08-002, 08-006, 08-009, 08-010, 08-015, 08-016, 08-017, 08-023, 09-001, 09-006, 09-011, 09-022, 09-023, 10-002, 10-003, 10-008, 10-009, 10-012, 11-002, 11-003, 11-004, 11-005, 11-010, 11-011, 11-019, 11-020, 12-005, ~~12-004~~, 12-014, 13-001, 13-002, 13-003, 13-004, 13-005, 13-006, 13-011, 13-021, 13-024, 14-002, 14-003, 14-008, 16-001, 16-010, 16-011, 16-023) which are required for the operational phase and over which permanent access rights are sought. In combination with the access rights which are sought within the cable corridor itself, these allow access to the entirety of the cable corridor for maintenance, repair and monitoring; and to land which may require to be maintained post-construction to ensure habitat restoration and landscape planting becomes established. Where practical, these accesses have been routed over existing accesses and tracks in order to minimise the interference caused to landowners. Where existing accesses and tracks are used, rights will be sought and exercised alongside existing access rights and it is not proposed to extinguish any other person's access rights on these routes.
- 3.4.2 Work no. 4~~AB~~ (Plots 01-001, 01-002, 01-003, 01-004, 01-005, 01-006) provides for access to the beach and adjoining land to support any works which may be required during construction. Access for other users will remain open during construction, except for when construction equipment is being mobilised and demobilised, when short temporary access restrictions such as marshalling may be required to ensure public safety.
- 3.4.3 Improvements to the A120/ Bentley Road junction (Work no. 13A) (Plots 15-013, 15-014, 15-015, 15-016, 15-017, 15-018, 15-019, 15-020, 15-021, 15-022) and road widening and road improvements to Bentley Road (Work no. 13) (Plots 14-005, 14-007, 14-009, 14-011, 14-012, 14-013, 14-016, 14-017, 14-018, 14-019, 14-020, 14-021, 14-025, 14-026, 14-027, 14-028, 14-030, 14-032, 14-033, 14-034, 15-001, 15-002, 15-003, 15-004, 15-005, 15-006, 15-007, 15-008, 15-009, 15-010, 15-011) are proposed to facilitate construction access via Bentley Road and then via the haul route within the cable corridor.
- 3.4.4 No permanent land take is proposed in the existing A120 as this is already highway land. Permanent land take is proposed along Bentley Road as the widened sections will become local highway and will not be returned to their former use. The detailed design for road widening and road improvements to Bentley Road (Work no. 13) is still to be determined and will be subject to a road safety assessment on that design. The final land take for Bentley Road will be reduced appropriately to reflect the final design of these works.

3.5 COMPENSATION WORKS

- 3.5.1 Powers to acquire rights in land at Orford, on the coast of Suffolk (Work No. 18B) (Plots 20-002, 20-003, 20-004) are sought in order to access, improve, manage and monitor habitat to provide compensation for the impact of VE on the Lesser Black Backed Gull population. Access to this site will be from the dock at Orford Ness (Plots 19-001, 19-003) along an existing track (Plots 19-002, 19-004, 19-005, 19-006, 19-007, 20-001).

4 NEED FOR AND BENEFITS OF VE

- 4.1.1 The Planning Statement for VE (application document number 9.1) sets out in detail the need for VE and the contribution it would make towards achieving the objectives of policy, including UK Government policy as set out in National Policy Statements (NPSs), international obligations and national climate change legislation. That case is not repeated in full here and this Statement of Reasons should be read alongside the Planning Statement.

4.2 NEED ESTABLISHED BY LEGISLATION

- 4.2.1 The Climate Change Act 2008 (as amended) commits the UK to a net reduction in greenhouse gas emissions against the 1990 baseline by 2050, including a 34% reduction by 2022 and an 80% reduction by 2050. The Climate Change Act also created a framework for setting a series of interim national carbon budgets and plans for national adaptation to climate risks. The 2011 Carbon Plan is the UK's national strategy under the Climate Change Act 2008 for delivering emissions reductions through to the Fourth Carbon Budget period (2023-27) and preparing for further reductions to 2050.
- 4.2.2 Legislation also sets out the government's commitments with regards to renewable energy generation, including the Energy Act 2013, which makes provisions to incentivise investment in low carbon electricity generation, ensuring security of supply, and helping the UK meet its emission reduction and renewables targets.
- 4.2.3 The Government's Ten Point Plan for a Green Industrial Revolution (HM Government, 2020) sets out the approach the Government will take to support green jobs and accelerate the path to net zero. Point one of the plan explains how the Government will advance offshore wind as a critical source of renewable energy. By 2030 the aim is to produce 40GW of offshore wind.
- 4.2.4 In April 2022, the Government published the British Energy Security Strategy in which the UK wide target for installed offshore wind capacity increased further to 50GW by 2030.

4.3 INTERNATIONAL OBLIGATIONS: UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE.

- 4.3.1 The United Nations Framework Convention on Climate Change (UNFCCC) came into force in March 1994 and is an intergovernmental environmental treaty. The framework sets out non-binding greenhouse gas emission reduction limits and guidance on how specific treaties may be negotiated to bring further action towards UNFCCC objectives. The main objective is the "*stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.*"
- 4.3.2 The Conference of the Parties (COP) reviews the implementation of the Convention. In 2021, the COP negotiated a global agreement with the key goal of limiting increases of global temperatures to "*well below 2°C compared to pre-industrial levels*". The parties also agreed to "*pursue efforts to*" limit the temperature increase to 1.5°C. This was a development of the Paris Agreement and represents a binding and universal agreement on climate from all the parties. The agreement was reached by 196 parties, seeking to prevent a "*climate catastrophe*" by keeping temperature rises within 1.5°C.

4.4 NATIONAL POLICY STATEMENTS

- 4.4.1 Sections 104 and 105 of the 2008 Act provide for the approach to be taken to determining DCO applications. S104 of the 2008 Act requires that where NPS have effect, DCO applications must be decided by the Secretary of State in accordance with the relevant NPS(s), unless certain specified exceptions apply. The Planning Statement sets how the Application is in accordance with the relevant NPSs and other requirements of Planning Act 2008.
- 4.4.2 In January 2024, the Secretary of State for Energy Security and Net Zero designated revised NPSs for Energy. These include:
- > EN-1 Overarching NPS for Energy (DESNZ, 2023);
 - > EN-3 Renewable Energy Infrastructure (DESNZ, 2023), which covers nationally significant renewable energy infrastructure (including offshore generating stations in excess of 100 MW); and
 - > EN-5 Electricity Networks Infrastructure (DESNZ, 2023), which covers the electrical infrastructure associated with an NSIP.
- 4.4.3 NPS EN-1 sets out the national policy for the need for, and delivery of, energy infrastructure, including offshore renewable electricity generation. Part 3 of NPS EN-1 explains why the UK Government sees a need for significant amounts of new large scale energy infrastructure to meet its energy objectives and why the UK Government considers that the need for such infrastructure is urgent. With regards the role of offshore wind, NPS EN-1 notes that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar, with an ambition to deliver up to 50GW of offshore wind by 2030.
- 4.4.4 Policy in this area is further informed by NPS EN-3 and NPS EN-5. NPS EN-3 makes clear reference to the target of 50GW of new offshore wind capacity by 2030. VE will contribute to meeting this target. EN-3 and EN-5 set out that offshore wind development, and the supporting onshore and offshore transmission infrastructure and related network reinforcements, are viewed by the government as being a critical national priority (CNP) and should be progressed as quickly as possible. VE falls within the CNP classification and accordingly considerable policy support and an established need case for the project is provided by the NPSs.

4.5 PROJECT BENEFITS

- 4.5.1 The Application's consistency with relevant planning policy, is set out in detail in the Planning Statement (application document number 9.1).
- 4.5.2 VE will make a significant contribution to the achievement of the UK's national renewable energy targets, and to the UK's contribution to global efforts to reduce the effects of climate change. The energy generated by the project will represent a substantial contribution to UK 2030 energy targets, and help to address the UK's current shortfall of offshore wind electricity supply deployment target for 2030. The need for this type of generation is clearly established in the NPSs undermining that this is critical national priority infrastructure.

- 4.5.3 The socio-economic effects of the Application are considered to be beneficial, as has been concluded in the Environmental Statement Volume 6, Part 3, Chapter 3 Socioeconomics, Tourism and Recreation (application document number 6.3.3). Those benefits will also be subject to further consideration within the Supply Chain Plan which will be produced in support of the Contacts for Difference (CfD) bid and which will secure local investment.
- 4.5.4 The economic benefits and policy need should also be balanced against the significant costs to the economy of unmitigated climate change (as recognised in policy terms (UK Climate Change Risk Assessment 2022 Presented to Parliament pursuant to Section 56 of the Climate Change Act 2008)).
- 4.5.5 VE would also contribute to meeting global, European and national targets on carbon dioxide reduction in line with the Climate Change Act 2008.
- 4.5.6 Job creation is explored in Volume 6, Part 3, Chapter 3 Socioeconomics, Tourism and Recreation (application document number 6.3.3). VE would create jobs directly and indirectly throughout the supply chain, where jobs are created during the entire life cycle of an offshore wind farm, from its development and design, through to construction and longer term operation and maintenance.
- 4.5.7 One of the Applicant's shareholders, RWE, champions skills development at its UK-wide training hub through a valuable partnership with Llandrillo College in North Wales. To date, over 40 wind turbine apprentices have been trained at the College. Some of these apprentices are working at the Galloper Operations and Maintenance base located in Harwich (the operational wind farm to which VE is an extension). Five Estuaries is committed to developing an Employment, Skills and Education Strategy, and outline version is included with the application (application document number 9.27), which seeks to identify and secure a greater contingent of local workforce, increasing skills locally.
- 4.5.8 As required by NPS EN-5 and the expectation set therein that offshore wind farms in the same area will adopt a more coordinated approach to their connection infrastructure and seek to reduce cumulative impact, VE and North Falls have been working in co-ordination on the grid connection works for both projects, The proposed approach allows for co-ordinated delivery where practicable in accordance with policy. The land acquisition strategy has been developed to facilitate that delivery and is there in accordance with the NPS.

4.6 CONCLUSIONS

- 4.6.1 As established in the Planning Statement (application document number 9.1), VE would make a significant contribution to meeting national need, in accordance with policy set out in NPS EN-1.
- 4.6.2 The Applicant accordingly submits that this Application should therefore be assessed on the basis that the Government has provided that there is a need for renewable energy infrastructure, that the scale of the need is significantly in excess of what is currently being promoted and that the need for renewable energy is urgent. In accordance with the NPS EN-1, substantial weight should be given to the contribution which the Project would make towards satisfying this need.
- 4.6.3 The need for VE and offshore wind in general is supported by NPS EN-1, in addition to wider governmental obligations and objectives relating to low carbon electricity generation, climate change and the economy.

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

5 POWERS OF COMPULSORY ACQUISITION

- 5.1.1 The Application has been made under the 2008 Act for a DCO granting consent to construct and operate VE, including powers of compulsory acquisition for the land necessary to do that. The 2008 Act specifies in section 120 what may be included within a DCO, and provides that such orders may include provisions on matters ancillary to the development consented. Those ancillary matters may include the acquisition of land and the creation, suspension and extinguishment of interests in or rights over land as set out in Schedule 5 to that Act.
- 5.1.2 The draft Order contains the following provisions:
- > Article 224 authorises the compulsory acquisition of any interest in land;
 - > Article 243 authorises the compulsory acquisition of rights over land, including by creation of rights;
 - > Article 265 provides for the extinguishment of private rights in land which is compulsorily acquired; and
 - > Article 287 allows the Applicant to compulsorily acquire the subsoil of land only.
- 5.1.3 The exercise of compulsory powers is limited by Article 232 which provides that notices under such powers must be served within 7 years of the date of the Order being made. The draft Order also amends the compensation enactments to extend their provisions to cover acquisition of rights in land only as well as the land itself.
- 5.1.4 Section 122 of the 2008 Act sets out the purposes for which compulsory acquisition may be authorised and lists the conditions which must be met. This provides that the Secretary of State must be satisfied that the land; —
- > is required for the development to which the development consent relates, or
 - > is required to facilitate or is incidental to that development,
 - > and that there is a compelling case in the public interest for the land to be acquired compulsorily.
- 5.1.5 As required by the Guidance, this Statement sets out the use to which each Plot subject to powers of compulsory acquisition would be put (Section 9) and sets out why the powers sought are justified.
- 5.1.6 The DCO includes, as Article 419, a provision that nothing in the Order can prejudice any interest held by the Crown without the consent of the Crown. While no compulsory acquisition of any Crown interest is sought in the Order, this article confirms that the powers granted cannot be exercised in a manner which would adversely affect Crown interests, including that rights of the Crown cannot be extinguished.

5.2 CONSIDERATION OF ALTERNATIVES TO COMPULSORY ACQUISITION

- 5.2.1 The objective to avoid or minimise compulsory acquisition was an important factor in selecting the current location for VE. The site selection process is set out in section 6. Landownership and land use were factors taken into account in refining the project location.

- 5.2.2 Diligent inquiry has been undertaken to identify all persons with an interest in the Order Land. There are some interests for which it has not been possible to identify the affected persons (mostly as a result of land being unregistered). These are set out in the Book of Reference and labelled as 'unknown'. Details of the steps taken to identify unregistered interests is set out in section 8.
- 5.2.3 The Applicant has contacted all identified landowners and is seeking voluntary agreements to acquire the necessary land and rights. Negotiations are ongoing with affected parties to seek to reach voluntary agreements, and are detailed in section 8 of this Statement, however it has not been possible to secure all of the necessary land and rights.
- 5.2.4 In the absence of compulsory acquisition, all of the land and rights required to allow VE to be constructed and operated may not be secured and VE will therefore not proceed. The Applicant needs to have certainty that the required rights and land can be obtained within a reasonable timeframe and to be able to evidence this certainty to its funders. Given the clear policy support for the development of projects of this type, the granting of powers of compulsory acquisition to VE represents a proportionate and legitimate interference with private rights and would be in the public benefit.

5.3 CONSTRUCTION SCENARIOS

- 5.3.1 As explained in the Co-ordination Document (application document number 9.30), the onshore export cable corridor and onshore substation arrangement have been designed in coordination with the adjacent North Falls Offshore Wind Farm project (North Falls). A coordinated delivery of both projects presents opportunities to minimise environmental and community disruption. Three scenarios for onshore delivery with North Falls have been planned for:
- > Scenario 1 - VE proceeds to construction and undertakes additional onshore cable trenching and ducting works for North Falls as part of a single programme of works. VE may also carry out some ground works (vegetation clearance, levelling, grading) in the wider substation zone where the North Falls substation will be located. VE would undertake the cable installation and onshore substation build for its project only. The two projects would share accesses from the public highway for cable installation and substation construction. VEs would utilise and share the site accesses, haul roads and temporary construction compounds with North Falls for the cable installation works;
 - > Scenario 2 – Both VE and North Falls proceed to construction on different but overlapping timescales (between 1 and 3 years apart). Civil works are undertaken independently, but opportunities for reuse of enabling infrastructure such as haul roads, temporary construction compounds and site accesses are utilised, with the later (second) project reinstating;
 - > Scenario 3 – North Falls does not proceed to construction; or both VE and North Falls proceed to construction on significantly different programmes (over 3 years apart). In the latter case the significantly different programmes would mean that haul roads and temporary construction compounds are reinstated prior to the second project proceeding.
- 5.3.2 Scenario 1 (secured as 'build option 1' in the draft DCO) would necessitate an increase in the width of the corridor to accommodate the installation of the second set of ducts, when compared against scenarios 2 and 3, in which VE would only construct those works required for the VE project.

- 5.3.3 Scenario 1 would mean that land and rights beyond those ~~strictly~~ required to allow VE in isolation to be constructed and operated are sought in accordance with the NPS-EN5 to seek to allow for co-ordination of onshore grid connections. –The rights sought remain those necessary for the authorised development as set out in schedule 1 of the DCO as consent is also sought for the co-ordination works. ~~However,~~ providing for coordinated delivery of VE with North Falls balances the opportunities to minimise environmental and community disruption in accordance with the NPS against the interference with private rights, and would be in the public benefit.
- 5.3.4 The substation sites for VE and North Falls have been co-located in one area designed to co-ordinate with the National Grid EACN proposals. While each project would retain the responsibility for separate substation builds, the following would be delivered jointly under build option 1 to reduce environmental impacts:
- > Common access route to the substations from Bentley Road;
 - > Common permanent access point and bellmouth from Ardleigh Road; and
 - > Aligned screening principles and advance planting for both projects.
- 5.3.5 Reduction in the potential impacts would mainly be associated with the reduction in overall land take, which include avoiding duplication of construction access works, and the associated reduction in construction traffic volumes.
- 5.3.6 Regardless of build option approach taken to deliver the onshore substation, co-locating with North Falls allows VE to keep impacts to a single area when considering cumulative development effects and have a lower overall land take when compared to locating the substations in different search areas.
- 5.3.7 Further details on construction methodologies are set out in the Coordination document (application document number 9.30).
- 5.3.8 In the event that the Applicant elects to proceed with ‘build option 1’ (as described in the draft development consent order), funding for the additional cable ducts associated with that option would be secured either by a commercial agreement between the Applicant and North Falls or alternatively through the anticipatory investment framework being developed by Ofgem.

6 SITE SELECTION

- 6.1.1 In February 2017, The Crown Estate (TCE) launched an opportunity for existing offshore wind farms to apply for project extensions. TCE defined application criteria for these project extensions, which include the need to share a boundary with the existing wind farm which it is intended to extend. The process, and how VE has sought to fulfil the TCE's prescribed criteria, is presented in section 4.1 of the Site Selection and Alternatives Chapter (application document number 6.1.4) of the ES.
- 6.1.2 The 2017 Extension Round criteria, which were also used to inform TCE's strategic plan level Habitats Regulation Assessment and associated Cable Route Protocol, limit the level of flexibility an applicant can have with regard to the spatial configuration of extension projects.
- 6.1.3 The offshore export cable corridor extends from the southern and northern boundaries of the Five Estuaries array areas in a westerly direction to the landfall location between Holland-on-Sea and Frinton-on-Sea on the Essex coast.
- 6.1.4 The onshore export cable corridor extends from the landfall for approximately 22 km primarily through agricultural land, to the onshore substation (OnSS) north of the A120 on the east side of Colchester, before then connecting to the proposed new National Grid East Anglian Connection Node substation (EACN). A number of features, such as Frinton Golf Club, the East Coast Main Line railway spur and the A120 highway require to be crossed on this route.
- 6.1.5 The Applicant has undertaken a logical, staged process to arrive at VE location and design. The Site Selection and Alternatives Chapter of the ES (application document number 6.1.4), sets out in detail the approach to and consideration of alternatives with further technical assessment in the associated annexes. All of the main alternatives are described and assessed and the ES chapter identifies where alternatives are considered to either not be commercially viable or physically/technically unsuitable to the extent that they carry significant risk to the implementation of VE.
- 6.1.6 The site selection and consideration of alternatives has been a sequential process informed by an understanding the potential locations for infrastructure and the detail of those areas and refining the location options. This has ensured that the findings of the environmental assessments have guided the evolution of the proposed project design, and the onshore development areas have been modified to avoid, reduce or mitigate the potentially adverse impacts as far as practicable.
- 6.1.7 The consideration of land and land use is set out in the Site Selection and Alternatives Chapter (application document number 6.1.4) of the ES, and examples include:
- > Land parcel identification for the onshore substation considered opportunities for co-ordinated siting and the minimisation of the number of land parcels affected;
 - > Routing principles for the onshore cable corridor incorporated the principle of utilising, wherever possible, open agricultural land, and also sought to minimise impacts on agricultural practices and access, by avoiding rendering parcels of agricultural land inaccessible during construction and installing cables along field boundaries where possible;
 - > Assessment of onshore cable corridor options compared the environmental, engineering, land management and cost constraints and opportunities of each option;

- > Following consideration of technical issues, preliminary environmental assessments, and feedback received from landowners and communities the onshore cable corridor 'Route Segment Option North West 1' was removed from the project design. More complex land use in this segment meant that cables through this area had the potential to be more disruptive to more individual landowners;
 - > At the crossing of Little Clacton Road by the onshore cable corridor, a single corridor is now proposed rather than three. This significantly reduces land take in this area;
 - > The TCC south of the A120 has been reduced in size and kept to the east of land at this location, thereby increasing the distance to nearby residential property;
 - > At the crossing of Bentley Road, TCCs have been reduced in size and moved further way from residential properties.
- 6.1.8 Wherever possible and practicable, the Applicant has sought to accommodate preferences and concerns raised by stakeholders, including landowners, through the site selection process whether by adjustments to the development boundary, areas of works, or designs being considered. The Consultation Report (application document number 5.1) explains how the Applicant has undertaken:
- > engagement with stakeholders outside of defined consultation periods (both statutory and non-statutory), which was carried out to help inform the development of the Project;
 - > non-statutory consultation on the proposals; and
 - > statutory consultation on the proposals and preliminary environmental information.
- 6.1.9 The site selection process and alternatives considered have been through detailed analysis of environmental and engineering constraints, with key feasible alternatives taken forward for consultation either through the Scoping process, the Evidence Plan, or specific evidence plan meetings.
- 6.1.10 The first stage of consultation (Stage 1) resulted in a cable route search area nearest to Tendring not being taken forward to the next stage of consultation.
- 6.1.11 Following the next stage of consultation (Stage 2), key refinements were made to VE, including:
- > reduction from up to four export cables to two, reducing the required development width and therefore associated impacts;
 - > selection of the western search area for the location of the onshore substation meaning the previously proposed eastern search area is now crossed by the cable route only;
 - > selection of the preferred landfall location, distancing VE from breeding and non-breeding bird habitats and closest noise sensitive receptors;
 - > a significant reduction in the width of the export cable corridor; and
 - > increased use of horizontal directional drilling to reduce the impact on established hedgerows, other ecological areas of note, and highways.
- 6.1.12 As detailed in Volume 6, Part 1, Chapter 3: EIA Methodology, (application document number 6.1.3), VE has employed a maximum design scenario approach. It is recognised that whilst the site selection process has included a number of refinements to the project envelope, so far as practical, there remain areas of flexibility for the final project design.

7 PLANNING POLICY POSITION

7.1.1 The planning policy framework relevant to the consideration of the Application includes both national and local policies. The framework, and the Applicant's assessment of planning policy, is set out in full in Volume 6, Part 1, Chapter 2 Policy and Legislation of the ES (application document number 6.1.2); the Planning Statement (application document number 9.1); and the Policy Compliance Statement (application document number 9.2) and is not repeated in full here.

7.2 NATIONAL POLICY STATEMENTS (NPS)

7.2.1 As set out in Section 104(3) Planning Act 2008, the DCO application must be decided by the Secretary of State in accordance with any relevant NPS, unless certain specified exceptions apply. The primary test therefore is to assess whether the Application is in accordance with the relevant NPSs and other requirements of Planning Act 2008.

7.2.2 Designated NPSs which are relevant to the determination of the proposal development are as follows:

- > EN-1 Overarching Energy (DESNZ, 2023);
- > EN-3 Renewable Energy Infrastructure (DESNZ, 2023), which covers nationally significant renewable energy infrastructure (including offshore generating stations in excess of 100 MW); and
- > EN-5 Electricity Networks Infrastructure (DESNZ, 2023), which covers the electrical infrastructure associated with an NSIP.

THE OVERARCHING NPS FOR ENERGY: EN-1

7.2.3 Paragraph 4.1.3 of EN-1 provides that, given the level and urgency of need for infrastructure of the types covered by the energy NPSs, the Secretary of State should start with a presumption in favour of granting consent to applications for energy NSIPs. The presumption applies unless specific policies in the relevant NPSs clearly indicate that consent should be refused in a particular case. Paragraph 4.1.5 of EN-1 sets out that, in considering any proposed development, and in particular when weighing its adverse impacts against its benefits, the Secretary of State should take into account:

- > its potential benefits including its contribution to meeting the need for energy infrastructure, job creation and any long-term or wider benefits; and
- > its potential adverse impacts, including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.

7.2.4 In order to assist the Secretary of State with weighing the impacts and benefits, the Planning Statement (application document number 9.1) summaries the benefits of VE, identifies any residual impacts, and discusses mitigation.

7.2.5 NPS EN-1 provides at 4.1.7 that where this NPS or other relevant NPSs require mitigation and the Secretary of State considers that there still would be residual adverse effects after the implementation of such mitigation measures, that the residual effects should be weighed against the benefits of the proposed development.

- 7.2.6 The government has committed to fully decarbonising the power system by 2035 subject to security of supply, to underpin its 2025 net zero ambitions and therefore concluded that there is a CNP for the provision of nationally significant low carbon infrastructure.
- 7.2.7 A further key revision to NPS EN-1 is the introduction of infrastructure that is classified as Critical National Priority (CNP). Paragraph 4.2 considers which energy technologies are considered to be low carbon and therefore CNP which includes onshore and offshore wind generation .
- 7.2.8 4.1.7 goes on to note that the needs case for CNPs is likely to outweigh the residual effects in all but the most exceptional cases (unacceptable risk to, or interference with human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero).

THE NPS FOR RENEWABLE ENERGY: EN-3

- 7.2.9 EN-3 covers technology specific matters including offshore wind.
- 7.2.10 EN-3 at paragraph 2.5 sets out a requirement for good design and is outlined below:
- > Proposals for renewable energy infrastructure should demonstrate good design, particularly in respect of landscape and visual amenity, opportunities for co-existence/ co-location with other marine and terrestrial uses, and in the design of the project to mitigate impacts such as noise and effects on ecology and heritage.
- 7.2.11 The Project design and location has been based on early engagement with key stakeholders, the public and a range of environmental and technical appraisals. Design considerations of relevance to the onshore design are summarised in the Site Selection chapter of the ES (application document number 6.1.4) and the Onshore Substation Design Principles document (application document number 9.4). Feedback from stakeholders as a result of statutory consultation has contributed to the evolution of the proposals in conjunction with ongoing design development, as noted in the Consultation Report (application document number 5.1).

NPS FOR ELECTRICITY NETWORKS INFRASTRUCTURE: EN-5

- 7.2.12 This NPS contains guidance on assessing applications for new electricity transmission lines as well as associated infrastructure. The Applicant has considered this NPS as new electricity infrastructure forms part of the Project. The Applicant has an agreement with National Grid Electricity Transmission for a grid connection at the existing substation.
- 7.2.13 The onshore cables will be installed underground, thereby minimising landscape and visual effects as required by paragraph 2.10.5 of EN-5. Archaeology is considered in NPS EN-5 where the potential effects to below ground archaeological remains are balanced against the visual effects of using overhead lines. Archaeological assessment is detailed in the 'Archaeology and Cultural Heritage' chapter of the ES (Volume 6, Part 3, Chapter 7, application document number 6.3.7). Significant effects to buried archaeological remains were identified where these are predicted to be of medium or high heritage significance, prior to mitigation. However, following the implementation of an approved programme of mitigation measures through preservation by record or preservation in situ (if appropriate), no significant residual effects are anticipated.

- 7.2.14 Section 2.11 of NPS EN-5 considers the potential for Electro-Magnetic Fields (EMF) to arise as a result of new power transmission projects, and suggests an approach to mitigation for EMF effects, where they might occur. The ‘Human Health and Major Disasters’ chapter of the ES (Volume 6, Part 4, Chapter 2, application document number 6.4.2) presents the assessment of EMF.
- 7.2.15 Specific NPS policies relevant to environmental topics are set out in each ES chapter with information provided as to how each item has been addressed.
- 7.2.16 In addition, the Planning Statement (application document number 9.1) provides a full assessment of VE in relation to compliance with NPSs.

7.3 NATIONAL AND LOCAL PLANNING POLICY

NATIONAL PLANNING POLICY FRAMEWORK

- 7.3.1 The National Planning Policy Framework (NPPF) was published in March 2012 with the intent of making the planning system less complex and more accessible (Ministry of Housing, Communities and Local Government, 2019). A revised NPPF was published in February 2019 and updated in July 2021, setting out the UK Government’s planning policies for England and how these are expected to be applied.
- 7.3.2 The NPPF outlines core principles that cover protection and conservation of the natural and built environment, and the promotion of sustainable growth and development.
- 7.3.3 Paragraph 8 of the NPPF outlines the three pillars to sustainable development, which are the objectives which the planning system must pursue in mutually supportive ways:
- > *“An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
 - > *A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and*
 - > *An environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy”.*
- 7.3.4 These objectives should be delivered through the preparation and implementation of plans and the policies in the NPPF, not as criteria against which every decision can or should be judged. Planning Policies play an active role in guiding development, but there is a requirement to take in further information regarding site characteristics, local circumstances and function needs.

- 7.3.5 Specific NPPF Policies set out the Government's targets for England; how these are to be applied and forms a material consideration in planning decisions. Paragraph 5 of the NPPF makes it clear that the document does not contain specific policies for NSIP's. However, paragraph 5 goes on to confirm that the NPPF may be a matter that is both important and relevant for the purposes of assessing DCO applications and the Applicant therefore also considers this in relation to the decision making for onshore elements and impacts of the Project.
- 7.3.6 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The policies that are set out in the NPPF paragraphs 19 – 20, taken as a whole, constitute the Government's view of what sustainable development in England means in practice.
- 7.3.7 Paragraph 152 outlines that the: "planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure".
- 7.3.8 The DCO Proposed Development constitutes sustainable development in the context of the NPPF, delivering economic, social and environmental benefits. It therefore accords with the main principles of the NPPF. There will be no adverse impacts outweighing the benefits when assessed against the policies in the NPPF taken as a whole.

DEVELOPMENT PLAN AND LOCAL POLICY

- 7.3.9 In deciding applications for development consent, section 104(d) of the 2008 Act requires the Secretary of State to have regard to other matters which the Secretary of State thinks are both important and relevant to the decision. Such matters include development plans and local policies.
- 7.3.10 Local authorities are required to prepare and maintain up to date Local Development Plans which set out their objectives for the use and land development within their jurisdiction, and general policies for implementation.
- 7.3.11 Prior to the Planning and Compulsory Purchase Act 2004, local planning policy was set out in a single document, the Local Plan. Local plans are now being replaced by Local Development Frameworks which comprise a suite of Development Plan Documents (DPD) including a Core Strategy DPD, Site Allocation DPD, Area Action Plans and a Proposals Map. For the majority of local planning authorities these documents are still in development, but some have been formally adopted such as Section 1 and 2 of the Tendring District Local Plan 2013-2033 and Essex County Council's 'Everyone's Essex' plan, which have been considered by the Applicant.
- 7.3.12 The onshore development area (other than the Lesser black-backed gull (LBBG) compensatory works, Work No. 18) falls under the jurisdiction of Tendring District Council and Essex County Council. A Memorandum of Understanding has been signed between these two councils to ensure Essex County Council and Tendring District Council's work is collaboratively aligned when dealing with the different stages of the application.

- 7.3.13 The LBBG compensatory works site is proposed within East Suffolk District and Suffolk County. These local authorities were consulted regarding the LBBG proposals, and their comments have been taken forward into the refinement of the project design.
- 7.3.14 The local plans have been considered by the Applicant in the ES. A number of neighbouring local authorities have also been consulted and their comments have been considered and incorporated within the ES..

7.4 CONCLUSION ON PLANNING POLICY

- 7.4.1 The fundamental test to be applied in the decision-making process is whether, on balance, VE is in accordance with the relevant NPSs (except to the extent that one or more of the matters set out in Section 104(4) to 104(8) applies). The Planning Statement sets out VE, the background and context of the development, and the legal and policy context, and how the Applicant submits that the project has complied with the relevant policies. The Planning Statement establishes the accordance of the proposed Project with NPS policy . Any predicted significant effects have been mitigated as far as practicable, and when considering VE as a whole, it is not considered that there are any adverse effects, individually or cumulatively, which would be of such a weight in the planning balance to outweigh the substantial benefits and need case of VE.
- 7.4.2 VE would make a significant contribution to the achievement of the UK's national renewable energy targets. VE has the potential to make a substantial contribution to UK 2030 energy targets and would have a direct positive benefit by providing a secure renewable energy supply for hundreds of thousands of UK households. VE would reduce carbon emissions and contribute to the economy by providing socio-economic and other benefits that should be taken into account under NPS and other Government policies and legislation. VE will also make an important contribution to energy security, seen as a critical driver for UK renewable energy.
- 7.4.3 For all of the above reasons, VE would bring significant benefits under a range of national, international and local policy considerations, would be in accordance with relevant NPSs and legislation and therefore the Applicant submits that consent should be granted.

8 ENGAGEMENT WITH AFFECTED PARTIES

- 8.1.1 Under the Planning Act 2008, diligent inquiry must be undertaken to identify the categories of persons set out in sections 44 and 57 as Categories 1, 2 and 3.
- > Category 1 comprises owners, lessees, tenants (whatever the tenancy period) and occupiers of the land.
 - > Category 2 comprises persons who are interested in the land or have the power to sell and convey, or to release, the land.
 - > Category 3, as prescribed by sections 44 and 57 of the PA2008, comprises persons who the Applicant thinks would or might be entitled to make a "relevant claim" for compensation, if the order sought by the application were to be made and fully implemented.

8.2 LAND REFERENCING

- 8.2.1 VE's appointed Land Agents, Dalcour Maclaren, provided their benchmark methodology for undertaking diligent enquiry of persons with an interest in land to VE; this methodology is included as an appendix to the Consultation Report (application document number 5.1). Dalcour Maclaren have confirmed to VE that the methodology was followed for VE, which is summarised below.

INITIAL DATA PROCESSING

- 8.2.2 OS mapping was sourced and used as base mapping for an in-house database system, as well as to query His Majesty's Land Registry's (HMLR) national polygon service dataset to identify all the HMLR titles located within the VE land referencing boundary.
- 8.2.3 HMLR data was checked and cleansed to ensure the addresses were formatted correctly to match the official Royal Mail address. Organisation names and registered addresses were checked against the UK Companies House website, or foreign equivalent. For unregistered organisations, desktop research was used to define the most appropriate address to which to send correspondence to.
- 8.2.4 The data was then added to the appropriate HMLR titles on the database system. The land parcels were created and populated with the respective proprietors and mortgagees.
- 8.2.5 For any land within the land referencing boundary that is unregistered, land parcels were created by Dalcour Maclaren for these areas to ensure all land within the land referencing boundary was covered by an associated land parcel.
- 8.2.6 The title descriptions listed on the HMLR registers were used as parcel descriptions and reviewed to ensure the land was described appropriately. All unregistered parcels were also given a parcel description using satellite imagery available on Google Maps and Bing Maps+.

INITIAL CONTACT

- 8.2.7 Initial contact letters and landowner questionnaires were posted to all landowners within the land referencing boundary, to make all landowners aware of the project and request access to their land for the purposes of conducting surveys. Any additional information provided on the landowner questionnaire, such as tenants or occupiers, was added to the project database.

- 8.2.8 For unregistered land within the land referencing boundary, an industry leading tracing and investigation tool, TracelQ, was used, and desktop research conducted to identify potential interests. Site visits were also conducted where required to those who own adjacent parcels to attempt to ascertain who owns the unregistered parcels. If the site visit was unsuccessful in obtaining this information a site notice was erected asking for those that do have any ownership information to contact Dalcour Maclaren. Dalcour Maclaren also use Environmental Stewardship data to identify tenants of land and further research can then be conducted to obtain address and contact information.
- 8.2.9 Reminder letters were sent where appropriate, and site visits made to those that did not respond to the initial letter, to encourage responses. TracelQ was used to source phone numbers and/ or email addresses to further prompt for responses.
- 8.2.10 Once the landowner questionnaire process was completed, survey access licences were issued to those where access was required to their land for surveys. All signed survey access licences were recorded and contact details & arrangements provided to those conducting the relevant surveys.

FURTHER HMLR DATA PROCESSING

- 8.2.11 A review of the HMLR title plans was undertaken to identify any discrepancies between the HMLR national polygon dataset and the actual extent of the titles shown on the HMLR title plans. Any required amends were made to the existing parcels on the project mapping database to match the title plan extent where necessary.

DESK BASED INTEREST GAP IDENTIFICATION AND FILLING

- 8.2.12 All unregistered parcels were populated with an 'unknown' freeholder, occupier and unknown rights interest. Desktop research was conducted and TracelQ used to identify any occupying interests that were missing from the relevant parcels. Any assumed owners were added to these unregistered parcels. These interests included adjacent landowners, frontage (ad medium filum) interests, watercourse interests, railway interests and rights of access interests.
- 8.2.13 A utility search was commissioned from a third party provided and updated periodically.
- 8.2.14 Requests for information on adopted highways, public rights of way, common land and pending planning applications were made to the relevant local authority.
- 8.2.15 Desktop research was undertaken to identify land which could be classed as special category land using Natural England environmental data. Aerial imagery of land within the land referencing boundary was reviewed to identify any further potential special category land. Further assessments are explained in section 11 of this statement.
- 8.2.16 Desktop research was undertaken to identify and record any further interests in land using publicly available Environmental Stewardship, National Highways, Crown Estate, Environment Agency, Canal & River Trust and Internal Drainage Board data.

LAND INTEREST QUESTIONNAIRES

8.2.17 Land interest questionnaires (LIQs) were issued to landowners to confirm contact information, ownership, occupiers, tenants and any other party with an interest in the land, such as rights of way or option agreements, as well as confirmation of boundaries. Responses to LIQs were logged and any additional interests identified in an LIQ response were sent their own LIQ. Reminder correspondence was sent to interests which did not return their LIQs within the requested timescale.

UNREGISTERED SITE NOTICE ERECTION & MONITORING

8.2.18 For unregistered land, site notices were erected. Site notices were accompanied by a plan showing the extent of the unregistered land, as well as contact details for Dalcour Maclaren's land referencing team. Site notices were regularly checked and replaced where necessary.

CONTACT SITE REFERENCING

8.2.19 Where LIQ responses were not received, reminders/ prompts were made through phone calls, emails, further reminder letters sent in the post or site visits dependent on contact details sourced through desktop referencing.

STATUTORY CONSULTATION REFERENCING

8.2.20 Prior to statutory consultation, a refresh of the HMLR data was procured to ensure that any updates since sourcing the original HMLR data was reflected in the project database. UK Companies House and foreign Company House websites (where relevant) were checked again to ensure that the registered address for organisations was current and correct.

8.2.21 Section 42 unregistered site notices were erected, monitored and replaced where necessary.

8.3 NEGOTIATIONS

8.3.1 As well as consulting all persons with an interest in the Order Land about VE's proposals in accordance with section 42 of the 2008 Act, (as set out in the Consultation Report, application document number 5.1) the Applicant has had regard to the requirement under paragraph 25 of the Guidance to seek to acquire land by negotiation wherever practicable.

8.3.2 The Applicant has entered into discussions with the relevant landowners and occupiers to secure the necessary interests over the land required for VE by agreement rather than through compulsory acquisition under the Order. Negotiations have taken place through letters, emails, phone calls, online meetings and face to face meetings. Whilst negotiations with landowners have continued over a number of months, agreement for the acquisition of many of the rights over or under certain Plots of land have yet to be secured.

8.3.3 Discussions regarding securing the necessary interests for lesser black-backed gull compensatory works are at an earlier stage than the onshore infrastructure requirements.

8.3.4 A number of land agents, representing the majority of freehold owners along the cable route, have grouped themselves together for the purposes of having common discussions with the Applicant on the proposed Heads of Terms for private agreements. Discussions on outline terms with the 'Land Agents Group' (LAG) have progressed well since April 2023, with face to face meetings and follow up correspondence between the Applicant's land agents, Dalcour Maclaren and the LAG. The discussions to date are summarised below:

- > Dalcour Maclaren were instructed by the Applicant to lead negotiations with affected landowners. The Applicant instructed legal advisors, Eversheds Sutherland LLP, to support Dalcour Maclaren throughout the process in the drafting of voluntary Heads of Terms ('HoTs') and Option agreements. Along with Eversheds Sutherland, Dalcour Maclaren reverted to the wider project team to ensure agreements aligned with the technical, design and legal requirements of the Applicant and that the agreements could be implemented in line with the draft DCO. As part of a collaborative approach with North Falls Offshore Wind Farm, the tripartite Heads of Terms were drafted, as opposed to two separate sets of agreements. This approach ensured that landowners were not required to negotiate multiple agreements at the same time and presented a consistent approach by both projects to acquiring the required land and rights in land.
- > In February 2023 Dalcour Maclaren were advised that a working group of land agents, known as the Land Agents Group ('LAG'), would represent the majority of landowners and occupiers affected by VE and North Falls.
- > Template Heads of Terms for the cable corridor were issued to LAG on 23rd April 2023, with a face-to-face meeting being held on 4th May 2023 between Dalcour Maclaren and LAG to review the document. Dalcour Maclaren requested feedback from LAG on the 23rd May ahead of a second meeting. A second meeting was held on 6th June 2023 to further discussions. These meetings did not include discussion on commercial values but did include numerous other points to be resolved within the HoTs. During these initial discussions LAG asserted that HoTs could not ultimately be agreed until they had seen the draft DCO. Dalcour Maclaren explained that the HoTs and associated plans, together with project information made available during statutory consultation, were the most relevant sources of information in the context of HoTs negotiations, and that these sources of information would give their clients the most suitable explanation on how the scheme will proceed, rather than the draft DCO. Dalcour Maclaren signposted information on VE that would feed into the Application to the LAG, including details of the project design made available during statutory consultation.
- > An updated set of HoTs were issued on 8th September 2023 taking the LAG's feedback into consideration with feedback requested by 25th September. Feedback was subsequently received from LAG on 18th October 2023 where the group again stated they did not believe they could confirm agreement to HoTs until they had seen the draft DCO.
- > A workshop was held jointly between North Falls and VE in October 2023, and feedback was requested from LAG ahead of this to ensure relevant points could be discussed, however comments were not provided despite multiple attempts to secure detailed comments on the HoTs,.
- > Correspondence continued between Dalcour Maclaren and LAG with a further draft of the HoTs being sent on the 20th Nov 2023. A draft option plan was provided on 12th December 2023 to add further context to the HoTs. Dalcour Maclaren followed up with LAG on the 15th January 2024 and the LAG confirmed on the 18th January 2024 that they had not yet reviewed the latest draft HoTs.
- > The most recent correspondence received from LAG was on 1st February 2024 where additional queries were raised and a reiterated stance that the LAG would

not be able to agree the HoTs until a draft DCO was provided . Dalcour Maclaren provided a response on 1st March 2024 with a further draft of the HoTs and requested any further comments from LAG to be received by 15th March 2024, so these can be considered and incorporated into the terms to allow populated HoTs to be issued. Dalcour Maclaren reiterated that the HoTs and associated plans, together with project information made available during statutory consultation, were the most relevant sources of information in the context of HoTs negotiations, but nevertheless asked the LAG if they had any particular aspects that they might expect to see within the draft DCO that they considered important.

- > As has previously been advised Dalcour Maclaren reiterated that the Heads of Terms and the associated plans which are the subject of the negotiations are the documents which will give the clients the most detail on how the scheme will proceed.
- > The Applicant is encouraged that given the discussions held to date over a period of 10 months to agree a template document, agreement of HoTs on an individual basis will be reached.
- > Where landowners are not being advised by members of the LAG, terms have been issued and dialogue is ongoing with their respective agents.
- > Where landowners are unrepresented by agents, dialogue is ongoing directly with those parties.
- > Updates on negotiations of the HoTs and option agreements will be provided post submission of the Application.

8.3.5 In order to provide certainty for VE and ensure funding can be achieved, powers of compulsory acquisition are sought over the land required for VE (the Order Land). This parallel approach of making the Application (including powers of compulsory acquisition) and conducting negotiations to acquire land by agreement is in accordance with paragraph 25 of the Guidance.

8.3.6 Further detail of the discussions that the Applicant has had with landowners and occupiers to acquire the Order Land by agreement is included in the Schedule of Negotiations, application document number 4.1.1. Some landowners who have protected status are considered below.

8.4 THE CROWN ESTATE

8.4.1 No freehold Crown land has been identified within the onshore cable corridor or within the intertidal and foreshore areas.

8.4.2 A number of Plots have been identified at Orford Ness, the location of proposed Lesser Black Back Gull compensatory works, where rights in land are held by The Crown Estate Commissioners and the Secretary of State for Defence (Plots 19-001, 19-002, 19-003, 20-002, 20-003). The Applicant is not seeking any compulsory acquisition rights over any Crown interests in these plots, but is instead seeking to create new rights to access, manage and maintain the land to provide compensatory habitat. This proposal will not prejudice any Crown right in the land. The Applicant will approach - the rights holders to seek their consent to the rights being sought.

8.5 ESSEX COUNTY COUNCIL

8.5.1 The Applicant has reviewed the highway and adopted highway extent provided by Essex County Council (ECC). VE crosses the highway extent on several occasions with the onshore cable route. The Applicant is in discussions with ECC, and has received information that two unregistered Plots (03-007A and 03-004A) are owned freehold by ECC. ECC has not claimed ownership of any of the remainder of relevant Plots, therefore the Applicant has applied the legal presumption that the landowners adjoining the highway own the sub-soil up to the centre line of the highway. The Applicant will enter into negotiations to secure the necessary rights for Plots 03-007A and 03-004A with ECC. The Applicant has included the subsoil of the existing highway within its powers to ensure that both the necessary rights can be acquired and that any restrictive covenant which would be breached can be extinguished. The Applicant does not propose and is not seeking powers to acquire or extinguish any right of the highway authority.

8.6 ENVIRONMENT AGENCY

8.6.1 The Environment Agency have presumed ownership in a number of Plots at the coast (Plots 01-004, 01-006, 01-007, 01-008) as well as ownership of one Plot at the coast (01-005). These Plots are Manor Way, where rights of temporary possession are sought for construction access; and the trenchless crossing under the sea defences between Frinton-on-Sea and Holland-on-Sea. The Applicant is in discussion with the Environment Agency on various matters, including property interests at landfall.

8.7 NATIONAL HIGHWAYS

8.7.1 The Applicant has confirmed ownership and interest in land through discussions with representatives from National Highways. The Applicant is seeking to agree commercial terms with National Highways for crossing of the A120 trunk road. The Applicant has also progressed several meetings with National Highways representatives to ensure the Applicant develops VE, including the proposed A120/Bentley Road junction works, in a manner that is does not jeopardise any road infrastructure forming part of the A120 trunk road. The Applicant has yet to agree terms with National Highways.

8.8 NATIONAL GRID

8.8.1 The Applicant has been in discussions with National Grid regarding the proposed new East Anglia Connection Node Substation (EACN), in order to ensure the extent of land required for Applicant's physical cable connection works into the proposed National Grid substation are understood, including rights of access for construction and operation/maintenance. Discussions are ongoing with National Grid as their design for the proposed substation evolves.

8.8.2 Whereas it is not yet certain where in the substation site the EACN will be located, and where within the EACN the Project will be given a connection point, compulsory powers to acquire rights to install and maintain the cables are sought over the whole site. This is necessary to ensure that VE can connect to the point later specified by National Grid. VE will not acquire any right of National Grid in the area or any rights within the final substation footprint once defined.

8.9 NETWORK RAIL

8.9.1 Network Rail have an unregistered freehold interest in Plots 05-014 and 05-016. The Applicant has been in active negotiation with Network Rail and has received Business Clearance, with discussions on Technical Clearance progressing (Network Rail reference CR/58022). As soon as technical clearance is obtained, negotiation on heads of terms for the Land Agreements can be progressed.

8.10 NATIONAL TRUST

8.10.1 A number of Plots (19-004, 19-005, 19-006, 19-007, 20-001, 20-004) have been identified at Orford Ness, the location of proposed Lesser Black Back Gull mitigation, where the freehold is held by The National Trust For Places Of Historic Interest Or Natural Beauty ('Natural Trust'). The Applicant is not seeking to compulsorily acquire the freehold of any of these plots, and is in discussion with the National Trust to seek their consent to the rights being sought.

8.11 THE UNITED KINGDOM ATOMIC ENERGY AUTHORITY

8.11.1 ~~Further investigations by the Applicant, and information supplied by the United Kingdom Atomic Energy Authority, has shown that the United Kingdom Atomic Energy Authority does not have any~~ interests in Plots 19-002, 20-002, 20-003 in Orford Ness. ~~The Applicant is not seeking any compulsory acquisition rights over any United Kingdom Atomic Energy Authority interests in these plots, but is instead seeking to create new rights to access, manage and maintain the land to provide compensatory habitat. This proposal will not prejudice any United Kingdom Atomic Energy Authority right in the land. The Applicant will approach the rights holders to seek their consent to the rights being sought.~~

9 CASE FOR POWERS OF ACQUISITION SOUGHT

- 9.1.1 This section sets out the Applicant's proposals and justification for each class of acquisition. This includes explaining where the Applicant is seeking necessary flexibility for the detailed design stage and it may be that the final land take is less than identified.
- 9.1.2 The Applicant is in discussions with the affected parties with the intention of reaching a voluntary agreement for the land or land rights required. Details of the progress of those negotiations is provided in the 'Schedule of negotiation' (application document number 4.1.1) and the 'Statutory undertakers position statement' (application document number 4.1.2).
- 9.1.3 Powers of compulsory acquisition are therefore sought on a precautionary basis to ensure that VE can be delivered should the landowner default on that agreement or where unknown interests in the land emerge. While the Applicant has undertaken a thorough and diligent land referencing and investigatory exercise, this possibility cannot be excluded and the Applicant requires to be able to acquire such interests where they emerge.

9.2 ACQUISITION OF RIGHTS AND IMPOSITION OF RESTRICTIVE COVENANTS

CABLE RIGHTS AND RESTRICTIVE COVENANTS

- 9.2.1 Plots 01-007; 01-008; 01-009; 01-010; 01-011; 01-012; 02-001; 02-004; 02-005; 02-008; 02-009; 02-010; 03-001; 03-003; 03-011; 03-014; 04-001; 04-003; 04-004; 04-007; 04-020; 05-001; 05-002; 05-013; 05-019; 05-020; 05-024; 06-010; 06-011; 06-017; 07-007; 07-011; 08-008; 08-011; 08-012; 08-013; 08-014; 08-019; 08-020; 08-021; 08-022; 08-026; 09-008; 09-010; 09-013; 09-014; 09-017; 09-020; 09-024; 10-001; 10-010; 10-011; 10-013; 11-001; 11-006; 11-008; 11-009; 11-012; 12-004; 12-013; 13-007; 13-008; 13-022; 13-023; 14-001; 14-004; 14-031; 14-037; 14-038; 14-039; 14-040; 14-041; 14-044; 14-045; 14-046; 16-004; 16-008; 16-009; 16-012; 16-013; 16-014; 16-020; 16-021; 17-001; 17-002; 17-010; 17-011.
- 9.2.2 Rights are sought for the construction, installation, operation, maintenance and decommissioning of the authorised development in these Plots. The rights include those necessary to carry out the works, including occupying the land to carry out works, using the land as a temporary working area, storing or stockpiling materials on the land, taking access over and across the land, breaking open the land to install or reach cables and using trenchless installation techniques. In order to carry out works safely, rights are also sought to erect fencing or other means of enclosure, to install cable markers and signage, to drain the land, to clear obstacles including fences, woods, hedges, tree or shrubs, to divert or alter apparatus, to undertake surveys and investigations, and to create access and haul routes.
- 9.2.3 Permanent rights of access along the cable route and rights to undertake works or maintenance or repair of any cables during operation are also sought.
- 9.2.4 The rights sought also includes the necessary rights for a second set of cables to be installed. This supports the co-ordination with North Falls where the ducting for that project may be installed by VE.

- 9.2.5 The imposition of restrictive covenants necessary to protect the cables once installed is sought. The restrictive covenants would prevent building or construction over the cables, blasting, hard surfacing over the cables, changing the levels of the land, excavation (excluding normal ploughing), and planting of trees or shrubs which may interfere with or prevent access to the cables. A restrictive covenant is also sought to protect any replacement planting during the period within which the Applicant is required to maintain that planting.
- 9.2.6 The Cable rights sought described in the section below and in this section are the minimum necessary to allow the construction and safe operation and maintenance of VE. The Applicant is seeking to acquire rights in the land and not ownership of it as the buried cables can co-exist with the existing land uses. Once the cables are installed, the current use of the cable corridor plots can resume, resulting in minimal interference to the owners and occupiers.
- 9.2.7 The cables are intended to coexist with other infrastructure while causing the minimum interference, for example by limiting the impact to sub-surface under existing rail lines and highways and micro-siting the cables to avoiding needing to alter water apparatus. Other undertakers' apparatus will only be altered where necessary and there are no proposals to remove any apparatus without a diversion being put in place. The rights sought are accordingly proportionate.

CABLE RIGHTS AND RESTRICTIVE COVENANTS UNDER EXISTING HIGHWAY AND RAIL INFRASTRUCTURE

- 9.2.8 Plots 03-007; 03-007A; 04-002; 05-014; 06-001; 06-013; 06-014; 06-015; 06-018; 07-013; 08-018; 09-007; 09-009; 09-012; 11-007; 11-018; 12-012; 13-018; 13-019; 13-020; 14-029; 14-042; 14-043; 16-002; 16-003; 16-005; 16-006; 16-007; 16-015; 16-016; 16-018; 16-019; 17-009; 17-019; 17-020; 17-021.
- 9.2.9 The rights in this category are the same as for those in the section above, but these plots will contain crossings on infrastructure where some of the restrictive covenants sought above would be incompatible with the existing surface use. It is not considered reasonable to seek to control hard surfacing on the public highway for example, as the highway authority must be able to maintain their highway as they consider appropriate.
- 9.2.10 Trenchless installation techniques are proposed on crossing of the railway line and most public highways to prevent any interference with the existing use or damage to that infrastructure. Where infrastructure is crossed by trenchless installation techniques the right to break open the surface will be limited by the effect of protective provisions, but is retained for where it is necessary to effectively carry out trenchless installation (subject to any controls on the exercise of that agreed with the asset owner).
- 9.2.11 The imposition of the remaining restrictive covenants is sought to protect the cables once installed.

PERMANENT ACCESS RIGHTS

- 9.2.12 Plots 02-002; 02-003; 02-006; 02-007; 03-005; 03-013; 03-015; 03-016; 03-017; 03-018; 04-014; 04-015; 04-016; 04-017; 04-018; 04-019; 05-003; 05-004; 05-005; 05-006; 05-009; 05-012; 05-015; 05-016; 05-017; 05-018; 05-025; 05-026; 06-003; 06-004; 06-006; 06-012; 06-016; 07-001; 07-004; 07-008; 08-002; 08-006; 08-009; 08-010; 08-015; 08-016; 08-017; 08-023; 09-001; 09-006; 09-011; 09-022; 09-023; 10-002; 10-003; 10-008; 10-009; 10-012; 11-002; 11-003; 11-004; 11-005; 11-010; 11-011; 11-019; 11-020; 12-005; 12-014; 13-001; 13-002; 13-003; 13-004; 13-005; 13-006; 13-011; 13-021; 13-024; 14-002; 14-003; 14-008; 14-010; 16-001; 16-010; 16-011; 16-023; 17-015; 17-016; 17-017; 17-018.
- 9.2.13 These access rights are required for the operational phase and allow access to the cable corridor; and to land which has to be maintained for a number of years post construction. The access rights are located outside of the cable corridor and it would not necessary or proportionate to seek the same rights as for the cable corridor, or to seek to impose restrictive covenants over these Plots.
- 9.2.14 Where practical, the operational accesses have been routed over existing accesses and tracks in order to minimise the interference caused to landowners. Where existing accesses and tracks are used, rights will be sought and exercised alongside existing access rights, and it is not sought to extinguish any other person's access rights on these routes. The rights sought are accordingly the minimum necessary to ensure that the project can be accessed once constructed whilst minimising the impacts of doing so, by avoiding, for example, the need to create new accesses through hedgerows on multiple occasions.

NATIONAL GRID SUBSTATION WORKS AREA RIGHTS AND RESTRICTIVE COVENANTS

- 9.2.15 Plots 17-026; 17-027; 17-028; 17-029; 17-030; 17-031; 18-001; 18-002.
- 9.2.16 In this area rights are required to allow the installation, retention, operation and maintenance of the cables and to carry out works to connect the cables to the proposed National Grid East Anglia Connection Node Substation (EACN). The details of the works to connect to the EACN will require to be approved by National Grid. The design of the EACN will have to be completed before the final connection layout can be confirmed. National Grid will effect the final connections to their infrastructure.
- 9.2.17 Restrictive covenants are sought for these plots in order to ensure that the connection works to the EACN are not hindered or obstructed.

LESSER BLACK-BACKED GULL (LBBG) COMPENSATION ACCESS RIGHTS

- 9.2.18 Plots 19-001; 19-002; 19-003; 19-004; 19-005; 19-006; 19-007; 20-001.
- 9.2.19 Rights are sought to access land in connection with the creation, improvement and maintenance of habitat suitable for lesser black-backed gulls, linked to the rights sought in section 10.1.6 below. These rights are sought in common with any rights on the land and it is not proposed to extinguish any existing rights.

LESSER BLACK-BACKED GULL (LBBG) COMPENSATION WORK RIGHTS AND RESTRICTIVE COVENANTS

- 9.2.20 Plots 20-002; 20-003; 20-004.

- 9.2.21 Rights are sought to create, improve and maintain habitat suitable for lesser black-backed gulls, to mitigate effects of VE on this species, as detailed in the ‘Lesser Black Backed Gull Compensation: Evidence, Site Selection and Roadmap’ (application document 5.5.3).
- 9.2.22 The imposition of restrictive covenants is sought to ensure that the ornithological compensation measures are not impaired or diminished.

DRAINAGE RIGHTS AND RESTRICTIVE COVENANTS

- 9.2.23 Plots 17-004; 17-006; 17-007; 17-008; 17-022.
- 9.2.24 It is necessary to provide drainage for the onshore substation site itself; and to connect into and improve existing drains and to create new drainage in land to the south of the substation location. As an electrical installation, the substation must be properly drained and resilient to flooding. The use of existing drains to facilitate this has been factored into the preliminary design. The rights and restrictive covenants sought are those required to effect, use and protect the drainage of the substation site.

TEMPORARY POSSESSION

- 9.2.25 Plots 01-001, 01-002, 01-003, 01-004, 01-005, 01-006, 03-002, 03-004, 03-004A, 03-006, 03-008, 03-009, 03-010, 03-012, 04-005, 04-006, 04-008, 04-009, 04-010, 04-011, 04-012, 04-013, 05-007, 05-008, 05-010, 05-011, 05-021, 05-022, 05-023, 06-002, 06-005, 06-007, 06-008, 06-009, 07-002, 07-003, 07-005, 07-006, 07-009, 07-010, 07-012, 08-001, 08-003, 08-004, 08-005, 08-007, 08-024, 08-025, 09-002, 09-003, 09-004, 09-005, 09-015, 09-016, 09-018, 09-019, 09-021, 10-004, 10-005, 10-006, 10-007, 11-013, 11-014, 11-015, 11-016, 11-017, 12-001, 12-002, 12-003, 12-006, 12-007, 12-008, 12-009, 12-010, 12-011, 13-009, 13-010, 13-012, 13-013, 13-014, 13-015, 13-016, 13-017, 14-006, 14-014, 14-015, 14-022, 14-023, 14-024, 14-035, 15-012, 15-015, 15-016, 15-017, 15-018, 15-019, 15-020, 15-021, 15-022, 16-017, 16-022, 17-003, 17-005, 17-012, 17-013, 17-014.
- 9.2.26 Although not strictly a form of compulsory acquisition, temporary possession powers are sought in the Order to reduce the land within which the Applicant requires to seek permanent rights and to minimise the interference with landowners’ and occupiers’ rights. The Applicant is seeking to temporarily occupy land required during the construction of VE over which rights may not be required once construction has been completed. This minimises interference by allowing the Applicant to access the land needed for construction without requiring the permanent acquisition of that land.
- 9.2.27 Temporary possession powers apply to all of the Order land, and powers may be used before permanent rights are acquired. However, the Plots listed in schedule 6 of the Order will only be subject to temporary possession and will not be subject to powers of compulsory acquisition. Those Plots, and the purposes for which they may be occupied are set out in the table below.

(1) Number of plot shown on land plans	(2) Purpose for which temporary possession may be taken	(3) Relevant part of authorised development
01-001, 01-002	Temporary use for access to facilitate construction of the authorised development	Work Nos. 2A, 3, 4, 4AB, 5, 5A, 6, 6a and 17
01-003	Temporary use as a construction compound (Work No 4AB) and construction working area to facilitate construction of the authorised development	Work Nos. 2A, 3, 4, 4AB, 5, 5A, 6, 6a and 17
01-004, 01-005, 01-006	Temporary use for access to facilitate construction of the authorised development	Work Nos. 2A, 3, 4, 4AB, 5, 5A, 6, 6A and 17
03-002	Temporary use as a construction compound (Work No 6B) and construction working area to facilitate construction of the authorised development	Work Nos. 5, 5A, 6, 6A, 6B, 7, 7A, 7C, 7D, 7E, 8, 8A and 17
03-004, <u>03-004A</u> , 03-006	Temporary use for access to facilitate construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos. 5, 5A, 6, 6A, 6B, 7, 7A, 7C, 7D, 7E, 8, 8A and 17
03-008, 03-009, 03-010	Temporary use for access to facilitate construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos. 5, 5A, 6, 6A, 7, 7A, 7B, 7C, 7D, 7E, 8, 8A and 17
03-012	Temporary use as a construction compound (Work No 7B) and construction working area to facilitate construction of the authorised development	Work Nos. 5, 5A, 6, 6A, 7, 7A, 7B, 7C, 7D, 7E, 8, 8A and 17
04-005, 04-006	Temporary use as a haul route (Work No. 7C) and construction working area to facilitate construction of the authorised development	Work Nos. 6, 6A, 7, 7A, 7B, 7C, 7D, 7E, 8, 8A and 17
04-008, 04-009, 04-010, 04-011, 04-012, 04-013	Temporary use as a haul route (Work No. 7D) and construction working area to facilitate construction of the authorised development	Work Nos. 6, 6A, 7, 7A, 7B, 7C, 7D, 7E, 8, 8A and 17

(1) Number of plot shown on land plans	(2) Purpose for which temporary possession may be taken	(3) Relevant part of authorised development
05-007, 05-008, 05-010, 05-011	Temporary use as a haul route (Work No. 7E) and construction working area to facilitate construction of the authorised development	Work Nos. 6, 6A, 7, 7A, 7B, 7C, 7D, 7E, 8, 8A and 17
05-021, 05-022, 05-023	Temporary use as a haul route (Work No. 8C) and construction working area to facilitate construction of the authorised development	Work Nos. 7, 7A, 8, 8A, 8B and 17
06-002	Temporary use for access to facilitate construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos. 8, 8A, 8B, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A and 17
06-005, 06-007	Temporary use as a construction compound (Work No. 8B) and construction working area to facilitate construction of the authorised development	Work Nos. 8, 8A, 8B, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A and 17
06-008, 06-009	Temporary use for access to facilitate construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos. 8, 8A, 8B, 9, 9A, 9B, 9C, 9D, 9E, 9, 10, 10A and 17
07-002, 07-003, 07-005, 07-006	Temporary use as a haul route (Work No. 9C) and construction working area to facilitate construction of the authorised development	Work Nos. 8, 8A, 8B, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A, 10B and 17
07-009, 07-010	Temporary use as a haul route (Work No. 9D) and construction working area to facilitate construction of the authorised development	Work Nos. 8, 8A, 8B, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A, 10B and 17
07-012, 08-003, 08-004, 08-005, 08-007	Temporary use as a haul route (Work No. 9E) and construction working area to facilitate construction of the authorised development, including improvement and temporary maintenance of visibility splays	Work Nos. 8, 8A, 8B, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A, 10B and 17
08-001	Temporary use to facilitate access for construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos. 8, 8A, 8B, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A, 10B and 17

(1) Number of plot shown on land plans	(2) Purpose for which temporary possession may be taken	(3) Relevant part of authorised development
08-024, 08-025	Temporary use as a haul route (Work No. 9F) and construction working area to facilitate construction of the authorised development	Work Nos. 8, 8A, 8B, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A, 10B and 17
09-002, 09-004	Temporary use to facilitate access for construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos. 8, 8A, 8B, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A, 10B, 10C and 17
09-003, 09-005	Temporary use as a construction compound (Work No. 9B) and construction working area to facilitate construction of the authorised development	Work Nos. 8, 8A, 8B, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A, 10B, 10C and 17
09-015, 09-016, 09-018, 09-019	Temporary use as a construction compound (Work No. 10B) and construction working area to facilitate construction of the authorised development	Work Nos 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A, 10B, 10C, 11 11A and 17
09-021	Temporary use to facilitate access for construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A, 10B, 10C, 11 11A and 17
10-004, 10-005, 10-006, 10-007	Temporary use as a haul route (Work No. 10C) and construction working area to facilitate construction of the authorised development	Work Nos 9, 9A, 9B, 9C, 9D, 9E, 9F, 10, 10A, 10B, 10C, 11 11A and 17
11-013	Temporary use as a haul route (Work No. 11C) and construction working area to facilitate construction of the authorised development	Work Nos.10, 10A, 10B, 10C, 11 11A, 11B, 11C, 11D, 12, 12A and 17
11-014	Temporary use as a haul route (Work No. 11D) and construction working area to facilitate construction of the authorised development	Work Nos.10, 10A, 10B, 10C, 11 11A, 11B, 11C, 11D, 12, 12A and 17

(1) Number of plot shown on land plans	(2) Purpose for which temporary possession may be taken	(3) Relevant part of authorised development
11-015, 11-016	Temporary use as a haul route (Work No. 11C) and construction working area to facilitate construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos.10, 10A, 10B, 10C, 11 11A, 11B, 11C, 11D, 12, 12A and 17
11-017	Temporary use as a haul route (Work No. 11D) and construction working area to facilitate construction of the authorised development	Work Nos.10, 10A, 10B, 10C, 11 11A, 11B, 11C, 11D, 12, 12A and 17
12-001	Temporary use to facilitate access for construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos.10, 10A, 10B, 10C, 11 11A, 11B, 11C, 11D, 12, 12A and 17
12-002	Temporary use as a haul route (Work No. 11D) and construction working area to facilitate construction of the authorised development	Work Nos. 10, 10A, 10B, 10C, 11 11A, 11B, 11C, 11D, 12, 12A and 17
12-003	Temporary use as a haul route (Work No. 11C) and construction working area to facilitate construction of the authorised development	Work Nos.10, 10A, 10B, 10C, 11 11A, 11B, 11C, 11D, 12, 12A and 17
12-006, 12-007	Temporary use as a construction compound (Work No. 11B), construction working area, and haul route to facilitate construction of the authorised development	All onshore works
12-008, 12-009, 12-010, 12-011	Temporary use to facilitate access for construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos.10, 10A, 10B, 10C, 11 11A, 11B, 11C, 11D, 12, 12A and 17
13-009	Temporary use as a construction compound (Work No. 12B) and construction working area, and haul route to facilitate construction of the authorised development	Work Nos. 11 11A, 11B, 11C, 11D, 12, 12A, 13, 13A, 14, 14A, 15, 16 and 17

(1) Number of plot shown on land plans	(2) Purpose for which temporary possession may be taken	(3) Relevant part of authorised development
13-010, 13-012, 13-013, 13-014, 13-015, 13-016, 13-017	Temporary use as a construction compound (Work No. 12C), construction working area, and haul route to facilitate construction of the authorised development, including improvement and temporary maintenance of visibility splays	Work Nos. 11 11A, 11B, 11C, 11D, 12, 12A, 13, 13A, 14, 14A, 15, 16 and 17
14-006	Temporary use as a construction compound (Work No. 14B) and construction working area, and haul route to facilitate construction of the authorised development, Creation use and restoration of a public non-motorised user path	Work Nos. 12, 12A, 13, 13A, 14, 14A, 14B, 14C, 14D, 15, 16 and 17
14-014, 14-015	Temporary use to facilitate access for construction of the authorised development including improvement and temporary maintenance of visibility splays Creation, use and restoration of a public non-motorised user path	Work Nos. 12, 12A, 13, 13A, 14, 14A, 14B, 14C, 14D, 15, 16 and 17
14-022, 14-023, 14-024	Temporary use as a construction compound (Work No. 14C) and construction working area, and haul route to facilitate construction of the authorised development Creation, use and restoration of a public non-motorised user path	Work Nos. 12, 12A, 13, 13A, 14, 14A, 14B, 14C, 14D, 15, 16 and 17
14-035	Temporary use as a construction compound and construction working area to facilitate construction of the authorised development, including improvement and temporary maintenance of visibility splays. Creation, use and restoration of a public non-motorised user path	Work Nos. 12, 12A, 13, 13A, 14, 14A, 14B, 14C, 14D, 15, 16 and 17
15-012, 15-015, 15-016, 15-017, 15-018, 15-019, 15-020, 15-021, 15-022	Temporary use for the purposes of carrying out Work Nos. 13 and 13A	Work Nos. 13 and 13A

(1) Number of plot shown on land plans	(2) Purpose for which temporary possession may be taken	(3) Relevant part of authorised development
16-017	Temporary use to facilitate access for construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos. 14, 14A, 14B, 14C, 14D and 17
16-022, 17-003, 17-005	Temporary use as a haul route (Work No. 14D) and construction working area to facilitate construction of the authorised development	Work Nos. 14, 14A, 14B, 14C, 14D, 15, 15A, 15B, 15C, 15D, 15E, 16 and 17
17-012, 17-013, 17-014	Temporary use to facilitate access for construction of the authorised development including improvement and temporary maintenance of visibility splays	Work Nos. 14, 14A, 14B, 14C, 14D, 15, 15A, 15B, 15C, 15D, 15E, 16 and 17

9.3 ACQUISITION OF FREEHOLD LAND

9.3.1 The land over which compulsory acquisition powers are sought in respect of freehold land ownership is shown coloured pink on the Land Plans (APP-008). The plot numbers and Work numbers are set out in the table below.

<u>(1)</u> <u>Number of plot shown on land plans</u>	<u>(2)</u> <u>Purpose for which freehold acquisition is sought</u>	<u>(3)</u> <u>Relevant part of authorised development</u>
<u>14-005, 14-007, 14-009, 14-011, 14-012, 14-013, 14-016, 14-017, 14-018, 14-019, 14-020, 14-021, 14-025, 14-026, 14-027, 14-028, 14-030, 14-032, 14-033, 14-034, 14-036, 15-001, 15-002, 15-003, 15-004, 15-005, 15-006, 15-007, 15-008, 15-009, 15-010, 15-011, 15-013, 15-014,.</u>	<u>Permanent land take to facilitate road widening and improvements, with the widened sections becoming local highway and not returned to their former use.</u>	<u>Work No. 13</u>

<u>17-023, 17-024, 17-025</u>	<u>Permanent land take to facilitate construction of the new electrical substation and associated works such as the creation of accesses, the improvement of junctions, landscaping, drainage works, ecological and environmental mitigation works, the installation of buried cable circuits, and the installation of cable ducting for two additional circuits for later installation of additional electrical connections.</u>	<u>Work Nos. 15, 15A, 15E, 15B, 15C.</u>
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9.3.2 The Applicant is taking a proportionate approach to land acquisition and only seeks to purchase of the freehold title to the Order Land for the purposes of above ground permanent infrastructure, in connection with the onshore substation, as well as for highway improvement works at Bentley Road. In both cases, the current landowner could not resume their use of the land and it appropriate that freehold acquisition is sought given that. Permanent acquisition of the landscaping and ecological mitigation at the substation site is sought as the land will not be returned to agricultural use in operation and the undertaker needs to retain control of it throughout the operational and decommissioning periods.

9.3.3 Onshore substation. Under construction scenario 1, VE would undertake the onshore substation build for its project. VE may also carry out some ground works (vegetation clearance, levelling, grading) in the North Falls site. Under all construction scenarios VE would need access to the areas of the site required for landscaping and mitigation and will be working around the NF substation site footprint.

9.3.4 Bentley Road. Permanent land take is proposed along Bentley Road as the widened sections will become local highway and will not be returned to their former use. The detailed design for road widening and road improvements to Bentley Road is still to be determined and will be subject to a road safety assessment on that design. The final land take for Bentley Road will be reduced appropriately to reflect the final design of these works.

9.3.5 The whole subsoil under the existing highway has been coloured pink for freehold acquisition, to mitigate against any issues with unknown interests in the subsoil, either a disputed or unclear highway boundary or rights under the highway which require to be extinguished. The acquisition sought does not include any existing interest of the highway authority. VE will not acquire any more land than will be required. Statutory undertakers with apparatus in the road will be protected through the protective provisions in the DCO.

10 SPECIAL CONSIDERATIONS

10.1 COMMON LAND

10.1.1 There are no rights of common over any of the open space within the Order Land.

10.2 CROWN LAND

10.2.1 The offshore wind farm array area and offshore cabling will be situated within seabed/land owned and managed by The Crown Estate, and no compulsory acquisition is proposed in this area. An agreement for lease for the array area is already in place with The Crown Estate and a further agreement for lease for the cable route and interlink cables is being progressed.

10.2.2 No freehold Crown interests have been identified within the onshore cable corridor or within the intertidal and foreshore areas.

10.2.3 Five Plots have been identified at Orford Ness, the location of proposed Lesser Black Back Gull compensation (Plots 19-001, 19-002, 19-003, 20-002, 20-003), where rights in land are held by The Crown Estate Commissioners and the Secretary of State for Defence. The Applicant is not seeking any compulsory acquisition rights over any Crown interests in these plots, and will approach the rights holders to seek their consent to the rights being sought. but is instead seeking to create new rights to access, manage and maintain the land to provide compensatory habitat. This proposal will not prejudice any Crown right in the land. Consent of the Crown to this approach under section 135 of the Planning Act 2008 is being sought.

10.3 OPEN SPACE

10.3.1 The Order Land includes a number of Plots which might be considered to fall within a definition of open space within the 2008 Act, explained below

10.3.2 The two well-established open areas within the Order Land are Frinton Golf Course (Plots 01-010, 02-002, 02-003) and Holland Haven Country Park (Plots 01-001, 01-002, 01-003, 01-004, 01-005, 01-006 (part), 01-009).

10.3.3 However, Frinton Golf Course is not considered to form open space as it is not open to 'public recreation' as required by the definition of open space. Access is restricted by the club and is not available to the public as of right. Access may be restricted to specified groups of person (such as club members) or denied to any person. Although there are two public rights of way across the course, these in themselves do not make the surrounding space open space.

10.3.4 For both Frinton Golf Course and Holland Haven Country Park, either:

- > trenchless construction methods for cable installation (such as horizontal directional drilling) will be employed, as described by Work number 4, or;
- > non-exclusive temporary rights of access for construction are sought, to support any works or access which may be required on the beach, as described by Work number [4BA](#).

10.3.5 A further area of open space is the foreshore (Plots 01-007, 01-008, 02-001) which may be considered to be open space because it is used by members of the public for recreational purposes. This area is broadly comprised of an area of beach with public access; a sea defence wall with walkway above; and a further path and cycleway between the sea defence and the golf course and country park.

- 10.3.6 Work number 3 applies to the foreshore, where the offshore export cables will be brought ashore, under the beach, sea defence and paths to then be joined at the Transition Joint Bays at Work numbers 5/5A. The works to be undertaken at the beach might include:
- > Pre-construction surveys such as geophysical and/ or geotechnical surveys, technical surveys (such as topographical surveys) and ecological surveys;
 - > Temporary fencing for specific areas of the beach, periodically at low tide, primarily to ensure the safety of the general public, but also to provide security for materials and plant, and to demarcate and segregate areas for construction activities;
 - > Power circuit installation of up to two subsea cable circuits, installed using trenchless installation methods (such as horizontal directional drilling), and including the creation of entrance and exit pits.
- 10.3.7 Access to the beach may be required in order to support any works on or under the beach. This will be taken via a track leading from Manor Way to the west (Plots 1-001, 01-002, 01-004, 01-005, 01-006). The track will remain open to the public during construction, except for when construction equipment is being mobilised and demobilised, when short temporary access restrictions, may be required to ensure public safety.
- 10.3.8 Although there will be temporary interference with the use of limited areas of the open space during the construction period as a result of the exercise of the rights to be acquired and the works to be undertaken, access to the remainder of the beach outside of these works will be available, and in the long term, the open space will remain unobstructed and available for the purposes for which it is currently used.
- 10.3.9 It is not proposed to acquire the freehold title to any part of the open space land identified above; the Applicant proposes to acquire permanent rights to enable Works 3 and 4, in accordance with Article 243 (Compulsory acquisition of rights) and Schedule 7 (Land in which only new rights etc. may be required); and temporary rights to enable Work 4BA in accordance with Article 319 (Temporary use of land for carrying out the authorised development) and Schedule 6 (Land of which temporary possession may be taken).
- 10.3.10 A further area of land was identified by the Ordnance Survey 'Open Greenspace' dataset product as 'greenspace' and forming part of Frinton Golf Course. However, this land (Plot 02-004) is owned by Great Holland Hall Limited and is farmland with no public access. This anomaly was raised with Ordnance Survey with the outcome that Ordnance Survey recognised the mistake and confirmed to the Applicant's Land Agents that the land would be removed from the Golf Course boundary in the Ordnance Survey's digital mapping November 2023 update; and would be removed from the Ordnance Survey's 'Open Greenspace' dataset product April 2024 update.

- 10.3.11 An area of land (part of Plot 01-012) is designated as 'safeguarded open space' by Tendring District Council in the current local plan.² This land is privately owned, is farmed, and does not fall within a definition of open space within the 2008 Act. Regardless, the works in this location will have no impact on public enjoyment of that land, if there were any, since trenchless construction methods (such as horizontal directional drilling) will be utilised in this location, as described by Work number 4.
- 10.3.12 Two additional areas of land within the Order Land were identified as having the potential to qualify as open space, in particular, having the potential to be in use for the purposes of public recreation. These areas are woodland off Pork Lane (known as 'Porklane Grove') and woodland adjoining Tendring Brook, forming parts of Plots 05-024 and 10-010 respectively. An on-site assessment of both areas was undertaken at different times on 4th September 2023 to determine if either of these areas were in use for recreational purposes by the public. There was no evidence of any public access or use of either land parcel, other than the use of a formal footpath adjacent to the woodland adjoining Tendring Brook, and informal paths adjacent to the woodland adjoining Tendring Brook.
- 10.3.13 In both cases for the woodland off Pork Lane and the woodland adjoining Tendring Brook, trenchless construction methods (such as horizontal directional drilling) will be employed, as described by Work numbers 8/8A and 10/10A. As there will be no temporary or permanent interference with the use of these areas of land by the authorised development, the impact on this land will be negligible.
- 10.3.14 There are no other areas which fall within a definition of open space within the 2008 Act.
- 10.3.15 Section 132 of the 2008 Act applies to the compulsory acquisition of rights over land forming part open space. It makes provision for Special Parliamentary Procedure (SPP) to apply where a DCO authorises the compulsory acquisition of rights over such land. This means that the Order will be subject to SPP unless the Secretary of State is satisfied that section 132(3) or (4) applies.
- 10.3.16 Section 132(3) applies if the order land, when burdened with the order right, will be no less advantageous that it was before to the persons in whom it is vested, other person, if any, entitled to rights of common or other rights and the public. It is considered that subsection (3) of 132 applies, and that the Order Land when burdened with the order rights will be no less advantageous to the persons to whom it is vested and the public that it currently is.

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https://www.tendringdc.gov.uk/sites/default/files/documents/planning/Planning_Policy/Section_2/B.6%20Clacton-on-Sea%20and%20Jaywick%20Sands.pdf

- 10.3.17 The Applicant is seeking rights to install cables under open space land. Once installed, there will be no ongoing obstruction or change of use on the surface and the current use can continue without alteration. In order to protect the cables once installed, a number of restrictive covenants are sought to be imposed over the surface of the land. The purpose of these restrictive covenants is to prevent activities on the surface which would endanger the cables. The restricted activities include construction, planting of trees over the cable area and alteration of the level of the land to such an extent that the cables would be endangered. The restrictive covenants are intended to prevent construction on the land which is entirely compatible with its designation as open space. Once the cables are installed under this land there will be no interference with the current uses.
- 10.3.18 Given all of the above the Applicant considers that while there will be some temporary disruption to the use of open space during construction, once the cables have been installed there will be no ongoing impact and the acquisition of the rights sought will not render the open space less advantageous than it is at present to its owner or the public engaging the exemption under s132(3) of the 2008 Act.

10.4 NATIONAL TRUST LAND

- 10.4.1 A number of Plots (19-004, 19-005, 19-006, 19-007, 20-001, 20-004) have been identified at Orford Ness, the location of proposed Lesser Black Back Gull compensation, where the freehold is held by The National Trust For Places Of Historic Interest Or Natural Beauty (Natural Trust). The Applicant is not seeking to compulsorily acquire the freehold of any of these plots, and is in discussion with the National Trust to seek their consent to the rights being sought.

10.5 STATUTORY UNDERTAKERS' LAND AND APPARATUS

- 10.5.1 The Order, if made, will authorise the compulsory acquisition of statutory undertaker's rights in land. The land rights are held by statutory undertakers for the purposes of carrying out their statutory undertaking.
- 10.5.2 Section 138 of the 2008 Act provides that a DCO may include provision for the extinguishment of a relevant right or removal of relevant apparatus only if the Secretary of State is satisfied that this is necessary for the purpose of carrying out the development to which the order relates.
- 10.5.3 The Applicant has, during preparation of the Application, been in discussions with relevant undertakers about the proposed permanent compulsory acquisition and compulsory acquisition of rights. The Applicant has identified statutory undertakers or utility providers that may have land or apparatus belonging to them within the Order Limits and has been in contact with them. Further details of the negotiations undertaken with each of these statutory undertakers is set out in the 'Statutory undertakers position statement' (application document number 4.1.2). Statutory undertakers interest are set out in the Book of Reference (application document number 4.1).
- 10.5.4 The draft Order (application document number 3.1) includes draft protective provisions in respect of statutory undertakers which are under negotiation. The Applicant is currently seeking to agree the form of protective provisions with affected undertakers.

- 10.5.5 **Network Rail** have an unregistered freehold interest in Plots 05-014 and 05-016. The Applicant has been in active negotiation with Network Rail and has received Business Clearance, with discussions on Technical Clearance progressing (Network Rail reference CR/58022). As soon as technical clearance is obtained, negotiation on heads of terms for the Land Agreements can be progressed. The Applicant is also proposing to include protective provisions for the benefit of Network Rail in the Order.
- 10.5.6 The Applicant has confirmed ownership and interest in land through discussions with representatives from **National Highways** (Plots 12-012, 13-013, 13-015, 13-018, 13-020, 15-012, 15-015, 15-016, 15-017, 15-018, 15-019, 15-020, 15-021, 15-022). The Applicant is seeking to agree commercial terms with National Highways for crossing of the A120 trunk road. The Applicant has progressed several meetings with National Highways representatives to ensure the Applicant develops VE in a manner that does not jeopardise any road infrastructure forming part of the A120 trunk road. The Applicant has yet to agree terms with National Highways and in light of seeking powers is also proposing protective provisions for the benefit of National Highways. These will include (as examples) the need for any trenchless installation works under the highway to be designed in accordance with Design Manual For Roads and Bridge geotechnical standards (CD622) and for National Highways approval of that to be required. The inclusion of such provisions would ensure that no serious detriment arises if voluntary agreement is not reached.

11 HUMAN RIGHTS

- 11.1.1 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights (the 'Convention'). The Convention includes provision in the form of Articles, the aim of which is to protect the right of the individual.
- 11.1.2 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the Convention and in exercising its powers of compulsory acquisition the Applicant is acting as a public authority for the purpose of the Human Rights Act 1998 so must be conscious of the need to strike a balance between the rights of the individual and the interests of the public.
- 11.1.3 Various Convention rights may be engaged in the process of making and considering compulsory acquisition, notably Article 1 which protects the right of everyone to the peaceful enjoyment of possessions. No-one can be deprived of possessions except if it is in the public interest and subject to relevant national and international laws. Further, in relation to Article 8 (right to respect for private and family life and home) rights may only be restricted if the infringement is for a legitimate purpose and is fair and proportionate in the public interest.
- 11.1.4 The Order has the potential to infringe the rights of the affected parties. Such infringement has to be weighed against the public benefit in allowing the Order. There would be significant public benefit brought about by VE. As demonstrated by the Planning Statement (application document number 9.1) there is a clear public interest in granting the Order. The public benefit should be weighed against the limited land take, and as set out in section 9 of this Statement, the Applicant is seeking the minimum rights necessary to allow VE to succeed.
- 11.1.5 The rights of owners of interests in the Order Land under the Human Rights Act 1998 have been taken into account by the Applicant when preparing the draft Order and in considering the extent of the interests to be comprised in the Order. The Applicant considers that there is a compelling case in the public interest for confirmation of the Order and that the Order, if confirmed, would strike an appropriate balance between public and private interest. The Applicant has had due regard to the requirement to minimise interference wherever possible and is only seeking to acquire the minimum land take reasonably necessary to allow VE to proceed.
- 11.1.6 The Applicant recognises that VE may have an impact on individuals but considers that the significant public benefits that will arise from VE as set out in this Statement outweigh any harm to those individuals. The draft Order strikes a fair balance between the public interest in seeing VE proceed (which would not happen in the absence of the Order) and the private rights which will be affected by the compulsory acquisition in relation to both Article 1 and 8 of the Convention.
- 11.1.7 The compelling case in the public interest for the compulsory acquisition powers included within the Order has been set out in this Statement and the Planning Statement (application document number 9.1). The land over which compulsory acquisition powers are sought as set out in the draft Order is the minimum necessary to ensure the delivery of VE. VE has been designed to minimise harm whilst achieving its publicly stated objectives. In this respect the interference with human rights is both proportionate and justified.

11.1.8 It is also a right to have a fair and public hearing. As explained in section 9 above, appropriate consultation took place and is taking place in the planning process with an opportunity given for interested parties to make representations and the Applicant remains committed to pursuing active engagement with landowners with regard to compulsory acquisition. Those directly affected by the Order will be entitled to statutory compensation.

12 COMPENSATION

12.1.1 The Applicant has sufficient funding to compensate those with an interest in the Order Land. Further detail of this is included in the Funding Statement (application document number 9.2). Funding for any use of compulsory powers is also secured by article 354 of the DCO which requires that the Secretary of State be satisfied that a suitable guarantee that any compensation which may be come payable will be met is in place before any powers are exercised.

12.2 CORPORATE STRUCTURE

12.2.1 The Applicant is owned by four entities:

- > RWE Renewables UK Swindon Limited (33.3%). RWE Renewables UK Swindon Limited is registered in the UK with company number 02550622. RWE Renewables UK Swindon Limited is ultimately owned by RWE Aktiengesellschaft (RWE AG) which is registered in Germany with company number HRB 14525.
- > Galloper Extension Investco Limited (25%). Galloper Extension Investco Limited is registered in the UK with company number 12412596. Galloper Extension Investco Limited is a Macquarie-led Joint Venture with shareholders being MEIF5 Infrastructure Ventures FE Ltd (50%), Green Oxford Ltd (25%) and OSW Investments Galloper JVCO (UK) Ltd (25%).
- > ESB II UK Limited (20.9%). ESB II UK Limited has its registered offices at Tricor Suite, 4th Floor, 50 Mark Lane, London, EC3R 7QR and is 100% owned by the ESB Group.
- > Sumitomo Corporation (20.9%) is registered in Tokyo, Japan

12.2.2 RWE Renewables UK Swindon Limited has substantial financial resources in its own right, plus, as a wholly owned subsidiary, it has the financial backing of RWE AG. RWE AG is one of Europe's five leading electricity and gas companies, with significant expertise in oil, gas and lignite production; in electricity generation from gas, coal, nuclear and renewables; in energy trading; as well as electricity and gas distribution and supply. Moody's and Fitch rated RWE AG as Baa2 and BBB+ respectively as of October 2023, with a stable outlook across both ratings agencies. RWE AG's annual report for 2022 declared earnings before interest, taxes, depreciation, and amortization of €6.3billion.

12.2.3 Galloper Extension Investco Limited is a Macquarie-led Joint Venture. Macquarie Asset Management is a global asset manager trusted by institutions, pension funds, governments and individuals. Macquarie Asset Management provides access to specialist investment expertise across a range of capabilities including infrastructure, green investments, real estate, agriculture & natural assets, asset finance, private credit, equities, fixed income and multi asset solutions. Macquarie Asset Management is part of Macquarie Group, a diversified financial group providing clients with asset management, finance, banking, advisory and risk and capital solutions across debt, equity, and commodities. The total value of assets under management as at 31 March 2023 were \$A870.8billion.

- 12.2.4 ESB II UK Limited is 100% owned by the ESB Group. Electricity Supply Board (ESB) was established as a statutory corporation in the Republic of Ireland under the Electricity (Supply) Act 1927. ESB, including its subsidiaries, is a vertically integrated energy corporation with operations at all levels of the electricity sector including power generation, electricity transmission, electricity distribution and the retail supply of electricity. ESB also has related businesses, including an international engineering consultancy business, telecoms, and electric vehicle charging infrastructure. With the exception of its international consultancy business, ESB's activities are undertaken principally in Ireland and the UK. ESB has a regulated asset base of approximately €10.9 billion (comprising ESB Networks €8.8 billion and NIE Networks €2.1 billion), a 33% share of generation in the all-island market and supply businesses supplying electricity and gas to over 1.9 million customer accounts throughout the islands of Ireland and Great Britain. ESB has a credit rating of A3 (stable) and A- (stable) from Moody's and S&P respectively, as of July 2023.
- 12.2.5 Sumitomo Corporation (SC) is a leading Fortune 500 global trading and business investment company with 131 locations (Japan: 20, Overseas: 111). The entire SC Group consists of 893 companies. SC conducts commodity transactions in all industries utilizing worldwide networks, provides customers with financing, serves as an organizer and a coordinator for various projects, and invests in companies to promote greater growth potential. SC's core business areas include six business units: Metal Products; Transportation and Construction Systems; Infrastructure; Media and Digital; Living Related and Real Estate; and Mineral Resources, Energy, Chemical and Electronics. The value of assets as of 31 December 2023 is JPY 10,719 billion (c. GBP 57 billion), and the credit rating as of July 2023 is Baa1 (stable) – Moody's Investors Service.

12.3 PROJECT FUNDING

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

12.4 ESTIMATED PROJECT COST

- 12.4.1 The current cost estimate for VE is approximately £3.5bn (three point five billion pounds). This includes the costs of construction, development, project management, financing, land acquisition and operation. The Applicant is confident that VE will be commercially viable based on the assessments it has undertaken.
- 12.4.2 The Applicant has sought advice from Dalcour Maclaren (DM) who are expert chartered surveyors with experience of Offshore Windfarm development. DM have provided possible heads of liability for:

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

12.4.3 DM have considered blight in relation to VE and have concluded that VE will not blight any properties so the quantum of liability under this head of claim is £0. Overall DM estimate the costs associated with compulsory acquisition and potential compensation claims to be in the region of £26.4m (twenty-six point four million pounds).

12.4.4 Article 354 of the DCO provides that the Applicant may not exercise a number of powers until it has put in place a guarantee or security equal to its potential liability to compensation payable under the DCO.

13 ABSENCE OF IMPEDIMENTS

13.1 OTHER CONSENTS AND LICENCES

- 13.1.1 All of the other consents and licences required to construct and operate VE and an explanation of how the Applicant proposes to deal with each is set out in the Other Consents and Licences Statement (application document 5.8). It is considered that none of these other consents or licences represents an impediment to the delivery of VE.

14 CONCLUSION

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

15 FURTHER INFORMATION

15.1.1 Electronic copies may be inspected at The National Infrastructure Planning website:
<https://infrastructure.planninginspectorate.gov.uk/>

15.2 NEGOTIATION OF SALE

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

By mail to:

Five Estuaries Offshore Wind Farm
RWE Renewables
Windmill Hill Business Park
Whitehill Way
Swindon
Wiltshire
SN5 6PB

or by email to: fiveestuaries@rwe.com

or by telephone on: 0333 880 5306

15.3 COMPENSATION

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

- > Booklet No. 1 - Compulsory Purchase Procedure;
- > Booklet No. 2 - Compensation to Business Owners and Occupiers;
- > Booklet No. 3 - Compensation to Agricultural Owners and Occupiers; and
- > Booklet No.4 – Compensation for Residential Owners and Occupiers.

15.3.2 Copies of these booklets are obtainable, free of charge, from:

<http://www.gov.uk/government/collections/compulsory-purchase-system-guidance>



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