



Suffolk County Council (20049304)

Response to the Applicant's comments on
our Local Impact Report

Five Estuaries (EN010115)

Deadline 4

3 December 2024

Table of Contents

Glossary of Acronyms	2
Purpose of this Submission	3
1 Responses to 10.26.1 Applicant’s Comments on Local Impact Reports [REP3-025] .	4
4.1 Seascape, Landscape and Visual	4
4.2 Traffic and Transport.....	8
4.3 Economic Development and Skills.....	12
4.4 Offshore Ecology	13

Glossary of Acronyms

<i>AIL</i>	<i>Abnormal Indivisible Load</i>
<i>AONB</i>	<i>Area of Outstanding Natural Beauty</i>
<i>the CRoW Act</i>	<i>the Countryside and Rights of Way Act 2000</i>
<i>(O)CTMP</i>	<i>(Outline) Construction Traffic Management Plan</i>
<i>DCO</i>	<i>Development Consent Order</i>
<i>DVAONB</i>	<i>Dedham Vale Area of Outstanding Natural Beauty</i>
<i>D2</i>	<i>Deadline 2</i>
<i>D3</i>	<i>Deadline 3</i>
<i>EACN</i>	<i>East Anglia Connection Node</i>
<i>EA1N</i>	<i>East Anglia ONE North</i>
<i>EA2</i>	<i>East Anglia TWO</i>
<i>EIA</i>	<i>Environmental Impact Assessment</i>
<i>ExA</i>	<i>Examining Authority</i>
<i>ExQ2</i>	<i>The Examining Authority’s Second Written Questions</i>
<i>GLVIA</i>	<i>Guidelines on Landscape and Visual Impact Assessment</i>
<i>HGV</i>	<i>Heavy goods vehicle</i>
<i>HMG</i>	<i>His Majesty’s Government</i>
<i>ISH</i>	<i>Issue Specific Hearing</i>
<i>LBGG</i>	<i>Lesser black-backed gull</i>
<i>LIR</i>	<i>Local Impact Report</i>
<i>LURA</i>	<i>Levelling-up and Regeneration Act 2023</i>
<i>NE</i>	<i>Natural England</i>
<i>NESO</i>	<i>The National Energy System Operator</i>
<i>NGET</i>	<i>National Grid Electricity Transmission</i>
<i>NSIP</i>	<i>Nationally Significant Infrastructure Project</i>
<i>N2T</i>	<i>Norwich to Tilbury</i>
<i>OWF</i>	<i>Offshore Wind Farm</i>
<i>SCHAONB</i>	<i>(Suffolk Coast & Heaths) Area of Outstanding Natural Beauty</i>
<i>(O)SES</i>	<i>Outline (Skills and Employment Strategy)</i>
<i>SLVIA</i>	<i>Seascape, Landscape and Visual Impact Assessment</i>
<i>SoS</i>	<i>Secretary of State</i>
<i>WTG</i>	<i>Wind turbine generator</i>

“SCC” refers to Suffolk County Council

Purpose of this Submission

The purpose of this submission is to provide responses to the Applicant’s document titled “10.26.1 Applicant’s Comments on Local Impact Reports” [REP3-025], submitted at Deadline 3 (D3). Suffolk County Council’s Local Impact Report [REP2-046], including its Appendices A-O, was submitted at Deadline 2. Examination Library references are used throughout to assist readers.

1 Responses to 10.26.1 Applicant’s Comments on Local Impact Reports [REP3-025]

4.1 Seascape, Landscape and Visual

Table 1: Seascape, Landscape and Visual				
Ref.	Topic	Summary of Applicant’s comments	SCC’s response	References
SCC.01	Policy; harm to the AONB; phasing restrictions.	<p>Applicant recognises need for good design. Applicant argues that s245 LURA duty is met. Applicant argues that there is no harm to AONB. Applicant rejects need for a phasing requirement.</p>	<p>SCC notes the Applicant’s recognition of the need for good design.</p> <p>SCC disagrees with the Applicant’s interpretation of the secretary of state’s (“SoS’s”) application of the Levelling-up and Regeneration Act 2023 (“LURA”) duty as regards Areas of Outstanding Natural Beauty (“AONBs”) to the Sheringham and Dudgeon Extension Projects Development Consent Order (“DCO”) decision. The Applicant suggests from the SoS’s decision letter that in that case that the duty was held to be met because “the Applicant has taken reasonable precautions to avoid compromising the purpose of the designation” (paragraph 4.56 of the decision letter).</p> <p>However, this part of the decision letter does not fully set out the test applied by the SoS, and can only properly be understood as a partial elaboration of the reasons the SoS considered the test to have been passed. Before reaching the conclusion in paragraph 4.56, the Secretary of State had already expressed himself to be satisfied (as set out at paragraph 4.55 of the decision letter) “that all possible steps have been taken to further the relevant purposes of the AONB and comply with the statutory duty in this particular case”. In other words, the conclusion (at 4.56) followed on from the earlier finding (at 4.55) and was necessarily dependent on it.</p> <p>The LURA test in its statutory context as now found in sub-section (A1) of section 85 of the Countryside and Rights of Way Act 2000 (the “CRoW Act”) sets out that:</p> <p style="padding-left: 40px;">“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”</p> <p>To avoid compromising the purposes of the designation is clearly necessary to meet this duty but is manifestly not sufficient. By requiring relevant authorities to seek to further the purpose, the duty is requiring the SoS to satisfy themselves that not only are steps taken to avoid compromising the purposes, but that all possible steps are taken to further the purposes. This is clearly to be taken alongside the policy contained at paragraph 5.10.8 of National Policy Statement EN-1, which requires measures seeking to further the purposes of the designation are sufficient, appropriate and proportionate to the type and scale of the development.</p> <p>SCC would acknowledge that the use of the word ‘seek’ in the formulation ‘...must seek to further...’ does not require the SoS to be convinced that his decision will actually result in the purposes being furthered. It would be enough that all possible steps are taken, as long as those steps are to further the purposes and not merely to avoid compromising the purposes. As regards what might be entailed by a need to take ‘all possible steps’, in the absence (at present) of any statutory guidance, SCC would suggest that this would cover steps concerned to further the purpose of conserving and enhancing the natural beauty of the AONB that it is practical and realistic to expect an applicant to achieve in the context of the project in question.</p> <p>SCC considers that the VE array areas would contribute to the erosion of the ‘special qualities’ of the Suffolk Coast & Heaths Area of Outstanding Natural Beauty (“SCHAONB”), as through the addition of further ‘incongruous’ features the intactness of the landscape,</p>	<p>Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) Natural Beauty and Special Qualities Indicators; included as Appendix J of SCC’s LIR [REP2-046]</p>

Table 1: Seascape, Landscape and Visual				
Ref.	Topic	Summary of Applicant's comments	SCC's response	References
			<p>memorable views and the relative wildness would be further eroded. As these effects result directly from the visibility of the development from within the AONB, SCC considers that these are direct adverse effects.</p> <p>SCC does not follow the Applicant's line of argument that effects on the perceived character and special qualities are indirect effects, as they do result from the development itself. Indirect effects are defined in Guidelines on Landscape and Visual Impact Assessment ("GLVIA"), third edition, paragraph 3.22, as consequential change resulting from the development.</p> <p>The Applicant's own Seascape, Landscape and Visual Impact Assessment ("SLVIA") Methodology [APP-197] defines direct effects as follows: 'Direct landscape effects relate to the host landscape and concern both physical and perceptual effects on the receptor' (paragraph 1.10.5). [...] 'Visual effects are considered as direct effects, as the view itself may be directly altered by the VE array areas' (paragraph 1.10.7).</p> <p>SCC would consider that views 'from' the AONB has the same meaning as 'from within' and that the impacts are 'on' the landscape and character of the AONB, including its visual qualities.</p> <p>SCC disagrees with the Applicant's submission that there is no harm to the AONB and elaborates on this point in response to SCC.04 below. SCC would note, that even if the Applicant were right about there being no harm, that the duty at s85 of the CRow Act is not only engaged by the prospect of 'harm', but by the exercise or performance of a function 'in relation to, or so as to affect, land in an area of outstanding natural beauty'.</p> <p>SCC considers that the harm is only minimised if the least harmful scenario is taken forward. Currently the Applicant still presents options of wind turbine heights/numbers on a sliding scale, with differing resulting levels of harm. SCC considers that the default position should be that only the least harmful option should be taken forward if that option is also able to achieve the objectives of the project. There may be a justification for greater level of harm than the minimum, for example for project delivery reasons but this would need to be clearly demonstrated. The greater the adverse effect caused by the project, the greater the implications for compliance with the s85 duty.</p> <p><u>Phasing requirement</u></p> <p>In our response to the Examining Authority's Second Written Questions ("ExQ2") DCO.2.05, SCC has proposed some wording for a phasing requirement which would secure that work on the offshore arrays cannot commence until a notification has been submitted to the relevant planning authority that: (a) states the date on which development consent was granted for the National Grid Substation; and (b) which sets out a timetable for the carrying out of works required to connect the authorised development. SCC would suggest that this is a reasonable and light-touch way of securing the correct phasing. It is important to observe that the proposed requirement would neither require approval by the relevant planning authority, or require the undertaker to carry out the construction of the connection works in rigid adherence to the timetable set out in the notification. SCC does not consider that the phasing requirement is a 'Grampian' restriction, as that term is conventionally understood because it does not seek to preclude the commencement of the project pending the satisfaction of some external event. Having regard to the Applicant's indicated timetable for carrying out the works to construct the wind turbine generators ("WTGs") that would be subject to the restriction (as set out in the construction programme in Figure 1.21 of the Offshore Project Description [APP-069]), the Applicant would be free to undertake all and any of the works programmed for Years 1 to 3 of the construction programme without being limited by the proposed phasing requirement.</p> <p>SCC considers that the wording of its proposed phasing requirement is precise and enforceable.</p>	

Table 1: Seascape, Landscape and Visual				
Ref.	Topic	Summary of Applicant's comments	SCC's response	References
			<p>The Applicant has observed that it is hard to imagine a developer that would commit to the expense of constructing the arrays without being confident of a secure connection to the grid. It is difficult to square this with the Applicant's resistance to such a requirement because if that does reflect the commercial realities, such a requirement would not impede the undertaker's flexibility in any way. Whilst the Applicant also contends that such commercial considerations would make the phasing restriction unnecessary, the Applicant can only speak for itself and its current assessment of commercial considerations. Article 7 of the draft DCO allows the benefit of the DCO to be transferred to another party (subject to various conditions), Requirement 1 allows for a 7-year implementation period, and commercial perceptions, and the extent of 'confidence' needed to make investment decisions may change during the currency of the DCO.</p> <p>SCC notes the Applicant's reference to paragraph 5.4.20 of the Examining Authority's ("ExA's") report in relation to the Sheringham and Dudgeon Extension Project, which refers in turn to para 2.3.5 of EN-5 as regards National Grid Electricity Transmission's ("NGET's") responsibilities to provide Grid connections. It should be noted that that was a reference to the original 2011 version of EN-5. The guidance on this matter is now to be found at para 2.8.5 of EN-5 (2024), and the guidance now only refers to 'electricity distributors have a statutory duty to provide a connection where requested'. In relation to the proposed substation at Lawford, NGET is not an electricity distributor but will be a transmission owner. Whilst NGET does have responsibilities in relation to making Grid connection offers, there are also reforms to the process of managing the connections queue that are being implemented by the National Energy System Operator ("NESO"), such that the circumstances that were being considered by the ExA in the Sheringham to Dudgeon Extension Project are not on all fours with the circumstances that now apply.</p> <p>It is also the case that whatever NGET's responsibilities, if the Norwich to Tilbury ("N2T") project and in particular its substation at Lawford does not secure development consent, that substation will not be delivered by NGET, and the Applicant will not have an available option for connecting the electricity generated by the WTGs to the National Grid. Hence, SCC maintains its view that a phasing restriction is justified.</p>	
SCC.02	LBBG mitigation area	Applicant notes SCC comments and commits to dialogue.	SCC welcomes the Applicant's commitment to dialogue.	
SCC.03	Offshore arrays construction impacts	Applicant agrees on short term impacts.	SCC welcomes the Applicant's agreement.	
SCC.04	Offshore arrays operational impacts	<p>The Applicant comments on the theoretical and actual visibility levels.</p> <p>The Applicant argues that its project does not harm the AONB, and that the visibility of wind turbines does not the special qualities of the AONB are harmed.</p> <p>The Applicant argues that the s245 LURA duty is met</p>	<p>The Applicant's response sets out to minimise the magnitude of visual effects of the offshore arrays on the AONB. None of this detracts from the fact that the Applicant acknowledges in its SLVIA that there are residual impacts on the special qualities of the Suffolk Coasts and Heaths AONB. In Table 10.39 of the SLVIA, Impact 16.7 is summarised as being of low magnitude of change to a high sensitivity receptor and having a moderate/minor effect. Similarly, Impact 16.24 summarises the (indirect) effect on perceived SCHAONB Special Qualities of cumulative impacts north of Orford Ness as being moderate/minor.</p> <p>At paragraph 1.10.10 of the Applicant's SLVIA methodology it is set out that "[u]nless it is stated otherwise, the effects considered in the assessment have been considered to be adverse". Table 1.3 of the methodology defines a 'low' magnitude of change so as to include a 'minor loss' of landscape elements and Table 1.5 of the methodology defines a 'low' magnitude of change so as to include a 'low level of alteration to the baseline view', which can arise where 'The addition of the VE array areas will result in a low change, loss or addition to the baseline view'. To the extent that there is recognition that even a 'low' magnitude of change can include some loss of either landscape</p>	<p>SLVIA [APP-079]</p> <p>SLVIA Methodology [APP-197]</p> <p>SLVIA Viewpoint Assessment [APP-198]</p>

Table 1: Seascape, Landscape and Visual				
Ref.	Topic	Summary of Applicant's comments	SCC's response	References
		<p>The Applicant gives its position on possible array layouts.</p>	<p>elements or baseline views, SCC is unable to see why effects that the SLVIA assesses as 'low' magnitude changes should not be regarded as 'adverse' and so causing some degree of harm.</p> <p>The Applicant is correct that these impacts fall below the threshold of significance in Environmental Impact Assessment ("EIA") terms. But the Applicant contradicts itself by maintaining that there is <u>no</u> harm caused to the AONB by the project, when the materials in the Environmental Statement assess moderate/minor (i.e. greater than negligible) effects on the AONB's Special Qualities. To pre-empt any attempt to distinguish between 'harm' and 'adverse effects', SCC would argue that this would be a semantic exercise which would provide little assistance in understanding the statutory and policy framework within which the SoS must make his decision. It would, for example, have no bearing on whether the s85 CRoW Act duty is engaged.</p> <p>The Applicant's findings of moderate/minor adverse effects on the perceptual Special Qualities of the Suffolk Coast and Heaths AONB means that the Applicant's comments about setting in this response are of limited relevance. The Applicant has accepted that there is harm (or, at least, that there are adverse effects) on the AONB in their own assessment (including the effects on the special qualities as summarised at paragraph 10.11.277 of the SLVIA). Further, it is worth noting that even though perceptual effects on the Special Qualities of the AONB are considered to be indirect effects by the assessment methodology (see paragraphs 1.10.5 and 1.10.6 of the SLVIA methodology), the assessment also includes direct visual effects (paragraph 1.10.7 of the SLVIA methodology) on views within the AONB.</p> <p>Paragraph 5.10.8 of National Policy Statement EN-1 confirms that the duty to seek to further the purposes of nationally designated landscapes also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them.</p> <p>These would be particularly experienced from northern coastal areas of the Suffolk Coast and Heaths AONB, as represented by Viewpoints 1, Southwold Gun Hill [APP-204], Viewpoint A Covehithe [APP-218] and Viewpoint B Southwold Pier [APP-219] from where the visual gap between the arrays of Five Estuaries and those of East Anglia TWO ("EA2") and Galloper would be closed, thereby having a curtaining effect in these locations.</p> <p>From the viewpoints at Dunwich Beach (VP2, [APP-205]), Dunwich Heath Coast Guard Cottages (VP3, [APP-206]), Sizewell Beach (VP4, [APP207]) the visual gap would be perceived as nearly closed. The viewpoints further south would be gradually less affected by this curtaining effect.</p>	
SCC.05	Onshore substation impacts	<p>The Applicant states that there is no potential for any significant effects in the DVAONB.</p> <p>The Applicant argues that the Norwich to Tilbury overhead electricity transmission line will not affect the Applicant's cumulative assessment from its LVIA.</p>	<p>SCC does not agree with the Applicant's claim that the Norwich to Tilbury pylon line will have 'a very limited influence' on the Dedham Vale AONB ("DVAONB"). SCC recognises that the pylons will be to the west of the East Anglia Connection Node ("EACN"). However, SCC understands that the pylons for Norwich to Tilbury are likely to be 50 metres tall. This height is much taller than the proposed substations, of which Five Estuaries' will be 15 metres tall, meaning that the pylons are much more likely to be seen from the DVAONB. Therefore, the pylons could have adverse effects on the special qualities of the DVAONB which could pass the threshold of significance. Moreover, the mitigation planting, which is designed to mitigate visual impacts caused by the Applicant's substation, is unlikely to fully screen views from the pylons from the DVAONB. SCC understands from National Grid's proposed route of the Norwich to Tilbury pylons that the pylons will extend into the site of the EACN and 500 metres at most would separate the 50 metre pylons and the Five Estuaries substation. Without the benefit of further viewpoint assessment, SCC cannot be certain that the inclusion of the Norwich to Tilbury pylons will not have an effect on the Applicant's cumulative effects assessment.</p>	

Table 1: Seascape, Landscape and Visual				
Ref.	Topic	Summary of Applicant's comments	SCC's response	References
SCC.06	SCC's mitigation proposals		<p>SCC understands the Applicant's reasoning for a sliding scale relation between wind turbine heights and numbers. SCC understands that the Applicant now proposes that up to 46 wind turbines could be provided at a height of up to 370m (paragraph 7.29 of REP3-025). SCC is of the view that the effects of 46 wind turbines of 370m would not be materially different to the effects of 41 wind turbines of 370m, provided they are within the same defined Order limits for the arrays, and so SCC is content that there is sufficient information to assess the project as now explained. It would, however, have been helpful if the additional wireline visualisations for wind turbines at 370m would have been accurately allowing for 46 wind turbines, rather than 41.</p> <p>SCC disagrees with the Applicant that residual, non-significant effects cannot be considered harmful to the purposes of a designation and considers that, in particular, an accumulation of non-significant effects (for example sequential effects along the coast) can be harmful.</p> <p>SCC disagrees with the Applicant's position that the impact of the Project on the special qualities of the SCHAONB is not 'harm' which is required to be offset. SCC considers that the scheme contributes to the erosion of special qualities of the SCHAONB. SCC considers that in this context, as it is not possible for primary design measures to further the statutory purposes of the AONB, it would be appropriate for the project to take practical and achievable steps for the conservation or enhancement of the natural beauty of the SCHAONB by other measures. This would be in accordance with policy at paragraph 5.10.8 of National Policy Statement EN-1, which notes that the duty to seek to further the purposes of nationally designated landscapes also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them, and also requires the Secretary of State to be satisfied that measures which seek to further the purposes of the designation are sufficient, appropriate and proportionate to the type and scale of the development. SCC would argue that where there are residual adverse effects, after primary mitigation measures inherent to the project design, it cannot be sufficient for no additional steps to be taken.</p> <p>This could be by arrangements to contribute funding which could be secured through a planning obligation. This funding could be administered by the Suffolk and Essex Coast and Heaths National Landscape Partnership, and be required to contribute towards relevant objectives of the SCHAONB management plan. SCC would defer to the Partnership on which objectives should be the focus of consideration but would expect them to be those most closely related to the experience of the coastal landscape and the seascape of the SCHAONB, and so most capable of offsetting (not mitigating) the residual harm caused to those aspects of its special qualities as well as furthering the statutory purposes. As the partnership is an unincorporated body, SCC hosts many of the Partnership's administrative functions and would have to be party to any legally binding deed.</p>	<p>Detailed Offshore Project Design Envelope [APP-70]</p> <p>Offshore Project Description [APP-69]</p>

4.2 Traffic and Transport

Table 2: Traffic and Transport				
Ref.	Topic	Summary of Applicant's comments	SCC's response	References
SCC.07 to SCC.08	Transport Assessment and Cumulative Impacts	The Applicant comments on its traffic and transport assessments, including the scoping out of several NSIPs from its cumulative effects assessment.	<p>SCC's concern about not including Bramford to Twinstead in the cumulative assessment is that Bramford to Twinstead have shown in their Construction Traffic Management Plan ("CTMP") that two construction routes and one Abnormal Indivisible Load ("AIL") route connect with the A12, specifically:</p> <ul style="list-style-type: none"> • Junction 28, A12/A134 at Colchester (AIL and heavy goods vehicle ("HGV")); and • Junction 31, A12/B1070 Holton St Mary (HGV). 	

Table 2: Traffic and Transport				
Ref.	Topic	Summary of Applicant's comments	SCC's response	References
			<p>As the A134 is the sole link to the main construction compound for the project at Assington, it is reasonable to expect the construction traffic to have an impact on this road and the A12.</p> <p>It should be noted that junction 28 of the A12 is included within the Applicant's Traffic and Transport Study Area [REP1-018, figure 8.1], meaning that the cumulative effects assessment for that part of the A12 should include the effects of the Bramford to Twinstead project on the Applicant's own terms.</p> <p>Due to the use of the A12 by Suffolk businesses, traffic levels are still of an interest to SCC, but SCC recognises that most of the cumulative effects of Bramford to Twinstead and Five Estuaries Offshore Wind Farm ("OWF") will occur in Essex and on National Highways' Strategic Road Network. So, while SCC maintains a concern, we will defer to Essex County Council's and National Highways' judgement on this point.</p>	
SCC.09 to SCC.14	AILs	The Applicant gives details on the procedures involved in approving AIL movements and states that it may seek to move AILs through Suffolk.	<p>SCC has set out its position on the regulation of AIL movements in its response to ExQ2. Suffolk is experiencing a significant number of applications for AIL movements within the county resulting from other nationally significant infrastructure projects ("NSIPs") in the construction phase, placing considerable strain on police and local highway resources. SCC understands that Suffolk Constabulary are operating at their maximum capacity for escorting loads due to the large numbers of energy infrastructure projects. The quantity of loads moving through Suffolk as a result of energy projects under construction is creating a high degree of disruption, which is why Suffolk County Council is asking that the Construction Traffic Management Plan commits to using routes which are known at this point to be feasible (e.g. the route which originates at Harwich).</p> <p>The limited capacity in Suffolk of the police to escort loads and the transport network to absorb them is a potential source of risk for project programmes, as multiple projects are competing for police resources and road space.</p>	
SCC.15	Port Construction Traffic Management and Travel Plan	The Applicant argues against SCC's position regarding a Port Construction Traffic Management and Travel Plan.	<p>At present, SCC is not convinced by the Applicant's representation due to a lack of data provided by the Applicant regarding its position on the ineffectiveness of Port Traffic Management Plans. The Applicant cites the Sofia OWF in which ports hundreds of miles away required management plans. In the case of Five Estuaries OWF, SCC would only request that ports within Suffolk (as requested by SCC) and ports within Essex (as requested by ECC) should require such plans. The requirement could be written to limit the geographic scope of the requirement as necessary.</p> <p>SCC's experience with other offshore windfarms, most notably the East Anglia ONE North ("EA1N") and EA2 offshore windfarms, is that plans to manage traffic and improve sustainable travel behaviours were offered on the initiative of the applicant in those cases.</p> <p>A Port Construction Traffic Management and Travel Plan would enable the Applicant to show compliance with EN-1, specifically:</p> <p><i>5.14.7 The applicant should prepare a travel plan including demand management and monitoring measures to mitigate transport impacts. The applicant should also provide details of proposed measures to improve access by active, public and shared transport to:</i></p> <ul style="list-style-type: none"> • <i>reduce the need for parking associated with the proposal</i> • <i>contribute to decarbonisation of the transport network</i> • <i>improve user travel options by offering genuine modal choice</i> 	

Table 2: Traffic and Transport				
Ref.	Topic	Summary of Applicant's comments	SCC's response	References
			<p>5.14.8 The assessment should also consider any possible disruption to services and infrastructure (such as road, rail and airports).</p> <p>5.14.9 If additional transport infrastructure is needed or proposed, it should always include good quality walking, wheeling and cycle routes, and associated facilities (changing/storage etc.) needed to enhance active transport provision.</p> <p>5.14.18 A new energy NSIP may give rise to substantial impacts on the surrounding transport infrastructure and the Secretary of State should therefore ensure that the applicant has sought to mitigate these impacts, including during the construction phase of the development and by enhancing active, public and shared transport provision and accessibility.</p> <p>As the Applicant has not provided any data on traffic associated with a port required for construction of the offshore elements of the project SCC cannot understand how the impacts can be claimed to be covered by extant planning permissions or so small as to have the impact scoped out. A Port Construction Traffic Management and Travel Plan would allow flexibility to the applicant to decide on a location and assess any impacts once this decision is made.</p> <p>SCC understands from a meeting with the Applicant that it plans on sharing data from its previous experiences with Port Traffic Management Plans. SCC will update the ExA in due course on whether this alters its position.</p> <p>SCC understands that the Applicant wishes to retain flexibility when it comes to the use of ports in order to be able to react swiftly to the changing demands of offshore construction. SCC is willing to be pragmatic and considers it likely that flexibilities can be built into the management plan itself or the text of the requirement.</p> <p>SCC provided examples of Outline Port Construction Traffic Management and Travel Plans for the EA1N and EA2 offshore wind farms in the appendices to its Local Impact Report (“LIR”) and these included (at para 2 in each case) the terms of the relevant draft DCO requirement(s). The DCOs as made were in materially the same terms. Given that (thus far) the Applicant has resisted the principle of a Port Construction Traffic Management Plan, there is no outline plan before this Examination. As noted above, SCC is also content that the geographic scope of the requirement can be limited to ports in Suffolk and in Essex. Also, the construction programme for this project envisages that the construction of the onshore substation will be the first element to be constructed (and its construction would be expected to include the delivery of plant and materials sourced via a port) and so the requirement for a Port Construction Management Plan needs to be linked to that element and not just to the wind turbines. Subject to those three revisions, SCC considers that the requirements found to be acceptable to the Secretary of State at EA1N and EA2 would provide a suitable precedent for a requirement here. SCC therefore proposes a requirement as follows:</p> <p>“(1) No part of Work Nos. 1 or 15 may commence until—</p> <ul style="list-style-type: none"> (a) a port construction traffic management plan for the onshore port-related traffic to and from the construction port or ports and relating to that part of the authorised development, has been submitted to and approved by the relevant highway authority in consultation with the relevant planning authority; or (b) the relevant highway authority has confirmed, after consultation with the relevant planning authority, that no port construction traffic management plan is required for that part of the authorised development. 	

Table 2: Traffic and Transport				
Ref.	Topic	Summary of Applicant’s comments	SCC’s response	References
			<p>(2) No part of Work No. 1 may begin operating until—</p> <p>(a) a port travel plan for the onshore port-related traffic to and from the operation port or ports and relating to that part of the authorised development, has been submitted to and approved by the relevant highway authority in consultation with the relevant planning authority; or</p> <p>(b) the relevant highway authority has confirmed, after consultation with the relevant planning authority, that no port travel plan is required for that part of the authorised development.</p> <p>(3) The port construction traffic management plan must be implemented as approved at all times specified within the port construction traffic management plan during the construction of the authorised project.</p> <p>(4) The port travel plan must be implemented as approved at all times specified within the port travel plan during the operation of the authorised project.</p> <p>(5) For the purposes of this requirement—</p> <p>“relevant planning authority” and “relevant highway authority” mean—</p> <p>(a) in respect of sub-paragraph (1), the planning or highway authority or authorities in whose area the relevant construction port is located; and</p> <p>(b) in respect of sub-paragraph (2), the planning or highway authority or authorities in whose area the relevant operation port is located;</p> <p>“construction port” or “ports” means a port or ports situated in the counties of Suffolk and/or Essex and used for construction of the authorised project; and</p> <p>“operation port” or “ports” means a port or ports situated in the counties of Suffolk and/or Essex and used by management personnel for the ongoing operational management of the authorised project.”</p>	
SCC.16	LBBG compensatory works	The Applicant argues that the highways impacts caused by the Lesser black-backed gull (“LBBG”) works in Orford Ness are likely to be minimal and so there is no need for them to be controlled in the Outline Construction Traffic Management Plan (“OCTMP”).	<p>As SCC notes in its response to TT.2.07 of ExQ2, SCC recognises that the Applicant’s works at Orford Ness will be suitably controlled by requirement 18 of the DCO which secures that the compensatory works would be subject to discharge of details of vehicular and pedestrian access and a construction methods statement to be approved by the relevant planning authority. SCC would accept that this matter is sufficiently dealt with in this way.</p> <p>In common with our other requests to be a statutory consultee, SCC would ask that the highway authority is required to be a consultee for this requirement. SCC would like to see the phrase ‘after consultation with Suffolk County Council’ added to the end of paragraph (1) of requirement 18 to secure this.</p>	

4.3 Economic Development and Skills

Table 3: Economic Development and Skills				
Ref.	Topic	Summary of Applicant's comments	SCC's response	References
SCC.19 and SCC.23	Economic Development and Skills	The Applicant gives its reasoning for making Tendring the focus of its activities in the OSES and argues against SCC's request to be a named statutory consultee of the requirement relating to the Skills and Employment Strategy.	<p>SCC accepts and appreciates that Suffolk is not considered a local region in the Outline Skills and Employment Strategy ("OSES"), and that the primary focus of the Applicant's activities will be in Tendring. However, it notes that Suffolk is considered to be a region within the scope of activities which will be carried out by the Applicant as detailed in the final Skills and Employment Strategy ("SES"), as stated, for instance, in paragraph 1.3.1 of the OSES [APP-260]. It should also be noted that there is a high likelihood that the Applicant's offshore activities, both during the construction and operational phases of the project, will be centred around ports in, or adjacent to, Suffolk due to the proximity of the offshore aspects of the project to the region. This means that the Applicant's skills and employment activities which relate to its offshore activities are likely to be relevant to Suffolk. Moreover, whilst the focus of the activities in the SES relating to the Applicant's onshore works will focus on Tendring, the Applicant agrees that they will be of some relevance to Suffolk. SCC, therefore, considers it good practice and beneficial for it to be a named statutory consultee of requirement 16 of the DCO which relates to the SES. Also, given that many initiatives will affect Essex as well as Suffolk, it would make sense and be consistent for Essex County Council also to be named as a consultee.</p> <p>This could be done by adding the words "after consultation with Essex County Council and Suffolk County Council" at the end of paragraph (1) of Requirement 16.</p> <p>SCC understands that the successful implementation of skills and employment activities must be done on a consensual and collaborative basis between the Applicant and relevant authorities. SCC is not trying to undermine this principle in its request to be a consultee to the discharging authority; rather, it is trying to support this principle by ensuring that its position is properly informed and is fairly considered by the discharging authority. SCC appreciates the potential for economic benefits to result from the delivery of this project and wants to ensure that activities within Suffolk which contribute towards these positive effects are effectively implemented. By being a named consultee of the requirement, SCC will be able to give feedback in a positive way to the discharging authority on the Applicant's approach to activities in Suffolk, and whether there are changes which could be made which could facilitate a better approach between the Applicant and SCC towards these activities given the complex and dynamic effects of the many NSIPs happening in Suffolk on its labour market. SCC envisages this process to be mutually beneficial in nature due to the effectiveness of such activities affecting the benefits gained by both the Applicant and Suffolk.</p> <p>Being named as a consultee in the DCO, as opposed to being an optional consultee, alters the procedures of the consultation which ensures that SCC's comments are properly informed and fairly considered. As detailed in paragraphs 3 and 4 and sub-paragraphs 3 and 6 of paragraph 6 of part 2 of Schedule 1 of the DCO [REP3-005], statutory consultees will be able to request more information, and be informed of extra information, and will be bound to timescales to ensure a swift decision is made by the discharging authority. SCC will also have enough time to give an adequate response to the consultation. The discharging authority will have regard to SCC's comments so far as they are relevant to the decision they have to make, and it will be against SCC's interests to undermine the consensual basis of the Applicant's proposed activities relating to Suffolk.</p>	

			On a point of detail SCC would observe that, contrary to what is said in the Applicant’s comments in SCC.23, SCC is in fact a host authority because part of the works are within Suffolk, albeit it is not for that reason that SCC suggests it should be a statutory consultee because it accepts that the works directly within Suffolk are unlikely to have significant employment implications.	
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4.4 Offshore Ecology

Table 4: Offshore Ecology				
Ref.	Topic	Summary of Applicant’s comments	SCC’s response	References
SCC.29 to SCC.33	Migrating bats	The Applicant disagrees with SCC’s stated position and reiterates that the activity of bats in the area is unlikely to be high, so there are no likely significant effects and no need for mitigation measures.	<p>The SoS will need to demonstrate that any decision made is compliant with the UK's treaty obligations in regard to both Eurobats and the Aarhus convention on migratory species. This is a matter on which Natural England (“NE”) will need to advise the ExA and SoS, not a matter for Suffolk County Council.</p> <p>Given the relative simplicity and established nature of the mitigation required, and the potential implications for treaty obligations, (on which Natural England can advise the ExA), SCC suggests that it would be both reasonable and appropriate to consider the application of a precautionary approach in this instance. This would have the advantage of ensuring the matter is closed rapidly, and that a decision is not delayed, because additional data, evidence, or advice, is required to be gathered to allow the SoS to make a decision. However, of course, SCC defer to Natural England on this matter, as they are the advisor to His Majesty’s Government (“HMG”) on these matters.</p>	