

Examination Deadline 3 - 25 April 2024

For EN010117 – Rampion 2 Offshore Wind Farm

**Comment on the Applicant’s Deadline 2 Submission
EN010117-001134**

**Applicant Responses to Members of the Public and Businesses’
Written Representations (WRs) - REP2-029**

And

**Written Question for Open Floor Hearing 2 (OFH2)
Monday 13, May 2024**

**Item identified as Table 2-19 in REP2-029 as the
Applicant’s Response to [REP1-123]**

**On the NPS (2011) policy requirement to consider alternatives in the
Rampion Examination under EN-1 (overarching) Section 5.9.10,
“Development proposed within nationally designated landscapes”, and
Section 4.4., Alternatives**

**With regard to the Issue Specific Hearing, Item 2, Day 1, on 7 Feb 2024 and as
Item 2 was deferred on that day - for the Open Floor Hearing 2 (OFH2)
Monday 13, May 2024**

Submitted by Lawrence Haas and Faye Christensen
Interested Party Registration Numbers:

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- In association with Protect Coastal Sussex (PCS) **20044835**

For convenience at the end of this Representation we include an image of our Written Representation (REP1-123) on the consideration of Alternatives in the Rampion 2 Examination submitted for the Issue Specific Hearing (ISH1), Item 2, Day 1, 7 Feb 2024, together with the Applicant’s response.

Both imaged as Table 2-19 in Part B of this comment (2-pages in landscape format) directly extracted from the Applicant’s REP2-029, March 2024

Comment on the Applicant’s Response

Part A: Summary

We were disappointed but not surprised to see the Applicant’s response to our Representation (WR: REP1-123) on the case-specific National Policy (NPS) requirement to consider low-emission alternatives to Rampion 2 in this Examination.¹

What is more difficult to fathom at this stage is why no mention is made of those unfulfilled policy requirements in the Examination Authorities (ExA’s) Written Questions (WQs) issued 3 April 2024; i.e., requirements under NPS, EN-1 Overarching, Sections 5.9.10 and 4.4).

Community organisations and other stakeholders proactively engaging with this Examination are concerned given the significance of these relevant NPS policies and their rationale as essential safeguards, coupled with the apparent lack of a reasonable explanation as to why they are overlooked, or so easily dismissed. Unless we are missing something the silence in that respect is deafening.

Otherwise the concern may be lost in the avalanche of paper for the Examination and not come to the attention of stakeholders and the public.

The Applicant’s written response in REP2-029 to our REP1-123, in our view, offers a weak, inaccurate and false interpretation of relevant NPS Policy so as to justify rejecting any case-specific NPS requirement to consider alternatives for low-emission generation in this Examination. The Applicant chose only to assess within-project alternatives, which itself is a standing Environment Impact Assessment (EIA) requirement for all DCOs to be routinely reported in Applicant’s Environment Statement (ES).²

In REP1-123 we highlighted the case-specific NPS requirement to assess the cost and scope of alternatives that sits on top of EIA requirements, as being important and relevant to:

- 1.) Comply with (NPS, 2011), EN-1 Overarching, *Section 5.9.10 “Development proposed within nationally designated landscapes”* and Section 4.4, “Alternatives”; and thus:
- 2.) To better inform the key judgement the ExA highlights in its Rule 6 Letter of 14 Dec 2023 on whether “adverse impacts of Rampion 2 outweigh national benefits” as in

¹ As interested and affected Parties who have engaged with the Rampion 2 DCO and since the commercial developer’s the first informal consultation in Jan-Feb 2021.

² Any case-specific NPS requirement is also to be reported and fulfilled in the Applicant’s ES.

NPS, EN-1, Section 1.1.2;

That helps avoid the judgement being a highly subjective or controversial call that would not enjoy the confidence of many stakeholders, especially interested and affected Parties who disproportionately bear adverse impacts; and

- 3.) To have the Examination clearly inform the Secretary of State of the available low-emission alternatives to Rampion 2, designated as critical national priorities (CNP) for the provision of nationally significant low carbon infrastructure.

Few people are actually aware of the case-specific need to assess the cost and scope for alternatives in the Examination as a safeguard provision when considering commercial applications for NSIPs, let alone being aware of the fact that National Policy Statements frame the Examination Authority's consideration of the Application and recommendations they offer the Secretary of State on whether to consent or refuse consent.

Here we refer the **NPS (2011) EN-1, Section 5.9.10** safeguarding requirement for the Examination to consider **the cost and scope for alternative ways of meeting the need for it** (where the "it" Section 5.9.10 refers to is the genuine need for low-emission power generation, not the need for Rampion 2 expressly, as the Applicant seeks to imply, and otherwise wish all stakeholders to assume and not question.

In the words used in NPS update (Nov, 2023) Section 3.3.62 the critical national priority (CNP) and "need" is the provision of nationally significant low carbon infrastructure.

Separate representations (WRs) submitted for this Examination help to demonstrate that the low carbon infrastructure alternatives would actually do far more for UK society across all the metrics of national benefit that are indicated in the NPS (2011) and NPS (Nov, 2023 update) – at less cost to UK society and the environment, while contributing more to decarbonise power supply to the National Grid by 2035.³

The case-specific NPS requirement to consider these low carbon alternatives to Rampion 2, or "alternative ways of meeting the need", is in fact triggered:

- Because Rampion 2 would physically and visually interfere with designated landscapes and their functions.
- Rampion 2 would actually interfere with several designated landscapes, but in particular the South Downs National Park (SDNP) that enjoys the highest protection status, hence the need to consider alternatives to avoid harm.
- Thus **EN-1, Section 5.9.10**, under the title "***Development proposed within nationally designated landscapes***" applies in the Rampion 2 Examination, regardless of whether the commercial Applicant dismisses that UK policy reality and argues to the contrary.

³ National benefits indicated in NPS meaning: energy security, reliable and affordable supply, through to job creation, industry development and climate objectives, etc. Rampion 2 has high location-specific opportunity costs and local and national disbenefits due to the location in a lower quality wind regime on the south coast inshore and multiple location-specific social, economic and environmental impacts. That is apart from the fact Rampion 2 design challenges the European Landscape Convention as the ELC is clearly interpreted by the Offshore Energy SEA advice and aligned UK policy. That safeguard is categorically dismissed by the Applicant is also receiving little to no apparent attention in the Rampion 2 Examination.

- The physical interference is obviously the construction and maintenance of a permanent 2 cable corridor through SDNP with consequent social and ecological impacts as identified by stakeholders in their RRs, WRs and PAD Statements - including biodiversity connectivity interruptions;
- The visual interference is the high degree of visual interruption of the natural seascape and degree of change from imposing up to 90 exceptionally large wind turbines, each up to 325m tall in close proximity, thereby transforming the seascape character of the area and degrading statutory functions and objectives of SDNP and other designated landscapes.
- That impacts current and future generations as visitors across the whole of the UK and is both a local and national disbenefit.

SDNP identified this same concern, where the Authority states in their Principal Areas of Disagreement (PAS) statement in Nov 2023 that:

*"The consideration of alternatives for the scheme has not sufficiently demonstrated that meeting the need for offshore renewable energy could not be met through a scheme that did not intersect the South Downs National Park (SDNP). **It is therefore the case that this 'test' of the National Policy Statement EN-1 paragraph 5.9.10 has not been met.**"* (our bolding and underlining of the text for emphasis).

- We note also that our comment now is focused on NPS provisions to consider for Alternatives in this Examination as essentially case-specific safeguard provisions (5.9.10 and Section 4.2) to avoid the adverse impacts on designated landscapes.
- For the moment, we set aside the fact the Rampion 2 design is not "good design or best practice as the commercial Applicant asserts; rather is arguably a clear breach of the European Landscape Convention (ELC), as the ELC is interpreted by the UK Government's own Offshore Energy SEA (OESEA) strategic environmental advice on visual buffers.
- That suggested ELC breach and of aligned UK policy, law and advice is the subject of other RRs and WRs Interested Parties have submitted for consideration in this Examination.⁴
- Legal breaches are otherwise identified as a critical issue in the ExA's Rule 6 Letter, which to our understanding and in the context of a potential ELC breach (which we argue is clear based on the OESEA-4 stated objective), has not been acknowledged or even remarked on in ExA Questions (WQs), or even entertained in the provisional Principal Issues for the Examination.

⁴ Here we refer to the European Landscape Convention (ELC) and closely aligned UK policy, advice and law including the Offshore Energy SEA (OESEA-4, 2022) interpretation of the ELC, the Marine Policy Statement (MPS, 2021) and the Levelling up and Regeneration Act (2023). The OESEA programme advises 40km as the distance that turbines as large and tall as the Rampion 2 must be from designated landscapes and sensitive visual receptors (i.e., resident in coastal communities and visitors).

As noted in the text of NPS, EN-1, Section 5.9.10 cited previously, developments such as Rampion 2 encroaching designated landscapes, especially National Parks in turn invoke **EN-1, Section 4.4, Alternatives** provisions.

- Here we also Note:
 - that the alternatives for low emission generation to be considered in the Rampion 2 Examination that meet the tests in Section 4.4 are those that now enjoy critical national priority (CNP) status.
 - In actual fact they would do more for UK society across most, if not all national policy metrics over the economic life of Rampion 2 (roughly 20-25 years from 2030 when Rampion 2 would start to operate to 2050-2055, after which Rampion 2 infrastructure would be removed or replaced.
 - On top, those CNP alternatives avoid the large footprint and physical and visual violation of designated landscapes and high opportunity costs of Rampion 2, the reason NPS (2011) Section 4.4 exists as a safeguard, and why the alternatives stipulation is retained in NPS update (Nov, 2023) as the critical national priority for low carbon infrastructure.

We note again: While Rampion 2 was proceeding through pre-application stages (largely under the radar in virtual-only formal consultations for the main statutory consultations in 2021 and early 2022) additional UK policy and law have emerged that have specific relevance to the Rampion 2 Examination and this issue, including multiple revisions to the NPS the Secretary of State may take into account.

These new national policies and laws include:

- Provisions in the Marine Policy Statements (MPS, 2021) which strengthen links between protection of designated landscapes and associated seascapes, with direct reference to the ELC aims as an international treaty obligation of the UK.⁵
- Provisions in the new Levelling-up and Regeneration Act (2023) that increase the protection of National Parks where the Law upgrades the previous responsibility of NSIP proposals, such as Rampion 2, from “to take into account” of the statutory functions of the National Park to an active duty to further the statutory purposes and functions of the Park, which Rampion 2 so clearly **fails to do**.
- SDNP submissions have also made the above clear.
- And Natural England (NE) has formally advised the new duty to ‘seek to further’ is an active duty, not a passive one, as provided in the NE response a NSIP Application in December 2023, as reported in separate Written Representation.⁶

At the heart of our concern about the Applicant’s response to WR: REP1-123 and the consideration of CNP Alternatives for low emission generation in the Rampion 2 Examination more generally, (the deafening silence we refer to on the apparent failure to acknowledge or invite comment on the importance and relevance of NPS EN-1, Sections

⁵ Natural capital as assets for the benefit of current and future generations and ecosystem functions.

⁶ Natural England provided a response 15 Dec 2023 to the Lower Thames Crossing Examination, “Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing, Natural England’s response to Deadline 9a”. (i.e., the duty to ‘seek to further’ is an active duty, not a passive one).

5.9.10 and 4.4) is that the Applicant deploys a single sentence to dismiss the applicability of these NPS stipulations in the Rampion 2 case.

That is by citing and misinterpreting the draft NPS (March, 2023) proposed Section 4.4.21:

- *“only alternatives that can meet the objectives of the proposed development need to be considered (paragraph 4.4.21).”*
- That cherry picked and distortion of the actual meaning of 4.4.21 is followed by the Applicant’s single sentence interpretation and assertion as follows:

“Therefore the Applicant has considered the reasonable alternative options relating to the development of an offshore wind farm technology.”

That line of argument is logically inconsistent with NPS text and aims.

It is a clear deflection via misrepresentation of the meaning of that draft Section 4.4 Policy. It is an interpretation that actually defies why Section 4.4 Alternatives even exists as a safeguard in the first place – which in this case with the Section 5.9.10 trigger was to avoid NSIP developments in National Parks and thereby avoid impacting their statutory functions and purposes (the opposite of furthering, them as required in LURA (2023)).

- It is also the same single sentence reference that the Applicant provided in the Environment Statement (ES) Chapter 3 Alternatives to dismiss the entire aim of the Section 5.9.10 and the Section 4.4 requirements, again as a presumption without context, and in fact misrepresenting the context.
- That is sentence from the ES Chapter 3 repeated as the Applicant’s primary response to REP1-123.
- Here we note also the Applicant had an obligation to properly identify and report the “cost and scope for” low-emission alternatives to Rampion 2 in the Environment Statement (ES), as per NPS EN-1 Section 4.4.2, which is not quoted or cited by the Applicant. That policy includes the requirement, as follows:

*“From a policy perspective this NPS does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option ... **However: ... in some circumstances, the relevant energy NPSs may impose a policy requirement to consider alternatives (as this NPS does in Sections 5.3, 5.7 and 5.9)**”* again our bolding and underlining

Given what we see as the ongoing dismissive nature of the Applicant’s response to legitimate concerns on failing to apply relevant NPS provisions on Alternatives, and also growing frustration with the apparent silence on these safeguarding issues in the ExA’s Rule 6 and 8 Letters and now in the ExAs WQs, we take this opportunity to again set out the overlapping concerns that we believe the Rampion 2 Examination should take into account and give substantial weigh to, specifically:

1. The Applicant systematically confuses / conflates EIA requirements for within-project alternative assessments with NPS Sections 5.9.10 and 4.4 safeguard requirements to consider low-emission Alternatives.

2. The Applicant offers misdirection on what NPS (2011) requires for the consideration of low-emission alternatives.
3. The Applicant offers misdirection on alternatives the Government calls “game changers” and NPS (Nov, 2023) designates as Critical National Priorities (CNP).
4. The Applicant systematically “cherry picks” the NPS and relevant national policy advice.
5. Existing Relevant and Written Representations that offer the way forward to apply NPS Section 4.4 Alternatives.
6. How the Section 4.4 Alternatives assessment informs key judgements on whether the adverse local impacts together with the national disbenefits of Rampion 2 outweigh its national benefits.
7. Why the High Court decision in 2023 on NSIP (Energy) infrastructure that upheld the full and proper consideration of Alternatives in the DCO process is relevant.

Part B of this comment elaborates on selected aspects of these seven points drawing on argument and evidence from separate representations previously submitted. In the interest of convenience and efficiency, it cross-references those Representations now available in the Planning Inspectorate’s on-line Examination Library.

Those offer further detail on various aspects of this dilemma.

Part B: Elaborated comment on the Section 5.9.10 and 4.4 requirements

As further argument and evidence on applying NPS provisions in regard to the consideration of Alternatives in the Rampion 2 Examination we offer the following.

1. The Applicant systematically confuses / conflates EIA requirements for within-project alternative assessments with NPS Sections 5.9.10 and 4.4 safeguard requirements to consider low-emission Alternatives.

The Applicant's response to our REP1-123 seeks to obscure:

- The difference between within-project alternative assessments required under the Environmental Impact Assessment Regulations, 2017 (the 'EIA Regulations 2017) and separate higher level NPS requirements to assess the alternative for meeting the need for low emission generation as prescribed in NPS (2011)
 - The EIA within-project alternatives requirement includes, for example, considering and comparing the economic, social and environmental tradeoffs in deciding the location of wind turbines within the search area, the location of export cable landings, the transmission corridor routes and the locations of substations, and reasons for the various design, construction and mitigation choices made.
 - That is what the Applicant describes in its Environment Statement (ES)
 - However, the NPS requirement sits on top of the EIA Regulations as a higher level alternative assessment that is required when designated landscapes are impacted⁷ by NSIP. That brings the requirement to consider other ways of meeting the need for low emission generation, which is reasonably interpreted as other low emission alternatives (NSIP) now designated as critical national priorities (CNP).
- The ExA paid attention to the Applicant's handling of within-project alternatives in its preliminary Principal Issues and first Issue Specific Hearing, but unfortunately remains silent on the higher-level NPS alternative assessments invoked by Section 5.9.10.

NPS (2011) EN-1, Section 5.9.10

The Examination is to "... include assessment of: the cost of, and scope for, developing all or part of the development elsewhere outside the designated area, **or meeting the need for it in some other way**, taking account of the policy on Alternatives set out in Section 4.4".

- The Applicant may wish that stakeholders who are not familiar with the purpose of those policy NPS provisions to buy into the Applicant's assertion and conclusion it has considered the reasonable alternative options relating to the development of an offshore wind farm technology.
- The aim is clearly to shut down further discussion. End the conversation there.

⁷ NSIP infrastructure proposals that would physically and visually interfere designated national landscapes and their statutory purposes or functions. Statutory Purposes of SDNP <https://www.southdowns.gov.uk/national-park-authority/our-work/about/purposes-duty/> Purpose 1: To conserve and enhance the natural beauty, wildlife and cultural heritage of the area. Purpose 2: To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

- It would be a remarkable way to imagine the worth of a £3-4 bn investment allocation, one that has considerable opportunity costs, by what would amount to under false pretences setting aside the safeguards put in place as NPS, EN-1 Sections 5.9.10 and 4.4 to help protect designated landscapes and their statutory functions and purposes in the DCO process.

2. The Applicant offers misdirection on what NPS (2011) and NPS (March, 2023) require and how they are interpreted in the Rampion 2 case.

Among the distortions on what specific NPS (2011) provisions mean and less than accurate interpretation on how they apply in the Rampion 2 case, the Applicant offers a significant misinterpretation of NPS (March, 2023), EN-1, Section 4.4.21, as a central argument on this issue “only alternatives that can meet the objectives of the proposed development need to be considered” (paragraph 4.4.21).

- That NPS (March, 2023) text the Applicant refers to in its response to our REP1-123 representation in 2024, a year later, was actually dropped and superseded by the revised NPS (Nov, 2023). Thus what the Applicant cites was never in actually effect. Setting that aside.
- Firstly, the **need** which the NPS (2011) Section 5.9.10 refers to, and the **objectives** the draft NPS (March, 2023) Section 4.4.21 similarly refers to - is the need for low emission generation; not as the Applicant may wish to interpret as the need for this proposed development, Rampion 2.
- Secondly, when the commercial Applicant goes on to offer its single sentence assertion that it has, *“Therefore ... considered reasonable alternative options for the development of an offshore wind farm technology”*, it again flips back to referring to within-project alternatives.
- Section 5.9.10 specifically includes the word **“or meeting the need for it in some other way”**.
- Moreover, the **“need”** to be met was further clarified in NPS (Nov, 2023) now in effect as being the critical national priority for **low emission generation**, where Section 3.3.62 indicates the, **“Government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure.”**⁸

The Applicant’s response to REP1-123 in March 2024 also refers us to the Rampion 2 Environmental Statement (ES), Chapter 3: Alternatives, Volume 2 implying that contains justification and proof that the Applicant has satisfied all NPS requirements on Alternatives and infers that should be the end of any discussion on the matter.

- Yet looking at Chapter 3 of the Applicant’s ES, it actually only speaks to satisfying the EIA requirement to consider within-project alternatives.
- The only cursory mention of NPS Section 5.9.10 or 4.4 requirements to consider low-emission alternatives is in the Table 3-1 “Summary of policy and legislative context.”

⁸ Section 4.4 states which energy generating technologies are low carbon and are therefore CNP infrastructure.

- There the Applicant simply mentions that a requirement exists, but in the next breath it dismissed it with the single sentence, again misrepresenting NPS (March, 2023) Section 4.4.21 text, “Therefore the Applicant has considered the reasonable alternative options relating to the development of an offshore wind farm technology.”
- That ES Chapter 3 text then moves on to referencing good design Sections in the NPS and how their proposed development (Rampion 2) conforms to “good design”, of course, with no reference to the European Convention on Landscapes or any aligned UK policy and Law that indicate what is good design - in the Rampion 2 setting.

Then the Applicant offers its own Planning Statement [APP-036] as further justification for dismissing NPS policy requirements, again a document prepared by the Applicant itself that interprets the NPS according to its commercial interest, where it claims the “need” again is Rampion 2 specifically.

Moreover, in that same Planning Statement:

- The Applicant further claims, “key policy test regarding nationally significant infrastructure development taking place in the SDNP in line with the requirements of 5.9.10 of NPS, EN-1 (DECC, 2011) and this aligns with the protections for National Parks in paragraph 5.10.32 of the revised NPS EN-1 (DESNZ, 2023).”
 - That is simply not true. SDNP has argued against that view in SDNPA’s own representations to the Rampion 2 Examination and PAD Statements.
 - Natural England (NE) further reinforced the concern about what the Applicant claims via NE’s interpretation of the Levelling Up and Regeneration Act (LURA, 2023), where NE confirms there is a new duty for any NSIP infrastructure encroaching or interfering with a National Park to advance the statutory functions of the Park, which Rampion 2 so obviously does not.⁹
 - The Applicant’s response to our REP1-123 also harks back to the consideration of within-project alternatives to then offer text that once again confuses the different EIA requirements with the NPS requirements, in a totally circular argument without merit.
- The Applicant’s response to our REP1-123 and more broadly on this theme thus ignores the fundamental reason why NPS (2011) EN-1 Sections 5.9.10 and 4.4 exists as a safeguarding provision to protect natural capital as assets for current and future generations, and to help safeguard ecosystem functions and services.

3. The Applicant offers misdirection on alternatives the Government calls “game changers” and NPS (Nov, 2023) designates as Critical National Priorities (CNP).

⁹ NSIP infrastructure proposals that would physically and visually interfere designated national landscapes and their statutory purposes or functions. Statutory Purposes of SDNP <https://www.southdowns.gov.uk/national-park-authority/our-work/about/purposes-duty/> Purpose 1: To conserve and enhance the natural beauty, wildlife and cultural heritage of the area. Purpose 2: To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

Government announcements describe the low-emission alternatives to Rampion 2 as game changers that are now designated by the NPS (Nov, 2023) as critical national priorities.¹⁰

Yet the Applicant's response to our REP1-123 argues.

"There is a demonstrable and urgent need for the Proposed Development (as demonstrated in Section 4.4 of the Planning Statement [APP-036] and the infrastructure subject to the DCO Application is identified as a Critical National Priority (in line with the 2023 NPS EN-1 and EN-3, which came into force in 2024). The Planning Statement paragraphs Section 5.4 summaries the benefits and adverse impacts of the Proposed Development and Section 5.5 notes the reasons for Applicant's conclusion that the benefits of the scheme outweigh the adverse impacts taking account of proposed mitigation."

Again that is economical with the truth:

- The urgent need is not the Proposed Development (Rampion 2), but low emission generation that is reliable, affordable, and dependable and advances National Energy Security and the decarbonisation of the power sector by 2035.
- The alternatives that outperform Rampion 2 across all policy metrics are also designated and Critical National Priorities (CNP); the evidence offer in Representations is the Alternatives do more, for less money without the multiple harms of Rampion 2 (i.e., opportunity costs) and there is no doubt about their breach of UK commitments, which thus in a sensible way informs how Section 1.1.2 is applied on the Examination.
- This evaluation is provided in REP1-145

There is no escaping the Applicant's arguments collapse around their contradictions.

4. The Applicant systematically "cherry picks" the NPS and relevant national policy advice.

Cherry picking the NPS provisions out of context and then moving on to misinterpret the policy being cherry picked is a practice we see repeated by the Applicant, not only in respect to the EIA versus NPS Alternatives issue as described here, but on other important and relevant NPS policy issues that are either specific to the Rampion 2 case or common to all NSIP DCO Applications.

Interested Parties in representations indicated how this behaviour is seen on the question of EIA versus NPS requirements on Alternatives. The Applicant also opportunistically shifts between citing NPS (2011), NPS (March, 2023) and now NPS (Nov, 2024) seeking to find and highlight statements out of context to advance its narrative.

This is similar to the Applicant's contention Rampion 2 is not subject to any strategic environmental advice relating to the UK Governments OESEA process. The Applicant's arguments again collapse around their own contradictions when the actual details of what is being argued are revealed and subject to transparent due diligence.

- We believe it is important to consider in the Examination whether the Rampion 2 infrastructure is in breach of the European Landscapes Convention (ELC) and closely

¹⁰ <https://www.gov.uk/government/news/british-nuclear-revival-to-move-towards-energy-independence>

aligned and reinforcing UK Marine Policy Statement (MPS 2021) and the Levelling up and Regeneration Act (LURA, 2023).

- Specifically, in terms of interpretation of any breach of commitments in the Rampion 2 case, the Government's own Offshore Energy SEA programme in its latest OESEA-4 (2022) states that its very objective is, "To accord with, and contribute to the delivery of the aims and articles of the European Landscape Convention and minimise significant adverse impact on seascape/landscape including designated and non-designated areas."
- The UK Government's strategic environment advice, to be in accord with the ELC, is to provide visual buffers of 25 miles for turbines of the scale proposed for Rampion 2, up to 325m tall.

Any concerns of applicable UK policy and law are robustly dismissed by the Applicant. The double irony of course is that the £3-4 billion Rampion 2 scheme as proposed by the German-based multinational would not be permitted under German law (the WindSeeG - Offshore Wind Act, 2017), as indicated in the OESEA-2 (2022).

Our view expressed previously is even if the ExA were to recommend setting aside the OESEA interpretation of the ELC - which a recommendation to consent would imply - Rampion 2 challenges any reasonable interpretation of the ELC aims and aligned UK policy and law.

5. Existing Relevant and Written Representations that set out a way forward to apply not ignore NPS Section 4.4 Alternatives

Numerous RRs and WRs address this Alternative issue and what is needed more generally to take account of these NPS safeguards transparently to help improve confidence in this DCO outcome. Among them:

- PEPD-096: Item 2 in the Protect Coastal Sussex written submission for the procedural deadline 16 January 2024 on the Examination approach, including addressing this EIA versus NPS policy requirements for consideration of alternatives in the Examination.
- RR-062; RR-287 and RR-197 as relevant IP Representations in the Pre-Examination
- AS-006: The South Downs National Park PAD Statement with reference to Section 5.9.10 and 4.4 as referred to in the Summary of this Representation.
- REP1-145 that contains Deadline 1 representations prepared by community organisations working together under the umbrella of Protect Coastal Sussex (PCS) who are interested and affected Parties. These three representations actually submitted separately were entered in the Examination Library as a single large consolidated document under REP-145. They are:
 - PCS WR#1: Local Impact Assessment (LIA)
 - PCS WR#2: Local Community Due Diligence: On the Applicant's Claims about the Performance, Benefits and Adverse Impacts of Rampion 2
 - PCS WR#3: Consideration of Alternatives in the Rampion 2 Windfarm Examination
- REP2-066 that breaks them out and provides one-page bullet points on each of the above PCS submissions and the summaries in concise and digestible format.

- REP2-064 that offers comment on the Applicant Response in REP1-018 to the ExA Action Points Arising from Issue Specific Hearing 1 (ISH1). That provides a detailed technical critique of the Applicant's response to the Issue Specific Hearing 1 (ISH1) question the Examination Authority (ExA) posed regarding *“the level of wind resources in the Channel”*.
- We believe the Applicant's response to that question lacks merit and misleads the conversation on the quality of the wind resource in the Channel, and in particular the Sussex Bay inshore.

This Application otherwise fails to recognise that as a national climate response, more UK citizens will be encouraged by government at all levels to remain on these islands for recreation and vacations to reduce their travel carbon footprints. Protecting the integrity of our natural coastal assets and designated landscapes with all its intrinsic values and national benefit for both current and future generations should be paramount and central to holistic Examination thinking.

RR-287 and RR-062 from PCS supporters provides a list of organisations we suggest may be appropriate to invite directly or encourage written or oral representations or expert testimony on specific technical issues or questions on Alternatives.¹¹

6. How Section 4.4 Alternatives assessment inform judgement on whether the adverse impacts outweigh the national benefits

Applying Section 4.4 as a safeguard measure fully, and for the purposes intended in the Planning Act (2008) and updated aspects of the Planning Act that are provided in the Levelling up and Regeneration Act (LURA, 2023).

1. Responds to the NPS case-specific policy requirement to consider alternatives in the Rampion 2 Examination – in a meaningful way; essential to look for other ways to “meet the need – for low carbon generation” so as to avoid unwarranted adverse impacts on designated landscapes and their statutory functions and objectives;
 - This is consistent with and reflects UK international obligations under the European Landscape Convention (ELC) and as well as aligned UK policy advice and laws as is cited previously in this submission.
2. To help to break down transparently, and benchmark the national benefits and disbenefits of Rampion 2 aiming to inform key judgments the ExA will make on whether “adverse impacts of Rampion 2 outweigh its national benefits”; and¹²
3. To highlight realistic opportunities for a better way forward, should Rampion 2 be refused consent on legal or other grounds, given the importance of decarbonisation of

¹¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010117/EN010117-000490-Rampion2%20Relevant%20Reps%20Exam%20Library.pdf>

¹² Appropriate metrics applied in the assessment of those key policies are important, in our view, as for any large £3-4 bn energy infrastructure investment commitment. But especially so in the Rampion 2 case considering what is at stake for local communities with the degree of transformation of the seascape / landscape and character of the area, all visible from the coast and designated landscapes, as well as unique impacts across all dimensions of sustainable development and the biodiversity (net gain/loss) calculation given that Rampion 2 is in ecologically sensitive inshore waters.

UK power supply in an affordable, realistic and common-sense manner in little over a decade – by 2035.

We also note and re-emphasise this adds value to the Examination in respect to helping:

- To better inform the consideration of Section 4.4 Alternatives (make it less subjective as warranted for a £3-4 billion investment commitment the ExA may wish to invite or request power system value analysis of Rampion 2 and reasonable alternatives for low emission generation to be performed by a competent authority (Ofgem or National Grid) applying the system value model developed and used recently in the Net-Zero Teesside DCO Examination.¹³
- We note also that National Benefit can and we argue should be systematically considered across all policy metrics of National Benefit noted in the NPS, as can reasonably be established and quantified for Rampion 2 and with each Alternative considered under the Section 4.4 stipulations to give a benchmark and indicators including, for example:

National benefit in terms of :

- energy security (for the energy resource and supply chains for the conversion technology);
- power output (quantity and quality , intermittent or dependable supply, reliability);
- attributes impacting national affordability and benefit: such as longevity (economic life); whether it requires parallel investment in complementary generation (back-up), transmission and other power system infrastructure for ancillary services;
- power system value: the role in least cost low-emission generation expansion to meet mandated electrification demand in the heating and transport sector, and impacting on consumer tariffs and national affordability;
- to climate policy: co2 offsetting and relative contribution to decarbonisation of power supply by 2035 on the road to Net Zero across the economy by 2050;
- to contribution to building a viable industrial strategy and for export with net job creation, etc.;
- The system value modelling would necessarily take into account value for money as it impacts on average system costs and hence electricity affordability at the household level (i.e., via consumer and small business tariffs) which has national to local impact.
- Otherwise this Examination should include national disbenefits in calculations and judgements. This would include taking into account the opportunity in a £3-4 billion investment decision.¹⁴

Here we highlight and also add:

¹³ <https://infrastructure.planninginspectorate.gov.uk/projects/north-east/the-net-zero-teesside-project/> and https://www.netzeroteesside.co.uk/wp-content/uploads/2020/06/System_Value_to_UK_Power_Market_of_Carbon_Capture_and_Storage_June20.pdf

¹⁴ Given also the escalating development cost of Rampion 2 and the rationale for the 60% increase in strike price for offshore wind DCO Applicants in CfD subsidy agreements announced by the UK Government in Sept 2023.

- The Levelling-up and Regeneration Act 2023 has further increased the protection of designated landscapes and is highly relevant to this Examination.¹⁵
- In the Rampion 2 Examination, that increases the importance and weight the Examination should give to the voice of South Downs National Park Authority, as regard to impacts, which the Applicant argues should be totally rejected.
- The strengthening of protection of National Parks in the Levelling up Act 2023 otherwise recognises that national benefit for all UK citizens is derived from safeguarding designated landscapes for both current and future generations - especially as all citizens of the UK will be increasingly encouraged to remain on these islands and travel less for recreation and vacations, at least for the foreseeable future (i.e., to reduce lifestyle and travel-related CO2 emissions).
- It means that from a National perspective, it makes little sense to degrade designated landscapes when Alternatives for low emission generation are available (as can be demonstrated when seriously applying Section 4.4 of NPS-1) and accommodating provisions for advancing critical national priorities in place of NSIP that are not lawful or seriously challenge the interpretation of policy and law such as the ECL, NPS (2021), OESEA-2 (2022) and the Levelling up and Regeneration Act (2023).

The degradation or loss of protected Landscape functions and value may be reasonably counted as a **national disbenefit** when weighing up whether “adverse impacts outweigh national benefits” in the Rampion 2 Examination.

- We identified three alternatives for the required NPS Section 4.4 assessment and conformance to CNP.¹⁶ In Representation REP-145 we offer a simple benchmarking and ranking exercise as a way to help break down and understand the national benefits and disbenefits of Rampion 2 in the Examination.¹⁷

7. The High Court Decision in 2023 on NSIP (Energy) infrastructure that upheld the full and proper consideration of Alternatives.

The importance and relevance considering Alternatives according to NPS provisions in DCO Examinations was reinforced by the UK High Court decision in January 2023 to dismiss a DCO decision where alternatives were not properly taken into account.

¹⁵ Text in paragraph 245, 3(b) I, page 263 in the Levelling up Act 2023, under Protected Landscapes is stricter than before (“must seek to further the purposes” rather than “have regard to”). It states that if it appears that there is a conflict between those purposes (protection versus Rampion 2 purposes), decisions must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park. It essentially places the onus on the Rampion 2 Applicant to justify to the ExA and Secretary of State there will be little or no harm to SDNP’s statutory objectives and purposes, as the Applicant’s ES asserts and SDNPA disagrees (as in the PSDs Statement) as well as other PAD Statements and RRs.

¹⁶ NPS guidance was “... three key elements of the Government’s strategy for moving towards a decarbonised, diverse electricity sector by 2050: (i) renewables; (ii) fossil fuels with carbon capture and storage (CCS); and (iii) new nuclear”. NPS (Nov, 2023) designates each as Critical National Priorities (CNP).

¹⁷ In the absence of power system value modelling (which we argue for) this technique uses Rampion 2 as a baseline to rank order the options, thus qualitatively benchmarking Rampion 2 against the three alternatives.

This was for a proposed NSIP undersea power interconnection between France and the UK on the south coast. That High Court overturned the former BEIS Secretary of State decision in 2021 to reject the £1.35bn AQUIND interconnect or proposal for an additional high voltage transmission link between the UK and France.

We suggest is relevant to the Rampion 2 Examination in two respects.

Firstly, if the connector is built it will afford additional power system operation flexibility in the south assuming France can send power on demand. Secondly, it is important because the basis for the High Court decisions as reported was the failure to consider alternatives adequately in the DCO process.¹⁸ While it is case specific, among the grounds accepted for the Judicial Review was the failure to apply NPS EN-1 policies to the proposed development.

¹⁸ <https://www.judiciary.uk/judgments/aquind-v-beis/>

Table 2-19 Applicant’s Response to Lawrence Haas and Faye Chistensen’s Written Representations [REP1-123]

Ref	Written Representation comment	Applicant’s response
2.19.1	<p>With regard to the consideration of Alternatives in the Issue Specific Hearing, Item 2, Day 1, on 7 Feb 2024:</p> <p>The NPS (2011) has a policy requirement to consider alternatives in the Rampion Examination under EN-1 (overarching) Section 4.4., Alternatives.</p> <p>This is a case-specific policy requirement as Rampion 2 infrastructure would physically and visually interfere with designated landscapes and their functions (e.g., South Downs National Park), where EN-1, para 5.9.10 applies.</p> <p>The Examination is to “... include assessment of: (including) the cost of, and scope for, developing all or part of the development elsewhere outside the designated area, or meeting the need for it in some other way, taking account of the policy on Alternatives set out in Section 4.4”.</p> <p>Suggestions from IPs on talking account of relevant expert testimony and appropriate power system value analysis are offered in pre-Examination representations and submissions recorded in the Examination Library including:</p> <ul style="list-style-type: none"> • PEPD-096: Item 2 in the PCS written submission for the procedural deadline • RR-062; RR-287 and RR-197 as relevant IP Representations, and • AS-006: The South Downs National Park PAD Statement <p>Relevant SDNP comment as item SDA-01 on Section 4.4 Alternatives in its PAD Statement in November 2023 as AS-006 was:</p> <p><i>“The consideration of alternatives for the scheme has not sufficiently</i></p>	<p>Section 4.4 of NPS EN-1 (DECC, 2011) indicates the need to consider alternatives to the Proposed Development and to demonstrate that the Proposed Development is justified, where relevant, technical and commercial alternatives are considered. Section 4.4.21 of EN-1 (DESNZ, 2023) reiterates the requirement to consider <i>alternatives that can meet the objectives of the Proposed Development</i> (4.4.21). Therefore the Applicant has considered an offshore wind farm technology.</p> <p>Chapter 3: Alternatives, Volume 2 of the ES studied by the Applicant and a comparison of alternatives includes the alternatives considered and considered in Alternatives, Volume 2 of the ES [APP-044] multi-disciplinary design process including environmental impacts. The Applicant has sought to avoid, reduce or minimise impacts by identifying and securing embedded environmental values to remain.</p> <p>Section 4.4 of the Planning Statement [APP-044] nationally significant infrastructure development outside the SDNP is consistent with 5.9.10 of NPS EN-1 (DECC, 2011) and this also aligns with 5.9.10 of the revised NPS EN-1 (DESNZ, 2023). The paragraphs 4.4.7 – 4.4.21 of the Planning Statement [APP-044] development alternatives outside the SDNP is consistent with Chapter 3: Alternatives, Volume 2 of the ES consideration of alternatives. Section 3.3 of Chapter 3: Alternatives, Volume 2 of the ES the alternatives considered in terms of grid connection, terms of landfall and onshore cable route. To ensure the most reasonable alternatives outside of the SDNP, the alternatives are summarised in the Planning Statement [APP-044].</p>

Ref	Written Representation comment	Applicant's response
	<p>the goal of decarbonisation of power supply to the national grid by 2035.</p> <p>For a £3-4 billion investment decision having far reaching local and national consequences we believe that consideration is best informed by the required Section 4.4 Alternative assessment:</p> <ol style="list-style-type: none"> 1. looking across all metrics for the national benefits identified in the NPS; 2. considering the Alternative generation systems now designated as critical national priorities (for low emission generation) to achieve secure, reliable and affordable supply and reduce risk to National Energy Security (as in PEPD-096 Item 2).h <p>The approach would reveal whether they are capable of providing the same or greater national benefit over the same timeframe as Rampion 2 (from about 2030 to 2050), without the adverse local impacts, and offer greater value for money in the local and wider national interest.</p> <p>The above is consistent with delivering Government's wider objectives as provided in National Policy Statements:</p> <p>EN-1, Para 2.2.27 ... <i>"The Government's wider objectives for energy infrastructure include contributing to sustainable development and ensuring that our energy infrastructure is safe. <u>Sustainable development is relevant not just in terms of addressing climate change, but because the way energy infrastructure is deployed affects the well-being of society and the economy...</u>"</i> and</p> <p>EN-1 (2011) para 2.2.4. <i>"It is important that, in doing this, the planning system ensures that development consent decisions take account of the <u>views of affected communities and respect the principles of sustainable development.</u>"</i></p>	<p>The Applicant has had due regard to the national Energy Development. Chapter 3: Alternatives, Volume 2 provides a summary of the evolution of the design. The Information on Action Point 27 – South Devon provides further information. In summary this sets out:</p> <ul style="list-style-type: none"> • How the Applicant has sought to avoid visual impacts from the onshore cable • The established design and embedded design to avoid and/or minimise the effects on heritage and/or minimise the effects on heritage • avoidance through engineering solutions • That there are no predicted significant impacts following the application of the mitigation measures. <p>The Applicant therefore considers that it has taken account of the requirements of the NPS (DECC, 2011) and protections for National Parks relating to development taking place within the National Park.</p> <p>The importance of large-scale offshore wind infrastructure is clear in the original version of NPS EN-1 (EN-1, 2011) and NPS EN-1 (DESNZ, 2023a) which came into effect in 2023. Chapter 3: Alternatives, Volume 2 of the ES [APP-036] sets out the considerations that led to the identification of the proposed development taking into account the findings of the Strategic Environmental Assessment for wind conducted by the then Department of Energy and Climate Change.</p> <p>There is a demonstrable and urgent need for the Planning Statement [APP-036] and the Critical National Priority (in line with the 2023 Planning Statement paragraphs Section 5.4 and Section 5.5) and the Energy Development and Section 5.5 notes the reasons why the benefits outweigh the adverse impacts taking account of the mitigation measures. The Applicant has submitted a NPS assessment</p>