



MORECAMBE



FLOTATION ENERGY

Morecambe Offshore Windfarm: Generation Assets Environmental Statement

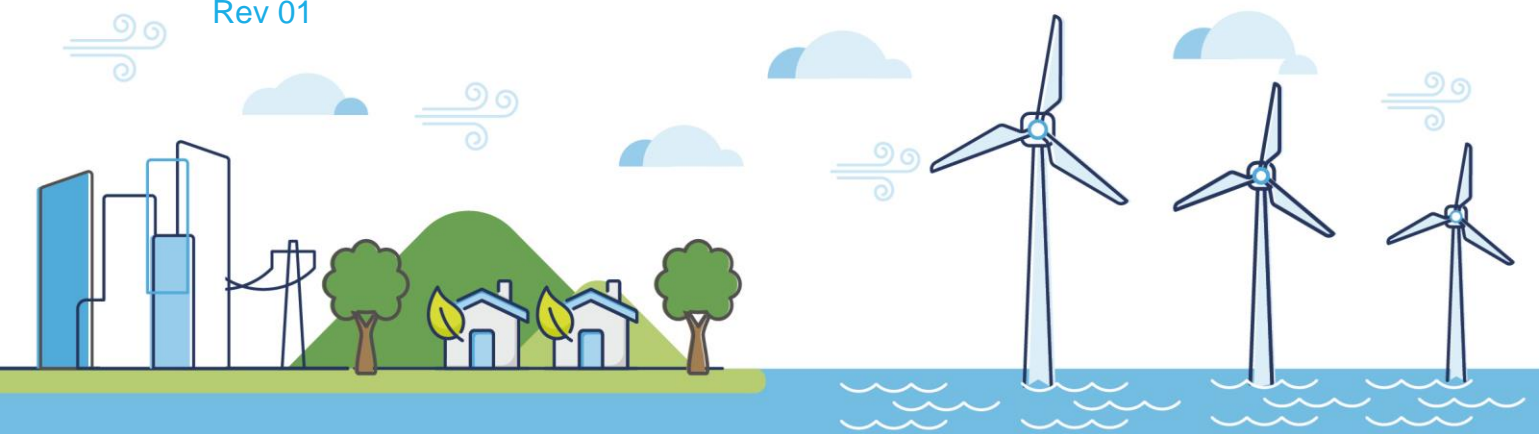
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Glossary of Acronyms

AEoI	Adverse Effect on Integrity
AR	Allocation Round
BEIS	Department for Business, Energy and Industrial Strategy ¹
CBD	Convention on Biological Diversity
CCC	Climate Change Committee
CfD	Contracts for Difference
COP	Conference of the Parties
CRoW	Countryside and Rights of Way
cSAC	candidate Special Areas of Conservation
DCO	Development Consent Order
DECC	Department of Energy and Climate Change ¹
Defra	Department for the Environment and Rural Affairs
DESNZ	Department for Energy Security and Net Zero
DML	Deemed Marine Licence
EC	European Commission
EEA	European Economic Area
EIA	Environmental Impact Assessment
EPS	European Protected Species
ES	Environmental Statement
EU	European Union
GES	Good Environmental Status
GHG	Greenhouse Gas
HRA	Habitats Regulations Assessment
LEC	Low-level Energy Cost
LEP	Lancashire Enterprise Partnership
MCAA	Marine and Coastal Access Act
MCZA	Marine Conservation Zone Assessment
MCZs	Marine Conservation Zones
MMO	Marine Management Organisation
MPAs	Marine Protected Areas

¹ The Department of Energy and Climate Change (DECC) was disbanded and merged with the Department for Business, Innovation and Skills to form the Department for Business, Energy and Industrial Strategy (BEIS) in 2016. As of February 2023, BEIS is known as the Department for Energy Security and Net Zero (DESNZ).

MPS	Marine Policy Statement
MSFD	Marine Strategy Framework Directive
NDC	Nationally Determined Contributions
NNRs	National Nature Reserves
NPPF	National Planning Policy Framework
NPS	National Policy Statements
NSIP	Nationally Significant Infrastructure Projects
OSP	Offshore substation platform
OSPAR	The Convention for the Protection of the Marine Environment of the North-East Atlantic
PEI	Preliminary Environmental Information
PEIR	Preliminary Environmental Information Report
PINS	Planning Inspectorate
PPG	Planning Policy Guidance
PPSs	Planning Policy Statements
REZ	Renewable Energy Zone
RSPB	Royal Society for the Protection of Birds
SAC	Special Areas of Conservation
SEA	Strategic Environmental Assessment
SLVIA	Seascape and Landscape Visual Impact Assessment
SNCB	Statutory Nature Conservation Bodies
SoS	Secretary of State
SPA	Special Protection Areas
SSSI	Sites of Special Scientific Interest
TEU	Treaty of the European Union
UK	United Kingdom
UN	United Nations
UNCLOS	Convention on the Law of the Sea
UNECE	United Nations Economic Commission for Europe
UNFCCC	United Nations Framework Convention on Climate Change
WTG	Wind Turbine Generator

Glossary of Unit Terms

°C	Degrees Celsius
GW	Gigawatt
MW	Megawatts
nm	nautical miles

Glossary of Terminology

Applicant	Morecambe Offshore Windfarm Ltd
Application	This refers to the Applicant's application for a Development Consent Order (DCO). An application consists of a series of documents and plans which are published on the Planning Inspectorate's (PINS) website.
Contracts for Difference	Market support scheme supporting investments in low-carbon electricity generation where developers are paid a flat (indexed) rate for the electricity they produce over a 15-year period.
European sites	Designated nature conservation sites which include the National Site Network (designated within the United Kingdom (UK)) and Natura 2000 sites (designated in any European Union country). This includes candidate Special Areas of Conservation (cSAC), Sites of Community Importance, Special Areas of Conservation (SAC) and Special Protection Areas (SPA).
Generation Assets (the Project)	Infrastructure in connection with electricity production, namely the fixed foundation wind turbine generators (WTGs), inter-array cables, offshore substation platform(s) (OSP(s)) and possible platform link cables to connect OSP(s).
Inter-array cables	Cables which link the WTGs to each other and the OSP(s).
Landfall	Where the offshore export cables would come ashore.
Likely Significant Effect	Meaning that there may be (as opposed to is likely to be) a significant effect of a proposal on the integrity of the site and its conservation objectives.
Morgan and Morecambe Offshore Wind Farms: Transmission Assets	The transmission assets for the Morgan Offshore Wind Project and the Morecambe Offshore Windfarm. This includes the OSP(s) ² , Morgan offshore booster station, offshore export cables, landfall site, onshore export cables, onshore substations, 400kV cables and associated grid connection infrastructure such as circuit breaker infrastructure. Also referred to in this chapter as the Transmission Assets, for ease of reading.
National Site Network	The national site network encompasses existing SACs and SPAs and new SACs and SPAs designated under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019
Natura 2000 sites	Natura 2000 is a European network of protected nature areas where certain species of animal and their natural habitats are protected in order to preserve biodiversity

² At the time of writing the Environmental Statement (ES), a decision had been taken that the offshore substation platforms (OSP(s)) would remain solely within the Generation Assets application and would not be included within the Development Consent Order (DCO) application for the Morgan and Morecambe Offshore Wind Farms: Transmission Assets. This decision post-dated the Preliminary Environmental Information Report (PEIR) that was prepared for the Transmission Assets. The OSP(s) are still included in the description of the Transmission Assets for the purposes of this ES as the Cumulative Effects Assessment (CEA) carried out in respect of the Generation/Transmission Assets is based on the information available from the Transmission Assets PEIR.

Offshore Substation Platform(s)	A fixed structure located within the windfarm site, containing electrical equipment to aggregate the power from the WTGs and convert it into a more suitable form for export to shore.
Platform link cable	An electrical cable which links one or more OSP(s).
Windfarm site	The area within which the WTGs, inter-array cables, OSP(s) and platform link cables would be present.
Wind turbine generator (WTG)	A fixed structure located within the windfarm site that converts the kinetic energy of wind into electrical energy.



3

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3 Policy and Legislation

3.1 Introduction

3.1 This chapter of the Environmental Statement (ES) presents the international, national, regional and local planning policy and legislative context that is relevant to the Morecambe Offshore Windfarm Generation Assets (hereafter referred to as ‘the Project’). Policy and legislation specific to each Environmental Impact Assessment (EIA) topic are also outlined in the relevant technical chapters.

3.2 A full assessment of the Project in relation to compliance with planning policies is provided in the Planning Development Consent and Need Statement (Document Reference 4.8) and the Marine Plan Policy Review (Document Reference 4.7) which accompanies the Development Consent Order (DCO) Application.

3.2 Requirement for EIA

3.3 The EIA process provides a systematic tool for assessing and examining the potentially significant impacts of a development on the physical, biological and human environment. It enables the identification of mitigation and management measures to ensure that development is sustainable and allows for opportunities for beneficial impacts to be identified. It also gives consultees (including the local community) the opportunity to participate in decision-making procedures through the consultation process.

3.4 EIA was introduced under the European Union (EU) EIA Directive 85/337/EEC (the “EIA Directive”). The EIA Directive has been codified and amended a number of times including by EU Directive 2011/92/EU and EU Directive 2014/52/EU. Offshore wind farms were introduced into Annex II by the 2011 directive, which codified the previous legislation, as “installations for the harnessing of wind power for energy production (wind farms)”. Directive 2014/52/EU was transposed to United Kingdom (UK) law, with respect to Nationally Significant Infrastructure Projects (NSIPs), through The Infrastructure Planning (EIA) Regulations 2017 (the “EIA Regulations 2017”). The Planning Act 2008 identifies offshore electricity generating stations with a capacity of over 100 Megawatts (MW) (such as the Project) as NSIPs in Section 15. Consequently, the EIA Regulations 2017 apply to the Project. On EU Exit the European Union (Withdrawal) Act 2018 retained the provisions of the EIA Regulations 2017.

3.5 Under the EIA Regulations 2017, projects that fall under Schedule 1 (for example, nuclear power stations) are considered ‘EIA developments’, and require an EIA as part of the application for a DCO. Schedule 2 projects (for example, wind farms) only require an EIA if the individual project is likely to

have significant effects on the environment. The Project falls under Schedule 2 paragraph 3(i), and given the scale and nature of the Project it has been assumed that an EIA will be required to support its DCO submission. Given this assumption, no formal screening has been undertaken.

3.6 Key features of the EIA process, as relevant to NSIPs, set out in the EIA Regulations 2017 include:

- Screening (deciding if an EIA required)
- Scoping (setting out the scope for the EIA). Scoping allows the Applicant to request in writing the scope and the level of detail of the information to be provided in the ES. Prior to submitting the scoping request, non-statutory consultation can be undertaken with the consultation bodies, or others, to allow further refinement of the options and to ensure that the ES is properly focused. A Scoping Opinion for the Project was issued by the Planning Inspectorate (PINS) on the 2nd August 2022 in response to an EIA Scoping Report, submitted by the Applicant on 23rd June 2022
- Preliminary Environmental Information (PEI). PEI can be provided to enable consultees (both specialist and non-specialist) to understand the likely environmental effects of the Proposed Development and help to inform their consultation responses on the Proposed Development during the pre-application stage. The Preliminary Environmental Information Report (PEIR), published in April 2023, provided PEI in relation to the Project. Statutory consultation on the Project, with publication of the PEIR, was undertaken between 19th April to 4th June 2023
- ES submission. Regulation 14 of the EIA Regulations 2017 sets out the information to include in the ES accompanying a DCO application. The ES should provide a clear description of the Proposed Development through all phases of the development, a clear explanation of the processes followed to develop the ES, description of the reasonable alternatives which have been considered, details of the forecasting methods for the assessment, assessment of likely significant effects, and detail regarding the mitigation required and any measures envisaged to prevent, reduce and, where possible, offset any significant adverse effects (PINS, 2020). This ES sets out the above requirements

3.7 The EIA Regulations 2017 also include:

- The requirement to provide an assessment of how human health, climate change and natural resources will be affected by the development
- An enhanced screening and scoping process to ensure EIAs focus on developments that are likely to cause significant effects, and

subsequently, that the EIA is targeted on those potentially significant effects

- Ensuring EIA quality by guaranteeing that only competent experts undertake the necessary assessment
- The requirement to demonstrate the consideration of alternatives to the proposed development, including the consideration of a scenario where the development is not implemented
- Further consideration of how to avoid, prevent, reduce and/or off-set significant adverse effects where possible and develop monitoring strategies
- It is a requirement to carry out a Habitats Regulations Assessment (HRA) in coordination with the EIA
- Ensuring consideration of the interrelationships between impacts

3.8 The EIA activities carried out for the Project, including the supporting surveys and studies, are reported in this ES.

3.9 As noted, an EIA Scoping Report for the Project was submitted to PINS in June 2022, with a Scoping Opinion received in August 2022. The PEIR, informed by the Scoping Opinion, was published in April 2023 and provided the preliminary information required to enable an understanding of the likely environmental effects of the Project, and inform consultation responses during the pre-application stage. Following consultation on the PEIR (19th April to 4th June 2023), the final assessment of the Project was undertaken to take account of the responses received, and is presented within each relevant chapter in this ES. The format of this ES has been informed by guidance given in PINS Advice Note Seven (PINS, 2020a).

3.3 International context

3.3.1 EU Exit & post-EU Exit

3.10 In 2017, the UK government triggered article 50 of the Treaty of the European Union (TEU) with the UK formally withdrawing from the EU on 31st January 2020. This was followed by a transition period until the end of 2020 while the UK and the EU negotiated additional arrangements.

3.11 The EU (Withdrawal Agreement) Act 2020 was designed to keep in place EU-derived domestic legislation (such as The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and other statutory instruments that implement EU environmental directives and to incorporate direct EU legislation, such as EU environmental regulations, into domestic law.

- 3.12 The Environment Act 2021 provides the UK's new framework for environmental protection, focussed in part on addressing the environmental governance gap post-EU Exit. The Act makes provision for a range of matters, including (inter alia): provision around targets, plans and policies for improving the natural environment; creation of the Office for Environmental Protection; and introducing a range of measures in relation to nature and biodiversity, water, and air quality.
- 3.13 Notably, the UK legislation relating to Climate Change and Renewable Energy Policy is underpinned by a number of international (e.g. EU and United Nations (UN)) commitments. These have been outlined in the sections below. Where relevant, the implications of EU Exit on the key items of EU legislation transposed into UK law are discussed in **Section 3.5**.

3.3.2 International climate change and renewable energy policy and legislation

3.3.2.1 UN Framework Convention on Climate Change

- 3.14 The UN 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 (GHG) emission reduction limits and guidance on how specific treaties may be negotiated to bring further action towards UNFCCC objectives. The main objective was the “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”
- 3.15 The UK is a signatory to the Kyoto Protocol, which is linked to the UNFCCC, and provides commitments for the State parties to reduce GHG emissions. The Kyoto Protocol was ratified by the UK Government in 2002 and its commitments were transposed into UK law by the Climate Change Act 2008 (**Section 3.5.1**).
- 3.16 Since 1997, regular international meetings of the UNFCCC have been held, resulting in further agreements, in particular the Doha Amendment (2012) and the Paris Agreement (2015).
- 3.17 The Doha Amendment included a commitment by parties to reduce GHG emissions by at least 18% below 1990 levels in the eight-year period from 2013 to 2020. The EU committed to reducing emissions by 20% below 1990 levels under this amendment.
- 3.18 The UN Climate Change Conference in Paris in 2015 (COP21) gave rise to the following key areas of agreement (UNFCCC, 2016a):

- Limit global temperature increase to below 2 Degrees Celcius (°C), while pursuing efforts to limit the increase to 1.5°C above the pre-industrial average temperature
- Parties aim to reach a global peaking of GHG emissions as soon as possible, to achieve this temperature goal, with commitments from all Parties to prepare, communicate and maintain a Nationally Determined Contribution (NDC)
- Contribute to the mitigation of GHG emissions and support of sustainable development
- Enhance adaptive capacity, strengthen resilience and reduce vulnerability to climate change
- Help vulnerable countries cope with the adverse effects of climate change, including extreme weather events and slow-onset events, such as sea-level rise
- Support the efforts of developing countries to build clean, climate-resilient futures
- Transparent reporting of information on mitigation, adaptation and support which undergoes international review
- In 2023 and every 5 years thereafter, a global stocktake will assess collective progress toward meeting the purpose of the Agreement

3.19 The UK ratified the 2015 Paris Agreement during the 22nd Climate Change Conference of the Parties (COP22) in Marrakesh, Morocco in November 2016 (UNFCCC, 2016b) and committed to the EU pledge to reduce emissions by at least 40% across all Member States by 2030 relative 1990 levels.

3.20 During UN Climate Change Conference talks in Bonn, Germany in 2017 (COP23), finer details on the implementation of the Paris Agreement from 2020 onwards were discussed (UNFCCC, 2017). Key agreements included:

- Overseeing and accelerating the completion of the work programme under the Paris Agreement by its twenty-fourth session (December 2018)
- To convene a facilitative dialogue among Parties in 2018 to take stock of the collective efforts of the Parties (Talanoa dialogue)

3.21 COP24 (held in Poland, 2018) resulted in a rulebook providing a set of guidelines for implementing the Paris Agreement (Paris Rulebook), with discussions continuing at COP25 (held in Madrid, 2019). COP26 took place in November 2021 in Glasgow with the main outcomes including the signing of the Glasgow Climate Pact and agreeing the remaining issues of the Paris Rulebook. The Paris Rulebook included agreements on an enhanced

transparency framework for reporting emissions, timeframes for emissions reductions targets and mechanisms and standards for international carbon markets.

- 3.22 Over 40 countries, several states and other organisations also declared their support for the global ‘coal to clean power’ transition statement, which noted the imperative to scale up the deployment of clean power, committing to making clean power the most affordable and accessible option for power generation globally. This is imperative to reaching the goal of net zero carbon emissions by 2050. The Glasgow Climate Pact called on parties to phase down coal power and phase out fossil fuel subsidies. A further three goals were set out ahead of the conference:
- Secure net zero emissions globally by the mid-21st century and keep global warming within 1.5°C
 - Adapt to protect communities and natural habitats
 - Mobilise at least \$100 billion in climate finance each year
- 3.23 Parties recognised the need to accelerate action to reduce carbon dioxide (CO₂) emissions sooner than set out in the original timeline.
- 3.24 COP27 took place in Sharm el-Sheikh, Egypt in November 2022. At COP27, the parties agreed an overarching “cover decision”, known as the Sharm el-Sheikh implementation plan, reusing language on the 1.5°C target and the phasing down of coal energy from the Glasgow Climate Pact. Members also committed to reviewing their NDCs and reporting back with more aggressive emissions reduction targets.
- 3.25 The most recent COP (COP28) was held in Dubai in November/December 2023. Some of the most significant outcomes of COP28 included a consensus being reached on the need for a global transition away from fossil fuels (however this did not amount to a commitment to phase them out completely), the conclusion of the first Global Stocktake, the Food and Agriculture Organization roadmap to 1.5°C, in addition to the Global Renewables and Energy Efficiency Pledge, the latter of which is a commitment to triple the worlds renewable energy generation capacity by 2030.

3.3.2.2 EU Renewables Directive/Renewable Energy Directive

- 3.26 The first EU Renewable Energy Directive (2001/77/EC) on the 'Promotion of electricity produced from renewable energy sources in the internal electricity market' was adopted in 2001. This was revoked and replaced with the Renewables Directive (2009/28/EC) which contained the following two key targets:
- A reduction of 20% in Good Environmental Status (GES) by 2020 (below 1990 levels)

- 20% of the total EU energy (electricity, heat and fuel) consumption to come from renewable sources by 2020
- 3.27 The European Commission (EC) proposed an ‘Energy Policy for Europe’ (EC, 2007) in 2007 as a first step towards becoming a low carbon economy. This policy recognised that the use of renewable energy contributes significantly to limiting climate change and plays a part in securing energy supply and generating employment in Europe.
- 3.28 In October 2014, the EC proposed new climate and energy targets up to 2030. The 2030 Climate and Energy Framework included targets and policy objectives for the period from 2021 to 2030. These targets build on the experience of, and lessons learnt from, the 2020 Climate and Energy Framework (agreed in 2009). These targets included:
- A 40% cut in GHG emissions compared to 1990 levels
 - At least a 27% share of energy consumption within the EU coming from renewable sources
 - A 27% improvement in energy efficiency (compared to projections, to be reviewed by 2020, having in mind an EU level of 30%)
- 3.29 In November 2016 (with amendments in February 2017), the EC published a proposal for a Directive on the Use of Energy from Renewable Sources (EC, 2017) with the aim of making the EU a global leader in renewable energy and to ensure that the target from the 2030 EU Climate and Energy Framework would be met. The revised Renewable Energy Directive 2018/2001 subsequently established a number of key targets for member states. Along with sister Directives on Energy Efficiency, it revised the EU 2030 Climate and Energy Framework to ensure the following:
- At least a 32% share of renewable energy consumption within the EU
 - A headline target of at least a 32.5% improvement in energy efficiency
 - Member states of the EU to review their contribution to this target as part of their national energy and climate plans under Regulation (EU) 2018/1999 of the European Parliament and of the Council
- 3.30 In September 2020, as part of the European Green Deal, the EC proposed to raise the 2030 GHG emission reduction target, including emissions and removals, to at least 55% compared to 1990.
- 3.31 Both the 2020 Climate and Energy Framework and the 2030 Climate and Energy Framework underpin the environmental and energy policy objectives of the EU. If the most recent proposed energy target is not met at a Union level, the EC may take measures to ensure the target is achieved under Regulation (EU) 2018/1999.

3.32 While EU directives no longer form part of UK law, they continue to inform UK policy (**Section 3.5**).

3.4 International environmental and nature conservation legislation and treaties

3.4.1 The Convention on Biological Diversity

3.33 The Convention on Biological Diversity (CBD) is a legally binding treaty that came into force in December 1993. The UK is one of 168 signatories. It has three main objectives:

- The conservation of biological diversity
- The sustainable use of the components of biological diversity
- The fair and equitable sharing of the benefits arising from the utilisation of genetic resources

3.34 The CBD recognised, for the first time in international law, that the conservation of biological diversity is "a common concern of humankind" and is an integral part of the development process. The CBD covers all ecosystems, species, and genetic resources.

3.35 A number of major UN and EU initiatives are aimed at making a contribution towards meeting the objectives of the CBD. These include the Bern and Bonn conventions³ and the establishment of the Natura 2000 network⁴ (see **Section 3.4.6**) across Europe.

3.36 At the fourteenth meeting in 2018, the parties to the CBD adopted the preparatory process for the development of the post-2020 global biodiversity framework, due to be finalised and approved in October 2020. This proposed framework applies a 'theory of change' approach, a strategic planning framework used to help plan, implement and evaluate the impacts of the actions taken. Due to the COVID-19 pandemic, the delivery of this framework was delayed, with the first part held in 2021 and the second part in December 2022. The sixteenth meeting is planned to be undertaken in October – November 2024.

³ The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) and The Convention on the Conservation of Migratory Species of Wild Animals (the Bonn Convention)

⁴ Natura 2000 is an umbrella name for the network of protected sites that include Special Protection Area (SPA) and Special Areas of Conservation (SAC) sites designated across the EU

3.4.2 The Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)

3.37 The Ramsar Convention is the intergovernmental treaty that provides the framework for the conservation and wise use of wetlands and their resources. The Convention was adopted in Ramsar (Iran) in 1971 and ratified by the UK in 1976. The criteria for assessing a site for designation as a Ramsar Site include whether or not the wetland supports 20,000 water birds and/or supports 1% of the individuals in a population of one species or subspecies of water bird. UK Government policy affords the same protection to Ramsar sites as European designations such as Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) (now known collectively as the National Site Network in the UK). The UK has generally chosen to underpin the designation of its Ramsar sites through prior notification of these areas as Sites of Special Scientific Interest (SSSI).

3.4.3 OSPAR Convention

3.38 International cooperation to protect the marine environment (including biodiversity) of the north-east Atlantic is achieved through the The Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR). The UK ratified OSPAR in 1998.

3.39 A key part of OSPAR's biodiversity strategy is to establish a network of Marine Protected Areas (MPAs). The UK has currently identified 382 OSPAR MPAs (OSPAR, 2022), many of which are Natura 2000 sites that also meet the relevant OSPAR selection criteria (OSPAR, 2019).

3.40 Further annexes of the OSPAR convention focus on the prevention and elimination of pollution from land-based sources, dumping or incineration, and from offshore sources. Together with the protection and conservation of the marine environment and maritime areas, OSPAR maintains a high level of protection in respect of the north-east Atlantic marine environment.

3.4.4 Transboundary considerations – Espoo Convention

3.41 The UN Economic Commission for Europe (UNECE) convention (the 'Espoo Convention') came into force in 1997 and sets out the obligations of States to notify and consult each other on all major projects under consideration that have the potential to give rise to significant adverse environmental effects across international boundaries (transboundary effects). The Espoo Convention has been implemented in the UK for the purpose of NSIPs by the EIA Regulations 2017, specifically Regulation 32. This places a statutory duty on the Secretary of State (SoS) to notify and consult other European

Economic Area (EEA) states where they are of the view that the development is likely to have significant effects on the environment of another EEA State.

- 3.42 The PINS Advice Note Twelve: Transboundary Impacts and Processes (PINS, 2020b) sets out the procedures for transboundary notification and consultation associated with NSIP applications for a DCO under the Planning Act 2008 (as amended), where such an application may have transboundary effects. The Advice Note sets out the roles of PINS, the UK Government departments and developers. Developers are advised to identify the possible significant transboundary effects or, alternatively, state why they consider that there would not be any significant effects on another EEA State.

3.4.5 Marine Strategy Framework Directive

- 3.43 The Marine Strategy Framework Directive (Directive 2008/56/EC) (MSFD) aimed to establish a framework within which EU Member States are to take measures to maintain or achieve GES in the marine environment by 2020, and to protect the resource base upon which marine-related economic and social activities depend. It enshrined an ecosystem approach to the management of human activities which have an impact on the marine environment, within its legislative framework and integrated the concepts of environmental protection and sustainable use.
- 3.44 It aimed to be complementary to, and provide the overarching framework for, a number of other key Directives and legislation at the EU level, including for example the Habitats Directive and the Birds Directive (**Section 3.4.6**). It was transposed into UK law by the Marine Strategy Regulations 2010, which required the production of a “Marine Strategy” for all UK waters. The objective of the UK Marine Strategy reflected the UK’s vision for ‘clean, healthy, safe, productive and biologically diverse oceans and seas’. It helps to deliver key international obligations and commitments to protect and preserve the marine environment under the UN Convention on the Law of the Sea (UNCLOS) adopted in 1982, UN Sustainable Development Goal 14 (to conserve and sustainably use the oceans, seas and marine resources for sustainable development), the OSPAR North-East Atlantic Environment Strategy and the CBD.

3.4.6 Habitats and Birds Directives

- 3.45 EC Directive 92/43/EEC, adopted in 1992 and known as the Habitats Directive, implemented The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) and The Convention on the Conservation of Migratory Species of Wild Animals (the Bonn Convention); initiatives that were aimed at making a contribution towards meeting the objectives of the CBD. The Directive aims to conserve natural habitats of wild

fauna and flora and is intended to protect biodiversity by requiring Member States to take measures to maintain or restore natural habitats and wild species, including protection for specific habitats listed in Annex I and species listed in Annex II of the Directive.

- 3.46 The Habitats Directive provided robust protection for those habitats and species of European importance. A key element of this protection was the establishment, under Article 3 of the Directive, of a European-wide network of protected sites, known as SACs.
- 3.47 EC Directive 2009/147/EC on the conservation of wild birds (known as the Birds Directive) provided a framework for the conservation and management of wild birds in Europe. It set broad objectives for a wide range of activities. The Directive also required establishment, under Article 4, of a network of SPAs for rare or vulnerable species listed in Annex I and for all regularly occurring migratory species. It also established a general scheme of protection for all wild birds (required by Article 5). The Directive required national Governments to establish SPAs and to have in place mechanisms to protect and manage these areas.
- 3.48 The Birds and Habitats Directives are the cornerstones of EU nature protection policy and have brought about the creation of protected areas under Natura 2000. Natura 2000 is the umbrella name for the network of protected sites that include SPA and SAC sites designated across the EU.
- 3.49 The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (2019 No. 579) set out the changes that apply now that the UK has left the EU. As such, in the UK these designated nature conservation sites are now known as the National Site Network. These high-quality conservation sites are intended to significantly contribute to the conservation of habitats and species listed in the Birds and Habitats Directives. In this ES the term 'European sites' is used to describe both Natura 2000 and the National Site Network sites.
- 3.50 European Protected Species (EPS) are those species listed in Annexes II and IV of the Habitats Directive. These species include both animals and plants in marine and terrestrial environments.
- 3.51 The Habitats Directive and Birds Directive are relevant to the Project as there is the potential for European sites (Natura 2000 sites or those which are part of the National Site Network) and EPS to be affected. A description of how the Directives were transposed into UK law is given in **Section 3.5**.

3.5 National context

3.5.1 UK climate change and renewable energy policy

- 3.52 The EU Renewable Energy Directive and associated targets (**Section 3.3.2.2**) have primarily been transposed into UK law through The Promotion of the Use of Energy from Renewable Sources Regulations 2011.
- 3.53 As detailed below, there are a number of overarching UK environmental targets/goals which set the national framework for tackling climate change and renewable energy production. The most relevant of these is the legally binding target (implemented through the Climate Change Act 2008 and the Climate Change Act 2008 (2050 Target Amendment) Order 2019) to reduce emissions of carbon dioxide and GHG by 100% by 2050, compared to a 1990 baseline.
- 3.54 In 2011, the UK Government set a target to produce 15% of UK energy from renewable sources by 2020 (Department of Energy and Climate Change (DECC), 2011). This included a sub-target of 30% of electricity from renewable sources. In 2020 the UK Government published its Energy White Paper which set out how the UK Government will make the transition to net zero carbon emissions by 2050. In 2021, the Climate Change Committee (CCC), who advise the UK Government on reducing emissions and monitoring carbon budgets and climate targets, published an important ‘roadmap to achieve net-zero emissions by 2050’. The 2022 British Energy Security Strategy has strengthened this commitment, as described further in **Chapter 2 Need for the Project** (Document Reference 5.1.2), including an ambition to deliver up to 50 Gigawatt (GW) of offshore wind by 2030.

3.5.1.1 The Climate Change Act 2008

- 3.55 The Climate Change Act sets the framework for the UK to transition to a low-carbon economy, exceeding the targets set out in the EU Renewables Directive. It places a duty on the UK government to ensure their net carbon account and GHG emissions are reduced, initially by 80% relative to 1990 levels by 2050, as underpinned by the international agreements and commitments described in **Section 3.4**.
- 3.56 To achieve this target, the UK government committed to implement five-yearly carbon budgets that will run until 2032 to limit emissions within each five-year period. More recently, the Climate Change Act 2008 (2050 Target Amendment) Order 2019 introduced amendments to enshrine in law a more challenging commitment that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline. This legal target will remain in place in the UK and is not affected by its withdrawal from the EU.

- 3.57 In its Clean Growth Strategy, the Department for Business, Energy and Industrial Strategy (BEIS) outlined the UK Government's plans for investment in low carbon innovations, energy transmission and smart systems, in order to supply the UK with secure, affordable clean power (BEIS, 2017). The Clean Growth Strategy provided a strong commitment from the UK Government to achieving the UK's climate change targets, as detailed in the Climate Change Act 2008. Such pathways to promote renewable technologies for offshore wind included the following:
- The commitment to fund £557 million of Contracts for Difference (CfD), with an auction that took place in summer 2019
 - The creation of an innovative fund of £177 million to further reduce the cost of renewables, focussed on improved offshore turbine blade technology and foundations
- 3.58 CfD Allocation Rounds (AR) (the UK government's main mechanism for supporting low-carbon electricity generation) are now undertaken annually. These were set to allocate 6GW of capacity per year through 2023-2024 and 2024-2025. A consultation on proposed changes to the CfD scheme was published in May 2020 (BEIS, 2020), with key driving themes being 'delivering net zero' and 'advancing the low carbon economy', amongst others.
- 3.59 This demonstrates the UK Government's ongoing support for offshore wind development. Furthermore, the Clean Growth Strategy, established in 2017, committed to a Sector Deal for offshore wind. The Sector Deal was published in 2018, with a offshore wind capacity target of 30GW by 2030.
- 3.60 The targets in the 2018 Sector Deal were updated in the Energy White Paper released by the UK Government in 2020. The paper set out how the UK Government would make the transition to net zero carbon emissions by 2050, and increased the offshore wind capacity target by 2030, to 40GW. Further to this, in 2020, the CCC published the important 'roadmap to achieve net-zero emissions by 2050' guidance. This included targets of the UK offshore wind sector to deploy 40GW of installed capacity by 2030, rising to 100GW by 2050. The more recent 2022 British Energy Security Strategy strengthened this commitment by setting an ambition to deliver up to 50GW of offshore wind by 2030.

3.5.1.2 The UK Energy Act 2013

- 3.61 The Electricity Market Reform policy and Energy Act 2013 introduced the CfD auction framework, with the aim of providing long term revenue stabilisation for new low carbon energy initiatives, replacing the previous Renewable Obligation system. The auction framework drives developers to deliver competitive projects at a Low-level Energy Cost (LEC), thereby reducing the subsidy required, with the aim of ultimately lowering the cost to the consumer.

- 3.62 Large cost reductions have been realised as the offshore wind industry has matured, as evidenced by the CfD process, whereby the cost of offshore wind secured in AR4 (fourth round in 2021) was almost 70% less than in the first AR in 2015. The starting price for the next AR has been increased, following changes in the industry and no bids for offshore wind in AR5.
- 3.63 The importance of the accelerated development of the offshore wind market in the UK has been highlighted in the British Energy Security Strategy Policy Paper (BEIS, 2022). The ambitions of the policy were to deliver up to 50GW of offshore wind by 2030, to halve the consenting time for offshore wind developments, and to utilise private investment via the CfD subsidy scheme to support low-carbon electricity generation. Schemes are awarded a fixed price per unit of electricity generated, and if wholesale prices of electricity are lower than the strike price, contracted schemes receive the difference as a top-up payment. Where price rises above the strike price, the difference is paid back (Evans, 2019).

3.5.2 National planning legislation

3.5.2.1 The Planning Act 2008

- 3.64 The Planning Act 2008 is the primary legislation that first established the legal framework for applying for, examining and determining applications for NSIPs. As required by the Act the SoS must decide applications in accordance with any relevant National Policy Statement (NPS) except to the extent that specified exceptions laid out in the Act apply. NPSs therefore set the framework for examinations and decisions by the SoS in relation to NSIPs (see **Section 3.5.2.2**). Under the terms of the Act any developer wishing to construct a project classed as an NSIP must apply for an order granting development consent.
- 3.65 Amendments have been made to the planning system that are applicable to the Planning Act 2008, including through the Localism Act 2011. This abolished the Infrastructure Planning Commission and transferred NSIP decision making from Commissioners to the relevant SoS, to be made following the recommendation of the Inspector or Panel of Inspectors. PINS then became the executive agency responsible for the NSIP planning process. Exercising delegated powers, PINS must appoint an Examining Authority to examine the application and make a recommendation to the relevant SoS, who then makes a decision on whether to grant the DCO.
- 3.66 The Planning Act 2008 set out thresholds, above which, certain types of infrastructure development are defined as nationally significant, and therefore require a DCO. For offshore energy developments in England, the threshold is a generating capacity of over 100MW). As the Project would have a

generating capacity which exceeds 100MW it is therefore classified as an NSIP.

- 3.67 As part of its application for a DCO, the Applicant is also able to seek other relevant permissions, powers, consents and licences, such as a Deemed Marine Licence (DML) for marine works⁵.

3.5.2.2 National Policy Statements

- 3.68 The Planning Act 2008 makes provision for NPSs. NPSs are designed to set the policy framework for determination of NSIP applications. They integrate the UK Government's objectives for infrastructure capacity and development with its wider economic, environmental and social policy objectives, including climate change goals and targets, in order to deliver sustainable development.

- 3.69 NPSs are produced by the UK Government and set out national policy against which proposals for major infrastructure projects will be assessed. Planning decisions will be taken within the clear policy framework set out in the NPSs, making the decision-making process transparent. The Examining Authority will have regard to applicable NPSs in its examination of applications for development consent. The relevant SoS must also have regard to them and must decide the application in accordance with applicable NPSs, subject to specified exceptions. NPSs include the UK Government's objectives for the development of nationally significant infrastructure in a particular sector, and set out:

- How these objectives will contribute to sustainable development
- How these objectives have been integrated with other UK Government policies
- How actual and projected capacity and demand have been taken into account
- Relevant issues in relation to safety or technology
- Circumstances where it would be particularly important to address the adverse impacts of development
- A clear framework for investment and planning decisions

⁵ Marine works are licenced under the Marine and Coastal Access Act (MCAA) with the Marine Works (EIA) (Amendment) Regulations 2017 determining whether an EIA is required.

- 3.70 There are 12 NPSs in total, relating to different types of infrastructure projects. Of these, there are six energy NPSs, two of which are relevant to the Project (which were updated in 2023), specifically the:
- Overarching NPS for Energy (NPS EN-1) (Department for Energy Security and Net Zero (DESNZ), 2023a)
 - NPS for Renewable Energy Infrastructure (NPS EN-3) (DESNZ, 2023b), which covers nationally significant renewable energy infrastructure (including offshore generating stations in excess of 100MW)
- 3.71 The NPS for Electricity Networks Infrastructure (NPS EN-5) (DESNZ, 2023c), which covers the electrical infrastructure associated with an NSIP, is less applicable to the Project because the Project comprises Generation Assets only. However, NPS EN-5 is more relevant to the Transmission Assets.
- 3.72 The NPSs include reference to plans to decarbonise the UK's economy, strategies to ensure energy security, and a reduction in the cost of energy for consumers. The NPSs highlight the need for diversification of energy generation infrastructure to include a mix of sources to help with the transition to net zero.
- 3.73 Notably, EN-1 reflects the need for coordination between developments in the same region. EN-1 (Paragraph 3.3.71) states that *"it is expected that for regions with multiple windfarms a more coordinated approach will be delivered"*. As described in Section 1.1 of **Chapter 1 Introduction** (Document Reference 5.1.1), the coordination of Transmission Assets for the Morecambe Offshore Windfarm with the Morgan Offshore Wind Project, in line with the NPS, has resulted in the separation of the DCO applications for the Generation Assets and the Transmission Assets. This is acknowledged in EN-1 (Paragraph 4.11.10) which states for *"some new offshore transmission projects ... applications for consent may be brought forward separate to (though planned with) the applications for associated wind farms"*. This is also noted in EN-5 (Paragraph 2.12.8), which acknowledges the need for separate consents for transmission assets from the offshore windfarm generators for coordinated transmission projects serving multiple wind farms. The approach taken is further explained in **Chapter 1 Introduction**.
- 3.74 Specific NPS policies, relevant to each environmental topic, are set out in each ES chapter, with information provided as to how each item has been addressed.
- 3.75 In addition, the Marine Policy Statement (MPS), which was adopted by all UK administrations in March 2011, provided the policy framework for the preparation of marine plans and established how decisions affecting the marine area should be made, in order to enable sustainable development. When deciding DCO applications, the SoS is obliged to have regard to the

MPS pursuant to section 104(2) of the Planning Act 2008 (which also made provision for NPSs). The MPS made a number of statements in relation to offshore wind, including:

- “The UK is currently the leading country for offshore wind deployment and the potential sites identified for offshore renewables (including offshore wind, wave and tidal) show the huge exploitable renewable energy resource in UK waters which would keep the UK as a global leader in renewable energy production from these technologies. Increasing the generation of energy from low carbon sources will mitigate against climate change, lessen the UK’s dependence on fossil fuels and improve energy security by increasing the diversity of electricity supply.” (Paragraph 3.3.16)
- “The UK has some of the best wind resources in the world and [that] offshore wind will play an important and growing part in meeting our renewable energy and carbon emission targets and improving energy security by 2020, and afterwards towards 2050. Harnessing and connecting offshore wind is currently more technologically challenging and more expensive than harnessing and connecting onshore wind. However, offshore wind has a larger potential, due to a stronger and more consistent wind source at sea leading to higher power outputs. As the most mature of the offshore renewable energy technologies, it has the potential to have the biggest impact in the medium-term on security of energy supply and carbon emission reductions through its commercial scale output. Expansion of the offshore wind supply is likely to require significant investment in new high-value manufacturing capability with potential to regenerate local and national economies and provide employment” (Paragraph 3.3.19).

Overarching NPS for Energy (EN-1)

3.76 EN-1 sets out national policy for energy infrastructure and notes that an increase in renewable electricity is essential to enable the UK to meet its commitments under the EU Renewable Energy Directive. Part 3 of EN-1 describes the need for new nationally significant energy infrastructure projects, as set out below:

- Paragraphs 3.3.62 and 3 establish a new Critical National Priority for nationally significant low carbon infrastructure which will in general terms outweigh any other residual impacts.
- Paragraph 3.3.67 of EN-1 recognises that new sources of generation will need to be connected to the network. It acknowledges the growth in scale and dispersion of generation capacity.

- Paragraph 3.3.68 of EN-1 explains the extent of likely reinforcement works that will be carried out to the onshore network to accommodate the development in particular of offshore wind generation
- Paragraph 3.3.71 recognises that individual connections project-by-project may continue to be the most appropriate approach in some areas, but expects a more coordinated approach in areas where multiple windfarms are proposed.
- Paragraphs 4.11.7 and 8 of EN1 explains that a coordinated approach may include separate project elements coming forward as coordinated applications in tandem, as is the case with Morecambe offshore windfarm which is coordinated with a separate transmission application

NPS for Renewable Energy Infrastructure (EN-3)

- 3.77 The new EN-3 (paragraph 2.8.1) identifies the ambition to deploy up to 50GW of offshore wind capacity (including up to 5GW floating wind) by 2030. This builds on the paragraph 2.6.15 of the previous 2011 EN-3 which recognised the need for 25GW of new offshore wind-derived generating capacity in the UK Renewable Energy Zone (REZ) and the territorial waters of England and Wales. It also refers to the Offshore Energy Strategic Environmental Assessment (SEA), which concluded that there were no overriding environmental considerations preventing the plans for 33GW of offshore wind capacity, if mitigation measures are implemented.
- 3.78 The role of the SoS in the offshore consenting process, including the power of the SoS to grant DMLs as part of the DCO for a specific project, is confirmed in paragraph 2.3.18 of EN-3. It also calls for flexibility in the application process for offshore wind NSIPs, to allow for situations where full details of the project specification may be unknown at the time of submission (paragraph 2.8.74). EN-3 also highlights the use of the 'Rochdale Envelope' method in such circumstances (described in further detail in Section 5.2 of **Chapter 5 Project Description** (Document Reference 5.1.5)), which allows for the maximum adverse case scenario (i.e. worst case) to be assessed in the ES and a DCO granted on this basis (paragraph 2.6.2).
- 3.79 Paragraphs 2.6.1 – 2.6.3 explain the need for flexibility, with regard to necessary micro-siting of elements of the proposed wind farm during its construction, where requested, at the application stage and for micro-routing tolerances. This allows for unforeseen events, such as the discovery of previously unknown marine archaeology that would be preferable to leave *in situ*.

National Planning Policy Framework

- 3.80 The National Planning Policy Framework (NPPF) replaced the suite of Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs) which formerly provided national planning guidance to local planning authorities. A revised NPPF was published on 19th December 2023 and sets out the UK Government’s planning policies for England and how these are expected to be applied. This revised Framework replaced the previous NPPF, published in March 2012, July 2018, February 2019, June 2019, July 2021 and September 2023.
- 3.81 The NPPF does not contain specific policies for NSIPs because particular considerations apply to NSIPs and these are derived from the decision-making framework set out in the Planning Act 2008 and within relevant NPSs. However, the NPPF may be considered by the SoS as a relevant matter.
- 3.82 The NPPF sets out a series of core principles that cover the protection and conservation of the natural and built environment, and the promotion of sustainable growth and development.
- 3.83 The key principles of relevance to the Project are listed in **Table 3.1**.

Table 3.1 NPPF Principles relevant to the Project

Principle	NPPF advice (with respective paragraph number)
Achieving Well-Designed Places	<p>Planning policies and decisions should ensure that developments:</p> <ul style="list-style-type: none"> a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities) d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience (paragraph 130)
Meeting the Challenge of Climate Change,	<p>New development should be planned for in ways that:</p> <ul style="list-style-type: none"> a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be

Principle	NPPF advice (with respective paragraph number)
Flooding and Coastal Change	<p>managed through suitable adaptation measures, including through the planning of green infrastructure</p> <p>b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards (paragraph 154)</p>
Conserving and Enhancing the Natural Environment	<p>Planning policies and decisions should contribute to and enhance the natural and local environment by:</p> <p>a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)</p> <p>b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland</p> <p>c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate</p> <p>d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures</p> <p>e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans</p> <p>f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate (paragraph 174).</p>
Conserving and Enhancing the Natural Environment	<p>Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries (paragraph 175)</p>

3.5.2.3 National Infrastructure Planning Advice Notes

3.84 The EIA process has taken account of the advice and guidance provided by PINS, in the form of the non-statutory national infrastructure Advice Notes. These notes are published to provide advice and information on a range of issues arising throughout the DCO Application process. Where relevant, these have been given careful consideration in the preparation of the ES for the Project, in particular:

- Advice Note Three: EIA consultation and notification (PINS, 2017a)
- Advice Note Six: Preparation and submission of application documents (Version 11, PINS, 2023)

- Advice Note Seven: EIA, PEI, Screening and Scoping (PINS, 2020a)
- Advice Note Nine: Rochdale Envelope (PINS, 2018)
- Advice Note Ten: Habitat Regulations Assessment (PINS, 2022)
- Advice Note Eleven: Working with public bodies in the infrastructure planning process (PINS, 2017b)
- Advice Note Twelve: Transboundary impacts and process (PINS, 2020b)
- Advice Note Seventeen: Cumulative effects assessment relevant to nationally significant infrastructure projects (PINS, 2019)

3.5.3 National environmental and conservation legislation

3.5.3.1 The Conservation of Habitats and Species Regulations 2017 and Conservation of Offshore Marine Habitats and Species Regulations 2017

- 3.85 In England and Wales, the Habitats Directive and elements of the Birds Directive (see **Section 3.4.6**) are implemented under the Conservation of Habitats and Species Regulations 2017 (the ‘Habitats Regulations’). The scope of the Habitats Regulations includes both onshore and offshore (out to 12 nautical miles (nm)) environments. For UK offshore waters (i.e. 12nm from the coast out to 200nm or to the limit of the UK Continental Shelf Designated Area), the Habitats Directive is transposed into UK law by the Conservation of Offshore Marine Habitats and Species Regulations 2017 (the ‘Offshore Marine Regulations’).
- 3.86 The provisions of the Birds Directive are primarily implemented through the Wildlife and Countryside Act 1981, the Habitats Regulations and the Offshore Marine Regulations.
- 3.87 The Habitats Regulations and the Offshore Marine Regulations make it an offence to kill, injure, capture or disturb an EPS. Where appropriate, licences can be obtained to allow persons to carry out activities that would otherwise be prohibited, without committing an offence. In England, licences for actions which may affect marine EPS are issued by the Marine Management Organisation (MMO), in respect of environments beyond 12nm from the coast. In respect of actions in the marine environment up to 12nm from the coast, licences can be obtained from Natural England.
- 3.88 The Habitats Regulations and the Offshore Marine Regulations require an Appropriate Assessment to be carried out in respect of a plan or project which, either alone or in combination with other plans or projects, is likely to have a significant effect on a European site and is not directly connected with or necessary for the management of the site. If an Appropriate Assessment is

required, the SoS (as the competent authority) must consider whether the plan or project will adversely affect the integrity of the site.

- 3.89 The Appropriate Assessment is Stage 2 of a wider process known as HRA. HRA generally follows a staged process set out in UK Government guidance (Department for the Environment and Rural Affairs (Defra), 2010):
- Stage 1: Screening to identify likely impacts on a European site resulting from a project or plan
 - Stage 2: Appropriate Assessment to consider in detail impacts on the integrity of the site likely to result from the implementation of the project or plan.
- 3.90 If the Appropriate Assessment determines that the development will not have an adverse effect on the integrity of a European site, then the development may proceed. In cases where the competent authority concludes in the Appropriate Assessment that an Adverse Effect on the Integrity (AEoI) of a European site cannot be ruled out beyond reasonable scientific doubt, consent should not be granted unless the project satisfies each of the following sequential tests:
- Stage 3: Assessment of alternative solutions to examine alternative means of achieving the objectives of the project or plan that would avoid adverse impacts
 - Stage 4: Assessment where no alternative solutions exist and where adverse impacts remain
- 3.91 Further details of the HRA process followed by the Project can be found in the Report to Inform Appropriate Assessment (RIAA) (Document Reference 4.9), which has been made available alongside the ES to inform the subsequent Appropriate Assessment to be undertaken by the SoS (as the competent authority).

3.5.3.2 Wildlife and Countryside Act 1981

- 3.92 The Wildlife and Countryside Act 1981 enabled the designation of SSSIs to provide statutory protection to the best examples of flora, fauna, geological and physio-geological features. SSSI legislation applies to areas of the terrestrial and intertidal environment only and does not extend offshore. It is necessary to consider the effects on SSSIs from offshore development through potential impact pathways e.g. changes to coastal processes. Enhanced provisions for the protection and management of SSSIs were also introduced by the Countryside and Rights of Way Act 2000 (CRoW). SSSIs are often designated for very specific areas, and the presence of several SSSIs in one region has, in many cases, formed the basis of SPA and SAC boundary classification. Natural England has overall responsibility for the management of the SSSI network in England.

- 3.93 The Wildlife and Countryside Act also enabled Statutory Nature Conservation Bodies (SNCBs) to declare sites which are considered to be of national importance as National Nature Reserves (NNRs). NNRs also provide additional statutory protection to the finest SSSIs in England and Wales. Natural England is the body responsible for the designation of NNRs in England under the legislation as described for SSSIs. All NNRs must be within a designated SSSI. Natural England manages the majority of English NNRs, with the remaining sites managed by other approved organisations such as the National Trust, the Forestry Commission, the Royal Society for the Protection of Birds (RSPB), local Wildlife Trusts, and Local Authorities.
- 3.94 The Wildlife and Countryside Act defined a series of offences which are intended to provide protection to wild birds, including their eggs and nests, certain animal and plant species, and to prohibit the intentional introduction and spread of invasive non-native species.

3.5.3.3 Marine and Coastal Access Act 2009

- 3.95 The Marine and Coastal Access Act 2009 (MCAA) sets out a spatial planning system for improved management and protection of the marine and coastal environment. The MCAA established the MMO, the authority responsible for the delivery of sustainable development in the marine area. The MMO remains the monitoring and enforcement body in respect of the conditions and restrictions set out in the DMLs.
- 3.96 The MCAA enabled the designation of Marine Conservation Zones (MCZs) in England and Wales, as well as UK offshore areas. MCZs are intended to conserve a functioning marine ecosystem, without a specific bias towards any particular species or habitat. Further details of the MCZ Assessment (MCZA) process followed by the Project can be found in the MCZA (Document Reference 4.13) which has been made available alongside the ES.
- 3.97 The MCAA introduced a new section to the Planning Act 2008 (Section 149A), enabling a DCO applicant to apply for a DML as part of the DCO process.
- 3.98 The Act included provisions for the coastal environment, including improving access to the coast and undertaking Integrated Coastal Zone Management, which brings policy makers, decision makers and stakeholders together to manage coastal and estuarine areas.
- 3.99 When deciding DCO applications, the SoS must have regard to relevant marine plans. The MPS adopted by all UK administrations in March 2011 provided the policy framework for the preparation of Marine Plans, which establish how decisions affecting the marine area should be made, in order to enable sustainable development.

- 3.100 The Project falls within the area covered by the North West Offshore Marine Plan, part of the North West Inshore and North West Offshore Marine Plan (published in 2021). These plans did not establish new requirements or policies; however, they did clarify the intent of national policy to the marine plan areas. The North West Inshore and North West Offshore Marine Plans make specific reference to the development of offshore wind:
- “NW-REN-1: Supply chains play an important role in developing technology, reducing the associated costs of infrastructure and realising the economic and social benefits of renewable energy to the UK economy. NW REN-1 recognises the importance of the supply chain within the lifecycle of renewable energy projects. NW REN-1 enables public authorities to support proposals that will reduce costs, ensuring that businesses are operating competitively and with a long-term strategy. Developing a strong supply chain will not only support the domestic installation of offshore wind but could contribute to establishing a successful export market, particularly in relation to the emerging floating offshore wind industry.
 - The Offshore Wind Sector Deal outlines a commitment to increase UK supply chain content to 60% by 2030. This policy supports proposals that indicate how they will draw on and develop the UK supply chain as part of their development.”
 - “NW-REN-3: Offshore wind is the current favoured offshore renewable energy generating technology in the UK. The “offshore wind high potential future development areas” layer highlights areas of least constraint for fixed foundation offshore wind energy generation and indicates potential future areas for leasing.”

3.5.3.4 The Energy Act 2004

- 3.101 The Energy Act 2004 included provisions for the decommissioning of offshore installations (including offshore wind farms). Chapter 3 of Part 2 of the Act detailed these provisions, including the requirement to prepare a decommissioning programme, the approval process for the decommissioning programme, what happens in the event of failure to submit, or rejection, of a decommissioning programme, the review and revision process, how to carry out a decommissioning programme and provisions enabling the making of the regulations concerning decommissioning programmes.

3.6 Regional and local context

- 3.102 The Project, whilst located offshore, would be relevant to onshore authorities' corporate plans or strategies from proximate coastal communities. Consultation and engagement with counties and districts that interact with the Project has been undertaken. Some of the key policies are provided below.

- 3.103 The Northern Powerhouse is a government strategy to boost economic growth in the North of England, covering 11 Northern Local Enterprise Partnerships. The North of England has been a key hub for renewable energy generation, and a key element of the strategy is to further develop the renewable energy sector in the region. The Northern Powerhouse aims to generate 12GW of renewable energy by 2032 (NP11, 2019). A priority action is to ensure the benefits from offshore wind energy accrue for the whole region, rather than just for coastal areas by extending regional supply chains. The offshore wind sector deal will support job creation and export potential for the region.
- 3.104 The Lancashire Enterprise Partnership (LEP) was formed to coordinate the county's economic priorities and direct economic growth. Key themes of the LEP are inward investment and strategic development, business support, and supply chain and sector development. Offshore wind support set out in the Lancashire Energy Strategy (Corliss, 2018) included innovation funding support for offshore wind turbine blade technology and foundations, the development with industry of a Sector Deal for offshore wind which may result in 10GW of new capacity, and funding worth up to \$557 million for renewable energy auctions.
- 3.105 Lancashire's Strategic Economic Plan 2015 – 2025 identified energy as a growth sector for the county, and strengthening the industrial base by targeting the innovation, skills and supply chain solutions aimed to ensure the long-term viability of the area by remaining globally competitive to investment.
- 3.106 The Cumbria Local Enterprise Partnership coordinates the economic growth for the county, working with industry and the public to develop the Local Industry Strategy, which includes the offshore wind industry as fundamental to the region. Policy Ask 4B asks DESNZ to ensure the Cumbria plays its full role in the implementation of the offshore wind sector deal, including its potential role in expansion of the UK supply chain and in exporting expertise (Cumbria Local Enterprise Partnership, 2019).
- 3.107 The Liverpool City Region Sustainable Pion Plan included Action Plan 1: Enabling Actions, which include schemes to accelerate private investment in the UK's transition to a green economy. Action Plan 3: Energy Supply Actions, aims to result in CO₂ reduction and developing the city region's low carbon economy and reducing costs for offshore wind.
- 3.108 The Bay Prosperity and Resilience Strategy has been developed between Barrow Borough Council, Lancaster City Council and South Lakeland District Council. This strategy aims to improve performance of the Northern Powerhouse to unlock the Morecambe Bay area's economic potential. A central theme of the strategy surrounds renewables and clean growth, allowing the area to become a 'clean energy trailblazer'.

- 3.109 Policies relating to each technical topic are discussed in the relevant ES chapters. This includes, in particular, policies surrounding Seascape And Landscape Visual Impact Assessment (SLVIA), amenity, tourism, economic development, marine industry (e.g. shipping, ferries) and fishing communities.

3.7 References

BEIS (2017). The Clean Growth Strategy Leading the way to a low carbon future. The Stationary Office, London.

BEIS (2020). Contracts for Difference for Low Carbon Electricity Generation - Consultation on proposed amendments to the scheme, Victoria Street, London.

Corliss (2018). Energy Strategy for the Lancashire Local Enterprise Partnership. Lancashire Enterprise Partnership. [Online] Available at: <https://lancashirelep.co.uk/wp-content/uploads/2019/03/Lancashire-Energy-Strategy.pdf> (Accessed October 2023).

Cumbria Local Enterprise Partnership (2019). Cumbria's Local Industrial Strategy March 2019. [Online] Available at: <https://www.thecumbrialep.co.uk/resources/uploads/files/Local-Industrial-Strategy.pdf> (Accessed November 2023).

DECC (2011). Overarching NPS for Energy (EN-1) (withdrawn).

DESNZ (2023a). Overarching NPS for Energy (EN-1). [Online] Available at <https://assets.publishing.service.gov.uk/media/65bbfdbc709fe1000f637052/overarching-nps-for-energy-en1.pdf> (Accessed January 2024).

DESNZ (2023b). NPS for Renewable Energy Infrastructure (EN-3). [Online] Available at <https://assets.publishing.service.gov.uk/media/65a7889996a5ec000d731aba/nps-renewable-energy-infrastructure-en3.pdf> (Accessed January 2024).

DESNZ (2023c). NPS for Electricity Networks Infrastructure (EN5). [Online] Available at <https://assets.publishing.service.gov.uk/media/65a78a5496a5ec000d731abb/nps-electricity-networks-infrastructure-en5.pdf> (Accessed January 2024).

Defra (2010). UK Marine Policy Statement: Habitats Regulations Assessment. Defra Publications.

Doha Amendment (2012). Available at <chrome-extension://efaidnbnmnibpcjpcglclefindmkaj/https://treaties.un.org/doc/Publication/CN/2012/CN.718.2012-Eng.pdf> (Accessed January 2024).

European Council and the European Parliament (2007). Communication from the commission to the European Council and the European Parliament - An Energy Policy for Europe, 2007. [Online] Available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52007DC0001> (Accessed November 2023).

European Council and the European Parliament (2008). Directive 2008/56/EC of the European Parliament and of the Council of 17th June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy

Framework Directive). [Online] Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32008L0056> (Accessed October 2023).

European Council and European Parliament (2009a). Directive 2009/28/EC of the European Parliament and of the Council of 23rd April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC OJ L 140, 5.6.2009, p. 16–62.

European Council and European Parliament (2009b). Directive 2009/147/EC of the European Parliament and of the Council of 30th November 2009 on the conservation of wild birds OJ L 20, 26.1.2010, p. 7–25.

European Council and European Parliament (2011). Directive 2011/92/EU of the European Parliament and of the Council of 13th December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012). [Online] Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0092> (Accessed December 2023).

European Council and European Parliament (2014). Directive 2014/52/EU of the European Parliament and of the Council of 16th April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (OJ L 124, 25.4.2014). [Online] Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0052> (Accessed October 2023).

European Council and European Parliament (2017). Directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources (recast). Explanatory Memorandum. [Online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0767R%2801%29> (Accessed November 2023).

European Council and the European Parliament (2018). Directive (EU) 2018/2001 of the European Parliament and of the Council of 11th December 2018 on the promotion of the use of energy from renewable sources. [Online] Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L2001> (Accessed November 2023).

Evans (2019). Analysis: Record-low price for UK offshore wind cheaper than existing gas plants by 2023, The Carbon Brief [Online]. Available at: <https://www.carbonbrief.org/analysis-record-low-uk-offshore-wind-cheaper-than-existing-gas-plants-by-2023/> (Accessed December 2023).

HM Government (2008a). The Planning Act (United Kingdom) (SI2008/29). [Online] Available at <https://www.legislation.gov.uk/ukpga/2008/29/contents> (Accessed October 2023).

HM Government (2008b). Climate Change Act (SI 2008/27). [Online] Available at <https://www.legislation.gov.uk/ukpga/2008/27/contents> Climate Change Act (Accessed December 2023)

HM Government (2009). The Marine and Coastal Access Act. [Online] Available at: <https://www.legislation.gov.uk/ukpga/2009/23/contents> (Accessed October 2023)

HM Government (2011a). UK Marine Policy Statement. London: The Stationery Office. [Online] Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69322/pb3654-marine-policy-statement-110316.pdf (Accessed December 2023).

HM Government (2011b). The Promotion of the Use of Energy from Renewable Sources Regulations 2011 (SI 2011/243). [Online] Available at: <https://www.legislation.gov.uk/uksi/2011/243/contents/made> (Accessed October 2023).

HM Government (2017a). The Infrastructure Planning (EIA) Regulations 2017 (SI 2017/527). [Online] Available at: [legislation.gov.uk/uksi/2017/527/contents/made](https://www.legislation.gov.uk/uksi/2017/527/contents/made) (Accessed November 2023).

HM Government (2017b). The Conservation of Habitats and Species Regulations 2017 (SI 2017/1012). [Online] Available at: <https://www.legislation.gov.uk/uksi/2017/1012/introduction/made> (Accessed October 2023).

HM Government (2017c). The Conservation of Offshore Marine Habitats and Species Regulations 2017 (SI 2017/1013). [Online] Available at: <https://www.legislation.gov.uk/uksi/2017/1013/contents/made> (Accessed October 2023).

HM Government (2018). A Green Future: Our 25 Year Plan to Improve the Environment. [Online] Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693158/25-year-environment-plan.pdf (Accessed November 2023).

HM Government (2019). Marine Strategy Part One: UK updated assessment and Good Environmental Status. [Online] Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/841246/marine-strategy-part1-october19.pdf (Accessed December 2023).

HM Government (2020). The Future Relationship with the EU. The UK's Approach to Negotiation (CP211). [Online] Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/868874/The_Future_Relationship_with_the_EU.pdf (Accessed December 2023).

HM Government (2021). North West Inshore and North West Offshore Marine Plans, HM Government, London. [Online] Available at: [/https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1004490/FINAL_North_West_Marine_Plan__1_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1004490/FINAL_North_West_Marine_Plan__1_.pdf) (Accessed November 2023).

HM Government Ministry of Housing, Communities and Local Government (2021). NPPF. [Online] Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf (Accessed October 2023).

Lancaster Enterprise Partnership (2014). Lancashire Strategic Economic Plan. A Growth Deal for the Arc of Prosperity March 2014. Available at: <https://www.lepnetwork.net/media/1118/lancashire-sep.pdf> (Accessed October 2023).

Morecambe Offshore Wind Limited (2022). Scoping Report Morecambe Offshore Windfarm, Generation Assets. Document number: FLO-MOR-REP-0002.

NP11 (2019). Northern Powerhouse: Energy and Clean Growth. An NP11 Report. Available at https://www.np11.org.uk/wp-content/uploads/2019/11/20191108_NP11_Energy-and-Clean-Growth-Report_FINAL_Digitalv2.pdf (Accessed December 2023).

OSPAR Commission (2019) 2018 Status Report on the OSPAR Network of Marine Protected Areas.

OSPAR Commission (2022) Key figures of the MPA OSPAR network, MPA OSPAR network per country. [Online] Available at <https://mpa.ospar.org/home-ospar/key-figures> (Accessed November 2023).

PINS (2017a). Advice Note Three: EIA consultation and notification.

PINS (2017b). Advice Note Eleven: Working with public bodies in the infrastructure planning process.

PINS (2018). Advice Note Nine: Rochdale Envelope.

PINS (2019). Advice Note Seventeen: Cumulative effects assessment relevant to nationally significant infrastructure projects.

PINS (2020a). Advice Note Seven: EIA, PEI, Screening and Scoping.

PINS (2020b). Advice Note Twelve: Transboundary impacts and process.

PINS (2022). Advice Note Ten: Habitat Regulations Assessment.

PINS (2023). Advice Note Six: Preparation and submission of application documents.

UNFCCC (2016a) Report of the Conference of the Parties on its twenty-first session, held in Paris from 30th November to 13th December 2015 (FCCC/CP/2015/10).

UNFCCC (2016b) Proceedings of the 2016 twenty-second session of the Conference of the Parties (COP 22) and the twelfth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP 12) held in Marrakech, Morocco.

UNFCCC (2017) Proceedings of the 2017 twenty-third session of the Conference of the Parties (COP 23) held in Bonn, Germany.