

XLINKS' MOROCCO-UK POWER PROJECT

Environmental Statement

Volume 1, Chapter 2: Policy and Legislation

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XLINKS' MOROCCO – UK POWER PROJECT

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RPS

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Glossary

Term	Meaning
Applicant	Xlinks 1 Limited.
Climate change	A change in global or regional climate patterns, in particular a change apparent from the mid to late 20th century onwards and attributed largely to the increased levels of atmospheric carbon dioxide produced by the use of fossil fuels.
Converter station	Part of an electrical transmission and distribution system. Converter stations convert electricity from Direct Current to Alternating Current, or vice versa.
Development Consent Order	An order made under the Planning Act 2008, as amended, granting development consent.
English offshore waters	English waters beyond 12 nm from the English coast extending out to maritime borders or median line(s) with other countries and states.
Environmental Impact Assessment	The process of identifying and assessing the significant effects likely to arise from a project. This requires consideration of the likely changes to the environment, where these arise as a consequence of a project, through comparison with the existing and projected future baseline conditions.
Environmental Statement	The document presenting the results of the Environmental Impact Assessment process.
European Protected Species	Species (such as bats, great crested newts, otters and dormice) which receive full protection under The Conservation of Species and Habitats Regulations 2017 and Conservation of Offshore Marine Habitats and Species Regulations 2017.
Habitats Regulations	The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended).
Kyoto Protocol	The Kyoto Protocol is an international agreement linked to the United Nations Framework Convention on Climate Change, which commits its parties to reducing greenhouse gas emissions by setting internationally binding emission reduction targets, implemented primarily through national measures but also via wider market-based mechanism
Local Authority	A body empowered by law to exercise various statutory functions for a particular area of the United Kingdom. This includes County Councils, District Councils and County Borough Councils. The relevant Local Authorities for the Proposed Development are Devon County Council and Torridge District Council.
National Electricity System Operator	National Electricity System Operator operates the national electricity transmission network across Great Britain. National Grid Electricity System Operator does not distribute electricity to individual premises, but its role in the wholesale market is vital to ensure a reliable, secure and quality supply to all.
National Policy Statement(s)	The current national policy statements published by the Department for Energy Security and Net Zero in 2023 and adopted in 2024.
Planning Inspectorate	The agency responsible for operating the planning process for applications for development consent under the Planning Act 2008.
Preliminary Environmental Information Report	A report that provides preliminary environmental information in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. This is information that enables consultees to understand the likely significant environmental effects of a project, and which helps to inform consultation responses.
Proposed Development	The element of Xlinks' Morocco-UK Power Project within the UK. The Proposed Development covers all works required to construct and operate the offshore cables (from the UK Exclusive Economic Zone to Landfall), Landfall, onshore Direct Current and Alternating Current cables, converter stations, and highways improvements.
Protected species	A species of animal or plant which it is forbidden by law to harm or destroy.

Term	Meaning
Special Areas of Conservation	A site designation specified in the Conservation of Habitats and Species Regulations 2017. Each site is designated for one or more of the habitats and species listed in the Regulations. The legislation requires a management plan to be prepared and implemented for each Special Area of Conservation to ensure the favourable conservation status of the habitats or species for which it was designated. In combination with Special Protection Areas and Ramsar sites, these sites contribute to the national site network.
Special Protection Areas	A site designation specified in the Conservation of Habitats and Species Regulations 2017, classified for rare and vulnerable birds, and for regularly occurring migratory species. Special Protection Areas contribute to the national site network.
The Secretary of State for Energy Security and Net Zero	The decision maker with regards to the application for development consent for the Proposed Development.
Xlinks' Morocco UK Power Project	The overall scheme from Morocco to the national grid, including all onshore and offshore elements of the transmission network and the generation site in Morocco (referred to as the 'Project').

Acronyms

Acronym	Meaning
BEIS	The former Department for Business, Energy & Industrial Strategy
BNG	Biodiversity Net Gain
CfDs	Contracts for Difference
CNP	Critical National Priority
DCO	Development Consent Order
Defra	Department for Environment, Food and Rural Affairs
DESNZ	Department for Energy Security and Net Zero
EEZ	Exclusive Economic Zone
EIA	Environmental Impact Assessment
EMR	Electricity Market Reform
ES	Environmental Statement
EU	European Union
GHG	Greenhouse Gas
ISAA	Information to Support the Appropriate Assessment
MCZ	Marine Conservation Zone
MMO	Marine Management Organisation
MPS	Marine Policy Statement
NDC	Nationally Determined Contribution
NIC	National Infrastructure Commission
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
PEIR	Preliminary Environmental Information Report
SAC	Special Area of Conservation

Acronym	Meaning
SPA	Special Protection Area
UK	United Kingdom
UNFCCC	United Nations Framework Convention on Climate Change

Units

Units	Meaning
GW	Gigawatt
MW	Megawatt
%	Percent

2 POLICY AND LEGISLATION

2.1 Introduction

- 2.1.1 This chapter of the Environmental Statement (ES) provides a summary for the policy and legislative context for the Environmental Impact Assessment (EIA) undertaken for the United Kingdom (UK) elements of Xlinks' Morocco-UK Power Project (the 'Project'). For ease of reference, the UK elements of the Project are referred to in this chapter as the 'Proposed Development'. The ES accompanies the application to the Planning Inspectorate for development consent for the Proposed Development.
- 2.1.2 Policy and legislation specific to individual environmental topics and EIA are set out within each topic chapter of this ES (see Volumes 2, 3 and 4) and an assessment is carried out against each relevant policy within the Planning Statement that accompanies the application for development consent (document reference 7.2).

2.2 Legislative Context

International Climate Change Commitments

United Nations Framework Convention on Climate Change

- 2.2.1 The United Nations Framework Convention on Climate Change (UNFCCC) is an intergovernmental treaty that came into force on 21 March 1994. Its objective was to achieve:
- 'stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system'* (Article 2 of the UNFCCC) (United Nations, 1992).
- 2.2.2 To date, the UNFCCC has been ratified by 197 signatories, including the UK. The first agreement was the Kyoto Protocol, which was signed in 1997. A number of meetings of the UNFCCC have taken place since 1997, resulting in several important and binding agreements, summarised in the following sections.

Kyoto Protocol

- 2.2.3 The UK is a signatory to the Kyoto Protocol, an international agreement for the implementation of the UNFCCC. The Kyoto Protocol commits industrialised countries and economies to limiting and reducing Greenhouse Gas (GHG) emissions in accordance with agreed individual targets. The United Nations Framework Convention asks those countries to adopt policies and measures on mitigation and to report periodically. The protocol came into effect in 2005 and its commitments were transposed into UK law by the Climate Change Act 2008, as amended.
- 2.2.4 The protocol initially placed a duty on the UK to ensure that the net UK carbon account for the year 2050 was 80% lower than the 1990 baseline. Due to

increasing awareness of the need for more urgent action, this was revised to a 'net zero target' by the Climate Change Act 2008 (2050 Target Amendment) Order 2019. This revised target was for greenhouse gas emissions to be 100% lower than the 1990 levels by the year 2050.

The United Nations Adoption of the Paris Agreement COP21

- 2.2.5 In December 2015, 195 signatories, including the UK, adopted the first universal, legally binding global climate deal at the Paris climate conference (COP21). The Paris Agreement (United Nations, 2015) seeks to reduce global greenhouse gas emissions and to limit the global temperature increase in this century to 'well below' 2°C, while pursuing the means to limit this further to 1.5°C. This was ratified by the UK Government in November 2016 and is a binding international treaty.
- 2.2.6 The Paris Agreement requires countries to submit a Nationally Determined Contribution (NDC) to the UNFCCC. The UK's NDC (HM Government, 2022) commits the UK to reducing economy-wide greenhouse gas emissions by at least 68% by 2030, compared to 1990 levels.

The Glasgow Pact COP26, COP27 and COP28

- 2.2.7 At the COP26 summit in November 2021, nearly 200 parties voted to adopt the Glasgow Climate Pact (UNFCCC, 2021). This includes commitments to phase down the use of coal and supports a common timeframe and methodology for national commitments on emissions reductions. Countries were tasked to return in 2022 with more ambitious 2030 emissions reductions targets. The COP27 summit in November 2022 made little further progress on the emissions reduction ambitions discussed at COP26.
- 2.2.8 The COP28 summit, held in November/December 2023, resulted in a decision to accelerate action across all areas by 2030, including a call on governments to transition away from fossil fuels to renewables such as wind and solar power in their next round of climate commitments. At COP29 to be held in November 2024, governments must establish a new climate finance goal reflecting the scale and urgency of the climate challenge.
- 2.2.9 The COP28 summit also included the first 'global stocktake', which assessed global progress towards the goals of the Paris Agreement. The stocktake concluded that implementation of the Paris Agreement is lacking throughout the world, with a clear gap between individual countries' stated ambitions (through NDCs) and mitigation actions and policies to achieve those goals

National Climate Change and Renewable Energy Commitments

Climate Change Act 2008

- 2.2.10 As set out above, the Climate Change Act 2008 originally committed the UK to a net reduction in greenhouse gas emissions of 80% by 2050 against the 1990 baseline in line with the commitments of the Kyoto Protocol.

- 2.2.11 In June 2019, secondary legislation (the Climate Change Act 2008 (2050 Target Amendment) Order 2019) was passed that extended that target to at least 100% against the 1990 baseline.
- 2.2.12 The Climate Change Act 2008 also established the Committee on Climate Change (now the Climate Change Committee), which advises the UK and devolved governments on emissions targets and reports to Parliament on progress made. In May 2011, the Climate Change Committee published the Renewable Energy Review (Climate Change Committee, 2011), which explores the potential for renewable energy development and its role in achieving emissions reduction targets. The Renewable Energy Review states that renewable energy developments will provide a significant contribution to the decarbonisation of the national grid by 2030.
- 2.2.13 The Climate Change Committee has since produced six carbon budgets, covering 2008 to 2037. These carbon budgets represent a limitation on the total quantity of greenhouse gas emissions to be emitted over each five-year period. The sixth carbon budget is the most recent carbon budget to be published, covering 2033 to 2037 (Climate Change Committee, 2020). The budget states that electricity demand is predicted to rise by 50% by 2035 and at least double by 2050, mostly through reduced reliance on high carbon energy sources such as fossil fuels. Therefore, decarbonisation of electricity production is essential. Suggested changes to electricity generation include:
- expansion of low carbon energy supplies, with 100% of electricity production coming from low carbon sources by 2035, mostly from renewables; and
 - increasing renewables to 60% of total energy generation by 2030, 70% by 2035 and 80% by 2050.
- 2.2.14 The seventh carbon budget, covering the period 2038 to 2042, is due to be set in 2025.

The Energy Act 2013

- 2.2.15 The Energy Act 2013 received Royal Assent on 18 December 2013. The Energy Act introduced a legislative framework for delivering secure, affordable and low carbon energy. It included provisions to incentivise investment in low carbon electricity generation, ensure security of supply, and help the UK meet its emission reduction and renewables targets. In particular, the Energy Act contained provisions for Electricity Market Reform (EMR).
- 2.2.16 EMR was designed to enable the UK to develop a clean, diverse and competitive mix of electricity generation that will ensure we meet targets on decarbonisation and security of supply, while keeping bills as low as possible for consumers now and in the future (the former Department for Business, Energy and Industrial Strategy (BEIS), 2022).
- 2.2.17 EMR comprised two main policy areas to deliver the above:
- Capacity Market: to ensure security of electricity supply at least cost to the customer; and
 - Contracts for Difference (CfDs): to provide long-term revenue stabilisation for new low carbon electricity generation in Great Britain.

The Clean Growth Strategy 2017

2.2.18 The Clean Growth Strategy (HM Government, 2017) emphasised the need to grow national income, while cutting greenhouse gas emissions. Its aim to achieve clean growth, while ensuring an affordable energy supply for businesses and consumers, is at the heart of the UK's Industrial Strategy.

National Infrastructure Assessment 2018 and 2023

2.2.19 The National Infrastructure Commission (NIC) provides advice on the UK's national infrastructure and an assessment of our infrastructure needs to 2050 and beyond.

2.2.20 The first National Infrastructure Assessment was published in 2018 (NIC, 2018), which highlighted the need for the UK to have low cost and low carbon electricity. It proposed a highly renewable generation mix as a low-cost option for the energy system, with at least 50% renewable generation by 2030.

2.2.21 As part of the work towards the second National Infrastructure Assessment, a baseline report was published in 2021 (NIC, 2021). This identified the following area for improvement: 'greenhouse gas emissions from economic infrastructure must reduce further, fast'. It also identified two strategic themes for the second National Infrastructure Assessment relevant to climate change and renewable energy.

- Reaching net zero: all sectors have more to do to reach net zero, including energy, where government has committed to decarbonise electricity generation by 2035.
- Climate resilience and the environment: while economic infrastructure has generally proved resilient to shocks and stresses over recent years, climate change will only increase pressures across all sectors, and infrastructure sectors have significant impacts – both positive and negative – on the environment.

2.2.22 The second National Infrastructure Assessment was published in October 2023 (NIC, 2023) and provides an assessment of the UK's infrastructure needs to 2055 and beyond. This report recognises that the UK has already made significant progress in boosting renewable electricity generation, but highlights that there is still progress to be made to address three key challenges:

- decarbonising energy and achieving net zero emissions;
- supporting economic growth across all regions; and
- improving climate resilience and the environment.

2.2.23 With regards to energy security, the report states that: *'By 2035, the UK needs a reliable electricity system running mostly on renewable power. Government should accelerate the deployment of offshore wind, onshore wind and solar power.'*

Net Zero: Opportunities for the Power Sector

2.2.24 In June 2019, the Government raised the UK's ambition of tackling climate change by legislating a net-zero greenhouse gas emissions target for the whole economy by 2050. Decarbonising the power sector is integral to achieving this

goal. It requires major investment in proven technologies, such as solar, which are supported by planning policy at local and national levels.

- 2.2.25 The National Infrastructure Commission (NIC), the official advisor to the Government on infrastructure, subsequently produced the 'Net Zero: Opportunities for the Power Sector' report, in March 2020 (NIC, 2020), which sets out the infrastructure required to meet the 2050 target. Importantly, the NIC recommends the generation mix is up to around 90% renewables. The report recommends that across all scenarios, significant solar, onshore wind, and offshore wind, with between 129-237 GW of renewable capacity, be in operation by 2050.
- 2.2.26 The National Electricity System Operator (2024) report, Future Energy Scenarios, published in July 2024, considers three different net zero pathways for the future of the energy system up to 2050. The report highlights that decisive action is required to deliver the fundamental change required to develop a fair, affordable, sustainable and secure net zero energy system by 2050.
- 2.2.27 Although the above figures are high-level, they demonstrate the amount of new infrastructure required to meet the urgent need to decarbonise the energy sector in the UK. The scale of this need is such that it must be shared throughout the UK and in recognition that climate change is a national and global issue.

The Energy White Paper: Powering our Net Zero Future 2020

- 2.2.28 Following the Prime Minister's ten-point plan for a green revolution (HM Government, 2020a), and National Infrastructure Strategy (HM Treasury, 2020), the White Paper (HM Government, 2020b) marks a significant milestone in the UK's net-zero transition, setting a net-zero target by 2050 and outlining how this may be achieved. It relates to the generation, supply and use of energy with the drive towards net zero by 2050 at its core, along with energy efficient buildings and lower household bills. It signals a decisive move away from fossil fuel generation and highlights how planned Government investment has the potential to leverage billions of pounds more in private sector funding and support for over 250,000 jobs in the green economy by 2030.

Net Zero Strategy: Build Back Greener

- 2.2.29 The Net Zero Strategy (HM Government, 2021a), published by the Government on 19 October 2021, builds on the Government's commitments made in the Energy White Paper (HM Government, 2020b) and sets out the long-term strategy, policy, and proposals to keep the UK on track for future carbon budgets and sets the vision for a decarbonised economy by 2050. Key policies in the strategy related to UK power generation include:

'By 2035, the UK will be powered entirely by clean electricity, subject to security of supply; [...] 40 GW of offshore wind by 2030, with more onshore, solar and other renewables – with a new approach to onshore and offshore electricity networks to incorporate new local carbon generation and demand in the most efficient manner that takes account of the needs of local communities [...].'

British Energy Security Strategy 2022

- 2.2.30 On 7 April 2022, the UK Government published its British energy security strategy (BEIS and Prime Minister's Office, 2022). The Energy Security Strategy emphasises the need to be more energy independent as a nation, aiming to improve energy efficiency, accelerate the transition from fossil fuels, and expand the renewable energy capacity.

Powering Up Britain: The Net Zero Growth Plan 2023

- 2.2.31 In March 2023, the UK Government published the Net Zero Growth Plan (HM Government, 2023). This plan largely restated existing policy contained within previous policy papers above. The plan confirmed the UK's commitment to having a decarbonised power system by 2035, with the majority of power generated from renewable sources such as wind and solar.

Great British Energy

- 2.2.32 Following the 2024 UK Election, the new Government has confirmed its commitment to renewable energy. This includes a commitment to making Britain a clean energy superpower by 2030, as set out in the Great British Energy founding statement (DESNZ, 2024). The new Government are aiming for a fully decarbonised power system by 2030 and aim to become net zero by 2050.

2.3 Key Legislation

Planning Act 2008

- 2.3.1 The Planning Act 2008 provides the legislative basis for applications for a Development Consent Order (DCO). It also defines the application process under which a DCO is sought. The Planning Act 2008 states that projects meeting certain criteria are classified as Nationally Significant Infrastructure Projects (NSIPs). Developers wishing to construct, operate and maintain NSIPs must obtain a DCO from the relevant Secretary of State to authorise their project.
- 2.3.2 Section 14 of the Planning Act 2008 defines types of projects classified as NSIPs, subject to the criteria and thresholds set out in sections 15 to 30A for different types of infrastructure.
- 2.3.3 In addition, Section 35(1) of the Planning Act 2008 sets out that '*the Secretary of State may give a direction for development to be treated as development for which development consent is required*' if certain criteria (including the type and location of the development) are met.
- 2.3.4 On 30 August 2023, the Applicant sought direction from the Secretary of State for Energy Security and Net Zero (the 'Secretary of State') under section 35(1) of the Planning Act 2008 to confirm that the Proposed Development should be treated as development for which development consent under the Planning Act 2008 is required.
- 2.3.5 A direction was duly made on 26 September 2023 confirming the Secretary of State's conclusion that the Proposed Development is nationally significant and therefore is development requiring development consent under the Planning Act 2008. Therefore, the Applicant is now pursuing a DCO for the Proposed

Development, which comprises the UK elements of the Project. The annex of the Secretary of State direction explains that:

'The Proposed Project is of national significance, taking into account that it forms part of a generation project which is comprised of 11.5GW of renewable power in Morocco, which is intended to deliver 3.6 Gigawatts (GW) of low carbon electricity to the UK's grid and could improve the security and diversity of the UK's electricity supply.'

- 2.3.6 Therefore, the Proposed Development is to be treated as development for which development consent is required.
- 2.3.7 The Proposed Development covers all offshore elements within the UK Exclusive Economic Zone (EEZ), as well as the onshore elements situated within the administrative area of Torridge District Council (and Devon County Council at county level). DCOs are examined by the Planning Inspectorate and determined by the Secretary of State.
- 2.3.8 Alongside local planning policy, in accordance with Section 104(2) of the Planning Act 2008, in determining applications for consent, the Secretary of State may have regard to:
- any NPS which has effect in relation to development of the description to which the application relates;
 - the appropriate marine policy documents;
 - any local impact report;
 - any matters prescribed in relation to development of the description to which the application relates; and
 - any other matters which the Secretary of State thinks are both important and relevant to its decision.
- 2.3.9 Section 104(3) highlights the importance of NPSs in relation to decision making, requiring applications to be decided in accordance with any relevant NPS, except where any of the following apply:
- the decision would lead to breaching of international obligations (s.104(4));
 - the decision would breach a statutory duty (s.104(5));
 - the decision would be unlawful by virtue of any enactment (s.104(6));
 - the adverse impact of the development is considered to outweigh its benefits (s.104(7)); or
 - a condition prescribed for deciding an application otherwise than in accordance with a national policy statement would be met (s.104(8)).
- 2.3.10 The ES will support the application for development consent.

Marine and Coastal Access Act 2009

- 2.3.11 A spatial planning system for the management of the marine environment was introduced by the Marine and Coastal Access Act 2009. This introduced a requirement to obtain marine licences for works at sea.
- 2.3.12 The Marine Management Organisation (MMO) is responsible, under Part 4 of the Marine and Coastal Access Act, for administering marine licensing of activities

related to the construction or removal of any substance or object in UK territorial waters and also for regulating activities where they are undertaken outside of the UK territorial waters, e.g., within the UK EEZ. They do so by issuing a Marine Licence.

- 2.3.13 The Planning Act 2008 enables applicants for a DCO to apply for a 'Deemed Marine Licence' as part of the DCO process by Section 149A of the Planning Act 2008, which was inserted by the Marine and Coastal Access Act 2009.
- 2.3.14 In addition, Section 126 of the Marine and Coastal Access Act 2009 sets out that where a public authority has the function of determining an application that is capable of affecting (other than insignificantly) the protected features of a Marine Conservation Zone (MCZ) or the processes on which those features depend, then they have a duty to consider MCZs during their decision making.

Flood and Water Management Act 2010

- 2.3.15 The Flood and Water Management Act 2010 came into effect in April 2010, with an aim to create a simplified and more effective means of managing flood risk and coastal erosion, as well as improving the sustainability of water resources.
- 2.3.16 Schedule 3 of the Flood and Water Management Act 2010 was introduced to establish an approving body for sustainable drainage at the county and unitary level, ensuring its delivery is mandatory. This Schedule was not enacted with the rest of the Act. However, in July 2022, it was announced that Schedule 3 would be enacted.

Environmental Permitting (England and Wales) Regulations 2016

- 2.3.17 The Environmental Permitting Regulations (2016) aim to ensure that authorised activities and their discharges do not endanger the environment or human health.

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

- 2.3.18 The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) govern the EIA process relevant to NSIPs. Schedule 1 of the EIA Regulations lists those projects for which an EIA is required, and Schedule 2 lists projects which may be considered an EIA development, based on the selection criteria provided in Schedule 3 on characteristics of the development, its location and the types and characteristics of the potential impacts.
- 2.3.19 None of the components which make up the Proposed Development are explicitly identified under Schedule 1 or Schedule 2 of the EIA Regulations. However, the Applicant has undertaken an EIA, having considered the criteria in Schedule 3 regarding the characteristics of the development (size of the development and cumulation with other existing and/or approved development) and its location (environmental sensitivity of geographical areas likely to be affected by the development) as such the Applicant will be submitting the ES with the DCO application, which will render the Project as EIA development under Regulation 6 of the EIA Regulations.

- 2.3.20 Part 5 of the EIA regulations sets out the EIA process. Regulation 5(2) states that the EIA:
- 'Must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development'.*
- 2.3.21 It states that the EIA must undertake the above in relation to several factors, including the following:
- population and human health;
 - biodiversity;
 - land and soils;
 - water;
 - climate change;
 - cultural heritage; and
 - landscape and visual.
- 2.3.22 The ES has been prepared in accordance with the requirements of the EIA Regulations. Regulation 14 sets out the minimum requirements that should be included in an ES. This is supported by Schedule 4 which identifies additional information to be included in an ES (further detail is provided in Volume 1, Chapter 5: EIA Methodology of the ES).
- 2.3.23 Table 5.1 within Volume 1, Chapter 5: EIA Methodology of the ES provides a summary of where the information required for inclusion in an ES under Regulation 14 and Schedule 4 of the EIA Regulations can be found.

The Marine Works (Environmental Impact Assessment) Regulations 2007

- 2.3.24 The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) transposes the EIA Directive (85/337/EEC) into English and Welsh law including in relation to Harbour works (which require approval or consent pursuant to a local Act or an order made under Section 14 or 16 of the Harbours Act 1964), and activities which are regulated under the Marine and Coastal Access Act 2009 (i.e. those activities which require a Marine Licence). Changes to the EIA Directive were translated into an updated Marine Works Regulations as of 16 May 2017.
- 2.3.25 The Marine Works (Environmental Impact Assessment) Regulations 2007 serve as a framework for assessing the environmental impacts of proposed marine construction projects. The primary purpose is to ensure that the potential environmental effects of marine construction works are carefully considered and mitigated before projects proceed. By requiring EIA, the regulations aim to protect marine ecosystems, habitats, and species while promoting sustainable development and minimising adverse environmental impacts. Through the EIA process, stakeholders can make informed decisions to minimise environmental risks and safeguard the long-term health and sustainability of the marine environment.
- 2.3.26 Compliance with the evidence requirements of the Marine Works (Environmental Impact Assessment) Regulations 2007 involves providing thorough documentation, data, and analysis to support the assessment of potential

environmental impacts and the development of effective mitigation measures. This evidence serves to inform decision-making, facilitate regulatory approval processes, and ensure that marine construction projects are conducted in an environmentally responsible manner.

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

- 2.3.27 These regulations set out objectives for surface and groundwater bodies, including water quality with the aim of improving the water environment. Objectives are set for waterbodies in terms of their status (see Volume 2, Chapter 4: Geology, Hydrogeology and Ground Conditions, of the ES).

Environment Act 2021

- 2.3.28 The Environment Act 2021 sets out targets, plans and policies for environmental protection in England.
- 2.3.29 Schedule 15 of the Environment Act 2021 sets out provisions for Biodiversity Net Gain (BNG) and amends the Planning Act 2008. The current consultation on implementation of Schedule 15 indicates that a single 'core' BNG statement may be developed, with a view to incorporating the requirements into updated NPSs (Department for Environment, Food and Rural Affairs (Defra), 2022). The stated intention is for the requirements of the Environment Act 2021 in relation to biodiversity to be implemented no later than 2025 for DCO applications.
- 2.3.30 It is noted that the requirement would not initially apply to elements of projects which are located in the marine environment (such as those taking place entirely below the low water mark) (Defra, 2022).

Electricity Act 1989

- 2.3.31 The Electricity Act 1989 privatized the electricity supply industry in Great Britain, replacing the Central Electricity Generating Board in England and Wales and restructuring the Scottish electricity boards. The Act established a licensing system and created the Office of Electricity Regulation (OFFER), now Office of Gas and Electricity Markets (OFGEM), to oversee the industry.
- 2.3.32 The Act also introduced a Director General of Electricity Supply and consumer committees for regulation. It transferred assets and responsibilities from the old Electricity Boards to new companies and provided financial support for nuclear fuel management, waste disposal, and decommissioning, while abolishing previous councils established under the Electricity Act 1947.
- 2.3.33 The Act aimed to introduce competition, enhance efficiency, and lower consumer costs.

Related Assessments

- 2.3.34 In addition to the EIA, the Proposed Development will be assessed in accordance with the other regulatory regimes where they apply. These include the Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

(hereafter 'the Habitats Regulations') and the Conservation of Offshore Marine Habitats and Species Regulations 2017.

Habitats Regulations

- 2.3.35 The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (collectively known as the 'Habitats Regulations') require the assessment of significant effects on internationally important nature conservation sites, including the following:
- Special Areas of Conservation (SACs) or candidate SACs;
 - Special Protection Areas (SPAs) or potential SPAs;
 - Sites of Community Importance; and
 - Ramsar sites.
- 2.3.36 These have been traditionally referred to as European Sites or Natura 2000 sites. Following the UK's departure from the European Union (EU), and the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, such sites in the UK are now referred to as the National Site Network. The assessment required under the Habitats Regulations is to be undertaken by the 'competent authority', which in the case of the Proposed Development is the Secretary of State for Energy Security and Net Zero.
- 2.3.37 In order to carry out the assessment required, the competent authority requires a report to be submitted alongside the application for development consent. A refined Information to Support the Appropriate Assessment (ISAA) will be provided alongside the ES with the application for development consent.
- 2.3.38 The Habitats Regulations also provide protection for certain species of plants and animals, referred to as European Protected Species. These Regulations set out those species that are protected and the activities that are prohibited, such as deliberate disturbance or creating damage to a breeding place.
- 2.3.39 The Habitat Regulations also provide for licences to be granted for certain operations, such as proposed developments that may affect protected species, subject to:
- there being no satisfactory alternative; and
 - the action authorised not being detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 2.3.40 With respect to the Proposed Development, the species present have been identified and the likely effects assessed. Where possible, effects on protected species have been avoided or minimised. Where such effects cannot be avoided, then an application for a European Protected Species licence will be made.
- 2.3.41 The need for a Habitats Regulations Assessment (HRA) has been screened out for the Onshore Infrastructure, however, an HRA for the offshore environment has been screened in. An HRA Screening report (HRA Stage 1) was submitted to statutory regulators and comments received. A Report to Inform Appropriate Assessment (RIAA) was prepared alongside the EIA process and will be submitted as part of the application for development consent for consideration by the Secretary of State in their Appropriate Assessment.

Other Environmental and Conservation Legislation

2.3.42 Additional legislation is outlined below, with further policy and legislation discussed in the specific chapters of the ES. Each topic chapter provides detailed consideration of relevant legislation and policy to ensure comprehensive coverage of the issues addressed.

- Wildlife and Country Side Act 1981.
- Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
- The Countryside and Rights of Way Act 2000.
- The National Parks and Access to the Countryside Act 1949.
- Natural Environment and Rural Communities Act 2006.

2.4 National Planning Policy

2.4.1 The Planning Act 2008 makes provision for National Policy Statements (NPSs). Section 104 of the Act describes how decisions should be guided in cases where an NPS has effect and also what the Secretary of State can disregard in his decision making (s.106).

2.4.2 NPSs set out the Government’s objectives for the development of nationally significant infrastructure and as such are subject to change in the pursuit of needed infrastructure capacity within the context of wider economic, environmental, and social policy objectives. The following section summarises the national planning policy context for the Proposed Development.

National Policy Statements

2.4.3 The following adopted NPSs are relevant to the Proposed Development:

- Overarching NPS for Energy (EN-1) (Department for Energy Security and Net Zero (DESNZ), 2023a);
- NPS for Renewable Energy Infrastructure (EN-3) (DESNZ, 2023b); and
- NPS for Electricity Networks Infrastructure (EN-5) (DESNZ, 2023c).

2.4.4 **Table 2.1** sets out the key aspects from the NPSs noted above that are relevant to the Proposed Development and the need for and approach to consenting such infrastructure.

Table 2.1: Summary of relevant NPS policy

NPS	Key Aspects
NPS EN-1	Overarching energy NPS, setting out broad basis for considering applications for consent. Sets out the Government's policy for the delivery of major energy infrastructure.
	Paragraph 1.3.10 states EN-1, in conjunction with any relevant technology specific NPS, will be the primary policy for Secretary of State decision making on projects in the field of energy for which a direction has been given under section 35.
	States that the Secretary of State should assess all applications covered by this NPS on the basis that the government has demonstrated that there is a need for those types of infrastructure which is urgent (paragraph 3.2.6) and that substantial weight should be given to this need (paragraph 3.2.7). Specifically, states that there is an urgent need for new electricity network infrastructure to meet our energy objectives (paragraph 3.3.59).

NPS	Key Aspects
	<p>Highlights that the <i>'Government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure.'</i> (paragraph 3.3.62)</p> <p>Paragraph 4.1.5 of the NPS EN-1 states that in considering any proposed development, and in particular when weighing its adverse impacts against its benefits, the Secretary of State should take into account the following:</p> <ul style="list-style-type: none"> • <i>'Its potential benefits, including its contribution to meeting the need for energy infrastructure, job creation and any long-term or wider benefits; and</i> • <i>Its potential adverse impacts, including any long-term and cumulative adverse impacts, and any measures to avoid, reduce or compensate for any adverse impacts.'</i> <p>Sets out general assessment principles in relation to Environmental Impact Assessment (EIA) and key environmental topic areas. Some key principles include the following:</p> <ul style="list-style-type: none"> • <i>'To consider the potential effects, including benefits, of a proposal for a project, the applicant must set out information on the likely significant environmental, social and economic effects of the development, and show how any likely significant negative effects would be avoided, reduced, mitigated or compensated for, following the mitigation hierarchy.'</i> (paragraph 4.3.4). • <i>'For the purposes of this NPS and the technology specific NPSs the ES should cover the environmental, social and economic effects arising from pre-construction, construction, operation and decommissioning of the project.'</i> (paragraph 4.3.5). <p>Applicants are encouraged to approach the marine licensing regulator (MMO in England and Natural Resources Wales in Wales) in pre-application, to ensure that they are aware of any needs for additional marine licences alongside their DCO application' (paragraph 4.5.7)</p> <p>Applicants for a DCO must take account of any relevant Marine Plans and are expected to complete a Marine Plan assessment as part of their project development, using this information to support an application for development consent (paragraph 4.5.8).</p> <p>Applicants are encouraged to refer to Marine Plans at an early stage, such as in preapplication, to inform project planning, for example to avoid less favourable locations as a result of other uses or environmental constraints (paragraph 4.5.9).</p>
<p>NPS EN-3</p>	<p>NPS for renewable energy infrastructure. Recognises the urgent need for new electricity generating capacity to help meet energy targets, such as net zero by 2050.</p> <p>This NPS will apply to offshore transmission infrastructure projects in English waters which are directed into the NSIP regime under section 35 of the Planning Act 2008. This could include interconnectors, Multi-Purpose Interconnectors (MPIs) or 'bootstraps' to support the onshore network which are routed offshore (paragraph 1.6.3).</p> <p>Highlights the use of the 'Rochdale Envelope' method (referred to as the 'maximum design scenario' in this Environmental Statement), which allows for the worst-case environmental, social and economic effects of the project to be assessed (section 2.6).</p> <p>Sets out considerations for the assessment of effects of installing offshore transmission infrastructure across the intertidal/coastal zone at paragraph 2.8.119 including where relevant:</p> <ul style="list-style-type: none"> • <i>'any alternative landfall sites that have been considered by the applicant during the design phase and an explanation for the final choice;</i> • <i>any alternative cable installation cable installation methods that have been considered by the applicant during the design phase and an explanation for the final choice;</i> • <i>potential loss of habitat;</i> • <i>disturbance during cable installation, maintenance/repairs and removal (decommissioning);</i> • <i>increased suspended sediment loads in the intertidal zone during installation and maintenance/repairs;</i> • <i>potential risk from invasive and non-native species;</i>

NPS	Key Aspects
	<ul style="list-style-type: none"> • predicted rates at which the intertidal zone might recover from temporary effects, based on existing monitoring data; and • protected sites.’ <p>Sets out considerations for assessment at paragraphs 2.8.302-2.8.352, with reference to EN-5 for onshore elements (see sections 2.9-2.12 of EN-5).</p>
NPS EN-5	<p>NPS for electricity networks (including grid connections for wind farms). The infrastructure covered by the NPS for electricity networks includes transmission systems, distribution systems, and associated infrastructure (e.g., substations, converter stations, etc.).</p> <p>States that the security and reliability of the UK’s energy supply, both currently and in the future, is heavily dependent on an electricity network that will allow for generation, storage, and interconnection infrastructure to meet the required rapid increase in electricity demand for the transition to net zero whilst maintaining energy security (paragraph 1.1.1).</p> <p>In the assessments of their designs, applicants should demonstrate how environmental, community and other impacts have been considered and how adverse impacts have followed the mitigation hierarchy and how enhancements to the environment post construction will be achieved including biodiversity net gain and wider environmental improvements in line with the Environmental Improvement Plan and environmental targets (paragraph 2.14.2).</p> <p>Sets out assessment and mitigation principles relevant to the Proposed Development (sections 2.9-2.12) for example in the fields of biodiversity and geological conservation, landscape and visual impact, undergrounding of cables and the laying of subsea cables.</p>

2.4.5 Topic chapters within the ES have considered the designated NPSs and the Planning Statement (document reference 7.2) addresses how the Proposed Development responds to the NPSs.

Other Relevant National Planning Policy

2.4.6 In addition to the policy set out in the NPSs, the following planning policy and guidance is considered relevant.

National Planning Policy Framework

2.4.7 The National Planning Policy Framework (NPPF) was published in 2012 and updated in 2018, 2019, 2021 and 2023 (Department for Levelling Up, Housing & Communities, 2023). The NPPF sets out the Government’s planning policies for England and how these are to be applied in relation to the determination of planning applications made under the Town and Country Planning Act 1990 (as amended).

2.4.8 The NPPF states that planning law requires planning applications to be determined in accordance with the Development Plan for the relevant area unless material considerations indicate otherwise. Paragraph 2 states the NPPF:

‘... is a material consideration in planning decisions’.

2.4.9 Paragraph 5 states that the NPPF does not contain specific policies for applications for development consent under the Planning Act 2008. These are to be determined in accordance with the decision-making framework set out in the Planning Act 2008 and relevant NPSs for nationally significant infrastructure, as well as any other matters that are considered both important and relevant (which may include the NPPF).

2.4.10 Where relevant, the NPPF is considered within the topic chapters of this ES. Paragraph 7 of the NPPF states that:

'the purpose of the planning system is to contribute to the achievement of sustainable development'.

2.4.11 Paragraph 157 recognises that:

'the planning system should support the transition to a low carbon future in a changing climate...It should help to...support renewable and low carbon energy and associated infrastructure.'

2.4.12 The NPPF is currently being updated and a draft version was published for consultation in July 2024 (Ministry of Housing, Communities and Local Government, 2024). The ES primarily refers to the adopted NPPF. However, where the draft NPPF contains materially different policy and requirements, these are highlighted in topic chapters of the ES.

Planning Practice Guidance

2.4.13 The Planning Practice Guidance (PPG) (Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities and Local Government, 2024) supports the NPPF and provides guidance across a range of topic areas. Where relevant, the PPG has been considered throughout the individual topic chapters of the ES (see Volumes 2, 3 and 4).

Marine Policy

UK Marine Policy Statement 2011

2.4.14 The UK-wide Marine Policy Statement (MPS) was published in March 2011 under the Marine and Coastal Access Act 2009 to provide a framework for marine spatial planning, specifically for preparing Marine Plans and taking decisions that affect the marine environment (Defra, 2020). The MMO has taken a regional approach to developing marine plans in English waters.

2.4.15 The Marine and Coastal Access Act 2009 requires all public authorities to take authorisation or enforcement decisions that affect or might affect the UK marine area in accordance with the MPS and the relevant Marine Plans.

2.4.16 The MPS provides that the following issues should be considered by decision-makers when examining and determining applications for energy infrastructure.

- The national level of need for energy infrastructure, as set out in NPS EN-1.
- The positive wider environmental, societal, and economic benefits of low-carbon electricity generation and carbon capture and storage as key technologies for reducing carbon dioxide emissions.
- The potential impact of inward investment in offshore wind, wave, tidal stream and tidal range energy-related manufacturing and deployment activity, as well as the impact of associated employment opportunities on the regeneration of local and national economies. These activities support the objective of developing the UK's low-carbon manufacturing capability (MPS, paragraph 3.3.4).

South West Inshore and South West Offshore Marine Plan 2021

- 2.4.17 The Proposed Development is located within English offshore and inshore waters, covered by the South West Inshore and South West Offshore Marine Plan (HM Government, 2021b). The Plan introduces a strategic approach to marine planning within the marine plan area. It is intended to inform decision-making by marine users and regulators on where, when, or how activities may take place within the marine plan area.
- 2.4.18 The South West Inshore and South West Offshore Marine Plan sets out a number of economic, social, and environmental objectives to achieve a sustainable marine economy, whilst respecting local communities within and adjacent to marine plan areas.
- 2.4.19 The policy provisions within the South West Marine Plan relevant to each environmental topic are presented and addressed in the individual topic chapters of this ES.

2.5 Local Planning Policy

- 2.5.1 The Local Development Plans do not carry the same weight under the Planning Act 2008 regarding decision-making on developments that require development consent as they do when determining planning applications under the Town and Country Planning Act 1990. The NPSs are the primary consideration for nationally significant applications. Nevertheless, the Development Plan is still a matter which can be considered important for the consideration of a development that requires development consent, although in the event of any conflict, the NPS prevails.
- 2.5.2 Applications under the Act are not subject to Section 38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of a planning application must be made in accordance with the local development plan, unless other material considerations indicate otherwise. There is no statutory requirement for the decision maker to attach weight to development plan policy.
- 2.5.3 The local planning policies will be considered through the EIA process where relevant.
- 2.5.4 In addition, relevant supplementary planning documents will also be considered where appropriate. Where study areas for individual topics extend beyond the Torridge District Council administrative area, planning documents relevant to additional administrative areas within the study areas will be taken into account.

North Devon and Torridge District Council Adopted Local Plan (2018)

- 2.5.5 The North Devon and Torridge District Council Local Plan was adopted in October 2018 and sets out the vision, objectives, spatial strategy, and policies for development in the area of North Devon and Torridge up to 2031.
- 2.5.6 Policy ST02 Mitigating Climate Change notes that *'Development will be expected to make a positive contribution towards the social, economic, and environmental sustainability of northern Devon and its communities while minimising its environmental footprint by...promoting opportunities for renewable and low-*

carbon energy generation whilst conserving and enhancing the natural and built environment.

- 2.5.7 The local plan demonstrates that as a region, it is identified as the UK's first Marine Energy Park to speed up the progress of marine technology development. Paragraph 4.49 states:

'Onshore facilities and operations required to maintain and service large-scale offshore renewable energy proposals will be supported within an existing port, where the port's existing operations and responsibilities are not compromised [...]. Impact and proposed mitigation on environmental and heritage assets from landfall for cables from offshore renewable energy generation will need to be balanced against potential social, environmental, and economic benefits, recognising the national and/or international importance of some environmental assets.'

Devon Minerals Plan (2011–2033)

- 2.5.8 The Devon Minerals Plan (Devon County Council, 2017) sets the policy framework for Devon County Council's decisions on mineral development planning applications until 2033, as well as for other planning authorities' decisions on non-mineral developments impacting mineral resources. The Plan covers areas under Devon County Council's jurisdiction, excluding Plymouth, Torbay, and Dartmoor and Exmoor National Parks, while considering Devon's relationships with neighbouring regions to address cross-boundary mineral issues.
- 2.5.9 The Devon Minerals Plan seeks to promote the use of alternatives to land-won sources, safeguard economic mineral resources from sterilisation by other development and encourage the prior extraction of resources in advance of non-mineral development and, where appropriate, their use in that development.
- 2.5.10 Policy M2: Mineral Safeguarding Areas of the Minerals Plan states that *'Mineral resources and infrastructure within the Mineral Safeguarding Areas defined on the Policies Map will be protected from sterilisation or constraint by non-mineral development within or close to those Areas by permitting such development if: (a) it can be demonstrated through a Mineral Resource Assessment and in consultation with the relevant mineral operators that the mineral resource or infrastructure concerned is not of current or potential economic or heritage value; or (b) the mineral resource can be extracted satisfactorily prior to the non-mineral development taking place under the provisions of Policy M3; or (c) the non-mineral development is of a temporary nature and can be completed and the site restored to a condition that does not inhibit extraction or operation within the timescale that the mineral resource or infrastructure is likely to be needed; or (d) there is an overriding strategic need for the non-mineral development; or (e) it constitutes exempt development, as set out in the exemption criteria.'*

Northern Devon Economic Strategy (2014-2020)

- 2.5.11 The Northern Devon Economic Strategy 2014-2020 (North Devon and Torridge District Council, 2014) focuses particularly on investing in infrastructure to support business growth and enhance employment opportunities. It aims to equip the local population with skills for a changing economy while fostering enterprise and

innovation. The strategy also highlights the region's potential in renewable energy, emphasizing wind, tidal, solar, and biomass resources. Recognizing the area's rural nature and the need for substantial economic improvement, the strategy introduces a long-term growth plan, grounded in a thorough understanding of local conditions.

- 2.5.12 The Strategy identifies six different priority economic opportunities, with Priority 1: Investment in Place and Priority 4: Investment in the Emerging Energy Sector Opportunity being the most pertinent to the Project.
- 2.5.13 Priority 1A highlights the *'provision of effective infrastructure to stimulate economic investment and growth in productivity and employment'*. Under the overarching Priority 1A, P1A6 is a specific headline priority relating to the development of energy-related infrastructure, detailing the following:
- Investment in grid capacity.
 - Development of infrastructure for a tidal demonstration site.
 - Investment in biomass and related infrastructure.
 - Investment in infrastructure for the Atlantic Array zone, anticipating future development.
- 2.5.14 Priority 4 focuses on the need for investment in growing the emerging renewable energy sector while maximising the opportunities from offshore wind and other renewable energy opportunities. It also calls for a driven and co-ordinated approach to energy sector opportunities, in order to position North Devon as *'a location of excellence'*.
- 2.5.15 Each topic chapter of this ES provides further details of the local plans and policies relevant to their environmental topic and their study area. Relevant supplementary planning documents have also been considered where they are relevant and important. Where study areas for individual topics extend beyond the above administrative area, planning documents relevant to additional administrative areas within the study areas have been taken into account.

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