



AQUIND Limited

AQUIND INTERCONNECTOR

Planning Statement Addendum

The Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 – Regulation 5(2)(q)

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1. INTRODUCTION

1.1. PURPOSE OF THIS DOCUMENT

1.1.1.1. The purpose of this Planning Statement Addendum is:

- to provide updated planning policy analysis, where necessary, to reflect updated environmental information submitted in the ES Addendum 3 in response to the Secretary of State’s request for information dated 3 March 2023 (Chapter 2);
- to assess the hypothetical alternative connection at Mannington in terms of relevant NPS policy having regard to the feasibility assessment presented in the ES Addendum 3 (Chapter 3);
- to provide the Secretary of State with a summary of any relevant updates to planning policy since the examination of the application (Chapter 4);
- to consider the implications of this additional information and updates for the overall planning balance (Chapter 5).

1.2. OVERVIEW OF POLICY CONTEXT

PLANNING ACT 2008

1.2.1.1. The direction by the Secretary of State (SoS) under section 35 of the Planning Act 2008 (dated 30 July 2018) confirmed that the Overarching National Policy Statement for Energy (EN-1), published in July 2011, has effect in relation to an application for development consent under that direction in a manner equivalent to an application for a generating station under section 14(a) of a similar capacity, so far as the impacts described in EN-1 are relevant to the Proposed Development.

1.2.1.2. The Examining Authority (ExA) confirmed in its report (ExAR) (at paragraph 3.3.2) that *“the ExA has applied the tests set out in NPS EN-1 as the primary basis for its examination of the application”*.

1.2.1.3. The other technology specific energy NPSs are not relevant national policy statements though as noted by the ExA at paragraph 3.3.19 parts could be important and relevant to the decision.

1.2.1.4. The Energy White Paper (December 2020) advised that the Government intended to review the suite of energy NPSs with the aim of designating them by the end of 2021, and that in the meantime *“the current suite of NPS remain relevant government policy and have effect for the purposes of the Planning Act 2008. They will, therefore, continue to provide a proper basis on which the Planning Inspectorate can examine, and the Secretary of State can make decisions on, applications for development consent”*.

- 1.2.1.5. A Draft Overarching National Policy Statement for Energy (EN-1) (2021 draft EN-1) was published for consultation in September 2021 (after the ExA had prepared its report). The Nationally Significant Infrastructure Projects (NSIP) Reforms: Action Plan published on 23 February 2023 then indicated that there would be further consultation early in 2023 with a target to designate in Q2 2023.
- 1.2.1.6. A further draft was released for consultation in March 2023 (2023 draft EN-1) alongside the publication of Powering Up Britain setting out the Government's proposals for enhancing energy security, delivering net zero commitments and securing economic opportunities of the transition.
- 1.2.1.7. The 2023 draft EN-1 sets out transitional arrangements that for any applications accepted for examination before the designation of the 2023 amendments, the 2011 document should have effect. Any emerging draft NPSs (or those designated but not having effect) are, however, potentially capable of being important and relevant considerations in the decision making process under section 104 of the PA2008.

NATIONAL PLANNING POLICY FRAMEWORK

- 1.2.1.8. With regard to other national planning policy, the current NPPF was adopted in July 2021, after the submission of the DCO application and the preparation of the ExA's report (the extant draft was the February 2019 version). A further draft NPPF was released for consultation in January 2023. All iterations confirm that the NPPF does not contain specific policies for nationally significant infrastructure projects but could be an important and relevant matter in decision taking. This document addresses changes (and proposed changes) to policies referenced by the ExA as relevant in its report.

DEVELOPMENT PLAN POLICY

- 1.2.1.9. Development plan policy is also capable of being an important and relevant consideration under s104 of the PA2008. The ExAR noted (paragraph 3.12.3) that it *"...considers parts of the development plan to be important and relevant and these have accordingly been considered as part of the policy context for the Proposed Development. In the event of a conflict, the NPSs prevail for the purpose of decision making by the Secretary of State"*.
- 1.2.1.10. Based on the Planning Statement [[APP-108](#)] (Ref 5.4) the ExA included reference to relevant development plan policies in its report. There has been limited progress on development plan preparation in any of the host authorities since the submission of the DCO application and some emerging drafts have been abandoned and restarted. The adopted development plan for each of the authorities therefore remains largely unchanged. With regard to emerging policy the latest stage of preparation for new local plans for Winchester City Council (WCC), East Hampshire District Council (EHDC), Havant Borough Council (HBC) and Portsmouth City Council (PCC) is Regulation 18 consultation (i.e. primarily dealing with overarching visions and objectives rather than detailed policies). Further details are set out in Chapter 4 of this report.

1.3. EXECUTIVE SUMMARY

- 1.3.1.1. In accordance with paragraph 4.1.2 of NPS EN-1 the Secretary of State is required to start with a presumption in favour of granting consent unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused.
- 1.3.1.2. Paragraph 4.1.3 advises the Secretary of State of the matters that should be taken into account in weighing any adverse impacts against its benefits.
- 1.3.1.3. In recommending approval, the ExA found that *“overall, the need case for the Proposed Development strongly outweighs the identified disbenefits”* (paragraph 12.2.1). As noted by Mrs Justice Lieven in her judgment of 24 January 2023, the ExA had therefore *“found that the case being advanced ... went beyond the simple policy presumption in terms of the benefits of the project”* (paragraph 83)¹.
- 1.3.1.4. This Planning Statement Addendum demonstrates that neither the updates to environmental assessments or updates in planning policy in any way affect to the ExA’s finding that the planning balance weighed strongly in favour of the grant of consent. Further, it is clear (as demonstrated in the Needs and Benefits Third Addendum) that the case has become even more compelling due to:
- the increased emphasis on achieving energy security as most recently outlined in Powering up Britain and the specific recognition of the importance of interconnectors as a source of resilience and efficiency;
 - the publication of the revised 2023 draft EN-1 for consultation which also specifically recognises the benefits of interconnectors and repeats the target set out in the Energy White Paper to achieve at least 18GW of capacity by 2030;
 - the most recent analysis by ENTSO-E as part of the TYNDP 2022 which identifies a specific need for additional 4.8GW of interconnection between GB and France by 2030 (on top of the starting position of 4.0GW in 2025);
 - the recognition in the Statement of Cooperation between the UK and France on 10 March 2023 of the central role of interconnection for mutual energy security and supply and commits to making best efforts to progress future connection projects between the two countries.
- 1.3.1.5. In relation to the consideration of Mannington as a potential point of connection for the Proposed Development, the additional information provided in this submission confirms that
- the site at Mannington is constrained and potentially physically unable to accommodate the necessary works (and would at least require an extension to the existing substation, likely into bordering woodland);
 - the Mannington alternative would likely result in significantly greater environmental impacts and risks than a connection at Lovedean;

- a connection at Mannington would not be capable of delivering the same infrastructure capacity in the same timescale as the Proposed Development, adding two/three years to the construction timescales;
- the reinforcements to the NETS and substation works, that are necessary to enable the connection of the Project to Mannington, would result in the earliest connection date being 2037, according to NGET and NGESO, or ten years later than the planned connection available at Lovedean in 2027;
- in any event – and fundamentally - a connection at Mannington would not represent a commercially viable alternative, meaning there would be no prospect of it delivering the Proposed Development’s infrastructure capacity at all and would therefore fail to deliver significant social welfare and climate benefits of the Proposed Development or contribute to the Government’s objectives of achieving 18GW of interconnection capacity by 2030.

1.3.1.6. Having regard to relevant legal and policy requirements the Mannington alternative should not, therefore, be an important and relevant consideration in determining the application and should not be attributed any weight accordingly.

2. POLICY ASSESSMENT OF ENVIRONMENTAL UPDATES

2.1. INTRODUCTION

- 2.1.1.1. The Secretary of State requested, in his letter dated 3 March 2023, that the Applicant provide “*any new environmental information, if such information has come forward since the Secretary of State’s decision, that would require an update to the environmental assessments within the Environmental Statement and / or Habitats Regulations Assessment. In particular, the Applicant should provide details of any new plans or projects which should be included in updated cumulative and / or in-combination assessments*”.
- 2.1.1.2. The response to this request is set out in the ES Addendum 3 which provides a review of the survey and desk based data sources used to inform the assessment in the ES (Chapter 4 of the ES Addendum 3) and an updated assessment in respect of cumulative effects (Chapter 5 of the ES Addendum 3).
- 2.1.1.3. This section of the Planning Statement Addendum addresses any potential policy implications arising from this updated environmental information, having regard to the original Planning Statement [AP-108], original Environmental Statement [APP-116 – APP-487], the ES Addendum 1 [REP7-067], ES Addendum 2 [REP9-012], discussion and submissions during examination and the conclusions of the ExAR.

2.2. ENVIRONMENTAL INFORMATION

2.2.1. ONSHORE

- 2.2.1.1. The ES Addendum 3 confirms that the desk data sources reviewed have either not been superseded or a review has indicated that there would be no significant changes to the conclusions already made. Therefore, the existing assessments remain valid. A validation study has been undertaken and concluded that there are no notable changes to the baseline and the existing assessment remains valid.
- 2.2.1.2. There are, therefore, no planning policy implications in respect of new or updated onshore environmental information.
- 2.2.1.3. It is also relevant that if it was considered necessary to refine mitigation, the DCO would secure additional surveys to be undertaken, prior to the commencement of the relevant aspect of the Proposed Development.

2.2.2. MARINE

- 2.2.2.1. The ES Addendum 3 also provides a review of the survey and desk based data sources used to inform the baselines and assessments for Chapters 6-14 of the Environmental Statement and considers any guidance documents that may have changed methodologies or assessment conclusions.
- 2.2.2.2. This concludes that for all chapters other than Chapter 13 on Shipping and Navigation the original datasets and conclusions remain valid or where more recent data is available they would not impact on the baseline or conclusions made.
- 2.2.2.3. For Shipping and Navigation, as more recent AIS data was available a validation study has been undertaken, which concludes that there are no notable changes to the baseline from what was previously assessed.
- 2.2.2.4. The conclusions of the existing assessments presented in Chapters 6 – 14 of the current Environmental Statement therefore remain valid.
- 2.2.2.5. There are (as for onshore assessments) therefore no consequential implications for the assessment of relevant planning policy in relation to the marine environment or shipping and navigation.

2.3. CUMULATIVE EFFECTS

2.3.1. ONSHORE

- 2.3.1.1. A full review of all cumulative developments considered in the Environmental Statement and previous addenda has been undertaken as presented in Chapter 5 of the ES Addendum 3.
- 2.3.1.2. The review identifies that 28 onshore developments included in the previous cumulative effects assessment no longer present potential cumulative effects (25 have been constructed and now represent baseline receptors and three applications have been withdrawn). For the constructed sites no new significant effects have been identified for these receptors and the findings of the Environmental Statement and previous addenda remain valid.
- 2.3.1.3. A further ten developments are identified in the ES Addendum 3 as being relevant to the Proposed Development. Significant residual cumulative effects were predicted to result from the cumulative contribution of impacts from the Proposed Development with one of these developments namely the proposed Denmead Solar Farm and Battery Storage Scheme (The Solar Farm Scheme) which abuts the order limits of the Proposed Development in the vicinity of the Converter Station.
- 2.3.1.4. The Solar Farm Scheme comprises a ground mounted solar farm (and battery storage facility) with associated plant and equipment located on a number of land parcels over circa 92ha. The proposals are subject to an undetermined planning application (Winchester City Council Ref: 22/00447/FUL East Hants Ref: 58038/003) and the Applicant has been liaising with the applicant to seek to mitigate the cumulative effects of the two developments as far as possible.

2.3.1.5. The ES Addendum 3 assesses the Solar Farm Scheme alongside the Proposed Development and the Arcus/Statkraft Lovedean Greener Grid Battery Storage Scheme (assessed as a cumulative scheme in the original Environmental Statement).

2.3.1.6. With mitigation in place the ES Addendum 3 concludes that there is a likelihood of residual significant cumulative effects in relation to landscape and visual amenity, temporary and permanent loss of agricultural land and disruption and disturbance to socio-economics receptors.

2.3.1.7. This section deals with each of these disciplines in turn in terms of the planning policy implications.

Landscape and visual impact

2.3.1.8. Details of the impact on landscape character, landscape features and visual amenity for common receptors between the Proposed Development and the Solar Farm Scheme are reported in the Appendix 5.16 Stage 3 & 4 Assessment Matrix, Table 1 of the ES Addendum 3. In summary this concludes:

- Landscape character: localised significant and not significant adverse cumulative effects during construction and during operation at year 1, reducing to not significant adverse effects during operation at year 15;
- Landscape features: localised significant and not significant cumulative effects during construction and early operation reducing to reducing to not significant adverse and beneficial effects at year 15; and
- Visual amenity (residential, recreational and highway receptors): significant to not significant effects during construction and early operation reducing to not significant effects by year 15.

2.3.1.9. In summary all landscape and visual effects on common receptors would, with mitigation in place, reduce to not significant effects by operational year 15 (with the majority of visual amenity affects having already reached not significant levels by year 1 of operation).

2.3.1.10. The results of the cumulative assessment including the Solar Farm Scheme are broadly comparable with the assessment of landscape and visual effects of the Proposed Development as reported in the Environmental Statement (albeit adopting slightly different assessment parameters with additional) and as summarised at ExAR 7.9.109, namely that the Proposed Development would result in significant construction stage effects on landscape character areas, the setting of the SDNP, local landscape features and on visual amenity though with the effects reducing over time with mitigation planting to not significant effects on the majority of receptors.

- 2.3.1.11. Paragraph 5.9.8 of NPS EN-1 advises that virtually all nationally significant infrastructure projects will have effects on the landscape though should aim to minimise harm through reasonable mitigation where possible and appropriate. Accordingly, the Converter Station has been designed sensitively and to mitigate landscape and visual impacts as far as reasonably possible through its siting which has sought to retain existing screening and also using opportunities to construct the building into the slope to reduce its perceived height and thus visual impact. Additional mitigation in the forms of new planting and reinforcement of existing planting in the surrounding area are also proposed.
- 2.3.1.12. The Solar Farm Scheme proposes additional landscape mitigation in order to mitigate its own impacts.
- 2.3.1.13. The location of the Converter Station close to the boundary of the SDNP engages paragraph 5.9.12 – 5.9.13 of NPS EN-1 which deal with developments outside nationally designated areas which may affect them. Paragraph 5.9.12 advises that the aim should be to avoid compromising the purposes of designation and paragraph 5.9.3 is clear that *“the fact that a proposed project will be visible from within a designated area should not in itself be a reason for refusing consent”*. As above the developments seek to mitigate landscape and visual impacts on the SDNP as far as reasonably practicable.
- 2.3.1.14. With regard to visual impacts, like landscape impacts, paragraph 5.9.18 confirms that all proposed energy infrastructure is likely to have visual effects from many receptors and the decision maker *“will have to judge whether the visual effects on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the project”*.
- 2.3.1.15. Having regard to the conclusions of the cumulative assessment and relevant NPS policy there is no reason to come to any different conclusion to that made by the ExA that *“taking account of the predicted significant adverse effects, and in the context of NPS EN-1 and important and relevant policy, the ExA considers that the adverse landscape and visual effects count against the Proposed Development, and considers this to be a factor of moderate weight in the overall planning balance against the benefits of the Proposed Development...”* (ExAR 7.9.110).
- 2.3.1.16. In considering the planning balance the ExA referenced landscape and visual effects stating that *“the Proposed Development would lead to short and long-term adverse landscape and visual effects, including some local harm to the setting of the South Downs National Park. These weigh moderately against the Proposed Development in the overall planning balance”* (ExA 9.3.7) before making its overall conclusion that *“the matters that are identified as disbenefits do not outweigh the significant benefits that are described, either alone or when considered together. The ExA therefore considers that the final balance indicates strongly in favour of granting development consent”* (ExAR 9.3.11).

Soils and agricultural land use

- 2.3.1.17. As reported in the ES Addendum 3, the Environmental Statement for the Proposed Development identified minor to moderate temporary and permanent adverse effects on agricultural land, and also specifically on BMV agricultural land in Section 1 of the order limits (total of 35ha of agricultural land of mostly Subgrade 3b with 4.4ha BMV Subgrade 3a).
- 2.3.1.18. The Solar Farm Scheme would involve development on 12.5ha of Subgrade 3a BMV and 75.9ha Subgrade 3b (non-BMV).
- 2.3.1.19. Cumulative effects on all agricultural land, based on the combined area of agricultural land required in Section 1, would increase to a moderate adverse effect but would remain at minor to moderate adverse for BMV.
- 2.3.1.20. As advised at paragraph 5.10.15 of NPS EN-1 the Secretary of State should give limited weight to the loss of poorer quality agricultural land (other than in areas where agriculture may contribute to the quality and character of the environment and economic such as uplands).
- 2.3.1.21. The additional effects on poorer quality agricultural land overall would, therefore, not lead to a different conclusion to the ExA's findings, in relation to the Proposed Development, at ExAR 7.13.48. namely that *"the Applicant has sought to minimise effects on the best and most versatile agricultural land, and the site selection process directed activity to land of poorer quality wherever possible. Temporary potential effects on soil quality during cable trenching have been identified and suitable mitigation measures can be secured"* and that *"the matter of soils and land use is therefore considered to be neutral in the planning balance"*.

Socio economics

- 2.3.1.22. The ES Addendum 3 notes that there are a number of socio-economic receptors that could be affected by the construction of both the schemes including recreational routes, residences and recreational and business receptors and that there could be increased disruption from reduced access, noise, dust and visual annoyance, traffic congestion and reduced amenity from multiple sources.
- 2.3.1.23. If sites are constructed concurrently then site liaison and management would be required where practicable, to reduce effects, in relation to impacts on landscape, visual amenity, construction traffic management and noisy activities. This would be secured by Requirement 15 of the draft DCO and implemented by the contractors through the Onshore Outline CEMP [REP9-005].
- 2.3.1.24. The ES Addendum 3 concludes that there would be a moderate adverse (significant) residual cumulative effect in relation to disruption and disturbance of these socio-economic receptors during construction.

2.3.1.25. These additional cumulative residual effects would be localised and short term during construction and would not alter the conclusion of the ExA that “*the ExA considers issue of socio-economics to be a minor negative factor in the case for the Proposed Development*” (ExAR 7.4.110) which had regard to other identified short term adverse effects during construction.

2.3.2. MARINE

2.3.2.1. As demonstrated in the ES Addendum 3 the update to the cumulative assessment has not resulted in any additional significant cumulative effects being identified for any of the marine related chapters, the. As such, the conclusions of the marine cumulative effects assessments remain valid.

2.4. CONCLUSION ON POLICY COMPLIANCE

2.4.1. ONSHORE

2.4.1.1. The additional cumulative effects (landscape and visual, soils and agricultural use and socio economic) predicted to result from the cumulative contribution of impacts with the proposed Solar Farm Scheme in the vicinity of the Converter Station would not lead to any unacceptable impacts that would directly conflict with relevant NPS policy. There are therefore no reasons for any different conclusions to be drawn to those drawn by the ExA in determining the level of weight to these effects in the overarching planning balance in recommending approval.

2.4.1.2. As the data on which the assessment of effects and development of mitigation was based remains valid, there are no consequential planning policy implications in respect of new or updated onshore environmental information.

2.4.2. MARINE

2.4.2.1. The conclusions of ES Addendum 3 in relation to updated environmental information and cumulative effects would not lead to any change to the ExA’s conclusion that “...*the ExA is content that the Proposed Development could be installed and operated in UK waters in accordance with the Marine and Coastal Access Act 2009, the MPS and the South Marine Plan and without significant adverse effects on the aspects of the marine environment*” (ExAR 7.5.62) and “*the Proposed Development satisfies NPS EN-1, and the ExA finds no reason to refuse the application in relation to these matters*”.

2.4.2.2. Similarly there are no material changes in circumstance that would lead to a different conclusion in relation to shipping and navigation that “*taking account of the proposed mitigation, the ExA concludes that the Proposed Development would not pose unacceptable risks to maritime safety. The ExA is satisfied that the Proposed Development complies with NPS EN-1. The ExA therefore finds this to be a neutral factor in the planning balance*” (ExAR 7.6.30).

3. POLICY ANALYSIS OF ALTERNATIVE MANNINGTON CONNECTION

3.1. INTRODUCTION

- 3.1.1.1. The Secretary of State requested, in his letter dated 3 March 2023, that the Applicant provide *“any information relevant to the feasibility of Mannington substation as an alternative, including any relevant correspondence or studies, and an explanation of whether or not Mannington is a feasible alternative location for the substation. This should include consideration of whether Mannington could offer a realistic prospect of an alternative in delivering the same infrastructure capacity, including energy security and climate change benefits in the same timescale as the Proposed Development. The information provided should confirm what the impact of selecting Mannington as the substation would have on the Proposed Development as a whole. The response should also set out the impact of the previously proposed Navitus Bay offshore windfarm on the feasibility of Mannington”*.
- 3.1.1.2. The ES Addendum 3 considers the potential feasibility of Mannington Substation as a reasonable alternative to the proposed connection at Lovedean, in accordance with requirements of Regulation 14(2) and Schedule 4 of the EIA Regulations.
- 3.1.1.3. This chapter of the Planning Statement Addendum places the conclusions of the ES Addendum 3 in the wider planning policy context in relation to the consideration of alternatives in decision making.

3.2. POLICY CONTEXT

- 3.2.1.1. The consideration of Mannington as a potential alternative for the point of grid connection must be considered within the detailed policy approach to alternatives in part 4.4 of NPS EN-1.
- 3.2.1.2. Paragraph 4.4.1 advises that *“as in any planning case, the relevance or otherwise to the decision-making process of the existence (or alleged existence) of alternatives to the Proposed Development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS. From a policy perspective this NPS does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option”*.
- 3.2.1.3. Paragraph 4.4.2, however, advises applicants that there may also be other specific legislative requirements relating to alternatives and that in some circumstances the NPSs may impose a policy requirement to consider alternatives. It does not set out a definitive list of all legal or policy requirements in relation to alternatives.

3.2.1.4.

Paragraph 4.4.3 then advises that given the level and urgency of the need for new energy infrastructure the decision maker should be guided by the following series of principles (subject to any legal requirements that indicate otherwise) in deciding what weight to give to alternatives:

- *the consideration of alternatives in order to comply with policy requirements should be carried out in a proportionate manner;*
- *the [SoS] should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity (including energy security and climate change benefits) in the same timescale as the proposed development;*
- *where (as in the case of renewables) legislation imposes a specific quantitative target for particular technologies or (as in the case of nuclear) there is reason to suppose that the number of sites suitable for deployment of a technology on the scale and within the period of time envisaged by the relevant NPSs is constrained, the [SoS] should not reject an application for development on one site simply because fewer adverse impacts would result from developing similar infrastructure on another suitable site, and it should have regard as appropriate to the possibility that all suitable sites for energy infrastructure of the type proposed may be needed for future proposals;*
- *alternatives not among the main alternatives studied by the applicant (as reflected in the ES) should only be considered to the extent that the [SoS] thinks they are both important and relevant to its decision;*
- *as the [SoS] must decide an application in accordance with the relevant NPS (subject to the exceptions set out in the Planning Act 2008), if the [SoS] concludes that a decision to grant consent to a hypothetical alternative proposal would not be in accordance with the policies set out in the relevant NPS, the existence of that alternative is unlikely to be important and relevant to the [SoS]’s decision;*
- *alternative proposals which mean the necessary development could not proceed, for example because the alternative proposals are not commercially viable or alternative proposals for sites would not be physically suitable, can be excluded on the grounds that they are not important and relevant to the [SoS]’s decision;*
- *alternative proposals which are vague or inchoate can be excluded on the grounds that they are not important and relevant to the [SoS]’s decision; and*

- *it is intended that potential alternatives to a proposed development should, wherever possible, be identified before an application is made to the [SoS] in respect of it (so as to allow appropriate consultation and the development of a suitable evidence base in relation to any alternatives which are particularly relevant). Therefore where an alternative is first put forward by a third party after an application has been made, the [SoS] may place the onus on the person proposing the alternative to provide the evidence for its suitability as such and the [SoS] should not necessarily expect the applicant to have assessed it.*

3.2.1.5. Updated and emerging policy is considered in the next chapter of this Planning Statement Addendum, but it is relevant to note the proposed changes to the alternatives policy in the March 2023 draft EN-1 here. The new draft paragraph at 4.2.9 amends the current 4.4.1 to confirm that although there is no general requirement in the NPS to consider alternatives there “*are specific requirements in relation to compulsory acquisition and HRA sites*”. This does not add anything material to the policy in the current 4.4.2 which is largely retained (as new paragraph 4.2.15).

3.2.1.6. The introductory text at 4.4.3 (in relation to the level of urgency of the need for new energy infrastructure) is largely retained (now at 4.2.21) though the eight bullet point principles have been updated and restructured as follows:

- bullet points 1, 4, 5, 7 and 8 remain unchanged but for updates which do not change the substance of the policy (for example updating IPC to Secretary of State);
- bullet point two (now paragraph 4.2.22) remains largely unchanged though adds in ‘other environmental benefits’ when considering the realistic prospect of an alternative delivering the same infrastructure capacity as the proposed development;
- a new bullet point added (now the second) confirms that “*only alternatives that can meet the objectives of the proposed development need to be considered*”;
- the third bullet of the 4.4.3 would be amended to remove the specific reference to quantitative targets imposed by legislation and a constrained number of sites suitable for deployment of a technology on the scale and within the time period envisaged by the relevant NPSs, so as to now advise that the SoS “*should not refuse an application for development on one site simply because fewer adverse impacts would result from developing similar infrastructure on another suitable site*”. The implication of this change is that this principle now applies to all development covered by NPS EN-1, not only in the more limited circumstances envisaged by 4.4.3. As such, the contents of this bullet would be applicable to the Proposed Development.

3.2.1.7.

As confirmed in *R (Save Stonehenge World Heritage Site Limited) v Secretary of State for Transport* [2021] EWHC 2161 (Admin) policy in an NPS does not disapply the common law principles on when alternatives are an obviously material consideration in decision taking. These principles are set out clearly by Mr Justice Holgate in his judgment and it is not necessary to go into detail here in this report, but in summary for context when considering an alternative connection point at Mannington these principles include that:

- land may be developed in any way which is acceptable for planning purposes. The fact that other land exists upon which the development proposed would be yet more acceptable for such purposes would not justify the refusal of planning permission for that proposal. But where there are clear planning objections to development upon a particular site then “*it may well be relevant and indeed necessary*” to consider whether there is a more appropriate site elsewhere, particularly where a major argument is that need outweighs disadvantages (*Trusthouse Forte v Secretary of State for the Environment* (1987) 53 P & CR 293);
- in the absence of conflict with planning policy and/or other planning harm, the relative advantages of alternative uses on the application site or of the same use on alternative sites are normally irrelevant. In those “exceptional circumstances” where alternatives might be relevant, vague or inchoate schemes, or which have no real possibility of coming about, are either irrelevant, or where relevant, should be given little or no weight (*R (Mount Cook Land Limited) v Westminster City Council* [2017] PTSR 1166);
- consideration of alternative sites would only be relevant to a planning application in exceptional circumstances. There is no fixed rule but generally such circumstances will particularly arise where development would involve such conspicuous adverse effects that the possibility of an alternative becomes a relevant planning consideration (*R (Jones) v North Warwickshire Borough Council* [2001] PLCR 31);
- failing to take alternatives into account can only be an error of law where there is a legal or policy requirement to take alternatives into account, or such alternatives were an “obviously material” consideration in the case so that it was irrational not to take them into account (*Derbyshire Dales District Council v Secretary of State for Communities and Local Government* [2010] 1 P&CR);
- when taking alternatives into account the SoS *may* decide they should be given little weight - which is a matter of planning judgment (*First Secretary of State v Sainsbury’s Supermarkets Limited* [2007] EWCA Civ 1083).

- 3.2.1.8. The Applicant does not seek to suggest that the circumstances of the present case are such that alternative connection points (including Mannington) are a matter to which the SoS cannot lawfully have regard. It is not, however, considered that the Proposed Development gives rise to “exceptional circumstances” whereby the SoS is obliged as a matter of law to consider alternatives beyond the legal and policy requirements (i.e. in the sense that it would be irrational for him not to do so).
- 3.2.1.9. Whilst the ExA found that the Proposed Development gave rise to some adverse impacts, they were relatively limited. They are far removed, for example, from the significant adverse effects on a World Heritage Site of “outstanding universal value” which engaged the requirement to consider alternatives in *Stonehenge* (albeit the circumstances of that case provide an example only). The ExA in the present case concluded that:
- a. Whilst there would be some temporary significant adverse effects on highways and traffic flows during construction, those temporary effects would be reduced to acceptable levels and there would be negligible operational impacts. These matters accord with NPS EN-1 and do not indicate against the Order being made (ExAR 9.2.17, 9.2.18 and 9.2.19).
 - b. Matters of air quality (ExAR 9.2.24), operational noise (ExAR 9.2.26), effects on electromagnetic fields (ExAR 9.2.27), the marine environment (ExAR 9.2.33), shipping and navigation (ExAR 9.2.37), onshore biodiversity and nature conservation (ExAR 9.2.40), design (ExAR 9.2.42), trees (ExAR 9.2.57), onshore water environment including flood risk (ExAR 9.2.65), soils and land use (ExAR 9.2.69) and ground conditions and contamination ((ExAR 9.7.72) were all neutral matters in the planning balance.
 - c. The only adverse effects of the Proposed Development beyond the acceptable temporary highways impacts, were:
 - Some minor and temporary noise and vibration effects during the construction phase, which remain following the application of mitigation to appropriately reduce those impacts (ExAR 9.2.25);
 - A minor negative socio-economic effect (ExAR 9.2.31);
 - Despite careful design, and as with any nationally significant energy project of this scale, some inevitable adverse significant landscape and visual effects, assessed by the ExA as being a factor entitled to moderate weight in the overall planning balance (ExAR 9.2.51 and 9.2.54); and
 - Less than substantial harm to the setting and significance of two heritage assets (the listed cottage known as Scotland and the Fort Cumberland scheduled monument with its associated listed buildings), which harm would not alone justify refusal of the Application, but to which considerable weight needed to be accorded (ExAR 9.2.62).

3.2.1.1. As recognised in NPS EN-1 the delivery of all energy infrastructure is likely to result in some adverse impacts and these should be weighed in the balance required by paragraph 4.1.3.

3.2.1.2. Whilst the ‘exceptional circumstances’ threshold is not engaged, the potential for an alternative at Mannington has, however, been considered in accordance with the relevant legal and policy requirements and as the ExA concluded “*there are no policy or legal requirements that lead it to recommend that consent be refused for the Proposed Development in favour of another alternative*” (ExAR 5.4.34). The rest of this chapter corroborates this conclusion with specific regard to Mannington.

3.3. APPROACH TO ALTERNATIVES

3.3.1.1. Section 3.1 of ES Addendum 3 sets out the overall approach to the consideration of alternatives involving a process of staged filtering which is not repeated in full here. Elements are, however, relevant for the consideration of the principles of NPS EN-1 paragraph 4.4.3 as considered in the next section having regard to the analysis and findings of the ES Addendum 3 in relation to the potential Mannington alternative connection.

3.4. PLANNING ANALYSIS OF THE MANNINGTON ALTERNATIVE

3.4.1.1. This section considers the assessment of the potential Mannington connection against the relevant Assessment Principles relating to alternatives at part 4.4 of NPS EN-1 and having regard to specific Generic Impact policies where relevant (i.e. where they specifically require an assessment of alternatives or they relate to a potentially significant adverse impact).

3.4.1.2. This analysis is based on the 2011 NPS EN-1 which continues to have effect for decision taking for the Proposed Development, although the emerging 2023 draft NPS EN-1 is potentially relevant.

3.4.1.3. The following assessment considers each of the bullet point principles, by which the decision maker should be guided, set out at paragraph 4.4.3 of NPS EN-1 in relation to the consideration of the Mannington alternative.

3.4.2. PARAGRAPH 4.4.3 BULLET POINT 1

3.4.2.1. The consideration of alternatives, including Mannington, has been undertaken in a proportionate manner which has enabled alternatives to be considered from a technical, cost and environmental perspective through a process of staged filtering with progressively increasing knowledge of each option.

- 3.4.2.2. In recommending approval, the ExA found that it was “*content that the Applicant has provided adequate information to describe and explain its assessment of alternatives in relation to the social and environmental effects, technical feasibility and costs*” and that the ExA was “*therefore content that the Applicant's consideration of alternatives is sound, that adequate information on a range of alternative routes and locations for the Proposed Development has been provided, and that the requirements of NPS EN-1 and the EIA Regulations have been met*” (ExAR 5.4.33).
- 3.4.2.3. The Applicant subsequently provided additional information in response to the Secretary of State's information request of 4 November 2021 concluding that “*the Proposed Development is considered by the Applicant to be the most suitable and appropriate form of development to realise the delivery of needed infrastructure of national significance*” (paragraph 2.21²).
- 3.4.2.4. As noted by Mrs Justice Lieven at paragraph 113 of her judgment at the point of taking the decision the Secretary of State “*had the quite clear statement from NGESO that there were difficulties, albeit unquantified ones, with using Mannington as the substation. Although NGESO do not say in terms that Mannington was not feasible, any fair reading of their letter alerts the reader to the significant difficulties of proceeding with that site*”.
- 3.4.2.5. The level of information provided in support of the DCO application was appropriate for a robust optioneering process and the reasons for not progressing Mannington were sound. Mrs Justice Lieven continues at paragraph 113 of her judgment to conclude that “*the highly speculative nature of Mannington being a realistic alternative again points strongly in favour of any rational SoS seeking further information*” (in the context of refusing the application on the basis of a potential alternative at Mannington).
- 3.4.2.6. A substantial amount of further information is now provided in this submission in response to the Secretary of State's request to add to the existing evidence in relation to the feasibility of Mannington substation as an alternative.

3.4.3. PARAGRAPH 4.4.3 BULLET POINT 2

- 3.4.3.1. As explained in the ES Addendum 3, key to the approach to considering alternatives was the identification of whether potential options could proceed, and whether they had a realistic prospect of delivering the same infrastructure capacity (including energy security and climate change benefits) in the same timescale – as guided by the second principle of paragraph 4.4.3.

² <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN020022/EN020022-004284-Applicant's%20Response%20to%20the%20Third%20Information%20Request.pdf>

- 3.4.3.2. As set out in the ES Addendum 3, a connection to Mannington substation would take significantly longer to deliver, as a consequence of the longer length of the marine cables adding two/three years to the construction timescales, separate from the need for additional upgrades to the NETS which (based on information from NGET and NGESO) would not be achievable until 2037 at the earliest – ten years later than the Proposed Development could be operable as where connecting into Lovedean. There would not, therefore, be a realistic prospect of a connection to Mannington substation delivering the same infrastructure capacity in the same timescale as the Lovedean connection.
- 3.4.3.3. This would therefore prevent the Proposed Development from delivering its social welfare and climate benefits and from contributing to the Government’s target set out in the Energy White Paper of achieving at least 18GW of capacity by 2030.
- 3.4.3.4. As addressed further under bullet point 6 there would, in fact, be no realistic prospect of delivering the same infrastructure capacity at all – as a connection at Mannington would render the project unviable.
- 3.4.3.5. In accordance with the second principle of paragraph 4.4.3 the SoS should take the inability of a Mannington connection to deliver the proposed infrastructure capacity in the same timescale into consideration when determining the weight to be given the Mannington alternative.
- 3.4.4. PARAGRAPH 4.4.3 BULLET POINT 3**
- 3.4.4.1. As drafted in the designated NPS EN-1 bullet point 3 is not applicable to the Proposed Development, though as noted above the draft 2023 NPS EN-1 proposes an amendment to remove the opening qualifying words of bullet point 3, so that it advises more broadly that the Secretary of State should *“not refuse an application for development on one site simply because fewer adverse impacts would result from developing similar infrastructure on another suitable site”*.
- 3.4.4.2. Where the relevant legal and policy tests relating to alternatives have been addressed (which the ExA concluded was the case at paragraph 5.4.34 of its report) and the Proposed Development is appropriate in planning terms, the SoS should not reject an application for development on one site simply because fewer adverse impacts would result from developing similar infrastructure on another site, taking into account that all suitable sites for energy infrastructure of the type proposed may be needed for future proposals. In any event, it is highly likely that the Mannington option would result in greater adverse environmental impacts than the Proposed Development (rather than fewer), as explained at section 3.11 of the ES Addendum.
- 3.4.5. PARAGRAPH 4.4.3 BULLET POINT 4**
- 3.4.5.1. Bullet point 4 is not applicable as Mannington is one of the main alternatives studied and reflected in the ES.

3.4.6. PARAGRAPH 4.4.3 BULLET POINT 5

- 3.4.6.1. Bullet point 5 advises that if the decision maker concludes that a decision to grant consent to a hypothetical alternative proposal would not be in accordance with the policies set out in the relevant NPS, the existence of that alternative is unlikely to be important and relevant to the decision.
- 3.4.6.2. The ES Addendum 3 explains that the land west of Gundry's Farm provides the only potential location for the Converter Station at Mannington and provides a preliminary environmental review of this as an alternative Converter Station site. The ES Addendum 3 also provides preliminary environmental information in relation to two principal options for an onshore cable route (assuming the Farmer's Field west of Milford on Sea as the landfall location for the purposes of assessing the feasibility of a connection at Mannington Substation).
- 3.4.6.3. This section does not provide a full analysis against every policy that may be relevant to a theoretical scheme connecting into Mannington, though it addresses key NPS EN-1 policies where the ES identifies the potential for significant effects. This also draws on the ExA's and Secretary of State's conclusions on the Navitus Bay DCO where relevant.
- 3.4.6.4. In making its recommendation, the ExA for the Navitus Bay application concluded that the matters against making the Navitus Bay DCO were not outweighed by the matters in its favour. In doing so the ExA concluded that the proposal would conflict with NPS policy for the following main reasons (at para 24.0.5 of their report):
- *“Although the applicant has sought to provide reasonable mitigation where possible and appropriate, there would be a residual significant adverse impact on the qualities underpinning Dorset and Isle of Wight AONBs.*
 - *Conflict between conservation of the significance of heritage assets, including a World Heritage Site, and proposals for development would not be minimised or avoided.*
 - *The very special circumstances required to justify the harm occasioned by inappropriate development in the Green Belt and other harm would not exist as the benefits would not clearly outweigh the harm identified.*
 - *For the same reasons, the exceptional circumstances required to justify granting consent in the New Forest National Park does not exist.”*
- 3.4.6.5. Although the Navitus Bay application was for a different project, and some of these conclusions relate only to the impact of the proposed turbines and which are not common to the Proposed Development, the conclusions in relation to the substation site and cable route provide a helpful benchmark for the theoretical AQUIND Interconnector alternative.

Substation connection and converter station locations

Landscape and Visual Amenity

- 3.4.6.6. The Navitus Bay Wind Park ES (Chapter 12 – Landscape and Visual) assessed the landscape and visual impact of the onshore substation proposed for that scheme at the Gundry’s Farm site.
- 3.4.6.7. Construction of the onshore substation would result in localised alteration to the local landscape fabric though impacts on the landscape’s defining characteristics were assessed to be minor during construction and negligible during operation and maintenance. At Gundry’s Farm changes to the immediate landscape were assessed to result in moderate levels of impact, regarded as not significant. The ExA concluded that although effects would be significant the temporary nature of construction works aligned with good practice would not lead to long term implications during construction (para 8.5.1).
- 3.4.6.8. With regard to visual impact it was concluded that *“construction of the substation would result in a major impact on receptors living and working at Gundry’s Farm (Onshore VP 01 wireframe and photomontages). The completed substation would also lead to a major impact initially, but reduce to major-moderate within about 15 years, once the planting is established. In both instances the LVIA predicted significant effects”* (para 8.4.3). The impacts predicted for remaining viewpoints were considered not significant on visual receptors. The ExA concluded that the applicant had sought to minimise the harm and provided reasonable mitigation where possible and appropriate, in accordance with EN-1.
- 3.4.6.9. As noted at paragraph 21 of the Secretary of State’s decision letter whilst *“the ExA does note that some of the effects of the onshore works, while relatively short term/temporary, would be significant in some cases. Nevertheless, the ExA indicates that the landscape and visual impacts of the onshore elements of the project should not attract significant weight in the decision on whether consent should be granted”*.
- 3.4.6.10. As noted in the ES Addendum 3 the impacts arising from the Converter Station are expected to be greater given the increased height and mass of the Converter station (up to 26m in height with 30m lightning masts) compared to the Navitus Bay substation (14m high with 19m lightning masts). Given the height of the Converter Station additional mitigation would be required over and above that proposed for Navitus Bay, though it would unlikely be possible to screen the whole of the buildings irrespective of how much time passes. The ES Addendum concludes, that *“there is therefore potential for additional residential receptors to experience more significant and longer term effects, even after mitigation”*.

- 3.4.6.11. Paragraph 5.9.8 of NPS EN-1 notes that virtually all nationally significant energy infrastructure projects will have effects on the landscape and the aim should be to minimise harm providing reasonable mitigation where possible and appropriate. While the Converter Station may result in landscape impacts which may weigh against development consent, these may be unlikely to attract substantial weight where reasonable mitigation is proposed as far as possible (albeit noting the limitations of what mitigation could achieve in this location).
- 3.4.6.12. With regard to visual impacts paragraph 5.9.8 similarly advises that all energy infrastructure is likely to have visual effects for many receptors around the proposed site and it is for the SoS to judge whether the visual effects on sensitive receptors, such as local residents, and other receptors outweigh the benefits of the project. Whilst there is the potential for more significant and longer term visual effects than the Navitus Bay proposal, which could weigh against development in the overall planning balance, the benefits of AQUIND Interconnector are such that it is considered they could outweigh the adverse visual effects.
- 3.4.6.13. Similarly, whilst development in the NFNP and in the Green Belt are constraints, the benefits of AQUIND Interconnector are such that exceptional circumstances and very special circumstances respectively may exist (noting that these are tests that do not apply to the Proposed Development connecting at Lovedean given its location in areas not subject to the same exceptional requirements).
- 3.4.6.14. In conclusion, whilst it is not anticipated that landscape and visual effects of a connection at Mannington would represent a reason consent must be refused, greater weight may be given to the adverse visual impacts at Mannington in the planning balance than for Navitus Bay given the greater anticipated level of impacts and that those will not be capable of being mitigated to the same degree.
- Historic environment**
- 3.4.6.15. Two Listed Buildings, the Grade II listed 'Bridge ID 1323513' and 'Chapel Farm Cottage' (ID 1154835), are located 350m west and 1.1km to the east of the Mannington substation, respectively.
- 3.4.6.16. Although the Navitus Bay ExA did not make a conclusion of 'less than substantial' harm on the significance of these assets as it did for six other designated heritage assets (the ExA did not conclude 'substantial harm' on any designated assets) it is likely that given the greater scale of the Converter Station in comparison to the Navitus Bay onshore substation the impacts on the two listed buildings, or at least the most proximate, could amount to less than substantial harm which the Secretary of State would need to weigh against the public benefit for the development (in accordance with paragraph 5.8.15).

3.4.6.17. Whilst it is not anticipated that (given the need and benefits of the Proposed Development) this would represent a direct reason for refusal it may weigh against consent in the overarching planning balance (as noted above the ExA advised that considerable weight needed to be accorded to less than substantial harm in relation to the listed cottage known as Scotland and the Fort Cumberland scheduled monument with its associated listed buildings).

Ecology and nature conservation and arboriculture

3.4.6.18. The Navitus Bay ExA concluded that the application met the requirements of NPS EN-1 in relation to onshore ecology and ornithology.

3.4.6.19. The ES Addendum 3 outlines the conclusions of the Navitus Bay HRA and the design of the construction works to ensure activities would be confined to three habitat types that are not designated features within Dorset Heaths SAC and Dorset Heathlands Ramsar site, and concluded no adverse effect on their integrity, no direct impacts and no unmitigated indirect impacts.

3.4.6.20. It is anticipated that similar working practices would be adopted for the Proposed Development, though given the larger footprint of the buildings and likely larger construction area there may be greater habitat loss and a requirement for more mitigation planting.

3.4.6.21. It is possible that the extended footprint and construction area may involve encroachment into ancient woodland or veteran trees which are afforded In accordance with paragraph 5.3.14 of EN-1 consent should not be granted for any development that would result in its loss or deterioration unless the benefits (including need) of the development, in that location outweigh the loss of the woodland habitat.

Amenity – noise and vibration

3.4.6.22. During construction it is likely that the Mannington option would require similar working hours to the Proposed Development and therefore result in significant but temporary noise effects (and as Mannington is located in a more urbanised area more receptors would be impacted than at Lovedean). The ES Addendum 3 notes that there is a potential need for further noise attenuation measures (i.e. at the Converter Station or nearby) in connection with operation where the same levels of embedded mitigation provided by the layout and orientation is not available due to spatial constraints.

3.4.6.23. As for the Proposed Development the effects during construction would, however, be temporary and short term and appropriately reduced through best practice and other mitigation and as the ExA concluded for the Proposed Development “*noise and vibration effects would be managed in a manner that complies with NPS EN-1*”.

Onshore Cable Route

3.4.6.24. The ES Addendum 3 assesses two options for an onshore cable route namely the Navitus Bay DCO application route and the ‘By road’ route.

Landscape and Visual Amenity

3.4.6.25. During construction, the Mannington option would have likely significant but temporary effects on character of view and visual amenity for private residents at Hare Lane and users of PRow at Breakhill Copse. There would also be likely significant and temporary effects on landscape during construction due to localised disruption to the landscape of the New Forest National Park.

3.4.6.26. The Navitus Bay ExA concluded that for that scheme, adopting the same onshore route, *“there would be effects on the landscape character and visual receptors as a consequence of onshore cable laying. The effects of the cable laying at construction stage would be temporary, and reduced through suitable working practices”* (paragraph 8.3.58). The ExA then concluded that the long term effects of the Cable Corridor would be reduced by proposals to lay the cables underground and various compensation measures and control plans.

3.4.6.27. As for the converter station location it is considered that the need and benefits of the Proposed Development are capable of satisfying the tests of exceptional circumstances and very special circumstances for development in the SDNP and Green Belt respectively (though again noting that these are tests that do not apply to the Proposed Development connecting at Lovedean).

Ecology and nature conservation and arboriculture

3.4.6.28. During construction, there would be likely significant effects on terrestrial ecology and onshore birdlife due to potential damages and disturbances to designated habitats and protected species. Additional mitigation measures would be required, including the restoration of habitats damaged during construction phase, the creation of additional wooded heath and heathland habitats off-site, scheduling of construction activities to avoid disturbance, as well as specific measures to be adopted to ensure compliance with relevant wildlife legislation.

3.4.6.29. There is, however, no reason to reach a different conclusion than the Navitus Bay ExA that with mitigation measures in place the application would be capable of meeting the requirements of NPS EN-1 for onshore ecology and ornithology.

Amenity – noise and vibration

3.4.6.30. In relation to construction noise, it is likely that the Mannington option would require some out of hours working time and therefore result in significant but temporary noise effects. As for the converter station site, the effects during construction would, be temporary and short term and appropriately reduced through best practice and other mitigation.

Cultural heritage

3.4.6.31. During construction, there would be likely significant effects on one cultural heritage site - Golden Hill marl pit – located within an area of deciduous woodland at Ashley Lane in Hordle, as well as a number of other sites along the cable where more localised and detailed assessment and Written Scheme of Investigation measures would avoid or minimise impacts to these sites.

Landfall

Landscape and Visual Amenity

- 3.4.6.32. During construction, the Mannington option would have likely significant effects on character of views and visual amenity for users of PRoW at the landfall, and during operation would have likely significant effects on landscape features (openness), residents and recreational users immediately after construction – though reducing to no significant effects once planting matures. As for the onshore cable route adverse impacts would, therefore, be temporary.

Marine Cable Route

- 3.4.6.33. The ES Addendum 3 concludes that the Alternative Marine Cable Corridor (AMCC) options W1 and W2, one of which would be required for a connection to the landfall for the Mannington alternative, would be significantly greater in length compared to the Proposed Marine Cable Corridor (PMCC).
- 3.4.6.34. Whilst both would be routed to avoid most marine constraints the AMCCs would be considerably more convoluted due to many protected areas and other obstructions located to the west of the PMCC.
- 3.4.6.35. The ES Addendum 3 concludes that compared to the PMCC, the AMCCs would also likely result in greater impacts to the marine environment from an EIA and HRA perspective due to the closer proximity of the AMCCs to the large number of marine designated sites (protecting sensitive habitats) in this area. In addition, less favourable conditions in the area of the AMCCs would result in a likely need for more cable protection which will very likely be required which can also have adverse impacts to the marine environment.
- 3.4.6.36. The marine cable for the Mannington option would result in commensurately greater potential impacts and risks to marine designated sites, the broader marine environment and shipping operations compared to the Lovedean solution which would minimise these risks.
- 3.4.6.37. Even in the event that the Secretary of State did not consider the greater impacts on the marine environment to represent reasons for refusal, they would certainly weigh more heavily in the negative side of the balance compared to the ‘neutral’ conclusion for the Proposed Development (ExAR 7.6.30).

3.4.7. PARAGRAPH 4.4.3 BULLET POINT 6

- 3.4.7.1. Bullet point 6 is clear that alternative proposals which mean the necessary development could not proceed, for example because the alternative proposals are not commercially viable or alternative proposals for sites would not be physically suitable, can be excluded on the grounds that they are not important and relevant to the decision.

3.4.7.2. Mrs Justice Lieven stated that *“this is the criterion which makes it of imperative importance to understand what National Grid’s position was in respect of Mannington. It is apparent from the letter of 25 January 2021 that NGESO considered there were material difficulties with a connection at Mannington (or the other locations west of Lovedean) because of the need to make further reinforcements to the network. That could reasonably have been interpreted as meaning that the sixth bullet point was not met”* (paragraph 86).

3.4.7.3. The ES Addendum 3 addresses the current constraints and improvements that would be required, and the associated cost, to enable the Proposed Development to connect to Mannington substation. In summary:

- an area of land would be required to accommodate two new interconnector connection bays, an extension to the double busbar substation to accommodate those, including the additional bus coupler and section breakers, which would be expected to be approximately 3,600sqm. Any such extension would most likely be into the bordering woodland so as to be contiguous with the existing substation, and would result in the loss of such trees (including possibly Ancient Woodland where not able to be located elsewhere) and also likely a requirement for new mitigation planting;
- the Mannington option would require a longer onshore cable connection with extensive significant potential effects on designated sites, protected species and cultural heritage. There would be much more wide-ranging effects on agricultural land with the need for a much more substantial mitigation and compensation package. The urban nature of the route for the Lovedean onshore cable option avoids these potential effects;
- the marine cable for the Mannington option would need to be much longer with commensurately greater potential impacts and risks to marine designated sites, the broader marine environment and shipping operations;
- connection to Mannington substation would take significantly longer with a longer marine and onshore cable routes adding two or three years to the construction timescales;
- this additional time to deliver the Proposed Development is separate from the need for additional works to reinforce the NETS so that the Proposed Development can operate and the time required for those works to be delivered (which would not be delivered until 2037 at the earliest);

- from a cost perspective, it is identified that a connection to Mannington Substation would be likely to cost an additional £334m - £457m. This is comprised of the estimated additional costs associated with the onshore cable and the additional trenchless crossings needed to reduce the overall level of environmental impacts, and the additional length of the marine cables. This additional cost (plus the significantly longer timescale for delivery) would mean that the project would no longer be commercially viable; and
- this is separate from the likely significant additional costs to deliver the required reinforcement works to the NETS, which would be in addition to this amount. It is evident that such costs would be significant and at least in the order of multiple hundreds of millions of pounds.

3.4.7.4. As the Mannington alternative would not be commercially viable (as well as being potentially physically unsuitable for the necessary connection) this would render the Proposed Development undeliverable – thereby engaging the sixth bullet point of paragraph 4.4.3. Accordingly the alternative of Mannington can be excluded as not important and relevant to the SoS decision and given no weight.

3.4.8. PARAGRAPH 4.4.3 BULLET POINT 7

3.4.8.1. Bullet point 7 is not directly applicable as Mannington is one of the main alternatives studied and reflected in the ES and the Applicant has sought to demonstrate in detail how a connection could theoretically be provided.

3.4.9. PARAGRAPH 4.4.3 BULLET POINT 8

3.4.9.1. Similarly Bullet point 8 is not directly applicable as Mannington was assessed by the Applicant in the ES as a potential reasonable alternative (rather than it having been first put forward by a third party post submission) although it is of note that the SoS alone identified the need to further consider Mannington as an alternative connection point when considering his decision on the Application.

3.5. CONCLUSION

3.5.1.1. Siting the Converter Station at Mannington would likely lead to greater levels of impact than the Navitus Bay onshore substation, particularly landscape and visual, and could be given greater weight in the negative side of the planning balance. It is also highly likely that the Mannington option would result in greater environmental impacts than the Proposed Development connecting at Lovedean. It is identified that it is unlikely, however, that the siting of the Converter Station at Mannington (and associated alternative cable routes) would result in any direct policy conflict where appropriate mitigation is in place, and when balanced against the substantial need for and benefits of the Proposed Development.

- 3.5.1.2. A connection at Mannington would, however, not be capable of delivering the same infrastructure capacity in the same timescale as the Proposed Development. Firstly, the longer marine cable route would add two or three years to the construction timescales. Secondly the additional reinforcement works to the NETS required for a connection at Mannington would mean it would be 2037 at the earliest before the Proposed Development could be operable – ten years later than the delivery of the Proposed Development.
- 3.5.1.3. Furthermore, and even more fundamentally, a connection at Mannington would not represent a commercially viable alternative, such that it would not come forward and there is no prospect of it delivering the Proposed Development's infrastructure capacity at all, thus failing to deliver significant social welfare and climate benefits of the Project and to contribute to the Government's objectives of achieving 18GW of interconnection capacity by 2030.
- 3.5.1.4. On these grounds the theoretical alternative for a connection at Mannington should be excluded as not important and relevant to the SoS's decision, and should not attract any weight.

4. UPDATED OR EMERGING POLICY

4.1. INTRODUCTION

4.1.1.1. As confirmed in Chapter 2 of this report there are no changes to environmental information or additional cumulative effects that would alter the conclusions drawn by the ExA in relation to planning policy compliance or the weight attached to impacts and benefits in the overarching planning balance.

4.1.1.2. This section of the report provides an updated policy analysis where any adopted or emerging national or local policy has evolved since preparation of the Planning Statement for the application in November 2019 insofar as emerging or updated policy may be relevant at this stage having regard to applicable transitional arrangements.

4.2. DRAFT NPS EN-1

4.2.1.1. The section 35 direction states that EN-1 “*should apply to the application as it would to a generating station of a similar generating capacity as the capacity of the interconnector*”. A draft revised NPS EN-1 was published for consultation in September 2021 and a further revised draft published for consultation in March 2023. The revised draft retains much of the designated EN-1 but proposes a number of changes and updates.

4.2.1.2. The transitional arrangements in the 2023 draft NPS confirm that applicants for development consent accepted for examination before the designation of the 2023 amendments should be considered against the designated 2011 EN-1. The 2023 amendments will only have effect to applications accepted for examination after their designation. Paragraph 1.6.3 of draft EN-1, however, advises that any emerging NPS are “*potentially capable of being important and relevant considerations in the decision making process. The extent to which they are relevant is a matter for the relevant Secretary of State to consider within the framework of the Planning Act and with regard to the specific circumstances of each development consent order application*”.

4.2.1.3. To assist the Secretary of State AQUIND have therefore provided a summary of the key changes and an assessment of compliance against those policies as amended.

4.2.1.4. It is important to note, however, that both consultation drafts were published for consultation after the close of the examination in March 2021 and after the receipt of the ExA’s recommendation report in June 2021.

4.2.2. NEED FOR ENERGY INFRASTRUCTURE

4.2.2.1. The 2023 draft EN-1 strongly reinforces the urgent need for a significant amount of new energy infrastructure – to meet the objectives of a secure, reliable, affordable and net zero consistent energy system (para 2.3.3).

4.2.2.2. The 2023 draft EN-1 specifically recognises the role of interconnectors in delivering the Government’s energy objectives providing flexibility and supporting security of supply. It states at paragraph 3.3.30 that “*interconnection facilitates a secure, low carbon electricity system at the lowest cost*” and that “*the UK recognises the benefits of increasing levels of interconnection and has an ambition to realise at least 18GW of existing and planned interconnector capacity by 2030*”.

4.2.2.3. As per the designated EN-1, the SoS is required to give substantial weight to the need established in the NPS in decision making (paras 3.1.2 and 3.2.6).

4.2.2.4. Further detail on what the draft says in relation to need is provided in the Needs and Benefits Third Addendum.

4.2.3. ASSESSMENT PRINCIPLES

4.2.3.1. The 2023 draft EN-1 retains much of the Assessment Principles text of part 4 of EN-1, with various proposed alterations, including in brief summary:

- General policies and considerations (4.1) – retains the presumption in favour of granting consent. Paragraph 4.1.3 (4.1.5 in the draft) would be amended to add that the Secretary of State should take into account the ‘reduction of geographical disparities’ and ‘environmental enhancements’ in the positive side of the planning balance and specifying that adverse impacts in the negative site can include environmental impacts (and that measures to reduce impacts should follow the mitigation hierarchy);
- Environmental principles (4.2) – in addition to the proposed updates on alternatives (as addressed earlier in chapter 3 of this report) this section is updated to reflect the 2017 EIA regulations and adds reference to the legally binding targets for England through the Environment Act 2021;
- Health (4.3) – retains existing policy text and reiterates that health concerns would be unlikely to constitute a reason to refuse consent or require specific mitigation under the PA2008 regime;
- Marine considerations (4.4) – confirms the requirements under s104 of the PA2008 to have regard to any appropriate marine policy documents in decision making;
- Environmental and biodiversity net gain (4.5) – states projects should consider opportunities for environmental enhancements and confirming that achieving biodiversity net gain is not currently an obligation on applicants;
- Good design (4.6) – adds that applicants are encouraged to take independent professional advice on the design of a proposal and further criteria have been introduced for the SoS in their consideration;
- Consideration of CHP (4.7) – various updates proposed but this section not relevant to the application;

- Carbon capture and storage (4.8) - various updates proposed but this section not relevant to the application;
- Climate change adaptation (4.9)– requires applicants to take reasonable steps to maximise the use of nature-based solutions alongside other conventional technique and employ integrated approaches. The decision making policies remain largely unchanged;
- Network connection (4.10) – advises that the Secretary of State should be satisfied that appropriate network connection arrangements are/will be in place for a given project regardless of whether one or multiple (linked) applications are submitted;
- Pollution controls and other environmental regulatory regimes (4.11) – retains the advice that the Secretary of State should work on the assumption that pollution control and other regulatory regimes will be properly applied and enforced by the relevant regulator;
- Safety (4.12) – the Proposed Development would not be subject to the COMAH Regulations, consequently this policy is not relevant;
- Hazardous substances (4.13) – no material changes and applicable only where hazardous substances consent is applied for;
- Common law nuisance and statutory nuisance (4.14) – no material changes;
- Security considerations (4.15) - no material changes.

4.2.3.2. It is not considered that there are any changes to the Assessment Principles, insofar as they are relevant as draft amendments, that would change the applicant's conclusions on these policies as set out in the Planning Statement and in the ExA's conclusions on these principles where relevant.

4.2.3.3. With regard to the addition of a principle in relation to environment and biodiversity net gain and the passing of the Environment Act 2021 into law on the 9th November 2021, the Applicant's Response to the Third Information Request confirmed that whilst there is no current legal obligation to deliver a net gain of not less than ten percent the Proposed Development has taken opportunities to conserve and enhance biodiversity, informed by baseline and post-development calculations of biodiversity units using Biodiversity Metric 2.0 (Natural England 2019) and which provides an indication of the biodiversity outcomes for the Proposed Development, is provided within the Biodiversity Position Paper [REP3-012].

4.2.3.4. With regard to the amendments to Paragraph 4.1.3 on the factors that should be taken into account in the planning balance the Proposed Development would contribute to a ‘reduction in geographical disparities’ by supplying an area of high demand requiring less electricity to flow from north to south, leading to reduced balancing actions. This would contribute to a reduction in constraint costs and help drive down consumer costs. These matters already weigh positively in the planning balance though are given greater emphasis through this proposed addition to the policy text.

4.2.4. **GENERIC IMPACTS**

4.2.4.1. The Generic Impacts section of EN-1 currently covers thirteen topics. The Planning Statement [[APP-108](#)] (Ref 5.4) provided an assessment of the onshore components of the Proposed Development against each of the Generic Impact headings where (in accordance with the section 35 direction) the impacts described are relevant to the Proposed Development.

4.2.4.2. The ExA’s report provides its findings in relation to relevant Generic Impact policies following examination of the application.

4.2.4.3. The 2023 draft EN-1 retains much of the existing Generic Impact policy subject to various proposed amendments and updates and also proposes the addition of Greenhouse Gas Emissions as an additional Generic Impact topic.

4.2.4.4. Like the designated EN-1, each topic in the draft is set out providing an introduction, the expectations for the applicant’s assessment and sections on decision making and mitigation.

4.2.4.5. **Appendix A** of this report provides a summary of the principal proposed changes to each Generic Impact topic and commentary on the implications of these proposed changes. Note that this addresses only the principal proposed changes to the policies in summary and does not intend to replicate a full assessment against the Generic Impact policies in full.

4.2.4.6. There are a number of proposed changes that involve drafting or format led changes that do not affect or amend the nature of the policy. This note only addresses changes which add to or amend existing policy in a substantive way.

4.2.5. **CONCLUSION**

4.2.5.1. Under the transitional arrangements set out in the 2023 draft EN-1 the designated 2011 NPS EN-1 will continue to have effect for the application for development consent for the Proposed Development. The emerging draft policies in the 2023 consultation draft can be important and relevant considerations under s104 of the PA2008 although given the early stage (the consultation is still current) limited weight can be afforded to the draft policies.

4.2.5.2. Whilst there are proposed amendments to policies in relation to the expectations for the applicant’s assessment (including reference to provisions, guidance or data emerging after the examination of the application) – for example the new requirement for a stand-alone GHG assessment - it is not considered that the updates to decision making policies in the Generic Impacts have any material bearing on the conclusions reached by the ExA on these topics in making its recommendation.

4.2.5.3. The publication of the 2023 draft EN-1 does, however, further strengthen the urgent need for energy infrastructure including specific reference to the role of interconnectors.

4.3. NATIONAL PLANNING POLICY FRAMEWORK

4.3.1.1. At the time of submission in November 2019, and of the ExA’s report in June 2021, the extant version of the NPPF was the revised NPPF published in February 2019.

4.3.1.2. This was replaced by the current NPPF published in July 2021 and a revised draft NPPF was released for consultation in December 2022 (between 22 December 2022 to 2 March 2023).

4.3.1.3. Paragraph 5 of the February 2019 NPPF confirmed “*the Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework). National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications*”. The ExA in its report noted that the NPPF and associated guidance are likely to be important and relevant considerations in decisions on NSIPs, but only to the extent relevant to that project. The text at paragraph 5 remains unchanged in the current July 2021 version and in the revised December 2022 draft.

4.3.1.4. The ExA, as noted at paragraph 4.7.3 of its report, considered some parts of the NPPF to be important and relevant to the application and highlights these in the topic sections of the recommendation report.

4.3.1.5. **Appendix B** of this report lists the policies within the NPPF that were referred to by the ExA in its report (i.e. those it considered to be important and relevant) noting any changes to those policies in the current NPPF and proposed changes in the emerging draft and commentary on the implications of these changes. Like Appendix A dealing with proposed changes to NPS EN-1 this deals only with the changes and proposed changes and is not intended as a full assessment against each NPPF policy.

4.3.2. CONCLUSION

- 4.3.2.1. The ExA noted that the NPPF polices may be matters considered to be both important and relevant (paragraph 3.10.3) and makes reference to various policies within its report. The table at Appendix B demonstrates that there has been very little change to the polices which the ExA considered to be relevant through reference in its report, from the 2019 NPPF to the current 2021 NPPF and the emerging 2022 draft NPPF.
- 4.3.2.2. The adoption of the replacement NPPF in 2021 and publication of the draft in 2022 therefore have no material bearing on the conclusions set out in the overall planning balance in the ExA's report.

4.4. LOCAL PLANNING POLICY

- 4.4.1.1. NPS EN-1 confirms that policies in development plans and other local development framework documents may be considered important and relevant in decision making. The ExA advised at paragraph 3.12.3 that *“the ExA considers parts of the development plan to be important and relevant and these have accordingly been considered as part of the policy context for the Proposed Development. In the event of a conflict, the NPSs prevail for the purpose of decision making by the Secretary of State”*.

- 4.4.1.2. The Planning Statement [[APP-108](#)] (Ref 5.4) set out a summary of local plan policies at Appendix 4 and as noted at paragraph 3.12.4 none of the local authorities raised any issues with that summary of relevant policies.

4.4.2. EAST HAMPSHIRE

- 4.4.2.1. The adopted development plan for EHDC remains unchanged from that at the time of submission of the application, comprising:

- The Local Plan Part 1: EHDC and South Downs National Park Authority Joint Core Strategy adopted June 2014.
- The Local Plan Part 2: Housing and Employment Allocations adopted April 2016.
- Saved policies from The Local Plan Second Review 2006 adopted March 2006.

- 4.4.2.2. As stated in the Planning Statement [[APP-108](#)] (Ref 5.4) none of the EHDC Development Briefs or Supplementary Planning Guidance are relevant to the Proposed Development. No made or emerging Neighbourhood Plans or designated Neighbourhood Areas are on the Onshore Cable Corridor.

- 4.4.2.3. The ExA's report lists the relevant EHDC development plan policies at paragraph 3.12.6.

- 4.4.2.4. A Climate Change and Sustainable Construction SPD was adopted in April 2022 though this is not directly applicable to the Proposed Development (other than providing further general support for low carbon energy and infrastructure).

4.4.2.5. As also reflected at paragraph 3.12.6 of the ExA's report a draft Emerging Local Plan 2017-2036 and Emerging Future Allocations documents were being progressed by EHDC. In May 2022 EHDC confirmed suspension of the Emerging Local Plan preparation and to return to Regulation 18 consultation due to the need to revisit the emerging local plan policies in response to further changing government guidance and increased housing requirements. EHDC stated that further early-stage consultation will also allow the emerging Local Plan to better address climate change and strive towards net zero carbon development.

4.4.2.6. Further to this, a draft Local Plan Regulation 18 Part 1 document was consulted on between November 2022 and January 2023. The purpose of this consultation (in accordance with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012) was to invite comments on key issues, priorities and what the plan should contain. The consultation document does not include any detailed development management policies or site allocations. The emerging plan can therefore be afforded very limited weight at this early stage of preparation.

4.4.2.7. There is, therefore, no change to the relevant development plan policies listed at paragraph 3.12.6 of the ExA's report (other than that the draft policies from the draft Emerging Local Plan are no longer relevant).

4.4.3. WINCHESTER CITY COUNCIL

4.4.3.1. At time of submission the relevant development plan documents for WCC included the following:

- Local Plan Part 1: WCC and SDNPA Joint Core Strategy adopted March 2013.
- Local Plan Part 2: Development Management and Allocations adopted April 2017.
- Denmead Neighbourhood Plan 2011-2031 adopted April 2015.
- Draft Traveller Development Plan Document, pre-submission version published January 2018.
- Denmead Village Design Statement Supplementary Planning Document adopted February 2016.

4.4.3.2. The ExA's report lists the relevant development plan policies at paragraph 3.12.7.

4.4.3.3. The adopted development plan for WCC remains unchanged other than the adoption of the Traveller Development Plan document in 2019.

4.4.3.4. In terms of emerging policy, the Planning Statement [[APP-108](#)] (Ref 5.4) referred to a new Local Plan which was at very early stages. This was subsequently suspended and a new draft “Your Place Your Plan Winchester District Local Plan” was published in November 2022 regulation 18 consultation following earlier initial consultation on strategic issues and priorities. The Regulation 18 consultation document (unlike EHDC and HBC’s Regulation 18 consultations) sets out proposed draft policies including proposed allocations. This is still, however, at an early stage of production and will go through further consultation at Regulation 19 (publication) stage prior to submission and examination before anticipated adoption in August 2024. The emerging plan can therefore be afforded very limited weight at this early stage of preparation.

4.4.3.5. There is therefore no change to the relevant development plan policies listed at paragraph 3.12.7 of the ExA’s report (other than that the Traveller DPD is now adopted).

4.4.4. HAVANT BOROUGH COUNCIL

4.4.4.1. The development plan for HBC at the time of submission in November 2019 included the following:

- Local Plan (Core Strategy) adopted March 2011.
- Local Plan (Allocations) adopted July 2014.

4.4.4.2. The ExA’s report lists the relevant adopted development plan policies at paragraph 3.12.8.

4.4.4.3. The Planning Statement [[APP-108](#)] (Ref 5.4) stated that none of HBC’s Supplementary Planning Documents were considered relevant and there are no made / emerging Neighbourhood Plans or designated Neighbourhood Areas along the Onshore Cable Corridor of the Proposed Development.

4.4.4.4. The adopted development plan for HBC remains unchanged.

4.4.4.5. At the time of writing the Planning Statement [[APP-108](#)] (Ref 5.4) HBC had commenced work on a new draft Emerging Local Plan 2020. This was at early stages and had been through pre-submission consultation. This process was subsequently paused and a further Regulation 18 consultation on a new local plan “Building a Better Future” was progressed in October 2022. The consultation document represented a discussion paper that explores the key issues through early consultation rather than proposing draft policies. It is expected that the new plan will be adopted in 2025 following further consultation stages. The emerging plan can therefore be afforded very limited weight at this early stage of preparation.

4.4.4.6. There is, therefore, no change to the relevant development plan policies listed at paragraph 3.12.8 of the ExA’s report (other than that the references to the draft Emerging Local Plan 2020 are no longer relevant).

4.4.5. PORTSMOUTH CITY COUNCIL

- 4.4.5.1. The relevant development plan documents for PCC, at the time of submission included the following:
- Portsmouth Plan (Portsmouth Core Strategy) adopted January 2012.
 - Saved policies of the Portsmouth City Local Plan adopted July 2006.
- 4.4.5.2. Various SPDs were referred to in the Planning Statement [[APP-108](#)] (Ref 5.4) including:
- Seafront Masterplan Supplementary Planning Document (SPD) adopted April 2013.
 - Eastney Beach Habitat Restoration and Management Plan SPD adopted December 2014.
 - Parking Standards and Transport Assessments SPD adopted July 2014.
 - Air Quality and Pollution SPD adopted March 2006.
 - Developing Contaminated Land Supplementary Planning Guidance ('SPG') adopted February 2004.
- 4.4.5.3. The ExA's report referred to various adopted development plan policies (and SPDs) at paragraph 3.12.9.
- 4.4.5.4. The current status of the adopted development plan for PCC remains largely unchanged other than the adoption of the Milton Neighbourhood Development Plan, in August 2022. Local policies contained in the neighbourhood plan are of limited relevance to the Proposed Development though it is noted that Milton Common, through which the Onshore Cable Corridor passes, is designated as Local Green Space where development would only be allowed in very special circumstances. The routing of the cable route through Milton Common was addressed in the application (having regard to its use as open space and SINC designation with various mitigation measures proposed) and considered at examination. The works at Milton Common would be a non-continuous 23 week period with several alternative permissive paths available that recreational users could utilise during construction works.
- 4.4.5.5. As summarised in the ExAR (7.4.67) the Environmental Statement (table 25.14 in Chapter 25) concluded that the mitigated effects at Milton Common would not be significant, and PCC "*did not object to the use of Milton Common as a potential cable route option on the basis of recreational disturbance at the end of the Examination*" (ExAR 7.4.68). Given the urgent need for the delivery of energy infrastructure and associated benefits the very special circumstances exist for short term development impacts on the designated Local Green Space.
- 4.4.5.6. The Seafront Masterplan Supplementary Planning Document (SPD) has also been updated since the original planning application and was adopted in March 2021.

4.4.5.7. PCC consulted on a draft Local Plan under Regulation 18 in Autumn 2021 (following an Issues and Options stage in 2017 and consultation on the evidence base in 2019). The plan is scheduled to be adopted in 2024 and currently holds very limited weight.

4.4.5.8. There is therefore no change to the relevant development plan policies listed at paragraph 3.12.9 of the ExA's report other than that the Milton Neighbourhood Development Plan forms part of the development plan and the Seafront Masterplan SPD has been updated.

4.4.6. HAMPSHIRE COUNTY COUNCIL

4.4.6.1. The ExA's report at paragraph 3.12.11 refers to relevant policies in the Mineral and Waste Plan 2013, which remains adopted policy.

4.4.6.2. A consultation on a draft partial plan update was held from 8 November 2022 to 31 January 2023.

4.4.7. SOUTH DOWNS NATIONAL PARK AUTHORITY

4.4.7.1. The ExA's report at paragraph 3.12.10 refers to relevant policies in the South Downs Local Plan 2019 which remains adopted policy with no emerging draft plan.

4.4.8. CONCLUSION

4.4.8.1. The ExA noted in its report that it considered parts of the development plan to be important and relevant and that these had been considered as part of the policy context for the Proposed Development (ExAR 3.12.3).

4.4.8.2. As set out in this section, there has been very little change to the adopted development plan position since the publication of the ExA's report and any emerging policy is at an early consultation stage. The policies that the ExA took into consideration in its recommendation for approval (as listed at paragraphs 3.12.6 to 3.2.11) therefore remain up to date (other than references to draft plans that have been subsequently abandoned and the addition of the Milton Neighbourhood Development Plan and a small number of SPDs).

5. PLANNING BALANCE

- 5.1.1.1. In accordance with paragraph 4.1.2 of NPS EN-1 the Secretary of State is required to start with a presumption in favour of granting consent unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused. Paragraph 4.1.3 then advises the Secretary of State of the matters that should be taken into account in weighing any adverse impacts against its benefits.
- 5.1.1.2. In recommending approval, the ExA found that *“overall, the need case for the Proposed Development strongly outweighs the identified disbenefits”* (paragraph 12.2.1). As noted by Mrs Justice Lieven in her judgment of 24 January 2023 (*R (on the application of AQUIND Ltd) v Secretary of State for Business, Energy & Industrial Strategy [2023] EWHC 98 (Admin)*), the ExA had therefore *“found that the case being advanced ... went beyond the simple policy presumption in terms of the benefits of the project”* (paragraph 83).
- 5.1.1.3. This Planning Statement Addendum demonstrates that neither the updates to environmental assessments or updates in planning policy in any way affect the ExA’s finding that the planning balance weighed strongly in favour of the grant of consent.
- 5.1.1.4. Further, it is clear (as demonstrated in the Needs and Benefits Third Addendum) that the case for the Proposed Development has become even more compelling due to:
- the increased emphasis on achieving energy security as most recently outlined in Powering up Britain and the specific recognition of the importance of interconnectors as a source of resilience and efficiency;
 - the publication of the revised 2023 draft NPS EN-1 for consultation which also specifically recognises the benefits of interconnectors and repeats the target set out in the Energy White Paper to achieve at least 18GW of capacity by 2030;
 - the most the recent analysis by ENTSO-E as part of the TYNDP 2022 which identifies a specific need for additional 4.8GW of interconnection between GB and France by 2030 (on top of the starting position of 4.0GW in 2025); and
 - the recognition in the Statement of Cooperation between the UK and France on 10 March 2023 of the central role of interconnection for mutual energy security and supply and commits to making best efforts to progress future connection projects between the two countries.
- 5.1.1.5. Having regard to relevant legal and policy requirements the Mannington alternative should not be an important and relevant consideration in determining the application and should not be attributed any weight in the planning balance.

APPENDIX A: ASSESSMENT AGAINST PROPOSED CHANGES IN DRAFT NPS EN-1

Topic / draft NPS EN-1 section	Summary of Changes in Draft NPS EN-1 (for full policy text refer to the March 2023 EN-1 consultation draft)	Summary assessment of draft changes
Air Quality and Emissions (5.2)	<p><i>Applicant assessment</i></p> <p>Paragraph 5.2.9 advises that the applicant should ensure that projections of air quality are current at the point of application and that the applicant’s assessment should be consistent with this but may include more detailed modelling to demonstrate local impacts.</p> <p>Paragraphs 5.2.10 – 5.2.12 updates existing text in relation to securing mitigation measures and advises the SoS to have regard to relevant advice in Local Air Quality Management guidance as well as the Air Quality Strategy.</p> <p><i>SoS decision making</i></p> <p>Paragraph 5.2.13 adds further reference to the duties under the Environment Act 2021 and to have regard to policies set out in the Government’s Environmental Improvement Plan.</p> <p>Paragraphs 5.2.14 and 5.2.17 have been updated to add reference to breaches to ‘statutory air quality objectives’ in addition to national air quality limits.</p> <p>Paragraph 5.2.15 advises the SoS to give air quality considerations substantial weight where a project is proposed near a sensitive receptor site and 5.2.16 advises that in such instances, where an applicant cannot provide justification and mitigation for the location the SoS should refuse consent.</p>	<p><i>Applicant assessment</i></p> <p>Chapter 23 (Air Quality) of the ES [REP1-033] (Ref 6.1.23) reports on the assessment and likely significant effects arising from the Proposed Development in relation to local air quality. Further information was provided in the ES Addendum [REP1-139] (Ref 7.8.1).</p> <p>The assessment used the last-available air quality projections available from Defra and other publicly available sources, alongside localised traffic data, to inform the air quality projections.</p> <p>The urban nature of the project means that it is located near a number of sensitive receptor sites for air quality, particularly within Portsmouth where five Air Quality Management Areas (AQMA)s have been designated. Chichester and Langstone Harbour Ramsar and Special Protection Area (SPA), Langstone Harbour Site of Special Scientific Interest (SSSI), Solent Maritime Special Area of Conservation (SAC), Farlington Marshes Site of Nature Conservation (SINC) and Land adjacent to Farlington Playing Fields SINC are identified as ecological sites the development passes through or is located within. Accordingly the assessment addressed effects on the AQMAs that corresponded with the road networks affected by the development and on these ecological receptors. The assessment shows that following mitigation implementation (as detailed in the Updated Mitigation Schedule [REP8-019]) (Ref 6.6) that impacts are negligible or slight adverse. The second ES Addendum [REP7-067] (Ref 7.8.2) provided additional information in response to comments raised by Portsmouth City Council (PCC) and ExA questions in relation to the impact of the development on the Clean Air Zone (CAZ) and diversion routes in areas of “near exceedance” as identified in the PCC 2019 Air Quality Action Plan. The additional assessment involved CAZ sensitivity testing against a scope of works agreed with PCC. The assessment concluded that “<i>the assessment of the magnitude of impacts incorporating the CAZ is based on conservative assumptions and is predicted to be no more than small. It is therefore, judged that the Proposed Development will not inhibit compliance with EU Directive 2008/50/EC on the local road network and SRN in Portsmouth during the construction phase with an operational CAZ</i>”.</p> <p>The ExA concluded that it did not consider that the production of the Local Air Quality Plan would be inhibited by the Proposed Development (ExAR 7.2.46).</p> <p><i>SoS decision making</i></p> <p>The application was prepared and examined prior to the passing of the Environment Act 2021 into law on the 9th November 2021 and the Environmental Improvement Plan 2023.</p> <p>The approach to assessing impacts of air quality and emissions was, however, robust and the ExA concluded that “<i>that effects on air quality during construction and operation stages have been properly assessed and that all reasonable steps have been taken or would be taken to ensure that air quality limits are not breached, in compliance with the requirements of NPS EN-</i></p>

		<p>1” and that “matters of air quality do not therefore indicate against the Order being made” (Para 7.2.59).</p> <p>The proposed updates to decision making policy would not alter the neutral weight the ExA found should be given to matters relating to air quality (ExAR 9.2.24).</p>
<p>Greenhouse Gas Emissions (5.3)</p>	<p><i>Applicant assessment</i></p> <p>Paragraph 5.3.4 sets out a requirement for a GHG assessment as part of the Environmental Statement and what this must include.</p> <p><i>Mitigation</i></p> <p>In relation to mitigation, paragraphs 5.3.5 to 5.3.7 sets out that:</p> <ul style="list-style-type: none"> • a GHG assessment should be used to drive down GHG emissions at every stage of the Proposed Development; • Applicants should look for opportunities to embed nature-based or technological solutions to mitigate or offset the emissions of construction and decommissioning; • steps taken to minimise and offset emissions should be set out in a GHG Reduction Strategy (considering the creation and preservation of carbon stores and sinks through woodland creation, peatland restoration and other natural habitats), secured under the DCO. <p><i>SoS decision making</i></p> <p>Paragraphs 5.3.8 to 5.3.12 sets out the requirements in the decision-making process, in that the SoS:</p> <ul style="list-style-type: none"> • must be satisfied that the Applicant has assessed the Greenhouse Gas (GHG) emissions of all development stages, as far as possible; • should be content that the Applicant has taken all reasonable steps to reduce the GHG emissions of the construction and decommissioning stages; • must accept that that there are likely to be some residual emissions from construction and decommissioning. Positive weight should be given to processes to mitigate or offset emissions at these stages; • should not prohibit the consenting of energy projects on the basis of operational GHG emissions; • does not need to assess individual applications against operational carbon emissions and their contribution to carbon budgets, net zero and our international climate commitments (moved from 5.2.2). 	<p><i>Applicant assessment</i></p> <p>The Applicant submitted an assessment of Greenhouse Gas (GHG) emissions as part of Volume 1, Chapter 28 of the Environmental Statement Carbon and Climate Change [APP-143] (Ref 6.1.28) which considered emissions arising from the construction and operation of the AQUIND Interconnector. As stated in the ES at paragraph 28.10.3.1 the assessment assumed that potential impacts during decommissioning would be similar to those identified during construction.</p> <p><i>Mitigation</i></p> <p>The ES sets out the steps that have been taken to drive down climate change emissions, and measures embodied carbon impacts from the construction stage. The ES identifies a number of mitigation measures to reduce the materials used in construction, to minimise energy consumption and to substitute the use of high-carbon materials with lower-carbon alternatives. A number of construction-led technical solutions to reduce construction phase carbon emissions are secured via the Onshore Outline Construction Environmental Management Plan (CEMP) [REP9-005] (Ref 6.9). The submission of a detailed CEMP for each landward phase is secured by Requirement 15 to ensure implementation of mitigation measures across the Proposed Development.</p> <p>For construction within the Marine Cable Corridor, the appointed contractor will ascertain whether the source of rock for the Marine Cable Corridor can originate from within the UK to minimise material importing impacts.</p> <p>Design measures including designing for buildings to be resource and energy efficient at the operational stage of development form part of the mitigation measures.</p> <p><i>SoS decision making</i></p> <p>A separate GHG Reduction Strategy has not been submitted, but for the purposes of determination the mitigation identified in the ES and secured via Requirement under the DCO would secure GHG reduction as far as practicable at the design, construction and operation stages of the development.</p> <p>The Proposed Development will deliver substantial national scale benefits in reducing GHG emissions. Results of the 2019 assessment show that AQUIND Interconnector is estimated to lead to a net reduction in emissions of approximately 1.53m tCO₂e over its designed operational lifespan – ES Volume 1 - Chapter 28 Carbon and Climate Change [APP-143] (Ref 6.1.28). The latest TYNDP 2022 results show that reduction in CO₂ emissions due to the Project will be significantly higher.</p>

Biodiversity and Geological Conservation (5.4)

Applicant assessment

The section on Biodiversity and Geological Conservation has been substantially reordered though much of the previous text is retained.

A new paragraph 5.4.20 states that “*applicants should consider wider ecosystem services and benefits of natural capital when designing enhancement measures*”.

Paragraph 5.4.21 adds that “*energy infrastructure projects have the potential to deliver significant benefits and enhancements beyond Biodiversity Net Gain, which result in wider environmental gains*” and “*the scope of potential gains will be dependent on the type, scale, and location of each project*”.

Paragraph 5.4.22 adds that “*the design of Energy NSIP proposals will need to consider the movement of mobile / migratory species such as birds, fish and marine and terrestrial mammals and their potential to interact with infrastructure...*”

The Applicant assessment section then sets out further advice in relation to:

- Habitat Regulations: setting out the requirements of the HRA process and the need to seek advice from the appropriate SNCB and provision of sufficient information the at the SoS may require;
- Ancient woodland, veteran trees and other irreplaceable habitats; advising applicants to “*include measures to mitigate the direct and indirect effects of development on ancient woodland, veteran trees or other irreplaceable habitats during both construction and operational phase*”;
- Protection and enhancement of habitats and other species: requiring applicants to consider reasonable opportunities to maximise restoration creation and enhancement of wider biodiversity and for wider ecosystem services and natural capital benefits beyond those under protection and identified as being of principal importance (paragraphs 5.4.33 – 5.4.34).

Mitigation

In respect of mitigation, paragraphs 5.4.35 to 5.4.38 (previously 5.3.18 to 5.3.20) have been amended to require:

- Applicants to plan timing of construction to avoid or limit disturbance;
- Applicants to produce and implement a Biodiversity Management Strategy;
- encourage applicants to produce and implement a Geodiversity Management Strategy.

SoS Decision making

Under the subheading of decision-making, the 2023 draft deletes some previous policy text, moves some from elsewhere and adds additional new text. The additions are summarised below:

- the SoS should have regard to the aims and goals of the government’s Environmental Improvement Plan and any relevant measures and targets,

Applicant assessment

The Outline Landscape and Biodiversity Strategy [\[REP8-015\]](#) (Ref 6.10) details the measures that will mitigate the effects of the Proposed Development on landscape and biodiversity features. Existing natural capital has been identified as a highly beneficial asset as part of the strategy for mitigation and enhancement, and at Section 1 – Lovedean (Converter Station Area) existing woodland blocks are proposed for inclusion within the Order Limits so that additional planting for mitigation purposes can form part of a wider regenerative management approach to these areas. Existing hedgerow networks are also to benefit from new hedgerow connections and further parcels of Ancient and semi-natural woodland are to benefit from management and regeneration as part of the mitigation and enhancement strategy proposed. Elsewhere along the Onshore Cable Route restoration of grassland habitat is proposed (1.5.3.6). These mitigation measures are secured by Requirements 7 and 8 of the draft DCO.

In relation to BNG, there is not currently a legal obligation for the Proposed Development to deliver a biodiversity net gain of not less than ten percent. Information regarding how the Proposed Development has taken opportunities to conserve and enhance biodiversity, have however been informed by baseline and post-development calculations of biodiversity units using Biodiversity Metric 2.0 (Natural England 2019) and which provides an indication of the biodiversity outcomes for the Proposed Development, is provided within the Biodiversity Position Paper (REP3-012).

Impacts on ecology are assessed in ES Chapter 16 [\[APP-131\]](#) (Ref 6.1.16), ES Addendum 1 Chapter 10 [\[REP1-139\]](#) (Ref 7.8.1) and ES Addendum 2 Chapter 13 [\[REP7-067\]](#) (Ref 7.8.2) for terrestrial ecology; noting the international importance of the Chichester and Langstone Harbour SPA/Ramsar for wintering and breeding water birds.

Impacts on marine ecology are assessed in ES Chapter 11 [\[APP-126\]](#) (Ref 6.1.11) for marine ornithology; ES Chapter 9 [\[APP-124\]](#) (Ref 6.1.9) and ES Addendum 2 Chapter 6 [\[REP7-067\]](#) (Ref 7.8.2) for fish and shellfish and ES Chapter 10 [\[APP-125\]](#) (Ref 6.1.10) for marine mammals and basking sharks. These consider the impacts of the Proposed Development on the movement of migratory species and on the changing spawning locations for fish species in the English Channel.

In relation to the Habitats Regulation Assessment [\[REP8-020\]](#) (Ref 6.8.1) the ExA concluded in their Recommendation Report that “*the HRA evidence submitted with the application and over the course of the Examination provides an adequate basis on which the Secretary of State can fulfil the duties of the competent authority*” (para 4.9.4).

The Outline Landscape and Biodiversity Strategy [\[REP8-015\]](#) (Ref 6.10) details the mitigation measures for ancient woodland, veteran trees and irreplaceable habitats. Further mitigation is secured by Requirement 7 (Provision of landscaping), Requirement 9 (Biodiversity Management Plan) and Requirement 15 (CEMP) in the draft DCO.

The Biodiversity Position Papers [\[REP1-138\]](#) and [\[REP3-012\]](#) (Ref 7.7.9) summarised the opportunities to deliver biodiversity enhancements using the baseline and post development

	<p>including statutory targets set under the Environment Act 2021 or elsewhere (5.4.39);</p> <ul style="list-style-type: none"> • if significant harm to biodiversity cannot be avoided, adequately mitigated or compensated the SoS will give significant weight to residual harm – adding that consent may be refused (5.4.43); • the SoS should consider what appropriate requirements may be attached to any consent, and any mitigation or net gain measures should generally be maintained for a minimum of 30 years or the project lifetime (5.4.44); • the SoS should give appropriate weight to environmental and biodiversity enhancements, although any weight given to gains provided to meet a legal requirement (for example under the Environment Act 2021) is likely to be limited (5.4.46). <p>The SoS decision making section then sets out further advice under each of the seven subheadings introduced in the introduction. This includes a combination of retained (moved) text and new text:</p> <ul style="list-style-type: none"> • Habitats Regulations: updated to state the SoS must consider likely significant effect on a protected site that is part of the National Site Network (a HRA site) or Marine Protected Area (MPA); • SSSI: retains existing text relating to the use of requirements / obligations (the decision making policy test is at 5.4.8 In the introduction); • Marine Conservation Zones: no change; • Marine Protected Areas: new text to require that the Secretary of State should assess the impact, either alone or in combination, on all designated MPA sites when making any decision on development consent; • Regional and Local sites: retains previous text that such designations should not be a reason for refusal in themselves but adds that development is expected to comply with conservation requirements in the NPS; • Ancient Woodland: proposes to update decision making policy as follows: <i>“the Secretary of State should not grant development consent for any development that would result in the loss or deterioration of any irreplaceable habitats, including ancient woodland, and ancient or veteran trees unless there are wholly exceptional reasons and a suitable compensation strategy exists”</i>; • Protection and enhancement of habitats and other protected species: new text to recognise the benefit of protected species for climate mitigation and adaptation. 	<p>calculations of biodiversity units using the extant Natural England Biodiversity Metric at the time (version 2.0, 2019).</p> <p><i>Mitigation</i></p> <p>The Onshore Outline CEMP [REP9-005] (Ref 6.9) includes details of construction mitigation measures, including the timing of construction to avoid or limit disturbance. This is of particular importance for the Chichester and Langstone Harbours SPA/Ramsar where a winter working restriction is proposed to mitigate construction impacts on marine birds. Tree and habitat clearance is to occur outside of the bird breeding season, and construction working hours will be limited in certain locations to limit ecological impacts. These measures are controlled by Requirement 15 of the draft DCO.</p> <p>Requirement 9 (Biodiversity Management Plan) of the draft DCO requires the submission of a Biodiversity Management Plan for each landward phase. Requirement 7 (Provision of landscaping) requires the submission of detailed landscaping schemes for each landward phase. Both of these are to be prepared in accordance with the Outline Landscape and Biodiversity Strategy [REP8-015] (Ref 6.10),</p> <p><i>SoS decision making</i></p> <p>The ES demonstrates that where significant harm occurs it can be adequately mitigated or compensated, meaning that any residual effects are minor and not significant.</p> <p>The draft DCO includes Requirements 7, 8, 9 and 15 to secure appropriate mitigation and enhancement measures.</p> <p>The proposed amendments to the decision making policies would not lead to any different conclusion to the ExA’s that (in relation to onshore ecology) there are <i>“no grounds for refusal on the basis of onshore biodiversity and nature conservation in relation to important and relevant legislative and policy requirements”</i> (ExAR 7.7.54) and in relation to marine ecology that it is content that the proposed development could be installed and operated <i>“...without significant adverse effects on the aspects of the marine environment...”</i> (ExAR 7.5.62)</p> <p>The proposed updates to decision making policy would not alter the neutral weight given by the ExA to matters relating to onshore biodiversity / nature conservation and the marine environment would be neutral (ExAR 9.2.33 and ExAR 9.2.40).</p>
<p>Civil and Military Aviation and Defence Interests (5.5)</p>	<p>Various updates proposed to this section of the NPS though not relevant to the Proposed Development which would not give rise to impacts on such interests.</p>	<p>No response required</p>

<p>Coastal Change (5.6)</p>	<p><i>Applicant assessment</i></p> <p>Paragraph 5.6.12 (previously 5.5.7) adds a requirement for the Applicant's assessment to assess how coastal change could affect flood risk management infrastructure, drainage and flood risk.</p> <p>Paragraph 5.6.14 updates the previous 5.5.9 to include reference to the potential effects of physical changes on the integrity and special features of all Marine Protected Areas and for applicants to also identify any effects on the special character of Heritage Coasts.</p> <p>Paragraph 5.6.15 requires applicants to demonstrate that full account has been taken of the potential effects of climate change on these risks.</p> <p><i>Mitigation</i></p> <p>Remains unchanged other than minor text updates.</p> <p><i>SoS decision making</i></p> <p>Under the Secretary of State decision making, paragraph 5.6.17 (previously 5.5.10) expanded to note support for proposals that aim to facilitate the relocation of existing energy infrastructure from unsustainable locations at risk of coastal change, where it would result in climate resilient infrastructure.</p>	<p><i>Applicant assessment</i></p> <p>The Applicant submitted an assessment of Physical Processes in ES Volume 1, Chapter 6 [APP-121] (Ref. 6.1.6) and in ES Addendum 2 Chapter 3 [REP7-067] (Ref 7.8.2). This assessment noted that the risk of alterations to tidal flow patterns are considered to be of low magnitude, with a localised spatial extent and of a short duration. Construction impacts were considered to be of a low magnitude and of minor significance ES Chapter 8 [APP-123] (Ref 6.1.8) provides an assessment on Intertidal and benthic habitats, including the relevant Marine Protected Areas (Marine Conservation Zones, Ramsar and SAC).</p> <p>The Applicant submitted a flood risk assessment [APP-439] (Ref 6.3.20.4) as Appendix 20.4 of the ES, to support Chapter 20 Surface Water and Flood Risk [APP-135] (Ref 6.1.20) and ES Addendum 1 Chapter 13 [REP1-139] (Ref 7.8.1).</p> <p>ES Chapter 20 [APP-135] (Ref 6.1.20) identifies the known coastal flood defences within/adjacent to the Order Limits for inclusion within the flood risk assessment. A number of proposed flood defence schemes still to be implemented are also considered within the Proposed Development. The Flood Risk Assessment also considers how the future baseline will be affected as a consequence of coastal change through rising sea levels.</p> <p><i>Mitigation</i></p> <p>N/a</p> <p><i>SoS decision making</i></p> <p>The changes to the SoS decision making section of the Coastal Change part of EN-1 are not relevant to the Proposed Development.</p> <p>Not potentially significant effects were predicted for physical processes and the ExA concluded that it was "content that the Applicant's ES adequately address matters relating to physical processes in the marine environment".</p> <p>The proposed updates to decision making policy would not alter the ExA's conclusion that neutral weight should be given to matters relating to the marine environment (ExAR 9.2.33).</p>
<p>Dust, Odour, Artificial Light, Smoke, Steam, and Insect Infestation</p>	<p><i>Applicant assessment / SoS decision making</i></p> <p>Largely unchanged.</p> <p><i>Mitigation</i></p> <p>The following paragraphs are added into the mitigation section:</p> <p><i>5.7.9 Construction should be undertaken in a way that reduces emissions, for example the use of low emission mobile plant during the construction, and demolition phases as appropriate, and consideration should be given to making these mandatory in DCO requirements.</i></p>	<p><i>Applicant assessment</i></p> <p>N/a</p> <p><i>Mitigation</i></p> <p>The Onshore Outline Construction Environmental Management Plan [REP9-005] (Ref 6.9) and the detailed CEMPs secured by Requirement 15 of the draft DCO for each landward phase include construction management controls to mitigate against amenity impacts. The construction methods detailed in the ES do not identify the need for demolition.</p> <p><i>SoS Decision making</i></p> <p>N/a</p>

5.7.10 Demolition considerations should be embedded into designs at the outset to enable demolition techniques to be adopted that remove the need for explosive demolition.

5.7.11 A construction management plan may help clarify and secure mitigation.

<p>Flood Risk</p>	<p><i>Applicant assessment</i></p> <p>In the Applicant's assessment section is added to paragraph 5.8.15 (previously 5.7.5) on the minimum requirements for Flood Risk Assessments to include (in addition to the existing text):</p> <ul style="list-style-type: none"> • taking account climate change impacts across a range of climate scenarios; • consider and quantify different types of flooding, including information on flood likelihood, speed-of-on-set, depth, velocity, hazard and duration; • identify and secure opportunities to reduce causes and impacts of flooding overall, making as much use as possible of natural flood management techniques; • remaining risks can be safely managed, ensuring people will not be exposed to hazardous flooding; • information requirements on how the ability of water to soak into the ground may change with development; • measures to be included to ensure the development will be safe and remain operational during flood event throughout the development's lifetime without increasing flood risk elsewhere; • identify and secure opportunities to reduce the causes and impacts of flooding overall during the period of construction. <p>Paragraph 5.8.17 adds that development will need to account for any existing watercourses and flood and coastal erosion risk management structures or features, or any land likely to be needed for future structures or features.</p> <p><i>Mitigation</i></p> <p>In the Mitigation section, paragraph 5.8.27 (previously 5.7.21) has been updated to advise that surface water drainage should account for predicted impacts of climate change.</p> <p>Paragraph 5.8.30 requires on site compensatory storage where development would result in the loss of flood storage (and 5.8.31 confirms this storage off site may be acceptable).</p> <p>Paragraph 5.8.26 (previously 5.7.25) has been expanded to refer to the local authority emergency planning and, where appropriate, the local resilience forum, in the production of an evacuation plan for a manned energy project.</p> <p><i>Decision making</i></p> <p>In respect of decision-making, paragraph 5.8.36 (previously 5.7.9) has been expanded to set out that the SoS should be satisfied where relevant:</p> <ul style="list-style-type: none"> • the Sequential Test has been satisfied; • SuDS have been used unless there is clear evidence that their use would be inappropriate; • in flood risk areas, the Project is designed and constructed to remain safe and operational during its lifetime without increasing flood risk elsewhere; • the project includes safe access and escape routes, as part of an agreed emergency plan; 	<p><i>Applicant assessment</i></p> <p>ES Volume 1, Chapter 20 [APP-135] (Ref. 6.1.20) and ES Addendum 1 Chapter 13 [REP1-139] (Ref 7.8.1) assess surface water and flood risk. Volume 3, Appendix 20.4 [APP-439] (Ref 6.3.20.4) updated by [REP1-157] (Ref 7.8.1.8) and [REP1-158] (Ref 7.8.1.9) present an assessment of the flood risk for the Proposed Development. These were expanded on in the Applicant's Response to the Third Information Request (Nov 2021) which confirms that the previous submissions remain valid.</p> <p>The Flood Risk Assessment makes an allowance for climate change impacts and considers an Upper and Central scenario for the construction and operation of the Converter Station and Optical Regeneration Station (ORS). The Flood Risk Assessment considers the definition of flood hazards, flood risk, profiles, sources and mechanisms of flooding. It considers flood likelihood and identifies areas of particular risk.</p> <p>The Proposed Development has been developed with a full understanding of the potential consequences of climate change for both the construction and operation phases. The Flood Risk Assessment identifies a risk of flooding at the Converter Station during the operational phase, to be managed through SuDS, attenuation and implementation of drainage systems. These management measures alongside design measures will ensure that the development will be safe and remain operational during flood events, without increasing flood risk elsewhere.</p> <p>The Surface Water Drainage and Aquifer Contamination Strategy [APP-360] (Ref. 6.3.3.6) provides information on the ability of water to soak into the ground and on surface water drainage arrangements.</p> <p>The Planning Statement [APP-108] (Ref 5.4) notes that part of the Onshore Cable Corridor passes through Flood Zone 3, but that the Government have identified a need for Interconnectors as a key element of the UK electricity network and so are considered to form 'essential infrastructure'. The NPPF sets out that 'essential infrastructure' is appropriate within Flood Zone 1 and 2 with the Exception Test required for projects within Flood Zone 3. The Sequential and Exception Tests are satisfied within Volume 1, Chapter 20 of the ES. The Sequential and Exception Test Addendum [REP1-158] (Ref. 7.8.1.9) documents that these tests are still passed for the Proposed Development when taking into account changes made to the Flood Map for Planning.</p> <p><i>Mitigation</i></p> <p>The surface water drainage strategy proposes infiltration to ground and features will be designed to ensure no exceedance flows for an event with a return period of 100 years + 40% climate change.</p> <p>The OOCEMP provides that the appointed contractor (and any sub-contractors) for works within flood zone 2 or 3, or directly adjacent to, should ensure a flood warning/ evacuation plan with appropriate training to staff as deemed appropriate will be in place to ensure staff are aware of the potential risk and able to adopt suitable procedures in relation to flood risk (e.g. halt works if there is an immediate risk of flooding and evacuate to safe place);</p>
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- land needed for present or future flood risk management infrastructure has been appropriately safeguarded from development to the extent that development would not prevent or hinder its construction, operation or maintenance.

Paragraph 5.8.37 and 5.8.38 (previously 5.7.10) has been amended to require drainage implications to be considered during the construction period and make provision for the maintenance of SuDS throughout a Project's lifetime.

Paragraph 5.8.41 advises that "*energy projects should not normally be consented within Flood Zone 3b, or Zone C2 in Wales, or on land expected to fall within these zones within its predicted lifetime. However, where essential energy infrastructure has to be located in such areas, for operational reasons, they should only be consented if the development will not result in a net loss of floodplain storage, and will not impede water flows*". Paragraph 5.8.42 addresses the exception where the SoS may grant consent for development where an increase in flood risk elsewhere cannot be avoided or fully mitigated.

SoS decision making

Noting the relatively minor changes to decision making policy (which makes reference to matters already covered in existing policy such as the sequential test) and that the Applicant has in any event undertaken a robust assessment of flood risk which considered all sources of flooding, the assessment of flood risk is valid and that the Sequential and Exception Tests are evidenced to be satisfied in relation to the Proposed Development.

Drainage measures including SuDS are proposed onsite, with detailed drainage design secured by Requirement 6 (detailed design) and 12 (surface and foul water drainage). Further details on drainage are included in ES Chapter 3 Description of the Proposed Development [APP-118] (Ref 6.1.3) and in the Design and Access Statement [REP8-012] (Ref 5.5).

The Onshore Outline CEMP [REP9-005] (Ref 6.9) provides details of drainage management during the construction period. The SuDS measurements proposed are to be provided for the lifetime of the project.

The proposed updates to decision making policy would not alter the ExA's conclusion that neutral weight should be given to matters relating the onshore water environment including flood risk would (ExAR 9.2.65).

<p>Historic Environment</p>	<p><i>Applicant assessment</i></p> <p>Paragraphs 5.9.9 to 5.9.15 (previously 5.8.8 to 5.8.10) have been expanded to:</p> <ul style="list-style-type: none"> • require the Applicant to undertake an assessment of any likely significant heritage impacts of the Proposed Development as part of the EIA, including the consideration of heritage assets above, at, and below the surface of the ground which should include consideration to the possible impacts on the wider historic environment (5.9.9) and the assessment should “include reference to any historic landscape or seascape character assessment and associated studies as a means of assessing impacts relevant to the proposed project”; • require studies on those heritage assets affected by noise, vibration, light and indirect impacts (5.9.12); • encourage the Applicant to prepare proposals that can make a positive contribution to the historic environment, and to consider how the Project takes account of the significance of the heritage assets (5.9.13); • require careful consideration in preparing the scheme on whether the historic environment impacts will be direct or indirect, temporary or permanent (5.9.14). <p><i>Mitigation</i></p> <p>The section relating to the use of recording is now titled mitigation and the principles remain broadly the same.</p> <p><i>SoS decision making</i></p> <p>In decision-making, paragraphs 5.9.20 to 5.9.29 (previously 5.8.11 to 5.8.34) have been amended to:</p> <ul style="list-style-type: none"> • expand that matters the SoS should take into account in assessing the particular significance of a heritage asset (including historic landscape character records and relevant information submitted in representations and during the examination) (para 5.9.20); • require the SoS to give great weight to the conservation of a designated heritage asset (para 5.9.25); • require the SoS to give considerable importance and weight to the desirability of preserving all designated heritage assets (para 5.9.25); • updates the tests to be applied where a Proposed Development would lead to substantial harm (or total loss of significance of) a designated heritage asset (5.9.29), • updates the policy tests in relation to less than substantial harm on the significance of designated assets (para 5.9.30); • require judgment of the scale of harm or loss and the significance of the heritage assets where development affects non designated assets (para 5.9.31); • the treatment of the loss of a building (or other element) which makes a positive contribution to the significance of a Conservation Area or World Heritage Site (para 5.9.32); • to not take into account the effect of deliberate neglect of, or damage to, a heritage asset. 	<p><i>Applicant assessment</i></p> <p>Volume 1 Chapter 14 of the ES [APP-129] (Ref. 6.1.14) assesses the impacts on marine archaeology, and Volume 1 Chapter 21 of the ES [APP-136] (Ref 6.1.21) assesses impacts on terrestrial heritage and archaeology. These chapters are supported by appendices [APP-442] (Ref 6.3.21.2), [APP-444] (Ref 6.3.21.4) and [APP-445] (Ref 6.3.21.5). The ES chapters consider the directness and permanence of impacts on the historic environment. The Planning Statement [APP-108] (Ref 5.4) confirms that construction phase effects on above-ground heritage assets along the Onshore Cable Corridor, and on designated heritage assets around the Converter Station and at Landfall were scoped out due to their temporary nature and distance from heritage assets. Operational stage effects on above-ground heritage assets along the Onshore Cable Corridor and on buried archaeological remains were also scoped out due to the below ground nature of works during the construction stage only.</p> <p>Heritage assets in the vicinity of the Converter Station and Landfall were not considered to be close enough to the Proposed Development to be affected by noise/dust/visual impacts, so the potential for heritage assets to be affected by these was considered negligible in the ES assessment [APP-136] (Ref 6.1.21).</p> <p><i>Mitigation</i></p> <p>N/a</p> <p><i>SoS decision making</i></p> <p>As set out in the Planning Statement [APP-108] (Ref 5.4), no significant adverse effects are expected as a result of the onshore construction phase of the Proposed Development. The Planning Statement also confirms that with mitigation, no significant adverse effects are expected from the Converter Station during the operational phase. The ES and Planning Statement conclude that there is no significant impact on the significance of Fort Cumberland from the Optical Regeneration Station (ORS) during the operational phase.</p> <p>The ExA concluded, however, that there would be ‘less than substantial’ harm to the significance of the Grade II listed cottage known as Scotland or of the Fort Cumberland scheduled monument and its associated Grade II* listed building and three Grade II listed buildings – concluding that these did not represent reasons for refusal but would fall to be weighed against the benefits in the overall planning balance. It is not considered that any of the amendments to the decision making policies would have led the ExA to a different conclusion.</p>
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<p>Landscape and Visual</p>	<p><i>Applicant assessment</i></p> <p>The applicant's assessment section adds new paragraphs to cover:</p> <ul style="list-style-type: none"> • advice that for seascapes applicants should consult the Seascape Character Assessment and the Marine Plan Seascape Character Assessments (para 5.10.17); • that applicants should consider landscape and visual matters at an early stage (para 5.10.18); • assessments should include landscape components and character during construction and operation (and for projects which may affect a National Park / AONB the assessment should include effects on the natural beauty and special qualities of these areas; • assessments to demonstrate how noise and light pollution from construction and operational activities on residential amenity and on sensitive locations, receptors and views, will be minimised; • consider how landscapes can be enhanced using landscape management plans. <p><i>Mitigation</i></p> <p>No material changes.</p> <p><i>SoS decision making</i></p> <p>Text added to advise that the SoS should:</p> <ul style="list-style-type: none"> • take into consideration the level of detailed design provided and secured in the DCO and the extent to which details are subject to future approvals; • be satisfied that local authorities will have sufficient design content secured to ensure future consenting will meet landscape, visual and good design objectives; • give substantial weight to the conservation and enhancement of the natural beauty of the landscape and countryside when considering development within National Park / AONB (followed by the existing exceptional circumstances test). 	<p><i>Applicant assessment</i></p> <p>Having regard to the additional proposed text in relation to the Applicant's assessment, notwithstanding their introduction after the submission and examination of the application, the Applicant's assessment addressed each of the requirements introduced:</p> <ul style="list-style-type: none"> • seascapes were scoped out of the ES. This updated policy does not therefore have any bearing on the Proposed Development; • landscape and visual matters were considered at an early stage as evidenced by the ES Scoping Report [APP-365] (Ref 6.3.5.2) and the Deadline 1 Statement of Common Ground with the South Downs National Park Authority [REP1-121] (Ref 7.5.7); • the ES assessment includes landscape components during construction and operation and includes effects on the natural beauty and special qualities of the National Park in ES Chapter 15 [APP-130] (Ref 6.1.15); • with regard to noise impacts the ExA noted that temporary construction effects would be short term and appropriately reduced through best practice and other mitigation in the OCEMP as secured by Requirement 15 (para 7.3.77). The ExA was also satisfied that the Noise Management Plans required under Requirement 20 would allow appropriate mitigation to be secured once operational; • with regard to lighting impacts the ExA concluded (para 7.9.101) that it was "content that there are sufficient safeguards built into the Recommended DCO and control documents to ensure that the lighting schemes for the converter station and optical regeneration station would not lead to a significant effect, and that the dark skies assessment in front of the Examination by its close was sufficient for purpose"; • the application was supported by an Outline Landscape and Biodiversity Strategy [REP8-015] (Ref 6.10) with which a detailed landscaping scheme would be in accordance under Requirement 7, which would be subject to approval by the relevant planning authority and in relation to works no.2 the South Downs National Park Authority. <p><i>Mitigation</i></p> <p>N/a</p> <p><i>SoS decision making</i></p> <p>Having regard to the changes to policy under the SoS decision making subheading, the SoS has sufficient information on the level of detailed design provided and the proposed Requirements which are appropriate to enable future local level consenting which will meet landscape, visual and good design objectives.</p> <p>The additional text in relation to development within a National Park / AoNB is not relevant to the Proposed Development and paragraph 5.10.33 retains the test that in considering applications for projects outside the boundaries of these areas which may have impacts within them the SoS has a duty to have regard to the purposes of nationally designated areas.</p> <p>The proposed updates to decision making policy would not alter the ExA's conclusion that the Proposed Development would lead to some inevitable adverse significant landscape and visual effects, which should be given moderate weight in the overall planning balance (ExAR 9.2.51 and 9.2.54).</p>
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<p>Land Use, including Open Space, Green Infrastructure, and Green Belt</p>	<p><i>Applicant assessment</i></p> <p>Paragraph 5.11.4 has been added to encourage Applicants to develop and implement a Soil Management Plan where contamination is present.</p> <p>Paragraphs 5.11.15 and 5.11.16 add that development should prevent new and existing developments from contributing or being put at risk by unacceptable levels of pollution or land instability and should where possible help to improve local environmental conditions.</p> <p>Paragraph 5.11.7 (previously 5.10.2) has been expanded to encourage Applicants to consider the provision of new and enhanced green infrastructure as part of an application.</p> <p><i>Mitigation</i></p> <p>In the mitigation section, a new paragraph 5.11.27 advises that trees and woodlands should be retained wherever possible and the application should assess the impacts on all trees and woodland and develop measures to minimise adverse effects. Where loss is unavoidable compensation schemes would be required.</p> <p>Paragraph 5.11.30 (previously 5.10.24) has been expanded to consider the creation of new or improved accesses. When altering existing rights of way, consideration should be given to the use, character, attractiveness and convenience of the right of way. The SoS is also directed to consider whether mitigation measures put forward by an Applicant are acceptable and whether requirements or other provisions should be included in the grant of development consent (para 5.11.31).</p> <p><i>Decision making</i></p> <p>Text is added at 5.11.36 – 5.11.38 in relation to Green Belt policy and the demonstration of very special circumstances (including that this may include environmental benefits of renewable and low carbon energy generation)</p> <p>Paragraph 5.11.38 adds that Local Green Spaces designated in a development plan have the same level of protection as Green Belt.</p>	<p><i>Applicant assessment</i></p> <p>The Onshore Outline Construction Environmental Management Plan (CEMP) [REP9-005] (Ref. 6.9) includes an Outline Soil Resources Plan for the purposes of recording existing soil resources and to provide a specification for restoration. The draft Development Consent Order [REP9-003] includes a Requirement (Requirement 15) that secures the production of a detailed CEMP for each onshore phase of development, which includes the production of a Soil Resources Management Plan.</p> <p>The draft Development Consent Order also includes provisions by Requirement (Requirement 13) for the management of contamination (in accordance with the Onshore Outline CEMP and Surface Water Drainage and Aquifer Contamination Mitigation Strategy) in each onshore phase.</p> <p><i>Mitigation</i></p> <p>ES Chapter 16 [APP-131] (Ref 6.1.16) provides details of the mitigation measures for ecological impacts, including where the loss of trees is required. Mitigation is secured through the Outline Landscape and Biodiversity Strategy [REP8-015], however standard practice measures secured through the Onshore Outline CEMP [REP9-005] seek the retention and protection of existing trees. The Outline Landscape and Biodiversity Strategy also secures regenerative planting and management of woodland as part of measures developed to minimise adverse effects.</p> <p>Volume 1 Chapter 25 of the ES [APP-140] (Ref 6.1.25) supported by ES Addendum 3 Appendix 14 [REP1-144] (Ref 7.8.1.14) considers the socio-economic impacts of the Proposed Development, including on areas of public recreation, leisure and open space, with any closures or alterations to PRow or other routes controlled by the Onshore Outline CEMP [REP9-005]. The assessment of landscape and visual impacts on Public Rights of Way (ProW) in Volume 1 Chapter 15 of the ES [APP-130] (Ref. 6.1.15) considers their character, attractiveness and convenience. Existing PRow are proposed to be temporarily stopped up for a very limited timeframe (i.e. 1-2 weeks during construction) and are not considered to add substantial distance to the journey length of the PRow. Mitigation in the form of signposted diversions and consultation with user groups and the local authority is proposed, which results in a minor to moderate (not significant) impact.</p> <p><i>SoS decision making</i></p> <p>As noted at section 4.4.5 of this report the Milton Neighbourhood Plan designates Milton Common as Local Green Space where development would only be allowed in very special circumstances. The routing of the cable route through Milton Common was addressed in the application (having regard to its use as open space and SINC designation with various mitigation measures proposed) and considered at examination. The works at Milton Common would be a non-continuous 23 week period with several alternative permissive paths available that recreational users could utilise during construction works.</p> <p>As summarised in the ExAR (7.4.67) the Environmental Statement (table 25.14 in Chapter 25) concluded that the mitigated effects at Milton Common would not be significant, and PCC "did</p>
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		<p><i>not object to the use of Milton Common as a potential cable route option on the basis of recreational disturbance at the end of the Examination” (ExAR 7.4.68). Given the urgent need for the delivery of energy infrastructure and associated benefits the very special circumstances exist for short term development impacts on the designated Local Green Space (which as the draft EN-1 suggests, can include that this may include environmental benefits of renewable and low carbon energy generation).</i></p> <p>It is not considered that the Local Green Space designation, given the short length of construction works at Milton Common, would elevate the ExA’s conclusions in relation to land use beyond a neutral consideration in the planning balance.</p>
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<p>Noise and Vibration</p>	<p><i>Applicant assessment</i></p> <p>Paragraphs 5.12.6 to 5.12.12 (previously 5.11.4 to 5.11.7) have been amended with regard to the Applicant’s assessment in that:</p> <ul style="list-style-type: none"> • the assessment should include any likely impact on health and wellbeing where appropriate in considering sensitive receptors; • the assessment should include an assessment of the effect of underwater or subterranean noise, if likely to cause disturbance; • best available techniques should be employed to reduce noise impacts; • parallel tracking of environmental permits is encouraged where noise impacts determined by an environmental permit interface with planning issues; • Applicants should consider noise impacts on protected species in the marine environment; • the submission of a detailed impact assessment and mitigation plan including noise mitigation and abatement techniques during construction and operation. <p><i>Mitigation</i></p> <p>Under Mitigation amendments to the text (at 5.12.13 – 5.12.16):</p> <ul style="list-style-type: none"> • mitigation measures should take account of the NPPF or any successor to it and planning practice guidance on noise; • provides further guidance on what noise mitigation may involve through engineering, layout, use of conditions and insulation; • where containment of noise within buildings is proposed, the SoS should take into account any other adverse impacts that such containment might cause e.g. on landscape and visual impacts; • due regard to the relevant sections of the Noise Policy Statement for England, the NPPF, and the government’s associated planning guidance on noise. <p><i>Decision making</i></p> <p>The policies in relation to the Secretary of State’s decision making at 5.12.17 and 5.12.18 remain largely unchanged from the 2011 tests (5.11.9 and 5.11.10) other than to add that requirements or mitigation measures may apply to the construction, operation and decommissioning phases.</p>	<p><i>Applicant assessment</i></p> <p>The assessment of noise and vibration impacts is set out in Volume 1 Chapter 24 of the ES [APP-139] (Ref. 6.1.24) for onshore construction and operation impacts. Construction noise mitigation is secured via the Onshore Outline CEMP [REP9-005] (ref 6.9) for onshore construction activities.</p> <p>An assessment of underwater noise is carried out in Volume 1 Chapter 9 [APP-124] (Ref 6.1.9) for fish and shellfish; Chapter 10 [APP-125] (Ref 6.1.10) for marine mammals; and Chapter 11 [APP-126] (Ref. 6.1.11) for marine ornithology. Impacts are to be mitigated through a Marine Outline CEMP [APP-488] (Ref. 6.5) with the production of a Marine CEMP secured by Condition (Condition 4 (1) (d)) in the Deemed Marine Licence. This will encourage the use of best practice techniques including undertaking an EPS Risk Assessment and completion of the Marine Noise Registry.</p> <p>A report on Other Consents and Licences [APP-106] (Ref. 5.2) sets out where environmental permitting will occur alongside permitted activities.</p> <p><i>Mitigation</i></p> <p>Chapter 24 of the ES [APP-139] (Ref 6.1.24) sets out that construction noise mitigation will be provided in the form of controls to working hours, screening in the form of acoustic fencing or Heras fencing with acoustic quilts. These measures are controlled by the Onshore Outline CEMP [REP9-005] (Ref 6.9) and by Requirement 15. Construction hours are controlled by Requirement 18.</p> <p>The design principles in the Design and Access Statement [REP8-012] (Ref 5.5) secure the mitigation required to avoid significant effects from noise at the Converter Station during operation. The Converter Station has been laid out to screen dominant plant from the nearest sensitive receptors, and further mitigation measures include acoustic enclosures, sound insulation and silencers. These measures have been accounted for within the landscape and visual impact assessment of the Converter Station. Requirement 20 (Control of noise during the operational period) requires the submission of a noise management plan for the Converter Station and ORS.</p> <p><i>Decision making</i></p> <p>The proposed updates to decision making policy would not alter the ExA’s conclusion that the Proposed Development would lead to some minor and temporary noise and vibration effects during the construction phase, which remain following the application of mitigation to appropriately reduce those impacts (ExAR 9.2.25).</p>
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<p>Socio-Economic Impacts</p>	<p><i>Applicant assessment</i></p> <p>Paragraphs 5.13.3 to 5.13.6 (previously paragraphs 5.12.2 to 5.12.5) have been expanded to include guidance that:</p> <ul style="list-style-type: none"> • Applicants are encouraged to engage with local authorities at an early stage to gain a better understanding of local issues and opportunities (para 5.13.3); • The applicant assessment should, where relevant, consider <ul style="list-style-type: none"> • providing information on the sustainability of the jobs created; • the contribution to the development of low-carbon industries at the local, regional and national level; • any indirect beneficial impacts for the region hosting the infrastructure; • Applicants are encouraged to ensure local supplies are considered in any supply chain; • Applicants should consider developing accommodation strategies where appropriate, especially during construction and decommissioning phases, including the need for temporary accommodation for construction workers (if required). <p><i>Mitigation</i></p> <p>No material change</p> <p><i>SoS decision making</i></p> <p>Paragraph 5.13.12 added advising the SoS “<i>may wish to include a requirement that specifies the approval by the local authority of an employment and skills plan detailing arrangements to promote local employment and skills development opportunities, including apprenticeships, education, engagement with local schools and colleges and training programmes to be enacted</i>”.</p>	<p><i>Applicant assessment</i></p> <p>An assessment of likely significant effects arising from the Proposed Development upon socio-economic considerations is provided at Chapter 25 of the ES [APP-140] (Ref 6.1.25).</p> <p>Measures to maximise, where possible, the potential for the workforce and supply chain to be sourced locally are contained in the Onshore Outline CEMP, Requirement 26 and Employment and Skills Strategy [REP7-077] (Ref 7.9.35).</p> <p><i>Mitigation</i></p> <p>N/a</p> <p><i>SoS decision making</i></p> <p>Requirement 26 requires an employment and skills plan to be submitted and approved by Winchester City Council (in consultation with the other local authorities). The employment and skills plan must identify opportunities for access to employment, apprenticeships, supply chain opportunities, engagement with educational institutions and community support and engagement in connection with the construction of the authorised development, and the means for publicising such opportunities.</p> <p>There is no proposed update in policy that would lead the ExA to a different conclusion on socio economics as a minor negative factor in the planning balance.</p>
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<p>Traffic and Transport</p>	<p><i>Applicant assessment</i></p> <p>Paragraph 5.14.7 relating to travel plans expanded to advise applicants to provide details of measures to improve access by active and shared transport.</p> <p>Paragraph 5.14.8 added to require the Applicant’s assessment to consider any possible disruption to services and infrastructure (such as road, rail and airports).</p> <p>Paragraph 5.14.9 adds further detail that if additional transport infrastructure is proposed it should “always include good quality walking, wheeling and cycle routes, and associated facilities (changing/storage etc) needed to enhance active transport provision”.</p> <p><i>Mitigation</i></p> <p>Paragraph 5.14.11 added advising that where mitigation is needed, possible demand management measures must be included (and sets out potential opportunities – including consolidating trips, location of development, shared mobility, sustainable travel modes, travel outside peak times, using less busy parts of the network...).</p> <p>Paragraph 5.14.12 requires that all stages of a project should support and encourage a modal shift of freight from road to more environmentally sustainable alternative.</p> <p>Paragraph 5.14.16 advises that applicants should “consider the DfT policy guidance “<i>Water Preferred Policy Guidelines for the movement of abnormal indivisible loads</i>” when preparing their application”.</p> <p><i>SoS decision making</i></p> <p>A new paragraph (5.14.21) has been added which states that “<i>the Secretary of State should only consider refusing development on highways grounds if there would be an unacceptable impact on highway safety, residual cumulative impacts on the road network would be severe, or it does not show how consideration has been given to the provision of adequate active public or shared transport access and provision</i>”.</p>	<p><i>Applicant assessment</i></p> <p>Details of measures to improve access by active and shared transport will be contained in the Construction Worker Travel Plan. Noting that temporary lane and road closures are required for brief temporary periods for much of the Onshore Cable Route construction, disruption to services and infrastructure (the road network) are assessed in ES Chapter 22 alongside the assessment of construction traffic movements.</p> <p><i>Mitigation</i></p> <p>The Applicant’s assessment in ES Chapter 22 [APP-137] (Ref. 6.1.22) has addressed impact on existing transport infrastructure in detail and has proposed appropriate mitigation through the requirement for a Construction Traffic Management Plan (in accordance with the Framework Construction Traffic Management Plan [REP6-032] (Ref 6.2.22.2) secured through Requirement 17, and a Traffic Management Strategy (in accordance with the Framework Traffic Management Strategy) [REP6-030] (Ref 6.3.22.1A) secured by Requirement 25.</p> <p>Mitigation and compensation measures include measures to ensure continuity and punctuality of bus services through the Framework Traffic Management Strategy and in the form of a Development Consent Obligation [REP8-043] (Ref 7.5.28).</p> <p>The dDCO (Parts 4 and 6 of Schedule 13) include provisions for the protection of Railway Interests and Highways England. Horizontal Directional Drilling (HDD) has also been proposed to avoid impacts on the rail network.</p> <p>As far as possible the Transport Assessment [REP1-142] (Ref 7.8.1.11) has prioritised delivery by water of cargo that would be considered as abnormal indivisible loads. This cargo (primarily the delivery of cable drums) would be stored at the Cargo Terminal at Portsmouth International Port prior to transportation to the Joint Bay locations at the Onshore Cable Route where required.</p> <p><i>SoS decision making</i></p> <p>The ExA concluded that “<i>there would be some temporary significant adverse effects arising from the Proposed Development on highways and traffic flows during construction. However, through the application of mitigation measures in the FCTMP and FTMS (as secured through the Recommended DCO), these temporary effects would be reduced to acceptable levels</i>” which is compliant with the new draft paragraph 5.14.8 (which reflects what was already contained in the NPPF).</p>
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<p>Resource and Waste Management</p>	<p><i>Applicant assessment</i></p> <p>Paragraphs 5.15.6 to 5.15.13 (previously 5.14.6) have been expanded to include:</p> <ul style="list-style-type: none"> • a change of reference from Site Waste Management Plan to “a report that sets out the sustainable management of waste and use of resources throughout any relevant demolition, excavation and construction activities” (para 5.15.8); • encouraging applicants to refer to the ‘Waste Prevention Programme for England (para 5.15.10); • where dredged material is included in the Applicant’s assessment, to also include other uses of such material before disposal to sea for example through re-use in construction (para 5.15.11); • encourage the Applicant to source materials from recycled or reused sources and use low carbon materials, sustainable sources and local supplies (para 5.15.12); • encourage the Applicant to use construction best practices in relation to storing materials and to record materials to help reduce waste in future decommissioning of facilities, by identifying materials that can be recycled or reused (para 5.15.13). <p><i>SoS decision making</i></p> <p>Paragraph 5.15.19 added to advise that the SoS “<i>should have regard to any potential impacts on the achievement of resource efficiency and waste reduction targets set under the Environment Act 2021 or wider goals set out in the government’s Environmental Improvement Plan</i>”.</p>	<p><i>Applicant assessment</i></p> <p>ES Chapter 27 [APP-142] (Ref 6.1.27) assesses waste and materials resources impacts. The handling of dredged material was considered through the Examination of the application and the Order if made would include the removal of material from the seabed. Some material removed from the seabed (including boulders, sand and gravel) has been assessed for potential reuse as part of construction of the Marine Cable Corridor. ES Chapter 27 forecasts that the majority of Marine Cable Corridor wastes and arisings could be recovered for use in construction.</p> <p>Disposal of inert material of natural origin not suitable for use in construction will be at agreed disposal sites within the Order Limits. The disposal of this material would be controlled through the DML (Schedule 15 of the dDCO) including the requirement for an Environmental Management Plan (DML Part 2 Condition 4 (1) (d)), in accordance with the Outline Marine Construction Environmental Management Plan, including details in relation to waste management and disposal arrangements. The only materials likely to be disposed to landfill from the Marine Cable Corridor are debris and out of service cables already on the seabed.</p> <p>Measures in the Onshore Outline CEMP [REP9-005] (Ref 6.9) and the Marine Outline CEMP [APP-488] (Ref 6.5) secure best practice in relation to maximising use of recycled materials and maximise waste recovery and diversion from landfill.</p> <p><i>SoS decision making</i></p> <p>N/a</p>
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Water Quality and Resources

Applicant assessment

Paragraph 5.16.3 (previously 5.5.2) amended to add that where a project is likely to have effects of the water environment the assessment of water quality and resources should include “*how this might change due to the impact of climate change on rainfall patterns and consequently water availability across the water environment*”.

New paragraphs 5.16.4 – 5.16.6 added to advise that applicants:

- should make early contact with the relevant regulators where appropriate for permitting and licensing requirements;
- are encouraged “*to manage surface water during construction by treating surface water runoff from exposed topsoil prior to discharging and to limit the discharge of suspended solids*”;
- are encouraged to “*consider protective measures to control the risk of pollution to groundwater beyond those outlined in River Basin Management Plans and Groundwater Protection Zones*”.

Paragraph 5.16.7 (previously 5.15.3) which sets out the requirements for the ES expanded to include:

- demonstration of how proposals minimise the use of water resources and water consumption in the first instance;
- how climate change could impact any of the above in the future;
- any cumulative effect.

Applicant assessment

Volume 1 Chapter 18 of the ES [\[APP-133\]](#) (Ref. 6.1.18) assesses the impacts of the Proposed Development on ground conditions. Volume 1 Chapter 19 [\[APP-134\]](#) (Ref. 6.1.19) proposes mitigation to minimise the risk of site runoff transmitting contaminants via surface water.

The Onshore Outline CEMP [\[REP9-005\]](#) (Ref. 6.9) sets out a number of guiding construction principles to mitigate potential contamination (including from surface water runoff) to the aquifer during earthworks construction works. Measures to control the risk of pollution to groundwater are also secured by Requirements 13 and 15 of the draft DCO [\[REP9-003\]](#) (Ref. 3.1).

Mitigation

The draft DCO [\[REP9-003\]](#) contains protective provisions (Part 1, 9 (1)) for works that may affect apparatus operated by statutory water undertakers, whereby the undertaker of the DCO must submit a plan, section and description of works to be executed to the statutory undertaker for approval. Requirement 6 of the draft DCO [\[REP9-003\]](#) (Ref. 3.1) requires the consultation of the EA and Portsmouth Water in the approval of detailed design for Works No. 2 and 3, for the installation of services including surface water drainage, foul water drainage, manholes and drainage measures.

SoS decision making

The Marine Water Framework Directive Assessment [\[APP-372\]](#) (Ref 6.3.7.1) concludes that there is no potential for deterioration of WFD receptors as a result of marine activities associated with the proposed development. The Onshore Water Framework Directive Assessment [\[APP-437\]](#) (Ref 6.3.20.2) concludes that following implementation of mitigation for surface water and groundwater elements (controlled by the Onshore Outline CEMP [\[REP9-005\]](#) (Ref 6.9)) no deterioration in status / potential of WFD designated bodies is expected.

Additional mitigation and enhancements are detailed in ES Chapter 20 [\[APP-135\]](#) (Ref 6.1.20).

There is no proposed update in decision making policy that would lead the ExA to a different conclusion that onshore water environment and ground conditions and contamination would be neutral factors in the planning balance.

Mitigation

Paragraph 5.16-8 – 5.16.10 retain existing text but add that the SoS should consider *“whether mitigation measures are needed over and above any which may form part of the project application and that “if a development needs new water infrastructure, significant supplies or impacts other water supplies, the applicant should consult with the local water company and the EA...”*

Decision making

Paragraph 5.16.13 (as introduced at para 4.15.10) advises the SoS to also consider duties under other legislation including *“the Environment Act 2021 in relation to environmental targets and have regard to the policies set out in the Government’s Environmental Improvement Plan”*.

Paragraphs 5.16.14 (previously 5.15.6) expanded on the Water Framework Directive and advises that the SoS *“must refuse development consent where a project is likely to cause deterioration of a water body or its failure to achieve good status or good potential”* unless the requirements of Regulation 19 of the (England and Wales) Regulations 2017 are met.

Paragraph 5.16.16 (previously 5.15.7) has been amended to require the SoS to consider *“any enhancement measures put forward by the applicant and whether appropriate requirements should be attached to any development consent and/or planning obligations are necessary”*.

APPENDIX B: ASSESSMENT AGAINST CHANGES IN ADOPTED AND DRAFT NPPF

Topic / Feb 2019 NPPF paragraph	ExA report para	Summary of Changes in adopted NPPF (July 2021) / draft revised NPPF (December 2022)	Assessment of changes
Paragraphs 7 and 8 – delivering sustainable development	3.10.2	<p>The 2021 NPPF added the following text to paragraph 7 in relation to achieving sustainable development: <i>“At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being environmental protection”</i>.</p> <p>Amendments to paragraph 8c relating to the environmental objective of sustainable development evolves from <i>“to contribute to protecting and enhancing our natural, built and historic environment”</i> in 2019 to <i>“to protect and enhance our natural, built and historic environment”</i> in 2021 and from <i>“helping to improve biodiversity”</i> in 2019 to <i>“improving biodiversity”</i> in July 2021.</p> <p>The 2022 draft NPPF proposes an amendment to the start of paragraph 7 from <i>“The purpose of the planning system is to contribute to the achievement of sustainable development.”</i> adding <i>“including the provision of homes and other forms of development, including supporting infrastructure in a sustainable manner.”</i> to the end of the sentence.</p>	<p>Paragraph 3.10.2 of the ExA’s report noted, in relation to the 2019 NPPF, that <i>“...paragraphs 7 and 8, note the Government’s approach to achieving sustainable development through the planning system and the three, overarching economic, social and environmental objectives, which are interdependent and need to be pursued in mutually supportive ways”</i>.</p> <p>The changes to paragraphs 7 and 8 in relation to delivering sustainable development do not have any material bearing on the consideration of the AQUIND application.</p>
Paragraph 5	3.10.3	<p>There are no changes between 2019 and 2021 to this paragraph.</p> <p>There are also no changes in the draft NPPF.</p>	N/a - no change in policy
Paragraph 181 – air quality	5.3.2.26	<p>Paragraph 181 of the 2019 NPPF became paragraph 186 of the 2021 NPPF, however the wording did not change.</p> <p>The same policy text is retained in the 2022 draft NPPF (at paragraph 189).</p>	N/a - no change in policy

<p>Paragraphs 155 – 156 – flood risk</p>	<p>5.3.7.10 and 5.3.7.12</p>	<p>Paragraph 162 of the NPPF (2021) adds the need for considering risk of flooding 'from any source' in applying the Sequential Test. However, the need to consider all sources of flooding was already embedded in the NPPF (2019), which stated at paragraph 158: <i>"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding."</i></p> <p>In addition, paragraph 163 of NPPF (2021) includes specific reference to flood risk "areas", in place of the previous reference to flood risk "zones". This again emphasises the requirement to consider flood risk from all sources, not just the Flood Map for Planning flood zones, in the application of the sequential based approach.</p>	<p>The minor changes to NPPF policy in relation to flood risk were addressed in the Applicant's Response to the Third Information Request dated 18 November 2021 which concluded that: <i>"noting the minor nature of the changes made to the NPPF in this regard and that the Applicant has in any event undertaken a robust assessment of flood risk which considered all sources of flooding, the Applicant is entirely content that its assessment of flood risk is valid and that the Sequential and Exception Tests are evidenced to be satisfied in relation to the Proposed Development"</i>.</p>
<p>Paragraph 196 – heritage</p>	<p>5.3.9.15</p>	<p>Paragraph 196 in the 2019 NPPF has become paragraph 202 in the 2021 NPPF, however, the wording remains the same.</p> <p>Furthermore, in the draft NPPF the paragraphs numbers change again from 202 in 2021 to paragraph 205. However the wording has not changed.</p>	<p>N/a - no change in policy</p>