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12 September 2024

Dear Mr Bevan,

PLANNING ACT 2008

APPLICATION FOR DEVELOPMENT CONSENT FOR THE BRAMFORD TO TWINSTEAD REINFORCEMENT PROJECT

1. Introduction

- 1.1. I am directed by the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) to advise you that consideration has been given to the Examining Authority’s (“ExA”) report dated 12 June 2024. The ExA consisted of four examining inspectors: Andrew Mahon, Julie de-Courcey, John McEvoy and Jason Rowlands. The ExA conducted an Examination into the application submitted on 27 April 2023 (“the Application”) by National Grid Electricity Transmission plc (“the Applicant”) for a Development Consent Order (“DCO”) (“the Order”) under section 37 of the Planning Act 2008 (“PA2008”) for the Bramford to Twinstead Reinforcement and associated development (“the Proposed Development”). The Application was accepted for Examination on 23 May 2023. The Examination began on 12 September 2023 and closed on 12 March 2024. The Secretary of State received the ExA’s Report on 12 June 2024.
- 1.2. The Order, as applied for, would grant development consent for the reinforcement of the transmission network between the existing Bramford substation and Twinstead Tee through the construction and operation of 29km of new 400 kilovolt (kV) transmission line, comprising of approximately 18km of overhead line, with approximately 50 pylons; approximately 11km of underground cable with associated joint bays and above-ground link pillars. The works will also include four cable sealing end compounds to facilitate the transitions from overhead line to underground cable, each with security fencing, electrical equipment, support structures, a control building and an access track; the removal of 27km of existing overhead transmission line and associated pylons and; a new grid supply point substation with access,

replacement pylons, transformers, switchgear and other electrical equipment, a sealing end compound, underground cabling, office and welfare facilities, and utility connections. The Associated Development includes modifications to some existing pylons; new temporary and permanent accesses to the public highway; temporary construction compounds with laydown and storage areas, offices and welfare facilities; temporary structures and launch and reception drilling pits at crossings of water courses, rights of way, highways and a railway line; temporary and permanent culverts and land drainage features and; land required for mitigation, compensation and Biodiversity Net Gain (BNG) [ER 1.3.2]. Further detail is provided by the Applicant in Chapter 4 of the ES, Project Description, [APP-072].

- 1.3. The Applicant also seeks compulsory acquisition (“CA”) and temporary possession (“TP”) powers, set out in the draft Order submitted with Application.
- 1.4. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Planning website¹ is a copy of the ExA’s Report of Findings and Conclusions and Recommendation to the Secretary of State (“the ExA’s Report”). The ExA’s findings and conclusions are set out in Chapters 3-6 of the ExA’s Report, and the ExA’s summary of conclusions and recommendation is at Chapter 8. All numbered references, unless otherwise stated, are to paragraphs of the ExA’s Report [“ER *.*.*”].

2. Summary of the ExA’s Report and Recommendation

- 2.1. The principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA’s Report under the following broad headings:
 - need case;
 - alternatives;
 - air quality and emissions;
 - biodiversity and ecology;
 - good design;
 - greenhouse gas emissions;
 - historic environment;
 - landscape and views;
 - land use, soil and geology;
 - noise and vibration;
 - public rights of way;
 - socio-economics and community issues;

¹ <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN020002>

- the water environment;
- traffic, transport and highway safety;
- cumulative effects;
- Habitats regulation assessment (HRA)
- land rights and related matters and;
- Development consent order.

2.2. The ExA recommended that the Secretary of State should grant consent. The recommendation in section ER 8.2.1 (page 326 of the ExA report) is as follows:

“The Proposed Development meets the tests in s104 of the PA2008 and concludes that the case for Proposed Development has been made. It recommends that the Secretary of State makes The National Grid (Bramford to Twinstead Reinforcement) Order 20[XX] in the form recommended at Appendix D to this Report”.

2.3. This letter is intended to be read alongside the ExA’s Report and except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the ExA’s Report, and the reasons for the Secretary of State’s decision are those given by the ExA in support of his conclusions and recommendations.

3. Summary of the Secretary of State’s Decision

3.1. Section 104(2) of PA2008 requires the Secretary of State, in deciding an application, to have regard to any relevant National Policy Statement (“NPS”). Subsection (3) requires that the Secretary of State must decide the application in accordance with the relevant NPS except to the extent that one or more of subsections (4) to (8) apply. The Secretary of State’s consideration of which NPS is relevant is considered further at paragraph 4.2 below.

3.2. On the 17 July 2024 the Secretary of State issued a letter seeking further information on several matters. The Applicant was requested to provide information regarding the status of the negotiations for commercial side agreements with TC East Anglia OFTO Limited, East Anglia THREE Limited and Scottish Power Renewables Limited. The letter included a request for the Applicant to provide further information on whether protective provisions had been agreed with Network Rail following the conclusion of the Examination.

3.3. On 7 August 2024, the Secretary of State received a response from the Applicant confirming that the Interface Agreement between the Applicant, East Anglia THREE Limited and Scottish Power Renewables Limited is now complete. Shepherd and Wedderburn LLP submitted a response on 17th July, on behalf of Scottish Power Renewables Limited and its subsidiary East Anglia THREE Limited, containing formal notice of the complete withdrawal of East Anglia THREE Limited’s existing representations regarding the Application. The Applicant’s letter of 7 August 2024 also noted that protective provisions had not yet been agreed with Network Rail. In its own response of 7 August 2024, Network Rail confirmed that negotiations between the two parties on the matter of protective provisions had not progressed since the conclusion of the Examination.

- 3.4. In his letter dated 17 July 2024, the Secretary of State also invited the Applicant and all Interested Parties to provide any final updates on compulsory acquisition matters. The Applicant's response stated that four permanent acquisition agreements and forty Heads of Terms are still under negotiation.
- 3.5. In an email dated 6 September 2024, Bryan Cave Leighton Paisner LLP confirmed on behalf of the Applicant that the Interface Agreement with TC East Anglia One OFTO Limited is now complete.
- 3.6. Due to an administrative oversight, two of the APs listed as Category 1 persons in the Book of Reference were not in receipt of the Secretary of State's consultation letter, dated 17 July 2024. This was rectified by sending the APs a hard copy of the consultation letter in the post on the 8 August 2024 with an accompanying letter inviting them to respond.
- 3.7. The Secretary of State has considered the overall planning balance and, for the reasons set out in this letter, has concluded that the public benefits associated with the Proposed Development outweigh the harm identified, and that development consent should therefore be granted.
- 3.8. The Secretary of State has decided under section 114 of PA2008 to make, with modifications, an Order granting consent for the proposals in the Application. This letter is a statement of the reasons for the Secretary of State's decision for the purposes of section 116 of PA2008 and the notice and statement required by regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations").
- 3.9. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

4. The Secretary of State's Consideration of the Application

- 4.1. The Secretary of State has considered the ExA's Report and all other material considerations, including representations received after the close of the ExA's Examination and responses to his consultation letter of 17 July 2024. 138 Relevant Representations ("RRs") were made in respect of the Application by statutory authorities, businesses, non-governmental organisations, and individuals. Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA. The Secretary of State has had regard to the two Local Impact Reports ("LIR"), one jointly submitted by Braintree District Council and Essex County Council, [REP1-039] and one jointly by Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] [ER 2.3.1], environmental information as defined in regulation 3(1) of the EIA Regulations and to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 104 of PA2008 including relevant policy set out in the NPSs EN-1 and EN-5.
- 4.2. The Energy White Paper, *Powering Our Net Zero Future*, was published on 14 December 2020. It announced a review of the suite of energy NPSs but confirmed that the current NPSs, designated in 2011, were not being suspended in the meantime. The ExA has referred to these 2011 NPSs as NPS EN-1 and NPS EN-5 and this letter refers to them in the same way. Draft NPSs were published on 6 September 2021 and subject to a consultation which closed on 29 November 2021. Updated versions of these draft NPSs

were published on 30 March 2023 and subject to a further consultation which closed on 23 June 2023. The ExA makes reference to the March 2023 draft NPSs throughout the Examination and Report as draft EN-1 and draft EN-5. Revised draft NPSs were released on 22 November 2023 and designated in Parliament on 17 January 2024 (“the 2024 NPSs”). The ExA makes reference to the 2024 NPSs throughout the Examination and Report, and was of the view that 2024 EN-1 and 2024 EN-5 could be important and relevant.

- 4.3. The Secretary of State has also had regard to the British Energy Security Strategy (“BESS”) published on 7 April 2022, which outlined the steps to accelerate the government’s progress towards achieving Net Zero by 2050 and a long-term shift in delivering cheaper and cleaner power.
- 4.4. The Secretary of State agrees with the ExA’s conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
 - need for the Proposed Development – great positive weight;
 - air quality and emissions – neutral weight;
 - biodiversity and ecology – moderate negative weight;
 - good design – little negative weight;
 - greenhouse gas emissions – little negative weight;
 - historic environment – moderate negative weight;
 - landscape and views – little negative weight;
 - land use, soil and ground conditions – moderate negative weight;
 - noise and vibration – little negative weight;
 - public rights of way – moderate negative weight;
 - socio-economics and community issues – neutral weight;
 - the water environment – neutral weight;
 - traffic, transport and highway safety – neutral weight; and
 - cumulative effects – little negative weight.
- 4.5. The weights ascribed by the Secretary of State to the planning issues raised in the ExA’s Report do not differ from those ascribed by the ExA. However, there are some matters for which the Secretary of State has further commentary to add, beyond that set out in the ExA’s Report. The paragraphs below set out the Secretary of State’s consideration of those matters for which further detail is required.

Need Case

ExA's conclusions

- 4.6. The ExA's conclusions are set out at ER 3.2.23 to 3.2.29. The ExA is satisfied that the Proposed Development is needed to achieve the national objectives of meeting current and future demand for electricity, increasing energy security, and reducing emissions associated with electricity generation to meet decarbonisation targets. In accordance with NPS EN-1, it therefore adopted a starting point of a presumption in favour of recommending a grant of consent unless other policies in the relevant NPSs indicated that development consent should be refused [ER 3.2.23]. Having tested the associated evidence, the ExA notes that it is content that the grid supply point substation remains part of the Proposed Development and is mindful that the planning permission granted under the TCPA (Town and Country Planning Act 1990) is a fallback position for the Applicant that would allow an early start on its construction [ER 3.2.24].
- 4.7. In the context of relevant policy, especially the extant NPS EN-1, the ExA attributes great weight to the contribution that the Proposed Development would make toward satisfying the urgent need for new electricity network infrastructure in the UK [ER 3.2.25].
- 4.8. The need for new electricity network infrastructure is described by the ExA as urgent and important, not only to meet increased electricity demand and support the transition to Net Zero, but also to maintain energy security and increase the resilience of the transmission network [ER 3.2.27].
- 4.9. The 2024 EPS EN-1 adds that it is especially important that the Secretary of State considers network projects as elements of a coherent and strategically necessary system. It concludes that there is a critical national priority for the provision of nationally significant low carbon infrastructure, the definition of which includes all power lines in the scope of the 2024 NPS EN-5, including network reinforcement and upgrade works, and associated infrastructure such as substations [ER 3.2.28]. The ExA notes this strengthened policy position in the 2024 NPS EN-1, though this would not have changed its general position on the need case [ER 3.2.29].

The Secretary of State's Conclusion

- 4.10. The Secretary of State has reviewed the need case and the supporting evidence summarised in the ExA's Report. He has also considered the important and relevant policies set out in the 2011 NPSs and the recently designated 2024 NPSs.
- 4.11. The Secretary of State considers that the Proposed Development complies with the relevant NPSs. NPS EN-5 at paragraph 2.2.2 states that the requirement for a line may be the result of the need for more strategic reinforcement of the network. NPS EN-1 at paragraph 3.7.2 acknowledges the need to connect to new sources of electricity generation as a key component of the need for new electricity network infrastructure. NPS EN-1 at paragraph 3.7.3 further states that new electricity network infrastructure projects, which contribute to the reliability of the national energy supply, provide crucial national benefits.
- 4.12. The Secretary of State agrees with the ExA's conclusions and that, subject to consideration of specific impacts, there would be no conflict in principle between the Proposed Development and national or local planning policy. The Secretary of State agrees that there

is an urgent need for the Proposed Development and ascribes this great positive weight in the planning balance.

Biodiversity and Ecology

The ExA's conclusions

4.13. The ExA's conclusions are set out at ER 3.5.148 to 3.5.179. The ExA is satisfied that, by the end of the Examination, the Applicant's biodiversity assessment included all the matters identified in NPS EN-1 and that there is sufficient information for the Secretary of State to reach a conclusion on biodiversity and ecology matters [ER 3.5.148]. The ExA also notes that NPS EN-5 additionally requires an applicant to consider impacts of overhead lines on large birds and is content that the Applicant properly considered such matters but found no likelihood of significant effects [ER 3.5.149]. During the Examination, the ExA used all relevant submitted evidence to test the Applicant's conclusion that there would be no likely significant residual effects in relation to biodiversity during the construction or operation of the Proposed Development. [ER 3.5.151].

Biodiversity Net Gain

4.14. The ExA notes that while BNG was not mandatory for this application, it has been offered by the Applicant and considered outside the EIA process. Whilst there was some initial confusion about the status of the BNG proposals, and how they could be distinguished from other proposals for habitat mitigation, reinstatement and compensation, the ExA is content that this was clarified during the Examination [ER 3.5.152]. Noting that Requirement 13 of the DCO requires the undertaker to submit written evidence that demonstrates how at least ten per cent in biodiversity gain is to be delivered before the transmission electric line is brought into use, the ExA is satisfied that a significant biodiversity enhancement could be secured locally [ER 3.5.153].

Bat surveys/licence and Dormouse Licence

4.15. The ExA notes the differing opinions of the Applicant and the local authorities in relation to securing the details of necessary bat mitigation measures through the control documents. It concurs with the position of the Applicant that, should DCO consent be granted, a final bat licence would need to be submitted for Natural England approval. This would have to include full and updated details of surveys, impacts and mitigation measures. The ExA notes the letter of no impediment from Natural England and considers that reliance can be placed on the legislation and rigorous licensing process and that it is not necessary for the Applicant to duplicate the detailed information in the CEMP or REAC [ER 3.5.154].

4.16. The ExA also pursued the matter of a letter of no impediment in relation to hazel dormouse to provide adequate reassurance before the close of Examination that protected species licensing could be relied on to secure appropriate mitigation. It is satisfied that the submission of updated ES Appendix 7.8, Annex A, Dormouse Draft Licence [REP9-022] deals with this matter and that there are no outstanding issues in relation to dormouse [ER 3.5.155].

Arger Fen SSSI

4.17. The ExA also states that it is content that Natural England's various representations, discussions at ISH4 ([EV-040] to [EV-043]) and the Applicant's amendments to ES Chapter 7 [REP6-009] are sufficient to demonstrate that the potential for an impact was properly

considered through a groundwater dependent terrestrial ecosystem assessment, and that no significant effect was identified [3.5.156].

Hintlesham Woods SSSI: transposition and the swathe

- 4.18. The ExA has taken account of its recommended changes in the DCO in relation to the management plans, and the improvements made to the LEMP over the course of the Examination in respect of the protection of Hintlesham Woods SSSI, including securing the restriction of works to the existing maintenance swathe, a requirement for detailed plans for vegetation clearance and management to be discussed with the appropriate parties prior to commencement, and the further involvement of the RSPB as site manager [ER 3.5.159].
- 4.19. It notes and agrees with the Applicant's contention that the extent and nature of the management of the coppiced swathe during transposition and ongoing maintenance would be similar to those experienced during routine maintenance of the existing overhead line [ER 3.5.160]. Whilst the ExA is generally content that the stated intentions would deliver sufficient mitigation to avoid adverse effects on Hintlesham Woods and the SSSI, it nevertheless considers there to be a small possibility that a temporary minor, but not significant adverse impact could occur in practice if the Proposed Development was to be consented and has factored this into its overall conclusion [ER 3.5.161].

Hintlesham Woods SSSI: other impacts and monitoring

- 4.20. The ExA has given careful consideration to other possible impacts on Hintlesham Woods and the SSSI, particularly from construction noise and disturbance. It has reviewed the submissions from all parties in relation to this matter, including the Applicant's technical note [REP3-057] and the commitments set out in the REAC [REP9-037] [ER 3.5.162]. With the mitigation and monitoring measures in place, the ExA is content with the conclusion of the Applicant's assessment in relation to noise and disturbance at Hintlesham Woods SSSI that no significant effects are anticipated [ER 3.5.164].

Impacts on other ancient woodland and standing advice

- 4.21. The ExA recognises and concurs with the concerns of the Woodland Trust, Natural England and the local authorities that only a 15m buffer has been allowed for ancient woodlands from the Proposed Development, rather than the 30m recommended in Natural England and Forestry Commission standing advice [ER 3.5.165].
- 4.22. The ExA notes that, in some instances, the works adjacent to ancient woodland would comprise planting rather than construction works per se. Nevertheless, the ExA does consider that temporary construction effects on ancient woodland adjacent and close to the Order Limits from factors such as dust, discharge to and pollution of surface and groundwater, air quality changes due to plant and traffic, and disturbance (including unintentional and intentional access by construction workers) due to the lack of a suitable buffer that respects the standing advice could be greater than those concluded by the Applicant, but does not consider it likely that they would be significant in themselves [ER 3.5.165].
- 4.23. The ExA concurs with the Applicant's conclusion that the Proposed Development would not cause any permanent fragmentation of ancient woodland, or any material ecological separation from adjacent semi-natural habitats [ER 3.5.167].

Impacts on veteran trees

- 4.24. The ExA is satisfied that a precautionary assessment was made for veteran trees within the Order Limits, and that progress was made, and measures secured to provide compensation for the loss of veteran tree T378. The ExA acknowledges that the standing advice will not be achieved and that the protection of veteran trees on the margins of construction works would be reliant on bespoke assessments and measures that are currently undetermined. The ExA considers the Applicant's conclusions unduly positive, though it does recognise the small number of trees involved and the precautionary nature of the tree evaluations, such that the Applicant's finding of no significant effect remains valid [ER 3.5.168].

Mitigation through woodland creation

- 4.25. The ExA notes the potential construction effects on 4.26ha of woodland during construction, including losses or temporary impacts on approximately 2.57ha of HPI woodland. The ExA concurs with the Applicant's conclusion that this would represent a moderate and significant adverse effect [ER 3.5.169].
- 4.26. The ExA notes that the Applicant proposes to provide mitigation through woodland creation and considered the residual effect to be neutral and not significant. The ExA has considered the effect through the mitigation of woodland creation alongside matters in relation to the reduced buffers afforded to ancient woodlands and considers that the cumulative impact should be considered [ER3.5.171]. Furthermore, the ExA is mindful of the lack of detail in the relevant control documents in respect of the mitigation planting, fostering natural regeneration of woodland on fertile arable land, often at some distance from seed sources, and the approach to ensuring proper establishment of new woodland [ER 3.5.172].
- 4.27. The ExA notes that with the proposed mitigation through woodland creation, in place, the Applicant assesses the residual effect on woodland habitats (including HPI) to reduce from moderate and significant to neutral and not significant [ER 3.5.173]. However, the ExA does note that the impacts would be experienced at the outset of the Proposed Development, it would be some time before the mitigation measures were implemented, and it would potentially be several decades before they were fully restored to their former ecological effectiveness. As such, the ExA disagrees with the Applicant's conclusions about residual effects and concludes that there would be a temporary moderate and significant adverse effect on woodland habitats, including HPI, as a result of the Proposed Development [ER 3.5.174].

Aftercare

- 4.28. The ExA notes the divergent views of the parties in relation to what might constitute an appropriate aftercare period for the various habitat reinstatement, mitigation and enhancement schemes. Noting the concerns of the local authorities, it is content that the Applicant sufficiently clarified its proposals in the early stages of the Examination [ER 3.5.175] and also notes Natural England's general acceptance of the Applicant's proposals, and it is satisfied that the Applicant achieve an appropriate balance in terms of biodiversity and ecology considerations [ER 3.5.176]. The ExA is also content that the Applicant's mitigation proposals, including the trenchless crossing to the south of Ansell's Grove would avoid impacts on the Alphamstone Meadows Local Wildlife Site and associated rare and protected species [ER 3.5.177].

ExA's Overall Conclusion

- 4.29. Whilst the ExA agrees with the majority of the Applicant's assessment findings, it disagrees that there would be no significant residual effects. For the reasons set out above it concludes that there would be a temporary moderate and significant adverse effect on woodland habitats, which it considers affords moderate negative weight against the making of the Order.

The Secretary of State's Conclusion

- 4.30. The Secretary of State has reviewed the case on biodiversity and ecology and the supporting evidence summarised in the ExA's report and submitted by the Applicant. He has also considered the important and relevant policies set out in the 2011 NPSs and the recently designated 2024 NPSs. The Secretary of State agrees with the ExA's conclusions including the consideration of the management plans (including the LEMP) which is dealt with at paragraph 4.72 in this letter, and that through the application of the mitigation the Applicant has proposed, there would be a temporary moderate and significant adverse effect on woodland habitats. The Secretary of State therefore ascribes moderate negative weight against the making of the Order.

Good Design

- 4.31. The ExA is content that the Applicant has considered the use of natural resources, sustainability and that it has set out a commitment in relation to future design intentions in ES Appendix 4.1, Good Design [APP-090] but notes that neither this commitment nor any of the associated mitigation is secured through the dDCO [ER 3.6.40]. The ExA recognises that much of the design set out in the application is of a preliminary or indicative nature, and that the dDCO allows considerable flexibility in terms of location, detailed design and construction methods [ER 3.6.44]. The ExA accepts the need for flexibility prior to the detailed design being developed by contractors, and that this aligns with policy on fitness for purpose and functionality in NPS EN-1. The ExA acknowledges that the Applicant is governed by its own and regulator obligations, so - on balance - the ExA is content that there is no strict need for an additional DCO Requirement in this respect [ER 3.6.46] and also recognises that the Applicant would have very limited choice in the aesthetic appearance of the infrastructure [ER 3.6.45].
- 4.32. With regard to the route of the permanent access road to the Stour Valley east cable sealing end compound, the ExA notes that the Applicant added a commitment to use a landscape architect, *'to advise on suitable finishes... with the aim of reducing the landscape and visual effects of this feature.'* While recognising the other constraints on the design of the route, the ExA considers this to fall short of committing to good design and considers that the landscape architect should have been allocated a more fundamental design role.
- 4.33. The ExA concludes that the Applicant has not responded as fully as might have been appropriate to matters relating to good design, and that, overall, they carry a little weight against the making of the Order [ER 3.6.53].

The Secretary of State's Conclusion

- 4.34. The Secretary of State agrees with the ExA that the applicant has set out a commitment in relation to future design intentions, however, the Secretary of State also notes that the applicant has not responded as fully as might have been appropriate to the issues

surrounding good design, particularly with regard to the route of the permanent access road to the Stour Valley east cable sealing end compound. The Secretary of State, therefore, ascribes a little weight against the making of the Order.

Historic Environment

The ExA's conclusions

- 4.35. The ExA's conclusions are set out at ER 3.8.87 to 3.8.104. The ExA examined the impact of the Proposed Development on all heritage assets identified in the application and considered during the Examination. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA had full regard to the desirability of preserving designated heritage assets, including listed buildings and their settings, and the character and appearance of Conservation Areas and Scheduled Monuments or their settings [ER 3.8.87].
- 4.36. The ExA does not identify any significant residual effects for the Conservation Areas. Similarly, when considering the small benefits of the removal of the 132kV line and the small disbenefits of constructing the proposed 400kV line, it finds no significant effects on any scheduled monuments, though it considers the small disbenefits at the Moat Farm scheduled monument to amount to less than substantial harm [ER 3.8.88].
- 4.37. The ExA notes and agrees with the concerns expressed by Historic England and others that, while the Applicant's assessment of the indicative scheme in the vicinity of Hintlesham Hall appears adequate, the flexibility allowed by the proposed limits of deviation had the potential for the final design to have a much greater effect on the setting of Hintlesham Hall and its associated buildings [ER 3.8.90].
- 4.38. The ExA concludes that the Applicant's secured solution, not to locate a pylon between the access track to Kennels Cottage and 100m to the south-west of the track (REAC EM-AB01), is proportionate and secures the ongoing involvement of Historic England in the detailed design process. It notes that the vertical limits of deviation would remain but is content that location rather than height was the important factor, and that a modest increase in pylon height through application of the maximum vertical limit of deviation would not materially influence the impact on the setting of the listed buildings [ER 3.8.91].
- 4.39. The ExA is also content that the Applicant's mitigation and enhancement proposals are proportionate [ER 3.8.92]. The ExA notes Historic England's conclusion that the impact on Hintlesham Hall amounted to less than substantial harm and finds no reason to disagree [ER 3.8.94].
- 4.40. The ExA is also content that sufficient information and assessment of the specific cultural association between the landscape of the Dedham Vale and Stour Valley, Benton End House, Overbury Hall and other heritage assets with noted artists was put before the Examination before its close [ER 3.8.95], concurring with the view of Suffolk County Council and Babergh and Mid Suffolk District Councils that the residual impact would be greater than small, that the effect would be significant, and that the impact on the setting of the assets would constitute less than substantial harm. No specific opportunity for mitigation of these effects was identified [ER 3.8.96].
- 4.41. The ExA notes the outstanding disagreement between the Applicant and the local authorities about the level and reporting of archaeological investigations and the Outline Written

Scheme of Investigation. Whilst it seems unfortunate that some of the archaeological investigations were not completed in time to be reported into the Examination [ER 3.8.97], it is content that the Outline Written Scheme of Investigation was improved during the Examination, and that its conversion to a Detailed Written Scheme of Investigation would afford the local authorities an opportunity to request further changes to ensure alignment with their preferred terminology and processes, and to make a detailed consideration of all the archaeological investigations and raise issues if necessary [ER 3.8.98].

- 4.42. The ExA concludes this topic by noting that the Outline Written Scheme of Investigation includes sufficient information and controls to ensure that the Detailed Written Scheme of Investigation would provide adequate mitigation of the potential effects, including the excavation and recording of any unavoidably affected assets. With this, the ExA concludes that no significant impacts on known archaeological assets are likely, and that it is unlikely that any unknown assets of similar or greater significance would be more seriously affected [ER 3.8.100].
- 4.43. The ExA view is that the Proposed Development would have moderate significant adverse effects on listed buildings, specifically the setting of Hintlesham Hall and its associated features, and on the settings of the notable artist associated with Benton End House and Overbury Hall in the Dedham Vale and Stour Valley. However, the ExA considers these to represent less than substantial harm to the significance of the assets, which requires convincing justification when it comes to weighing the public benefits of the Proposed Development in the planning balance [ER 3.8.101], and other impacts on historic and archaeological designated assets would individually be no worse than small and would not be significant, but they are cumulatively considered to add to the less than substantial harm [ER 3.8.102]. Overall, the ExA ascribes moderate negative weight against the making of the Order [ER 3.8.104].

The Secretary of State's Conclusion

- 4.44. The Secretary of State has reviewed the case on historic environment and the supporting evidence summarised in the ExA's Report and submitted by the Applicant. He has also considered the policies set out in the 2011 NPSs and the recently designated 2024 NPSs. In particular, the Secretary of State notes that when considering the impact of the Proposed Development on the significance of a designated heritage asset the 2024 EN-1 at paragraph 5.9.27 states that great weight should be given to the asset's conservation. Paragraph 5.9.28 goes on to state that the Secretary of State should give considerable importance and weight to the desirability of preserving all heritage assets and the Secretary of State does so in this case in relation to each of the heritage impacts identified. The Secretary of State notes further that NPS EN-1 states that the greater the harm, the greater the justification will be needed for any loss. The Secretary of State agrees with the ExA's conclusions and concludes that the Proposed Development would have moderate significant adverse effects on listed buildings, specifically the setting of Hintlesham Hall, and on the settings of the notable artist associated Benton End House and Overbury Hall in the Dedham Vale and Stour Valley, and also agrees that there have not been any identified significant residual effects for Conservation areas or scheduled monuments [ER 5.2.27]. The 2024 NPS EN-1 paragraph 5.9.32 states that where the proposed development will lead to less than substantial harm to the significance of designated heritage assets, that harm should be weighed against the public benefits of the proposal. The Secretary of State concludes that the harms are outweighed by the substantial public benefit of the Application. The Secretary of State therefore ascribes moderate negative weight against making the Order.

Landscape and Visual

The ExA's Conclusions

- 4.45. The ExA is content that matters relating to effects on the Dedham Vale AONB and Stour Valley SLA and their settings were properly considered and assessed and recognises some longer-term benefits from the Proposed Development as well as the short-term significant adverse impacts resulting from construction activities and the time lag between completion and the recovery and maturation of replacement and mitigation planting. The Applicant took due account of the special qualities of the AONB and had regard to its statutory duties under the Countryside and Rights of Way Act. The ExA considers its approach to be broadly compliant with the new duty under the Levelling-up and Regeneration Act [ER 3.9.200].
- 4.46. The ExA concludes that, on balance, impacts on the landscape and views carry a little weight against the making of the Order [ER 3.9.204].

Secretary of State's Conclusions

- 4.47. The Secretary of State has considered the impact on the Dedham Vale AONB. The Secretary of State also notes the duty under s245 of the Levelling-up and Regeneration Act 2023 for public bodies to further the purposes of AONBs and also notes the 2024 NPS EN-1 in this regard. The Secretary of State is satisfied that all possible steps have been taken to further the relevant purposes of the AONB and comply with the statutory duty in this particular case.
- 4.48. The Secretary of State agrees with the ExA's conclusions and weighting on the issue of landscape and views and ascribes little weight against the making of the order.

Land use, soil and geology

The ExA's conclusions

- 4.49. The ExA notes that the Applicant's approach of assuming that all grade 3 land is BMV provides a reasonable worst-case scenario for the purpose of the EIA. The Applicant confirmed site surveys would be undertaken prior to construction where appropriate and was confident the assessment [APP-079] would not change as a result. The CEMP [REP9-033] also confirms that pre-construction soil surveys would be undertaken where stripping is proposed for underground cabling where there is no existing data. Taking all of these matters into account, the ExA is satisfied that the baseline characterisation of BMV is adequate [ER 3.10.72]. Furthermore, the ExA notes that it is satisfied that, in respect of paragraphs 5.10.8 and 5.10.15 of NPS EN-1, the Applicant has sought to minimise impacts on, and justified the reasons for including parts of the Proposed Development on BMV land [ER 3.7.73].
- 4.50. The ExA notes that the local planning authorities objected to the making of the Order ([REP9-072] and [REP10-018]), partially on the grounds of the status of the control document management plans, as they judged that the management plans should be considered outline, and that final versions of each that would require their approval should be submitted by the Applicant post-consent. The Applicant held a different position on this matter. The reasoning is summarised in the Statement of Common Ground between the Applicant and the local authorities [REP10-006] [ER 3.10.74].

- 4.51. The ExA considers the CEMP, MWMP and CoCP to be high level management plans that include some rather generic approaches to mitigation. For example, good practice measure AS01 in the REAC [REP9-037], an Appendix to the CEMP [REP9-033], includes indicative soil storage locations, and notes that soil stockpiles would be designed taking into consideration site conditions and the nature and composition of the soil. Paragraph 11.3.8 of the CEMP [REP9-033] says that as part of detailed site planning (and in advance of any soil stripping activities) the contractor would identify suitable locations for soil storage and soil storage methods based on the soil type and land grade. The Applicant [REP1-034] confirmed that prior to undertaking works, the main works contractor would develop the sequence of excavation, stockpiling, duct installation and backfill for the six trenches in each linear section [ER 3.10.75].
- 4.52. The MWMP refers to protecting soils during construction and allowing the application of the correct processes for storage and reuse to maintain their classification as non-waste material through CL:AIRE 2011 [ER 3.10.76]. The MWMP (paragraph 6.4.2) refers to waste being considered during the detailed design stage, and that the contractor would use the detailed design drawings to inform the procurement strategy. Section 6.5 gives typical examples of waste products [ER 3.10.77]. Given the high-level nature of some of these controls, as information about soils, materials and waste becomes more clearly defined during the detailed design and construction phase, the ExA considers that it would be appropriate for it to be shared with the relevant planning authority [ER 3.10.78].
- 4.53. The ExA therefore considers that detailed written plans for the management of materials and waste that are in accordance with the CEMP, MWMP and CoCP should be produced by the Undertaker and submitted to the relevant planning authorities. The ExA recommends this is secured through Requirement 4(4) of the DCO [ER 3.10.79].
- 4.54. However, the ExA does note that a detailed written plan for the management of waste would better satisfy paragraph 5.14.6 of NPS EN-1, which requires an applicant to provide details of any arrangements that are proposed for managing any waste produced and to prepare a Site Waste Management Plan. A detailed written plan for the management of material would also align with CL:AIRE 2011 and reflect paragraph 180(a) of the NPPF that planning decisions should protect and enhance soils [ER 3.10.80].
- 4.55. Overall, the ExA notes that it is satisfied that a Soil Management Plan (SMP) would help to minimise impacts on soil quality and is satisfied that it can be secured through the CEMP and Requirement 14 of the DCO [ER 3.10.81].
- 4.56. The ExA understands discussion with affected landowners on Heads of Terms are progressing [REP10-012]. The ExA agrees with the Applicant that, where effects on income cannot be mitigated, the compensation code provides the appropriate vehicle for any recompense for landowners [ER 3.10.82].
- 4.57. In conclusion, the ExA is satisfied that the Proposed Development would accord with the policy requirements of the extant NPS EN-1 and NPS EN-5, and that consideration of the 2024 energy NPSs would not alter this conclusion [ER 3.10.83]. The ExA recognises that there would be a permanent loss of 11.6ha of BMV land. Taking into account the mitigation secured through the DCO, the ExA concludes that land use, soil, and geology effects carry moderate negative weight against the Order being made [ER 3.10.84].

The Secretary of State's Conclusions

- 4.58. The Secretary of State has reviewed the case on land use, soil and geology, the supporting evidence and the representations summarised in the ExA's Report and submitted by the Applicant. He has also considered the important and relevant policies set out in the 2011 NPSs and the recently designated 2024 NPSs that have due regard to land use, soil and geology, as well as the local policies and LIRs. The Secretary of State agrees with the ExA that the 2024 NPSs would not alter this conclusion.
- 4.59. With regard to management plans, the Secretary of State has amended Requirement 4 of the DCO in accordance with the without-prejudice wording provided by the Applicant in [REP7-025], which he considers to be more appropriate than the ExA's recommended changes to Requirement 4(4). Paragraph 7.5 deals with the Secretary of State's overall conclusions regarding management plans.
- 4.60. The Secretary of State agrees with the ExA's conclusions and concludes that the Proposed Development would be a permanent loss of 11.6ha of BMV land but notes that this amounts to 2% within the Order Limits and is satisfied with the mitigation secured through the DCO. The Secretary of State therefore ascribes moderate negative weight against the Order.

5 Habitat Regulations Assessment

- 5.1. The Secretary of State's Habitat Regulations Assessment (HRA) is published alongside this letter. The paragraphs below should be read in conjunction with the HRA which sets out in full the Secretary of State's consideration of these matters.
- 5.2. The Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations") aim to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of plans and projects. The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation ("SACs"). They also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the UK and internationally. These sites are called Special Protection Areas ("SPAs"). SACs and SPAs together form part of the UK's National Site Network ("NSN").
- 5.3. The Convention on Wetlands of International Importance 1972 ("the Ramsar Convention") provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the UK the same protection as sites within the NSN (collectively with SACs and SPAs referred to in this decision letter as "protected sites").
- 5.4. Regulation 63 of the Habitats Regulations provides that: *"....before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site's conservation objectives."*

And that: *"In the light of the conclusions of the assessment, and subject to regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan*

or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be)."

- 5.5. The Proposed Development is not directly connected with, or necessary to the management of a protected site. Therefore, under regulation 63 of the Habitats Regulations, the Secretary of State is required (as Competent Authority) to consider whether the Proposed Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on any protected site. If likely significant effects ("LSE") cannot be ruled out, the Secretary of State must undertake an Appropriate Assessment ("AA") addressing the implications for the protected site in view of its Conservation Objectives.
- 5.6. Where an adverse effect on the integrity ("AEoI") of the site cannot be ruled out beyond all reasonable scientific doubt, regulations 64 and 68 of the Habitats Regulations provide for the possibility of a derogation which allows such plans or projects to be approved provided three tests are met:
- there are no feasible alternative solutions to the plan or project which are less damaging to protected sites;
 - there are imperative reasons of overriding public interest ("IROPI") for the plan or project to proceed; and
 - compensatory measures are secured to ensure that the overall coherence of the NSN is maintained.
- 5.7. The Secretary of State may grant development consent only if it has been ascertained that the Proposed Development will not, either on its own or in-combination with other plans or projects, adversely affect the integrity of protected sites unless he chooses to continue to consider the derogation tests as above. The complete process of assessment is commonly referred to as a HRA.
- 5.8. The ExA considered that there was sufficient information before the Secretary of State to enable him to undertake an AA in order to fulfil his duties under the requirements of the Habitats Regulations.
- 5.9. The Secretary of State has carefully considered the information presented during the Examination, including the Report on the Implications for European Sites ("RIES"), the ES, representations made by IPs, and the ExA's Report. He considers that the Proposed Development has the potential to have an LSE from changes to key indicators of conservation value (surface water and groundwater quality) on the following two protected sites, when considered alone and in-combination with other plans or projects:
- Stour and Orwell Estuaries SPA; and
 - Stour and Orwell Estuaries Ramsar Site.
- 5.10. The Secretary of State has undertaken an AA in respect of the Conservation Objectives of the sites to determine whether the Proposed Development, either alone or in-combination with other plans or projects, will result in an AEoI of the identified protected sites. The Secretary of State has considered all information available to him including the recommendations of the ExA, the advice of Natural England ("NE") as the Statutory Nature Conservation Body ("SNCB"), the views of all other IPs, and the Applicant's case.

Appropriate Assessment conclusion

- 5.11. Based on the available information to him, and subject to the construction best practice and pollution mitigation measures as secured in the final Order, the Secretary of State is satisfied that the Proposed Development, either alone or in-combination with other plans or projects, will not adversely affect the qualifying features of the Stour and Orwell Estuaries SPA and Ramsar Site.

The Secretary of State's Conclusion on the HRA

- 5.12. Having considered the information available to him and having made a full assessment of the potential for an AEoI of each of the protected sites for which the potential for LSE was identified, taking into account the views of the Applicant, the ExA, the SNCB and all IPs, the Secretary of State concludes that an AEoI can be excluded beyond reasonable scientific doubt, subject to the measures secured through the final Order. As such, the Secretary of State is satisfied that there is no significant risk to any protected site and their qualifying features as a result of the Proposed Development and considers that no further tests set out in the Habitats Regulations are required.

6. Compulsory Acquisition

- 6.1. The Secretary of State notes that to support the delivery of the Proposed Development, the Applicant is seeking powers of Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights which it had not been able to acquire by voluntary agreement. The Applicant is seeking these powers to:
- acquire land permanently within the Order limits;
 - take temporary possession of land within the Order limits;
 - acquire rights over some land within the Order limits;
 - extinguish rights over some of the land within the Order limits; and
 - temporarily suspend rights over some of the land within the Order limits in order to construct, operate and maintain the Proposed Development [ER 6.3.1].
- 6.2. The ExA concluded that development consent should be granted and consequently that the compelling case in the public interest due to the urgent need for this project, for the CA powers sought and that the Proposed Development would comply with s122(2) and s122(3) of the PA2008 [ER 6.6.6; ER 6.7.281] and with CA Guidance, the Human Rights Act 1998 (HRA1988) and the Equality Act 2010 [ER 6.6.1].
- 6.3. The ExA notes that all land within the Order Limits is considered to be necessary for the Proposed Development. However, under dDCO Article 23, should it transpire that any is not required, for instance as a result of the detailed design process, the Applicant could only seek to compulsorily acquire that part of the land required. In its Statement of Reasons [REP9-011], the Applicant explained that it is not seeking to compulsorily acquire the full extent of land that falls within the Order Limits. It is seeking temporary powers over an area greater than that proposed for permanent acquisition or acquisition of rights, which is identified through the Class of Rights shown on the Land Plans [REP9-004]. Once the Proposed Development was constructed, the Applicant would only require permanent rights to operate, access and maintain the development over a corridor within the limits of deviation if it had been unable to secure the permanent land or rights acquisition required via a voluntary agreement [ER 6.3.3].

The CA and TP powers sought

- 6.4. The ExA notes that the powers being sought by the Applicant relate to the CA of land and rights over land together with the TP of land. The Book of Reference sets out in detail seven classes under which land or rights may be acquired permanently or land possessed temporarily [REP9-016]. These are identified by the colour of the plot on the Land Plans [REP9-004] and by the wording used in the Book of Reference plot description [ER 6.5.1].
- 6.5. S132 of the PA2008 applies to the CA of rights over common land, open space or fuel or field garden allotments. Such land is defined as ‘special category land’ under Regulation 2 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. In such cases, the PA2008 indicates that an Order granting development consent would be subject to special parliamentary procedure unless the Secretary of State is satisfied that one of the relevant subsections applies and that fact is recorded in the Order. Subsection 132(3) applies if the Order land, when burdened with the Order right, would be no less advantageous to the persons in whom it is vested, other persons entitled to rights of common or other rights, and the public [ER 6.5.7]. The Book of Reference described the types of open space [REP9-016] in Part 5. The relevant plots of land were included in the Book of Reference and on the Special Category Land Plans [APP-009] [ER 6.5.8].
- 6.6. If a Statutory Undertaker makes a representation about the CA of land or a right over land that has been acquired for the purpose of its undertaking, and this is not withdrawn, s127 of the PA2008 applies. In these circumstances, the DCO can only include a provision authorising the CA of that land or right if the Secretary of State is satisfied that the land or right can be purchased without serious detriment to the carrying on of the undertaking, or that any such detriment can be made good by use of or replacement with alternative land [ER 6.5.9]. Amongst other things, the dDCO (Article 43) [REP9-006] includes provision to authorise the CA of land belonging to Statutory Undertakers and existing rights therein [ER 6.5.10].
- 6.7. S138(4) provides that an Order may include provision for the extinguishment of the relevant right or the removal of relevant apparatus of Statutory Undertakers only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates. The dDCO (Article 43) [REP9-006] includes such a provision [ER 6.5.12].
- 6.8. In examining the application, the ExA considered all written material in respect of CA and TP and asked questions regarding justification of the need for the CA and TP in its first written questions (ExQ1) [PD-005] and further written questions (ExQ2) [PD-008] [ER 6.6.2]. In addition, the issues were explored in further detail at two Compulsory Acquisition Hearings (CAHs). CAH1 ([EV-028] and [EV-030]) and CAH2 [EV046]. No APs (“Affected Persons”) chose to participate in CAH2 [ER 6.6.3].

Compulsory Acquisition

- 6.9. The CA Guidance says that the Applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to CA, including modifications to the scheme, have been explored. The Applicant’s approach to the consideration of alternatives in relation to CA was set out in section 7.4 of the Statement of Reasons [REP9-011] [ER 6.6.8]. The alternatives in terms of the route, siting of component parts and construction were considered throughout that process, including in response to feedback received during the 2021 and 2022 consultations [APP-043] [ER 6.6.10]. In order to construct, operate and maintain the project, land and rights in the ownership of parties other than the Applicant would need to be acquired. Any practicable alternative location for the project would similarly

require the acquisition or use of third-party land. This meant that acquisition or use of third-party land could not be avoided. Where appropriate, the Applicant has also sought TP powers rather than the CA of land or rights, as this is more proportionate where the permanent acquisition of land or rights is not required [ER 6.6.12].

- 6.10. The Applicant is seeking to acquire the necessary rights by agreement but has not yet been able to do so in relation to all of them. Whilst it expects to continue to negotiate to acquire the rights by voluntary agreement, the Applicant requires the powers of CA and TP that it is seeking in order to provide certainty that it will have all the rights required to construct and operate the Proposed Development in order to realise its significant public benefits.
- 6.11. In light of the above, the ExA considers that the Applicant has satisfactorily demonstrated that all reasonable alternatives to CA have been explored [ER 6.6.15].

Temporary Possession

- 6.12. In relation to the TP powers sought pursuant to Articles 26 to 28 of the dDCO, the Applicant said that the powers sought are required to carry out and thereafter maintain the Proposed Development. They would be needed for a limited time during construction and for occasional maintenance in the operational phase [ER 6.6.16].
- 6.13. The request for TP powers must be justified by an applicant, and there must be adequate compensation provisions in place for those whose land is affected [ER 6.6.17]. In considering objections to TP rights sought by the Applicant, the ExA has approached them mindful of the legal tests for CA, given that they would also interfere with established rights in land [ER 6.6.18].

Land for Biodiversity Net Gain

- 6.14. The ExA notes that the Order land encompasses land for BNG. As part of National Grid's Our 2021-2026 Environmental Action Plan 2021–2026 (April 2021), the Applicant committed that by 2026 it will deliver at least 10% or greater environmental value (including biodiversity) on all construction projects. The Government intends to commence mandatory BNG on Nationally Significant Infrastructure Projects (NSIPs) accepted for examination from November 2025. 30 years will be set as the minimum period for which biodiversity gain must be secured [ER 6.6.19]. Whilst the Applicant is seeking voluntary agreements with parties, if these cannot be agreed, it has identified areas for suitable BNG within the Order Limits, and the best chance of providing BNG successfully on-site or close to the proposed development, is to seek CA powers [ER 36.6.20].
- 6.15. The 2024 NPS EN-5 considers BNG in the context of electricity networks infrastructure at sections 2.5 Environmental and Biodiversity Net Gain and 2.6 Land Rights and Land Interests. Whilst paragraphs 4.1.8 and 4.1.9 of the 2024 NPS EN-1 refer to land rights in the context of mitigation and landscape enhancement, paragraph 2.6.6 of the 2024 NPS EN-5 includes BNG as one of the purposes for which an applicant may seek the CA of land or rights over that land. Any such application is to be considered under the provisions of the PA2008 and any associated guidance. In this context, the ExA concludes that the Applicant's proposed use of CA and TP powers for the provision and maintenance of the BNG elements of the Proposed Development is consistent with policy and guidance and there is no reasonable alternative to it [ER 6.6.22].

Funding

- 6.16. The Applicant's Funding Statement [APP-037] explained how the Proposed Development would be funded and how the acquisition of land necessary to build it would be financed. It

said that the Applicant would have the ability to procure the financial resources required for the Proposed Development, including the cost of acquiring any rights and the payment of any compensation or blight claims brought by those interested in the land affected by the DCO [ER 6.6.23].

- 6.17. Based on the submitted evidence, the ExA states that it is satisfied that the necessary funds would be available to the Applicant to cover the likely costs of CA and TP [ER 6.6.26].

Consideration of Individual Objections

- 6.18. Twenty-five representations were made by APs or their representatives that specifically related to concerns regarding the CA or TP of their land, and the impact on the use of the land. The Applicant entered into dialogue with all landowners, though one of the negotiations was unilaterally closed [ER 6.7.5].
- 6.19. The Compulsory Acquisition and Temporary Possession Objections Schedule [REP9-056] and Statement of Reasons Appendix B, Schedule of Negotiations with Land Interests [REP9-015], set out the status of objections and outstanding issues with each AP at the end of the Examination [ER 6.7.7]. The issues raised by APs included insufficient consultation; the impact of construction activities; concerns around the re-instatement of land; the necessity of temporary access routes; the re-location of pylons, overhead lines and other structures; and the impact on AP's agricultural businesses. Mr P Nott and Mr G Nott raised concerns around the proposed temporary access route from the A131, which was not included in the initial non-statutory and statutory consultations. Their issues are discussed in more detail below.

Mr P Nott

- 6.20. Mr P Nott is an AP with an interest in land (Book of Reference Parts 1 and 2) sought for rights in accordance with Class 2, 3, 4 and 6 [REP9-016] [ER 6.7.186] and his objection related to 2 plots of land between the A131 Sudbury Road and Oak Road in which the Applicant sought Class 4 – CA of rights of access.
- 6.21. The AP asked the ExA to consider whether the rights sought by the Applicant needed to be permanent rather than just for construction. Whilst he accepted that works may be required in the future to the Proposed Development, he considered the imposition of a permanent limit on activities across a significant swathe of his holding to be disproportionate [ER 6.7.191].
- 6.22. The Applicant confirmed [REP4-023] that its initial non-statutory and statutory consultations had not included the proposed temporary access route from the A131 but that it had been developed partially in response to feedback from local residents about the unsuitability of the local road network for large vehicles. The subsequent targeted consultation included it. Details were set out in the Applicant's Consultation Report, Appendix K, September 2022, Targeted Consultation Materials and Supporting Information [AS-009] [ER 6.7.198].
- 6.23. The ExA notes that the Applicant explained ([REP1-025], pages 28 to 30) why it considered the road network unsuitable for the abnormal indivisible loads that would deliver components to the proposed Stour Valley west cable sealing end compound. It considered the hybrid option at the request of landowners (which would use a mixture of the local road network and temporary access across private land) and concluded that the proposed temporary access route was its preferred option [ER 6.7.200].

- 6.24. The Applicant [REP1-025] clarified that the application intended the proposed temporary access route to be in place for the duration of construction activities, after which it would be removed and the land reinstated. It did not intend to use the temporary access route for routine maintenance. However, the Applicant sought permanent rights so that it could gain access to the Stour Valley west cable sealing end compound in the unlikely event that major works were required in the future [ER 6.7.209].
- 6.25. The Applicant advised that a situation requiring the reinstallation of the temporary access route from the A131 would be unlikely, but it may be necessitated by repair or maintenance works that were of such magnitude that they were akin to the construction works themselves. When, and to what extent, the temporary access route from the A131 might need to be reinstalled would depend on the circumstances of any particular asset failure or disrepair, as well as the technologies available to the Applicant and the size and number of the construction vehicles required. It said that its preferred approach would be to make use of the local road network where practicable, but this would depend on the scale of the works [REP4-023]. If the temporary access route had to be reinstalled, the land would again be reinstated after works had been completed [REP1-025] [ER 6.7.210].
- 6.26. The Applicant understood that seeking CA of rights of access could lead to a degree of uncertainty for APs but considered it to be necessary and proportionate given the importance of ensuring the integrity of the electricity transmission system. It added that APs would be compensated for any proven loss [ER 6.7.213].
- 6.27. The dDCO [REP9-006] does not include a specific requirement to remove the temporary access route once construction is complete [ER 6.7.216]. However, the Applicant pointed out that it would risk its actions being deemed ultra vires and unlawful if it physically retained the temporary access route post-construction, as the dDCO only permitted it for the purposes of constructing and maintaining the authorised development. Measure GG07 in the CoCP [REP9-035] required land used temporarily to be re-instated where practicable to its pre-construction condition and use. The CoCP would be secured through Requirement 4(2)(a) of the DCO [REP9-006] [ER 6.7.217].
- 6.28. Should the rights be obtained using the CA powers, any claim for compensation would be time-barred after six years following the acquisition of the permanent rights. However, the Applicant confirmed that the initial compensation payable for the acquisition would account for the permanent rights sought and the potential for re-installation [ER 6.7.218].
- 6.29. The AP was consulted on the current version of the temporary access route before it was submitted as part of this application for development consent. The Applicant has not been deficient in the adequacy of its consultation [ER 6.7.232].
- 6.30. The ExA recognises that the possible reinstatement of the temporary access route at some point in the future represents unwelcome uncertainty for Mr Nott. However, the ExA does not consider that his alternatives can be justified on CA grounds [ER 6.7.237].
- 6.31. Considered in the round, the ExA is satisfied that the temporary access route is required to facilitate the development to which the development consent relates and is content that there are suitable provisions for compensation in the dDCO [ER 6.7.238]. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. Should the Secretary of State decide to grant the Order for the Proposed Development, the ExA considers that the Applicant's approach in

relation to the CA powers sought in respect of this land are consistent with s122 and s123 of the PA2008 [ER 6.7.239].

Mr G Nott

- 6.32. Mr G Nott is an AP (Book of Reference Parts 1 and 2) with interest in land proposed for Class 4 – CA of rights of access. His plots lie in the vicinity of Lorkin's Lane, Bishop's Lane, Twinstead Road and Oak Road and submitted his XRR [RR-080] and WR [REP2-056] on behalf of D P Nott & Sons [ER 6.7.240]. Mr Nott's land would be affected by the proposed temporary access route leading from the A131 Sudbury Road to the Stour Vally west cable sealing end compound [ER 6.7.241].
- 6.33. The AP said that he was supportive of the Proposed Development in principle but wanted more information.
- 6.34. Following CAH1 [REP4-023], at which Mr Nott's agent was present, the Applicant confirmed that its initial non-statutory and statutory consultations did not include the proposed temporary access route from the A131.
- 6.35. The Applicant acknowledged [REP3-048] that, at a meeting with Mr Nott in September 2022, prior to the targeted consultation exercise, it had suggested it might be possible to use the highway network for the route to the Stour Valley west cable sealing end compound [ER 6.7.246]. The Applicant said [REP3-048] that it had sought to engage with Mr Nott and his agents and had many meetings and discussions in person, by email and telephone to explain details of the Proposed Development and listen to the concerns. After issue of the HoTs in March 2023, it had meetings with his agents to discuss amendments, the AP's concerns and his alternative routing proposals.
- 6.36. The ExA is satisfied that Mr Nott was kept apprised of the Proposed Development as it would affect his land and sees no deficiency in the Applicant's consultation process prior to submission of this Application. Thereafter, there has been ongoing engagement with the AP and his agent and, if there was uncertainty as to what he was being asked to sign up to, there was opportunity through the Examination to seek clarification on the nature of the Proposed Development and the rights sought in Mr Nott's land [ER 6.7.250].
- 6.37. The ExA considers the Applicant's explanation of the change of plans in achieving access to the Stour Valley west cable sealing end compound to be logical, rational and based on proper consideration of alternatives. Having considered the Applicant's Consultation Report [APP-043] and supporting Appendices, particularly Appendix K [AS-009] and Appendix L [APP-055], the ExA does not find short-comings in the Applicant's consultation with the AP [ER 6.7.255].
- 6.38. Overall, The ExA notes that it is satisfied that the plans and documents, including the DCO, that would define the extent of any forthcoming consent, are publicly available in the Examination Library so that APs and their agents could establish the implications for their land rights. This includes the variation in the width of the Order Limits along the proposed temporary access route when the Procedural Deadline A Submission 6.4 Environmental Statement Figures, Rev B [PDA-002] is considered together with the Land Plans [REP9-004], Book of Reference [REP9-016] and dDCO [REP9-006]. The Applicant's response to the tailored question ([PD-005], CA1.4.19) provided helpful clarification [ER 6.7.260].
- 6.39. Having considered the AP's preferred Option 3c, the Applicant's evidence about why Option 2a remains the preferred route for the proposed temporary access route was extensive and comprehensive ([REP3-053], [REP4-009], [REP5-026] and [REP6-037]). It illustrated that the AP's concerns about impact on his land were fully taken account of, albeit that such

consideration did not result in the incorporation of his proposed changes to the alignment of the temporary access route [ER 6.7.256].

- 6.40. The ExA considers that the Applicant provided a persuasive explanation of why CA of rights in the land is sought as opposed to TP. Its approach is consistent with paragraph 2.6.4 of 2024 NPS EN-5, which says that where CA of rights is sought, permanent arrangements are strongly preferred over voluntary wayleaves in view of their greater reliability and economic efficiency and reflecting the importance of the relevant infrastructure to the nation's Net Zero goals. Given the possible need for future access, the policy concern is an equally applicable important and relevant consideration in respect of reliance on powers of TP of land [ER 6.7.262].
- 6.41. The ExA's view is that the Applicant's reference to the temporary access route as temporary, despite it seeking CA of rights, is correct given that it would be removed at the end of the construction phase and reinstated if necessary. The confusion it caused was addressed at several junctures throughout the Examination when the nature of rights sought in the temporary access route was clarified together with when it would be removed, might be re-installed and the associated notice periods and compensation provisions. The ExA understands that seeking CA of rights of access would lead to a degree of uncertainty for individual APs. However, it is necessary and proportionate given the importance of ensuring the integrity of the electricity transmission system [ER 6.7.263].
- 6.42. From discussion with the Applicant's representatives in July 2023, the AP understood that the final design for the proposed temporary access route would be left for the appointed contractor to design and implement, but that it is likely that the soil would be stripped to a depth of 300 to 350mm. Given that the preliminary designs and provision in the plans attached to the application are for solely a single stack of soil, the AP asked the ExA to consider whether the Applicant had provided sufficient storage provision to the suitable separation of the top and sub soils [ER 6.7.270].
- 6.43. The ExA also notes that the Applicant's evidence given in paragraphs 6.7.220 and 6.7.221 on soil handling, storage, management and reinstatement are equally applicable to Mr G Nott's concerns and those of Mr P Nott [ER 6.7.271]. The ExA considers that requiring the undertaker, through provision in the dDCO, to negotiate with individual APs on associated matters of detail during the construction phase would be inappropriate and disproportionate given the scale of the project and proven need for it [ER6.7.271].
- 6.44. Measure AS03 in the CoCP [REP9-035], secured by Requirement 4(2)(a) of the dDCO [REP9-006], would provide for access to and from residential and agricultural land uses throughout the construction period or as agreed through the landowner discussions [ER 6.7.274]. The ExA is satisfied that the above measure addresses the AP's concerns [ER 6.7.275].
- 6.45. The ExA is satisfied that the CA and TP powers sought over the land identified in the Land Plans [REP9-004] and Book of Reference [REP9-006] are required for the Proposed Development, to facilitate it or are incidental to it. Moreover, there is a compelling case in the public interest for the land to be acquired compulsorily. Accordingly, the rights sought meet the conditions set out in s122(2)(a) and s122(2) (b) of the PA2008 in this case [ER 6.7.281].

The ExA's Conclusions

- 6.46. The CA and TP powers sought might result in some adverse impacts on the private interests of the owners of the land affected. However, account has been taken of the following considerations:

- the development for which the land is sought would be in accordance with national policy as set out in NPS EN-1, and NPS EN-5 and development consent should be granted;
- there is a need to secure the land and rights required to deliver the Proposed Development and to construct it within a reasonable timeframe;
- the Proposed Development represents a significant public benefit;
- the private loss to those affected has been mitigated through the selection of the land and minimisation of the extent of rights and interests proposed to be acquired;
- the private losses suffered are not such as to outweigh the public benefits that would accrue from the grant of the CA and TP powers which are sought;
- the Applicant has, to the extent possible, explored all reasonable alternatives to the CA of the rights and interests sought. For a project of this nature it is reasonable that the Applicant should retain CA and TP powers in a made Order, as a guarantee against the possible failure of voluntary agreements;
- funding is available to meet any compensation liabilities for CA and TP and the dDCO makes provision to ensure this; and
- CA and TP for the Proposed Development can be delivered in a manner that accords with relevant human rights considerations [ER 6.7.282].

6.47. On that basis, the ExA is satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily, satisfying the requirement of s122(3) of the PA2008. The ExA cannot see anything in individual objections that would prevent the grant of the CA or TP powers sought and considers them necessary and proportionate should the Secretary of State decide to grant the Order for the Proposed Development [ER 6.7.283].

The Secretary of State's Conclusion

6.48. The Secretary of State agrees with the ExA that there is a compelling case in the public interest for the land to be acquired compulsorily, satisfying the requirement of s122(3) of the PA2008, and considers the powers sought to be necessary and proportionate. The Secretary of State is content that all reasonable alternatives to the CA of the rights and interests sought have been explored and agrees that a requirement for the undertaker, through provision in the dDCO, to negotiate with individual APs on associated matters of detail during the construction phase is inappropriate and disproportionate.

Statutory Undertaker Land, Rights and Apparatus

6.49. The ExA notes that the land affected by the Proposed Development would include land, rights or other interests owned by several Statutory Undertakers. The Statement of Reasons reported on the Applicant's negotiations with each of these Statutory Undertakers ([REP9-011], section 8.3). Representations made by the following Statutory Undertakers were subsequently withdrawn:

- Cadent Gas Limited [RR-024]; and
- Pivoted Power LLP ([RR-035] and [REP2-029]) [ER 6.8.1].

- 6.50. The report goes on to note that the Applicant made applications under s127 of the PA2008 in respect of the following Statutory Undertakers where representations were made and not withdrawn before the close of the Examination:
- Network Rail Infrastructure Limited [REP8-037];
 - East Anglian THREE Limited [REP9-068];
 - Anglian Water Services Limited [REP9-069] [ER 6.8.2].
- 6.51. Anglian Water Services Limited withdrew their representations following the examination in a letter dated 20 March 2024. East Anglia THREE Limited subsequently withdrew their representations in a letter dated 17 July 2024.
- 6.52. The Applicant also made an application under s138 of PA2008, Statutory Undertakers Telecommunications Operators' Rights and Apparatus [REP9-066]. The associated Schedule identified the Statutory Undertakers and Electronic Communications Code Operators whose rights and apparatus might be affected by the Proposed Development [ER 6.8.3].

Network Rail Infrastructure Limited

- 6.53. The Applicant sought CA of rights over land in which Network Rail Infrastructure Limited has a legal interest (Book of Reference Parts 1 and 3). The rights fell within Class 3 (Compulsory Acquisition of rights – underground cable) and Class 4 (Compulsory Acquisition of rights - access) as shown in the Book of Reference [REP9-016] and the accompanying Land Plans [REP9-004] [ER 6.8.4]. Table 1.1 of the s127 application [REP8-037], Proposed Works and Locations, identified the plot numbers over which rights were sought and the relevant work was identified and described [ER 6.8.6].
- 6.54. The ExA notes that PPs for the benefit of Network Rail Infrastructure Limited were included in Schedule 14, Part 4 of the dDCO submitted with the application [APP-034]. At Table 2.2 of its Protective Provisions and Commercial Side Agreements Tracking List [REP7-020], the Applicant advised that these had been agreed with Network Rail Infrastructure Limited. In the penultimate version of the dDCO [REP8-004], the PPs at Schedule 14, Part 4, paragraphs 30(1), 30(6) and 30(7) were revised for reasons given in the accompanying Applicant's Schedule of Changes to the Draft Development Consent Order [REP8-022]. The Applicant also submitted an application under s127 of the PA2008 in respect of rights in Network Rail Infrastructure Limited land [REP8-037] [ER 6.8.12].
- 6.55. The Applicant submitted an application under s138 of the PA2008 [REP9-006]. Network Rail Infrastructure Limited was one of the Statutory Undertakers listed in the schedule forming part of the application. The Applicant said that it did not anticipate that there would be any interference with Network Rail Infrastructure Limited's rights under the Electronic Communications Code or apparatus to which s138 of the PA2008 applies. Nevertheless, in the absence of agreement between the parties, the Applicant considered it necessary to seek associated CA powers in the dDCO [REP9-006] to ensure that it would be able to deliver the Proposed Development in a comprehensive manner.
- 6.56. The Applicant's position at the end of the Examination was that s127 and s138 of the PA2008 were engaged in respect of the Proposed Development's interface with Network Rail Infrastructure Limited interests ([REP10-012], pages 2 and 3 and [REP10-016]) as set out in

its Examination submissions under s127 [REP8-037] and s138 ([REP9-066], page 13) [ER 6.8.15].

- 6.57. Having considered Network Rail Infrastructure Limited evidence, the ExA is satisfied that the tests in s127(1)(a), s127(1)(b) and s127(1)(c) of the PA2008 are met [ER 6.8.17]. As no land owned by Network Rail Infrastructure Limited needs to compulsorily acquired, only rights over that land, s127(2) and s127(3) of the PA2008 are not engaged [ER 6.8.18].
- 6.58. The Secretary of State can be satisfied that the requirements of s127(5) and s127(6) of the PA2008 are complied with [ER 6.8.20]. Based on both parties' evidence, s138(1) of the PA2008 applies. In respect of Network Rail Infrastructure Limited's rights and apparatus, the application under s138 of the PA2008 [REP9-006] was made on a precautionary basis, subject to the need case set out at paragraph 1.3.4 thereof.
- 6.59. Taking account of the nature of the proposed works set out in Schedule 1 of the dDCO [REP9-006] and shown on the Work Plans [APP-010], together with inclusion of the PPs for Network Rail Infrastructure Limited's benefit at Schedule 14, Part 4 of the DCO, Network Rail Infrastructure Limited's rights would not be affected to the detriment of its ability to carry out its undertaking. In the absence of powers for the Applicant to extinguish the Statutory Undertaker's rights or remove its apparatus, the works associated with the Proposed Development might be unreasonably delayed or not completed. Accordingly, the test in s138(4) of the PA2008 is satisfied [ER 6.8.21].

Royal Mail

- 6.60. The ExA notes that the Applicant sought TP of rights over land in which Royal Mail has a legal interest (Book of Reference Parts 2 and 3). It enjoys rights in respect of apparatus over Plot 22-08 at Church Road, Twinstead in which the Applicant sought rights under Class 7 (Temporary Use for Access). The plot comprises 1,299 m² of public road and verges. TP was sought to facilitate access to existing pylons 4YL076 and 4YL076, part of Work No 10 – modifications to the transmission electric line and connection to the Grid Supply Point Substation, as set out at Schedule 1 of the DCO [REP9-006], the Land Plans [REP9-004] and Work Plans [APP-010] [ER 6.8.72].
- 6.61. Royal Mail's submissions made no specific mention of the plot in which it has a legal interest and of which the Applicant wanted to take TP, or of PPs in Schedule 14, Part 2 of the dDCO for the protection of operators of electronic communications code networks [ER 6.8.73].
- 6.62. Royal Mail was included in the Schedule to the application under s138 of the PA2008, Statutory Undertakers Telecommunications Operators' Rights and Apparatus [REP9-066], though the Applicant said that no apparatus was anticipated to be removed or altered [ER 6.8.74].
- 6.63. The ExA notes that Royal Mail was not listed in Appendix B to the Statement of Reasons, Schedule of Negotiations with Land Interests ([APP-040] and [REP9-015]). Taken together with what the Applicant stated in the Schedule to the application under s138 of the PA2008 suggests to the ExA that it was included on a purely precautionary basis [ER 6.8.75].

Other undertakers included in the PA2008 s138 application

- 6.64. The schedule to the Applicant's application under s138 of the PA2008, Statutory Undertakers Telecommunications Operator's Rights and Apparatus [REP9-066], listed

Statutory Undertakers whose rights or apparatus might be interfered with as a result of the Proposed Development. All are included in the Book of Reference [REP9-016] and the Statement of Reasons ([REP9-011], section 8.3) [ER 6.8.77].

6.65. In addition to the Statutory Undertakers already considered, the following were included in the Schedule, which identified the relevant rights to be extinguished or relevant apparatus to be removed or altered:

- BT Openreach;
- Gigaclear Limited;
- UKPN;
- Virgin Media Limited; and
- Vodafone Limited [ER 6.8.78].

6.66. None submitted representations to the Examination. Rule 17 requests issued to them afforded each the opportunity to comment on the s138 application under the PA2008 [PD-013]. No responses were received [ER 6.8.79].

6.67. The schedule also included Pivoted Power LLP, which withdrew its representations by letter of 4 March 2024 [REP10-026], subsequent to the issue of the Rule 17 request [PD-019] affording it the opportunity to comment on the application under s138 of the PA2008 [ER 6.8.80]. Cadent Gas Limited was also listed on the Schedule. It had withdrawn its representations by letter of 21 February 2024 [AS-012], prior to receipt of the application under s138 of the PA2008 on 23 February 2024. It did not engage with the Rule 17 request [PD-013] that gave it the chance to respond to that application [ER 6.8.81].

The Environment Agency

6.68. Whilst the Environment Agency did not make a representation or objection, the ExA notes that the Environment Agency's concern related to impact on maintenance activities that might result from the proposed temporary bridge that would cross over part of the Bures to Cornard flood banks. These were raised defences built on the river's edge to keep flood waters off arable land. As these defences do not provide flood protection to people and property, they do not attract any recurring maintenance funding, so the Environment Agency does not carry out any recurring maintenance activities on these defences except an annual visual inspection for condition. It said that access would need to be available for this to take place [ER 6.8.83].

6.69. The ExA notes that the Access, Rights of Way and Public Rights of Navigation Plans showed the proposed temporary closure of public right of navigation on the River Stour through Plots 20-20 and 20-25 [APP-012]. Chapter 12 Traffic and Transport in the Applicant's ES said that there would be short term disruption to navigation along the River Stour for safety reasons during proposed lowering of the 132kV conductors and during installation and removal of the temporary bridge. These disruptions were anticipated to be short term (i.e., up to a week) ([APP-080], paragraph 12.3.8). The CEMP provides an undertaking that the Applicant would notify the Environment Agency at least one month prior to activities that affect the 'Navigation Envelope' of the River Stour, that the notification would contain sufficient information to enable it to understand the necessity of the closure and include

details of - amongst other things - the nature and duration of the works ([REP9-033], paragraph 2.5.2). This commitment was agreed between the parties on 8 December 2023, as shown in the signed SoCG that advised that there were no matters outstanding or still under discussion between the parties [REP6-019] [ER 6.8.86].

- 6.70. The Environment Agency would have advance notice of the timing and duration of works that would affect Plot 20-20 through the provisions of the CEMP, secured by Requirement 4(2)(a) of the dDCO [REP9-006]. Therefore, by prior arrangement and despite the extinguishment of its right of access, there is no apparent practical reason why Environment Agency would not be able to programme its annual inspection to avoid the works associated with installation of the temporary bridge over the River Stour. The proposed extinguishment of the right of access is necessary for the purpose of carrying out the development to which the Order relates, in compliance with s138(4) of the PA2008 and Environment Agency would not be affected to the detriment of its ability to carry out its undertaking [ER 6.8.87].

TC East Anglia One OFTO Limited

- 6.71. TC East Anglia One OFTO Limited did not make a representation but was issued with a Rule 17 request [PD-014] asking it to provide any response to the application under s138 of the PA2008, Statutory Undertakers Telecommunications Operators' Rights and Apparatus [REP9-066]. It did not respond [ER 6.8.88].
- 6.72. The Applicant anticipated that an interface agreement would be entered into once commercial terms had been agreed between the parties. It said that HoTs for the interface agreement were substantially agreed and that, so far as the Applicant was aware, there were no commercial or other substantive matters remaining outstanding. It also noted that the parties were committed to agreeing the form of interface agreement as expeditiously as possible following the close of the Examination [REP10-012] [ER 6.8.91]. This was consistent with the signed SoCG between the parties [REP10-018], which gave useful background information to the East Anglia One project and its relationship with the Proposed Development [ER 6.8.92].
- 6.73. The ExA agrees with the Applicant's conclusion that this interface would be limited [ER 6.8.98].
- 6.74. Subsequently, the matters agreed between the parties [REP10-008] included:
- TC East Anglia One OFTO Limited had no objection to the principle of the Proposed Development.
 - The parties could see no reason why the Proposed Development and East Anglia One could not be implemented and operated without conflict with one another.
 - The parties agreed to continue discussing landscape mitigation in the areas of land in which they have an interest (located within the vicinity of all that land that may be required for the Proposed Development and falls within its Order Limits). Meanwhile, if any of East Anglia One's existing landscape planting was removed for the Proposed Development, it would need to be replaced and further discussions would be required on the subsequent maintenance of any replacement planting over a ten-year period.

- The parties agreed on the technical interface between the two respective projects and broadly on the items that would need to be included in the interface agreement, which was anticipated shortly after the close of Examination [ER 6.8.99].
- 6.75. Details of the works associated with the Proposed Development that may interface with East Anglia One's development were set out in the application under s138 of the PA2008 ([REP9-066], paragraph 2.3.4). The extinguishment of TC East Anglia One OFTO Limited's rights would be necessary for the purpose of carrying out the development to which the Order relates. In the absence of powers for the Applicant to extinguish such rights or remove or reposition such apparatus, the works associated with the Proposed Development could not be completed [ER 6.8.101].
- 6.76. Were agreement not reached, there is nothing in the PPs in Schedule 12, Part 1 of the dDCO [REP9-006] that would address the issue of mitigation planting that is to be subject of the proposed interface agreement. Therefore, were the Proposed Development to go ahead, TC East Anglia One OFTO Limited might be in breach of the Order granting it development consent in respect of the mitigation planting [ER 6.8.102].
- 6.77. However, unlike s127 of the PA2008, there is nothing in s138 that empowers the ExA to consider whether allowing interference with the right to be acquired would be detrimental to TC East Anglia One OFTO Limited's undertaking. Therefore, there is no reason to recommend to the Secretary of State that powers under s138 should be denied in this instance [ER 6.8.103].

The ExA's Conclusions on the s138 application

- 6.78. Schedule 14, Part 1 of the dDCO [REP9-006] provides protection for electricity, gas, water and sewerage undertakers and Part 2 for operators of electronic communications code networks [ER 6.8.103]. S138(1) of the PA2008 has effect as the dDCO would authorise the acquisition of land (compulsorily or by agreement) and there subsists over the land a relevant right or there is on, under or over the land relevant apparatus. S159 of the PA2008 defines 'land' as including any interest in land. Whilst not all these Statutory Undertakers submitted representations to the Examination, in accordance with s138 of the PA2008, the Secretary of State must be satisfied that the extinguishment of the relevant right or the removal of the relevant apparatus is necessary for the purposes of carrying out the development to which the Order relates [ER 6.8.104].
- 6.79. The ExA is persuaded that that the Secretary of State can be satisfied that extinguishment of the relevant right or the removal of the relevant apparatus would be necessary for the purpose of carrying out the development to which the Order relates [ER 6.8.105].
- 6.80. The ExA notes that the Applicant is seeking to negotiate with some of the Statutory Undertakers identified in the schedule to the application made under s138 of the PA2008 to acquire the rights necessary for the Proposed Development, and to manage any interfaces between the project and their apparatus or rights vested on, under or over land within the Order Limits, by private treaty. However, in the absence of voluntary agreement between the parties, the associated CA powers that the Applicant seeks are needed to ensure that it would be able to enforce powers consistently and uniformly to deliver the project in a comprehensive manner. If acquisition of the required rights is not agreed between the parties, the ExA considers that the Secretary of State can be assured that the requirements of s138(4) of the PA2008 are satisfied [ER 6.8.106].

6.81. The Book of Reference [REP9-016] reported that no land within the Order Limits had been identified as Crown land [ER 6.9.1].

Special category land: Open Space

6.82. The ExA notes that the Applicant sought rights over special category land, more specifically classed as open space ([REP3-011] section 2.1.4). The Book of Reference describes the types of open space [REP9-016] in Part 5. The relevant plots of land are included in the Book of Reference and on the Land Plans [REP9-004] and the Special Category Land Plans [APP-009] [ER 6.10.3].

6.83. Open Space is defined in the Acquisition of Land Act 1981 as, 'any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground [ER 6.10.5]. As such, the Applicant said that it had taken a precautionary approach to include all land that could be considered open space [ER 6.10.6].

6.84. Open space within the Order Limits and in respect of which powers of CA were sought was shown shaded blue-green on the Special Category Land Plans [APP-009] and listed in Table 8.1, Special Category Land of the Statement of Reasons [REP9-011]. These described the four parcels of land that the Applicant identified as open space, the plot numbers involved, activities to be undertaken and CA classes sought. The four areas were:

- Hintlesham Golf Course;
- Hintlesham Wood;
- Hadleigh Railway Walk; and
- Assington Green [ER 6.10.7].

6.85. Special parliamentary procedure would be engaged unless the Secretary of State was satisfied that one of a number of exemptions could be shown to apply. The potential exemptions are defined in s132 of the PA2008. In this case, only rights (for overhead lines, underground cables, access and BNG) were being sought over land identified as open space. No CA of land was sought. Therefore, the exemption that the Applicant sought to rely on is that set out in s132(3) of the PA2008, which required that the Order land, when burdened with the Order right, would be no less advantageous than it was before, to the following persons:

- the persons in whom it is vested;
- other persons, if any, entitled to rights of common or other rights; and
- the public [ER 6.10.8].

6.86. The Applicant considered that that the Secretary of State could be satisfied that the Proposed Development would not cause the land to be less advantageous to these parties and hence could confirm by certificate that special parliamentary procedure would not apply [ER 6.10.9]. In support of this contention, the Applicant supplemented the evidence in the Statement of Reasons with a Special Category Land Report. This provided an assessment of powers of the CA of rights sought in respect of each of the four parcels that it considered to be open space, based on its precautionary approach ([REP3-011] Chapter 4). It described

the current land use of each, why the CA of rights in the land were needed and its rationale for the conclusion in each instance that the land would be no less advantageous when burdened with the rights sought [ER 6.10.10].

- 6.87. The Applicant included land at Hintlesham Golf Course as open space (Plots 2-54, 3-06, 3-13, 3-15, 3-16, 3-17, 3-18, 3-20, 3-22, 3-23). CA Class 3 and 4 rights were sought therein [REP9-016]. The land is part of a golf course and was included on a precautionary basis.
- 6.88. The current land use of Hintlesham Great Wood is that of a private, mixed deciduous woodland, which is owned and managed by the RSPB. It is a SSSI that extends to 118.1 hectares. There are public rights of way and bridleways passing through. There is signage and information boards informing the public where they can access; along with private paths, that are not open to the public but used for operational purposes. The existing 400kV line over that land is to be reconducted and possibly the towers to be modified [REP 9-011, Table 8.1].
- 6.89. The land of the Hadleigh Railway Walk is a two mile stretch of the trackbed, from the station site in Hadleigh to the site of Raydon Wood Station, and is a Local Nature Reserve. The existing 132kV line over the land is to be replaced [REP 9-011, Table 8.1].
- 6.90. The land at Assington Green was included on a precautionary basis. It is privately owned grazing land, orchard and wet deciduous woodland. It partially overlaps what was designated in the Assington Neighbourhood Plan as Mill Farm Land Local Green Space but is no longer designated. A public right of way borders the southern and western extents of the designated land, outside the designation, but the land itself is not publicly accessible. The existing 400kV overhead line oversails the northern boundary of the land and the 132kV overhead line also oversails the land, with two pylons on the land itself [ER 6.10.12]
- 6.91. The ExA notes that the Proposed Development would remove the existing 132kV line (which oversails the northern boundary of the land) and pylon PCB 67, and build a new transmission tower and install conductors, in a similar alignment and location, approximately 50m to the south). The proposed new overhead line would run broadly parallel to the existing transmission line and a new pylon might be sited within the designation, subject to the limits of deviation as they might be applied in this location. The construction activities would be short term, each envisaged to be in the region of six weeks [ER 6.10.13].
- 6.92. The Applicant said that the conductors do not (and would not) impact the usage of the open space (being space used and enjoyed at ground level only). The proposed pylon would replace an existing pylon. The proposed pylon would only make contact with the ground at its four corners and would not materially alter the ability of the open space to be enjoyed as such [ER 6.10.14]. The Applicant added that discussions were ongoing in relation to agreement to acquire the necessary interests in the Open Space land by agreement. However, if voluntary agreement was not possible, in respect of all four parcels of land, they would be no less advantageous when burdened with the rights sought, in compliance with s132 of the PA2008 [ER 6.10.15].
- 6.93. Notwithstanding pursuance of voluntary agreements, the Applicant still sought powers to CA rights over special category land through the dDCO as they would enable it to deliver its statutory and contractual duties without potential delay, if for any reason the voluntary acquisition of rights were ultimately unsuccessful. Without the powers of acquisition being compulsorily, there would be a risk that the urgent national need for the project could not be met because the land and rights required in the Order land may not be assembled [ER

6.10.18].

The ExA's conclusions

- 6.94. The Order land includes land that the Applicant identified as special category land, more specifically open space. Although the ExA had misgivings about whether two of the four parcels of special category land at Hintlesham Golf Course and Assington Green, in which the Applicant seeks to acquire rights, satisfy the definition of open space at s19(4) of the Acquisition of Land Act 1981, the applicable legal tests were applied to all on a precautionary basis and to assist the Secretary of State's consideration of the issue. As the Applicant was seeking rights over the land rather than to compulsorily acquire it, the tests set out in s132 of the PA2008 were engaged [ER 6.10.61].
- 6.95. S132(2) of the PA2008 exempts an Order granting development consent from being subject to special parliamentary procedure if, amongst other things, the Secretary of State is satisfied that one of subsections (3) to (5) applies. As the Applicant sought to rely on s132(3) of the PA2008, those tests were applied to each of the four parcels of land that it considered to be open space [ER 6.10.62].
- 6.96. In respect of all four, the ExA considered the Proposed Development to be consistent with s132(3)(a), (b) and (c) of the PA2008. Accordingly, on the basis of s132(2)(a), an exemption to special parliamentary procedure is merited in respect of the proposed CA of rights over this land provided that s132(2)(b) is observed [ER 6.10.63].

The Secretary of State's Conclusions

- 6.97. The Secretary of State has taken into consideration the case made for compulsory acquisition and temporary possession of land for the Proposed Development, as well as the conclusions drawn by the ExA on this matter. These matters include areas of funding, consideration of individual objections, statutory undertaker land and the special category of open space.
- 6.98. The Secretary of State is satisfied that the tests would comply with s122 and s123 of the PA2008 and notes that the land sought by the Applicant is in each case proportionate, necessary and in the public interest to facilitate the construction and operation of the Proposed Development. The Secretary of State is satisfied that the acquisition and temporary possession in each case is justified when considering the extent of land required, alternatives, funding and the use and purpose of the land and rights.
- 6.99. Cadent Gas Limited, Pivoted Power LLP, Network Rail Infrastructure Limited, East Anglia THREE Limited, Anglian Water Services Limited, Royal Mail, BT Openreach, Gigaclear Limited, UKPN, Virgin Media Limited and Vodafone Limited are statutory undertakers. The ExA concluded that the powers sought in relation to Statutory Undertakers meet the conditions set out in s127 and s138 of the PA2008 and the CA Guidance. The Secretary of State agrees and has concluded that with the inclusion of the PPs contained in the Order the compulsory purchase powers will not cause serious detriment to the carrying on of the relevant undertaking.
- 6.100. The Secretary of State is satisfied that the extinguishment or removal of relevant rights and relevant apparatus is necessary for the purpose of carrying out the development to which the order relates, therefore, the test under s138 PA2008 is met.

- 6.101. Based on the information and evidence, the Secretary of State shares the ExA's doubts as to whether the parcels described as special category land, particularly those at Hintlesham Golf Course and Assington Green satisfy the definition of open space at s19(4) of the Acquisition of Land Act 1981. The Secretary of State also has doubts as to whether the land at Hintlesham Woods satisfies the definition of open space at s19(4) of the Acquisition of Land Act 1981. Nevertheless, the Secretary of State has, on a precautionary basis, gone on to consider the tests in s132 of the PA2008 and CA Guidance and agrees that the powers sought in relation to all four parcels of special category land identified meet the conditions set out in s132(3) of the PA2008 and that special parliamentary procedure is not required.
- 6.102. The Secretary of State has no reason to believe that the grant of the Order would give rise to any unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

7. Secretary of State's Consideration of the Planning Balance and Conclusions

- 7.1. The Secretary of State acknowledges the ExA's recommendation that the Secretary of State makes The National Grid (Bramford to Twinstead Reinforcement) Order in the form attached at Appendix D to the ExA's Report.
- 7.2. The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
- need for the Proposed Development – great positive weight (see paragraph 4.12) [ER 5.2.2];
 - air quality and emissions – neutral weight [ER 5.2.2];
 - biodiversity and ecology – moderate negative weight (see paragraph 4.32) [ER 5.2.16];
 - good design – little negative weight [ER 5.2.22];
 - greenhouse gas emissions – little negative weight [ER 5.2.25];
 - historic environment – moderate negative weight (see paragraph 4.44) [ER 5.2.35];
 - landscape and views – little negative weight [ER 5.2.46];
 - land use, soil and geology – moderate negative weight (see paragraph 4.55) [ER 5.2.49];
 - noise and vibration – little negative weight [ER 5.2.57];
 - public rights of way – moderate negative weight [ER 5.2.59];
 - socio-economics and community issues – neutral weight [ER 5.2.63];
 - the water environment – neutral weight [ER 5.2.66];
 - traffic, transport and highway safety – neutral weight [ER 5.2.76; and
 - cumulative effects – little negative weight [ER 3.16.10].
- 7.3. The weights ascribed by the Secretary of State to the planning issues raised in the ExA's Report do not differ from those ascribed by the ExA. There are some matters for which the Secretary of State has further commentary to add, beyond that set out in the ExA's Report. Where this is the case, the Secretary of State has provided that additional commentary above.
- 7.4. All NSIPs will have some potential adverse impacts. In the case of the Proposed Development, most of the potential impacts have been assessed by the ExA as being in

accordance with the 2011 NPS EN-1 and NPS EN-5, and the newly designated 2024 NPSs, subject in some cases to suitable mitigation measures being put in place to minimise or avoid them completely as required by NPS policy.

- 7.5. The Secretary of State generally agrees with the ExA that the management plans are sufficient to secure appropriate mitigation for the potential adverse impacts of the Proposed Development. However, the Secretary of State also notes that the management plans remain relatively high-level and would benefit from greater detail during the detailed design and pre-construction survey phase. The Secretary of State notes the concerns held by the local authorities regarding the Applicant's approach to securing final management plans at this stage, and that these concerns have led to the local authorities objecting to the making of the Order [REP9-072] [REP10-018]. The Secretary of State is not persuaded by the Applicant's arguments [REP7-022] [REP7-025] [REP9-064] [REP10-006] that the approval of the Local Authority for these plans is neither necessary nor appropriate and could cause undue delay to the Proposed Development timeline. The Secretary of State has therefore amended Requirement 4 and made other consequential amendments in the DCO to ensure that the relevant management plans are considered outline and must be approved by the relevant Local Authority post-consent. The Secretary of State considers that Schedule 4 of the DCO secures an appropriate process for the timely approval of the management plans and encourages the Applicant and local authorities to engage proactively and pragmatically in this regard.
- 7.6. For the reasons given in this letter, the Secretary of State concludes that the benefits of the Proposed Development outweigh its potential adverse impacts. The Secretary of State does not believe that the national need for the Proposed Development as set out in the relevant NPSs is outweighed by the Proposed Development's potential adverse impacts, as mitigated by the proposed terms of the Order. The Secretary of State has therefore accepted the ExA's recommendation that consent should be granted for the Bramford to Twinstead Reinforcement.
- 7.7. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the relevant Development Plans, the two joint LIRs, the 2011 and 2024 NPSs, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 104 of the PA2008. The Secretary of State confirms for the purposes of regulation 4(2) of the EIA Regulations that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.

8. Other Matters

Equality Act 2010

- 8.1. The Equality Act 2010 includes a public sector "general equality duty" ("PSED"). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following

“protected characteristics”: age; gender; gender reassignment; disability; marriage and civil partnerships²; pregnancy and maternity; religion and belief; and race.

- 8.2. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the Examination. There can be detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.
- 8.3. The Secretary of State has had due regard to this duty and has not identified any parties with a protected characteristic that might be discriminated against as a result of the decision to grant consent to the proposed Development.
- 8.4. The Secretary of State is confident that, in taking the recommended decision, he has paid due regard to the above aims when considering the potential impacts of granting or refusing consent and can conclude that the Proposed Development will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that granting consent is not likely to result in a substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

Natural Environment and Rural Communities Act 2006

- 8.5. The Secretary of State notes the “general biodiversity objective” to conserve and enhance biodiversity in England, section 40(A1) of the Natural Environment and Rural Communities Act 2006 and considers the application consistent with furthering that objective, having also had regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when making this decision.
- 8.6. The Secretary of State is of the view that the ExA’s Report, together with the Environmental Impact Assessment considers biodiversity sufficiently to inform the Secretary of State in this respect. In reaching the decision to give consent to the Proposed Development, the Secretary of State has had due regard to conserving biodiversity.

9. Modifications to the draft Order

- 9.1 Following consideration of the draft Order provided by the ExA, the Secretary of State has made the following modifications to the draft Order:
 - amended the definition of “maintain” to confirm that whilst part of the authorised development may be replaced, this definition does not cover the replacement of the whole of the development;
 - amended the definition “permit schemes” under article 1 (citation and commencement) to the draft Order which included an order for Suffolk County Council. This did not seem to be in force with the footnote left blank in the SI reference. The current definition has therefore been amended to include any relevant permit schemes;

² In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

- removed article 2(9) which amends the more usual reference to materially new or materially different effects. The reference to materially new or materially different effects does not prevent any changes which are beneficial for the environment, provided such changes do not result in significant effects that have not been previously identified and properly assessed in the environmental statement and article 2(9) does not appear to provide additional certainty to the interpretation of the phrase;
- removed paragraph 6 under article 3 (development consent etc. granted by the Order) from the draft Order. The power was broad and appeared to be captured elsewhere in the Order;
- moved paragraphs 4 to 6 from article 8 (application of the 1990 Act) to article 32 (time limit for exercise of authority to acquire land and rights compulsorily) and requirement 2 (paragraph 2) of schedule 3 (requirements). They operate in and are relevant to those locations of the draft Order;
- removed the original article 22 (removal of human remains) from the draft Order, which sought to mandate that the Applicant remove and rebury or cremate any human remains from burial grounds within the Order limits. There are no known burial grounds within the Order limits so the Secretary of State considers this article to be unnecessary;
- inserted paragraph 3 under article 22 (compulsory acquisition of land) to the draft Order to facilitate correct operation of Part 5 (powers of acquisition);
- inserted paragraphs 5 and 6 to article 24 (acquisition of subsoil or airspace only) to the draft Order because the compensation paragraphs were omitted;
- amended the wording in article 42 (statutory undertakers). The Secretary of State does not find the reasons given for departing from the usual provisions and applying the TCPA in this instance persuasive;
- amended the wording in article 46(7) (traffic regulation) to reflect the fact that article 46(6) is dealing with the expiration of a time limit rather than the exercise by the undertaker of a power under that article;
- inserted paragraph 8(b) to article 47 (felling or lopping) to the draft Order to include a time period for notice to be given;
- inserted article 58(2) (Arbitration) to the draft Order. This paragraph confirms arbitration does not apply to consents and approvals from the Secretary of State;
- deletion of requirement 2(1) of Schedule 3 to the draft Order. Commencement is already defined in article 2(1) which distinguishes pre-commencement work. The requirement as drafted appears to require two separate conditions to be met simultaneously and attempts to distinguish between begin and commence. This causes uncertainty and is not justified. Given the explanation in the Explanatory Memorandum that the authorised development must in any event be commenced it is not appropriate to create a second, separate period for beginning the development;
- amended Requirement 4 (paragraph 4) of Schedule 3 (Requirements) to the draft Order which detailed the status of the control document management plans. The amendments

ensure those management plans are approved by the relevant Local Authority as set out in paragraph 7.5 above;

- amending the time periods in Schedule 4 by which the relevant local authority must reply to an application seeking to consult or obtain further information from 3 to 7 days as the Secretary of State agrees that the original time periods appeared to be too short.
- 9.2 In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments, changes in the interests of clarity and consistency and changes to achieve consistency with other DCOs.

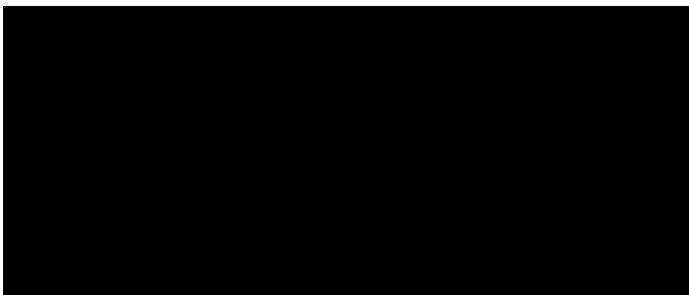
10. Challenge to decision

- 10.1. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

11. Publicity for decision

- 11.1. The Secretary of State's decision on this Application is being publicised as required by section 116 of the PA2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
- 11.2. Section 134(6A) of the PA2008 provides that a compulsory acquisition notice shall be a local land charge. Section 134(6A) also requires the compulsory acquisition notice to be sent to the Chief Land Registrar, and this will be the case where the Order is situated in an area for which the Chief Land Registrar has given notice that they now keep the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the Order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the prospective purchaser should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.

Yours sincerely,



David Wagstaff OBE

Head of Energy Infrastructure Development

ANNEX A: LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order or decision is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

[https://national-infrastructure
consenting.planninginspectorate.gov.uk/projects/EN020002](https://national-infrastructure.consenting.planninginspectorate.gov.uk/projects/EN020002)
[https://national-infrastructure
consenting.planninginspectorate.gov.uk/projects/EN020002](https://national-infrastructure.consenting.planninginspectorate.gov.uk/projects/EN020002)

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).

ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AA	Appropriate Assessment
AP	Affected Persons
AEoI	Adverse Effect on Integrity
BESS	British Energy Security Strategy
CA	Compulsory Acquisition
CEMP	Construction Environmental Management Plan
CoCP	Code of Construction Practice
DCO	Development Consent Order
dDCO	Draft Development Consent Order
EA	The Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	The Examining Authority
HPI	Habitat of Principal Importance
HRA	Habitats Regulations Assessment
IP	Interested Party
IROPI	Imperative Reasons of Overriding Public Interest
LEMP	Landscape and Ecological Management Plan
LIR	Local Impact Report
LSE	Likely Significant Effect
MW	Megawatt
MWMP	Materials and Waste Management Plan
NE	Natural England
NPS	National Policy Statement
NSN	National Site Network
NSIP	Nationally Significant Infrastructure Project
PA2008	The Planning Act 2008
PSED	Public Sector Equality Duty
REAC	Register of Environmental Actions and Commitments
RIES	Report on the Implications for European Sites
RR	Relevant Representation
SAC	Special Area of Conservation
SoCG	Statement of Common Ground
SPA	Special Protection Area
TP	Temporary Possession



The Planning Inspectorate

The Planning Act 2008

BRAMFORD TO TWINSTEAD REINFORCEMENT

Examining Authority's Report of Findings and Conclusions
and Recommendation to the
Secretary of State for Energy Security and Net Zero

Examining Authority

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12 June 2024

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OVERVIEW

File Ref: EN020002

The Application and Examination:

The application, dated 27 April 2023, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 27 April 2023.

The applicant is National Grid Electricity Transmission plc.

The application was accepted for examination on 23 May 2023.

The Examination began on 12 September 2023 and was completed on 12 March 2024.

The Proposed Development comprises the reinforcement of the electricity transmission network between the existing Bramford Substation in Suffolk, and Twinstead Tee in Essex. It would involve the construction and operation of a new, 29km electricity transmission line, comprising approximately 18km of overhead line and 11km of underground cabling, with four cable sealing end compounds and a new grid supply point substation. Approximately 25km of existing 132kV overhead line and 2km of existing 400kV overhead line would be removed.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached at Appendix D.



The Planning Inspectorate

ERRATA SHEET – BRAMFORD TO TWI NSTEAD REINFORCEMENT Ref. EN020002

Examining authority’s Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Energy Security and Net Zero, dated 12 June 2024

Corrections agreed by the Examining Authority prior to a decision being made

Vol	PDF Page No.	Para	Error	Correction
	308	7.4.23	Words missing at beginning of paragraph	Not known what those words were intended to be
	216	6.7.166	27 February 2004 is listed as a date of engagement	Year should be 2024, not 2004

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1. INTRODUCTION

1.1. BACKGROUND

- 1.1.1. The application for development consent for the Bramford to Twinstead Reinforcement (the Proposed Development) was submitted by National Grid Electricity Transmission plc (the Applicant) to the Planning Inspectorate on 27 April 2023 under section (s) 31 of the Planning Act 2008 (PA2008) and accepted for examination under s55 of the PA2008 on [23 May 2023](#) under the reference number EN020002.
- 1.1.2. The [Examination Library](#) provides a record of all application documents and submissions to the Examination, each of which is given a unique reference number (e.g., [APP-001]). These reference numbers are used throughout this Recommendation Report with hyperlinks to facilitate direct access.
- 1.1.3. This Report does not contain extensive summaries of all documents and representations received, although each has been taken fully into account, including all important and relevant matters arising.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 5 July 2023, Andrew Mahon, Julie de-Courcey, John McEvoy and Jason Rowlands were [appointed](#) as the Examining Authority (ExA) for the application under s27 of the PA2008.
- 1.2.2. This Report provides the ExA's recommendation to the Secretary of State for Energy and Net Zero about whether a Development Consent Order (DCO) should be made for the Proposed Development.

1.3. THE APPLICATION

OVERVIEW OF THE PROPOSED DEVELOPMENT

- 1.3.1. The location of the Proposed Development is shown on Figure 4.1 of the Applicant's Environmental Statement (ES) [\[PDA-002\]](#) (reproduced below as Figure 1 of this Report) and Land Plans [\[REP1-004\]](#) (final version [\[REP9-004\]](#)). The site lies within the administrative counties of Suffolk and Essex and is wholly in England.
- 1.3.2. A full list of the authorised development that is sought is set out at Schedule 1 of the Applicant's draft DCO (dDCO) [\[REP9-006\]](#). In summary, the Proposed Development involves:
- The reinforcement of the transmission network between the existing Bramford substation and Twinstead Tee through the construction and operation of 29km of new 400 kilovolt (kV) transmission line, comprising:
 - approximately 18km of overhead line, with approximately 50 pylons;
 - approximately 11km of underground cable with associated joint bays and above-ground link pillars.
 - Four cable sealing end compounds to facilitate the transitions from overhead line to underground cable, each with security fencing, electrical equipment, support structures, a control building and an access track.
 - The removal of 27km of existing overhead transmission line and associated pylons.

- A new grid supply point substation with access, replacement pylons, transformers, switchgear and other electrical equipment, a sealing end compound, underground cabling, office and welfare facilities, and utility connections.
- Associated Development including:
 - modifications to some existing pylons;
 - new temporary and permanent accesses to the public highway;
 - temporary construction compounds with laydown and storage areas, offices and welfare facilities;
 - temporary structures and launch and reception drilling pits at crossings of water courses, rights of way, highways and a railway line;
 - temporary and permanent culverts and land drainage features;
 - land required for mitigation, compensation and Biodiversity Net Gain (BNG).

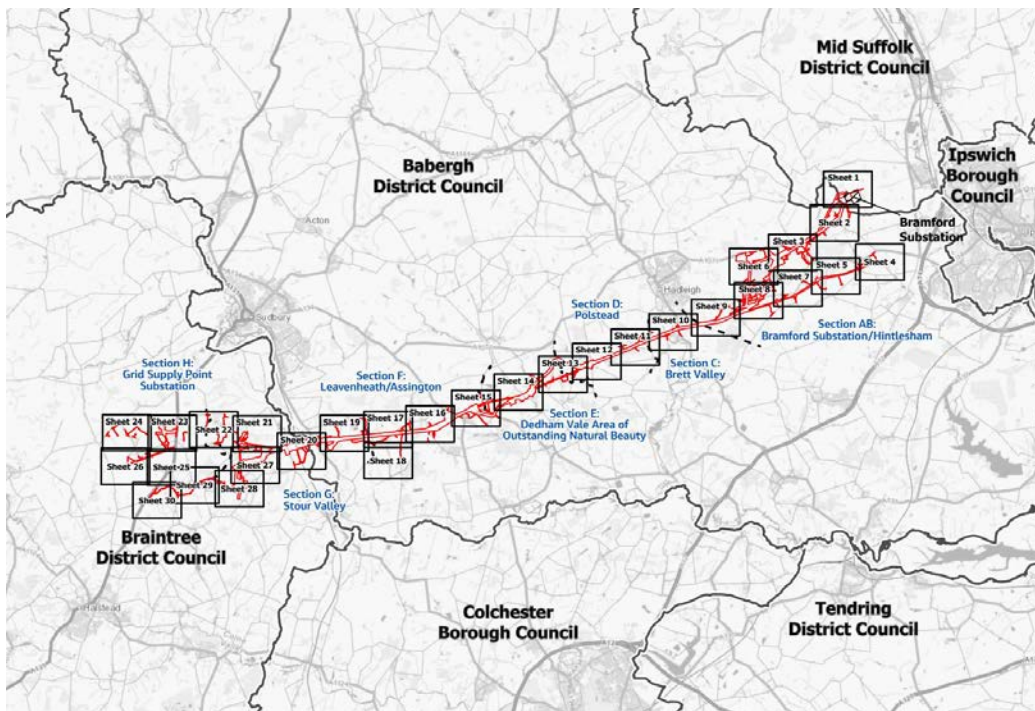
1.3.3. Further detail is provided by the Applicant in Chapter 4 of the ES, Project Description, [[APP-072](#)].

DETERMINATION OF THE APPLICATION

1.3.4. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered on behalf of the Secretary of State for Levelling Up, Housing and Communities in the [decision](#) to accept the Application for Examination in accordance with s55 of the PA2008.

1.3.5. On this basis, the Planning Inspectorate agreed with the Applicant's view in its application form [[APP-002](#)] that the Proposed Development is an NSIP as it comprises the installation of a 400kV electricity line above ground over more than 2km, and thus falls within s14(1)(b) and s16 of the PA2008. As such, it requires development consent in accordance with s31 of the PA2008.

Figure 1: Location of the Proposed Development
(Extracted from the Applicant's ES Figure 4.1)



THE LOCATION OF THE PROPOSED DEVELOPMENT

- 1.3.6. The location and route of the Proposed Development is described in detail in Chapter 4 of the Applicant's ES [APP-072]. Figure 4.1 of the ES [PDA-002] provides detailed plans of an indicative alignment and the proposed Order Limits and limits of deviation.
- 1.3.7. In summary, the Proposed Development is in the east of England and crosses the county boundary between Essex and Suffolk. It is situated in three local planning authority areas: the eastern part lies in Mid Suffolk District (Suffolk), the central part in Babergh District (Suffolk) and the western part in Braintree District (Essex).
- 1.3.8. The proposed transmission line would generally follow the route of an existing 400kV overhead line between the Bramford Substation and Twinstead Tee. An existing 132kV overhead line runs alongside this for a large part of the route.
- 1.3.9. Some modifications would be made at and adjacent to the existing Bramford Substation.
- 1.3.10. The four cable sealing end compounds required to transition between overhead line and underground cable sections would be at Dedham Vale east (west of Millwood Road), Dedham Vale west (north-west of Steward's Farm), Stour Valley east (south of Workhouse Green) and Stour Valley west (to the west of Alphamstone). These would facilitate undergrounding of the cables across the Dedham Vale and parts of the Stour Valley.
- 1.3.11. The new grid supply point substation is proposed between Butler's Wood and Waldegrave Wood, north-east of Wickham St Paul, with an access off the adjacent A131.
- 1.3.12. Approximately 27km of existing overhead line would be removed as part of the Proposed Development. This would comprise 25km of 132kV overhead line between Burstall Bridge and Twinstead Tee, and 2km of 400kV overhead line to the south of Twinstead Tee.

THE APPLICANT AND ITS RESPONSIBILITIES

- 1.3.13. The application was made on 27 April 2023 by National Grid Electricity Transmission plc, the company that owns and maintains the high voltage electricity transmission system in England and Wales and operates the high voltage electricity network throughout Great Britain. Details are set out in the application form [APP-002] and section 2.1 of the Planning Statement [APP-160].
- 1.3.14. The Applicant's Non-Technical Summary of the ES [APP-068] provides a summary of the objectives of the Proposed Development.
- 1.3.15. It notes that the existing electricity transmission network in East Anglia will soon exceed its current capability and that it will be unable to deal with future demand while working to the required standards. Additional capacity will be required to accommodate a new nuclear power station at Sizewell C, new offshore wind generation off the east coast of England and interconnection with countries across the North Sea.
- 1.3.16. The Applicant highlights that this increased generation will play a key role in delivering the UK Government's Net Zero ambitions and delivering up to 50GW of offshore wind connection by 2030. The proposed enhancements to the electricity

network infrastructure would facilitate these ambitions and ensure that energy can be transported from where it is generated to where it is used.

RELEVANT PLANNING HISTORY

- 1.3.17. The Applicant undertook a search of relevant planning history for:
- development within and around the Order Limits (Table C.1 in Appendix C of the Planning Statement [REP6-011], and ES Figure 15.2, Proposed Developments [APP-155]);
 - major developments within 10km of the Order Limits but excluding significant urban areas, as defined in paragraph 15.4.7 of ES Chapter 15, Cumulative Effects Assessment [APP-083]; and
 - NSIPs within 50km of the Order Limits (Shortlist of Other Developments, ES Appendix 15.4 [APP-143]).
- 1.3.18. Suffolk County Council and Mid Suffolk and Babergh District Councils were content with the Applicant's analysis of committed developments overlapping with the Order Limits for the Proposed Development ([REP3-060] and [REP3-078]).
- 1.3.19. Essex County Council and Braintree District Council noted that the majority of committed developments were in Suffolk but queried the Proposed Development's relationship with the proposed Norwich to Tilbury NSIP [REP3-061]. The Applicant advised [REP4-029] that East Anglia GREEN, now known as Norwich to Tilbury, had been included in the cumulative assessment.
- 1.3.20. ES Figure 15.1, Nationally Significant Infrastructure Projects [APP-155], shows two made Development Consent Orders (DCOs) in the vicinity of the Bramford Substation. These relate to the East Anglia One Offshore Wind Farm (an onshore substation adjacent to the existing substation at Bramford) and the East Anglia THREE Offshore Wind Farm (a convertor station in Bramford).
- 1.3.21. A plan showing the East Anglia One Order Limits in the vicinity of the Bramford Substation is set out at Appendix 1 to the Statement of Common Ground (SoCG) between the Applicant and TC East Anglia One OFTO Limited [REP10-008]. There is a similar plan showing the East Anglia THREE Order Limits in the proximity of the Bramford Substation at Appendix 1 of the draft SoCG between the Applicant and East Anglia THREE Limited [REP10-010].
- 1.3.22. The Order Limits for these consented projects overlap with those for the Proposed Development, particularly in relation to an area of landscape planting adjacent to Bramford Substation. Both projects are under construction.
- 1.3.23. In April 2022, the Applicant obtained planning permission (22/1147/FUL) for a new 400/132kV grid supply point substation on land adjacent to the A131 between Butler's Wood and Waldegrave Wood, to the north-east of Wickham St Paul. This includes consent for two supergrid transformers, associated buildings, equipment and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary fencing, an area for BNG, and landscape mounding) and drainage. In September 2023, the Applicant gained planning permission (23/01488/VAR) for the variation of two conditions attached to the earlier consent.
- 1.3.24. The site that is the subject of those planning consents lies within the Order Limits of this Proposed Development. Work has commenced on the development approved through the planning application.

- 1.3.25. As noted in paragraph 1.3.2, the grid supply point substation also forms part of the Proposed Development, comprising Work No 9 in Schedule 1, Authorised Development, of the dDCO [\[REP9-006\]](#).

1.4. THE EXAMINATION

- 1.4.1. The Examination began on 12 September 2023 and concluded on 12 March 2024.
- 1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found on the [Examination Timetable tab](#) of the project webpage of the Planning Inspectorate's National Infrastructure Planning website (the project webpage).
- 1.4.3. On 7 August 2023, The ExA wrote to all Interested Parties (IPs) and Statutory Parties under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (the Rule 6 Letter [\[PD-002\]](#)) inviting them to the Preliminary Meeting (PM).
- 1.4.4. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [\[PD-003\]](#), dated 19 September 2023.

EVENTS IN THE EXAMINATION

- 1.4.5. The principal Examination events are summarised below.
- 1.4.6. The ExA carried out six unaccompanied site inspections (USIs):
- USI1, Tuesday 11 July 2023 [\[EV-001\]](#).
 - USI2, Wednesday 12 July 2023 [\[EV-001\]](#).
 - USI3, Wednesday 13 September 2023 [\[EV-019\]](#).
 - USI4, Wednesday 13 September 2023 [\[EV-020\]](#).
 - USI5, Tuesday 10 October 2023 [\[EV-021\]](#).
 - USI6, Thursday 12 October 2023 [\[EV-022\]](#).
- 1.4.7. A site note providing a procedural record of each of these can be found in the Examination Library under the above references.
- 1.4.8. The ExA undertook an accompanied site inspection (ASI) on Tuesday 7 November 2023 [\[REP3-037\]](#).
- 1.4.9. The Examination included hearings to consider many of the issues raised by the application. The following Issue Specific Hearings (ISHs) were held under s91 of the PA2008:
- ISH1, Thursday 14 September 2023 ([\[EV-002\]](#) and [EV-010] to [EV-017]).
 - ISH2, Wednesday 8 November 2023 ([\[EV-025\]](#) and [EV-032] to [EV-035]).
 - ISH3, Thursday 9 November 2023 ([\[EV-026\]](#) and [EV-036] to [EV-039]).
 - ISH4, Thursday 9 November 2023 ([\[EV-027\]](#) and [EV-040] to [EV-043]).
 - ISH5, Wednesday 13 December 2023 ([\[EV-029\]](#) and [EV-048] to [EV-051]).
 - ISH6, Thursday 14 December 2023 ([\[EV-030\]](#) and [EV-052] to [EV-057]).
- 1.4.10. Compulsory Acquisition Hearings (CAH) were held under s92 of the PA2008 on Wednesday 8 November 2023 ([\[EV-024\]](#) and [EV-028] to [EV031]) and on Wednesday 13 December 2023 ([\[EV-028\]](#) and [EV-046] to [EV-047]).

- 1.4.11. All persons affected by proposals for Compulsory Acquisition (CA) and Temporary Possession (TP) (Affected Persons, or APs) were provided with an opportunity to be heard. The ExA also used these Hearings to examine the Applicant's case for CA and TP in the round.
- 1.4.12. An Open Floor Hearing (OFH2) was held under s93 of PA2008 on 13 September 2023 ([[EV-0003](#)] and [EV-008] to [EV-009]). An earlier one (OFH1) was cancelled in advance on 29 August 2023 by way of notice on the [project webpage](#).
- 1.4.13. The ExA asked two round(s) of written questions:
- First written questions (ExQ1) [[PD-005](#)], issued on 13 October 2023.
 - Further written questions (ExQ2) [[PD-008](#)], issued on 22 December 2023.
- 1.4.14. The ExA issued the following requests for further information and comments under Rule 17 of the EPR:
- 13 October 2023 to Mark Westwood and Sally Westwood seeking information about the author of an identical representation submitted by several IPs and a number of non-IPs at Deadline 2 [[PD-006](#)].
 - 27 February 2024 to the Applicant in respect of the status of various Protective Provisions [[PD-017](#)].
 - 27 February 2024 to Anglian Water Services Limited in respect of the Applicant's s127 and s138 applications [[PD-020](#)].
 - 27 February 2024 to the following APs in respect of the status of their land interest agreements with the Applicant: Richard Stephen Best, James Ian Thomas Bryce, Robert Arthur David Cowlin, Gavin Dines, William Eric Drake, Michael Donald Evans, Joyce Georgina Evans, Oliver Gwinnell, Edmund John Nott, Joan Valerie Peacock [[PD-012](#)].
 - 27 February 2024 to the following Statutory Undertakers in respect of the Applicant's s138 application: BT Group/ Openreach Limited, Cadent Gas Limited, Gigaclear Limited, UK Power Networks (Operations) Limited (UKPN), Virgin Media Limited, Vodafone Limited [[PD-013](#)].
 - 27 February 2024 to TC East Anglia One OFTO Limited in respect of the Applicant's s138 application [[PD-014](#)].
 - 27 February 2024 to East Anglia THREE Limited in respect of the Applicant's s127 and s138 applications [[PD-015](#)].
 - 27 February 2024 to the Environment Agency in respect of the Applicant's s138 application [[PD-016](#)].
 - 27 February 2024 to Network Rail in respect of the status of Protective Provisions and the Applicant's s127 and s138 applications [[PD-018](#)].
 - 27 February 2024 to Pivoted Power Limited in respect of the Applicant's s127 and s138 applications [[PD-019](#)].
- 1.4.15. The ExA has considered and taken fully into account the information and impressions obtained during its site inspections, submissions made at each of the hearings, and responses to its written questions in all relevant sections of this Report.

PERSONS INVOLVED IN THE EXAMINATION

- 1.4.16. In addition to the Applicant, the persons involved in the Examination were:
- Persons who were entitled to be IPs because they had made a Relevant Representation (RR) or were a Statutory Party who requested to become an IP.

- APs who were affected by a CA or TP proposal made as part of the application and objected to it at any stage in the Examination.

1.4.17. During the Examination, CARE Suffolk CIC requested to withdraw as an IP [[AS-006](#)]. The following IPs and APs formally requested the withdrawal of their RRs or objections:

- Cadent Gas Limited [[AS-012](#)].
- Pivoted Power LLP ([RR-035](#) and [REP2-029](#)).
- Oliver Gwinnell [[RR-082](#)].
- Joan Valerie Peacock [[RR-113](#)].
- Gavin Dines [[RR-068](#)] (as relating to land rights only).
- Edmund John Nott [[RR-108](#)] (as relating to land rights only).

PROCEDURAL DECISIONS

1.4.18. The ExA's procedural decisions are recorded in the '*Procedural Decisions and Notifications from the Examining Authority*' section of the [Examination Library](#). They were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development.

STATEMENTS OF COMMON GROUND

1.4.19. By the end of the Examination, the following bodies had concluded and signed Statements of Common Ground (SoCGs) with the Applicant:

- The five host local authorities (a combined SoCG between Babergh District Council, Mid Suffolk District Council, Braintree District Council, Essex County Council and Suffolk County Council) [[REP10-006](#)];
- Natural England [[REP9-027](#)];
- Historic England [[REP7-018](#)];
- Environment Agency [[REP6-019](#)];
- National Highways [[REP3-022](#)];
- East Suffolk Water Management Board [[REP4-002](#)];
- UKPN [[REP9-029](#)];
- Anglian Water [[REP9-031](#)];
- Cadent Gas Limited [[REP9-050](#)];
- TC East Anglia One OFTO Limited [[REP10-008](#)];
- East Anglia Three Limited [[REP10-010](#)];
- Essex Police [[REP8-028](#)];
- East of England Ambulance Services NHS Trust [[REP8-034](#)];
- RSPB [[REP9-048](#)]; and
- Dedham Vale AONB and Stour Valley Partnership [[REP6-039](#)].

1.4.20. These SoCGs have been taken fully into account by the ExA in all relevant sections of this Report.

1.4.21. At Deadline 10, the Applicant provided a final version of a Status of Statements of Common Ground document [[REP10-004](#)]. This confirms the list above and, at section 3, includes a brief summary of the matters that remained outstanding between the Applicant and parties to SoCGs.

1.5. CHANGES TO THE APPLICATION

1.5.1. No formal change requests were made by the Applicant.

1.5.2. The key application documents were updated as necessary by the Applicant during the Examination to address minor errors and points raised by IPs and the ExA. A summary of document changes was set out in the Navigation Document that was revised at each Deadline, up to the final version that was submitted at Deadline 10 [REP10-002]. The Applicant also maintained an Errata List [REP9-054].

1.6. OTHER UNDERTAKINGS, AGREEMENTS AND CONSENTS

1.6.1. At the end of the Examination, the Applicant submitted a final version of its Protective Provisions and commercial side agreements tracking list [REP10-012]. Table 2.1 of that document provided a list of commercial side agreements that had either been agreed or were under preparation between the Applicant and other parties, identifying the subject matter and status at the close of the Examination.

1.6.2. Some parties confirmed during the Examination that they had reached private agreements with the Applicant regarding protection of their assets and interests. Where relevant, these are referred to in subsequent sections of this Report.

1.6.3. These undertakings and agreements (other than unsigned or incomplete ones) have been taken fully into account by the ExA in all relevant sections of this Report.

1.6.4. No agreements or undertakings under s106 of the Town and Country Planning Act 1990 were put before the Examination.

1.6.5. Additional consents that would be required to implement the Proposed Development were identified during the Examination. These were listed by the Applicant in Table 2.1 of its Construction Environmental Management Plan (CEMP) [REP9-033].

1.6.6. The ExA has considered matters relating to the outstanding consents and, without prejudice to the exercise of discretion by future decision-makers, has concluded that they present no apparent impediment to the implementation of the Proposed Development, should the Secretary of State grant this application.

1.7. STRUCTURE OF THIS REPORT

1.7.1. The structure of this Report is as follows:

- **Section 1** introduces the application, the Proposed Development, the Examining Authority, and the procedures followed for the Examination and in preparing this Report.
- **Section 2** provides an overview of the legislative and policy framework used for the Examination.
- **Section 3** sets out the planning issues that arose from the application and during the Examination, including consideration of the need case and alternatives, and the ExA's views on the balance of planning considerations for the key topics in the light of important and relevant legislation and policy.
- **Section 4** provides a summary of the Habitats Regulations Assessment.
- **Section 5** considers the case for making a Development Consent Order (DCO).
- **Section 6** addresses land rights and related matters.
- **Section 7** analyses the DCO and other consents and provides the ExA's recommendations for a preferred DCO.
- **Section 8** summarises all relevant considerations, conclusions and recommendations.

1.7.2. This Report includes the following Appendices:

- **Appendix A** – Reference Tables.
- **Appendix B** – Abbreviations.
- **Appendix C** – Findings and conclusions in relation to the Habitats Regulations Assessment.
- **Appendix D** – The Recommended DCO.

2. DETERMINING THE APPLICATION

2.1. INTRODUCTION

- 2.1.1. This section introduces the key legislation, policy and local authority Local Impact Reports (LIRs) that framed the Examining Authority's (ExA's) considerations and against which its recommendations are made. Further details are set out at Appendix A to this Report.
- 2.1.2. As required by section (s)88 of the Planning Act 2008 (PA2008) and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR), the ExA made an Initial Assessment of Principal Issues (IAPI) in advance of the Preliminary Meeting (Annex C of the Rule 6 letter [\[PD-002\]](#)). This was based on the application documents and Relevant Representations and considered all phases of the Proposed Development.
- 2.1.3. The ExA considers that issues raised by Interested Parties (IPs) at the Preliminary Meeting and in submissions during the Examination fell broadly within the IAPI. The ExA has nevertheless had regard to all representations on this from IPs and has reported on them as required in the topic sections that follow.
- 2.1.4. The ExA considered these matters alongside all other written and oral submissions in its examination of the application.

2.2. LEGISLATION AND POLICY

PLANNING ACT 2008

- 2.2.1. The PA2008 provides the legislative basis for decision-making for a Nationally Significant Infrastructure Project (NSIP). The legislation applies differently where one or more National Policy Statements (NPSs) has effect, to where no NPS has effect.
- 2.2.2. The Proposed Development meets the definition of a NSIP under s14(1)(b) and s16 of the PA2008, and the Planning Act 2008 (Electric Lines) Order 2013, as it involves the installation of more than 2km of 400 kilovolt (kV), above-ground electric line in England. It therefore requires development consent in accordance with s31 of the PA2008 through the making of a Development Consent Order (DCO).
- 2.2.3. S104(2) of the PA2008 sets out the matters to which the Secretary of State must have regard when deciding an application in these circumstances. These include any relevant NPS, any LIR, any matters prescribed in relation to the development, and any other matters the Secretary of State considers to be both important and relevant to the decision.
- 2.2.4. S104(3) of the PA2008 requires the Secretary of State to decide the application in accordance with any relevant NPS that has effect in relation to this application, subject to certain exceptions, as set out in s104(4) to s104(8):
- Deciding the application in accordance with any relevant NPS would lead to the UK being in breach of any of its international obligations.
 - Deciding the application in accordance with any relevant NPS would lead to the Secretary of State being in breach of any duty imposed on her or him by or under any enactment.

- Deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment.
- The adverse impact of the Proposed Development would outweigh its benefits.
- Any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.

2.2.5. This Report sets out the ExA's findings, conclusions and recommendations taking these matters into account and through the application of s104 of the PA2008.

2.2.6. A full list of other relevant legislation, including the Equality Act 2010, Human Rights Act 1998 and the Climate Change Act 2008 (as amended), can be found in Table A2 at Appendix A to this Report.

2.2.7. The ExA had regard to relevant assimilated EU legislation after the Retained EU Law (Revocation and Reform) Act 2023 (Commencement No. 1) Regulations 2023 brought provisions of the Retained EU Law (Revocation and Reform) Act 2023 Act into force from 1 January 2024, during the course of the Examination.

NATIONAL POLICY STATEMENTS

2.2.8. NPSs set out UK Government policy on national infrastructure development and form the primary policy context for the examination of an application for a DCO under the PA2008. The ExA considers that NPS EN-1, the Overarching National Policy Statement for Energy, and NPS EN-5, the National Policy Statement for Electricity Networks Infrastructure, apply here for the purposes of s104(2)(a) of the PA2008.

2.2.9. The purpose and broad content of these NPSs is summarised in this section, while Table A3 at Appendix A provides further detail.

2.2.10. These two NPSs were designated in 2011 and have effect for this application. On 22 November 2023, the Department for Energy Security and Net Zero published updated versions of draft revised National Policy Statements for Energy EN-1 to EN-5. These included some proposed changes relating to the decision-making process for low carbon generation applications and electricity connections. The amended NPSs (the 2024 NPSs) came into force on 17 January 2024, during the course of the Examination, and are in effect for applications made after that date.

2.2.11. The Secretary of State's prescribed transitional arrangements mean that, for any application accepted for examination before the designation of the 2024 NPSs, as is the case here, the 2011 NPSs should have effect in accordance with the terms of those NPSs. The transition provisions mean that the 2024 NPSs, which are designated but do not have effect, can be important and relevant considerations in the recommendation and decision-making processes. The extent to which they are important and relevant is a matter for consideration within the framework of the PA2008 and with regard to the specific circumstances of this application.

2.2.12. Given the primary importance of these NPSs to the Examination, in its further written questions [\[PD-008\]](#) the ExA invited comments from relevant parties on the potential effect of the changes set out in the November 2023 drafts compared to earlier versions, in relation to this application. The ExA took all responses into consideration.

2.2.13. In addition, the Applicant submitted an updated Planning Statement [\[REP6-011\]](#) that included its full assessment of the Proposed Development against the November 2023 draft revised NPSs at Appendix F (NPS EN-1) and Appendix G (NPS EN-5),

and all parties had the opportunity to provide a response at Deadline 7 in the Examination Timetable.

- 2.2.14. The ExA has considered the relevant changes that were incorporated into the 2024 energy NPSs, including further recognition of the urgent requirement for low carbon energy infrastructure to enhance energy security and for the achievement of Net Zero. It has noted that qualifying electricity transmission infrastructure is now considered to be a development of ‘critical national priority’, and the implications of this, as set out in the 2024 NPS EN-1.

Overarching National Policy Statement for Energy (NPS EN-1)

- 2.2.15. NPS EN-1 sets out general principles and generic impacts to be taken into account in considering applications for energy NSIPs. The other energy NPSs sit under the policy framework provided by NPS EN-1. It provides the primary basis for determining if development consent should be granted.

National Policy Statement for Electricity Networks Infrastructure (NPS EN-5)

- 2.2.16. NPS EN-5 sets out further policy in relation to electricity transmission and distribution systems.

OTHER RELEVANT NATIONAL POLICY

- 2.2.17. Other relevant national policies, statements, strategies and guidance have been taken into account as considered appropriate by the ExA. Table A4 at Appendix A provides further detail about these and their relevance to the Proposed Development and the Examination. Relevant policy is also discussed in more detail in section 3 of this Report, the ExA’s findings and conclusions in relation to the planning issues.

LOCAL POLICY

- 2.2.18. The Applicant included a detailed analysis of the local planning policy context in section 8 of its application Planning Statement [\[APP-160\]](#).
- 2.2.19. The ExA posed a written question [\[PD-005\]](#) to the host authorities to ask whether they were satisfied with the Applicant’s assessment and conclusions in relation to relevant local planning policies. The Applicant updated its Planning Statement [\[REP6-011\]](#) to take account of the authorities’ comments.
- 2.2.20. During the course of the Examination, Babergh and Mid Suffolk District Councils’ Joint Local Plan replaced previously adopted local plans and core strategies. Table A5 in Appendix A sets out local policies that the ExA considers important and relevant to the Proposed Development, taking into account submissions from the Applicant, the local planning authorities and some of the Parish Councils.

2.3. LOCAL IMPACT REPORTS

- 2.3.1. Two LIRs were submitted into the Examination, one jointly by Braintree District Council and Essex County Council, [\[REP1-039\]](#), and one jointly by Suffolk County Council and Babergh and Mid Suffolk District Councils [\[REP1-045\]](#).
- 2.3.2. The issues that they raise have been fully considered by the ExA and are set out in relation to the relevant planning issues in section 3 of this Report.

2.4. ENVIRONMENTAL IMPACT ASSESSMENT

- 2.4.1. The Proposed Development involves the construction of more than 15km of overhead electrical power lines with a voltage of 220kV or more. It therefore falls within Schedule 1, paragraph 20 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations) and is development for which an EIA is required (EIA development).
- 2.4.2. On 10 May 2021, the Applicant submitted a Scoping Report to the Secretary of State under Regulation 10 of the EIA Regulations to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion) ([\[APP-156\]](#), [\[APP-157\]](#) and [\[APP-158\]](#)). The Applicant also provided notification under Regulation 8(1)(b) of the EIA Regulations that it proposed to provide an ES in respect of the Proposed Development.
- 2.4.3. On 18 June 2021, the Planning Inspectorate provided a Scoping Opinion [\[APP-159\]](#). Therefore, in accordance with Regulation 4(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES (dated 27 April 2023). The Scoping Opinion dated 18 June 2021 replaced an earlier Scoping Opinion adopted by the Secretary of State in March 2013, before the Applicant placed the project on pause.
- 2.4.4. On 20 July 2023, the Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 13 of the EIA Regulations had been complied with [\[OD-001\]](#).
- 2.4.5. Some parts of the ES were updated during the Examination. A complete and final list of the application documents is available in the [Examination Library](#). In addition, the Applicant provided an updated Navigation Document at each deadline to highlight each document revision [\[REP10-002\]](#), and an Errata List [\[REP9-054\]](#) to catalogue other changes to ES documents that were required in response to the discovery of minor errors.

ADEQUACY OF THE ES AND MATTERS ARISING

The application

- 2.4.6. From its reading of the application ES as a whole, the ExA concluded that it was largely based on baseline conditions in 2022, which pre-dated a pre-application amendment to the Proposed Development to include a substantial temporary construction access route from the A131 near Little Maplestead. The ES appeared to confirm that some field surveys for that extension to the Proposed Development's Order Limits were incomplete at the time of the application.
- 2.4.7. Prior to the PM, the ExA issued a request under Rule 9 of the EPR [\[PD-001\]](#) asking the Applicant for a schedule of field survey information that was missing, and details of any assumptions that had been made, based on the interrogation of aerial photographs and a general knowledge of the wider area. This was provided by the Applicant [\[AS-005\]](#).
- 2.4.8. The ExA's reading of the documentation as a whole suggested that field survey information that might reasonably be considered equivalent to the baseline provided for the remainder of the proposed Order Limits was missing or lacking in relation to archaeology, hedgerows and trees, soil quality, habitats and notable wildlife, including the protected species badger, bats, dormouse, otter and water vole.

- 2.4.9. The ExA raised this matter at the PM [[EV-023](#)]. The Applicant was unable to give a fully detailed response at the PM, but provided interim assurance that the EIA had been carried out on worst-case assumptions using high level information, the outstanding surveys were underway, and that the information could be provided early in the Examination [[EV-006](#)]. On that basis, the ExA was content to start the Examination.
- 2.4.10. The Applicant followed up at Deadline 1 with a response [[REP1-022](#)]. Its conclusion was that the early findings of the outstanding field surveys were consistent with the assumptions made in the ES, and that there would be no requirement to amend the assessment. The ExA was generally content with the updated position.
- 2.4.11. There was also uncertainty at the start of the Examination as to what documents and information constituted the ES, with some ambiguity possible in the interpretation of the definition in the draft DCO (dDCO) [[APP-034](#)]:
- “Environmental Statement” means the environmental statement (Documents 6.1 to 6.4 (inclusive)) together with any supplemental or additional environmental information certified under article 57 (certification of documents), and any environmental statement submitted for the purposes of complying with and/or discharging the Requirements.’*
- 2.4.12. The Applicant later added ‘any entries in the final version of the Errata List... that relate to any of these documents’ to the definition following requests, as the Errata List [[REP9-054](#)] included amendments to ES documents made during the course of the Examination.
- 2.4.13. The ExA considered that the definition of what constitutes the ES should be less ambiguous for the purposes of the relevant provisions in the dDCO [[REP9-006](#)], including Article 57 and Schedule 17, Certified Documents, and to demonstrate compliance with the EIA Regulations. In the ExA’s first written questions (EA1.2.2 [[PD-005](#)]), the Applicant was requested to provide a definitive schedule to include any revisions and supplemental information submitted during Examination. A final version of the schedule was requested in the Applicant’s final dDCO. The Applicant confirmed [[REP3-052](#)] that this would be submitted at Deadline 10. In the event, it was not.
- 2.4.14. In the absence of a submission from the Applicant, the ExA’s understanding of the final list of documents that comprise the ES for the purposes of the EIA Regulations and Article 57 certification is set out in Table A1 of Appendix A to this Report. This consists of the application ES, the management plans (control documents connected with the discharge of Requirements to mitigate environmental effects), and supplementary environmental information that was provided by the Applicant during the Examination, including the Errata List [[REP9-054](#)].
- 2.4.15. When read in full, the ExA considers that this list is sufficient to enable the Secretary of State to take a decision in compliance with Regulation 14 of the EIA Regulations.

Matters arising in Examination

- 2.4.16. In its Relevant Representation [[RR-042](#)], Natural England requested clarity on the methodology used in the EIA, and in particular why the Dedham Vale Area of Outstanding Natural Beauty (AONB) had been assigned a ‘high’ rather than ‘very high’ sensitivity value.

- 2.4.17. The Applicant [REP1-025] signposted ES Appendix 6.1, Landscape and Visual Methodology [APP-097], and noted that to be assigned a 'very high' level of landscape sensitivity, judgements on value and susceptibility would both have to be at the top of their sliding scales.
- 2.4.18. ES Appendix 6.2, Assessment of Effects on Designated Landscapes [APP-098], had categorised the value and susceptibility of the Dedham Vale AONB as high, but discordant elements such as the existing 132kV and 400kV overhead lines reduced the susceptibility of the landscape to the Proposed Development. The susceptibility of the northern part of the AONB remained high, but not at the top end of this category. When combined with the judgement on value, the sensitivity of the landscape across the northern part of the AONB was considered to be high rather than very high.
- 2.4.19. The Applicant suggested that this accorded with the *Guidelines on Landscape and Visual Impact Assessment* (GLVIA, Landscape Institute and IEMA, 2013), which notes that, '*An internationally, nationally or locally valued landscape does not automatically, or by definition, have high susceptibility to all types of change*'.
- 2.4.20. The final, signed Statement of Common Ground between the Applicant and Natural England [REP9-027] did not record any outstanding disagreement on this matter.

2.5. HABITATS REGULATIONS ASSESSMENT

- 2.5.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Report has been provided.
- 2.5.2. Appendix C to this Report provides a record of considerations relevant to the HRA, a summary of which can be found in section 4 of this Report.

2.6. TRANSBOUNDARY EFFECTS

- 2.6.1. A transboundary screening under Regulation 32 of the EIA Regulations was undertaken on behalf of the Secretary of State on 30 June 2021 following the Applicant's request for an EIA Scoping Opinion. A second transboundary screening was completed on 8 June 2023 following submission of the application documents. No significant effects were identified, either alone or cumulatively, which could impact on a European Economic Area state.
- 2.6.2. The Regulation 32 duty is ongoing and, on that basis, the ExA has considered whether any facts have emerged to change these screening conclusions, up to the point of close of the Examination. No relevant issues arose during the Examination and the ExA is therefore content that the duties under Regulation 32 have been satisfied.

3. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES

3.1. INTRODUCTION

3.1.1. This section addresses the main planning matters that arose in the Examination and the Examining Authority's (ExA's) consideration of the potential effects of the Proposed Development.

3.1.2. The ExA's Rule 6 letter Initial Assessment of Principal Issues ([\[PD-002\]](#), Annex C) was the starting point for its consideration of important and relevant planning matters. This assessment evolved as the Examination progressed as a result of written and oral submissions. All such submissions have been taken into account in writing this summary of the main planning matters that were considered. Some of the initial principal issues largely fell away, others remained in contention, and some new matters arose.

3.1.3. The need for the Proposed Development and the main alternatives considered by the Applicant are covered in sections 3.2 and 3.3 respectively. The main planning issues are reported in sections 3.4 to 3.15:

- air quality and emissions;
- biodiversity and ecology;
- good design;
- greenhouse gas emissions;
- historic environment;
- landscape and views;
- land use, soil and ground conditions;
- noise and vibration;
- public rights of way;
- socio-economics and community issues;
- the water environment; and
- traffic, transport and highway safety.

3.1.4. Each topic section considers the effects of the Proposed Development alone. Cumulative effects are considered in section 3.16.

3.1.5. Each of these sections generally follows a similar format, with an introduction, consideration of relevant policy, the approach taken in the application, a summary of the key issues that arose during the Examination, and the ExA's conclusions.

3.1.6. Matters are generally only reported on for each topic if they are considered important and relevant to the recommendation and decision, and if they have not been agreed or adequately justified by the Applicant or are controversial.

3.1.7. For consistency, the following terms are generally used in the evaluation of the weight to be attached to each of the planning issues when considering the planning balance:

- 'No weight' for or against the making of the Order and does not affect the balance.
- 'A little weight' for or against the making of the Order.
- 'Moderate weight' for or against the making of the Order.
- 'Great weight' for or against the making of the Order.

3.2. THE NEED CASE

INTRODUCTION AND POLICY CONSIDERATIONS

- 3.2.1. The relevant National Policy Statements (NPSs) setting out Government policy on Nationally Significant Infrastructure Projects (NSIPs) are identified in section 2.2 of this Report.
- 3.2.2. The need for new energy NSIPs is set out in Part 3 of the Overarching National Policy Statement for Energy (NPS EN-1). This confirms that the Secretary of State must assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis of demonstrated need. Section 3.3 explains the Government's key reasoning that drives the urgent need for new electricity NSIPs, including a requirement for further interconnection of electricity systems. Because of this urgent need, there is a presumption in favour of granting consent for energy NSIPs unless other policies in the relevant NPSs indicate that permission should be refused.
- 3.2.3. The National Policy Statement for Electricity Networks (NPS EN-5) notes that a requirement for an electricity network project may not always be associated with a specific generating station, but rather it may be responding to a need for a strategic reinforcement of the network. It recognises that, in either case, the connection between the beginning and end points may not run along the most direct route, as other factors, including engineering and environmental aspects, must be considered.

THE APPLICATION

- 3.2.4. The primary policy framework that the Applicant considered material to the need for the Proposed Development was considered in Chapter 3 of the Planning Statement [\[APP-160\]](#).
- 3.2.5. The Applicant's Need Case [\[APP-161\]](#), supplemented by the Environmental Statement (ES) Chapter 1, Introduction [\[APP-069\]](#), provided an overview of the need for the Proposed Development. It considered:
- the existing transmission network in East Anglia;
 - forecast demand for electricity in the region to 2030; and
 - the electricity generators that have signed connection agreements to connect in East Anglia (Table 3.2).
- 3.2.6. Eighteen new generators plan to connect to the transmission network in East Anglia between 2024 and 2031, including the East Anglia One, Two and THREE Offshore Wind Farms, Sizewell C Nuclear Power Station and numerous other interconnectors, wind farms, energy storage and gas-fired generators.
- 3.2.7. The Applicant explained that two associated security and quality of supply standard (SQSS) compliance issues mean that a reinforcement of the National Electricity Transmission System (NETS) is required in East Anglia.
- 3.2.8. Firstly, without reinforcement, the capacity of the existing East Anglia network is insufficient to accommodate the connection of the proposed new generation sources. The 'thermal boundary export limit' – the physical maximum energy capacity the system can accommodate during system faults – would be exceeded, preventing export of power to demand centres beyond the region.

- 3.2.9. Secondly, it would not be possible to operate the system without restrictions to prevent adverse impacts on generators or the network following faults. Given that supply in the area would significantly exceed demand and the limited number of circuits that connect East Anglia to the wider network, the ‘stability export limit’ would be exceeded.
- 3.2.10. For these reasons, the Applicant submitted that between 2025 and 2026 the transmission system would not meet the requirements of the NETS SQSS (Graph 3.1 of the Need Case [APP-161]). All generation contracted to connect beyond 2024/ 2026 would have to fall away for there to be no need for reinforcement. This is unlikely, particularly given the need to achieve the government’s Net Zero targets, to which most of this contracted generation would contribute.
- 3.2.11. The Electricity System Operator (ESO) holds the transmission licence that permits transmission system operation within Great Britain and its offshore waters. It provides the contractual interface with demand customers, generators and interconnectors that are seeking to connect to, or are connected to Great Britain's NETS.
- 3.2.12. Without reinforcement of the existing transmission capacity, when NETS SQSS compliance issues arose, the ESO would have to manage shortfalls in boundary capacity by reducing power flows and constraining generation by paying generators to reduce their outputs, known as ‘constraint costs’. Ultimately, such costs are passed on to consumers and businesses through electricity bills.
- 3.2.13. The Strategic Options Report [APP-162] set out the Applicant’s duty to supply, its obligations around connection agreements, and wider reinforcement requirements in East Anglia and the south-east of England. It said that the need for further network reinforcements in East Anglia, and possible ways of meeting this, did not alter the need for the Bramford to Twinstead reinforcement or the timing of that need, which represents the first step in reinforcing the transmission network in East Anglia.
- 3.2.14. The Applicant concluded that, due to international and national commitments to move to Net Zero and high targets for the generation of offshore wind by 2030, the planning policy support for the project is very strong.
- 3.2.15. The joint Local Impact Report (LIR) from Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] had no issue with the principle of the need for infrastructure to enable the decarbonisation of energy supply. In their joint LIR [REP1-039], Essex County Council and Braintree District Council said that they had no reason to doubt the authenticity or credibility of the Applicant’s case for the need for the Proposed Development and accepted the need for the project in principle.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

- 3.2.16. During the Examination, relevant parties provided evidence on the potential effect of the changes set out in the final draft Energy NPSs that preceded the 2024 NPSs (see paragraph 2.2.12). This included the Applicant’s updated Planning Statement [REP6-011], which included an assessment of the Proposed Development against the draft revised NPSs in Accordance Tables at Appendix F (for NPS EN-1) and Appendix G (for NPS EN-5).
- 3.2.17. In response to a written question from the ExA [PD-008], the Applicant submitted [REP7-025] that the main proposed change was that electricity transmission

infrastructure would become considered development of ‘critical national priority’, a category limited to offshore wind developments in the earlier March 2023 draft. It added that this would change how residual impacts were considered in the planning balance for electricity transmission infrastructure. The Applicant referred to paragraph 4.2.15 of NPS EN-1, which says that where residual non-Habitats Regulations Assessment or non-Marine Conservation Zone impacts remain after the mitigation hierarchy has been applied, these residual impacts are unlikely to outweigh the urgent need for this type of infrastructure. It concludes that:

‘Therefore, in all but the most exceptional circumstances, it is unlikely that consent will be refused on the basis of these residual impacts.’

- 3.2.18. It concluded that the relevance and the weight that could be attributed to the proposed revised NPSs had also increased because they were considered likely to become the final versions to be designated in early 2024 [REP7-025].
- 3.2.19. The local planning authorities referred to the transitional provisions in paragraph 1.6.3 of draft NPS EN-1, but none commented on the issue of need.
- 3.2.20. Several Interested Parties (IPs) questioned the need for the Proposed Development in their Relevant Representations (RRs), but mainly in the context of favouring different technologies. Together Against Sizewell C (TASC) [RR-049] was concerned with what it perceived as a lack of integrated electricity supply planning by the Government and the low priority given to demand reduction and the use of new technologies for a low cost, readily deployable, flexible and resilient energy system. The ExA notes that these issues are considered in NPS EN-1, which also identifies the expansion and reinforcement of the UK’s transmission and distribution networks as a significant national need.
- 3.2.21. As set out in paragraphs 1.3.23 to 1.3.25 of this Report, work has started to construct the grid supply point substation using the Town and Country Planning Act 1990 (TCPA) planning permission. In that context, RRs questioned:
- the need case for the grid supply point substation;
 - whether the grid supply point substation needs case is solely reliant on this Proposed Development; and
 - potential future projects led by third-party developers and the potential for these to connect into the grid supply point substation.
- 3.2.22. The Applicant responded to the concerns raised by IPs in its Comments on Relevant Representation [REP1-025]. The Applicant’s Written Summary of Oral Representations to Issue Specific Hearing 1 [REP1-024] provided a useful overview of discussions about the relationship of the approved planning permission for the grid supply point substation and its inclusion in the application for development consent, including the Applicant’s wider consenting strategy. The Applicant advised that the planning permission is not subject to a condition that would link that consent with any requirement for the grant of development consent.

CONCLUSIONS

- 3.2.23. The ExA is satisfied that the Proposed Development is needed to achieve the national objectives of meeting current and future demand for electricity, increasing energy security, and reducing emissions associated with electricity generation to meet decarbonisation targets. In accordance with NPS EN-1, it therefore adopted a starting point of a presumption in favour of recommending a grant of consent unless

other policies in the relevant NPSs indicated that development consent should be refused.

- 3.2.24. Having tested the associated evidence, the ExA is content that the grid supply point substation remains part of the Proposed Development and is mindful that the planning permission granted under the TCPA is a fallback position for the Applicant that would allow an early start on its construction.
- 3.2.25. In the context of relevant policy, especially the extant NPS EN-1, the ExA attributes great weight to the contribution that the Proposed Development would make toward satisfying the urgent need for new electricity network infrastructure in the UK.
- 3.2.26. Part 3 of the 2024 NPS EN-1 addresses the need for new energy Nationally Significant Infrastructure Projects and explains further why the Government sees a requirement for new, large-scale energy infrastructure to meet its energy objectives and why it considers such need urgent.
- 3.2.27. The need for new electricity network infrastructure to be brought forward at pace to meet the Government's energy objectives is described as urgent and important, not only to meet an increase in electricity demand and the transition to Net Zero but also to maintain energy security, including increased resilience of the transmission network. A substantial number of onshore reinforcement works are needed to meet decarbonisation targets.
- 3.2.28. The 2024 EPS EN-1 adds that it is especially important that the Secretary of State considers network projects as elements of a coherent and strategically necessary system. It concludes that there is a critical national priority for the provision of nationally significant low carbon infrastructure, the definition of which includes all power lines in the scope of the 2024 NPS EN-5, including network reinforcement and upgrade works, and associated infrastructure such as substations.
- 3.2.29. The ExA notes this strengthened policy position in the 2024 NPS EN-1, though this would not have changed its general position on the need case.

3.3. ALTERNATIVES

INTRODUCTION AND LEGAL AND POLICY FRAMEWORK

- 3.3.1. Regulation 14(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) requires that an ES includes a description of the reasonable alternatives studied by the applicant (as relevant to the proposed development and its specific characteristics), and an indication of the main reasons given for the option chosen, taking into account the effects of the development on the environment.
- 3.3.2. NPS EN-1 reflects the need for the ES to include information about the main alternatives that were studied, including an indication of the main reasons for the choice, taking into account the environmental, social and economic effects and, where relevant, technical and commercial feasibility, in a proportionate manner.
- 3.3.3. Paragraph 3.7.10 of NPS EN-1 acknowledges that, in most cases, there will be more than one technological approach to connect to or reinforce the electricity transmission network, including underground cables. It requires that the costs and benefits of these alternatives should be properly considered as required by NPS EN-5. An applicant is not required to establish whether its proposals represent the best option.

- 3.3.4. Section 2.2 of NPS EN-5 acknowledges that the specific factors influencing applicants' route selection, and the weight they give them, will vary from project to project. It adds that those siting choices are at their own risk, within the framework provided by NPS EN-1 paragraph 4.4.1.
- 3.3.5. The 2024 NPS EN-1 echoes its predecessor in terms of assessment of alternatives but adds to policy on associated matters for the Secretary of State's consideration at paragraphs 4.3.22 to 4.3.29 inclusive. Amongst other things, consideration of alternatives should be carried out in a proportionate manner, and only those that can meet the objective for the proposals need to be considered. In appraising alternatives, the Secretary of State should be guided by whether there is a realistic prospect of delivering the same infrastructure capacity in the same timescale as the proposal. Where an alternative is put forward by a third party after an application has been made, the onus may be placed on that party to provide the evidence for its suitability, and there is not necessarily an expectation that an applicant should have assessed it.

THE APPLICATION

Strategic options

- 3.3.6. ES Chapter 3, Alternatives Considered [[APP-071](#)], documented the main alternatives considered by the Applicant in response to law, policy and the Scoping Opinion [[APP-156](#)]. It set out the Applicant's approach to its options appraisal process in Illustration 3.1, Project Development Staged Process.
- 3.3.7. Having concluded that need for the project had been established, the different ways in which the identified need could be met were considered, to generate a preferred strategic proposal. At that initial stage, the alternatives appraised comprised different technologies including alternative cable technology, different geographic connection points, or a combination of the two. The appraisal of strategic options included consideration of whether the need for new transmission capability could be met without developing new infrastructure at all, for example by doing nothing. The Evolution of the Project document [[APP-166](#)] provided a high-level summary of the alternatives that the Applicant considered.
- 3.3.8. The Strategic Options Report [[APP-162](#)] considered a shortlist of 4 possibilities that were drawn from a list of 18 strategic options for addressing the identified need case. These were included in Table 6.2 of that report, Potential Strategic Options and East Anglia Transmission System Planning Boundary. They included incorporation of a subsea cable circuit. Technical, economic, environmental and socio-economic factors were weighed in identifying the Proposed Development as the preferred strategic option in principle.
- 3.3.9. The June 2011 Strategic Options Report was based on work undertaken in 2009. In its Evolution of the Project document [[APP-166](#)], the Applicant said that, prior to the re-launch of the Proposed Development in 2020, a new strategic optioneering exercise was carried out from first principles. This was to ensure that the outcomes considered the changes in the generation background that had occurred since 2013 and reflected up-to-date project development principles.
- 3.3.10. The outcome was that a predominantly overhead 400kV reinforcement between Bramford and Twinstead remained the preferred strategic proposal. It would best achieve the balance between the Applicant's technical, economic and environmental obligations in tandem with its statutory obligations, licence requirements, and all other relevant considerations.

Route corridors

- 3.3.11. Having identified the preferred strategic option, the Applicant analysed potential route corridors. Four were identified in the Route Corridor Study [APP-163], as shown in the ES Figure 3.1, Route Corridors [PDA-002]. Each route corridor was assessed against the Applicant's statutory obligations under the Electricity Act 1989 and the Holford Rules (see paragraph 3.9.22). Table 3.3, Summary of Route Corridor Options [APP-071], set out a description of the benefits and disbenefits of each key environmental factor considered during the selection process.
- 3.3.12. This resulted in Corridor 2, between Bramford and Twinstead Tee, being chosen as the preferred route corridor.
- 3.3.13. This earlier work was reviewed with reconsideration of the baseline environment, planning policy and guidance that could affect the choice of Corridor 2 in the Applicant's Evolution of the Project document [APP-166]. This process concluded that previous appraisal work remained robust and that no changes had occurred since 2013 to suggest that the corridor choice needed to change.

Alignments

- 3.3.14. The Applicant appraised alternative alignments within the preferred route corridor. Both overhead line and underground cable solutions were considered. ES Table 3.4, Comparison Between Overhead Line and Underground Cables [APP-071] identified the key beneficial and adverse environmental factors that would be associated with each technology. The Connections Options Report [APP-164] looked at different alignments within six identified sections of the Proposed Development's linear extent. ES Tables 3.5 and 3.6 [APP-071] informed an initial appraisal of possible alignments within each of the six sub-sections, and the accompanying text (principally paragraph 3.7.14) identified the preferred alignment for each section and summarised the rationale for those conclusions.
- 3.3.15. Again, given the time lapse between initial appraisal of options for alignment and the preparation of the application for the Proposed Development, routeing, siting and the extent and route of undergrounding were reconsidered in section 4.3 of the Evolution of the Project document [APP-166].
- 3.3.16. That review process resulted in some changes to the preferred options that emerged from the earlier assessment of alternatives. The refinement of the preferred alignments was also extensively addressed in ES Chapter 3, Alternatives Considered [APP-071] and summarised in Tables 3.7 to 3.10.
- 3.3.17. The initial appraisal of potential alignments in section AB (Bramford Substation to Hintlesham) was undertaken in 2012 and included consideration of overhead line options at and around Hintlesham Woods, a Site of Special Scientific Interest (SSSI). It also considered and, in paragraph 6.255 of the Connections Options Report [APP-164], discounted the use of underground cables. The Evolution of the Project [APP-166] (paragraphs 4.3.10 to 4.3.21) included a comprehensive overview of the alternatives considered for the Hintlesham Woods alignment from the first iteration of the routeing and siting that was subject of public consultation in May 2012 through to the option included in the application.
- 3.3.18. In brief, one of the changes to emerge from reconsideration of alternatives before submission of the application was the alignment of the overhead line in relation to Hintlesham Woods. Concerns were expressed during non-statutory consultation in 2021 about the former preferred option for alignment to the north of Ramsey Wood,

with preferences expressed for a parallel alignment to the existing 400kV line through Hintlesham Woods. A back check and review considered seven options, comprising routes through and around the woodland, including the options that were discounted in the initial 2012 appraisal.

3.3.19. This resulted in the identification of two alternatives that were shown on Sheet 2 of ES Figure 3.3, Considered Options Hintlesham Woods Statutory Consultation Options ([PDA-002](#)). These were presented at the statutory consultation in January 2022 to gather feedback from consultees on which option should be taken forward. They comprised:

- Option 1 (formerly OP2-NL) to the north and west of Ramsey Wood. The existing 400kV overhead line would be diverted on new pylons to the north and west of the woodland. The proposed 400kV overhead line would use the existing pylons through the woodland.
- Option 2 (formerly OP1-SL). A parallel overhead line south of the existing 400kV whereby the existing 400kV overhead line would remain *in situ*. The proposed 400kV overhead line would be constructed parallel to the existing overhead line to the south on new pylons located outside the woodland.

3.3.20. Surveys were also undertaken during spring and summer 2022 to gather additional baseline information on SSSI features (see section 3.5 of this Report). Having taken account of those results and consultation responses (Chapter 7 of the Consultation Report [[APP-043](#)]), the Applicant decided not to take forward Hintlesham Woods Option 2 in the application for development consent.

3.3.21. Table 2.9, Options and Routing Hintlesham Woods Options 1 and 2 of the Applicant's Comments on Relevant Representations [[REP1-025](#)] said that the decision to remove Option 2 was based on several important considerations including but not limited to:

- consultation feedback and engagement with stakeholders and landowners;
- the findings of environmental surveys (in particular protected species surveys);
- environmental designations including ancient woodland and SSSI (as well as being a Royal Society of the Protection of Birds (RSPB) Nature Reserve);
- the Holford Rules;
- Schedule 9 of the Electricity Act, NPS EN-1 and NPS EN-5;
- landscape impact; and
- further design and engineering studies.

Distribution network options

3.3.22. The preferred route corridor included an existing 132kV overhead line, which is part of the electricity distribution system owned and operated by UK Power Networks (UKPN). The Proposed Development would involve removal of the existing 132kV overhead line between Burstall Bridge and Twinstead Tee to accommodate the alignment of the proposed 400kV network reinforcement.

3.3.23. Following the removal of the 132kV overhead line, additional work would be required to maintain a local connection and the security of supply. To this end, UKPN identified eight options (some with sub-options) to maintain the security of local electricity supplies to enable the removal of the 132kV overhead line.

3.3.24. Consideration of these options took account of the Holford Rules, the Horlock Rules, and compliance with NPS EN-1 and NPS EN-5. A summary of the options and the key environmental factors that were considered was presented in ES Table

3.11, Strategic Options Considered to Maintain Security of Electricity Supply [APP-071]. The options were compared to a 'do nothing' option, keeping the 132kV line *in situ*.

- 3.3.25. A grid supply pointy substation in the vicinity of Twinstead Tee was the preferred option to replace the transmission capacity lost following the removal of the 132kV overhead line. The report concluded that this represented the most efficient, coordinated and economical option, whilst giving rise to fewer overall environmental effects than the other options considered.

Pylon design

- 3.3.26. The Applicant considered different designs of pylons that could be used and assessed the potential environmental effects of each. Table 5.1, Comparison of Pylon Design, of ES Appendix 4.1, Good Design [APP-090], provided details and explained why the standard steel lattice pylon emerged as the preferred option. This would be the same style as the existing 400kV overhead line ([REP6-011], paragraph 4.14.2). The proposed colour tone was the standard National Grid pylon colour, BS4800 00 A5 05 Goose Grey. The Applicant said that this light grey was generally best for reducing pylon visibility when seen against the sky in its various conditions ([REP6-011], paragraph 4.14.5).

Grid supply point substation siting

- 3.3.27. Taking account of UKPN's initial shortlist of eight sites, the Substation Siting Study [APP-165] identified three study areas. Specific locations were considered within each. ES Table 3.12, Summary of the GPS Substation Sites [APP-071], included the key environmental factors considered for each of the three sites. A location between Butler's Wood and Waldegrave Wood was the preferred option. This was revisited following the 2020 relaunch of the Proposed Development when it emerged from dialogue with UKPN that there was a technical requirement for a larger footprint for the grid supply point substation. As the preferred site had the capacity to meet the revised demand, it remained suitable.

Cable sealing end compounds

- 3.3.28. The initial appraisal work concluded there was a case for undergrounding sections of the proposed 400kV transmission line, as set out in the Connections Options Report [APP-164]. Initial locations were identified for the four necessary cable sealing end compounds at the transition points between the overhead and underground sections in the Dedham Vale and the Stour Valley. This was informed by an appraisal of 17 potential sites, with at least two considered for each of the four cable sealing end compounds required.
- 3.3.29. ES Table 3.13, Summary of the Options Considered for the Cable Sealing End Compounds [APP-071] set out adverse and beneficial factors associated with the key environmental at each candidate site. Layham Quarry was one of the five potential locations considered for the Dedham Vale east cable sealing end compound. Paragraphs 3.9.3 to 3.9.7 of ES Chapter 3 summarised the reason for selecting the preferred option for each of the four proposed installations.
- 3.3.30. The Evolution of the Project document [APP-166] reported a review of the interim locations for the four cable sealing end compounds following recommencement of the Proposed Development in 2020 and a further options appraisal that was undertaken in respect of alternative locations. This resulted in the relocation of two of the originally preferred options.

Alternative construction methods

- 3.3.31. Section 3.10 of ES Chapter 3, Alternatives Considered [[APP-071](#)], supplemented by ES Appendix 4.1, Good Design [[APP-090](#)], set out the construction methods that the Applicant considered and the reasons why options were taken forward or discounted. The choice of construction method for installing the underground cables was initially assessed as part of the options appraisal for identifying the preferred alignment. The assessment was subsequently refined, based on the results of environmental surveys, technical assessments (including ground investigations) and feedback during consultation.
- 3.3.32. ES Table 3.14, Underground Cable Installation Techniques, together with paragraph 3.10.3, weighed up the key beneficial and adverse environmental factors considered in respect of open cut trenching and trenchless crossing techniques. The two ensuing paragraphs explained where and why each technique would be deployed. Paragraph 3.10.12 of explained why the preferred option was chosen.

Temporary access route versus local road network

- 3.3.33. In section 3.10 of ES Chapter 3, Alternatives Considered [[APP-071](#)], the Applicant explained why it decided to consider options other than the local road network for accessing the proposed Stour Valley west cable sealing end compound from the A131 near Little Maplestead.
- 3.3.34. Table 3.15, Construction Traffic Routing to Stour Valley West Cable Sealing End Compound, identified four such options and the beneficial and adverse impacts identified after considering key environmental factors. The alternatives were shown on Sheet 6 of ES Figure 3.3, Temporary Access Route Options [[PDA-002](#)]. Paragraph 3.10.11 explained the reasoning for selecting of the preferred option (Option 2a).

KEY ISSUES CONSIDERED DURING THE EXAMINATION

- 3.3.35. The Applicant signposted the evidential basis that had underpinned its decision to pursue its chosen option in response to Relevant Representations (RRs) about the process (Applicant's Comments on Relevant Representations [[REP1-025](#)], Section 2.5, Thematic comment 4: Options Appraisal).
- 3.3.36. Thematic comment 5: Strategic Options – Offshore Development set out the Applicant's response to RR's relating to offshore development, including:
- alternative proposals for an integrated offshore grid in the North Sea and Thames Estuary;
 - alternative proposals with cables under the sea; and
 - other offshore alternatives.
- 3.3.37. The response largely drew on the Strategic Options Report [[APP-162](#)] and Need Case [[APP-161](#)].
- 3.3.38. The Applicant added that, in its most recent Network Options Assessment (NOA), the ESO had explained that the project was identified as a critical reinforcement in all future energy scenarios. It noted that three double circuits connect into Bramford substation (one from Norwich and two from Sizewell), but only one double circuit continues west from Bramford. This constrains the amount of electricity able to be transported towards the rest of the country. The project is designed to address a

bottleneck on the network, which would not be addressed by the provision of an offshore route.

- 3.3.39. Additionally, the NOA identified other reinforcements planned to increase the overall capacity of the network in East Anglia, such as the proposed Norwich to Tilbury project and the proposed Sea Link project between Suffolk and Kent. Even with Sea Link, reinforcing the network between Bramford and Twinstead was said to remain 'critical' in all future energy scenarios.
- 3.3.40. Some RRs related to alternative technologies, in particular superconductors. The Applicant had evaluated the potential use of superconductors in section 3.5.6 of ES Chapter 3, Alternatives Considered [APP-071], but revisited the issue in its Comments on Relevant Representations [REP1-025] at section 2.7, Thematic comment 6: Strategic Options – Superconductors.
- 3.3.41. Two Written Representations (WRs) ([REP2-044] and [REP2-045]) contended that consent for the Proposed Development should be refused on the basis of a viable superconducting cable option. The Applicant provided further analysis of why this was not possible in Table 4.8 of its Response to Written Representations [REP3-048].
- 3.3.42. During the Examination, reference was made by a group of six Parish Councils to 'a recently developed alternative conductor technology which... could entirely obviate the need for the new 400kV pylon route' [REP7-035]. The use of this new technology was said to involve little more than replacing the existing conductors on existing pylons, providing system reinforcement capacity even higher than was being proposed. On that basis, they asserted that the required network reinforcement could be delivered at a fraction of the current costs, satisfying the Applicant's statutory and regulatory commitments, and ensuring value for money for consumers.
- 3.3.43. This alternative 'TS conductor' technology was said to be at an advanced stage of development, and the Parish Councils suggested that it should have been known to the Applicant when it considered its Strategic Options Report [APP-162].
- 3.3.44. Moreover, it was asserted that National Grid is a major investor in the company that developed the technology and is bringing it to market. The submission said that effort had been made to verify 'these assumptions', but only acknowledgement of the query had been received. The ExA was urged to require the Applicant to, 'provide detailed reasons to the relevant authorities and to the public as to why this technology should not be immediately adopted'.
- 3.3.45. A further four Parish Councils endorsed the comments made by their neighbours [REP8-049], requesting, 'a fulsome and detailed technical response from the Applicant, one that is supported by evidence that can be challenged and tested by independent experts'.
- 3.3.46. Table 5.1 of the Applicant's Comments on Other Submissions Received at Deadline 7 [REP8-036] referred to instances where transmission circuits had been uprated. However, the Applicant said that reconductoring would not overcome the need for a significant amount of new onshore network infrastructure and gave a detailed explanation as to why solely replacing the conductors on existing circuits between Bramford and Twinstead with TS Conductor technology or similar would not fulfil the project stability needs case or achieve compliance with the NETS SQSS. It could not be considered a viable option in this instance, and the Applicant's position as set

out in the Need Case [APP-161], Strategic Options Report [APP-162] and ES Chapter 3 [APP-071] was unchanged.

- 3.3.47. At the conclusion of the Examination, the Parish Councils [REP10-022] requested the ExA to recommend that a detailed exercise be commissioned to explore how emerging technologies might be applied to obviate the need for the Proposed Development. They considered that such a study should be conducted by independent specialist consultants before the Secretary of State decided whether to grant consent for any works.
- 3.3.48. The extent of underground cables versus overhead lines was considered prior to submission of the application. The Applicant revisited the matter in response to RRs (section 2.8 Thematic comment 7: Strategic Options - Overhead Lines versus Underground Cables of the Applicant's Comments on Relevant Representations [REP1-025]). In Table 4.4 of that document, the Applicant also responded to WRs ([REP2-060] and summary [REP2-061]) concerned with undergrounding the line around Hintlesham Woods.
- 3.3.49. Additional underground cabling was a recurrent theme during the Examination. The Applicant said [REP3-048] that, in general terms, the cost of underground cables was between four and ten times the cost of an overhead line equivalent.
- 3.3.50. A group of six Parish Councils [REP3-079] set out a case for undergrounding the overhead line through section F (Leavenheath to Assington). They considered that the Applicant had failed to acknowledge the need to protect the designated landscape of the Dedham Vale Area of Outstanding Natural Beauty (AONB) beyond its physical boundaries, in contrast to its approach in other parts of the Proposed Development and the Great Grid Upgrade Norwich to Tilbury project. They judged ([REP6-060] and [REP8-050]) the Applicant's cost differential between overhead lines and undergrounding too crude and called for a granular cost-benefit analysis, specific to the location, that included savings from the deletion of two cable sealing end compounds.
- 3.3.51. The Applicant confirmed ([REP3-052] and [REP9-065]) that comprehensive costs had been provided for each option, including those associated with the cable sealing end compounds.
- 3.3.52. The Applicant ([REP1-025] and [REP3-051]) referred to its approach to undergrounding in Chapters 5 and 7 of the Planning Statement [REP6-011] and provided a summary of its licence obligations and the policy framework within which it made technology decisions. Having regard to the policy tests in NPS EN-5, it explained why it considered further undergrounding to be disproportionate, given that the landscape outside the AONB was not designated or particularly sensitive, though some areas lay within its setting.
- 3.3.53. It accepted that undergrounding may be appropriate outside designated landscapes and highlighted its proposals to do so in parts of the Stour Valley. However, as it was required to justify the additional cost to both Ofgem and its customers, there needed to be strong evidence to support undergrounding at each location. The Applicant disagreed that there was sufficient evidence to justify additional undergrounding through section F.
- 3.3.54. The Applicant concluded that, when account was taken of policy, its duties, the baseline environment and consultation feedback, overhead lines should remain the preferred approach as proposed.

- 3.3.55. The ExA is satisfied that additional undergrounding was considered by the Applicant as an alternative approach in accordance with relevant policy.
- 3.3.56. RRs were submitted relating to the two consultation options that were presented for Hintlesham Woods SSSI. These included comments on the options appraisal, and factors that were considered as part of the decision-making process when taking forward Option 1. The Applicant provided a consolidated overview of its consideration of alternatives in relation to Hintlesham Woods SSSI in section 2.10 (Thematic comment 9: Options and Routing – Hintlesham Woods Option 1 and 2) of its Comments on Relevant Representations [[REP1-025](#)].
- 3.3.57. In Table 4.4 of its Comments on Written Representations [[REP3-048](#)], the Applicant responded to WRs [[REP2-060](#)] concerned with the alignment of the Proposed Development in the vicinity of Hintlesham Woods, including the rationale for and timing of removal of the associated Option 2 from its plans.
- 3.3.58. Its Thematic comment 11: Options and Routing, section G Stour Valley [[REP3-048](#)] addressed RRs relating to the proposed alignment in section G (Stour Valley), which included details on the locations for the Stour Valley east and Stour Valley west cable sealing end compounds, the preferred alignment as submitted in the application for development consent, the discounted alternative alignments, and how consultation feedback shaped the preferred alignment in section G.
- 3.3.59. To supplement application documentation and to address RRs, the Applicant responded [[REP1-025](#)] to comments about alternative locations for the Dedham Vale east cable sealing end compound and specific questions about the use of Layham Quarry as an alternative location. These were in section 2.13 (Thematic comment 12: Options and Routing – Cable Sealing End (CSE) Compound).
- 3.3.60. Section 2.14 of the Applicant's Comments on Relevant Representations [[REP1-025](#)] (Thematic comment 13: Options and Routing – Temporary Access Route off the A131) responded to questions about the need for a temporary access route off the A131 and the alternatives that had been considered.
- 3.3.61. This was supplemented by a Technical Note on Temporary Access Route off the A131 [[REP4-009](#)]. In this, the Applicant considered the characteristics and carrying capacity of the local road network, vehicle types and numbers, and options for accessing the Stour Valley. In assessing the use of the local road network, the Applicant considered various ways to accommodate existing and construction traffic, including combinations of:
- exclusion of existing traffic from some roads and accommodating only works traffic on those roads;
 - one-way operation on some local road network elements for construction traffic and existing users;
 - widening of junctions to accommodate the swept path of large vehicles; and
 - widening of highway links to provide passing bays sufficient for when larger vehicles need to pass one another.
- 3.3.62. The Note explained why these did not provide a reasonable alternative.
- 3.3.63. Five main options were considered for the routing of the proposed temporary access route, with minor modifications also considered during the Examination. The selection of Approach B and the precise alignment (2a) had emerged through iterative stages of consultation and assessment. Taking account of the assessment

that was undertaken, including environmental impact, engineering requirements, highway design, access and safety, and consultation feedback, it was considered the most appropriate option.

- 3.3.64. The ExA posed [\[PD-005\]](#) a series of questions to the Applicant on the issue of alternatives. It provided answers in its Responses to First Written Questions [\[REP3-052\]](#).
- 3.3.65. In assessing whether the Applicant properly considered alternatives as required by law and policy, the ExA took account of these answers and all other relevant evidence before it.

ExA's CONCLUSION

- 3.3.66. The Applicant has set out the main reasons for not choosing alternatives that it considered, including the 'do nothing' scenario. Its choices were influenced by the environmental impact assessment process, ground investigations and feedback from consultees. The appraisal took account of technical, economic and environmental factors, which were balanced in the context of the Applicant's statutory and regulatory duties. In response to the delay in the Proposed Development being brought forward, the Applicant reviewed its assessment of alternatives to ensure that decision-making remained valid and to identify any options to optimise its choices further.
- 3.3.67. The Applicant engaged with the submissions of the group of Parish Councils about reconductoring technologies. Whilst law and policy do not require the Applicant to consider every possible alternative, it provided cogent reasons as to why the emerging technologies were not considered suitable in this case.
- 3.3.68. The ExA notes the status of the 2024 NPS EN-1, and its coverage of alternatives. Taking account of the evidence on the need for the Proposed Development and mindful of the guidance that paragraphs 4.3.22 and 4.3.23 of the 2024 NPS EN-1 give the Secretary of State in considering what weight should be given to alternative proposals, the ExA is not persuaded of the need for further scrutiny of these points beyond the remit of the Examination.
- 3.3.69. Overall, the ExA finds the options appraisal to have been iterative and robust and, taking account of all of the evidence in the context of relevant law and policy, it is content that the Applicant has appropriately discharged its task in respect of assessing alternatives.

3.4. AIR QUALITY AND EMISSIONS

INTRODUCTION

3.4.1. This section considers the effects of the Proposed Development on air quality.

POLICY BACKGROUND AND TESTS

National Policy Statements

3.4.2. The Overarching National Policy Statement for Energy (NPS EN-1) recognises that infrastructure development can involve emissions to air that could lead to adverse impacts on health, protected species and habitats, and the wider countryside (paragraph 5.2.1).

3.4.3. NPS EN-1 sets out air quality and emissions policy considerations in section 5.2, impacts on protected species and habitats in section 5.3, and dust in section 5.6.

3.4.4. NPS EN-1 also notes:

- Where a project is likely to have adverse effects on air quality, the applicant should undertake an assessment of the impacts as part of the ES (paragraph 5.2.6). Paragraph 5.2.7 sets out what the ES should describe.
- The decision maker should consider whether any additional mitigation measures are needed over and above those in the application (paragraph 5.2.11).

3.4.5. Paragraph 5.4.39 of the 2024 NPS EN-1 requires the Secretary of State to have regard to the aims and goals of the Government's Environmental Improvement Plan 2023 and any relevant measures, including statutory targets set under the Environment Act or elsewhere. One of the ten goals of the Plan is clean air.

National Planning Practice Guidance

3.4.6. The National Planning Practice Guidance notes that air quality mitigation options will need to be specific to location, will depend on the proposed development and need to be proportionate to the likely impact. Examples of mitigation that are relevant to the Proposed Development include maintaining adequate separation distances between sources of air pollution and receptors and controlling dust and emissions from construction and demolition.

Local Impact Reports

3.4.7. Essex County Council and Braintree District Councils' joint Local Impact Report (LIR) [[REP1-039](#)] refers to policy LPP70, to ensure no deterioration of air quality. Babergh and Mid Suffolk District Councils' Joint Local Plan seeks to minimise impacts on air quality through draft policy LP17, and policy CS4 seeks to avoid harm to air quality wherever possible. Further local plan policies are listed in Table A5 at Appendix A to this Report.

THE APPLICATION

3.4.8. Chapter 13 of the ES [[APP-081](#)] assessed air quality. The supporting figures and appendices are listed in Table A7 of Appendix A to this Report.

3.4.9. ES Chapter 13 linked with ES Chapter 7, Biodiversity [[APP-075](#)], and the Transport Assessment [[APP-061](#)].

3.4.10. The Applicant identified nitrogen dioxide (NO₂), other oxides of nitrogen (NO_x) and particulate matter (PM₁₀ and PM_{2.5}) as the main pollutants of concern.

3.4.11. Examples of good practice measures were set out in the Construction Environmental Management Plan (CEMP) [REP9-033], the Code of Construction Practice (CoCP) [REP9-035] and the Register of Environmental Actions and Commitments (REAC) [REP9-037].

Baseline

3.4.12. Due to the individual nature of pollutant dispersion, different study areas were used to assess the impacts of dust and emissions from generators and construction vehicles.

3.4.13. The study area for dust was based on criteria from the Institute of Air Quality Management (IAQM) Construction Dust Guidance (IAQM, 2016), as shown on ES Figure 13.1, Air Quality Study Area [APP-154].

3.4.14. The receptors scoped into the assessment were:

- People within the Order Limits plus 350m, and those within 50m of the proposed routes used by construction traffic on the public highway up to 500m from all construction access points.
- Sites designated for nature conservation within the Order Limits plus 50m, and those within 50m of the proposed routes used by construction traffic on the public highway up to 500m from all construction access points.

3.4.15. The study area for mobile generator use was up to 100m from the compound areas (ES Chapter 4, Project Description [APP-072]), including the trenchless crossing compounds shown on ES Figure 4.1 [PDA-002].

3.4.16. The study area for emissions from construction traffic on the public highway was taken to be within 200m of the affected road network based on the Design Manual for Roads and Bridges (DMRB) LA105 Air Quality. The study area was shown on ES Figure 12.1, Traffic and Transport Study Area [APP-153].

3.4.17. The cumulative effects study area drew on data in ES Appendix 15.1, Cumulative Effects Baseline [APP-140]. For inter-project cumulative effects, a 50km study area was considered for Nationally Significant Infrastructure Projects, while the study area for major planning applications was a 10km buffer from the Order Limits, excluding urban areas.

3.4.18. ES Table 13.2 [APP-081] identified cumulative human receptors, and ecological receptors were identified in Table 13.3.

3.4.19. ES paragraph 13.4.2 [APP-081] identified the sources used to define the baseline air quality environment, including Defra and local authority data. Site-specific surveys were not undertaken. Background air pollutant concentrations were noted in ES Table 13.1 [APP-081]. All were below the UK limit values.

Construction

3.4.20. The key parameters and assumptions used for the air quality assessment were described in ES paragraph 13.4.23 [APP-081]. These related to construction traffic, generator use and trenchless crossing construction. The effect of generator use on

nature conservation sites was scoped out of the assessment due to site locations and running periods.

- 3.4.21. ES Appendix 13.1, Dust Risk Assessment [[APP-135](#)], considered the potential working areas, the soil parent material (derived from British Geological Society data), the scale of earthworks and typical construction activities that could give rise to construction dust. It separated construction activities into demolition, earthworks, construction and the trackout of heavy goods vehicles from stone access tracks.
- 3.4.22. The ES concluded the risk of dust effects would be short term and not significant. The assessment of construction dust on ecological receptors (ES Chapter 7, Biodiversity [[APP-075](#)]) found no likely significant effects.
- 3.4.23. ES Chapter 13 [[APP-081](#)] noted that emissions from diesel-powered, non-road mobile machinery and diesel-powered generators used for construction activities were unlikely to result in significant effects on local air quality according to the guidance from Local Air Quality Management – Technical Guidance (TG22). Emissions to air from the use of diesel-powered plant of the size of those employed for trenchless crossings were unlikely to be noticeable at receptors beyond 100m.
- 3.4.24. The assessment concluded that the effects measured against the air quality objectives would be short term and not significant.
- 3.4.25. The Transport Assessment [[APP-061](#)] concluded that traffic generated by the Proposed Development would be limited and impacts would be temporary during the construction phase. ES Chapter [[APP-081](#)] concluded any changes in local air quality due to construction traffic would be short term and not significant.
- 3.4.26. Sensitivity testing applied to the air quality assessment [[APP-081](#)] described the activities associated with the alternative construction schedule, flexibility in trenchless crossings, flexibility within the Order Limits, and flexibility in construction routes, and concluded there would be no new or different significant effects.

Operation

- 3.4.27. Operational air quality effects were scoped out of the assessment [[APP-159](#)].

Decommissioning

- 3.4.28. ES Chapter 4, Project Description [[APP-072](#)], identified potential impacts from dust and emissions during decommissioning. It concluded that when decommissioning might take place in 40 years, the likely improvements to vehicles and machinery, and standard good practice measures at the time would mean that significant effects on air quality would be unlikely.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

Construction dust

- 3.4.29. Section 13, Air Quality, of the CEMP [[REP9-033](#)] was said to fulfil the purpose of a Dust Management Plan. Construction phase management measures in relation to air quality were summarised in the REAC [[REP9-037](#)] and would be secured through the CoCP [[REP9-035](#)].
- 3.4.30. The Dust Risk Assessment [[APP-135](#)] recognised that dust can give rise to annoyance due to soiling, with potential implications for amenity and plant

productivity. Mr Graham Dexter [RR-057] raised concerns about such effects at his property.

- 3.4.31. Given the relevant good practice measures in the REAC [REP9-037], such as no bonfires or burning of waste materials at the site (GG19) and introducing speed limits for vehicles travelling on temporary access routes (GG26), the Applicant [REP3-052] confirmed that any residual dust effects on fruit growing, crops and properties would be reduced to negligible.
- 3.4.32. In relation to health matters such as asthma, the Applicant responded [REP7-025] to a written question from the ExA to confirm that the matter had been considered in ES Chapter 13 [APP-081] and that emissions were highly unlikely to exceed legal limits or air quality objective values and would not be significant.
- 3.4.33. The Woodland Trust [RR-051] suggested that a 30m buffer zone from ancient woodlands would be required to mitigate the effects of dust. The Applicant's Comments on Written Representations [REP3-048] noted that the standing advice from Natural England and the Forestry Commission's was a minimum of 15 metres.
- 3.4.34. However, this standing advice had not been followed for three ancient woodlands (Butler's Wood, Waldegrave Wood, and potential ancient woodland site 05A), a matter of disagreement between the Applicant and Natural England in their final Statement of Common Ground (SoCG) [REP9-027]. The Applicant's Technical Note on Ancient and Potential Ancient Woodland [REP3-046] provided further details on the type of works to be taken within 15m of ancient woodland. The assessment in ES Chapter 7, Biodiversity [APP-075], concluded that there would be no likely significant residual effects in relation to ancient woodland during construction or operation.

Construction traffic

- 3.4.35. Suffolk County Council and Babergh and Mid Suffolk District Councils' joint LIR [REP1-045] highlighted that air quality standards could be breached for the Sudbury Air Quality Management Area (AQMA) due to increased traffic levels during construction and decommissioning.
- 3.4.36. The Applicant's response to a written question from the ExA [REP3-052] confirmed that construction traffic would be routed to avoid the AQMA in accordance with measure AQ01 in the CoCP [REP9-035]. The Construction Traffic Management Plan (CTMP) [REP8-018] noted that the contractor would be required to implement a monitoring and reporting system that would include a global positioning system (GPS) tracking system on heavy goods vehicles (HGVs) owned and operated by the contractor.
- 3.4.37. Suffolk County Council considered [REP5-034] that emissions from HGVs should be controlled to minimise pollution from construction traffic. It thought this could be achieved by a commitment in the CTMP for all HGVs to be compliant with EURO IV, although accepting that some specialist vehicles may need to be exempt. The Applicant [REP6-046] referred to measure GG12 in the CoCP [REP3-026] that specific plant and vehicle types would conform to relevant standards in Euro VI (NO_x and particulate matter).

ExA's CONCLUSIONS

Construction dust

- 3.4.38. The ExA has noted the issue of dust impacts on ancient woodland and the ES conclusion of no significant dust effects on agriculture, properties and health.
- 3.4.39. At the close of Examination, the host authorities ([\[REP9-072\]](#) and [\[REP10-018\]](#)) objected to the making of the Order, partially on the grounds of the status of the control document management plans. They considered that the management plans should be of outline status, and that final versions of each that would require their approval should be submitted by the Applicant post-consent. Throughout the Examination, the Applicant held a different position on this matter. The reasoning is summarised in the SoCG between the Applicant and the host authorities [\[REP10-006\]](#).
- 3.4.40. The ExA considers the CEMP and the CoCP to be high-level management plans with often generic measures to mitigate impacts. For example, the CEMP notes that large-scale earthworks, exposed areas and soil stockpiles would be managed to prevent windborne dust. Good practice measure GG18 relates to protection of earthworks and stockpiled soil by covering, seeding or using water suppression, depending on duration of stockpile and local conditions. Paragraph 11.3.8 of the CEMP [\[REP9-033\]](#) notes the contractor would identify suitable locations and methods for soil storage based on the soil type and land grade.
- 3.4.41. The Applicant [\[REP1-034\]](#) confirmed that, prior to undertaking works, the main contractor would develop the exact sequence of excavation, stockpiling, duct installation and backfill for the six trenches in each linear section of the works. The ExA considers that, as these became defined and finalised during the detailed design and construction phase, it would be proportionate for details related to mitigation and the impacts of dust to be shared with the relevant planning authority.
- 3.4.42. Taking these matters into account, the ExA disagrees that section 13 of the CEMP fulfils the purpose of a standalone Dust Management Plan and recommends that a detailed written plan for the management of dust (that is in accordance with the CEMP and CoCP) should be secured. This would be achieved through Requirement 4(4) of the recommended DCO (rDCO), which is discussed in section 7 of this Report and presented at Appendix D.

Construction traffic

- 3.4.43. The ExA is content with the measures in the CoCP [\[REP9-035\]](#) and CTMP [\[REP8-018\]](#) to ensure that specific plant and vehicle types would conform to relevant Euro VI standards, that construction traffic could be routed away from the Sudbury AQMA, and that HGVs could be fitted with an effective GPS tracking system.

Overall conclusion on air quality and emissions

- 3.4.44. The ExA is satisfied that the Proposed Development would accord with the policy requirements of the extant NPS EN-1 and NPS EN-5, and consideration of the 2024 NPSs would not alter its conclusion.
- 3.4.45. Taking into account that mitigation could be adequately secured through the rDCO as amended, the ExA concludes that the Proposed Development in relation to air quality and emissions is neutral and does not weigh for or against making of the Order.

3.5. BIODIVERSITY AND ECOLOGY

INTRODUCTION

- 3.5.1. This section considers the effects of the Proposed Development on biodiversity and ecology, including rare and protected species and habitats and sites protected by legislation and policy. Matters in relation to European protected sites and the HRA are considered in section 4 of this Report.
- 3.5.2. There are linkages between this section and consideration of matters relating to landscape, views, hedgerows and trees in section 3.9 and river ecology in section 3.14. The ExA has taken care not to 'double count' linked topics, but where matters such as mitigation planting aftercare have the potential to influence the residual effects on more than one topic they are considered and weighed in both sections of this Report.

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.5.3. The Overarching National Policy Statement for Energy (NPS EN-1) requires an applicant's biodiversity assessment to:
- set out any effects on internationally, nationally and locally designated sites of ecological importance, on protected species, and on habitats and species identified as being of principal importance for the conservation of biodiversity;
 - demonstrate how opportunities were taken to conserve and enhance biodiversity;
 - avoid significant harm to biodiversity, including through mitigation, reasonable alternatives or appropriate compensation measures;
 - set out proposals for the conservation of ancient woodland and veteran trees, or justify their loss where it is unavoidable; and
 - include appropriate measures to mitigate effects on biodiversity features, including restoration and enhancement of habitats.
- 3.5.4. The decision maker should be satisfied that:
- due consideration has been given to sites of biodiversity interest designated at the national, regional and local level;
 - appropriate weight is attached to designated sites, protected species, and habitats and species of principal importance for the conservation of biodiversity, and to biodiversity interests within the wider environment;
 - any loss or deterioration of ancient woodland is outweighed by the benefits of the scheme, and loss of veteran trees has been avoided as far as possible;
 - opportunities have been taken to incorporate beneficial biodiversity features into the design, and that these are secured through Requirements or planning obligations;
 - species and habitats of principal importance for the conservation of biodiversity are protected from the adverse effects of development, including the option of refusing consent where the harm is not outweighed by the benefits and through giving substantial weight to any such harm to features of national or regional importance in the planning balance;
 - mitigation measures are appropriately secured through Requirements or planning obligations; and
 - account has been taken of whether any necessary licences have been granted by the statutory nature conservation body.

- 3.5.5. The NPS for Electricity Networks Infrastructure (NPS EN-5) requires an applicant to consider the impact of proposed overhead lines on large birds such as swans and geese, particularly in feeding, hunting and breeding areas and migration corridors. It requires the decision maker to be satisfied that any such potential has been considered and mitigated where necessary.
- 3.5.6. The 2024 NPS EN-1 largely reflects the matters set out in the 2011 NPS EN-1 but puts greater emphasis on achieving Biodiversity Net Gain (BNG). The Environment Act 2021 includes provision for Nationally Significant Infrastructure Projects to be required to demonstrate BNG, though this is yet to be brought into effect as a legally required minimum.
- 3.5.7. The Applicant provided a list of NPS provisions together with other legislation, policy and guidance that it considered relevant to the biodiversity assessment in its ES Appendix 2.1, Legislation, Policy and Guidance [[APP-088](#)].

Local policy

- 3.5.8. The Applicant identified legislation and policy that it considered to be important and relevant to biodiversity and ecology in ES Chapter 7 [[APP-075](#)] and ES Appendix 2.2, Local Planning Policy [[APP-089](#)].
- 3.5.9. The Local Impact Reports (LIRs) from Essex County Council and Braintree District Council [[REP1-039](#)] and Suffolk County Council and Babergh and Mid Suffolk District Councils [[REP1-045](#)] identified the development plan policies that the host authorities considered may be important and relevant considerations in relation to biodiversity and ecology.
- 3.5.10. The main local policies are listed in Table A5 at Appendix A to this Report.
- 3.5.11. The LIR from Essex County Council and Braintree District Council highlighted adopted local plan policy LPP66 (Protection, Enhancement, Management and Monitoring of Biodiversity), which states that:
- 'Development proposals shall provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development'.*
- 3.5.12. The LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [[REP1-045](#)] identified a number of relevant policies including Mid Suffolk Local Plan Policy CL8, Protecting Wildlife Habitats, Mid Suffolk Local Plan Policy CL9, Recognised Wildlife Sites, and the Babergh and Mid Suffolk Joint Local Plan Submission Draft Policy LP18, Biodiversity and Geodiversity.

THE APPLICATION

- 3.5.13. The application included a large number of documents that were relevant to biodiversity and ecology. The principal document was Environmental Statement (ES) Chapter 7, Biodiversity [[APP-075](#)]. This was supplemented by nine appendices ([APP-109](#) to [APP-124](#)) and a series of figures ([APP-147](#) to [APP-151](#)) (see Table A7 at Appendix A to this Report). A full list was set out in the Applicant's Navigation Document [[APP-004](#)]. This was updated through the course of the Examination, with the final version submitted the day before the close [[REP10-002](#)].

- 3.5.14. The Applicant submitted an updated version of ES Chapter 7 Biodiversity [[REP6-009](#)] to replace the original application document [[APP-075](#)].
- 3.5.15. During the course of the Examination, the Applicant submitted a Technical Note on Ancient and Potential Ancient Woodland [[REP3-046](#)]. The Applicant did not consider it to form part of the formal ES. It also submitted an updated Hintlesham Woods SSSI assessment [[REP9-020](#)] to reflect additional commitments, and a Technical Note on Noise Levels at Hintlesham Woods [[REP9-058](#)].

Baseline

- 3.5.16. Section 7.4 of the ES [[APP-075](#)] described the approach and methods used by the Applicant to gather information and carry out the biodiversity assessment.
- 3.5.17. The study area was centred on the areas of construction activity, modified through the identification of potential pathways to sensitive biodiversity receptors.
- 3.5.18. The assessment was based on a series of assumptions relating to construction and operation activities. The Applicant considered each to be the worst case. Embedded and best practice mitigation measures secured through the Applicant's Construction Environmental Management Plan [[APP-177](#)] and Landscape and Ecological Management Plan [[APP-182](#)] were taken into account in undertaking the assessment.
- 3.5.19. Section 7.5 of the ES [[APP-075](#)] described the baseline situation.
- 3.5.20. In terms of protected sites, the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site lay 5.72km to the east, downstream of rivers crossing the Order Limits. These European sites were also protected as the Cattawade Marshes Site of Special Scientific Interest (SSSI), the Stour Estuary SSSI and the Orwell Estuary SSSI. The chalk grassland of Little Blakenham Pit SSSI was 2.9km away, Arger Fen SSSI and Tiger Hill Local Nature Reserve (LNR) were 10km distant, and the Hintlesham Woods SSSI was partially within the Order Limits.
- 3.5.21. The Railway Walk (Hadleigh) LNR also crossed the Order Limits.
- 3.5.22. Non-statutory designated sites were also listed and mapped (ES Table 7.5, [[APP-075](#)]).
- 3.5.23. Several ancient woodlands were identified within 1km of the Order Limits, including parts of Hintlesham Woods. No ancient trees were found within the Order Limits but ten pedunculate oaks in the Order Limits and a 15m buffer were classified as veteran trees. Details were provided in the Arboricultural Impact Assessment [[APP-067](#)].
- 3.5.24. A desk study identified a number of habitats of principal importance (HPIs).
- 3.5.25. Records of protected species were identified within or close to the Order Limits, including hazel dormouse, otter, water vole, badger and at least eleven species of bat. Survey results for wintering and breeding birds were also collected and presented in the ES.

Construction

- 3.5.26. Effects on the European site are considered in section 4 of this Report.

- 3.5.27. Given the distance involved and the embedded and good practice measures included for construction activities in the vicinity of the rivers, the ES concluded that there would be no significant effects on the Stour Estuary, Orwell Estuary and Cattawade Marshes SSSIs.
- 3.5.28. The Applicant considered the potential construction impact on the bat population that is a contributing feature to the Little Blakenham Pit SSSI, but concluded following surveys that any effects would be limited to very localised and temporary hedgerow fragmentation, and that the effect would be neutral and not significant.
- 3.5.29. The ES included a detailed assessment of potential effects on the Hintlesham Woods SSSI (from paragraph 7.6.10 [APP-075], and [REP9-020]). An existing 400kV transmission line crosses the wood, and this would be re-routed around the outside of the woodland to the north and west. The existing pylons would then be re-used for the proposed new overhead transmission line. Construction activities within the woods would be restricted to an existing swathe that is used periodically to maintain the existing line. While some construction works would unavoidably be scheduled during the bird nesting season, the more disturbing activities would be at distance from the key areas for rare nesting birds. As a result, the Applicant predicted a minor adverse effect, which would not be significant.
- 3.5.30. The Applicant assessed the potential for habitat degradation at the Arger Fen SSSI. Given the direction of ground and surface water flows and embedded measures in the Code of Construction Practice [APP-178], the Applicant concluded that the impact would be negligible and not significant.
- 3.5.31. Table 7.8 [APP-075] listed the assessments for the remaining designated sites, all of which resulted in negligible or minor impacts that were not considered significant.
- 3.5.32. With the exception of Hintlesham Woods, no pathways for impact were identified for other ancient woodlands.
- 3.5.33. For HPI areas outside designated sites, the assessment concluded:
- a moderate and significant adverse effect on lowland mixed deciduous woodland;
 - a minor effect and not significant adverse effect on wet woodland and alder woodland on floodplains;
 - a minor, short-term adverse effect on HPI hedgerow habitats, reducing to a neutral and not significant effect once replacement planting had matured;
 - a short-term, minor and not significant adverse effect on less than a hectare of coastal and floodplain grazing marsh west of River Brett;
 - a minor and not significant adverse effect of a small area of lowland dry acidic grassland.
- 3.5.34. The effects on the remaining HPIs were considered neutral and not significant.
- 3.5.35. While no known roosts were likely to be lost, a number of impact pathways were identified for bats during construction. At the time of application, surveys were incomplete, though they were supplemented early in the Examination. With embedded and additional secured mitigation measures in place, the Applicant concluded that any impacts would be minor at worst, and not significant.
- 3.5.36. Similarly, nothing worse than a minor and not significant construction effect was predicted in the ES for breeding birds outside Hintlesham Woods, hazel dormouse, otters, water voles, wintering birds or badgers.

- 3.5.37. The ES summary of construction effects [APP-075] predicted one significant potential biodiversity impact. Approximately 2.57ha of HPI woodland would be lost or coppiced. Adding non-HPI types produced an overall total impact on 4.26ha of woodland. This was considered a moderate and significant adverse effect.
- 3.5.38. Mitigation through woodland creation was proposed, mostly through natural regeneration in the vicinity of Hintlesham Woods. This was secured through the LEMP and the draft Development Consent Order (dDCO). With this in place, the Applicant considered the residual effect to be neutral and not significant.

Operation

- 3.5.39. The Applicant considered operational effects in the ES [APP-075]. This included the potential for effects on large birds from overhead lines in accordance with NPS EN-5 and concluded that any impact would be small and not significant.
- 3.5.40. The presence of the new line outside Hintlesham Woods SSSI could lead to a minor but not significant adverse effect on nesting birds.
- 3.5.41. Ongoing maintenance operations could lead to minor adverse but not significant effects on areas of woodland (including some HPI) that would be crossed by the overhead lines.

Biodiversity Net Gain

- 3.5.42. The ES [APP-075] noted that habitats temporarily lost during construction would be reinstated, and additional habitat areas would be provided by way of compensation to bring the biodiversity metric to zero (no net loss) before considering the net gain that the Applicant had volunteered to commit to.
- 3.5.43. The Applicant excluded consideration of BNG from the Environmental Impact Assessment (EIA), and the main description was outside the ES in the Environmental Gain Report [APP-176]. The compensation habitats were nevertheless shown for completeness on ES Figure 16.1 [PDA-002] to provide a context for where new habitat was proposed.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

- 3.5.44. Wildlife and biodiversity matters were raised in more than 20 Relevant Representations (RRs), including those of Natural England, the RSPB, the Daws Hall Trust (which manages a nature reserve in Lamarsh, close to the route), and several local authorities. While most submissions raised general issues, the potential impact on ancient woodland and veteran trees was a particular concern in several. Natural England's RR raised questions about SSSIs and several protected species.

Biodiversity Net Gain

- 3.5.45. Early in the Examination, there was some confusion around the Applicant's voluntary BNG proposals, how they could be distinguished from ecological mitigation, and where the overall effect of mitigation and BNG could be seen (for example, in the joint LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045]). Other questions were raised about suggested BNG sites being outside the Order Limits, the extent to which Compulsory Acquisition (CA) powers were sought to implement the BNG proposals, and the need for more details on aftercare.

3.5.46. The Applicant [\[REP3-049\]](#) summarised its approach to BNG:

'The application makes a clear distinction between those habitats necessary for mitigation purposes (which are detailed within the ES and Management Plans) and Biodiversity Net Gain which is reported separately within the Environmental Gain Report [APP-176]. BNG is secured via Requirement 13 (Biodiversity Net Gain) of the dDCO (document 3.1 (C)). Requirement 13 secures the provision of at least 10% biodiversity net gain, but it is not considered necessary to secure how this is achieved. Flexibility is required to accommodate finalisation of the detailed design and to be able to incorporate changes that may deliver additional environmental benefits if identified at a later date.'

3.5.47. The Applicant provided further signposting [\[REP4-034\]](#) and summarised that all planting identified as mitigation through the EIA was described in the ES, including reinstatement planting of vegetation temporarily removed during construction, embedded planting around the cable sealing end compounds and grid supply point substation, additional mitigation identified to offset a likely significant effect and landscape softening. This was set out in the LEMP [\[REP3-034\]](#) and shown in its Appendix B, Reinstatement Plan [\[REP3-036\]](#). The LEMP and its appendices would be secured through Requirement 4 of the draft Development Consent Order (dDCO) [\[REP3-007\]](#).

3.5.48. BNG proposals were described in the Environmental Gain Report [\[APP-176\]](#) and would be secured through Requirement 13 of the dDCO [\[REP3-007\]](#).

3.5.49. The Applicant confirmed that all planting (including BNG proposals) lay inside the Order Limits.

3.5.50. The relationship between BNG provision and the CA tests was explored at ISH4 ([\[EV-040\]](#) to [\[EV-043\]](#)). In relation to seeking CA powers for enhancements such as BNG, the Applicant noted that landowner agreements were being sought in the first instance and confirmed that it was of the view that the CA tests had been met, but that it would ultimately be up to the Secretary of State to decide.

Bat surveys and licence

3.5.51. Some confusion arose late in the Examination about whether all trees that could be affected by the final detailed route and design had been adequately surveyed for bat roosts.

3.5.52. The Applicant [\[REP7-026\]](#) confirmed that trees within 50m of the Order Limits had been surveyed for their potential to support roosting bats, as set out in ES Appendix 7.7, Bat Survey Report [\[APP-117\]](#).

3.5.53. Babergh and Mid Suffolk District Councils [\[REP8-039\]](#) summarised the position and accepted it with caveats, noting that:

'... should works be required on any additional trees that have not undergone bat survey (whether within or outside of the Order Limits), then the Applicant would undertake preconstruction surveys as part of the final bat licence that would be submitted to Natural England for approval, which would also include any required mitigation measures needed to offset the effect.'

'... if the seven trees with bat roosting potential not surveyed (... considered unsafe to climb) would still be impacted once the detailed design is developed, these would be surveyed using emergence and re-entry techniques. If required, those trees with

bat roosts would be incorporated into the final bat licence submitted to Natural England for approval ...'

- 3.5.54. These views were echoed by Essex County Council and Braintree District Council [\[REP8-040\]](#).
- 3.5.55. The Applicant [\[REP9-065\]](#) noted the positions of the host authorities. It confirmed that it had completed a draft bat licence [\[APP-118\]](#) and had received a letter of no impediment from Natural England.
- 3.5.56. The Applicant confirmed [\[REP9-065\]](#) that, should DCO consent be granted, it would prepare and submit a final bat licence for Natural England approval. This would encompass all potential bat roosts affected by the project, including any changes resulting from detailed design and pre-construction surveys. The licence would also include any proposed mitigation measures. As these measures would be secured through the licence, the Applicant did not consider it necessary to duplicate this information in the Construction Environmental Management Plan (CEMP) or the Register of Environmental Actions and Commitments (REAC), as noted in paragraph 1.3.6 of the CEMP.

Dormouse licence

- 3.5.57. The RR from Natural England [\[RR-042\]](#) noted that further information was required before Natural England could issue a letter of no impediment for dormouse.
- 3.5.58. Natural England's Written Representation [\[REP2-026\]](#) confirmed that the Applicant had resubmitted a draft protected species licence application for dormouse, which was under review.
- 3.5.59. Mindful of policy in NPS EN-1, the ExA asked for updates to the situation throughout the Examination. The Statement of Common Ground (SoCG) between the Applicant and Natural England was updated periodically to reflect the evolving position (for example, noting [\[REP5-013\]](#) that Natural England had discussed the additional information required with the Applicant).
- 3.5.60. The Applicant confirmed [\[REP5-013\]](#) that it had submitted an updated draft dormouse licence to Natural England in response to Natural England's feedback on the application version.
- 3.5.61. The ExA asked for a progress report in its further written questions [\[PD-008\]](#). The Applicant [\[REP7-025\]](#) noted that it had made further updates to the draft dormouse licence to reflect Natural England comment, and that it was, *'hopeful that these changes address the comments raised by Natural England and that a Letter of No Impediment will be issued for the project prior to the end of Examination'*. Further updates in relation to a third version were provided at Deadline 8 in the Examination ([\[REP8-001\]](#) and [\[REP8-011\]](#)).
- 3.5.62. The Applicant [\[REP9-001\]](#) confirmed receipt of a letter of no impediment from Natural England based on the latest draft dormouse licence. This was added to an updated ES Appendix 7.8, Annex A, Dormouse Draft Licence [\[REP9-022\]](#).

Arger Fen SSSI

- 3.5.63. Natural England's RR [\[RR-042\]](#) advised that further information was required to assess the potential changes in ground and surface water that could result in degradation of the interest features of Arger Fen SSSI.

- 3.5.64. The Applicant pointed out [REP1-025] that, while the Order Limits were adjacent to Arger Fen, the nearby areas were included for net gain planting purpose only [APP-176]. The nearest construction works lay more than 600m to the north of Arger Fen, where overhead lines with a limited excavation footprint were proposed. Therefore, ES Chapter 7, Biodiversity [APP-075], had not identified a groundwater pathway to the SSSI.
- 3.5.65. Natural England acknowledged [REP2-026] the Applicant's clarification but considered it important to include Arger Fen SSSI in the groundwater dependent terrestrial ecosystem assessment as a matter of process completeness, even if it was concluded that there was no impact pathway. The matter was discussed at ISH4 ([EV-040] to [EV-043]) and the Applicant ultimately updated ES Chapter 7 [REP6-009] to do this.

Hintlesham Woods SSSI: transposition and the swathe

- 3.5.66. The transposition of the proposed new line onto the existing pylons through Hintlesham Woods SSSI and the use and treatment of the existing maintenance swathe received a considerable amount of attention in the Examination. ES chapter 4, Project Description [APP-072] included an illustration that showed how trees would be cut back where the 400kV line passes through the woodland.
- 3.5.67. In response to a written question from the ExA [PD-005], Babergh and Mid Suffolk District Councils suggested [REP3-060] that this approach was not good practice as it could make trees unstable. It suggested that it would be better to coppice the full width. Essex County Council and Braintree District Council [REP3-061] agreed. Natural England [REP3-074] noted that it was important that the pre-existing swathe in the woodland was not widened, and that:

'The proposed management in ES chapter 4 [APP-072] paragraph 4.6.6 and the illustration in 4.2 could lead to tall tree stumps that look unnatural and may not regrow. Coppicing is considered preferable. A recognised approach to achieving a graded edge (often sought along woodland wide rides) is to coppice on a longer cycle.'

- 3.5.68. The RSPB [REP3-077] suggested clearance through some form of coppicing.
- 3.5.69. The matter was discussed at ISH4 ([EV-040] to [EV-043]). The Applicant explained how the existing pylons would be used to mount the new 400kV overhead line. The reconductoring would take place within the existing maintained safety swathe through the woods. The vegetation would be coppiced to ground level along a 20m width, while the trees along a wider corridor of 12.5m on either side of the coppiced swathe would be cut to a graduated height to facilitate the lifting of the conductors onto the arms of the pylons. Once transposition of the overhead line was complete, the coppiced vegetation would be allowed to regrow to the present canopy height. The new 400kV overhead line would therefore run along the existing swathe and this would continue to be managed in a similar manner to allow ongoing maintenance.
- 3.5.70. Natural England [REP5-038] welcomed confirmation that the works and ongoing maintenance at Hintlesham Woods SSSI would not extend beyond the existing maintenance swathe but asked for the commitment to be secured. The Applicant added measure EM-AB17 to the REAC [REP6-023]. This committed to the demarcation of the Order Limits at Hintlesham Woods, *'so that construction activities do not stray beyond the maintained swathe which is the same as the*

vegetation management that took place during the 2013 reconductoring works energisation.'

- 3.5.71. The LEMP [REP7-006] was similarly updated, with further detail on the tree coppicing and clearance works that would be carried out to accommodate the reconductoring activities.
- 3.5.72. Towards the end of the Examination, the SoCG between the Applicant and the RSPB [REP8-020] still revealed differences of opinion. The RSPB noted that details of the management techniques proposed to prepare and maintain the swathe had not been provided. It acknowledged that the Applicant proposed to inform it of the chosen approach once a main works contractor has been appointed (through a new commitment in the REAC (EM-AB18)) but it considered that the method should be agreed between the RSPB, Natural England and the Applicant prior to the close of the Examination.
- 3.5.73. The Applicant noted [REP9-065] that it would be a contractor responsibility to determine the detailed approach, but that:

'The LEMP was amended to show coppicing across the full 45m swathe as requested by the Interested Parties. The Applicant has added that an arboriculturist will advise on a site-by-site basis whether the type and age of trees within the managed area would benefit from coppicing to ground level rather than being managed to a graduated height due to the type of tree and the overall shape and structure to cover both scenarios and to retain trees (rather than coppicing) where practicable.'

- 3.5.74. The final, signed SoCG between the Applicant and the RSPB [REP9-048] retained areas of disagreement in relation to the use and management of the swathe:

- Details of the management techniques proposed to produce and maintain the graduated swathe have not been provided.
- The RSPB has not received details of construction working methods and agreement of measures to manage impacts (noting that some works are planned during the bird breeding season).
- Whilst the RSPB is content with use of woodchip obtained from vegetation cleared from within the swathe for protection of coppice stools, it would be concerned if it was proposed to import additional material from elsewhere.

- 3.5.75. Suffolk County Council [REP10-020] continued to express concerns about the treatment of the swathe, suggesting that the LEMP and other documents were confusing:

'... considers that the wording used in the LEMP is not clear and that this section needs to be reworded to be as clear as the Applicant's response. Illustration 7.1 is no longer helpful, as this is no longer what is proposed.'

Hintlesham Woods SSSI: other impacts and monitoring

- 3.5.76. The RR from Natural England [RR-042] identified potential impacts on three interest features of the Hintlesham Woods SSSI:
- lowland mixed deciduous woodland;
 - breeding bird assemblages - mixed (noise impacts); and
 - scrub and woodland.

- 3.5.77. It advised that further assessment and consideration of mitigation was required. Its Written Representation [\[REP2-026\]](#) noted that the Applicant had indicated in a meeting outside the Examination that it would provide technical notes to address Natural England's request to assess peak noise levels at Hintlesham Woods SSSI and to explain the proposals at each ancient woodland within 15 metres of the Order Limits.
- 3.5.78. A response from the RSPB [\[REP3-077\]](#) to a written question from the ExA [\[PD-005\]](#) highlighted concerns that construction noise and disturbance might adversely affect breeding birds in the Hintlesham Woods SSSI. The Applicant's response [\[REP3-052\]](#) reported the submission of the two technical notes ([\[REP3-057\]](#) (noise) and [\[REP3-046\]](#) (ancient woodlands)) and confirmed that the updated commitments that derived from them had been added to the REAC [\[REP3-028\]](#), including seasonal restrictions and the use of less noisy methods.
- 3.5.79. A submission from Frances Prosser [\[REP7-044\]](#) highlighted the potential impacts from the proposed new line around Hintlesham Woods on nightingales and other woodland edge wildlife.
- 3.5.80. Natural England [\[REP8-053\]](#) welcomed the new commitment to use construction techniques other than percussive piling in sensitive areas near the SSSI during the breeding season, and also the proposed noise monitoring at the woodland boundary during the construction of the foundation of temporary pylon RB12T. Nevertheless, it requested further detail of the mitigation measures that could be implemented should the noise monitoring at the woodland boundary exceed 70dB.
- 3.5.81. Natural England also noted that the noise disturbance assessment used published work based on different environments and bird species and, critically, it had not used any nightingale studies. It therefore suggested that the conclusions drawn for nightingale (part of the Hintlesham Woods SSSI breeding bird interest feature) could only be regarded as general, and that there was uncertainty around the extent of disturbance that nightingale would experience. Natural England therefore advised that nightingale and schedule 1 bird species should be monitored during and after construction.
- 3.5.82. In its SoCG with Natural England [\[REP8-010\]](#), the Applicant noted that it was undertaking further work regarding peak noise values at Hintlesham Woods and that it would discuss the results with Natural England. These further studies were welcomed by the RSPB in its SoCG with the Applicant [\[REP8-020\]](#).
- 3.5.83. Shortly before the close of the Examination, the Applicant submitted a new version of ES Appendix 7.1, Annex B, Hintlesham Woods SSSI Assessment [\[REP9-020\]](#). This summarised additional commitments, including noise and bird population monitoring at Hintlesham Woods SSSI.
- 3.5.84. It noted the further assessment that had been undertaken of peak noise values at the SSSI boundary [\[REP9-058\]](#), the additional commitments to not undertake percussive piling at named locations (REAC EM-AB14), and to develop a construction noise monitoring plan at Hintlesham Woods SSSI for the construction activities taking place in bird breeding season.
- 3.5.85. The construction noise monitoring plan would be submitted to Natural England and the RSPB prior to construction works commencing. It would include details of the noise monitoring to be undertaken at the SSSI boundary (including location of monitoring equipment, frequency of noise peaks and duration) and the additional

mitigation that would be implemented should noise levels exceed 70dB at the SSSI boundary as a result of the construction of pylon RB11.

- 3.5.86. In addition, the Applicant agreed to undertake breeding bird surveys of Schedule 1 bird species and nightingale at Ramsay Wood and Hintlesham Little Wood, and to provide the data to Natural England and the RSPB. Three surveys would be undertaken each season:
- during bird breeding season prior to construction;
 - during construction; and
 - for one year after construction, subject to landowner agreement.
- 3.5.87. The Applicant noted that no residual significant effects were anticipated following the implementation of mitigation measures, including these additional commitments added to the REAC.
- 3.5.88. The RSPB [REP9-048] welcomed the additional commitments relating to noise monitoring and mitigation at Hintlesham Woods.
- 3.5.89. In its final Status of Statements of Common Ground [REP9-023], the Applicant noted that the following matter remained as not agreed with Natural England:
- That other route corridors would have avoided effects on Hintlesham Woods SSSI.
- 3.5.90. The same submission notes that the following matters remained as not agreed with the RSPB:
- The RSPB considered that embedded mitigation measures to protect the SSSI needed to be legally secured in the DCO and not a Management Plan.
 - The need for construction and post-construction vegetation monitoring in Hintlesham Woods SSSI.
- 3.5.91. The Applicant summarised its position in relation to noise and birds at Hintlesham Woods [REP9-065]:

'All works in and around Hintlesham Woods have been programmed to take place outside of bird breeding season other than where the works are required to be undertaken during an electrical outage window (for safety), as per commitment EM-AB14 in the REAC... Following further programming review, the Applicant has identified that temporary pylon RB12T can be constructed and removed outside of bird breeding season. However, RB11 would need to be constructed during an outage window within the bird breeding season. Pylon RB11 is slightly further away from the SSSI than RB12T and as it is a permanent pylon, would not need removal unlike RB12T, resulting in fewer activities within bird breeding season. The Applicant has updated ES Appendix 7.1 Annex B Hintlesham Woods SSSI Assessment... and the relevant commitments in the REAC... at Deadline 9 to reflect this updated position. The Applicant has also updated the Technical Note on Noise Levels at Hintlesham Woods... to include predicted peak noise values of different activities. The Applicant has also agreed to produce a noise monitoring plan at Hintlesham Woods SSSI, see EM-AB20 in the REAC... The noise monitoring plan will include details of the noise monitoring to be undertaken (including location of monitoring equipment, frequency of noise peaks and duration).'

Impacts on other ancient woodland and standing advice

Ancient woodland buffer

- 3.5.92. The RR from the Woodland Trust [\[RR-051\]](#) was concerned that construction noise and dust would affect ancient woodland and recommended a buffer zone of 30 metres, in line with Natural England and Forestry Commission standing advice, which states:
- 'the proposal should have a buffer zone of at least 15 metres from the boundary of the woodland to avoid root damage (known as the root protection area). Where assessment shows other impacts are likely to extend beyond this distance, the proposal is likely to need a larger buffer zone. For example, the effect of air pollution from development that results in a significant increase in traffic.'*
- 3.5.93. The Applicant noted [\[REP1-025\]](#) that construction dust had been assessed in ES Appendix 13.1, Dust Risk Assessment [\[APP-135\]](#). This had followed Institute of Air Quality Management guidance and assessed effects on sensitive ecological receptors, including ancient woodland. It had concluded that, with good practice measures (CoCP [\[APP-178\]](#), secured through Requirement 4 in the dDCO [\[APP-034\]](#)), there would not be any significant effects on ecological receptors.
- 3.5.94. Construction noise impact on ecological receptors, including breeding birds, bats and dormice, had been assessed in Chapter 7, Biodiversity [\[APP-075\]](#). The assessment found no significant effects.
- 3.5.95. The RR from Natural England [\[RR-042\]](#) advised the Applicant to give further consideration to implementing the standing advice on ancient trees and to the mitigation hierarchy in relation to Hintlesham Woods SSSI and other ancient woodland sites, notably Bushy Park Wood, Butler's Wood and Waldegrave Wood.
- 3.5.96. The Applicant [\[REP1-025\]](#) advised that impacts on ancient woodland had been assessed in ES Chapter 7, Biodiversity [\[APP-075\]](#), and that the LEMP [\[APP-182\]](#) set out the proposed approach to the protection of ancient woodland. This applied a 15m buffer where practicable and adopted additional measures where it was not, taking into account information such as the root protection areas identified in the Arboricultural Impact Assessment [\[APP-067\]](#).
- 3.5.97. Embedded measure EM-E07 in the REAC [\[APP-179\]](#) identified that works adjacent to Bushy Park Wood were restricted to planting. ES Chapter 7 [\[APP-075\]](#) had noted that, although groundworks for the grid supply point substation lay within 15m of Butler's Wood and Waldegrave Wood, both woodlands were bordered by a ditch in excess of 1m deep, which the Applicant considered would create hydrological separation and confine tree roots to the woodland.
- 3.5.98. Table 7.1 in ES Chapter 7 [\[APP-075\]](#) concluded that, with the use of good practice measures set out in the CoCP [\[APP-178\]](#), there would be no likely significant effects on ancient woodland from construction generated dust, emissions to surface and groundwater or air quality changes.
- 3.5.99. Natural England's Written Representation [\[REP2-026\]](#) noted that a technical note had been offered to address its outstanding concerns about potential impacts on ancient woodlands. This was later submitted by the Applicant [\[REP3-046\]](#), and the resultant commitments were secured through the REAC [\[REP3-028\]](#).

- 3.5.100. Despite the Technical Note, Natural England [\[REP5-038\]](#) continued to advise that its standing advice for ancient woodland had been inadequately applied and that the Applicant should give it further consideration. It noted:

'the standing advice is not simply a buffer to protect the roots, it is a buffer to protect the woods and their ecology as a whole. Consideration should be given to the increased exposure to external pollution sources, protection of the canopy extending beyond the boundary, light pollution, dust pollution and changes to hydrology affecting the wood'.

- 3.5.101. The SoCG with Natural England [\[REP8-010\]](#) noted that the Applicant had selected a route that brought construction works within the minimum 15m buffer zone of ancient woodlands. This included Butler's Wood and Waldegrave Wood County Wildlife Sites (CWS) and a woodland referred to as PoAWS05 that the Applicant identified as potential ancient woodland, as well as Hintlesham Wood SSSI.

- 3.5.102. Whilst the Applicant believed it had introduced protective measures to overcome this, Natural England noted that there was a route option that would avoid damage to Hintlesham Woods SSSI that was not taken forward (Corridor 2A - identified in Bramford to Twinstead Tee Connection Project: Connection Options Report [\[APP-164\]](#)).

- 3.5.103. The Applicant's final version of its Status of Statements of Common Ground [\[REP9-023\]](#) noted that the matter of a buffer zone for ancient woodland in accordance with the standing advice remained as not agreed with Natural England, along with disagreement about the relevance of other route alignments that could have avoided ancient woodlands.

Severance

- 3.5.104. The Woodland Trust [\[REP2-032\]](#) raised concerns about the severance of ancient woodlands from adjacent supporting habitats as a consequence of the Proposed Development. This was explored by the ExA in a written question [\[PD-005\]](#) and at ISH4 ([\[EV-040\]](#) to [\[EV-043\]](#)).
- 3.5.105. The Applicant [\[REP4-042\]](#) contended that the Proposed Development would not cause any permanent fragmentation of ancient woodland, or separation from adjacent semi-natural habitats. It noted that the Order Limits predominantly encompassed arable farmland of low ecological value, which was easy to reinstate.

Impacts on veteran trees

- 3.5.106. The RR from the Woodland Trust [\[RR-051\]](#) highlighted the loss of a veteran oak tree (number T378 in the Arboricultural Impact Assessment [\[APP-067\]](#)). It also raised concerns regarding potential impacts on an additional four veteran trees within the limits of deviation.
- 3.5.107. The Applicant confirmed [\[REP1-025\]](#) that T378 had been identified as a Grade A veteran tree (Arboricultural Impact Assessment [\[APP-067\]](#) at paragraphs 4.2.3, 4.2.6 and 5.1.2, and sheet 9 and Table A1 in Appendix A, Arboricultural Survey Data). It was located in the underground cable section to the east of the B1508 in a hedgerow. It lay within the centre of the Order Limits, and the Applicant said that its removal was required due to the necessary width of the working area for cable installation (Design and Layout Plans Cable Working Cross Section [\[APP-027\]](#)). It was shown on sheet 19 of the Vegetation Retention and Removal Plans [\[APP-183\]](#).

The Arboricultural Impact Assessment [APP-067] concluded that it would not respond to coppicing.

3.5.108. At ISH4 ([EV-040] to [EV-043]), the Applicant pointed out the trees in question were veteran rather than ancient trees, and that veteran trees were not always of exceptional value. It demonstrated why it believed it impossible to avoid T378 without affecting more valuable woodland receptors in the area.

3.5.109. Babergh and Mid Suffolk District Councils [REP4-051] reported that they had held a meeting with the Applicant to discuss veteran tree T378. Suitable compensation measures were discussed, and the Applicant had offered to draft a commitment to be added to the REAC and LEMP.

3.5.110. The Applicant [REP5-025] duly proposed a new commitment in relation to the veteran tree, which had been submitted to Babergh and Mid Suffolk District Councils for comment. The REAC [REP6-023] and LEMP ([REP7-006]) were updated to include the new measure EM-G13:

'Veteran tree T378 has a historic primary union failure at 3m which has internal hollowing within large cavities and deadwood present. It is likely that it will need to be felled due to its location within the cable swathe. Where the removal of the tree is necessary, the compensation will comprise soft felling of the tree (in accordance with the final bat licence where applicable). If the limbs are not rotten and have suitable veteran features, then these will be attached to a suitable retained tree(s) within the Order Limits as close as practicable to the lost tree. Where attaching the limbs is not suitable (e.g. if rotten or if these have no veteran features), then the wood will be retained on site as a log pile to retain a habitat function. In addition, another tree will be veteranized as compensation for the loss of T378. The tree to be veteranized will be identified by an arboriculturalist who will also advise on the method for veteranisation, with advice from an ecologist on how to achieve the most habitat value.'

3.5.111. The RR from the Woodland Trust [RR-051] requested a buffer area for veteran trees in line with Natural England and Forestry Commission standing advice, which states:

'For ancient or veteran trees (including those on the woodland boundary), the buffer zone should be at least 15 times larger than the diameter of the tree. The buffer zone should be 5 metres from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter. This will create a minimum root protection area. Where assessment shows other impacts are likely to extend beyond this distance, the proposal is likely to need a larger buffer zone.'

3.5.112. The Applicant [REP1-025] noted that, for veteran trees, the Arboricultural Impact Assessment [APP-067] presented estimated root protection area for trees within the Order Limits. The root protection area would be used to inform detailed design and construction planning.

3.5.113. Table 6.2 of the LEMP [APP-182] confirmed that, where practicable, buffers in line with the standing advice would be applied to veteran trees. Where this was not practicable, site-specific measures would be identified and adopted by the Applicant.

Mitigation through woodland creation

- 3.5.114. The Applicant proposed to create areas of new woodland to mitigate the significant adverse effects of the loss and degradation of the lowland mixed deciduous HPI woodland. This was secured through measure EIA_B01 in the REAC [\[APP-179\]](#), and the location of the planting was shown in LEMP Appendix B [\[APP-184\]](#). However, the LEMP [\[APP-182\]](#) did not appear to provide information about the timing of planting, or the approach to aftercare.
- 3.5.115. The ExA asked for details through a written question [\[PD-005\]](#), including:
- when the planting would be undertaken;
 - whether this would be prior to habitat loss and, if not, why not;
 - the proposals for aftercare, including the time period proposed and why this is considered appropriate; and,
 - the mechanism for remedial action, if required.
- 3.5.116. In response, the Applicant [\[REP3-052\]](#) signposted where in the LEMP the necessary detail was covered. Some amendments were made to the LEMP [\[REP3-034\]](#) in response to the question. However, the Applicant's response appeared to relate to reinstatement planting, whereas the main focus of the question was the mitigation planting at two locations adjacent to Hintlesham Woods.
- 3.5.117. While the updated LEMP [\[REP3-034\]](#) committed to a 30-year aftercare programme, the Applicant had not indicated whether the mitigation could be brought forward in the programme. A further question [\[PD-008\]](#) was asked specifically on whether there would be benefit in advance planting.
- 3.5.118. The Applicant [\[REP7-025\]](#) noted that that there might be some such opportunities to do so, subject to land rights, practicalities such as physical space, the progression of commercial and contractual agreements, seasonal constraints, and availability of planting stock. The Applicant offered to work with the main works contractor, once appointed, during the detailed design stage to identify any opportunities. This commitment was added to the LEMP [\[REP7-006\]](#).
- 3.5.119. Natural England [\[RR-042\]](#) reflected on the proposals in the LEMP [\[APP-182\]](#) to rely on natural regeneration for some of the new woodland areas proposed for mitigation and compensation and requested further detail about the measures that would be taken if naturally regenerated woodland was not establishing satisfactorily.
- 3.5.120. The ExA explored this further in a written question [\[PD-005\]](#). It asked whether the LEMP included sufficient information on which to judge management and the effectiveness of woodland establishment on the larger arable areas that extended some distance from existing woodland. It also asked about responsive measures that could be taken if natural regeneration was not satisfactory, and if the proposed monitoring and aftercare period was sufficient.
- 3.5.121. Natural England [\[REP3-074\]](#) suggested that more information was needed about the size of the area, its soils and previous uses to provide detailed advice. Babergh and Mid Suffolk District Councils [\[REP3-060\]](#) and Essex County Council and Braintree District Council [\[REP3-061\]](#) did not consider high fertility a problem but questioned the distances involved for the necessary seed dispersal. They considered that the aftercare period should be aligned to the Biodiversity Metric timescale to reach the desired condition outcomes and that the details should be finalised to support discharge of Requirement 10 for a final LEMP by the relevant local planning authority.

- 3.5.122. Suffolk CC [REP3-078] felt that the LEMP offered insufficient prescription, that aftercare must be more than 5 years, that there would need to be full security through the DCO, that seed collection and sowing would be beneficial, and that fencing would be required.
- 3.5.123. The Applicant inserted a new paragraph 8.4.11 into the LEMP [REP3-034] to note that aftercare checks would be introduced to identify whether additional planting was required to achieve the habitat objectives.
- 3.5.124. Essex County Council and Braintree District Council highlighted outstanding concerns at the end of the Examination [REP10-018], notably about the use of ploughing as part of the preparation process.

Aftercare

- 3.5.125. The application documentation (such as the LEMP, section 9 [APP-182]) confirmed that BNG, compensation habitat creation and mitigation restoration habitats would revert to the landowner after five years.
- 3.5.126. The ExA asked a written question [PD-005] to ascertain what would guarantee that the habitat was not removed or damaged by the landowner within those five years and after the five-year establishment period.
- 3.5.127. Natural England [REP3-074] said that it generally accepted the proposed five-year aftercare period, except for screening at the cable sealing end compounds, which it considered should be secured for the lifetime of the facility. It noted that a period of 30 years would be expected for mandatory BNG.
- 3.5.128. Babergh and Mid Suffolk District Councils [REP3-060] and Essex County Council and Braintree District Council [REP3-061] both considered that 10 to 15 years was needed for aftercare rather than the five years proposed, and that long-term monitoring was required.
- 3.5.129. Suffolk County Council [REP3-078] considered that the:
'... hand-back period for any habitat should ensure that the habitat's function and desired outcomes have been achieved or appropriately secured prior to handing back. Therefore, handing back after 5 years may be appropriate in some cases, but not in all, for example woodland.'
- 3.5.130. In response to the question, the Applicant clarified [REP3-034] the aftercare proposals and noted that some changes were made to the LEMP. For land that was to be acquired or was already held freehold, such as at the grid supply point substation, aftercare would be for the project's lifetime. BNG and the Hintlesham Woods mitigation planting would be subject to 30 years of aftercare. The remainder would be managed for five years.
- 3.5.131. Essex County Council and Braintree District Council [REP4-049] remained concerned, especially given the county's dry climate and the complications of planting on new bunds. They felt that this justified their request for aftercare to be extended to 10 to 15 years to enable the growth of vegetation to be properly managed.

- 3.5.132. The Applicant summarised [\[REP5-025\]](#) that its proposals achieved:
- '... the right balance of five years across most of the project, which consists mainly of reinstatement of hedgerows. The Applicant is proposing to maintain embedded planting for the life of the assets (including the cable sealing end compound and the GSP) and has also proposed 30 years in relation to MM09 to the north of Hintlesham Woods SSSI.'*
- 3.5.133. The ExA asked a further written question following the publication of the draft energy NPSs in November 2023. An addition to the draft NPS EN-5 seemed to relate to the longer-term management of mitigation schemes:
- '... management of the selected mitigation schemes is essential to their mitigating function, a management plan, developed at least in outline at the conclusion of the examination...'*
- 3.5.134. The Applicant [\[REP7-025\]](#) noted that the 2011 NPSs remained in force, and that it:
- '... considers that the project strikes the correct balance in this regard by identifying appropriate aftercare at each location rather than a standard approach across the project.'*
- 3.5.135. Natural England [\[REP7-038\]](#) considered the draft NPS important and relevant but reiterated that it 'mostly accepted' the aftercare period of five years for new or reinstated woodland, trees and hedgerows.
- 3.5.136. Babergh and Mid Suffolk District Councils [\[REP7-028\]](#) interpreted the draft NPS to mean, *'that the final management plans are not needed at this stage and cannot be expected to contain all the final details'*. They considered that, to meet the aspiration of the draft NPS EN-5, the current commitments would need to be extended to the appropriate timescales for delivery of the promised BNG and secure the integrity and benefit of these schemes, not just 5 years of aftercare and hand back to the landowner.
- 3.5.137. Essex County Council and Braintree District Council [\[REP7-029\]](#) expressed similar views and noted that:
- '... this draft policy is important and relevant to the examination. There should be an onus on the Applicant to satisfy the ExA that these additional points have been complied with.'*
- 3.5.138. The Applicant [\[REP8-033\]](#) noted that paragraph 2.10.8 of the November draft NPS EN-5 states that a management plan should be developed 'at least in outline'. It interpreted this to mean that this would be the lowest acceptable level, and that it is acceptable for a management plan to go beyond this level to a final plan.
- 3.5.139. Suffolk County Council [\[REP7-033\]](#) reiterating its concerns around climate change and maintaining mitigation planting and highlighted recent experience in relation to the East Anglia One North and Two Offshore Wind Farm projects, where the undertaker agreed a dynamic management plan with enhanced replacement and watering where necessary.
- 3.5.140. A joint written representation on behalf of all of the host authorities [\[REP8-044\]](#) concluded that the provisions for aftercare of woodland planting were unacceptable on two counts:

- The aftercare period for some elements of the mitigation planting was inadequate.
- There would be a lack of control for the local authorities in the process of aftercare of mitigation and BNG planting, and consequently an inability for them to monitor and secure satisfactory outcomes on behalf of the communities they represent.

Alphamstone Meadows Local Wildlife Site

- 3.5.141. The RR from Nick Miller [RR-103] raised concerns relating to biodiversity, referring to various surveys but without submitting any supporting information. He went on to suggest that the Applicant's assessment had failed to pay adequate regard to the Alphamstone Meadows Local Wildlife Site and adjacent habitats which he believed to be scarce and probably met, *'the definition in the NPPF Glossary of "Irreplaceable Habitat".'*
- 3.5.142. Following a written question from the ExA, Mr Miller [REP3-082] provided further information and confirmation that the records that he had cited came from reliable sources.
- 3.5.143. The Applicant [REP3-052] noted that Table 7.5 of the ES [APP-075] provided a summary of findings for the Alphamstone Meadows Local Wildlife Site. The Applicant had committed to a trenchless crossing to the south of Ansell's Grove (embedded measure EM-G08 in the REAC) to avoid valuable habitats. In addition, the REAC measure stated that existing routes would be used where practicable by light or tracked vehicles. There would be no temporary construction access route along the trenchless crossing.
- 3.5.144. The assessment concluded a neutral and not significant effect on the Local Wildlife Site.
- 3.5.145. The Applicant [REP4-029] confirmed that it was aware of the sensitive habitats within the Stour Valley highlighted by Mr Miller, and that this was a key consideration when it committed to undertaking a trenchless crossing.
- 3.5.146. Responding to a further written question from the ExA, Mr Miller [REP7-042] remained concerned, referring to heat from the buried cables, damage that would be caused by inevitable repairs, impacts on underground badger setts, and knock-on impacts on the habitats of other protected species.
- 3.5.147. The Applicant [REP8-033] reassured that:

'... a trenchless crossing to the south of Ansell's Grove would avoid impacts to the overlying habitats. The depth of burial of the cables in the trenchless crossing would result in any heat arising from the cables being dissipated within the ground immediately surrounding the cable with a negligible impact on the sub-soil or top-soil temperatures... The potential impacts on dormouse... would be negligible...'

CONCLUSIONS

- 3.5.148. The ExA is satisfied that, by the end of the Examination, the Applicant's biodiversity assessment included all the matters identified in NPS EN-1 and that there is sufficient information for the Secretary of State to reach a conclusion on biodiversity and ecology matters.

- 3.5.149. The ExA notes that NPS EN-5 additionally requires an applicant to consider impacts of overhead lines on large birds and is content that the Applicant properly considered such matters but found no likelihood of significant effects.
- 3.5.150. Consideration of the 2024 NPSs would not alter the ExA's conclusions.
- 3.5.151. During the Examination, the ExA used all relevant submitted evidence to test the Applicant's conclusion that there would be no likely significant residual effects in relation to biodiversity during the construction or operation of the Proposed Development.

Biodiversity Net Gain

- 3.5.152. While BNG was not mandatory for this application, the ExA notes that it has been offered by the Applicant and considered outside the EIA process. Whilst there was some initial confusion about the status of the BNG proposals, and how they could be distinguished from other proposals for habitat mitigation, reinstatement and compensation, the ExA is content that this was clarified during the Examination.
- 3.5.153. Noting that Requirement 13 of the rDCO requires the undertaker to submit written evidence that demonstrates how at least ten per cent in biodiversity gain is to be delivered before the transmission electric line is brought into use, the ExA is satisfied that a significant biodiversity enhancement could be secured locally.

Bat surveys and licence

- 3.5.154. The ExA notes the differing opinions of the Applicant and the host authorities in relation to securing the details of necessary bat mitigation measures through the control documents. It concurs with the position of the Applicant that, should DCO consent be granted, a final bat licence would need to be submitted for Natural England approval. This would have to include full and updated details of surveys, impacts and mitigation measures. The ExA notes the letter of no impediment from Natural England and considers that reliance can be placed on the legislation and rigorous licensing process and that it is not necessary for the Applicant to duplicate the detailed information in the CEMP or REAC.

Dormouse licence

- 3.5.155. The ExA pursued the matter of a letter of no impediment in relation to hazel dormouse to provide adequate reassurance before the close of Examination that protected species licensing could be relied on to secure appropriate mitigation. It is satisfied that the submission of updated ES Appendix 7.8, Annex A, Dormouse Draft Licence [\[REP9-022\]](#) deals with this matter and that there are no outstanding issues in relation to dormouse.

Arger Fen SSSI

- 3.5.156. The ExA is content that Natural England's various representations, discussions at ISH4 ([\[EV-040\]](#) to [\[EV-043\]](#)) and the Applicant's amendments to ES Chapter 7 [\[REP6-009\]](#) are sufficient to demonstrate that the potential for an impact was properly considered through a groundwater dependent terrestrial ecosystem assessment, and that no significant effect was identified.

Hintlesham Woods SSSI: transposition and the swathe

- 3.5.157. As noted elsewhere in this Report, the ExA has some sympathy with the views expressed by the host authorities that, in general, the submitted management plan

control documents lack sufficient detail to be considered a rigorous final version. It also recognises some confusion caused by the nature of the application documentation and the updates provided during the Examination in relation to the Applicant's proposed works within and around Hintlesham Woods.

- 3.5.158. The ExA notes that the cable transposition and associated works within the Hintlesham Woods SSSI have the potential to cause significant harm to the features for which the site is notified, and that the LEMP is the principal vehicle for ensuring that such impacts are recognised and controlled.
- 3.5.159. The ExA has taken account of its recommended changes in the rDCO in relation to the management plans, and the improvements made to the LEMP over the course of the Examination in respect of the protection of Hintlesham Woods SSSI, including securing the restriction of works to the existing maintenance swathe, a requirement for detailed plans for vegetation clearance and management to be discussed with the appropriate parties prior to commencement, and the further involvement of the RSPB as site manager.
- 3.5.160. It notes and agrees with the Applicant's contention that the extent and nature of the management of the coppiced swathe during transposition and ongoing maintenance would be similar to those experienced during routine maintenance of the existing overhead line.
- 3.5.161. Whilst the ExA is generally content that the stated intentions would deliver sufficient mitigation to avoid adverse effects on Hintlesham Woods and the SSSI, it nevertheless considers there to be a small possibility that a temporary minor, but not significant adverse impact could occur in practice if the Proposed Development was to be consented and has factored this into its overall conclusion.

Hintlesham Woods SSSI: other impacts and monitoring

- 3.5.162. The ExA has given careful consideration to other possible impacts on Hintlesham Woods and the SSSI, particularly from construction noise and disturbance. It has reviewed the submissions from all parties in relation to this matter, including the Applicant's technical note [\[REP3-057\]](#) and the commitments set out in the REAC [\[REP9-037\]](#).
- 3.5.163. It notes that the secured commitments mean that works in and around Hintlesham Woods would have to take place outside the bird nesting season, other than works required during an electrical outage window for safety. A noise monitoring plan would be required.
- 3.5.164. With the mitigation and monitoring measures in place, the ExA is content with the conclusion of the Applicant's assessment in relation to noise and disturbance at Hintlesham Woods SSSI that no significant effects are anticipated.

Impacts on other ancient woodland and standing advice

- 3.5.165. The ExA recognises and concurs with the concerns of the Woodland Trust, Natural England and the host authorities that only a 15m buffer has been allowed for ancient woodlands from the Proposed Development, rather than the 30m recommended in Natural England and Forestry Commission standing advice. It notes that even the 15m buffer may not be applied in situations where the Applicant considers it impracticable.

- 3.5.166. The ExA notes that, in some instances, the works adjacent to ancient woodland would comprise planting rather than construction works *per se*. Nevertheless, it considers that temporary construction effects on ancient woodland adjacent and close to the Order Limits from factors such as dust, discharge to and pollution of surface and groundwater, air quality changes due to plant and traffic, and disturbance (including unintentional and intentional access by construction workers) due to the lack of a suitable buffer that respects the standing advice could be greater than those concluded by the Applicant, but does not consider it likely that they would be significant in themselves.
- 3.5.167. The ExA concurs with the Applicant's conclusion that the Proposed Development would not cause any permanent fragmentation of ancient woodland, or any material ecological separation from adjacent semi-natural habitats.

Impacts on veteran trees

- 3.5.168. The ExA is satisfied that a precautionary assessment was made for veteran trees within the Order Limits, and that progress was made, and measures secured to provide compensation for the loss of veteran tree T378. Nevertheless, the ExA notes that the standing advice in relation to a suitable buffer zone would not be achieved, and that protection of veteran trees on the margins of construction works would be reliant on bespoke assessments and measures that are currently undetermined. Given such uncertainty, the ExA considers the Applicant's conclusions unduly positive, though it does recognise the small number of trees involved and the precautionary nature of the tree evaluations, such that the Applicant's finding of no significant effect remains valid.

Mitigation through woodland creation

- 3.5.169. The ExA notes the potential construction effects on 4.26ha of woodland during construction, including losses or temporary impacts on approximately 2.57ha of HPI woodland. The ExA concurs with the Applicant's conclusion that this would represent a moderate and significant adverse effect.
- 3.5.170. The Applicant proposes to provide mitigation through woodland creation and considered the residual effect to be neutral and not significant.
- 3.5.171. The ExA has considered this effect alongside the matters discussed above in relation to the reduced buffers afforded to ancient woodlands and considers that the cumulative impact should be considered.
- 3.5.172. Furthermore, the ExA is mindful of the lack of detail in the relevant control documents in respect of the mitigation planting, fostering natural regeneration of woodland on fertile arable land, often at some distance from seed sources, and the approach to ensuring proper establishment of new woodland. It has also taken into account the Applicant's lukewarm response to advanced mitigation planting.
- 3.5.173. With mitigation in place, the Applicant assesses the residual effect on woodland habitats (including HPI) to reduce from moderate and significant to neutral and not significant.
- 3.5.174. The ExA notes that the impacts would be experienced at the outset of the Proposed Development, that it would be some time before the mitigation measures were implemented, and potentially several decades before they were fully restored to their former ecological effectiveness. As such, the ExA disagrees with the Applicant's conclusions about residual effects and concludes that there would be a

temporary moderate and significant adverse effect on woodland habitats, including HPI, as a result of the Proposed Development.

Aftercare

- 3.5.175. The ExA notes the divergent views of the parties in relation to what might constitute an appropriate aftercare period for the various habitat reinstatement, mitigation and enhancement schemes. It is content that the Applicant sufficiently clarified its proposals in the early stages of the Examination.
- 3.5.176. Whilst recognising the concerns of the host authorities, especially in the face of a changing climate, the ExA notes Natural England's general acceptance of the Applicant's proposals, and it is satisfied that they achieve an appropriate balance in terms of biodiversity and ecology considerations.

Alphamstone Meadows Local Wildlife Site

- 3.5.177. The ExA is content that the Applicant's mitigation proposals, including the trenchless crossing to the south of Ansell's Grove would avoid impacts on the Alphamstone Meadows Local Wildlife Site and associated rare and protected species.

Overall conclusion on biodiversity and ecology

- 3.5.178. The ExA notes the need in the Infrastructure Planning (Decisions) Regulations 2010 to have regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992, and the requirement in NPS EN-1 to attach appropriate weight to habitats of principal importance for the conservation of biodiversity and to biodiversity interests in the wider environment. The NPS also directs that development consent should not be granted for proposals that would result in the loss or deterioration of ancient woodland unless the benefits outweigh those losses.
- 3.5.179. Whilst the ExA agrees with the majority of the Applicant's assessment findings, it disagrees that there would be no significant residual effects, and for the reasons set out above it concludes that there would be a temporary moderate and significant adverse effect on woodland habitats, which it considers affords moderate negative weight against the making of the Order.

3.6. GOOD DESIGN

INTRODUCTION

- 3.6.1. This section considers the concept of good design in relation to the Proposed Development. Relevant policy links good design with climate change matters, including the use of sulphur hexafluoride as an insulator, and these are considered in section 3.7.
- 3.6.2. Good design also influences many of the matters covered in the other topics discussed in this section of the Report, including several matters relating to landscape and views (section 3.9).

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.6.3. The criteria for good design in energy infrastructure are set out in the Overarching National Policy Statement for Energy (NPS EN-1) at section 4.5. Applicants should:

- demonstrate the evolution of the proposed design, and set out reasons for the option selected (paragraph 4.5.4);
- demonstrate how siting and appropriate technologies have been used to mitigate adverse effects (paragraph 4.5.2); and
- take independent professional advice on design (paragraph 4.5.5).

3.6.4. In reaching a decision the Secretary of State should be satisfied that:

- aesthetics and function, including fitness for purpose and sustainability, have been taken into account as far as possible (paragraph 4.5.3);
- developments are sustainable (sensitive to place, efficient use of natural resources, matched by good aesthetics) and as attractive, durable and adaptable as possible (paragraphs 4.5.1 and 4.5.3);
- opportunities have been taken to demonstrate good design in terms of siting in relation to existing landscape character, landform and vegetation (paragraph 4.5.3); and
- the design and sensitive use of materials in elements such as substations has been considered, to contribute to the quality of the area (paragraph 4.5.3).

3.6.5. The National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) refers to the design principles in NPS EN-1 and to the need to mitigate potential adverse effects associated with overhead lines in relation to biodiversity, landscape and views, noise and vibration and electromagnetic fields.

3.6.6. The 2024 NPS EN-1 sets out a broader approach to good design than the extant NPS EN-1, linking good design principles to other topic areas, including biodiversity, flood risk, heritage, landscape and views, land use and green infrastructure and soils.

3.6.7. Applicants are encouraged to ensure that good design is embedded into the development from its early stages, and to adhere to relevant design principles and by the appointment of a project board level design champion.

3.6.8. It also suggests that the Secretary of State may wish to take independent advice, such as an independent design review.

3.6.9. The 2024 NPS EN-5 highlights that applicants should consider the criteria for good design set out in the 2024 NPS EN-1 at an early stage when developing projects. It suggests that the criteria should govern the design as far as possible, but not to the detriment of the functional performance of the infrastructure in respect of security of power supply and public and workplace safety.

Local policy

3.6.10. The host authorities drew attention to what they considered the most relevant design-related policies in their respective Local Impact Reports (LIRs).

3.6.11. The Essex County Council and Braintree District Council LIR [[REP1-039](#)] referred in particular to two development plan policies:

- Policy SP7 (Place Shaping Principles) of the adopted local plan states *inter alia* that all new development must meet high standards of urban and architectural design, respond positively to local character and context and protect and enhance assets of historical or natural value.

- Policy LPP52 (Layout and Design of Development) of the adopted local plan requires a high standard of design and layout in all development. It is a lengthy policy and includes 19 criteria that development should meet.

3.6.12. The LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [\[REP1-045\]](#) highlighted development plan policy CN01, Design standards, which refers to the need to take account of the surroundings in the design of new development. It went on to note that the Babergh and Mid Suffolk Joint Local Plan Submission Draft Policy LP26, Design and Residential Amenity, stated that, ‘*All new development must be of high-quality design, with a clear vision as to the positive contribution the development will make to its context*’.

3.6.13. The Suffolk County Council and Babergh and Mid Suffolk District Council LIR [\[REP1-045\]](#) also drew attention to (and appended) National Grid’s Horlock Rules (for the siting and design of substations) and Holford Rules (for route design for high voltage overhead transmission lines), and, at Appendix C, a series of preliminary good design principles that Suffolk County Council considered could be embedded at every stage of the project in accordance with the National Policy Statements.

3.6.14. These principles highlighted opportunities for effective placemaking at the substations and sealing end compounds and potential biodiversity and environmental net gain in accordance with the requirements laid down by Ofgem for new projects. The principles were endorsed in the Essex County Council and Braintree District Council LIR [\[REP1-039\]](#).

THE APPLICATION

3.6.15. In addition to a series of Design and Layout Plans ([\[APP-019\]](#) to [\[APP-033\]](#)), the Applicant submitted ES Appendix 4.1, Good Design [\[APP-090\]](#). This set out the design aspects that the Applicant had considered during the development of the Proposed Development and was intended to be read alongside ES Chapter 3, Alternatives Considered, and ES Chapter 4, Project Description.

3.6.16. It drew attention to *The Design Principles Guide for National Infrastructure* (National Infrastructure Commission, 2020) and explained how design was considered in the context of National Grid’s health and safety processes that govern how it designs and constructs its projects safely, to national policy and to its statutory duties. These included the development and maintenance of an efficient, coordinated and economical electricity transmission system and to have regard to the desirability of environmental conservation, which National Grid interprets as including consideration of the impact of its activities on communities, such as noise and disturbance.

3.6.17. Making reference to the Holford Rules and mitigation as relevant, the document went on to describe the good design principles that had been considered in relation to:

- route optioneering;
- climate change resilience;
- lighting;
- fencing;
- construction compounds;
- accesses and haul routes;
- materials and waste management;
- the use of sulphur hexafluoride;
- the design of the grid supply point substation;

- the removal of the existing overhead lines;
- the new overhead lines and associated infrastructure; and
- the underground cables and associated infrastructure.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

The grid supply point substation

- 3.6.18. The ExA explored the design of the soft and hard landscape mitigation for the proposed grid supply point substation, especially in relation to the local topography and woodland, and compliance with Horlock Rule 9.
- 3.6.19. In answer to a written question [PD-005], Essex County Council and Braintree District Council noted [REP3-061] that the substation went through an extensive design and mitigation process as part of the TCPA application, which was subsequently approved by Braintree District Council. The response noted that a landscape mound to the west of the substation had been identified in the TCPA application Design and Access Statement as having a 1:14 slope, which was deemed acceptable. A second mound was steeper, but it was generally considered to meet the Horlock Rules and good design tests in NPS EN-1.
- 3.6.20. Despite having given TCPA consent, Braintree District Council felt that the Applicant's Landscape and Ecological Management Plan (LEMP) lacked information.
- 3.6.21. The Applicant [REP3-052] explained the design process and highlighted the positive officer report for the TCPA application. It concluded that the design of the proposed mounds and planting at the substation would comply with Horlock Guideline 9 and the good design tests in NPS EN-1 in terms of existing landscape character and landform.

Host authority promoted preliminary design principles

- 3.6.22. The ExA asked a written question [PD-005] to determine if and how the Applicant had paid regard to the design principles submitted by Suffolk County Council in Annex C to its LIR [REP1-044].
- 3.6.23. The Applicant [REP3-052] intimated that the principles largely mirrored the Holford Rules, and that where there was variation, the latter should take precedence. In its response to the Suffolk County Council and Babergh and Mid Suffolk District Councils' LIR [REP3-049] it said:

'The Applicant confirms that design principles in general accordance with those identified in Annex C have been followed throughout the development of the project as demonstrated within the submitted documentation, including the Route Corridor Study (RCS) [APP-163] and the COR [APP-164]. Further evidence is provided in ES Chapter 3: Alternatives Considered [APP-071] and ES Appendix 4.1: Good Design [APP-090]. Appendix A and B of the Planning Statement [APP-160] demonstrate compliance with the relevant NPS. As set out in the Planning Statement [APP-160] the assessment of the application for development consent should be made primarily against the extant (2011) National Policy Statements (NPS) (EN-1 and EN-5), albeit the Applicant acknowledges that the emerging 2023 drafts are likely to be important and relevant matters.'

Final design of the substations and cable sealing end compounds

3.6.24. The host authorities (Suffolk County Council [REP3-078] and Braintree District Council and Essex County Council [REP1-039], [REP4-049], [REP7-026] and [REP9-071]) noted that there did not appear to be any control mechanism in the dDCO or other application documents over detailed design or to allow for any local authority control over the final designs that would be developed post-consent.

3.6.25. They promoted the inclusion of an additional Requirement in the DCO to allow for agreeing and discharging design details of the key infrastructure, including the two substations, the cable sealing end compounds and the fencing or other means of enclosure associated with the temporary site compounds.

3.6.26. The Applicant [REP5-025] considered this unnecessary, noting:

'... the cable sealing end compounds will be formulaic and industrial in nature and the design of these will be substantially dictated by the equipment they contain and the function that they need to provide. The designs will be undertaken by a competent contractor with knowledge of designing high voltage transmission lines... the Applicant does not agree that matters concerning the final design of transmission infrastructure should be a matter for the Councils to approve through an additional DCO Requirement.'

'Embedded Measure EM-P04... in the... REAC [REP4-018]... states: "The project will be designed in accordance with National Grid design standards and will be compliant with the guidelines and policies relating to electric and magnetic fields stated in National Policy Statement EN-5 (Department of Energy and Climate Change, 2011b), including the International Commission on Non-Ionizing Radiation Protection guidelines (1998)." Taking account of the above, it would be unnecessary and, indeed, inappropriate for the Councils to become the determining authority in respect of inherently technical matters for which sufficient control and oversight is already exercised by competent technical matter specialists. The Applicant further considers that the extensive controls already in place in respect of the design of the project negate the need for a further Requirement (as SCC intimate) requiring the authorised development to be carried out in general accordance with the Design and Layout Plans.'

3.6.27. Specifically in respect of temporary site compounds, the Applicant said ([REP8-033], pages 31 and 32):

'In respect of temporary construction compounds, to comply with their Construction (Design and Management) Regulations and Health and Safety at Work Act obligations the Main Works Contractor would be required to secure the work sites and compounds. In other locations and in accordance with good practice measure GG24 in the CoCP..., the working area would be appropriately fenced to reduce the risk of site staff from unintentionally exiting the site boundary. The choice of fencing would be decided following a risk assessment, relevant to the work location.'

The details of the temporary construction compound fencing, type and proposed colour, would not be known until the main works contractor is appointed and the appropriate risk assessments have been carried out. The Applicant is of the view that given the temporary nature of the construction compounds and site fencing and because the fencing is a safety and security matter, that there is no need for a Requirement on this matter'.

Design of the permanent access road to the Stour Valley east cable sealing end compound

- 3.6.28. The design of the permanent access road to the Stour Valley east cable sealing end compound was observed during the accompanied site inspection [REP3-037]. Following discussions and concerns from a group of Parish Councils [AS-010], the Applicant subsequently submitted further information about its visibility.
- 3.6.29. It acknowledged that the access track would be relatively visible in nearby views of the site, but the only identified sensitive receptor was a public right of way that would be crossed by the route. There would also be distant views of the access route from the opposite side of the Stour Valley, as illustrated by a photomontage from Viewpoint G2.5 [APP-065].
- 3.6.30. The Applicant considered that the effect on these longer views would be moderated by intervening vegetation. It described the options that it had considered to access the Stour Valley east cable sealing end compound during the preapplication design and consultation stages and noted [REP5-025]:
- 'The Applicant has listened to the feedback from the Parish Councils regarding the permanent access route and can confirm that it will add a new commitment to the REAC [REP4-018] at a future deadline that says: "A landscape architect will be involved in the detailed design to advise on suitable finishes for the permanent access route at Stour Valley East CSE compound as part of reducing the landscape and visual effects of this feature".'*
- 3.6.31. The Register of Environmental Actions and Commitments (REAC) [REP6-023] was amended to include measure EM-G14, to use a landscape architect for the detailed design, *'to advise on suitable finishes for the permanent access route at Stour Valley East CSE compound with the aim of reducing the landscape and visual effects of this feature.'* Reference was also added to the LEMP [REP7-006].
- 3.6.32. The Parish Councils [REP6-061] nevertheless maintained their position until the close of the Examination, promoting an alternative solution that used an existing track, highlighting policy LC03 of the Little Cornard Neighbourhood Development Plan, the protection of important views.
- 3.6.33. The Applicant reiterated its rationale for maintaining its chose access option prior to the close of the Examination [REP9-065].

Design response to cumulative impacts at the Bramford Substation

- 3.6.34. Some Relevant Representations (Braintree District Council [RR-002], Babergh and Mid Suffolk District Councils [RR-001], Essex County Council [RR-004], Suffolk County Council [RR-006], and the Suffolk Preservation Society [RR-048]), and the joint LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] raised the issue of cumulative landscape and visual impacts of the Proposed Development with other energy developments at and around the existing Bramford Substation, including some being promoted by the Applicant, and the opportunity for:

'... an integrated design approach... would maximise the opportunities to achieve good design in this part of the scheme.'

- 3.6.35. Babergh and Mid Suffolk District Councils suggested [\[REP2-008\]](#) that a significant landscape and visual compensation package should be drawn up by the Applicant to compensate for the significant cumulative landscape and visual effects.
- 3.6.36. Suffolk Preservation Society [\[REP1-045\]](#) was concerned about the '*existing and future... wirescape*', identifying an opportunity for the good design of the Proposed Development to mitigate the cumulative effects.
- 3.6.37. The Applicant noted [\[REP1-025\]](#) that some of the identified developments were at an early stage of development and therefore could change. It did not believe that it was possible to predict the location of infrastructure to inform any further design proposals to reduce cumulative landscape and visual effects. It nevertheless committed to work internally with the Norwich to Tilbury project, to engage with other developers to ensure a joined-up approach to landscaping proposals around the Bramford Substation, and to contribute to Mid Suffolk District Council's strategic cumulative working group for the Bramford area.
- 3.6.38. The final Statement of Common Ground (SoCG) between the Applicant and the host authorities [\[REP10-006\]](#) noted that Suffolk County Council and Babergh and Mid Suffolk District Councils considered that the cumulative effects around the Bramford Substation required a more holistic design approach, and that compensation involving landscape scale restoration was required. This is explored further in the landscape and views section of this Report (section 3.9).

CONCLUSIONS

- 3.6.39. The Applicant set out the evolution of its high-level design of the Proposed Development and the principles for detailing the design following any consent in ES Appendix 4.1, Good Design [\[APP-090\]](#).
- 3.6.40. The ExA is content that the Applicant has considered the use of natural resources, sustainability and that it has set out a commitment in relation to future design intentions, but notes that neither this commitment nor any of the associated mitigation is secured through the dDCO.

The grid supply point substation

- 3.6.41. The ExA is content that the grid supply point substation went through an extensive design and mitigation process as part of gaining consent from the local planning authority through a TCPA application.
- 3.6.42. While the ExA considers some of the landscape mounding to be out of character in this flat and expansive landscape, it accepts that extensive planting on and around it and its very close proximity to mature woodland will be sufficient to integrate it from key views. As such, it considers the mitigation scheme for the grid supply point substation generally to meet the Horlock Rules and the good design tests in NPS EN-1 in terms of landform and landscape character.

Preliminary design principles

- 3.6.43. The ExA notes the helpful contribution from Suffolk County Council in its LIR [\[REP1-044\]](#) of preliminary design principles and is content with the Applicant's suggestion that they largely mirror the Holford Rules, and that it is appropriate that the latter should take precedence in the case of any variation.

Dealing with the final design

- 3.6.44. ES Appendix 4.1, Good Design [APP-090], set out the good design factors that the Applicant considered during option appraisal and project design. The ExA recognises that much of the design set out in the application is of a preliminary or indicative nature, and that the dDCO allows considerable flexibility in terms of location, detailed design and construction methods.
- 3.6.45. The ExA accepts the need for flexibility prior to the detailed design being developed by contractors, and that this aligns with policy on fitness for purpose and functionality in NPS EN-1. The ExA also recognises that the Applicant would have very limited choice in the aesthetic appearance of the infrastructure.
- 3.6.46. However, the ExA notes that, while the Applicant intends to identify and implement further good design principles through later detailed specification, in practice there would be little compunction to do so deriving from the dDCO. Nevertheless, the Applicant is governed by its own and regulator obligations, so - on balance - the ExA is content that there is no strict need for an additional DCO Requirement in this respect.

Design of the permanent access road to the Stour Valley east cable sealing end compound

- 3.6.47. The ExA paid close attention to the route of the permanent access road to the Stour Valley east cable sealing end compound during unaccompanied and accompanied site inspections. Its conclusions in relation to impacts on landscape and views and the alternative put forward by the Parish Councils are set out in section 3.9.
- 3.6.48. In terms of good design, the ExA notes that the Applicant added a commitment to use a landscape architect, *'to advise on suitable finishes... with the aim of reducing the landscape and visual effects of this feature.'* While recognising the other constraints on the design of the route, the ExA considers this to fall short of committing to good design and considers that the landscape architect should have been allocated a more fundamental design role.

Design response to cumulative impacts at Bramford

- 3.6.49. The ExA notes the strongly held views from the local authorities that the potential longer-term cumulative effects at the Bramford Substation would be of such magnitude that, in the absence of an ability to mitigate them fully in the immediate area, they warrant compensation in the form of more strategic landscape scale restoration. The principle of this is discussed elsewhere in the landscape and views section of this Report (section 3.9).
- 3.6.50. The ExA made several unaccompanied site inspections to the Bramford Substation and its wider visual envelope to inform its considerations in terms of design, impacts and mitigation, both alone and cumulatively with other proposed projects.
- 3.6.51. In terms of the design of the parts of the Proposed Development at and around the Substation, the ExA is content with the Applicant's explanation that it was too early to identify with certainty the visual impacts of some of the other projects that had the potential for cumulative effects, and that it would not be appropriate to develop any anticipatory good design mitigation measures.

Overall conclusion on Good Design

- 3.6.52. In reaching a conclusion on the planning balance, the ExA has been mindful that good design embraces other policy matters and has taken care not to double count weightings attributed to other topics.
- 3.6.53. For the reasons set out above, whilst acknowledging the limits to which energy infrastructure can enhance an area, the ExA considers that the Applicant has not responded as fully as might have been appropriate to matters relating to good design, and that, overall, they carry a little weight against the making of the Order.

3.7. GREENHOUSE GAS EMISSIONS

INTRODUCTION

- 3.7.1. This section considers the effects of the Proposed Development in relation to greenhouse gas emissions.

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.7.2. The Overarching National Policy Statement for Energy (NPS EN-1) sets out the urgent need for new energy infrastructure to achieve energy security and reduce greenhouse gas emissions. Section 2.2 of NPS EN-1 addresses greenhouse gas emissions and paragraph 2.2.8 refers to the Government putting in place a legally binding framework to cut emissions through a system of five-year carbon budgets that will set a trajectory to 2050.
- 3.7.3. NPS EN-1 says that applications for development consent for the types of infrastructure covered should be assessed on the presumption that there is a need for those types of infrastructure and that substantial weight should be given to this need (paragraph 3.1.4). It acknowledges that energy is vital to economic prosperity and social well-being and sets out how the energy sector can help deliver the Government's climate change objectives by setting out the need for new low carbon energy infrastructure to contribute to climate change mitigation.
- 3.7.4. Paragraph 3.7.2 recognises the requirements for new transmission lines to meet the significant national need for expansion and reinforcement of the UK network.
- 3.7.5. The 2024 NPS EN-1 recognises that the development of new transmission lines is necessary to guarantee the reliable operation of the whole electricity system.
- 3.7.6. Section 5.3 refers to greenhouse gas emissions, and paragraph 5.3.8 lists what should be included as part of a greenhouse gas assessment. It requires the Secretary of State to be satisfied that an applicant has, as far as possible, assessed greenhouse gas emissions for all stages of the development. Paragraph 5.3.9 adds that the Secretary of State should also be content that an applicant has taken all reasonable steps to reduce the greenhouse gas emissions of the construction and decommissioning stage of the development.
- 3.7.7. Paragraph 2.10.14 of the 2024 NPS EN-5 states that the climate-warming potential of sulphur hexafluoride (SF₆) is such that applicants should, as a rule, avoid its use in new developments.

THE APPLICATION

- 3.7.8. The Applicant's Greenhouse Gas Assessment [[APP-092](#)] identified greenhouse gas emissions during construction and operation. Further details on SF₆ and alternatives considered were included in ES Appendix 4.1, Good Design [[APP-090](#)]. Decarbonisation as a policy objective was considered in section 3.2, The Need Case.
- 3.7.9. The ES Greenhouse Gas Assessment [[APP-092](#)] used the term 'carbon dioxide equivalent' (CO₂e) to describe the impacts of different greenhouse gases through a common unit during construction, operation and maintenance. The Applicant's assessment was based on its optioneering stage and utilised the outputs of its confidential Cost Book to estimate CO₂e.
- 3.7.10. The Applicant included embodied carbon in materials, carbon dioxide (CO₂) emissions from construction plant and vehicles, and SF₆ in switchgear at the grid supply point substation and in circuit breakers at the Bramford Substation.
- 3.7.11. There is currently no standard guidance for assessing the significance of greenhouse gas or carbon emissions. The Applicant compared the estimated emissions from the construction and operation stages to ascertain if it would:
- represent a significant amount of carbon against the UK total emissions in 2021; or
 - represent a significant amount of carbon against the UK's fifth carbon budget (2028-2032).

Baseline

- 3.7.12. The greenhouse gas assessment related to the emissions from the Proposed Development rather than allocating a defined study area. The methodology for assessing carbon was described in section 2.2 of the ES, Greenhouse Gas Assessment [[APP-092](#)].

Construction

- 3.7.13. The construction phase (general site set up in 2024 and demobilisation in 2028) would span the UK's fourth (1,950 MtCO₂e between 2023 to 2027) and fifth (1,725 MtCO₂e between 2028 to 2032) carbon budgets, which are the UK's legal limit for the total volume of greenhouse gas emissions.
- 3.7.14. The estimated construction carbon impact of the Proposed Development was calculated as 84,050 tCO₂e. The Applicant compared its total construction carbon impact to an annual budget such as the UK's fifth carbon budget. The 1,725 MtCO₂e in the UK's fifth carbon budget equates to an average annual amount of 345 MtCO₂e (1,725 MtCO₂e divided by a five-year period). The Applicant's calculated total construction carbon impact of 84,050 tCO₂e was equivalent to 0.02% of this. The Applicant also compared the UK total emissions in 2021 (427 MtCO₂e), with its calculated total construction carbon impact of 84,050 tCO₂e, which amounted to 0.02%.
- 3.7.15. The ES Greenhouse Gas Assessment [[APP-092](#)] noted that contractors tendering for the project would be requested to propose low carbon alternative materials as part of their response to the main works package, and that contractors would follow the principles of *PAS 2080: Carbon management in buildings and infrastructure guidance* (PAS 2080). The Applicant's carbon interface tool would become the

carbon baseline for the project and be used to incentivise and measure carbon performance.

Operation

- 3.7.16. The estimated total operational carbon impact from transmission losses would be 26,133 tCO₂e, or 653 tCO₂e per annum as an average over the 40-year design life. Annually, this would represent 0.0002% of the UK's 2021 emissions (427 Mt CO₂e).
- 3.7.17. The impact due to SF₆ loss was estimated as 1,301 tCO₂e.

Decommissioning

- 3.7.18. The ES Greenhouse Gas Assessment [[APP-092](#)] did not provide a quantitative prediction for greenhouse gas emissions for decommissioning, though some qualitative information was provided.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

- 3.7.19. An estimated total of 111,484 tCO₂e would arise from the Proposed Development, with 84,050 tCO₂e of that related to construction, 26,133 tCO₂e to transmission losses over 40 years of operation, and 1,301 tCO₂e for SF₆.
- 3.7.20. The Applicant explained that transmission losses during operation were uncontrollable due to the majority being associated with electrical resistivity and flowing current.
- 3.7.21. The joint LIR from Essex County Council and Braintree District Council [[REP1-039](#)] considered that the impact of greenhouse gas emissions on the county should be included in the assessment. The Applicant's response to ExA first written question AQ1.1.10 [[REP3-052](#)] advised the total estimated CO₂e applicable to the portion of the Proposed Development in Essex would be 25,646 tCO₂e for construction, 8,711 tCO₂e for transmission losses during 40 years of operation and 466 tCO₂e for SF₆. The total CO₂e estimated on the Essex section would be 34,823 tCO₂e. The total carbon for construction (25,646 tCO₂e) would be equivalent to 0.4% of the 6,834 ktCO₂e estimated as emitted within the county of Essex during 2019. The transmission losses would be 218 CO₂e per annum (8,711 tonnes divided by an estimated 40-year design life), representing 0.003% of Essex's 2019 CO₂e emissions.
- 3.7.22. For the county of Suffolk, embodied CO₂e would be 58,404 tCO₂e for capital (construction) carbon, 17,422 tCO₂e for transmission losses during 40 years of operation, and 835 tCO₂e for SF₆. The total CO₂e estimated on the Suffolk section would be 76,661 tCO₂e. CO₂e emissions data was unavailable for the county of Suffolk to enable a comparison to be made with the Proposed Development.
- 3.7.23. The ES Greenhouse Gas Assessment [[APP-092](#)] notes further measures that the Applicant would take such as PAS 2080, consideration of low carbon alternative materials during tender analysis, and incentivisation of the contractor to reduce the carbon footprint against the initial baseline.
- 3.7.24. The Applicant's response to a written question from the ExA (AQ2.1.4 [[REP7-025](#)]) noted that its long-term emissions offsetting strategy had not yet been defined and that it preferred to prioritise investment in additional decarbonisation actions over market-based offsets. It also referred (AQ2.1.5 [[REP7-025](#)]) to proposed planting,

the Materials and Waste Management Plan and its carbon interface tool as steps taken to minimise greenhouse gas emissions.

- 3.7.25. The Applicant's response to another written question (AQ2.1.2 [\[REP7-025\]](#)) signposted its qualitative assessment of decommissioning impacts section 4.10 of ES Chapter 4, Project Description [\[APP-072\]](#). It noted that emissions from the Proposed Development were not considered to have a material impact on the ability of the Government to meet its carbon reduction targets.
- 3.7.26. The Applicant said that it had taken a worst-case approach to SF₆ operational emissions, based on a leakage rate of 0.5% per year. It said that performance in service is normally better than this. The Applicant confirmed in its response to two ExA written question (AQ1.1.2 and AQ1.1.1 [\[REP3-052\]](#)) that there were no available alternatives to SF₆ and that its entire fleet of SF₆ filled assets operated in accordance with the existing F-gas Regulations (The Fluorinated Greenhouse Gases (Amendment) Regulations 2018).
- 3.7.27. The Applicant also confirmed that it provides monitoring data on how it is reducing its use of SF₆ in its assets, through legally binding mechanisms and its licence. It advised that SF₆ gas pressures are continuously monitored in service via an automatic monitoring system and an alarm is raised if the gas pressure drops below defined limits.

CONCLUSIONS

- 3.7.28. The ExA is satisfied that greenhouse gas emissions associated with the construction and operation of the Proposed Development have been estimated and compared to relevant UK carbon budget in order to assess their significance.
- 3.7.29. It notes that the Applicant has provided estimates of the carbon impact of the Proposed Development against the UK's fifth carbon budget and UK total emissions in 2021, examples of how greenhouse gas emissions could be reduced, and a comparison with carbon emissions in the county of Essex during 2019.
- 3.7.30. The Applicant has also provided an explanation about the need to use SF₆ and the current lack of suitable alternatives.
- 3.7.31. The ExA notes that the Applicant provided only a qualitative assessment of decommissioning impacts [\[APP-072\]](#). The 2024 NPS EN-1 requires the Secretary of State to be satisfied that an applicant has, as far as possible, assessed the greenhouse gas emissions of all stages of the development, and to be content that all reasonable steps have been taken to reduce the greenhouse gas emissions arising from the construction and decommissioning stages.
- 3.7.32. The ExA is nevertheless content that the greenhouse gas emissions arising from the decommissioning of the Proposed Development could be dealt with in more detail at that time, given that:
- the updated policy post-dates the start of the Examination;
 - there would be a considerable time lag before the Proposed Development would be decommissioned;
 - there would be a need to produce a written scheme of decommissioning; and
 - the decommissioning activities are unlikely to lead to significant emissions of greenhouse gases.

- 3.7.33. On the evidence presented, the ExA considers that the estimated carbon emissions from the Proposed Development, on its own, would be unlikely to have a material impact on the UK Government's ability to meet the carbon reduction targets in place at the time of the assessment.
- 3.7.34. The ExA is satisfied that the Proposed Development would be in accordance with the UK's commitments under The Climate Change Act 2008 (as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019) and the Paris Agreement 2015.
- 3.7.35. Overall, the ExA is satisfied that the Proposed Development would accord with the policy requirements of NPS EN-1 and NPS EN-5. Consideration of the changes introduced by the 2024 energy NPSs would not have altered that conclusion, accepting that the undertaker would be required to calculate and assess greenhouse gas emissions as part of a future written scheme of decommissioning.
- 3.7.36. The ExA's overall conclusion on greenhouse gas emissions in this section does not take into account the substantial weight given in policy to the need for new energy infrastructure to facilitate the transmission of electricity from new, low-carbon sources, as this is considered in the need case in section 3.2 of this Report.
- 3.7.37. Overall, the ExA considers that greenhouse gas emissions carry little negative weight against the making of the Order.

3.8. HISTORIC ENVIRONMENT

INTRODUCTION

- 3.8.1. This section considers the effects of the Proposed Development on the historic environment, including designated and non-designated heritage assets, known and unknown archaeology, and historic landscapes. The topic links closely with the assessment of landscape and views (section 3.9), which sets the visual context for the historic assets considered here.

POLICY BACKGROUND AND TESTS

Legislation

- 3.8.2. Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 requires that:

'...in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

- 3.8.3. When deciding an application, the Infrastructure Planning (Decisions) Regulations 2010 require the Secretary of State to have regard to the desirability of:
- preserving a listed building or its setting or any features of special architectural or historic interest that it possesses;
 - preserving or enhancing the character or appearance of a conservation area; and
 - preserving a scheduled monument or its setting.

National Policy Statements

3.8.4. Paragraph 5.8.1 of NPS EN-1 recognises that new energy infrastructure has the potential to result in adverse impacts on the historic environment.

3.8.5. NPS EN-1 summarises the contributing factors that combine to create valued historical assets (paragraph 5.8.2):

‘The historic environment includes all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, landscaped and planted or managed flora. Those elements of the historic environment that hold value to this and future generations because of their historic, archaeological, architectural or artistic interest are called ‘heritage assets’. A heritage asset may be any building, monument, site, place, area or landscape, or any combination of these. The sum of the heritage interests that a heritage asset holds is referred to as its significance’.

3.8.6. An applicant is required to:

- Provide a description of the significance of the heritage assets and likely archaeological features that may be affected by a development and the contribution of their setting to that significance. Where development would affect the setting of a heritage asset, the applicant should consider providing visualisations (paragraphs 5.8.8, 5.8.9 and 5.8.10).
- Carry out appropriate desk-based assessments, supplemented by field evaluation if the former is insufficient to assess archaeological interest (paragraph 5.8.9).
- Ensure that the impact of the proposed development can be understood from the application, and that the level of detail is proportionate to the importance of the heritage asset (paragraphs 5.8.8 to 5.8.10).

3.8.7. In reaching a decision the SoS should:

- Identify and assess the particular significance of any affected heritage asset, including its setting (paragraph 5.8.11).
- Take account of the nature of the significance of the heritage assets and the value they hold for this and future generations (paragraph 5.8.12).
- Take into account the desirability of sustaining and enhancing the significance of heritage assets (paragraph 5.8.13).
- Presume in favour of conserving designated heritage assets, using the principle of the greater the significance of the designated asset, the greater is the presumption in favour of its conservation (paragraph 5.8.14).
- Weigh any harmful impact on the significance of a designated heritage asset against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will need to be for any loss. Where the application will lead to substantial harm to or total loss of significance of a designated heritage asset the decision-maker should refuse consent unless it can be demonstrated that this is necessary to deliver substantial public benefits that outweigh that loss or harm (paragraph 5.18.15).
- Where loss of significance of any heritage asset is justified on the merits of the development proposed, require an applicant to enter into an obligation that would prevent such loss occurring until it is reasonably certain that the relevant part of the development is to proceed (paragraph 5.8.17).
- Where loss of significance of any heritage asset is justified on the merits of the development proposed, require the developer to record and advance

understanding of the significance of a heritage asset before it is lost, to a degree that is proportionate to the significance of the asset (paragraph 5.8.20).

- Where recording and publication is necessary, impose a requirement that this is carried out in a timely manner in accordance with an agreed and secured written scheme of investigation (paragraph 5.8.21).
- Where the decision maker considers there is a high probability of undiscovered assets, impose requirements to secure their appropriate identification and treatment during construction (paragraph 5.8.22).

3.8.8. The 2024 NPS EN-1 generally reflects a continuation of current policy in respect of the assessment of effects on, and protection of the historic environment. It requires the Secretary of State to give considerable importance to the preservation of designated heritage assets, and notes that any harmful impact on the significance of a designated heritage asset should be given significant weight when balanced against the public benefit of a development. It notes that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed.

3.8.9. In dealing with significance, it also notes that:

'Significance derives not only from a heritage asset's physical presence, but also from its setting'.

Other national policy

3.8.10. The policy and guidance set out in the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) generally reflects that in the NPSs.

3.8.11. The NPPG provides clarification on the setting of a heritage asset:

'The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/ physical considerations. Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places.'

3.8.12. The NPPG also provides guidance on what is meant by the term public benefits:

'Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits...'

Local plan policies

3.8.13. The two joint Local Impact Reports (LIRs) from the host authorities (Essex County Council and Braintree District Council [[REP1-039](#)] and Suffolk County Council and Babergh and Mid Suffolk District Councils [[REP1-045](#)]) summarised the relevant local policy framework for the historic environment.

3.8.14. Of particular relevance were:

- Braintree adopted local plan policy SP7 requires all new development to protect and enhance assets of historical value.

- Braintree adopted local plan policy LPP57 protects heritage assets and their settings.
- Braintree adopted local plan policy LPP59 seeks to ensure that sites of archaeological importance are appropriately investigated.
- Babergh Local Plan policy CN06 protects historic buildings and their settings.
- Mid Suffolk Local Plan policy CL3 ('Major utility installations and powerlines in the countryside') refers to siting overhead powerlines to minimise intrusion and consideration of undergrounding.
- Mid Suffolk Local Plan policy HB1 protects the character and appearance of buildings of architectural or historic interest and their settings.
- Mid Suffolk Local Plan policy HB14 seeks to appropriately record and preserve archaeological remains.
- Mid Suffolk Local Plan policy LP21 aims to secure an appropriate programme of archaeological investigation, recording and publicity.

Application Planning Statement

- 3.8.15. The application Planning Statement [[APP-160](#)] drew attention to relevant local planning policies in Table D1 of Appendix D. The summary largely reflected the list set out in the LIRs.

THE APPLICATION

Application documents

- 3.8.16. Information about the historic environment was principally set out in the Applicant's ES Chapter 8, Historic Environment [[APP-076](#)]. This was supported by appendices and figures, as detailed at Appendix A, Table A7 of this Report.
- 3.8.17. The application also included an Archaeological Framework Strategy [[APP-186](#)] and an Outline Written Scheme of Investigation [[APP-187](#)]. The latter was updated at various stages during the Examination.
- 3.8.18. A map of Statutory and Non-Statutory Sites and Features of the Historic Environment [[APP-015](#)] was submitted to satisfy Regulation 5(2)(m) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009). This was later updated [[REP5-004](#)] to include missing identification references.

Baseline

- 3.8.19. The Applicant's assessment considered archaeological remains, built heritage and historic landscapes, including protected and historic lanes. It explored potential physical effects on these assets and changes to their settings.
- 3.8.20. The scope of the assessment was explained in ES Chapter 8 [[APP-076](#)] and Appendix 5.1 [[APP-093](#)]. Direct physical effects on built heritage and designated archaeological remains, operational effects on any archaeological remains, direct physical effects on designated Registered Historic Parks and Gardens, and direct operational effects on non-designated historic designed landscapes were scoped out of the assessment.
- 3.8.21. The methodology and data sources were described in ES section 8.4 [[APP-076](#)]. The study areas were shown on ES figures 8.1 to 8.4 ([APP-151](#) and [APP-152](#)): these extended 3km from the Order Limits for designated assets and 250m from the Order Limits for non-designated assets.

- 3.8.22. The assessment was undertaken on the assumption that the relevant embedded mitigation and good practice measures would be secured. The assessment was said to have been undertaken on a precautionary basis, such that, where only limited information was available in terms of project design, a realistic worst-case scenario was assessed.
- 3.8.23. ES Appendix 8.1, Historic Environment Baseline [\[APP-125\]](#), provided a full list of heritage assets within the study area. The locations of known archaeological remains were shown on ES Figure 8.1, Archaeological Assets [\[APP-151\]](#).
- 3.8.24. Eleven scheduled monuments were identified within the 3km study area. None was located within the Order Limits. The nearest was a medieval moated site at Moat Farm, approximately 15m south of the Order Limits near Chattisham.
- 3.8.25. ES Appendix 8.1, Historic Environment Baseline [\[APP-125\]](#), listed 271 non-designated archaeological remains within the 250m study area. Of these, 118 were located within the Order Limits.
- 3.8.26. Geophysical surveys were undertaken in parts of the Order Limits in 2013 and 2021, with some follow up trial trench investigations. The initial phase of trenching was focussed in areas with potential for more complex archaeological remains identified through desk-based survey, geophysical survey, aerial investigation and mapping. The results of this work were reported at ES Appendix 8.1 [\[APP-125\]](#). ES Figure 8.5 [\[APP-152\]](#) showed locations that had been subject to trenching and geophysical survey.
- 3.8.27. The ES [\[APP-076\]](#) identified a high potential for geoarchaeological and palaeoenvironmental interest in the form of peat deposits interleaved with layers of alluvium or relict palaeo-channels sealed by alluvium in the valleys of the River Box and River Stour. The presence of organic remains was unconfirmed.
- 3.8.28. The locations of built heritage assets were shown on ES Figure 8.2, Built Heritage Assets and ES Figure 8.4, Built Heritage ([\[APP-151\]](#) and [\[APP-152\]](#)). 103 designated built heritage assets (listed buildings) were listed within 250m of the Order Limits, and 1,235 within the 3km study area [\[APP-126\]](#).
- 3.8.29. There was one listed building within the Order Limits, the Grade II listed gate piers, gates and railings to Hintlesham Hall, as shown on Figure 8.2, Built Heritage Assets [\[APP-151\]](#) and Figure 8.6, Hintlesham Hall Assessment [\[APP-152\]](#). The Grade I listed Hintlesham Hall itself lay just outside.
- 3.8.30. There were no conservation areas within 250m of the Order Limits and nine within the 3km study area. Two were identified through the zone of theoretical visibility study as having potential for setting effects:
- Polstead, approximately 280m south of the Order Limits; and
 - Hadleigh, approximately 450m north of the Order Limits.
- 3.8.31. Four non-designated historic structures were identified within the Order Limits, three pillboxes and the Stour Valley railway line.
- 3.8.32. The historic landscapes that were considered were shown on ES Figure 8.3, Historic Landscape [\[APP-152\]](#). These included historic routeways [\[APP-125\]](#), which were known as protected lanes in Essex and historic lanes in Suffolk.

- 3.8.33. The baseline description [[APP-076](#)] noted the important cultural associations of the landscape of south Suffolk and eastern Essex with artists such as Constable, Gainsborough, Nash and Munnings, and the East Anglian School of Painting and Drawing. These artists were strongly associated with Dedham Vale and Stour Valley and painted many landscapes in the area.

Construction

- 3.8.34. The construction assessment [[APP-076](#)] found no physical or setting impacts on designated archaeological remains. However, significant potential adverse impacts were identified for three non-designated, low to medium value assets. There was also potential for impacts on unknown archaeology. These effects were addressed through a programme of archaeological investigations set out in the Archaeological Framework Strategy [[APP-186](#)] and Outline Written Scheme of Investigation [[APP-187](#)]. With these measures, the effects were reduced to not significant.
- 3.8.35. In terms of palaeoenvironmental deposits, dewatering associated with the trenchless crossings of the River Box and Stour valley could theoretically degrade any surviving organic remains. This was considered a minor and not significant impact.
- 3.8.36. No significant construction effects were predicted for any designated or non-designated built heritage assets or historic landscapes. Some minor, temporary effects on important hedgerows and protected historic lanes were not considered significant.

Operation

- 3.8.37. A minor but not significant beneficial effect was noted for the scheduled monument at Moat Farm and eight listed buildings as a consequence of the removal of the existing 132kV overhead line. The scheduled monument would be adversely affected temporarily by nearby access works, but this was not considered significant.
- 3.8.38. Minor but not significant adverse effects were concluded for the setting of the Hadleigh Conservation Area.
- 3.8.39. Detailed consideration was given to potential impacts on the setting of the Grade I listed Hintlesham Hall and its associated listed buildings in the Hintlesham Hall Assessment [[APP-128](#)]. The assessment took account of the removal of the existing 132kV overhead line and the proposed 400kV line in a parallel alignment to the existing 400kV overhead line north of the Hall. Photomontages [[PDA-001](#)] were provided to illustrate changes.
- 3.8.40. The assessment concluded that the Proposed Development would have a negligible magnitude impact on the setting of Hintlesham Hall and that the changes to its setting and those of the associated listed buildings would be at worst minor and not significant.
- 3.8.41. The predicted effects on protected lanes and historic landscape ranged from minor and not significant beneficial effects to minor and not significant adverse effects.
- 3.8.42. The Applicant considered the minor adverse effects to constitute harm in terms of the NPS EN-1 definition. No adverse changes amounting to substantial harm were identified.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

- 3.8.43. Nine Relevant Representations (RRs) made specific reference to historic environment matters, mostly those from local authorities ([RR-001] to [RR-006]), the Suffolk Preservation Society [RR-048] and some Affected Persons in relation to archaeological investigations. Historic England's RR [RR-036] focussed on potential effects on Hintlesham Hall and Park and the Polstead Conservation Area, though concerns around the latter fell away when pre-application changes to the proposals were explained.

Hintlesham Hall

- 3.8.44. A number of RRs raised issues in relation to effects on Hintlesham Hall and its associated listed buildings. Babergh and Mid Suffolk District Councils [RR-001] considered that agreed micro-siting of nearby pylons would be essential to minimise the impacts. The local authorities noted that the proposals were based on the micro-siting of pylons agreed with the Applicant prior to the project being put on hold in 2013. However, the proposed limits of deviation would allow these to be moved away from the agreed position, which might increase the impacts.
- 3.8.45. Historic England's Written Representation [REP2-024] noted:
- '...we have worked hard to limit these views and have concerns that the limits of deviation could result in avoidable harm. We would therefore like to see additional measures added to protect the view out from the stable block of Hintlesham Hall (shown in viewpoint HV01) and prevent the relocation of pylons RB8 and RB9.'*
- 3.8.46. The LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] contended that pylon positions in such key locations should be restricted to those shown on the consented plans without the freedom to use limits of deviation for location or height, unless otherwise agreed with the relevant planning authority and Historic England.
- 3.8.47. The ExA explored the matter in written questions [PD-005]. Historic England responded with:
- '... concerns that the limits of deviation could result in avoidable harm to the significance of Hintlesham Hall. Our concerns relate specifically to the siting of pylons RB8 and RB9. If they were moved they would be in a key view from the stable block of Hintlesham Hall (shown in viewpoint HV01). We consider this would increase the level of harm considerably and would be avoidable. We would therefore like to see additional measures added to protect the view out from the stable block... and prevent the relocation of pylons RB8 and RB9.'*
- 3.8.48. The Applicant confirmed [REP4-034] that the proposals followed the alignment and pylon locations agreed with Historic England in 2013 and noted that the limits of deviation in the area were already constrained due to the existing 400kV overhead line.
- 3.8.49. In response to the feedback, the Applicant updated measure EM-AB01 in the Register of Environmental Actions and Commitments (REAC) [REP4-018] to confirm that a pylon would not be placed between the access track to Kennels Cottage and 100m to the south-west of the track in order to avoid visibility from the ancillary (Grade II*) listed building, which Historic England had noted as a key view.

- 3.8.50. However, the Applicant reported [REP4-034] that the vertical limits of deviation would still be required for technical reasons and noted that its understanding was that Historic England's concern was the flexibility of the location of the pylon rather than its height.
- 3.8.51. Historic England [REP7-037] agreed the updated measure to be sufficient to allay its concern, and the Statement of Common Ground (SoCG) [REP7-018] between the Applicant and Historic England was updated to show that all matters were agreed.
- 3.8.52. Following requests by the planning authorities, commitment EM-AB01 was amended again [REP9-037] to add:
- 'Within two months of completion of pylon RB8 construction, final details of the as built pylon locations immediately to the north of Hintlesham Hall will be provided to the relevant local planning authority and Historic England.'*
- 3.8.53. Suffolk County Council [REP10-020] considered this amendment inadequate and sought ongoing involvement in the design alongside Historic England and knowledge of the final location before it was built. The detail of this remained outstanding in the Applicant's final SoCG with the host authorities [REP10-006].
- 3.8.54. Historic England [REP2-024] concluded that the impact on Hintlesham Hall amounted to less than substantial harm, noting that its parkland setting and how it is experienced had been significantly degraded over the years by agricultural changes and more recent land uses. The final SoCG [REP7-018] between the Applicant and Historic England confirmed an agreed position that the avenue planting would reflect the historic landscape, and that the landscape restoration measures were considered enhancement rather than mitigation. Suffolk Preservation Society [REP2-031] agreed, '*... that the proposals would not constitute substantial harm*' but went on to talk about cumulative effects and to suggest further mitigation.
- 3.8.55. A number of RRs also suggested that the proposals included insufficient mitigation of adverse effects on the listed buildings and highlighted the opportunity to provide landscape restoration for the parkland setting of the Hall.
- 3.8.56. The Suffolk Preservation Society [REP2-031] acknowledged that the existing 400kV overhead line was, '*unsympathetic to the setting of the Hall and its ancillary buildings*' but was concerned that the addition of a second overhead line closer to the designated assets would cumulatively increase the visual intrusion. It felt that more could be done to mitigate this through enhanced planting.
- 3.8.57. Quoting Good Practice Advice 3 (Historic England, 2017) on cumulative change, Suffolk Preservation Society believed that the Proposed Development should be viewed as an opportunity to enhance the significance of the asset:
- 'Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting...consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset.'*
- 3.8.58. The Applicant [REP1-025] explained the cumulative impacts of agricultural change on the parkland and the Hall's setting, and suggested they were so severe that the practical opportunities for its restoration were limited.

Cultural associations of heritage assets with noted artists

- 3.8.59. The ExA noted the reference in the ES baseline [APP-076] and in the LIR from Suffolk County Council and Babergh Mid Suffolk District Council LIR [REP3-049] to the cultural association of the Dedham Vale and Stour Valley with artists and the East Anglian School of Painting and Drawing, and the potential for adverse effects on the landscape and buildings associated with these. However, it was not clear where and how this had been assessed in the ES.
- 3.8.60. The LIR also suggested that the historical assessments of Benton End House in Hadleigh, a Grade II* Listed Building, and Overbury Hall, a Grade II Listed Building, and their wider landscape setting in the Brett Valley were insufficient for assets that were considered particularly sensitive due to their associations with noted artists.
- 3.8.61. The Applicant's answer [REP3-052] to a written question from the ExA [PD-005] seemed to reflect the methodology and assessment set out in the landscape section of the ES, rather than specifically acknowledging the historic associations, so the ExA raised the matter at Issue Specific Hearing 4 ([EV-040] to [EV-043]). The Applicant explained how the architectural and landscape assessments were carried out but did not feel an additional 'layer of cultural assessment' was necessary.
- 3.8.62. Suffolk County Council [REP4-039] considered it unclear from the Applicant's comments whether the cultural associations between famous artists and writers and cultural heritage assets, including Benton End House, had been included in the Applicant's assessment of the significance of those assets, including the contributions that their settings made to that significance.
- 3.8.63. Babergh and Mid Suffolk District Councils submitted [REP5-030] a summary of paintings and other material representing Benton End and the surrounding landscape, which they believed reinforced the importance of the landscape setting of Benton End and its significance as a place of artistic activity. They suggested that further assessment was necessary.
- 3.8.64. The Applicant submitted [REP5-028] a Technical Note on Cultural Associations, which provided a summary of how cultural associations had been considered as part of the application. This drew together the relevant parts of the heritage and landscape assessments, with a focus on Benton End House and Overbury Hall. It concluded a neutral effect on Benton End House and a minor adverse effect on Overbury Hall. It clarified how the presence of overhead lines would affect the setting of the buildings and how the listed buildings were appreciated and understood. It concluded:
- 'The residual effects on Benton End House and Overbury Hall were not considered to be so serious that it would lead to an inability to appreciate or understand them or their relationships to their settings or their historic associations with historic artists or works of art. Neither of the effects on these heritage assets are considered to result in substantial harm to the setting of the listed buildings.'*
- 3.8.65. With this additional information, Suffolk County Council [REP7-033] and Babergh and Mid Suffolk District Councils [REP7-028] were happy that the cultural and artistic associations of Benton End House and Overbury Hall, and the contribution that each building's setting made to its overall significance had been considered. The local authorities disagreed that the effect would be small but did not believe the impact would constitute substantial harm.

Archaeology: Trial trenching and the Outline Written Scheme of Investigation

- 3.8.66. The host authorities had concerns about incomplete trial trenching and the adequacy of the OSWI that had been submitted, and the issue received a significant amount of Examination time.
- 3.8.67. Draft Requirement 6 of the draft Development Consent Order (dDCO) [APP-034] required the Proposed Development to be undertaken in accordance with the Archaeological Framework Strategy [APP-186] and Outline Written Scheme of Investigation [AS-001]. The Outline Written Scheme of Investigation set out the proposed approach to further archaeological investigation. Some areas were annotated as 'Archaeological mitigation to be confirmed'.
- 3.8.68. The LIRs from Essex County Council and Braintree District Council ([REP1-039] and Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045]) raised concerns about the Outline Written Scheme of Investigation and set out a series of suggestions for its improvement.
- 3.8.69. The Applicant [REP3-052] reported that it had reviewed the comments from the host authorities when updating the Outline Written Scheme of Investigation [AS-001] and that it had made changes accordingly.
- 3.8.70. Section 2 of the Archaeological Framework Strategy [APP-186] noted that a targeted phase of archaeological trial trenching surveys had been completed but that it would be an ongoing process, some of which may not be available to inform the ES. In its written questions [PD-005], the ExA asked the Applicant about the remaining programme and the mitigation that might be necessary depending on the outcome.
- 3.8.71. The Applicant confirmed [REP3-052] that the programme of trial trenching was expected to be completed in late October 2023, and that the results would feed into an updated Outline Written Scheme of Investigation later in the Examination. Mitigation would take the form of strip map and sample or open area excavation in the areas of cable undergrounding. Areas where trial trenching had not located any potential for archaeological remains would not be subject to archaeological mitigation proposals.
- 3.8.72. Essex County Council and Braintree District Council still had concerns [REP4-049] about the trial trenching and the Outline Written Scheme of Investigation.
- 3.8.73. The Applicant submitted an updated Outline Written Scheme of Investigation [REP5-016] to reflect additional measures needed as a result of the completed trial trenching results for all of the cable undergrounding areas. The surveys were said to have been completed in November 2023, though the results had not been made available. The Applicant suggested [REP5-025] that the final report of the trial trenching was in progress.
- 3.8.74. The Applicant noted that ground disturbance in the overhead line sections would be limited and that the locations of pylons had not been determined. It had decided not to undertake trial trenching in these areas to avoid disturbing archaeology unnecessarily. Therefore, the Outline Written Scheme of Investigation relied on a watching brief for mitigation in these areas, ensuring preservation by record of any buried archaeological remains at risk of removal or damage. The Applicant considered this approach proportionate.

- 3.8.75. The ExA [\[PD-008\]](#) asked the Applicant for clarification about when the additional trial trenching results would be submitted into the Examination and when the host authorities would be given the opportunity to see them. It also asked for a summary of the host authorities' updated positions in relation to all archaeological investigations.
- 3.8.76. The Applicant [\[REP7-025\]](#) reported that it had submitted all available interim trial trenching reports to the relevant local planning authorities for review. It was not intending to produce an interim report for the trial trenching completed in November 2023, but it said that the local authorities had been kept up to date and that they had been in daily contact with the field archaeologists to confirm when trenches could be closed. The Applicant's intention was to include the results of the final stage of archaeological trial trenching in the final report. This would be submitted to the local planning authorities by March 2024, in accordance with the Detailed Written Scheme of Investigation. No further trial trenching was proposed.
- 3.8.77. The Applicant did not intend to submit trial trenching survey reports into the Examination, as this baseline data was considered too detailed and unnecessary to support the application.
- 3.8.78. The Applicant submitted a further updated Outline Written Scheme of Investigation [\[REP7-012\]](#) but some issues appeared still to be unresolved.
- 3.8.79. Essex County Council and Braintree District Council continued to note [\[REP7-029\]](#) 'considerable concerns' regarding the Outline Written Scheme of Investigation and reported that detailed comments had been sent directly to the Applicant. Suffolk County Council supporting these views [\[REP7-033\]](#) and submitted [\[REP7-034\]](#) a very detailed critique of the Outline Written Scheme of Investigation.
- 3.8.80. Their principal concerns related to the level of evaluation completed to date and that which would need to be completed if development consent was given. The authorities had a particular concern about geoarchaeological and palaeoenvironmental mitigation. They also suggested that by leaving strip map and sample investigations until immediately ahead of construction, there was a high potential for significant delays due to the potential level of archaeological investigation required. They recommended that the archaeological investigation programme should be undertaken several months in advance of construction work.
- 3.8.81. In response to a written question from the ExA [\[PD-008\]](#), the host authorities summarised that:

'... the Applicants timetable for the production of a report is not acceptable, for mitigation to be agreed in the areas covered by the report, the report will need to be submitted before the OWSI can be agreed. Failing this, the OWSI will be required to remove references to any areas that have been identified as not requiring further investigation.'

'Some of the comments previously submitted have been taken on board and the document is improved, however the main issue appears to be the formulation of an appropriate mitigation strategy in areas that have either received no former intrusive archaeological investigation, and areas which have been subjected to a limited trial trench evaluation.'

'... concern regarding the level of archaeological field evaluation undertaken to date and the mitigation strategy proposed. The OWSI does not include any further

archaeological trial trenching evaluation and has removed areas along the scheme from any further mitigation based on a limited programme of trial trenching. The results of the trial trenching exercise have not been shared with the Local Authority Archaeological advisors and it is considered that there is not enough evidence to remove large areas of the scheme from further mitigation based on the levels of investigation carried out to date.'

3.8.82. The Applicant [REP8-036] considered that the Outline Written Scheme of Investigation should be finalised during Examination to provide a securing mechanism for the future archaeological mitigation work, noting that details of such work would be provided to the local authorities' archaeology advisors through the Detailed Written Scheme of Investigation, which would be in accordance with the Outline Written Scheme of Investigation.

3.8.83. It also added a further measure to the REAC [REP8-016]:

'The extent of intrusive archaeological investigations and mitigation shall not extend beyond the Order Limits as shown on the Work Plans [APP-010].'

3.8.84. A further version of the Outline Written Scheme of Investigation [REP9-045] addressed some of the issues identified by the host authorities, but some differences remained. The respective positions of the authorities and the Applicant were summarised by the Applicant shortly before the close of Examination ([REP9-065] pages 14 to 20):

- The appropriateness of the archaeological mitigation strategy.
- The final trial trench evaluation report would not be available to the local authorities prior to the close of the Examination (expected May 2024).
- The need for upfront geoarchaeological and palaeoenvironmental archaeological assessment of the trenchless crossings of the rivers to allow the formulation of an appropriate mitigation strategy.
- The level of evaluation in the areas of overhead lines had been limited and further evaluation will be required post consent, especially for haul roads and access tracks. Areas where archaeological mitigation was not proposed needed to be reconsidered on a site-by-site basis depending on the nature of the work and until no impact can be confirmed these should remain within the areas to be assessed.
- Various changes to terminology and process that the local authorities had requested to the Outline Written Scheme of Investigation had not been made, including the procedure for publicising and archiving any finds.

3.8.85. The Applicant's Status of Statements of Common Ground [REP9-023] noted that 'Archaeology, Trial Trenching and the Outline Written Scheme of Investigation' remained as not agreed with the local authorities. The SoCG between the Applicant and the host authorities ([REP10-006] pages 46-48) provided further details.

3.8.86. Essex County Council and Braintree District Council [REP10-019] and Suffolk County Council [REP10-020] also provided similar lists of outstanding concerns about the Outline Written Scheme of Investigation and more general archaeological matters at the close of the Examination.

CONCLUSIONS

3.8.87. The ExA examined the impact of the Proposed Development on all heritage assets identified in the application and considered during the Examination. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA

had full regard to the desirability of preserving designated heritage assets, including listed buildings and their settings, and the character and appearance of Conservation Areas and Scheduled Monuments or their settings.

- 3.8.88. Potential effects on setting were closely examined for the Polstead and Hadleigh Conservation Areas and the medieval moated site at Moat Farm, a scheduled monument. The ExA does not identify any significant residual effects for the Conservation Areas. Similarly, when considering the small benefits of the removal of the 132kV line and the small disbenefits of constructing the proposed 400kV line, it finds no significant effects on any scheduled monuments, though it considers the small disbenefits at the Moat Farm scheduled monument to amount to less than substantial harm.
- 3.8.89. In terms of listed buildings, the Examination looked at a range of assets in the Order Limits and wider area, with a particular focus on the Grade I listed Hintlesham Hall and its associated Grade II and II* buildings and features.
- 3.8.90. The ExA notes and agrees with the concerns expressed by Historic England and others that, while the Applicant's assessment of the indicative scheme in the vicinity of Hintlesham Hall appears adequate, the flexibility allowed by the proposed limits of deviation had the potential for the final design to have a much greater effect on the setting of Hintlesham Hall and its associated buildings.
- 3.8.91. The ExA concludes that the Applicant's secured solution, not to locate a pylon between the access track to Kennels Cottage and 100m to the south-west of the track (REAC EM-AB01), is proportionate and secures the ongoing involvement of Historic England in the detailed design process. It notes that the vertical limits of deviation would remain but is content that location rather than height was the important factor, and that a modest increase in pylon height through application of the maximum vertical limit of deviation would not materially influence the impact on the setting of the listed buildings.
- 3.8.92. The ExA understands the representations that the Proposed Development provides an opportunity to enhance the significance of Hintlesham Hall and its setting through a more fundamental restoration of its parkland setting. However, it also saw for itself on unaccompanied site visits how fundamentally modern agriculture and other land uses at the Hall and its estate had eroded the setting. As such, the ExA is content that the Applicant's mitigation and enhancement proposals are proportionate.
- 3.8.93. Notwithstanding the presence of the existing 400kV line and the proposed planting, the ExA concludes that the addition of a second line somewhat closer to the Hintlesham Hall assets and within their setting represents a moderate and significant effect.
- 3.8.94. The ExA notes Historic England's conclusion that the impact on Hintlesham Hall amounted to less than substantial harm and finds no reason to disagree.
- 3.8.95. The ExA is content that sufficient information and assessment of the specific cultural association between the landscape of the Dedham Vale and Stour Valley, Benton End House, Overbury Hall and other heritage assets with noted artists was before the Examination before its close.
- 3.8.96. It concurs with the view of Suffolk County Council and Babergh and Mid Suffolk District Councils that the residual impact would be greater than small, that the effect would be significant, and that the impact on the setting of the assets would

constitute less than substantial harm. No specific opportunity for mitigation of these effects was identified.

- 3.8.97. The ExA notes the outstanding disagreement between the Applicant and the host authorities about the level and reporting of archaeological investigations and the Outline Written Scheme of Investigation. Whilst it seems unfortunate that some of the archaeological investigations were not completed in time to be reported into the Examination, the ExA was reassured by the worst-case ES assessment and by the Applicant's confirmation that its preliminary appraisal of the unreported trial trenching investigations indicated that the outstanding results would not change the overall assessment or mitigation strategy.
- 3.8.98. The ExA is content that the Outline Written Scheme of Investigation was improved during the Examination, and that its conversion to a Detailed Written Scheme of Investigation would afford the host authorities an opportunity to request further changes to ensure alignment with their preferred terminology and processes, and to make a detailed consideration of all the archaeological investigations and raise issues if necessary.
- 3.8.99. It recognises the local authorities' concerns that the approach could lead to a need for substantial further archaeological investigation work post-consent and before construction work could commence, and that this could cause programme delays, but the ExA is of the view that this is a risk for the Applicant to consider.
- 3.8.100. The Outline Written Scheme of Investigation includes sufficient information and controls to ensure that the Detailed Written Scheme of Investigation would provide adequate mitigation of the potential effects, including the excavation and recording of any unavoidably affected assets. With this, the ExA concludes that no significant impacts on known archaeological assets are likely, and that it is unlikely that any unknown assets of similar or greater significance would be more seriously affected.

Overall conclusion on the historic environment

- 3.8.101. The Proposed Development would have moderate significant adverse effects on listed buildings, specifically the setting of Hintlesham Hall and its associated features, and on the settings of the notable artist associated Benton End House and Overbury Hall in the Dedham Vale and Stour Valley.
- 3.8.102. The ExA considers these to represent less than substantial harm to the significance of the assets, which requires convincing justification when it comes to weighing the public benefits of the Proposed Development in the planning balance.
- 3.8.103. Other impacts on historic and archaeological designated assets would individually be no worse than small and would not be significant, but they are cumulatively considered to add to the less than substantial harm.
- 3.8.104. Overall, the ExA concludes that impacts on the historic environment carry moderate weight against the making of the Order.

3.9. LANDSCAPE AND VIEWS

INTRODUCTION

- 3.9.1. This section considers the effects of the Proposed Development on the landscape and views. This includes landscape and visual effects that derive from impacts on trees, woodland and hedgerows.

- 3.9.2. There are linkages between this section and consideration of biodiversity and ecology in section 3.5 and the historic environment in section 3.8, where matters such as the biodiversity effects of tree and hedgerow impacts and effects on historic landscape features such as protected lanes are addressed.
- 3.9.3. Where matters that were examined have the potential to influence the assessment of more than one topic, such as the aftercare of mitigation and enhancement planting, they are considered and weighed accordingly in each relevant section of this Report.

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.9.4. Section 5.9 of NPS EN-1 sets out guidance and policy for undertaking an assessment of landscape and views. Paragraph 5.9.8 recognises that most energy Nationally Significant Infrastructure Projects will have effects on the landscape and notes that careful design will be needed to take account of potential landscape impacts. Paragraph 5.9.15 recognises that the scale of such projects generally means that they will be visible for many miles.
- 3.9.5. NPS EN-1 differentiates between development proposed within nationally designated landscapes, development outside designated landscape that might affect them, and those that are in other areas. In relation to protected landscapes such as Areas of Outstanding Natural Beauty (AONBs), it states that:
- 'The conservation of the natural beauty of the landscape and countryside should be given substantial weight by the [decision maker] in deciding on applications for development consent in these areas.'*
- 3.9.6. It goes on to say that development consent can nevertheless be granted in these areas in exceptional circumstances when there is a national need and no viable alternative. A high standard of mitigation would be expected.
- 3.9.7. Paragraph 5.9.13 notes that the visibility of a project from within a designated area should not in itself be a reason for refusing consent.
- 3.9.8. Mitigation is addressed in paragraph 5.9.22, which highlights that adverse effects on the landscape and views may be reduced through the appropriate siting of infrastructure, design (including colours and materials) and landscaping schemes, depending on the scale and type of the development.
- 3.9.9. NPS EN-1 requires an applicant to:
- carry out and report a landscape and visual assessment for the construction and operation stages of the proposed development (paragraphs 5.9.5 to 5.9.7); and
 - consider the character of the local landscape and its capacity to accommodate change (paragraph 5.9.8).
- 3.9.10. In reaching a decision the Secretary of State should consider whether:
- the project has been carefully designed to minimise harm to the landscape, having regard to siting, operational and other relevant constraints, providing reasonable mitigation where possible (paragraphs 5.9.8 and 5.9.17);
 - the adverse impact on the landscape would not be so damaging as to outweigh the benefits, including the need (paragraph 5.9.15);

- the timescale of effects and whether any adverse impact is temporary and capable of being reversed in a reasonable timescale (paragraph 5.9.16);
 - visual effects on sensitive receptors outweigh the benefits of the project (paragraph 5.9.18); and
 - adverse effects have been minimised through appropriate mitigation, including, if appropriate, off-site planting such as filling gaps in hedge lines (paragraphs 5.9.22 and 5.9.23).
- 3.9.11. NPS EN-5 sets out specific landscape and visual considerations for electricity networks infrastructure, including the impact of overhead lines, substations, cable sealing end compounds and other above ground installations (section 2.8).
- 3.9.12. It recognises that positive benefits can arise through reconfigurations of existing network infrastructure (paragraphs 2.8.2 to 2.8.3).
- 3.9.13. NPS EN-5 requires the applicant to:
- follow the Holford Rules when designing proposals (paragraphs 2.8.4 to 2.8.6);
 - select the most suitable type of support structure to minimise visual effects (paragraph 2.8.10);
 - offer additional mitigation, such as off-site tree and hedgerow planting to soften the effect of new overhead lines, in agreement with landowners (paragraphs 2.8.4 and 2.8.11); and
 - consider localised planting in the vicinity of residential properties and principal viewpoints to screen or soften effects on views (paragraph 2.8.11).
- 3.9.14. Section 2.8 of NPS EN-5 considers matters relating to alternatives to overhead lines.
- 3.9.15. The 2024 NPS EN-1 increases the emphasis on a number of matters that applicants should consider and to which the Secretary of State should have regard. These include:
- early consideration of the landscape and views in siting and design;
 - establishing design principles that minimise negative effects and create positive benefits through appropriate landscape management plans; and
 - the level of detailed design secured in an Order, including the extent to which design is secured if subject to future approvals.
- 3.9.16. The 2024 NPS EN-5 also refers to situations where undergrounding may be justified. It notes that nationally designated landscapes have specific statutory purposes to which the Secretary of State should have special regard and confirms that the general presumption in favour of overhead lines should be reversed to favour undergrounding in such cases.
- 3.9.17. Away from protected landscapes where there is great potential for significant adverse landscape or visual impacts, the Secretary of State should be satisfied that an applicant has provided evidence to support a decision on whether undergrounding is or is not appropriate, having considered this on a case-by-case basis.
- 3.9.18. In addition, the 2024 NPS EN-5:
- further emphasises the importance of following the Holford and Horlock Rules;
 - confirms that Compulsory Acquisition powers may be used for landscape mitigation schemes;

- notes that the Secretary of State should be satisfied that all feasible options for mitigation, including the reconfiguration or undergrounding, have been considered and evaluated appropriately; and
- requires a landscape management plan to be developed at least in outline by the end of an examination to secure the integrity and benefit of landscape schemes.

Local policy

- 3.9.19. Section 8 and Table D.1 of Appendix D to the Applicant's Planning Statement [[APP-160](#)] identified the relevant policies for each local authority within the Order Limits and provide the Applicant's analysis of the performance of the Proposed Development against relevant policies.
- 3.9.20. The joint Local Impact Report (LIR) from Essex County Council and Braintree District Council [[REP1-039](#)] listed relevant Braintree District Council development plan policies. Amongst those highlighted were:
- Policy LPP67, Landscape Character and Features, which highlights the importance of the Council's Landscape Character Assessments in an assessment.
 - Policy LPP69, Protected Lanes, which seeks to conserve the '*traditional landscape and nature conservation character of roads designated on the Proposals Map as Protected Lanes...*'
 - Policy LPP65, Tree Protection.
- 3.9.21. The joint LIR and its appendices from Suffolk County Council and Babergh and Mid Suffolk District Councils [[REP1-045](#)] provided a detailed analysis of what those authorities considered relevant local policy, including:
- Babergh District Council Local Plan policy CR02, AONB Landscape.
 - Babergh District Council Local Plan policy CR03, Special Landscape Areas.
 - Babergh District Council Local Plan policy CR07, Landscaping schemes.
 - Babergh District Council Local Plan policy CR08, Hedgerows.
 - Mid Suffolk Local Plan policy CL1, Guiding principle to development in the countryside.
 - Mid Suffolk Local Plan policy CL3, Major utility installations and powerlines in the countryside.

Holford and Horlock Rules

- 3.9.22. The Holford Rules are a series of amenity guidelines first developed in 1959 by Lord Holford, adviser to the Central Electricity Generating Board. They are used by National Grid to guide the development of a preferred route and design for transmission lines.
- 3.9.23. The Horlock Rules provide guidelines for the design and siting of substations. They were established by National Grid in 2009 in pursuance of its duties under Schedule 9 to the Electricity Act 1989.
- 3.9.24. The Applicant's Planning Statement [[APP-160](#)] considers the context of the Holford and Horlock Rules and how they were applied in this case in sections 5.8 and 5.9 respectively.

THE APPLICATION

- 3.9.25. The principal application document dealing with matters relating to landscape and views was Environmental Statement (ES) Chapter 6, Landscape and Visual [[APP-074](#)]. This was supplemented by five appendices, some in several parts, ([[APP-097](#) to [[APP-108](#)]) and a series of figures ([[APP-146](#)] to [[APP-147](#)]) (see Table A7 at Appendix A to this Report).
- 3.9.26. The Applicant submitted updated versions of some of the supporting appendices dealing with viewpoint assessments during the Examination.

Baseline

- 3.9.27. The scope of the assessment of landscape and views was set out in ES Appendix 5.1 [[APP-093](#)]. The specific receptors addressed in the ES were:
- Dedham Vale AONB;
 - Gipping Valley Special Landscape Area (SLA), Brett Valley SLA, Box Valley SLA and Stour Valley SLA;
 - landscape character areas at a county level;
 - people living and moving around the area (communities); and
 - recreational receptors, such as people using footpaths and bridleways.
- 3.9.28. The study area was set as being within 5km of the Order Limits, with an emphasis on the assessment of receptors lying within 3km, where significant landscape and visual effects were considered most likely to occur. Visual receptors outside the zone of theoretical visibility were excluded.
- 3.9.29. A desk study was supplemented by field surveys to assess viewpoints, identify the setting of the Dedham Vale AONB and to capture baseline photography.
- 3.9.30. The assessment was based on the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) (Landscape Institute and Institute of Environmental Management and Assessment (IEMA), 2013), and it assumed that the embedded and good practice measures would be enacted.
- 3.9.31. The Proposed Development would be located near to and coincide with several landscape designations, which were shown on ES Figure 6.1, LVIA Study Area and Landscape Designations [[APP-146](#)]. They were:
- Dedham Vale AONB;
 - Gipping Valley SLA;
 - Brett Valley SLA;
 - Stour Valley SLA; and
 - Box Valley SLA.
- 3.9.32. The Applicant provided a detailed description of the landscape character and the county landscape character areas in section 6.5 of the ES [[APP-074](#)] and at Appendix 6.3, Assessment of Effects on Landscape Character [[APP-100](#)].
- 3.9.33. In summary, the Proposed Development would run generally east to west across a landscape with a low-lying topography of flat to gently undulating landform, and wide, flat river valleys. The topography becomes more rolling to the west of the River Stour. The Rivers Brett, Box and Stour flow generally from north to south, with topography rising gently between these corridors. The plateau land is predominantly in arable use, with often large and open fields. Towards and within the river valleys,

and in the more rolling areas west of the River Stour, there tends to be a more intimate landscape with mature hedgerows with trees, and small woodlands.

- 3.9.34. The Applicant agreed a series of representative viewpoints with the host authorities and carried out a visual assessment for each. These were photographed, and montages of the Proposed Development were superimposed on baseline photography at some key locations.
- 3.9.35. The locations of viewpoints were shown on ES Figure 6.6, Visual Receptors and Viewpoints [APP-146] and the detailed assessment was set out at ES Appendix 6.4, Viewpoint Assessment ([APP-101 to [APP-107]).

Construction

- 3.9.36. Section 6.6 of the ES [APP-074] described the Applicant's assessment of construction phase impacts.
- 3.9.37. Without mitigation, this identified a major adverse impact on the Dedham Vale AONB, and a moderate adverse impact on the Stour Valley SLA. There were also significant impacts on several landscape character areas:
- LCA 1: Suffolk Rolling Valley Farmlands;
 - LCA 5: Suffolk Valley Meadowlands;
 - LCA 6: Suffolk Ancient Rolling Farmlands; and
 - LCA 7: Essex C8 Stour Valley.
- 3.9.38. The Applicant considered community scale impacts from construction activities on views, and determined significant potential effects for Alphamstone, Lamarsh, Leavenheath and Polstead.
- 3.9.39. Recreational users of the Stour Valley Way and St Edmunds Way (regional trails), Painters Trail (cycle route) and Hadleigh Railway Walk (locally promoted footpath) were found to have views of the project during construction, but as they were transient and generally glimpsed through vegetation, the potential effects were not considered significant on users of the routes overall.
- 3.9.40. Section 6.8 of the ES [APP-074] explained that the Applicant did not intend to provide additional mitigation during construction over and above the good practice measures set out in the application Code of Construction Practice [APP-178]. While significant effects had been identified, the Applicant did not believe that it was possible to mitigate these, predominantly due to the scale of the works required to install the 400kV underground cable.

Operation

- 3.9.41. The Applicant's assessment of landscape and views in the post-construction operational phase was set out in section 6.7 of the ES [APP-074]. This focussed on:
- the removal of the existing 132kV overhead line and a section of the existing 400kV overhead line;
 - the introduction of the new 400kV overhead line, cable sealing end compounds, ground link pillars, the grid supply point substation and permanent accesses;
 - maintenance of trees and vegetation in the operational corridor; and
 - mitigation measures, including replacement planting.
- 3.9.42. The potential beneficial effects considered likely to be significant were:

- Dedham Vale AONB and its setting;
- LCA 5: Suffolk Valley Meadowlands;
- LCA 7: Essex C8 Stour Valley;
- Community views from Chattisham;
- Community views from Lamarsh;
- Community views from Polstead.

3.9.43. The potential likely significant adverse effects were:

- LCA 2: Suffolk Ancient Plateau Claylands (LCA 2b Hintlesham);
- Community views from Burstall;
- Community views from parts of Hintlesham.

3.9.44. Section 6.9 of the ES [\[APP-074\]](#) described the Applicant's proposed mitigation for the likely significant effects during operation. Additional measures over and above those embedded in the scheme were restricted to new planting at Burstall to filter views from properties on Church Lane, and new hedgerow planting at Hintlesham to filter views from properties along the A1071. Whilst these would help mitigate views from some properties, they did not change the Applicant's assessment and the community view impacts remained as significant.

3.9.45. These additional mitigation measures were listed in the Register of Environmental Actions and Commitments [\[APP-179\]](#), which was Appendix B to the Construction Environmental Management Plan (CEMP) ([\[APP-177\]](#)). The CEMP would be secured through Requirement 4 of the draft Development Consent Order (dDCO).

3.9.46. In accordance with NPS EN-5, the Applicant identified specific measures to soften the effect of the new above ground line, whilst providing some screening for visual receptors. As these were not associated with significant effects identified in the ES, the landscape softening was not considered mitigation and the decision whether to implement each would be discussed with the occupants of relevant properties.

3.9.47. Table 6.7 of the ES [\[APP-074\]](#) identified the properties that the Applicant considered could benefit from landscape softening and the areas of planting that were proposed. The proposed landscape softening areas were referenced in ES Appendix 6.5, Assessment of Visual Effects on Communities [\[APP-108\]](#) and shown on ES Figure 16.1, Embedded Measures and Mitigation Proposals [\[APP-146\]](#), but they were said to not be relied on in the assessment of landscape and views.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

Applicant's duty of regard to the purpose of the AONB

3.9.48. The Relevant Representation (RR) from the Dedham Vale Area of Outstanding Natural Beauty and Stour Valley Partnership (the Partnership) [\[RR-028\]](#) questioned how the Applicant had addressed its duty of regard to the purpose of the AONB (section (s)85 of the Countryside and Rights of Way Act, 2000).

3.9.49. The Applicant [\[REP1-025\]](#) signposted section 5.5 of its Planning Statement [\[APP-160\]](#), which had set out the design principles and how the Proposed Development had regard to paragraph 2.2.6 of NPS EN-1 (statutory duties under s85 of the Countryside and Rights of Way Act).

3.9.50. Natural England was content with the information provided [\[REP3-074\]](#).

- 3.9.51. The Partnership [REP3-067] was generally happy that the Applicant had met its duty to pay regard to the purposes of the AONB, though it disagreed with the analysis that impacts were localised within the AONB and did not affect its overall integrity, as it considered the wider AONB a single entity and that harm to any part constituted harm to the whole. Suffolk County Council echoed [REP3-078] this response.
- 3.9.52. The ExA noted that s245 (5) and s(6)(a)) of the Levelling-up and Regeneration Act 2023, which gained Royal Assent on 26 October 2023, would amend the Countryside and Rights of Way Act 2000 in respect of the general duty imposed on public bodies in respect of the purposes of an AONB, and asked a written question about the implications.
- 3.9.53. The Applicant [REP7-025] did not consider that the Levelling-up and Regeneration Act would change the impact assessments submitted as part of the application, noting that it had sought to further the purpose of conserving and enhancing the natural beauty through removal of existing 132kV overhead line. It considered the Proposed Development to be compliant with the new 2023 Act obligation and set out the reasons for this conclusion.
- 3.9.54. The Partnership [REP7-040] noted that the new duty was for all relevant authorities to further the purposes of the designated landscape: for National Landscapes, this purpose was conserving and enhancing natural beauty. It considered this duty to override and strengthen the previous duty to ‘have regard’ to the purposes.
- 3.9.55. The Partnership considered this a significant change and suggested that the Applicant should review its position to comply with the new duty. It noted Natural England advice, which says:

‘... the duty to ‘seek to further’ is an active duty, not a passive one. Any relevant authority must take all reasonable steps to explore how the statutory purposes of the protected landscape can be furthered;

... the new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes but also to seek to further the conservation and enhancement of a protected landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose;

The proposed measures to further the statutory purposes of a protected landscape, should explore what is possible in addition to avoiding and mitigating the effects of the development, and should be appropriate, proportionate to the type and scale of the development and its implications for the area and effectively secured. Natural England’s view is that the proposed measures should align with and help to deliver the aims and objectives of the designated landscape’s statutory management plan. The relevant protected landscape team/body should be consulted.’

- 3.9.56. The host authorities ([REP7-028], [REP7-033] and [REP7-029]) held a similar view and suggested that additional compensation such as a landscape restoration fund might contribute to furthering of purposes.

Statutory purpose of the AONB

- 3.9.57. The Partnership’s RR [RR-028] raised the matter of how the Proposed Development might impact the Dedham Vale AONB’s ability to deliver its statutory purpose. The

Applicant [\[REP1-032\]](#) submitted a document that summarised the effects of the project on the special qualities of the AONB and the ability to deliver its statutory purpose. The Applicant stressed that it did not change the outcome of the assessment presented in ES Chapter 6, Landscape and Visual [\[APP-074\]](#).

3.9.58. The Partnership's concern [\[REP3-067\]](#) related to the ability to conserve and enhance natural beauty during the installation of the underground cables. At Issue Specific Hearing (ISH) 4, the Applicant noted that benefits would accrue later through the removal of the 132kV line, and that the installation impacts would be short term and affect only a small part of AONB where there were relatively few visual receptors – for example, users of only one public right of way would be affected. On balance, the Applicant concluded a long-term benefit.

3.9.59. The Partnership [\[REP4-001\]](#) confirmed its opinion that:

'Negative impacts to part of the AONB should be seen as impacts to the AONB as a whole given the AONB is a single entity. The Partnership draws the Examining Authorities attention to para 18 of Appeal Ref: APP/L3815/W/21/3289451, 112 Main Road, Hermitage, Southbourne PO10 8AY.'

3.9.60. Suffolk County Council [\[REP4-039\]](#) supported the Partnership's position:

'... there will be a significant impact on the ability of the AONB to deliver statutory purpose during the construction of underground cables. There is likely to be a displacement of recreational activity, increasing the recreational pressure on other areas of the AONB.'

3.9.61. The Applicant [\[REP4-042\]](#) was unable to find any guidance that supported the Partnership's contention that an impact to part of the AONB should be considered an impact on the whole, and considered [\[REP4-034\]](#) it inappropriate to suggest that there was no difference between an effect on a small part of the AONB and an effect on the entirety of the AONB, noting that the scale of change would contribute to its significance. It noted that the route through the AONB was principally arable farmland with very little vegetation affected, and that such areas could be reinstated quickly following installation.

3.9.62. In the final version of its Status of Statements of Common Ground [\[REP9-023\]](#), the Applicant notes that effects on the statutory purpose of AONB remained in the list of matters not agreed with the host authorities. This was confirmed at pages 50 to 51 of the final joint SoCG between the Applicant and the host authorities [\[REP10-006\]](#).

Special qualities of the AONB

3.9.63. The RR from Natural England [\[RR-042\]](#) advised that further information was required to make a full assessment of the Proposed Development's effect on the special qualities of the AONB during the construction and operational phases.

3.9.64. The RR from the Partnership [\[RR-028\]](#) confirmed the special qualities of the AONB, which had been set out at paragraph 2.3.8 of ES Appendix 6.2, Annex A, Dedham Vale AONB Approach and Identification of Setting Study [\[APP-099\]](#):

- landscape quality;
- scenic quality;
- relative wildness;
- relative tranquillity;
- natural heritage features; and

- cultural heritage.

- 3.9.65. The Applicant [REP1-032] submitted a document that summarised the effects of the project on the special qualities of the AONB. This did not change the assessment conclusions in ES Chapter 6, Landscape and Visual [APP-074].
- 3.9.66. The ExA asked Natural England what additional information it considered necessary, noting the Applicant's confirmation [APP-169] that these had been considered in ES Chapter 6 [APP-074]. Natural England's [REP2-026] was content that the further information allowed for a full assessment of effects on the special qualities of the AONB.
- 3.9.67. The Partnership ([REP3-067] and [REP4-001]) again criticised the Applicant's approach that significant adverse landscape effects during construction would be localised. As the designation was a single entity, it considered that localised impacts had the potential to affect the special qualities of the whole AONB:

'... the special qualities of the AONB will be significantly negatively impacted during construction. Impacts will include significant negative impacts on landscape quality, scenic quality, relative tranquillity from construction activity... of a temporary nature but consider the impact will still be felt and should be compensated for.'

- 3.9.68. The SoCG between the Applicant and Natural England [REP5-011] recorded agreement that the information provided was sufficient to assess the Proposed Development's effects on the special qualities of the National Landscape. It noted that its focus was on the avoidance of significant adverse operational stage impacts to the National Landscape and, with respect to this, there were no further concerns regarding the conclusions. However, Natural England suggested that the Partnership may be able to provide further detailed insights and advice on this matter given its role in producing the area's statutory management plan and its local understanding of how and where the area's special qualities are expressed.

Setting of the AONB and Stour Valley SLA

- 3.9.69. Notwithstanding the Applicant's submission of ES Appendix 6.2, Annex A, Dedham Vale AONB Approach and Identification of Setting Study [APP-099], Natural England [RR-042] said that it had outstanding queries around the setting of the AONB.
- 3.9.70. A group of Parish Councils [REP1-070] contended that further undergrounding was necessary to prevent damage to the setting of the AONB over much of section F of the Proposed Development and in relation to the Dedham Vale East cable sealing end compound in section E. It emphasised the likely impact of this immediately adjacent to the AONB and suggested that it could be substantially mitigated by siting the cable sealing end compound in Layham Quarry instead. This would significantly reduce the visibility of the Proposed Development from the AONB.
- 3.9.71. The Parish Councils noted that NPS EN-1 refers to structures outside AONBs having the potential to impact on them, and that the Holford Rules emphasise the need to avoid impact altogether. They believed the Proposed Development could cause, '*significant adverse landscape and/or visual impacts on highly sensitive visual receptors out-from and in close proximity to nationally designated landscapes*', quoting from the September 2021 draft of NPS EN-5 (section 2.11.14).
- 3.9.72. They also referred to the Dedham Vale AONB Position Statement (November 2016), which they said emphasised that:

- the setting of an AONB does not have a geographical border; and
- in national policy terms, adverse impacts such as the blocking or interference of views out of the AONB carry the same weight as adverse visual impacts from developments within the AONB.

3.9.73. The Applicant [REP1-025] signposted its assessment of case for undergrounding, its extent, and the review that it had undertaken to test the justification for extending the underground cable through section F. This came to the same conclusion as the Connections Options Report [APP-164], that section F was not designated and was not considered particularly sensitive in the context of paragraph 2.8.2 of NPS EN-5.

3.9.74. ES Chapter 6, Landscape and Visual [APP-074], concluded that, although parts of section F lay within the setting of the AONB, the magnitude of change was small in the context of the existing 400kV overhead line and the removal of the existing 132kV overhead line. Therefore, undergrounding through section F was considered disproportionate, having regard to the policy tests set out in NPS EN-5.

3.9.75. The Partnership [REP3-067] made reference to the '*Dedham Vale AONB Position Statement (revised Nov 2016), Development in the setting of the Dedham Vale Area of Outstanding Natural Beauty*', to assist with the definition of setting:

'The Partnership considers the setting of the Dedham Vale AONB to be the area within which development and land management proposals, by virtue of their nature, size, scale, siting materials or design can be considered to have an impact, positive or negative, on the natural beauty and special qualities of the Dedham Vale AONB.'

3.9.76. Natural England [REP2-026] considered its queries around the setting of the AONB satisfied but recommended that appropriate consideration and weight be given to information and advice provided by the Partnership.

3.9.77. Babergh and Mid Suffolk District Councils [REP3-060] remained concerned that around 3km of the proposed overhead route west of Leavenheath as far as the Stour Valley East cable sealing end compound was within the setting of the AONB, that significant residual adverse effects remained, and that these were not fully compensated for.

3.9.78. The Applicant [REP4-029] disagreed that it had underestimated the effects of the Proposed Development on views from the AONB, noting the widespread influence of the gently rolling landform and overgrown hedgerows with mature trees that screen and filter many views from the boundary of the AONB.

3.9.79. In response to a written question from the ExA in relation to the publication of the 2024 NPSs, Suffolk County Council [REP7-033] noted that the November 2023 draft NPS EN-5 stated:

'Away from these protected landscapes and in locations where there is a high potential for widespread and significant adverse landscape and/or visual impacts, the Secretary of State should be satisfied that the applicant has provided evidence to support a decision on whether undergrounding is or is not appropriate, having considered this on a case-by-case basis, weighing the considerations in paragraph 2.9.24 above.'

Location of Dedham Vale east cable sealing end compound

- 3.9.80. Some representations (for example, [\[RR-020\]](#), [\[RR-136\]](#) and [\[REP1-070\]](#)) suggested that, in addition to reducing the visibility of the proposed line from the AONB, the local visual impact of the Dedham Vale east cable sealing end compound could be reduced by continuing the undergrounding eastwards for approximately 200m to the disused gravel pit at Layham Quarry.
- 3.9.81. The Applicant [\[REP1-025\]](#) confirmed that Layham Quarry had been considered as an alternative location for the Dedham Vale east cable sealing end compound (as Option 2c) in response to consultation feedback (considered in paragraph 3.3.29 of this Report). It said that, whilst this would have taken the cable sealing end compound further away from the AONB boundary, the additional cost associated with the extra undergrounding was not justified in terms of policy or the Applicant's statutory duties. In addition, the working area for an underground cable route to Layham Quarry would be constrained by the two blocks of woodland at Millfield Wood and the existing operational overhead line.
- 3.9.82. With continuing advocacy from local parties for the move to the quarry (for example, [\[AS-010\]](#) and [\[REP6-061\]](#)) and their identification of further benefits of relocation, the Applicant went on [\[REP3-048\]](#) to expand on its reasoning when rejecting Layham Quarry.
- 3.9.83. The LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [\[REP1-045\]](#) agreed the location in principle but suggested placing the compound more centrally between Millwood Road and Heath Road. The Applicant [\[REP3-049\]](#) noted that:
- 'The location of Dedham Vale East CSE compound balances engineering and environmental aspects ...'*
- 3.9.84. The group of Parish Councils [\[REP8-050\]](#) maintained a case for relocation throughout the Examination, and challenged the Applicant's comparative visual assessment and its assertion that the proposed site for the compound was approximately 1km from the boundary of the Dedham Vale National Landscape [\[REP3-048, Table 3.1\]](#): they noted that it may be 1km when measured from the west, but it was only 350m from the boundary when measured from the south.

Selection and assessment of viewpoints: VP H-07 from Rectory Lane, Wickham St Paul

- 3.9.85. The LIR from Essex County Council and Braintree District Council [\[REP1-039\]](#) questioned the representativeness of viewpoint H-07 from Rectory Lane on the edge of Wickham St Paul [\[APP-107\]](#) for the assessment of impacts on users of public rights of way (PRoWs) rather than a view from one of the PRoWs that were closer to the Proposed Development.
- 3.9.86. Referring to guidance relating to proportionality in relation to the scale and nature of the development proposal and its likely significant effects, and on agreement with the competent authority and consultation bodies, the Applicant noted that viewpoints H-09 and H-10 had been included to represent views from PRoWs closer to the grid supply point substation (ES Appendix 6.4, Viewpoint Assessment, Section H, Part 7 [\[APP-107\]](#)), and had been agreed in pre-application consultation with the host authorities. It pointed out that the same viewpoints had been submitted in the planning application for the substation, approved by Braintree District Council in October 2022.

- 3.9.87. The Applicant [REP3-052] signposted the baseline photos for photomontage 36A and 36B at H-07 in ES Appendix 3, Photomontages [APP-065]. It said that intervening vegetation would screen views towards the substation in summer months and filter them in winter. Mitigation planting proposed on the western side of the substation would help further to screen and integrate the substation into the landscape. This would be effective by Year 15.
- 3.9.88. Essex County Council and Braintree District Council acknowledged [REP4-049] that viewpoints H-09 and H-10 represented views from PRow closer to the grid supply point substation, but remained of the opinion that:

'A photomontage from H-09 would still be useful to demonstrate effectiveness or not of proposed mitigation at the substation. If Year 15 demonstrated residual negative effects, then some landscape compensation, softening or enhancements could be offered between the PRow and the substation development.'

Selection and assessment of viewpoints: additional viewpoint and assessment from the PRow network east of the A131

- 3.9.89. The LIR from Essex County Council and Braintree District Council [REP1-039] suggested that there should be additional representative viewpoints and a visual assessment from the PRow network east of the A131. The ExA asked for clarification of the specific locations, and what additional information this might add to the assessment.
- 3.9.90. The authorities [REP3-060] identified a location at the junction of three PRow, marked on a plan. They considered that this would better represent the effects on users of the PRow system east of the A131, particularly at the start of the operational period, and would most likely demonstrate that, even at Year 15, due to the height of the structures, additional mitigation or compensatory planting that strengthened local landscape character planting would be required.
- 3.9.91. The Applicant [REP3-052] recalled that a viewpoint selection document presenting representative viewpoints proposed for the assessment had been issued to Essex County Council on 16 June 2021, that comments had been received, and that the assessment had been updated accordingly. Viewpoints H-05 and H-11 had been included to represent views towards the grid supply point substation from PRow to the east of the A131. The assessment of effects at these viewpoints was set out in ES Appendix 6.4, Viewpoint Assessment, Section H, Part 7 [APP-107]. Again, the Applicant noted that the same viewpoints had been used for the approved planning application.
- 3.9.92. Following some confusion about the matter at ISH4, Essex County Council and Braintree District Council [REP4-049] seemed to suggest that it was an additional photomontage that was required.

Selection and assessment of viewpoints: additional viewpoint at Waldegrave Woods

- 3.9.93. The LIR from Essex County Council and Braintree District Council [REP1-039] also suggested that an additional, closer viewpoint was required to assess the impacts of the proposed grid supply point substation and sealing end compound at Waldegrave Wood. They considered viewpoint H-07 to be too far away to assess year 15 impacts. The ExA asked why they did not believe that viewpoints H-08 and H-09 served this function.

- 3.9.94. The local authorities [REP3-061] confirmed that the receptors of concern were predominantly users of PRowS. They agreed that viewpoints H-08, H-09 and H-10 served this function but suggested that a photomontage from H-09 was necessary to demonstrate the adverse effects at Year 1, which they anticipated would remain medium to high and not reduce to medium, and whether the mitigation planting would obscure much of the new infrastructure as claimed.
- 3.9.95. In relation to these and other concerns that they had raised in relation to viewpoints, Essex County Council and Braintree District Council explained [REP4-049] that the local authority had a new landscape officer working on the project who was not involved in earlier discussions.

Indicative alignment and limits of deviation

- 3.9.96. The impact assessment for hedgerows and trees in the Arboricultural Impact Assessment [APP-067] was based on the indicative route alignment set out on the General Arrangement Plans [APP-018]. The ExA was unsure how it made allowances for the different vegetation removal impacts that could arise if the limits of deviation were used to vary the final route design.
- 3.9.97. The ExA was also concerned that the Arboricultural Impact Assessment [APP-067] did not form part of the submitted ES and was not a certified document, despite the inclusion of base information that would be relied on for construction planning and to design mitigation measures to reduce impacts on important receptors, for example root protection areas for veteran trees [REP1-025]. It asked the Applicant [PD-005] to explain how this met the requirements of the EIA Regulations in relation to impacts on trees and hedgerows, if this was the impact information on which the relevant part of the ES was based.
- 3.9.98. The Applicant [REP3-052] referred the ExA to the assessment of hedgerows and trees in ES Chapter 6, Landscape and Visual [APP-075], in respect of landscape character and for the screening they provide. Section 11 of that chapter addressed sensitivity testing within the limits of deviation and found no new or different likely significant effects to those identified in the baseline scenario.
- 3.9.99. The Applicant confirmed that all baseline information used to support the assessment of likely significant effects was included within the ES, either within the topic chapter or its supporting appendices and figures, and the Arboricultural Impact Assessment should not form part of the certified ES.

Retention of trees on the periphery of the Order Limits

- 3.9.100. The Arboricultural Impact Assessment [APP-067] assumed that, *'trees on the periphery of the Order Limits would be retained and protected during construction.'* The ExA asked the Applicant [PD-005] if the tree and hedgerow, landscape and visual assessments had been carried out on this basis, and - if so - how the assumption was secured in the dDCO.
- 3.9.101. The Applicant [REP3-052] referred the ExA to its earlier response that the Arboricultural Impact Assessment did not form part of the ES, repeated that the EIA took account of the flexibility afforded by the limits of deviation, then went on to explain why limits of deviation were necessary. It noted that measure LV01 in the Construction Environmental Management Plan (CEMP) Appendix A, the Code of Construction Practice (CoCP) stated that the contractors, *'would retain vegetation where practicable'*. Appendix A of the Landscape and Environmental Management Plan (LEMP), the Vegetation Retention and Removal Plan [APP-183], also showed,

'that the Applicant is intending to retain peripheral trees at the edge of the Order Limits'. It confirmed that CEMP, CoCP and LEMP would be secured through Requirement 4 of the dDCO.

The Vegetation Retention and Removal Plan

3.9.102. The Vegetation Retention and Removal Plan [APP-183] identified trees and hedgerows that would need to be retained, pruned, coppiced and removed as a consequence of the Proposed Development. The ExA asked the Applicant [PD-005] if this categorisation had assumed that the indicative alignment was followed, and how the flexibility in the location of the Proposed Development within the Order Limits had been allowed for in the assessment and on the Plan.

3.9.103. The Applicant reported [REP3-052] that the purpose of the Vegetation Retention and Removal Plan [APP-183] was to, *'set out the assumed vegetation losses for the main works contractor to use for detailed design and construction and not for assessment purposes'*. The plan was based on the Proposed Alignment [APP-018] so vegetation loss and soil stripping could indeed change, subject to detailed design. However, the Applicant said that:

'If the Final Alignment requires changes to the LEMP (document 7.8(B)) and its Appendices, these would be addressed through the change process documented in Section 10.5 of the LEMP and through Requirement 8 and 9 of the dDCO (document 3.1 (C))...'

'... The assessment based on the flexibility provided by the LoD is set out in Section 11 of ES Chapter 6: Landscape and Visual [APP-074]. As stated in paragraph 6.11.6 there are no aspects of flexibility in the reasonable worst case that would increase the level of magnitude of any of the effects. The assessment has considered pylon locations anywhere within the LoD and an additional 4m is unlikely to increase the level of effect of a pylon more than 54m in height. The value and susceptibility are constant and would not therefore change. As such, the significance of residual effects would be no different from those outlined in Sections 6.6 to 6.10.'

3.9.104. The ExA sought further clarity in its further written questions [PD-008], and the Applicant [REP7-025] repeated its assertion that the ES was worst case in relation to the overhead line. The Vegetation Retention and Removal Plan was updated [REP7-008] in response to a number of highlighted errors and omissions.

Generating the zone of theoretical visibility

3.9.105. Noting the statement in the ES [APP-074] that, *'All assessment work has applied a precautionary principle, in that where limited information is available... a realistic worst-case scenario is assessed'*, the ExA sought [PD-005] clarity from the Applicant in relation to the comparative zone of theoretical visibility (ZTV) map in the ES figures ([APP-146], figure 6.7) and in particular whether:

- the ZTV had been generated using a pylon height 2.5m lower than the indicative design;
- the 4m vertical limits of deviation sought in the dDCO had been taken into account;
- it was therefore the case that the ZTV was based on a pylon height 6.5m shorter than that which could be built.

- 3.9.106. The ExA also asked for clarification about an apparent contradiction between the legend of figure 6.7 [APP-146] ('*woodland factored in*') and paragraph 6.4.6 of ES Chapter 6, Landscape and Visual [APP-074], ('*does not take into consideration screening effects of existing vegetation*') in relation as to whether the screening effect of vegetation has been taken into account in generating the ZTV.
- 3.9.107. The Applicant [REP3-052] confirmed that a pylon height 2.5m lower than the indicative design had been used, as when seen from a distance, the top of the pylon, above the top cross arm, '*is highly unlikely to result in a significant effect*'. Hence, to '*focus the assessment*', a height 2.5m below the top height of the pylon was used. The Applicant also confirmed that the maximum heights that would be available through the limits of deviation were not used to generate the ZTV, because:
- 'The requirement to increase the height of a pylon would be localised and would not be used throughout. Using this additional height for pylons would have exaggerated the ZTV.'*
- 3.9.108. The suggestion in ES Chapter 6 [APP-074] that the ZTV had not taken into consideration screening effects of existing vegetation was confirmed as an error, and it was added to the errata list [REP4-005].
- 3.9.109. Noting that the comparative ZTVs had been produced to help understand the differences in visibility between the 132kV overhead line that would be removed and the proposed 400kV overhead line, and some ambiguity in the ES Figure 6.7 legend, the ExA went on to ask [PD-008] if the ZTV for the existing 132kV line had also ignored the top 2.5m of the pylons.
- 3.9.110. The Applicant confirmed [REP7-025] that 2.5m had been subtracted from the height of pylons to be removed.
- 3.9.111. The ExA also sought clarification in relation to the more detailed ZTV maps (figures 6.8 to 6.13 [APP-147]) and if they showed worst case or whether the vertical limits of deviation for structures had been ignored. The ExA asked why the ES did not include a ZTV for pylon works in section H (around the grid supply point substation at the western end of the Proposed Development).
- 3.9.112. The Applicant [REP3-052] confirmed that these ZTV predictions had also ignored the vertical limits of deviation for the same reasons as given previously. It considered that works to pylons in section H would not increase the visibility of overhead lines and were therefore not included in the ZTV so as to focus on the grid supply point substation itself.
- Impact of temporary construction infrastructure**
- 3.9.113. The LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] questioned the Applicant's approach to its landscape and visual assessment of temporary construction structures and works.
- 3.9.114. To explore this further, the ExA asked [PD-005] the Applicant to provide details of the dimensions of bridges over the main and non-main rivers, for how long they would be in place, and whether their visual effects had been assessed.
- 3.9.115. The Applicant noted [REP3-052] that:

'Any reference to temporary access tracks in the assessment of construction effects presented at ES Appendix 6.3 Assessment of Effects on Landscape Character [APP-100] includes associated infrastructure including temporary bridges. Temporary bridges were not specifically listed as a construction element in each assessment as listing out all aspects of the construction process, the full nature of which would not be known at the time of the assessment (some aspects such as bridges are subject to detailed design), would be unwieldy... The ES assumed that these would be a steel bailey type design as shown in Design and Layout Plans Temporary Bridge for Access [APP-031]. The exact span of the bridges is not known at this stage. It has been assumed that the bridges will be in place for the duration of construction works (assumed 4 years).'

Visual impact of permanent access road to the Stour Valley east cable sealing end compound

- 3.9.116. The route of the permanent access road to the Stour Valley east cable sealing end compound was viewed in some detail during the accompanied site inspection [REP3-037] following questions about its visibility from close- and long-range views and whether less intrusive alternatives were available in a submission from a group of Parish Councils [AS-010].
- 3.9.117. The Applicant offered to undertake further assessment. It acknowledged [REP4-042] that the track would be visible in close up views from the only PRoW in the vicinity, which would be crossed by the permanent access route. There would also be distant views from the opposite side of the Stour Valley, as illustrated by photomontage 32B from viewpoint G2.5 [APP-065]. The effect on views from the opposite side of the valley would be moderated by the presence of intervening screening vegetation.
- 3.9.118. The Applicant also addressed [REP5-025] the question of alternative routes, describing several options that had been considered during the pre-application design and consultation stages. The conclusion had been that proposed access directly from the B1058 (G-AP3) as in the application was preferred for various considerations, including:
- the need to construct this access for construction of the cable route in any event, avoiding the need for an additional separate access being required for operational use;
 - suitable access and visibility directly on to the B1508;
 - terrain and topography for HGVs;
 - distance from residential properties;
 - security and management to avoid unauthorised use of the access route; and
 - management and diversion of PRoWs.
- 3.9.119. The Applicant considered the proposed access route acceptable, but based on the review, it proposed an additional mitigation commitment to address the Parish Councils' concerns. The REAC [REP6-023] was updated with measure EM-G14, to use a landscape architect for the detailed design, *'to advise on suitable finishes for the permanent access route at Stour Valley east cable sealing end compound with the aim of reducing the landscape and visual effects of this feature.'* It was also added to the LEMP [REP7-006].

Sequential effects

- 3.9.120. In contrast to the Applicant's assessment, the LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] considered that the

cumulation of long-term, minor adverse effects on landscape and visual amenity experienced by communities along the route should be considered to be significant. The ExA asked the Applicant [PD-005] whether cumulative and sequential visual effects had been properly considered. The Applicant [REP3-049] considered that they had.

Significance of impacts on views

- 3.9.121. During the Examination, there were detailed questions (including the ExA's first written questions [PD-005]) and discussions about the representativeness and assessment of several of the Applicant's viewpoints.
- 3.9.122. For example, in their joint LIR [REP1-045], Suffolk County Council and Babergh and Mid Suffolk District Councils considered that the visual amenity impact on recreational receptors using the PRoW illustrated from viewpoint AB-21 [APP-101] should be considered significant, whereas the Applicant's assessment was that it was not.
- 3.9.123. The Applicant [REP3-052] explained:

'It is acknowledged that when a pylon is seen in close proximity it will be very visible and this is the case for Viewpoint AB21. However as advocated by GLVIA3, the level of effect also takes into consideration the duration of the view. In the case of recreational receptors using Public Rights of Way (PRoW), the pylons will only affect the view transiently and for a short period. This moderates the overall effect. It should also be emphasised that in many situations the Project involves the replacement of existing 132kV pylons by taller 400kV not the introduction of a completely new overhead line. This reduces the magnitude of change when comparing the development of the project to the baseline scenario.'

- 3.9.124. Disagreement remained over the analysis of effects from some viewpoints.

Sufficiency of landscape and visual mitigation at Bramford Substation

- 3.9.125. The RR from Suffolk County Council [RR-006] and the joint LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] suggested that there was insufficient strategic visual mitigation planting at the Bramford Substation. The Examination heard this was effectively an issue with the cumulative impact of numerous proposals at and around the Substation and related to good design, so the matter is dealt with in sections 3.6 and 3.16 of this Report.

Sufficiency of mitigation of landscape and visual impacts at the Stour Valley west cable sealing end compound

- 3.9.126. Following concerns raised by Essex County Council and Braintree District Council in their joint LIR [REP1-039], the ExA asked [PD-005] the Applicant to clarify the nature, extent and anticipated effectiveness of the proposed mitigation of the visual impacts from the Stour Valley west cable sealing end compound, including those from viewpoint G-07, the PRoW near Mabb's Corner, during construction and at years 1 and 15. It also asked for an explanation of how the mitigation planting that had been assumed in the visual assessment would be secured and monitored.
- 3.9.127. The Applicant [REP3-052] noted the constraints relating to planting over buried cables:

'... views from the south would remain open due to the location of the underground cables. The effects of this are shown in photomontage 34B at G-07 presented in Appendix 3 Photomontages [APP-065].

It is acknowledged in the assessment for G-07 at Year 15 presented at ES Appendix 6.4: Part 6 [APP-106] that the views would remain open due to the planting restrictions over the underground cables. The adverse effects of the CSE compound when balanced against the benefits of removing pylons from within the view would result in an adverse medium-small magnitude of change overall. The planting proposals are shown on sheet 19 in ES Appendix B Vegetation Reinstatement Plan (document 7.8.2 (B)) and the planting schedules are included in ES Appendix C Planting Schedules [APP-185]. Therefore, the planting would be secured through Requirement 4 of the dDCO (document 3.1 (C)). Chapter 9 of the LEMP (document 7.8 (B)) sets out the aftercare proposals that would be undertaken to check the planting was establishing.'

3.9.128. This situation and the constraints were pointed out to the ExA and other attendees at the accompanied site inspection [REP3-037]. The Applicant [REP4-034] later confirmed that the additional planting suggested by the host authorities was constrained by underground cable locations. It noted that the proposed location was in a large arable field and that it was working with the landowner to identify suitable locations for planting that would provide additional screening whilst limiting impacts on farming operations, confirming that it was one of the sites where Biodiversity Net Gain was proposed.

3.9.129. Following ISH4 ([EV-040] to [EV-043]), Suffolk County Council [REP4-039] commented that:

'SCC... considers that the existing roadside vegetation along the north-eastern side of the lane between Pebmarsh Road and Mabb's Corner should be strengthened, and the existing hedges managed in such a way that they afford better screening of the cable sealing end compound. While tree planting over the cables is not possible, options for hedge planting on the southern side of the compound should be explored to create several layers of mitigative planting to filter the views from the south.'

3.9.130. In response, the Applicant [REP5-025] noted that the site was in Essex and reiterated its earlier submissions, stressing that views from the PRoW in question would benefit from the removal of 400kV pylons to the north of the cable sealing end compound. It later noted [REP7-025] that hedgerow planting was proposed at Mabb's Corner. It said that this, along with the embedded planting, would provide additional screening of the compound from the lane. As such, it did not consider that further hedgerow planting along the north-eastern side of the lane between Pebmarsh Road and Mabb's Corner was necessary, as views towards the Stour Valley west cable sealing end compound were already screened by the existing hedgerow along the north-eastern edge as well as the intervening properties and vegetation.

3.9.131. Suffolk County Council [REP7-033] reported that the situation at the site had been discussed during a meeting between the host authorities and the Applicant outside the Examination, where the Applicant indicated that further planting to the south-west of the cable sealing end compound would be possible. Further hedgerow planting was added to the south-west of the Stour Valley west cable sealing end compound (sheet 28, LEMP Appendix B, Reinstatement Plan [REP7-009]). The Applicant maintained that further softening was not required and reported that the

landowner had requested that planting was not extended from the road, as this would limit how the field could be farmed.

- 3.9.132. In conclusion, Essex County Council [REP8-040], while still considering visual mitigation overall to be inadequate, welcomed the additional commitment by the Applicant under Requirement 9 and the additional planting included at the Stour Valley west cable sealing end compound, and considered the updated mitigation there acceptable.

Sufficiency of mitigation for the other cable sealing end compounds

- 3.9.133. Suffolk County Council and Babergh and Mid Suffolk District Councils suggested [REP2-013] that, *'further mitigation is required at the CSE compounds (in particular for the Dedham Vale West CSE compound at Leavenheath)...*' Natural England [REP3-074] was concerned that planting to screen the cable sealing end compounds should be secured and protected for the lifetime of the project.

- 3.9.134. Following discussions at ISH4 ([EV-040] to [EV-043]), Babergh and Mid Suffolk District Councils [REP4-051] and Suffolk County Council [REP4-039] elaborated on their concerns and submitted suggestions for further mitigation planting.

- 3.9.135. The Applicant confirmed [REP4-034] that the planting at the cable sealing end compounds and the grid supply point substation would be maintained for the life of the asset, as set out in the LEMP [REP3-034] and secured by Requirement 4 of the dDCO [REP3-007]. The Applicant highlighted that trees could not be planted over buried cables, so there were limitations in what could be achieved in some parts of the area around the compounds.

- 3.9.136. For Dedham Vale west, Babergh and Mid Suffolk District Councils [REP6-050] judged that the proposed planting was unlikely to provide adequate mitigation, though the Applicant concluded otherwise [REP5-025]. Suffolk County Council [REP6-059] expected the Applicant to provide additional hedge planting along the B1068.

- 3.9.137. For Dedham Vale east, the Applicant [REP5-025] said that:

'The hedgerow is reinforced by blocks of woodland and scrub planting which have been positioned to screen views for people travelling south Millwood Road'.

- 3.9.138. Babergh and Mid Suffolk District Councils [REP6-050] had concerns that views into the site would be available through the entrance unless additional planting was provided close to the facility, and that mitigation of visual effects had not been demonstrated. Suffolk County Council [REP6-059] noted that additional mitigation planting and appropriate management was likely to be required. It suggested that this could take the form of further hedge or scrub planting along the access road to conceal views into the site from the access point.

- 3.9.139. For Stour Valley east, the Applicant [REP5-025] considered that:

'Users of a short section of W-171/001/0 near Sawyer's Farm may have views of the top of the gantries which would be some 300m distant. The adverse effects on these views would however be outweighed by the beneficial effects of removing the existing 132kV overhead line which is seen in much closer proximity as it overflies the footpath.'

3.9.140. Babergh and Mid Suffolk District Councils [REP6-050] had concerns and suggested that a photomontage from the section of PRow near Sawyer's Farm might help substantiate this.

3.9.141. The Applicant provided further reassurance through an update to the dDCO [REP6-003]. This had an addition to Requirement 9 in relation to the planting plans that would be requiring for each stage:

'... a landscape plan for each cable sealing end compound where relevant to that stage, which will show landscape mounds, planting and proposed finishes for hard landscape features.'

Sufficiency of mitigation or compensation for landscape and visual impacts generally

3.9.142. Suffolk County Council and Babergh and Mid Suffolk District Councils ([REP1-045] and [REP2-008]) considered that, beyond reinstatement planting, there was insufficient mitigation planting. They were also concerned that the proposed mitigation planting was insufficiently secure:

'... long-term adverse landscape and visual effects, including significant ones, ...that cannot be mitigated through landscape planting due to the sheer height and extensive character of the infrastructure, and that therefore a significant landscape and visual compensation package should be drawn up by the applicant in association with the relevant Councils and their key environmental partners, over and above the 'softening' measures already suggested, the biodiversity net gains to be provided and distinct from any discussions of community benefits.'

3.9.143. The Applicant noted [REP3-049] that the draft NPS EN-1 (March 2023) recognised that 'compensation' was at the bottom of the mitigation hierarchy, and that there was no 'requirement' as such to compensate for residual effects.

3.9.144. The ExA raised the matter at ISH4 ([EV-040] to [EV-043]) to seek clarity about the concern and views from other parties.

3.9.145. Babergh and Mid Suffolk District Councils [REP4-051] continued to argue for a compensation package that could be secured through a section (s)106 legal agreement. It considered the emerging definition of the mitigation hierarchy in the March 2023 draft NPS EN-1 included compensation to protect the environment and biodiversity. Paragraph 4.1.5 confirmed that when weighing adverse impacts against benefits, the measures to avoid, reduce, mitigate or compensate for any adverse impacts, not just significant ones, should be taken into consideration.

3.9.146. The authorities felt that the aim of mitigation should be to retain or restore the legibility and character of the landscape and to screen or filter the views of the new infrastructure as far as possible. Where residual effects remained, compensation would be required at a scale commensurate with the level of harm.

3.9.147. They went on to suggest a side agreement to fund landscape restoration projects in the area. They said that, as the route of the scheme adversely affected not only the AONB, but also its setting and other sensitive landscapes, they considered that a dedicated AONB Officer may be best placed for the conception, management and delivery of such a compensation project.

3.9.148. The Applicant's view [REP4-034] was that the landscape and visual impacts of the Proposed Development were very well mitigated and that a full package of

reinstatement and landscape planting had been provided, as set out in the LEMP [REP3-034] and secured by Requirement 4 and Requirement 9 of the dDCO [REP3-007].

- 3.9.149. Following the publication of the November 2023 draft NPS EN-1, the Applicant [REP5-025] set out a very detailed response to the criticisms and explained how the mitigation hierarchy should be applied. It concluded:

'Overall, NPS EN-1 (November 2023), like its predecessor recognises that virtually all large infrastructure projects will have significant adverse landscape and visual effects. In this context, the project performs very well in landscape and visual terms; providing 29km of high capacity transmission network reinforcement and ancillary infrastructure with very limited landscape and visual effects and delivering significant beneficial effects on the most sensitive landscape in the area, the Dedham Vale AONB. The mitigation hierarchy has been applied and the project includes measures that have led to this positive outcome. In this context, the Applicant does not consider that any further compensation is required and is of the view that the project complies with policies on the mitigation hierarchy as presented in NPS EN-1 (November 2023).'

- 3.9.150. Babergh and Mid Suffolk District Councils [REP6-050] disagreed with some of this interpretation, and drew attention to section 2.2:

'Applicants should demonstrate that all residual impacts are those that cannot be avoided, reduced or mitigated'.

- 3.9.151. They felt that the Applicant had interpreted this as meaning that compensation is not required for all residual impacts. However, they noted that paragraph 4.2.12 went on to say that, *'Applicants should set out how residual impacts will be compensated for as far as possible....'*

- 3.9.152. Suffolk County Council submitted *'Preliminary Ideas for Additional Strategic Planting in Suffolk'* [REP6-055], which provided, *'high-level preliminary ideas for potential additional mitigative or compensatory planting across the wider project area in Suffolk.'* The Applicant [REP-025] noted that the locations, *'have not been verified through field work'* and stood by its assessment [APP-074] and conclusion that further planting was unnecessary.

- 3.9.153. The ExA asked further questions of the parties about such compensation schemes [PD-008]. Babergh and Mid Suffolk District Councils [REP7-028] and Essex County Council and Braintree District Council [REP7-029] suggested a precedent in the High Speed Two Community and Environment Benefit Fund. They suggested a similar scheme around the Dedham Vale AONB and Stour Valley Project Area with opportunities to deliver benefits outside the area to ensure delivery of environmental projects in the most appropriate locations. They noted that the High Speed Two funds were channelled via the Groundwork Trust and suggested that the Dedham Vale National Landscape and Stour Valley Partnership could take a similar role.

- 3.9.154. Suffolk County Council [REP7-033] referred to agreements under s111 of the Local Government Act 1972 and precedents in the East Anglia Two and One North Offshore Wind Farm projects with East Suffolk Council. These were designed to compensate for residual environmental impacts and included measures such as landscape enhancement.

- 3.9.155. The Applicant [REP7-025] maintained that the mitigation (including compensation) required in accordance with the EIA Regulations was already secured as part of the application for development consent. It submitted that the tests for a s106 legal agreement or Regulation 122 of the CIL Regulations would not be met. It agreed that contractual arrangements could be entered into pursuant to s111 of the Local Government Act 1972, but it did not consider that to be appropriate, nor that a landscape restoration fund and a managing officer was proportionate or necessary.
- 3.9.156. In response to further questions from the ExA [PD-008], the Applicant concluded that Babergh and Mid Suffolk District Councils and Suffolk County Council were referring to an environmental benefit, rather than mitigation and compensation (which is over and above that required to make the development acceptable in planning terms). The Applicant noted that it was discussing community benefits with the host authorities outside the DCO process.
- 3.9.157. In the final version of its Status of Statements of Common Ground [REP10-004], the Applicant noted that landscape mitigation and the application of the mitigation hierarchy was not agreed with the local authorities, with full details of the positions set out in the final SoCG between the parties [REP10-006].

Reliance on natural regeneration to mitigate landscape impacts

- 3.9.158. The joint LIR from Babergh and Mid Suffolk District Councils and Suffolk County Council [REP1-045] raised concerns about reliance on natural regeneration to achieve visual mitigation in some of the larger areas, both in terms of establishment and aftercare.
- 3.9.159. The Applicant [REP3-049] defended the approach in the locations it had identified, and provided full details of why and how natural regeneration would be achieved, and the aftercare that would be provided.

Commitment to ongoing maintenance of mitigation planting

- 3.9.160. The matter of whether the Applicant's commitments to the aftercare of its planting proposals were sufficient to ensure adequate establishment are considered in the biodiversity section of this report (section 3.5). However, it is noted here that a failure to achieve proper establishment would have implications for the mitigation of landscape and visual impacts as well as biodiversity impacts.
- 3.9.161. In answer to a question from the ExA [PD-008], Essex County Council and Braintree District Council [REP7-029] considered that the commitments in the LEMP lacked realistic timescales to secure the integrity and benefit of the mitigation. They referred to paragraph 2.10.8 of the November 2023 draft NPS EN-5, suggesting that this was an essential policy to ensure the long-term management of necessary landscape mitigation, enhancement and compensation:

'Furthermore, since long-term management of the selected mitigation schemes is essential to their mitigating function, a management plan, developed at least in outline at the conclusion of the examination, and which sets out proposals within a realistic timescale, should secure the integrity and benefit of these schemes. This should also uphold the landscape commitments made to achieve consent, alongside any pertinent commitments to environmental and biodiversity net gain.'

- 3.9.162. A joint representation on behalf of all the host authorities [REP8-044] found the provisions for aftercare unacceptable. In particular, they considered the aftercare

period for some elements of the mitigation planting to be inadequate, and the lack of control afforded to the relevant local authorities unacceptable.

CONCLUSIONS

Protected landscapes

- 3.9.163. The ExA notes that from 22nd November 2023, and during the Examination, all designated AONBs in England and Wales became known as National Landscapes. The Dedham Vale AONB became the Dedham Vale National Landscape. Having asked relevant parties a written question about any implications of this [PD-008], the ExA concluded that the change of name would not make a material difference to the Examination or its considerations and recommendations. This Report uses the original name for consistency.
- 3.9.164. On 26 December 2023, also during the Examination, s245 of the Levelling-up and Regeneration Act 2023, which gained Royal Assent on 26 October 2023, amended the duty in the Countryside and Rights of Way Act 2000 in relation to AONBs. The amendment requires relevant authorities, '*...in exercising or performing any functions in relation to or so as to affect land in an AONB... to seek to further the purpose of conserving and enhancing the natural beauty of the AONB...*'
- 3.9.165. The explanatory note to the 2023 Act says:
- '...The clause strengthens the duty on certain public authorities when carrying out functions in relation to these landscapes to seek to further the statutory purposes and confers a power to make provision as to how they should do this'*
- 3.9.166. As reported in this section, the ExA [PD-008] sought views from relevant parties about the implications of this and possible ways of furthering the purpose of conserving and enhancing the natural beauty of the Dedham Vale AONB. It has taken the change in responsibility from 'to have regard to' to 'seek to further the purposes of' conserving and enhancing the natural beauty of the AONB into account.

Protected landscapes: Applicant's duty of regard to the purpose of the AONB

- 3.9.167. The ExA is content that the Applicant had proper regard to its statutory duties under s85 of the Countryside and Rights of Way Act, and that its approach, including the identification of opportunities to enhance the designated landscape through the removal of redundant infrastructure, is also broadly compliant with the new duty under the Levelling-up and Regeneration Act.

Protected landscapes: statutory purpose of the AONB

- 3.9.168. The ExA notes the Partnership's concern [REP3-067] that the ability to conserve and enhance natural beauty will be significantly impacted during the installation of the underground cables. However, it concurs with the Applicant's view that this would be temporary, and that long term benefits would accrue through the removal of the existing 132kV transmission line.
- 3.9.169. There was general agreement that the impacts would affect only a small part of AONB, and the ExA is satisfied that relatively few receptors would be affected.
- 3.9.170. It has given careful consideration to the matter of whether negative impacts to part of the AONB in this context should be seen as impacts to the AONB as a whole, as suggested by the Partnership. It found no convincing evidence of policy or guidance

that this should be the case. It does not consider the appeal decision quoted by the Partnership (APP/L3815/W/21/3289451, Hermitage) useful, given that it primarily relates to consideration of a what might constitute a negligible proportion of a protected landscape, and to the permanent adverse effects of housing within an AONB rather than a temporary adverse effect leading to an overall benefit to the AONB, as would be the case here.

- 3.9.171. As such, the ExA concurs with the Applicant's assessment in ES Chapter 6 [APP-074] that identifies a major temporary effect within 1km of the limits of deviation, but only a small effect on the AONB landscape at distances greater than 1km from the limits of deviation, and that its overall integrity would not be affected.

Protected landscapes: special qualities of the AONB

- 3.9.172. With the additional submissions during the Examination, the ExA is content that the Applicant made a satisfactory assessment of the Proposed Development's effect on the special qualities of the AONB. The ExA notes that there would be temporary negative impacts on landscape quality, scenic quality and relative tranquillity as a result of construction activities, and that these could not be fully mitigated. Nevertheless, it considers the Partnership's proposals for compensation to be disproportionate and not justified.

Protected landscapes: setting of the AONB and Stour Valley SLA

- 3.9.173. The ExA notes that, ultimately, there was no material disagreement between the parties about the definition of the setting of the Dedham Vale AONB and Stour Valley. The outstanding differences related to the assessment rather than the baseline, and whether there was a case for additional undergrounding to reduce impacts on the setting.
- 3.9.174. The ExA has considered the relevant policy in NPS EN-1, which differentiates between proposals within nationally designated landscapes, development outside designated landscape that might affect them, and those that are in other areas. It notes that the visibility of a project from within a designated area should not in itself be a reason for refusing consent.
- 3.9.175. In situations such as this, the 2024 NPS EN-5 requires the Secretary of State to be satisfied that an applicant has provided evidence to support a decision on whether undergrounding is or is not appropriate. As concluded in section 3.3 of this Report, the ExA is content that the Applicant has done so.

Location of Dedham Vale east cable sealing end compound

- 3.9.176. The ExA is satisfied that the Applicant properly considered the option of moving the Dedham Vale east cable sealing end compound to Layham Quarry, and while there would be technical, cost and environmental benefits and disbenefits for and against it, that - on balance - there was no convincing evidence that the alternative would be better than the Applicant's preferred location.

Selection and assessment of viewpoints

- 3.9.177. Essex County Council and Braintree District Council made several representations questioning the Applicant's selection and assessment of viewpoints, despite having been consulted pre-application and agreeing to the Applicant's approach. For some of these, the ExA believes that the local authorities were seeking additional photomontages to test mitigation planting effectiveness rather than additional viewpoints *per se*.

3.9.178. The ExA notes that the same viewpoints had been accepted by the local authority as part of the planning application for the proposed grid supply point substation and does not consider visualisations to be the only or indeed best way of making an assessment of visual impact and mitigation. Following oral and written submissions and observations during site visits, the ExA finds no reason to doubt that the Applicant's selection of viewpoints in the area in question responds appropriately to identified sensitive receptors.

Indicative alignment and limits of deviation

3.9.179. The ExA has a number of concerns about whether effects on landscape and views are based on a worst-case scenario in respect of the temporary or permanent removal of hedges and trees. It notes the Applicant's response that the assessment should be based on the analysis in ES Chapter 6 [APP-074] rather than the Arboricultural Impact Assessment [APP-067], which serves other purposes.

3.9.180. It finds the sensitivity testing to allow for the flexibility offered by the Order Limits (section 6.11 of the ES) somewhat cursory, opaque and unconvincing, especially in relation to the underground cabling and the potential variation in impact depending on where within the Order Limits the cables were to be installed. As such, the ExA has factored a possible underestimation of these impacts into its consideration, though it does not consider that they could be so much greater as to make any non-significant impacts reported in the Applicant's ES significant.

Retention of trees on the periphery of the Order Limits

3.9.181. Similarly, the ExA looked at the assumption in the Arboricultural Impact Assessment [APP-067] that trees on the periphery of the Order Limits would be retained and protected during construction. Whilst understanding that the assessment was that reported in the ES, it remains less than clear how the assessment was carried out in this respect, and whether the actual landscape and visual impacts that would accrue might be greater if peripheral vegetation was removed to accommodate construction. Again, it was not apparent if and how the sensitivity testing of the flexibility within the Order Limits had allowed for this.

3.9.182. The ExA notes that measure LV01 in the CoCP [REP9-035] (CEMP Appendix A) states that the contractors would retain vegetation where practicable, and that Appendix A of the LEMP, the Vegetation Retention and Removal Plan [APP-184], also showed, *'that the Applicant is intending to retain peripheral trees at the edge of the Order Limits'*. Whilst both would be secured through Requirement 4 of the dDCO, the ExA remains concerned that the commitment is modified by 'where practicable' and 'is intending', and it has concluded that no reliance can be placed on peripheral vegetation being retained in its considerations of potential impacts, particularly in the short to medium term.

The Vegetation Retention and Removal Plan

3.9.183. The ExA's concern about a lack of clarity as to whether the worst case had been accounted for in the visual assessment of tree and hedgerow loss carried through to the Vegetation Retention and Removal Plan [REP9-040]. The Applicant confirmed that this also had been based on an indicative alignment and acknowledged that losses could change from those assumed in the LEMP if the position or route of the Proposed Development changed within the Order Limits, in which case the mitigation detail would need to be updated. The Applicant said that a system for doing so could be secured through Requirements in the dDCO, but the ExA

concludes that this approach would rely on robust sensitivity testing, which was not apparent in the ES.

Generating the zone of theoretical visibility

- 3.9.184. The ExA sought clarification from the Applicant about how the ZTV had been generated. Given that the assessment was said to be worst case and undertaken on a precautionary principle, the ExA disagrees with the Applicant that it was reasonable to ignore the top 2.5m of pylons and the 4m vertical limit of deviation that was available in generating the ZTV. It was also unconvinced by the Applicant's explanation about why pylons in section H were ignored.
- 3.9.185. The ExA has therefore factored the possible implications of this seemingly less than precautionary approach into its considerations.

Impact of temporary construction infrastructure

- 3.9.186. The Applicant confirmed that the assessment of temporary access tracks had included any associated infrastructure such as bridges, though it acknowledged that their nature, size and design was unknown at the time of the assessment, so it had relied on assumptions.
- 3.9.187. The ExA concurs with Suffolk County Council and Babergh and Mid Suffolk District Councils that these works, and especially the bridges, have the potential to create temporary (up to four years) landscape and visual impacts, given that their height and span was unknown, and some would be required in areas of high sensitivity.
- 3.9.188. The ExA considers this a further example of possible underestimation of impacts on landscape and views, though not, on its own, to the extent that less than significant impacts might become significant.

Visual impact of the permanent access road to the Stour Valley east cable sealing end compound

- 3.9.189. The ExA accepts the Applicant's rationale for its choice of permanent access route to the Stour Valley east cable sealing end compound, and the inclusion of a mitigation measure to involve a landscape architect in detailed design to advise on suitable finishes.
- 3.9.190. The ExA notes paragraph 5.9.22 of NPS EN-1, which highlights that adverse effects on the landscape and views may be reduced through the appropriate siting of infrastructure, design (including colours and materials) and landscaping schemes, depending on the scale and type of the development, and that suitable finishes are just one part of what a landscape architect might offer to the design team.

Sequential effects

- 3.9.191. The ExA is content that, whilst not clearly labelled as such, the assessment set out at ES Appendix 6.5 Assessment of Visual Effects on Communities [\[APP-108\]](#) includes an assessment of the more important sequential effects on users of long-distance recreational routes such as the Painters Trail and Stour Valley Path.

Significance of impacts on views

- 3.9.192. Noting that determining the significance of impacts on views is largely based on professional opinion, and with the benefit of clarification and explanation during the

Examination, the ExA is generally content with the Applicant's assessment of visual effects and finds no reason to consider any further visual impacts as significant.

Sufficiency of landscape and visual mitigation at Bramford Substation

- 3.9.193. The ExA is content with the Applicant's conclusion that it is too early in terms of final designs of other projects to make a sufficiently accurate prediction of cumulative impacts to design further landscape and visual mitigation into the design of the Proposed Development at the Bramford Substation and notes its offer to remain engaged with the process going forward.

Sufficiency of mitigation of landscape and visual impacts at the cable sealing end compounds

- 3.9.194. With valuable input from the local authorities, some progress was made during the Examination in increasing the effectiveness of mitigation planting for the cable sealing end compounds, and in securing this for the lifetime of the infrastructure. During site inspections, the ExA noted the constraints on planting in some areas around the compounds, and in particular where buried cables approach the sealing end compound.
- 3.9.195. Some visual impacts would remain, but the ExA notes that the NPSs acknowledge that facilities such as these cable sealing end compounds are likely to have effects on the landscape, and it is content that the proposed mitigation and compensation planting schemes are proportionate.

Sufficiency of mitigation or compensation for landscape and visual impacts generally

- 3.9.196. Some early confusion over the Applicant's use of the mitigation hierarchy and whether more compensation should be provided was largely clarified during the Examination. The ExA understands the local authorities' concerns that some of the impacts of the Proposed Development on landscape and views cannot be fully mitigated but does not concur that this should automatically mean that some form of compensation must be provided.
- 3.9.197. It agrees with the Applicant that compensation is not treated in the same way as the other three elements of the hierarchy in planning policy terms, and that compensation does not reduce or overcome an adverse effect in terms of the EIA. The ExA does not believe that a compensation scheme of the sort promoted by the local authorities and the Partnership would be a proportionate response to the residual effects in this case, and notes that the Proposed Development in itself will bring some significant benefits to the landscape and views and that the Applicant is said to be discussing community benefits with the host local authorities outside the DCO process and ExA consideration.

Reliance on natural regeneration to mitigate landscape impacts

- 3.9.198. The ExA notes that the principal reasons behind the promotion of natural regeneration for some planning areas relates to biodiversity benefits rather than landscape and visual benefits, though these may also accrue. The ExA is content that, with an appropriate aftercare regime, the approach is appropriate in the areas for which it is proposed.

Commitment to ongoing maintenance of landscape and visual mitigation planting

- 3.9.199. The ExA notes the host authorities' concerns about the various aftercare periods for mitigation and enhancement schemes, but it is generally content that the Applicant's proposals are appropriate for achieving the successful establishment of the various planting types and areas.

Overall conclusion on landscape and views

- 3.9.200. The ExA is content that matters relating to effects on the Dedham Vale AONB and Stour Valley SLA and their settings were properly considered and assessed and recognises some longer-term benefits from the Proposed Development as well as the short-term significant adverse impacts resulting from construction activities and the time lag between completion and the recovery and maturation of replacement and mitigation planting. The Applicant took due account of the special qualities of the AONB and had regard to its statutory duties under the Countryside and Rights of Way Act. The ExA considers its approach to be broadly compliant with the new duty under the Levelling-up and Regeneration Act.
- 3.9.201. The ExA also concurs with the Applicant's assessment of significant impacts during construction on four landscape character areas and four local communities. While there would be long-term and significant benefits associated with the removal of the 132kV line, there would also be long-term significant adverse effects on the Suffolk Ancient Plateau Claylands landscape character area and community views from Hintlesham and Burstall.
- 3.9.202. As recognised by the NPSs, the landscape and visual impacts of several elements of the Proposed Development could not be fully mitigated. Overall, the ExA considers the Applicant's mitigation and enhancement proposals to be adequate.
- 3.9.203. The ExA considers that the Applicant's approach to making an assessment of an indicative scheme and then revisiting it to take account of the full flexibility of the limits of deviation that are sought is acceptable in principle. However, cumulatively, the rather cursory and opaque reporting of the sensitivity analysis in the ES, the less than robust securing of some assumptions such as the retention of peripheral vegetation and indications that the generation of the ZTV and assessment of construction-related infrastructure might not have been carried out on a precautionary basis lead the ExA to consider that the ES may have underestimated the magnitude of landscape and visual impacts that could occur during construction. It nevertheless considers it unlikely that the underestimation was sufficient to alter the conclusions on significant effects reported in the Applicant's assessment.
- 3.9.204. On balance, the ExA concludes that impacts on the landscape and views carry a little weight against the making of the Order.

3.10. LAND USE, SOIL AND GEOLOGY

INTRODUCTION

- 3.10.1. This section considers the effects of the Proposed Development in relation to land use, soil and geology.
- 3.10.2. The topic of ground conditions was included with geology in the Geology Baseline and Preliminary Risk Assessment [[APP-130](#)]. No specific impacts on ground

conditions were identified and any interrelated effects have been considered in this soil and geology section, and in the hydrogeology section of this Report.

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.10.3. Section 5.10 of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1) sets out policy for land use including open space and green infrastructure.
- 3.10.4. NPS EN-1 recognises that an energy infrastructure project may have effects on existing site uses of the proposed site and potentially on the use or planned use of land nearby (paragraph 5.10.1).
- 3.10.5. NPS EN-1 also refers to:
- Government policy to ensure there is adequate provision of high-quality open space to meet the needs of the local communities (paragraph 5.10.2).
 - The need for the Environmental Statement (ES) to identify existing and proposed land uses, any effects of replacing an existing use, and where the proposal may prevent a development or use on a neighbouring site from continuing (paragraph 5.10.5).
 - Mitigation of any adverse effects on green infrastructure and other open space (paragraph 5.10.21).
 - Where green infrastructure is affected, consideration of imposing requirements to ensure its connectivity is maintained (paragraph 5.10.20).
 - Considering the provision of new or additional open space, including green infrastructure, to substitute for any losses resulting from the proposal (paragraph 5.10.6).
- 3.10.6. With reference to agricultural land, paragraph 5.10.8 of NPS EN-1 seeks to minimise impacts on land in grades 1, 2 and 3a of the Agriculture Land Classification (ALC) ('Best and Most Versatile' land, BMV). Paragraph 5.10.15 requires the decision maker to ensure that development is not sited on BMV land without justification.
- 3.10.7. Impacts on soil quality generally should be minimised, and applicants should consider the risk posed by contamination on previously developed land.
- 3.10.8. In respect of mineral resources, paragraph 5.10.9 notes that applicants should safeguard any mineral resources on the proposed site as far as possible, taking into account the long-term potential of the resource after any future decommissioning. Where a proposal has an impact on a mineral safeguarding area, the decision maker should ensure that appropriate mitigation measures have been put in place to safeguard mineral resources (paragraph 5.10.22).
- 3.10.9. Paragraph 5.3.7 notes that development should avoid significant harm to geological conservation interests, while paragraph 5.4.4 requires the applicant to demonstrate how geological interests have been conserved and enhanced.
- 3.10.10. NPS EN-1 also requires the applicant to prepare a Site Waste Management Plan, including an assessment of the impact of the waste arising from development on the capacity of waste management facilities to deal with waste arising in the area for at least five years of operation (paragraph 5.14.6).

- 3.10.11. Paragraph 5.11.14 of the 2024 NPS EN-1 encourages applicants to develop and implement a Soil Management Plan to minimise potential land contamination and ensure beneficial reuse of soil resources.
- 3.10.12. The Secretary of State should have regard to the aims and goals of the Government's Environmental Improvement Plan 2023 and any relevant measures and targets, including statutory targets set under the Environment Act or elsewhere (paragraph 5.4.39). One of the ten goals of the Environmental Improvement Plan is to maximise resources and minimise waste.
- 3.10.13. Paragraph 5.15.16 requires the Secretary of State to use requirements or obligations where these are necessary to ensure appropriate measures for waste management are applied.

National Planning Policy Framework

- 3.10.14. Paragraphs 180(a) and 180(b) of the National Planning Policy Framework (NPPF) guide that planning decisions should protect and enhance geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan) and recognise the economic and other benefits of BMV land.

Local Impact Reports

- 3.10.15. Essex County Council and Braintree District Council's joint Local Impact Report (LIR) [\[REP1-039\]](#) refers to policy LPP70 for protection of soil quality, policy LPP52 for waste separation, and policy S8 for mineral safeguarding areas.
- 3.10.16. Suffolk County Council and Babergh and Mid Suffolk District Councils' joint LIR [\[REP1-045\]](#) refers to draft policy LP17 for the criteria to minimise the loss of BMV agricultural land, CS4 to avoid harming the quality of the soil whenever possible, and saved policy CL11 protection, which would be afforded to BMV land. The LIR also highlighted relevant Suffolk Minerals and Waste Local Plan Policies MS9, MS10, WP18 and MS5.
- 3.10.17. During the course of the Examination, Babergh and Mid Suffolk District Councils' Joint Local Plan replaced previously adopted Local Plans and Core Strategies (see Table A5, Summary of Relevant Local Policies, at Appendix A to this Report).

THE APPLICATION

- 3.10.18. Chapter 11 of the ES [\[APP-079\]](#) assessed agriculture and soils. The supporting appendices are listed in Table A7 of Appendix A to this Report.
- 3.10.19. ES Chapter 11 linked to ES Chapter 7 Biodiversity [\[APP-075\]](#) (effects on habitats that rely on soil types and characteristics), and ES Chapter 10 Geology and Hydrogeology [\[APP-078\]](#) (effects on land quality including contaminated land).
- 3.10.20. Geological matters were assessed in Chapter 10 Geology and Hydrogeology [\[APP-078\]](#). The supporting appendices are listed in Table A7 of Appendix A to this Report.
- 3.10.21. For green infrastructure, the Planning Statement [\[REP6-011\]](#) considered how the Proposed Development would meet national and local policy requirements. Paragraph 5.11.24 explains that green infrastructure was assessed in the relevant ES chapter such as habitats and designated sites (ES Chapter 7, Biodiversity), Public Rights of Way (ES Chapter 12, Traffic and Transport) and open space, parks

and gardens, amenity green space, playgrounds and cemeteries (Planning Statement).

- 3.10.22. For open space identified as special category land, the Statement of Reasons [REP9-011] considered that an exemption to special parliamentary procedure applied since the open space would be no less advantageous because of the Proposed Development. This is considered further in section 6 of this Report.
- 3.10.23. Examples of good practice measures were set out in the Construction Environmental Management Plan (CEMP) [REP9-033] and in the Code of Construction Practice (CoCP) [REP9-035]. Embedded measures were recorded in the Register of Environmental Actions and Commitments (REAC) [REP9-037]. The Planning Statement [REP6-011] noted that planting proposals for enhancement areas were designed to tie into the reinstatement set out in the Landscape and Ecological Management Plan (LEMP) [REP9-044] and would contribute to the objectives of the policy in terms of improving green infrastructure.

Baseline

- 3.10.24. Provisional ALC mapping was shown on Figure 11.2 and detailed ALC mapping on Figure 11.3 of the ES [APP-153]. The study area for soils was shown on Figure 11.1 [APP-153].
- 3.10.25. The agriculture and soils baseline characterisation drew on desk studies, site survey and data gathered from landowners and land managers. The land within the Order Limits was assessed as primarily arable, with some pasture, areas of fruit trees, small woodland areas. There are some agri-environment and forestry schemes.
- 3.10.26. The soil survey methodology and site survey results were described in ES Appendix 11.1, Agricultural Land Classification [APP-133]. Paragraph 11.5.7 of ES Chapter 11 [APP-079] noted there was 644ha of agricultural land within the Order Limits, with 244ha provisionally mapped as grade 2 and 340ha mapped as grade 3. ES Figure 11.2, Provisional Agricultural Land Classification Mapping [APP-153], did not distinguish between grade 3a and grade 3b areas but grouped them as grade 3.
- 3.10.27. Detailed ALC survey results were submitted for the cable sealing end compounds, the grid supply point substation and the Stour Valley underground cabling section. Areas of grade 3a and 3b were shown for these areas on ES Figure 11.3, Detailed Agricultural Land Classification Mapping [APP-153]. Table 11.3 of ES Chapter 11 [APP-079] detailed the ALC grades affected by the four cable sealing end compounds, and Table 11.2 [APP-079] detailed the ALC grades within the underground cable sections. There were no soil surveys for the overhead line sections.
- 3.10.28. Table 11.2 in ES Chapter 11 [APP-079] indicated that 79.4ha of assumed BMV land would be affected by the underground cable sections and cable sealing end compounds.
- 3.10.29. Paragraph 4.4.78 of ES Chapter 4, Project Description [APP-072], assumed that suitable soil would be re-used on site and that excess spoil would be taken off site. Section 2.4 of the Materials and Waste Management Plan (MWMP) [REP3-032] referred to *Definition of Waste: Development Industry Code of Practice Contaminated Land: Applications in Real Environments*, 2011 (CL:AIRE 2011) and the use of excavated materials as non-waste. ES Table 4.5 provided estimates for the types of construction waste that might be anticipated to arise. Section 6.5 of the

MWMP, Handling and Disposal of Waste During Construction, listed typical types of waste (though without quantities), and section 6 outlined the approach to waste identification, waste exemption and permitting.

- 3.10.30. The study area for geology and minerals reserves was shown on ES Figures 10.1 to 10.3 [APP-153]. Figure 10.1 also showed the location of previous ground investigations.
- 3.10.31. The geology of the study area comprised superficial Glacial Till deposits overlying undifferentiated Glacial and Fluvial Sands and Gravels. The type of bedrock beneath the superficial deposit depended on local topography. At river valleys, Alluvium, River Terrace Deposits and Head Deposits were noted, occasionally underlain by Glacial Till deposits or by local bedrock. The ground investigation data showed that the geological strata encountered was found to be in general agreement with the regional geological mapping. Further detail on geology was included in ES Appendix 10.1, Geology Baseline and Preliminary Risk Assessment [APP-130].
- 3.10.32. ES Appendix 10.3, Mineral Resource Assessment [APP-132], identified that approximately 61% of the Order Limits was located within a Suffolk County Council mineral consultation area. This equated to 0.15% of the overall mineral consultation area in the county. For Essex, approximately 84% of the Order Limits would be in a safeguarding area for sand and gravel, equating to approximately 0.1% of the wider mineral safeguarding area.
- 3.10.33. ES Appendix 10.1, Geology Baseline and Preliminary Risk Assessment [APP-130], identified five sites with moderate or higher potential for significant contamination from former use (ES Figure 10.5 [APP-153]).
- 3.10.34. Land identified for enhancements was not assessed in the ES and has been addressed separately in the Environmental Gain Report [APP-176].

Construction

- 3.10.35. Soil stripping would occur at the cable sealing end compounds, the grid supply point substation, generally for 80m of the 100m corridor width along underground cable sections, and at the pylon bases and crane pads along the overhead line sections. It would also be necessary for associated working areas, temporary access routes and construction compounds. The assessment assumed that there would be no soil stripping associated with the trenchless crossings other than for the drill pits and temporary access routes.

Soils

- 3.10.36. Soil stripping, vehicle tracking and other construction activities could cause compaction and more generally affect soil quality. Given the flexibility in the draft Development Consent Order (dDCO), this could in theory occur in any part of the Order Limits.
- 3.10.37. The CEMP [REP9-033] outlined best practice and mitigation measures for soil handling and reinstatement. With these in place, the impact on soils was assessed as minor adverse to neutral, and not significant.

Best and Most Versatile land

- 3.10.38. Construction activities such as topsoil stripping, earthworks and the building and removal of infrastructure could have an impact on BMV land.

Impacts on agricultural activities and operation including viability of landholdings

- 3.10.39. ES Chapter 11, Agriculture and Soils [[APP-079](#)], recognised there would be a temporary disruption to agricultural operations during construction. At the grid supply point substation, there would be a temporary loss of 6.95ha of land from arable production. The impact was considered to be of medium magnitude on a receptor of low sensitivity, resulting in a short term, minor adverse effect which would not be significant.

Mineral deposits

- 3.10.40. The extent of mineral deposits sterilised by the Proposed Development was assessed as small in the context of occurrence of sands and gravels within the counties of Suffolk and Essex, and the operational impact on Layham Quarry was assessed as negligible. ES Chapter 10, Geology and Hydrogeology [[APP-078](#)], concludes that there would be no likely significant effects.

Contaminated land

- 3.10.41. Further evaluation of the five sites identified as having moderate or higher potential for significant contamination concluded low risk in each case. The assessment concluded that there were no likely significant effects.

Open space

- 3.10.42. Table 9.2 of the Planning Statement, Open Space Assessment [[REP6-011](#)], identified open spaces where some short-term disturbance could occur during construction. It found no material long-term impacts.

Sensitivity testing

- 3.10.43. Sensitivity testing was applied to the assessments in ES Chapter 11, Agriculture and Soils [[APP-079](#)], and ES Chapter 10, Geology and Hydrogeology [[APP-078](#)] to consider any possible changes to the final construction schedule, design and construction methods. This concluded that there would be no new or different likely significant effects.

Operation

- 3.10.44. Paragraph 11.4.19 of ES Chapter 11, Agriculture and Soils [[APP-079](#)], noted that the permanent land-take associated with the cable sealing end compounds, the grid supply point substation, permanent access tracks and the pylon bases would be approximately 11.6ha.
- 3.10.45. Disturbance to soils and BMV land due to maintenance and repair works would represent a minor or neutral effect, which was not considered significant.
- 3.10.46. Disruptions to agriculture operations would be a minor or neutral effect, which would be not significant.
- 3.10.47. Maintenance work at the grid supply point substation would result in a neutral effect, which would not be significant.

- 3.10.48. The agricultural land beneath the decommissioned 132kV overhead would be reinstated (where not replaced by 400kV overhead line), resulting in a long term, minor beneficial effect, which would not be significant.
- 3.10.49. There would be a small impact on the mineral safeguarding area for sands and gravels, resulting in a long term, minor effect. There would be a long term, minor effect on Layham Quarry. Neither was considered significant.

Decommissioning

- 3.10.50. ES Chapter 4, Project Description [[APP-072](#)], concluded that decommissioning activities such as the removal of the infrastructure would lie largely within the Applicant's land and would affect a smaller area of soils than that disturbed during construction. As such, it considered any significant effects on agriculture and soils during decommissioning unlikely.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

Baseline characterisation including impacts on BMV land

- 3.10.51. A number of Interested Parties (IPs) were concerned with baseline characterisation and the impact on BMV land. In its Relevant Representation (RR), Suffolk County Council [[RR-006](#)] recognised there would be limited negative impacts on BMV land so long as appropriate soil handling techniques were guaranteed. Essex County Council [[RR-004](#)] raised concerns regarding missing baseline data and effects on agriculture land and soils.
- 3.10.52. The joint LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [[REP1-045](#)] recognised that areas of BMV land would be unavailable during construction and operation, and soil remediation would be required. Essex County Council and Braintree District Councils' joint LIR [[REP1-039](#)] referred to ALC, unsampled soil areas and effects on BMV land.
- 3.10.53. Natural England's RR [[RR-042](#)] raised points related to soil and ALC surveys. The Applicant [[REP1-025](#)] confirmed surveys would be undertaken prior to construction where appropriate and was confident that these would not change the assessment in the ES [[APP-079](#)].
- 3.10.54. In response to a written question from the ExA (LU1.10.3 [[PD-005](#)]), the Applicant [[REP3-052](#)] confirmed that where soil surveys had not been completed, the assessment assumed a reasonable worst case that land provisionally classified as grade 3 would comprise BMV land.
- 3.10.55. Natural England noted that due to a lack of detailed, site-specific soil and ALC survey in the ES, it was not possible to provide an accurate baseline or demonstrate the likely potential impacts [[REP5-037](#)]. The Applicant explained [[REP6-046](#)] that it had assumed that all of the soil within the Order Limits was BMV land, and confirmed that detailed, site-specific surveys had been undertaken at the grid supply point substation, the four cable sealing end compounds and along the underground cable sections.
- 3.10.56. The ExA was unclear about the extent and disposition of BMV within the Order Limits and asked the Applicant a number of written questions ([[PD-005](#)] and [[PD-008](#)]). Initially the Applicant [[REP3-052](#)] confirmed there would be temporary effects on BMV land during construction due to soil stripping, but that no significant effect had been identified. The Applicant later confirmed [[REP7-025](#)] that, of the 644ha

within the Order Limits, some 244ha was grade 2 land and 340ha was grade 3 land. This assumed 584ha of BMV land equated to approximately 91% of the total. The Applicant did not confirm the area of BMV land that would be temporarily and permanently affected, but it did note that the majority of land required would be reinstated at the end of the construction phase.

- 3.10.57. The Applicant [REP7-025] also confirmed that approximately 171ha of BMV land would be stripped of topsoil. Overall, the Proposed Development would result in a permanent loss of 11.6ha of BMV land, which equates to an overall BMV land loss of 2% within the Order Limits.
- 3.10.58. The Applicant acknowledged that the ES excluded BMV land associated with the pylon bases [REP7-025]. It explained that this was due to the size and occurrence of the new pylon bases compared with the number of existing pylons being replaced which would balance the loss of the BMV land. (Though the ExA notes that the 11.6ha permanent land take provided by the Applicant includes pylon bases (paragraph 11.4.19, [APP-079].) The CoCP [REP9-035] includes a commitment in relation to depth and condition for soils being returned to agriculture.
- 3.10.59. The ExA asked (LU2.10.6 [PD-008]) whether the Applicant had considered ALC mapping in its considerations of strategic and detailed alternatives. The Applicant advised [REP7-025] that the four route corridors were all found to largely lie within BMV land, and that BMV land was therefore not a material differentiating factor. For the same reason, there was no opportunity to micro-site the grid supply point substation and cable sealing end compounds onto non-BMV land.

Soils

- 3.10.60. A number of IPs raised concerns regarding impacts on soil, including Braintree District Council [RR-002], Essex County Council [RR-004] and Little Maplestead Parish Council [RR-017].
- 3.10.61. At Issue Specific Hearing 1 (ISH1), the ExA examined the approach to the handling of excavated materials, and whether it was practicable to store soils as shown on the Design and Layout Plans Cable Working Cross Section [APP-027]. The Applicant suggested [REP1-034] this was an indicative drawing that was not to scale, and that prior to undertaking the works the main contractor would develop the construction phasing for soil.
- 3.10.62. In response to an ExA written question about the handling of excavated materials (LU2.10.8 [PD-008]), the Applicant [REP7-025] referred to section 11 of the CEMP [REP9-033] and confirmed that measures would be implemented in relation to soil survey, scheduling, storage and monitoring. Paragraph 11.3.12 of the CEMP [REP9-033] notes that soil stripping method would follow the guidance set out in the *Construction Code of Practice for the Sustainable Use of Soils on Construction Sites* (Defra, 2009).
- 3.10.63. Responding to another question (LU2.10.10 [PD-008]), the Applicant confirmed that the assumed construction topsoil stripping area was approximately 171ha [REP7-025]. The aftercare period would commence after soil characteristics required to achieve the reinstatement standard had been confirmed.
- 3.10.64. Natural England [REP5-037] indicated that the principle of including a Soil Management Plan (SMP) in the CEMP was acceptable, but it was concerned that the CEMP had not been informed by site-specific soil information. The Applicant

noted [REP6-046] that the main works contractor would draw on the original soil survey results to inform site-specific soil storage and reinstatement measures.

- 3.10.65. Essex County Council and Braintree District Council [REP8-040] submitted an expert review of the agriculture and soil protection measures in the Applicant's CEMP [REP6-021] and its Appendices [REP3-026 and REP6-023]. This did not agree that the CEMP fulfilled the function of a SMP and recommended the production of an outline SMP, then a detailed SMP after the appointment of a contractor. The Applicant updated the CEMP [REP9-033] to include a commitment to produce a SMP prior to construction for each stage of the authorised development. This would be secured by Requirement 14 of the rDCO.
- 3.10.66. Through its Register of Environmental Actions and Commitments [REP9-037], an Appendix to the CEMP [REP9-033], the Applicant committed to undertake condition surveys (GG06), to protect earthworks and stockpiled soil (GG18), to undertake targeted pre-construction soil surveys for underground cable sections (AS10), and to include soil management measures (AS01) and a soil condition measure (AS02) for land being returned to agricultural use.

Effects on agricultural operations

- 3.10.67. Several IPs raised concerns about the impact of the Proposed Development on agricultural operations and UK food production. Belinda Nott [RR-107] was worried about the effects of a proposed haul road on arable land, Janet Bond about agricultural production and the livelihood of landowners and farmers [RR-060], and the Howards [RR-090] about impacts on their fruit growing business.
- 3.10.68. The joint LIR from Essex County Council and Braintree District Council [REP1-039] raised concerns about the proposed haul route from the A131 to the Stour Valley west cable sealing end compound and its impact on the effective functioning of agricultural land for the affected landowners.
- 3.10.69. In response to a written question from the ExA (LU1.10.20 [PD-005]), the Applicant [REP3-052] considered that any economic effects on landowners due to fragmentation of land holdings during construction should be addressed through compensation payments. It noted that the Proposed Development would result in a permanent loss of 11.6ha of land, equating to 0.00010% of the proportion of agricultural land available in England. It did not consider this to be a significant effect on national food production.
- 3.10.70. The Applicant's response [REP3-052] to a written question from the ExA about possible effects on a fruit growing business (AQ1.1.14 [PD-005]) noted that a particular unplanted strip of land would not be suitable for orchard tree growing in the future due to the need to protect the proposed underground cables. The strip of land amounted to 0.85ha of a holding the Applicant estimated to extend to 5.4ha, or approximately 15% of the holding. ES Chapter 11, Agriculture and Soils [APP-079], noted that suitable methods would be used to protect orchard trees when lowering and removing the 132kV overhead line (EM-E03).
- 3.10.71. The Applicant's response [REP7-025] to a further ExA written question (LU2.10.1 [PD-008]) suggested that any temporary effects on the operational effectiveness of individual land holdings caused by access interruption could be mitigated. This commitment is recorded as measure AS03 in the REAC [REP9-037].

CONCLUSIONS

Best and Most Versatile land

- 3.10.72. The Applicant's approach of assuming that all grade 3 land is BMV provides a reasonable worst-case scenario for the purpose of the EIA. The Applicant confirmed site surveys would be undertaken prior to construction where appropriate and was confident the assessment [APP-079] would not change as a result. The CEMP [REP9-033] confirms that pre-construction soil surveys would be undertaken where stripping is proposed for underground cabling where there is no existing data. Taking all of these matters into account, the ExA is satisfied that the baseline characterisation of BMV is adequate.
- 3.10.73. The ExA is satisfied that, in respect of paragraphs 5.10.8 and 5.10.15 of NPS EN-1, the Applicant has sought to minimise impacts on, and justified the reasons for including parts of the Proposed Development on BMV land.

Soil

- 3.10.74. The ExA notes that the local planning authorities objected to the making of the Order ([REP9-072] and [REP10-018]), partially on the grounds of the status of the control document management plans. They judged that the management plans should be considered outline, and that final versions of each that would require their approval should be submitted by the Applicant post-consent. The Applicant held a different position on this matter. The reasoning is summarised in the Statement of Common Ground between the Applicant and the local authorities [REP10-006].
- 3.10.75. The ExA considers the CEMP, MWMP and CoCP to be high level management plans that include some rather generic approaches to mitigation. For example, good practice measure AS01 in the REAC [REP9-037], an Appendix to the CEMP [REP9-033], includes indicative soil storage locations, and notes that soil stockpiles would be designed taking into consideration site conditions and the nature and composition of the soil. Paragraph 11.3.8 of the CEMP [REP9-033] says that as part of detailed site planning (and in advance of any soil stripping activities) the contractor would identify suitable locations for soil storage and soil storage methods based on the soil type and land grade. The Applicant [REP1-034] confirmed that prior to undertaking works, the main works contractor would develop the sequence of excavation, stockpiling, duct installation and backfill for the six trenches in each linear section.
- 3.10.76. The MWMP refers to protecting soils during construction and allowing the application of the correct processes for storage and reuse to maintain their classification as non-waste material through CL:AIRE 2011.
- 3.10.77. Table 4.5 in ES Chapter 4, Project Description [APP-072], gives examples of key waste and quantities anticipated. The MWMP (paragraph 6.4.2) refers to waste being considered during the detailed design stage, and that the contractor would use the detailed design drawings to inform the procurement strategy. Section 6.5 gives typical examples of waste products.
- 3.10.78. Given the high-level nature of some of these controls, as information about soils, materials and waste becomes more clearly defined during the detailed design and construction phase, the ExA considers that it would be appropriate for it to be shared with the relevant planning authority.

- 3.10.79. The ExA therefore considers that detailed written plans for the management of materials and waste that are in accordance with the CEMP, MWMP and CoCP should be produced by the Undertaker and submitted to the relevant planning authorities. The ExA recommends this is secured through Requirement 4(4) of the rDCO.
- 3.10.80. A detailed written plan for the management of waste would better satisfy paragraph 5.14.6 of NPS EN-1, which requires an applicant to provide details of any arrangements that are proposed for managing any waste produced and to prepare a Site Waste Management Plan. A detailed written plan for the management of material would also align with CL:AIRE 2011 and reflect paragraph 180(a) of the NPPF that planning decisions should protect and enhance soils.
- 3.10.81. The ExA is satisfied that a SMP would help to minimise impacts on soil quality and is satisfied that it can be secured through the CEMP and Requirement 14 of the rDCO.

Effects on agricultural operations

- 3.10.82. The ExA understands discussion with affected landowners on Heads of Terms are progressing [[REP10-012](#)]. The ExA agrees with the Applicant that, where effects on income cannot be mitigated, the compensation code provides the appropriate vehicle for any recompense for landowners.

Overall conclusion on land use, soil and geology

- 3.10.83. The ExA is satisfied that the Proposed Development would accord with the policy requirements of the extant NPS EN-1 and NPS EN-5, and that consideration of the 2024 energy NPSs would not alter this conclusion.
- 3.10.84. The ExA recognises that there would be a permanent loss of 11.6ha of BMV land. Taking into account the mitigation secured through the rDCO, the ExA concludes that land use, soil, and geology effects carry moderate negative weight against the Order being made.

3.11. NOISE AND VIBRATION

INTRODUCTION

- 3.11.1. This section considers the noise and vibration effects of the Proposed Development.

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.11.2. Section 5.11 of Overarching National Policy Statement for Energy (NPS EN-1) provides guidance for the assessment of noise and vibration. Paragraph 5.11.4 notes that an applicant's noise assessment should include:
- a description of the noise generating aspects of the proposal leading to noise impacts, including the identification of any distinctive tonal, impulsive or low frequency characteristics of the noise;
 - identification of noise sensitive premises and noise sensitive areas that may be affected;
 - the characteristics of the existing noise environment;
 - a prediction of how the noise environment will change with the Proposed Development;

- in the shorter term such as during the construction period;
 - in the longer term during the operating life of the infrastructure;
 - at particular times of the day, evening and night as appropriate;
 - an assessment of the effect of predicted changes in the noise environment on any noise sensitive premises and noise sensitive areas; and
 - measures to be employed in mitigating noise.
- 3.11.3. The nature and extent of the noise assessment should be proportionate to the likely noise impact.
- 3.11.4. NPS EN-1 also addresses:
- the consideration of ancillary activities such as construction traffic (paragraph 5.11.5);
 - the use of relevant British Standards and other guidance (paragraph 5.11.6);
 - the assessment of noise effects on important wildlife (paragraph 5.11.7);
 - using good design to contain noise and reduce its transmission (paragraph 5.11.8); and
 - whether mitigation measures beyond those in the application are required (paragraph 5.11.11).
- 3.11.5. Paragraph 5.11.9 of NPS EN-1 requires the Secretary of State to be satisfied that the Proposed Development would avoid, mitigate and minimise noise impacts on health and quality of life, and if possible, contribute to health and quality of life improvements through the effective management of noise.
- 3.11.6. Further assessment guidance for noise sources associated with electricity networks is provided in section 2.9 of the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5).
- 3.11.7. Paragraph 2.9.2 recognises that high voltage transmission lines have the potential to generate noise under certain conditions. For rain-induced noise on overhead lines, NPS EN-5 refers to an alternative assessment methodology developed by National Grid (Technical Report No. TR(T) 94, 1993. *A Method for Assessing the Community Response to Overhead Line Noise*, National Grid Technology & Science Laboratories).
- 3.11.8. Potential mitigation measures such as the positioning of the lines, use of an appropriately sized conductor arrangement, quality assurance through manufacturing and transportation, and stringing and installation of conductors are considered in paragraph 2.9.12.
- 3.11.9. Paragraph 2.9.13 says that the Environmental Statement (ES) should include information on planned maintenance arrangements. Where this is not the case, the Secretary of State should consider including these by way of requirements attached to any grant of development consent.
- 3.11.10. Section 5.3 of the 2024 NPS EN-1 refers to noise and vibration. This generally reflects the policy in the extant NPS EN-1, including requiring the Secretary of State to consider whether mitigation measures are needed for operational and construction noise over and above those which form part of the application (paragraph 5.12.13). Paragraph 5.12.17 relates to the mitigation and minimisation of adverse impacts on health and quality of life from noise.
- 3.11.11. The 2024 NPS EN-5 similarly develops the policy set out in the extant NPS in relation to noise. It recognises that surface contamination or accidental damage to a

conductor can result in additional noise, and paragraph 2.10.9 lists the mitigation measures the Applicant should consider.

National Planning Policy Framework

- 3.11.12. Paragraph 191(a) of the National Planning Policy Framework (NPPF) guides that planning decisions should mitigate and reduce potential adverse impacts resulting from noise from new development to a minimum and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Planning Practice Guidance

- 3.11.13. Noise needs to be considered when the construction or operation of a development may create additional noise, including identifying whether the overall effect of noise exposure would be above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation.

Noise Policy Statement for England

- 3.11.14. The Noise Policy Statement for England (NPSE) refers to No Observed Effect Level (NOEL) and the Lowest Observed Adverse Effect Level (LOAEL). The former is the level below which there is no detectable effect on health and quality of life due to the noise, with the LOAEL being the level above which adverse effects on health and quality of life can be detected. The NPSE includes the concept of Significant Observed Adverse Effect Level (SOAEL), which is the level above which significant adverse effects on health and quality of life occur.
- 3.11.15. Paragraph 2.22 of the NPSE comments that it is not possible to have a single objective noise-based measure that defines the SOAEL that is applicable to all noise sources in all situations. Therefore, SOAEL is likely to be different for different noise sources and receptors and at different times.
- 3.11.16. Paragraph 2.23 notes that significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development.
- 3.11.17. In terms of where the impact lies between LOAEL and the SOAEL, paragraph 2.24 identifies a second aim to take all reasonable steps to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development. It also states that this does not mean that such adverse effects cannot occur.

Local Impact Reports

- 3.11.18. The Essex County Council and Braintree District Council joint Local Impact Report (LIR) [\[REP1-039\]](#) listed relevant policies as SP7 for noise and vibration and LPP70 for noise. The Suffolk County Council and Babergh and Mid Suffolk District Councils joint LIR [\[REP1-045\]](#) referred to noise-related policies CS4 and LP17.
- 3.11.19. During the Examination, Babergh and Mid Suffolk District Councils' joint local plan replaced previously adopted local plans and core strategies (Table A5, Summary of Relevant Local Policies, at Appendix A to this Report).

THE APPLICATION

- 3.11.20. The Applicant's assessment of noise and vibration impacts was primarily set out in Chapter 14 of the ES [\[APP-082\]](#). The Technical Note for Noise Sensitive Receptors

[[REP6-047](#)] provided a further assessment of construction activities on local receptors. The supporting figures and appendices are listed in Table A7 of Appendix A to this Report.

- 3.11.21. ES Chapter 7, Biodiversity, [[APP-075](#)] considered noise and vibration effects on ecological receptors and ES Chapter 8, Historic Environment, [[APP-076](#)] considered noise and vibration effects in relation to historical assets and listed buildings.
- 3.11.22. Proposed mitigation measures were included in ES Chapter 14 [[APP-082](#)]. Examples of best practicable means for reducing and mitigating noise were set out in the Construction Environmental Management Plan (CEMP) [[REP9-033](#)], with good practice measures listed in the Code of Construction Practice (CoCP) [[REP9-035](#)] and committed mitigation measures recorded in the Register of Environmental Actions and Commitments (REAC) [[REP9-037](#)].
- 3.11.23. ES Chapter 14 [[APP-082](#)] considered that significant effects would occur where there was at least a medium magnitude impact for a period of at least ten days in any fifteen consecutive days or forty days in any consecutive six-month period.

Baseline

- 3.11.24. Baseline noise surveys undertaken at the grid supply point substation site informed the scoping out of operational noise.
- 3.11.25. The study areas were:
- For the overall noise and vibration assessment, to 1km beyond the Order Limits (ES Figure 14.1 Noise Baseline [[APP-154](#)]).
 - For construction noise, sensitive receptors within and up to 300m beyond the Order Limits.
 - For construction vibration impacts, 100m from the closest construction activity where there was a potential for vibration impacts at sensitive receptors.
 - For construction traffic noise, the extent of the traffic routes study area was based on the Traffic and Transport Study Area (ES Figure 12.1 [[APP-153](#)]).

Construction

- 3.11.26. The key parameters and assumptions used for the assessment were described in ES Chapter 14, Noise and Vibration (paragraph 14.4.33 [[APP-082](#)]). The assessment considered information in ES Chapter 4, Project Description [[APP-072](#)], such as horizontal direction drilling, core working hours and exceptions, types of construction machinery, and construction traffic data.
- 3.11.27. Indicative noise and vibration levels associated with likely construction activities were included in ES Appendix 14.1, Construction Noise and Vibration Data [[APP-136](#)].
- 3.11.28. The baseline construction schedule [[APP-091](#)] indicated that construction would last approximately 4 years (from 2025 to 2028).
- 3.11.29. Construction noise would be generated by various activities, notably cutting existing pylons, breaking out piled foundations, new piling and drilling. It was assessed using BS 5228-1 (*Code of practice for noise and vibration control on construction and open sites, Part 1: Noise*) and the Design Manual for Roads and Bridges (LA 111 *Noise and Vibration*). The ES used the SOAEL relative to the ambient noise level as it considered that baseline noise surveys would raise the lower SOAEL threshold.

The predicted construction noise levels at noise sensitive receptors were compared against the lower noise thresholds (Category A), as detailed in section E.3.2 of BS 5228-1, which were considered by the Applicant to represent the SOAEL threshold levels:

- 65dB LAeq,T during daytime periods (7.00am to 7.00pm and Saturdays 7.00am to 1.00pm);
- 55dB LAeq,T during evenings and weekends, weekdays, 1.00pm to 11.00pm Saturdays and 7.00am to 11.00pm Sundays); and
- 45dB LAeq,T during night-time periods (11.00pm to 7.00am).

- 3.11.30. During the daytime, potential adverse impacts (greater than LOAEL 50dB LAeq,10h) were predicted to occur at approximately 270 noise sensitive receptors (ES Figure 14.2, Construction Noise Effects [APP-154]). ES Table 14.1 [APP-082] indicated that, without additional mitigation, there would be significant adverse residual effects from seven construction sites at six residential noise sensitive receptors and one non-residential noise sensitive receptor. This represented short-term, moderate, adverse effects.
- 3.11.31. However, daytime construction noise levels could be mitigated further and reduced to a level at which significant adverse effects would be avoided at all noise sensitive receptors by incorporating best practicable means and additional measures (commitment EIA_NV01 in the REAC [REP9-037]), reducing the residual effect to short-term, neutral to minor adverse, which was not considered significant.
- 3.11.32. The Technical Note for Noise Sensitive Receptors [REP6-047] found four additional construction locations (beyond those identified in the ES) that would lead to construction noise levels in excess of the 55dBA threshold for weekend working at six noise sensitive receptors. As the duration for these construction activities would be relatively short, the Applicant considered that no significant adverse effects would be expected during weekends and Bank Holidays.
- 3.11.33. Significant potential, short-term, adverse night-time noise effects were predicted from three construction sites at 12 residential noise sensitive receptors (Table 14.1, [APP-082]). The assessment concluded that these noise levels could be reduced such that residual significant effects could be avoided at all receptors by incorporating best practicable means and additional mitigation (commitment EIA_NV01 in the REAC [REP9-037]).
- 3.11.34. Construction vibration would derive from activities such as cutting existing pylons, breaking out piled foundations, new piling and drilling. It was assessed in accordance with the methodologies described in BS 5228-2 (*Code of practice for noise and vibration control on construction and open sites – Part 2: Vibration*). The predicted vibration levels at sensitive receptors were compared against threshold levels in BS 5228-2 to determine potential significant adverse effects.
- 3.11.35. Approximately 30 residential receptors were predicted to experience construction vibration greater than LOAEL, which is 0.3 mm/s peak particle velocity (PPV). However, the assessment did not consider these effects significant.
- 3.11.36. The construction vibration level would exceed SOAEL (1mm/s PPV) at four residential receptors (ES Table 14.2, [APP-082]). A significant potential adverse effect was predicted at one of these over the short term. The assessment considered that significant adverse effects could be avoided at all sensitive

receptors by incorporating best practicable means and additional mitigation (commitment EIA_NV02 in the REAC [\[REP9-037\]](#)).

- 3.11.37. Construction vehicles using local roads were identified as a potential source of noise impact for community receptors. The assessment was based on the methodology in *Calculation of Road Traffic Noise* (Department of Transport and Welsh Office, 1988). It considered the change in noise level at 10m from the road, and assessed the impacts on noise sensitive receptors within 50m of routes where the potential for significant effects was identified.
- 3.11.38. The construction traffic noise assessment [\[APP-137\]](#) indicated a potential minor impact on 'Church Road 2' (between the A131 and Henny Road, Lamarsh via Twinstead), but no significant effects were identified.

Sensitivity testing

- 3.11.39. ES Chapter 14, Noise and Vibration (section 14.11, [\[APP-082\]](#)), described sensitivity testing that had been undertaken to account for activities associated with the alternative construction schedule, flexibility with trenchless crossings, flexibility in construction method, flexibility within the Order Limits, and flexibility in construction routes. The sensitivity exercise identified potential short-term, significant adverse effects at four additional noise sensitive receptors but with mitigation there would be no residual significant effects.

Operation

- 3.11.40. The scoping opinion [\[APP-159\]](#) confirmed that operational noise from the grid supply point substation, overhead line, cable sealing end compounds and underground cables could be scoped out of the ES in relation to human receptors.
- 3.11.41. The Applicant submitted an Overhead Line Noise Assessment as ES Appendix 14.3 [\[APP-138\]](#) and a GSP Substation Noise Assessment as Appendix 14.4 [\[APP-139\]](#) to demonstrate compliance with the assumptions on which the scoping opinion was based. These identified a noise enclosure around the transformers (commitment EM-H01 in the REAC [\[REP9-037\]](#)). Triple Araucaria conductors (or a similar alternative technology) would be used for the overhead lines to reduce noise (commitment EM-H01 in the REAC [\[REP9-037\]](#)).
- 3.11.42. In response to a written question from the ExA (NV2.11.15, [\[PD-008\]](#)), the Applicant [\[REP7-025\]](#) noted that any noise associated with the transition from overhead lines at cable sealing end compounds is generated by the same mechanism as overhead lines. The Applicant confirmed that there is no mechanism by which noise can be generated by underground cables.
- 3.11.43. The Applicant's response [\[REP7-025\]](#) to another written question from the ExA about the avoidance of operational noise (NV2.11.21, [\[PD-008\]](#)) referred back to the relevant ES Chapters and Appendices to explain its approach to the positioning of the lines, the use of appropriately sized conductor arrangement, quality assurance through manufacturing and transportation, and the stringing and installation of conductors.
- 3.11.44. No significant operational vibration effects were anticipated.

Decommissioning

- 3.11.45. Chapter 4 of the ES, Project Description [[APP-072](#)], identified demolition of buildings and dismantling of pylons as noisy activities during decommissioning. It concluded that these were unlikely to exceed the corresponding noise levels generated during construction and that there would be no significant decommissioning noise and vibration effects.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

Construction working hours during weekends and Bank Holidays

- 3.11.46. In their Relevant Representations (RRs), several Interested Parties raised concerns about the almost continuous daytime noise from construction activities as a result of the core construction working hours proposed in the application. These were between 7.00am and 7.00pm Monday to Friday, and between 8.00am and 5.00pm on Saturday, Sunday and a Bank Holiday. Start-up and close down activities would be permitted up to one hour either side of these core hours.
- 3.11.47. Suffolk County Council [[RR-006](#)] and Babergh and Mid Suffolk District Council [[RR-001](#)] were opposed to construction work on Saturday afternoons, Sundays and Bank Holidays, and to activities outside core construction working hours. In their joint LIR [[REP1-045](#)], they suggested alternative construction working hours of 7.00am to 7.00pm Monday to Friday, 8.00am to 1.00pm on Saturday, and no working on Sunday or a Bank Holiday.
- 3.11.48. This suggestion was modelled as 'Scenario 1' by the Applicant in its Justification for Construction Working Hours Technical Note [[REP3-045](#)]. This concluded that the construction programme would be put back by seven weeks and would lead to very substantial delays in commissioning, due to missing the critical system outage 4 on the 9 March 2027. (Some key construction activities would be confined to outage periods, which are set well in advance by the system operator.)
- 3.11.49. Essex County Council [[RR-004](#)] and Braintree District Council [[RR-002](#)] also objected to the Applicant's proposed construction working hours and activities outside core construction hours. They suggested [[REP1-039](#)] alternative working hours of between 8.00am and 6.00pm Monday to Friday, 8.00am to 1.00pm on Saturday, with no working on Sunday or a Bank Holiday.
- 3.11.50. This was modelled as 'Scenario 2' by the Applicant. This concluded that the construction programme would be put back by seven months, so would also not meet the planned date for outage 4.
- 3.11.51. After an error was identified in the calculation of Scenarios 1 and 2, the Applicant re-evaluated the scenarios to incorporate a five-hour Saturday construction working shift (rather than the four hours it had used [[REP3-045](#)]). It confirmed that the delay in meeting the planned start of outage date 4 would be reduced by nine days [[REP6-041](#)]. That is, for Scenario 1 it would be seven weeks less nine days, and for Scenario 2 it would be seven months less nine days.
- 3.11.52. In the Construction Schedule with Critical Path [[REP5-027](#)], the Applicant confirmed that the baseline construction schedule, summarised in Table 2.1 of the Justification for Construction Working Hours Technical Note [[REP3-045](#)], had been based on construction working hours of 7.00am to 7.00pm on weekdays and 8.00am to 5.00pm on Saturdays, Sundays and Bank Holidays, as proposed in Schedule 3, Paragraph 7 (Construction Hours) of the Applicant's draft Development Consent

Order (dDCO). It also noted that, under the baseline construction schedule, works had been, '*primarily scheduled to be undertaken only on alternating weekends and whilst works may have to occur on consecutive weekends, ordinarily this would be in order to recover delays*'.

- 3.11.53. Following discussions at Issue Specific Hearing 5, the Applicant (Action Point 2, [\[REP6-041\]](#)) clarified assumptions and the differences between the baseline construction schedule [\[APP-091\]](#) and the baseline construction schedule with critical path (Appendix A, [\[REP5-027\]](#)), such as the staggered and linear approach used for the 132kV overhead line. The Applicant explained that the daily working hours used to generate the Gantt chart in the baseline construction schedule with critical path were 12 hours on a Monday to Friday and 10 hours for alternate weekend working. The Applicant confirmed that the schedules (programme) made an allowance for shut down of two weeks at Christmas and no working across the two Easter Bank Holidays [\[REP6-041\]](#).
- 3.11.54. Suffolk County Council's final position statement [\[REP9-072\]](#) considered that amendments to the Applicant's construction core working hours were necessary and proportionate to safeguard the interests of local communities. The Essex County Council and Braintree District Council joint final position statement [\[REP10-018\]](#) confirmed that the Applicant's proposed working hours remained unacceptable. The final Statement of Common Ground (SoCG) between the Applicant and the local authorities [\[REP10-006\]](#) confirmed that all host authorities had outstanding issues with the construction working hours put forward by the Applicant.

Activities outside the core working hours

- 3.11.55. The Applicant's draft Development Consent Order (DCO) [\[REP9-006\]](#) allowed construction activities to continue beyond the core hours following delays caused by severe weather, and for start-up and close down activities to take place up to one hour either side of the core working hours, potentially extending the temporal extent of noise impacts further.
- 3.11.56. In its response to a written question from the ExA (CM2.5.4, [\[PD-008\]](#)), Suffolk County Council [\[REP7-033\]](#) considered that the term 'severe weather conditions' should be defined to provide a level of control over the provision. It provided a definition that the ExA incorporated into its Schedule of Changes to the dDCO [\[PD-009\]](#).
- 3.11.57. Essex County Council and Braintree District Council [\[REP7-029\]](#) supported the suggested definition, but the Applicant [\[REP8-032\]](#) did not agree that it was necessary for the term to be defined in the DCO, referring to precedence and statutory drafting, with justification in its updated Explanatory Memorandum [\[REP8-006\]](#).
- 3.11.58. For the start-up and close down activities either side of the core working hours, the Applicant confirmed [\[REP7-025\]](#) that LOAEL was set at 50dBA during daytime periods (07.00 to 23.00) and 40dBA during night-time periods (23.00 to 07.00). These levels would be applied to any activities occurring during these times. However, the Applicant amended the CEMP [\[REP8-012\]](#) to include a statement that construction-related noise levels would not exceed 55dB at the nearest noise-sensitive receptors. Suffolk County Council and Babergh and Mid Suffolk District Council did not consider [\[REP10-006\]](#) that the 55dB restriction for these activities would alleviate amenity impacts.

Construction methods and controls

- 3.11.59. A number of Interested Parties (IPs) raised concerns relating to the noise impacts of trenchless works and piling operations in their RRs.
- 3.11.60. In response to a written question from the ExA (NV1.11.15, [\[PD-005\]](#)), the Applicant noted [\[REP3-052\]](#) that committed mitigation measures for the trenchless crossing of the River Stour would deliver a reduction in noise levels of at least 15dB through a combination of quieter plant, screening and the use of an acoustic shed around drilling machinery. During evenings, weekends and night-time, it anticipated that noise levels at noise sensitive receptor highlighted in a RR (Walnut House and its garden) would remain below SOAEL threshold levels.
- 3.11.61. In its response to a further written question from the ExA (NV2.11.11, [\[PD-008\]](#)), the Applicant [\[REP7-025\]](#) acknowledged that some construction activities, such as percussive piling, have impulsive characteristics that may make the noise more disturbing. The Applicant advised that BS5228-1 did not provide guidance on how to assess construction noise with distinctive characteristics.
- 3.11.62. Where impulsive noise sources require noise monitoring as part of their management, a noise limit value in terms of average LAeq,T levels may not be appropriate and alternative criteria could be applied. The Applicant advised that, where applicable, specific noise level criteria would be discussed and agreed with the local authority and could be secured through section 61 of the Control of Pollution Act 1974.
- 3.11.63. The possible advantage of having a standalone Noise and Vibration Management Plan was discussed in Examination. However, the Applicant maintained that the CEMP [\[REP9-033\]](#) fulfilled the purpose as it included all of the necessary measures and did not consider that a separate Plan would add anything.

Construction noise at Hintlesham Woods SSSI

- 3.11.64. ES Chapter 7, Biodiversity [\[APP-075\]](#), concluded that there would be no significant noise effects on protected species. However, in its RR [\[RR-042\]](#), Natural England highlighted concerns related to construction noise impacts at Hintlesham Woods and the need to include peak values as well as average sound power values in the assessment.
- 3.11.65. Following Natural England's comments on the Technical Note on Noise Levels at Hintlesham Woods [\[REP8-053\]](#), the Applicant updated the Landscape and Ecological Management Plan (LEMP) [\[REP9-044\]](#) and REAC [\[REP9-037\]](#) to commit to restricting percussive piling at specific pylon locations (measure EM-AB14), undertake targeted breeding bird surveys (measure EM-AB19), and to produce a construction noise monitoring plan (measure EM-AB20). The Applicant's final SoCG with Natural England [\[REP9-027\]](#) confirmed the acceptability of this approach.
- 3.11.66. This matter is considered in section 3.5 of this Report and has not been double counted in the conclusions to this section.

CONCLUSIONS

Core construction working hours on weekends and Bank Holidays

- 3.11.67. The local authorities were not supportive of the Applicant's proposed seven day working and raised concerns about the noise and other effects this would have on

local communities. The Applicant did not support any of the alternative construction working hours scenarios proposed by the local authorities to reduce the noise and other impacts, as it concluded that these would compromise its ability to meet the programme's key milestones (particularly a critical planned outage).

- 3.11.68. Whilst the Applicant [REP6-041] noted that it intends ordinarily to work only on alternate weekends, the ExA has been mindful that this is not reflected in the powers sought through the dDCO, so in itself would not guarantee any additional respite from noise impacts at noise sensitive receptors.
- 3.11.69. The ExA therefore explored the baseline construction schedule with critical path [REP5-027] to gain a better insight into likely noise (and other) impacts, and in particular those on the local community and residential receptors. Whilst appreciating that the schedule provided was indicative, its understanding is that the aim is for underground cable installation activities at the Stour Valley to be completed by November 2026, with commissioning following on and completed by the end of January 2027.
- 3.11.70. Similar works through the Dedham Vale are scheduled for commissioning at the end of November 2026. For the new overhead lines, construction works would be completed by November 2026. The baseline construction schedule indicates that all of these activities form the critical path, and from the latest completed activity (January 2027) there would be period of some five weeks before the planned outage 4 start date of 9 March 2027.
- 3.11.71. The ExA has given detailed consideration to the arguments put forward by the Applicant and the local authorities in particular in relation to the inclusion of Sundays and Bank Holidays in the core construction working hours. The Applicant had already indicated an intention for alternate Sunday working: this represents 26 working Sundays per annum (104 over the envisaged four-year construction period). The Applicant also indicated non-working periods over the Christmas and Easter Bank Holiday periods. The Applicant's response to the ExA's recommendation to prohibit piling operations on Sundays and Bank Holidays (Requirement 7(2) [REP8-032]) suggested that it would place an unacceptable further constraint on an already constrained construction programme.
- 3.11.72. The ExA has looked at the potential impact on the construction schedule of removing the remaining Sundays and Bank Holidays from the core construction working hours in its recommended DCO (rDCO). There are four Bank Holidays per annum in addition to the Christmas and Easter periods, or 16 days in total. With the additional 104 Sundays over the four-year construction period, there would be an additional 120 non-working days, which equates to approximately 9% of the construction programme, leaving some 91% available for piling.
- 3.11.73. Taking this into consideration, and noting that that a final construction programme would be prepared post-consent by the appointed main works contractor [REP6-041], the ExA considers excluding piling on Sundays and Bank Holidays to be reasonable and proportionate and is reflected in Requirement 7(2) of the rDCO. It would go some way towards meeting the aims of NPS EN-1 (paragraph 5.11.9) to mitigate and minimise adverse impacts on health and quality of life from noise.

Core construction working hours and start-up and close down activities

- 3.11.74. The Technical Note for Noise Sensitive Receptors [REP6-047] uses a lower noise threshold (55dBA) for weekends and Bank Holidays and identifies potential

construction noise impacts. Its Figure 1 shows residential receptors with significant potential adverse effects and potential adverse effects (without mitigation). The ExA is mindful of the need to consider construction impacts in the context of LOAEL (described in Planning Practice Guidance - Noise as noise that can be heard and causes small changes in behaviour, attitude or other physiological response).

- 3.11.75. ES Chapter 14, Noise and Vibration [[APP-082](#)], notes that the LOAEL of 50dB LAeq,10h for daytime construction noise levels would be exceeded at approximately 270 noise sensitive receptors. Taking into account LOAEL, including distinct characteristics of continuous or impulsive noise, the ExA considers it reasonable and proportionate to limit the effects of construction activities outside the core working hours at seven noise sensitive receptors identified in Requirement 7(5) of the rDCO.
- 3.11.76. In respect of LOAEL related matters, the ExA considers that a 50dBA noise limit (LOAEL) would be more appropriate for start-up and close down activities (one hour either side of the core working hours for construction) at the nearest noise sensitive receptors. This would be secured through Requirement 7(4) in the rDCO. A weighted 50dBA (rather than the 55dB included in the CEMP [[REP9-033](#)]) takes into account the sensitivity of the human ear to sound and would enable comparison with Table 2.4, Construction Activity Noise daytime LOAEL Distance [[APP-136](#)].
- 3.11.77. The 50dBA noise limit approach for start-up and close down activities would help to mitigate and minimise noise on health and quality of life (paragraph 5.11.9 of NPS EN-1). It would also help to meet an NPSE aim that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development.

Severe weather conditions

- 3.11.78. The ExA considers it necessary to link severe weather conditions to the construction programme critical path, and for related extended construction activities to be notified with a justification to the relevant local authority. If the term was left undefined in the DCO, there would be a risk of numerous construction activities (including overlapping activities) occurring at evenings, night-time and early mornings that would likely lead to disturbance. These measures, which would be secured in the rDCO through Requirements 7(3)(g) and 7(6) would help to mitigate potential adverse impacts and reduce noise to a reasonable minimum.

Construction noise at Hintlesham Woods SSSI

- 3.11.79. As set out in section 3.5 of this Report, the ExA is satisfied that the noise mitigation and monitoring measures added to the LEMP [[REP9-044](#)] and REAC [[REP9-037](#)] are sufficient to mitigate and minimise noise disturbance effects on breeding birds at Hintlesham Woods SSSI.

Construction methods and controls

- 3.11.80. The local planning authorities objected to the making of the Order ([[REP9-072](#)] and [[REP10-018](#)]), partially on the grounds of the status of the control document management plans. They felt that the management plans should be considered outline, and that final versions of each that would require their approval should be submitted by the Applicant post-consent. The Applicant held a different position on this matter. The reasoning is summarised in the Statement of Common Ground between the Applicant and the local authorities [[REP10-006](#)].

- 3.11.81. The ExA considers the CEMP [REP9-033] and the CoCP [REP9-035] to be high level management plans, which list often generic measures and steps to be taken to mitigate impacts. For example, the CEMP [REP9-033] signposts out to ES Chapter 14 Noise and Vibration [APP-082] and to additional mitigation measures in the REAC [REP9-037], such as EIA_NV01: this commits generally to additional temporary mitigation measures being put in place to reduce noise levels at specific noise sensitive receptors (unless a detailed assessment is undertaken that demonstrates that no significant noise impacts would occur).
- 3.11.82. The CoCP [REP9-035] includes good practice measure NV01 (construction working would be undertaken within the agreed working hours set out within the DCO) and refers to best practicable means examples in the CEMP [REP9-033]. The examples include steps such as deciding on methods of construction and associated plant, conducting detailed construction noise and vibration assessments of activities, determining the layout of site compounds and positioning trenchless crossing and piling rigs away from sensitive receptors where practicable.
- 3.11.83. The Applicant acknowledges that BS5228-1 does not provide guidance on how to assess construction noise with distinctive characteristics and that a noise limit value in terms of average LAeq,T levels may not be appropriate and alternative criteria could be applied. The ExA considers that, as matters become defined and finalised during the detailed design and construction phase, it is proportionate and necessary for a greater level of detail on proposals for noise and vibration monitoring and management to be shared with the relevant local authorities.
- 3.11.84. Therefore, the ExA disagrees that section 14, Noise and Vibration, of the CEMP [REP9-033] properly fulfils the purpose of a standalone, detailed Noise and Vibration Management Plan and considers a detailed written plan for the management of noise and vibration (that is in accordance with the outline details set out in the CEMP and CoCP) should be secured. It recommends that this should be achieved through Requirement 4(4) of its rDCO.

Overall conclusion on noise and vibration

- 3.11.85. Overall, the ExA is satisfied that the Proposed Development would accord with the noise and vibration policy requirements of the extant July 2011 NPS EN-1 and NPS EN-5, and that consideration of the changes introduced by the 2024 NPSs would not have altered that conclusion.
- 3.11.86. Taking into account that necessary mitigation is adequately secured in the rDCO, the ExA concludes that the noise and vibration effects of the Proposed Development carry a little negative weight against the making of the Order.

3.12. PUBLIC RIGHTS OF WAY

INTRODUCTION

- 3.12.1. This section considers the effects of the Proposed Development on public rights of way (PRoW) as a means of pedestrian access and a navigable river that would be crossed.

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.12.2. Paragraph 5.10.24 of National Policy Statement (NPS) EN-1 identifies PRoWs as important recreational facilities for walkers, cyclists and horse riders. NPS EN-1 expects applicants to take appropriate mitigation measures to address adverse effects on coastal access, National Trails and other rights of way.
- 3.12.3. Paragraph 100 of the National Planning Policy Framework (NPPF) notes that planning decisions should protect and enhance PRoWs and public access, including taking opportunities to provide better facilities for users, for example by adding links to existing networks.
- 3.12.4. Paragraph 5.11.30 of the 2024 NPS EN-1 goes further in requiring consideration be given to improving or creating new access. Where revisions to an existing PRoW are sought, consideration should be given to use and convenience.

THE APPLICATION

- 3.12.5. The key documents relating to PRoWs are set out in Table A7 of Appendix A to this Report.
- 3.12.6. The Proposed Development would necessitate the temporary closure of 144 PRoWs and the construction of temporary bridges over the River Stour, River Brett and River Box. No permanent PRoW closures would be required.

Navigation of the River Stour

- 3.12.7. The River Stour is navigable within the Order Limits. A temporary, clear-span bridge would be required to provide construction access over the River Stour [[APP-177](#)]. The proposed location for this was shown on sheet 20 of the General Arrangement Plans [[APP-018](#)].
- 3.12.8. Short-term disruption to navigation was predicted (up to one week in total) whilst the temporary bridge was installed and removed, and the existing 132kV conductor lowered [[APP-180](#)]. The temporary bridge would be of sufficient size and design to allow continued navigation of the river by non-motorised vessels [[APP-177](#)].
- 3.12.9. None of the other watercourses within the Order Limits is navigable [[APP-072](#)].

Public Rights of Way

- 3.12.10. The locations of the PRoW affected during the construction phase of the Proposed Development were set out in the Access, Rights of Way and Public Rights of Navigation Plans, along with proposed diversion routes [[APP-012](#)].
- 3.12.11. Section 6 of the Construction Traffic Management Plan [[APP-180](#)] addressed the management of public rights of way. It explained proposed good practice measures, intended forms of managed closure, provisions for signage and informing the public, monitoring arrangements, and the approach to reinstatement once works were completed.
- 3.12.12. Article 15 of the draft Development Consent Order (dDCO) [[APP-034](#)] dealt with the temporary stopping up of streets and PRoWs, while Schedule 7 listed those streets and PRoWs to be so affected. There were no timescales attached to the temporary stopping up of PRoWs.

- 3.12.13. Article 15(5) of the dDCO [APP-034] prevented the temporary stopping up, alteration or diversion of the streets or public rights of way listed in Schedule 7 without first consulting the street authority.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

Navigation of the River Stour

- 3.12.14. The Environment Agency confirmed that it was the navigation authority for the River Stour ([RR-031] and [REP2-023]).
- 3.12.15. The Applicant noted that Article 50 in the dDCO would enable the necessary temporary closure of the River Stour to navigation during the construction of the works to facilitate the safe completion of works adjacent to, above, and beneath the River.
- 3.12.16. The ExA asked the Environment Agency two written questions related to managing navigation of the River Stour (DC1.6.57 and DC1.6.120 [PD-005]). The Environment Agency [REP3-070] was content with the Applicant's commitment to protect its assets and confirmed that it was still in discussion with the Applicant regarding navigation consent for the River Stour.
- 3.12.17. The subsequent signed Statement of Common Ground (SoCG) between the Applicant and the Environment Agency [REP6-019] confirmed an agreed route to obtaining consent for construction activities affecting navigation on the River Stour.
- 3.12.18. The Dedham Vale National Landscape and Stour Valley Partnership [REP6-052] requested the installation of a temporary overland portage arrangement to ensure that users of the River Stour could continue their journey during those periods when navigation was to be prohibited. The Applicant [REP7-026] concluded that it would not be safe for users to use a portage route through the construction site and therefore rejected the request.
- 3.12.19. As the temporary bridge would be in place only for the construction phase [APP-072], there would be no permanent impacts on navigation [REP3-020].

Sufficiency of public right of way surveys

- 3.12.20. In a joint response to a written question from the ExA (TT2.13.12 [PD-008]), Braintree District Council and Essex County Council [REP7-029] considered the PRow surveys submitted by the Applicant to be of limited scope with insufficient detail about the survey dates and times. Suffolk County Council [REP7-033] also considered that the Applicant had undertaken only limited surveys of the PRow network over a very brief period and noted that the routes surveyed in 2013 were not repeated in 2021, and with fewer surveys in 2021 than 2013.
- 3.12.21. The Applicant [REP8-033] explained its reasoning and criteria for the selection of PRow routes surveyed in 2021:
- those expected to be subject to temporary individual closures of four weeks or more; or
 - where the magnitude of impact [APP-134] was judged to be medium or higher.

Management of public rights of way during construction

- 3.12.22. The Local Impact Reports submitted by Suffolk County Council [[REP1-045](#)] and Essex County Council [[REP1-039](#)] raised concerns relating to the management of PRowWs during construction:
- sensitivity of receptors;
 - sufficiency of usage surveys;
 - significance of effects related to changes in pedestrian amenity, fear and intimidation;
 - repeated closure and disruption to the PRowW network;
 - assessment of severance;
 - timing and sequencing of closures of PRowWs;
 - contact arrangements;
 - legal widths of PRowWs;
 - replacement planting alongside PRowWs.
- 3.12.23. Most of these matters were satisfactorily addressed by the Applicant in the early stages of the Examination.
- 3.12.24. In response to concerns and an action point at Issue Specific Hearing (ISH) 1 [[EV-018](#)], the Applicant submitted a Public Right of Way Management Plan (PRowWMP) [[REP3-056](#)]. The PRowWMP was subject to ongoing discussion and updating through the Examination. The final version [[REP8-024](#)] would be secured through Requirement 4 of the dDCO [[REP9-006](#)]. It included provision for project team roles and responsibilities, community engagement and public information, the various forms of PRowW closures, management signage and safety measures. It also gave commitments for pre-construction surveys, inspections and remediation.
- 3.12.25. By the close of the Examination, the contents of the PRowWMP had been agreed by the Applicant and the relevant highway authorities, Essex County Council and Suffolk County Council, in their joint signed SoCG [[REP10-006](#)].
- 3.12.26. Appendix A of the PRowWMP listed the routes with public access that would be affected by the Proposed Development. This gave indicative periods for temporary closure for each of the affected routes. Of the 144 PRowWs concerned, the indicative closure periods are generally four-week, managed events within a longer overall programme period.
- 3.12.27. Suffolk County Council and Essex County Council requested details of the sequencing of closures ([REP4-021](#) and [REP5-031](#)) as they wished to understand which routes would be affected in conjunction with adjacent parts of the network and whether this would have a significant cumulative effect on PRowW users.
- 3.12.28. The Applicant submitted a technical note on the sequencing of PRowW closures [[REP6-049](#)]. Whilst the principle of this was agreed between the Applicant and the two county councils in the joint signed SoCG [[REP10-006](#)], Suffolk County Council considered that reference should be made to the technical note in the PRowWMP, or that it should form an appendix [[REP9-072](#)]. The Applicant [[REP10-014](#)] did not accept there was a need to secure the sequencing of the PRowW closures in the PRowWMP and explained that the details were based on assumptions about the interaction of the construction programme with PRowW and were indicative, pending detailed design and the appointment of a contractor.

CONCLUSIONS

- 3.12.29. The ExA is content with the way in which PRowS and navigation of the River Stour have been considered, and it is satisfied that disruption to users of both would be restricted to that which would be necessary and would be kept to a minimum.
- 3.12.30. The ExA is satisfied that safe and appropriate management of PRowS during the construction period could be achieved by the implementation of the measures in the PRowMWP.
- 3.12.31. In terms of the status of the PRow closure sequencing details, the ExA accepts the explanation provided by the Applicant that these can only be indicative at this stage.
- 3.12.32. The ExA concludes that the mitigated temporary impact on users of the local PRow network and the River Stour nevertheless carries moderate negative weight against the Proposed Development.

3.13. SOCIO-ECONOMICS AND COMMUNITY ISSUES

INTRODUCTION

- 3.13.1. This section addresses the potential socio-economic impacts of the Proposed Development.

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.13.2. Part 5 of National Policy Statement (NPS) EN-1 suggests that an Applicant should include an assessment of socio-economic impacts in the Environmental Statement (ES) where the project is likely to have at a significant effect at the local or regional level.
- 3.13.3. It notes that the assessment of a project should consider all relevant socio-economic impacts including the creation of jobs and training opportunities, provision of additional local services and local infrastructure, effects on tourism, influx of workers and cumulative effects with other projects. Mitigation measures should be considered to address any adverse effects.
- 3.13.4. NPS EN-1 also requires the Secretary of State to have regard to the potential socio-economic impacts of new energy infrastructure when reaching a decision, including a consideration of any relevant positive provisions the developer is proposing to make. Paragraph 5.12.7 of NPS EN-1 advises that:

'the [decision maker] may conclude that limited weight is to be given to assertions of socio-economic impacts that are not supported by evidence (particularly in view of the need for energy infrastructure as set out in this NPS).'

- 3.13.5. The 2024 NPS EN-1 requires a similar assessment but goes further in requiring information on:
- the sustainability of the jobs created, particularly where they will help develop the skills needed for the UK's transition to Net Zero;
 - the contribution to the development of low-carbon industries at the local and regional level; and
 - the use of local support services and supply chains.

- 3.13.6. It suggests that the Secretary of State may wish to include a Requirement for an approved employment and skills plan that details arrangements to promote local employment and skills development opportunities.

Local plan policies

- 3.13.7. The Local Impact Reports (LIRs) from Essex County Council and Braintree District Council [[REP1-039](#)] and Suffolk County Council and Babergh and Mid Suffolk District Councils [[REP1-045](#)] identified the local planning policies that they considered may be important and relevant in relation to the socio-economic effects of the Proposed Development. The policies are listed in Table A5 at Appendix A to this Report.

THE APPLICATION

EIA scoping

- 3.13.8. The Applicant's approach to assessing the Proposed Development's likely significant effects on socio-economics and tourism was set out in section 3 of its Socio Economics and Tourism Report [[APP-066](#)].
- 3.13.9. The Applicant had undertaken a preliminary assessment of socio-economic effects at the scoping stage and presented the results in a Scoping Report [[APP-156](#)]. This concluded that the project was unlikely to result in significant socio-economic effects. The June 2021 Scoping Opinion [[APP-159](#)] agreed with this conclusion. Socio-economics was therefore not assessed as a main topic in the ES.
- 3.13.10. Nevertheless, in response to caveats in the Scoping Opinion, the Applicant included further socio-economic information and updated the baseline data in some areas and submitted this as part of the application in a Socio Economics and Tourism Report [[APP-066](#)]. This confirmed the Applicant's conclusion that the Proposed Development would be unlikely to result in significant socio-economic or tourism effects. Its Cumulative Effects Assessment [[APP-083](#)] drew similar conclusions for intra-project and inter-project cumulative effects.

Additional application information

- 3.13.11. Embedded and good practice measures identified in the design and construction of the Proposed Development were reported in section 3.3 of the Socio Economics and Tourism Report [[APP-066](#)].
- 3.13.12. During the construction phase, local economic benefits were considered unlikely to be significant, and would be negligible to slightly beneficial at best. While materials and services sourced from the local area could boost the local economy, much of the capital expenditure would go to specialist electrical infrastructure suppliers and contractors, who were unlikely to be local.
- 3.13.13. The assessment did not identify any local businesses that would experience access severance or closure as a consequence of construction activities, though some temporary direct impacts on the operation of agricultural businesses were identified. The Applicant was satisfied that access could be retained for all residents, landowners and businesses during the predicted short-term closures of local roads. It noted that the rolling nature of the linear works would mean that construction activities in any particular area would generally be short term.

- 3.13.14. Spending by the construction workforce on accommodation and meals was considered likely to provide a minor benefit to the local economy. The workforce numbers were estimated to be approximately 350 at peak, with an average of some 180 workers on site across the whole of the construction period. The Applicant's previous project experience indicated that approximately one tenth of the workforce would be drawn from the local area, with the remaining nine tenths travelling from elsewhere.
- 3.13.15. Qualified specialists trained to work with high voltage electricity lines would be required on most activities, and these would be sourced from an existing pool of approved contractors.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

Scoping

- 3.13.16. Despite being consulted, the host local authorities expressed disappointment that socio-economics had been scoped out of the ES, and the matter remained as a disagreement in the signed joint SoCG between the Applicant and the local authorities [REP10-006]. Nevertheless, Essex County Council and Braintree District Council welcome the Applicant's regional commitment to skills and employment opportunities in their joint final position statement [REP10-018].

Methodology

- 3.13.17. The methodology used for the socio-economic and tourism assessment was set out in section 3 of the Applicant's Socio Economics and Tourism Report [APP-066]. Essex County Council and Braintree District Council confirmed they were satisfied with the approach [REP10-006].
- 3.13.18. On the other hand, Suffolk County Council and Babergh and Mid Suffolk District Councils did not entirely agree with the methodology [REP10-006]. Babergh and Mid Suffolk District Councils disputed the methodology used in the analysis of socio-economic impacts on nine matters, including the study area, accommodation surveys, and social value assessment. The Applicant responded [REP4-029] to each aspect of their challenge.
- 3.13.19. The joint LIR submitted by Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] also criticised the Applicant's approach to determining the expected levels of employment.
- 3.13.20. Throughout the Examination, Suffolk County Council maintained that, until a full workforce profile had been provided, the Applicant could not assert there would be no likely significant socio-economic effects ([REP4-008], [REP2-013], [REP3-078], [REP4-033], [REP5-033], [REP6-059], [REP7-031] and [REP10-006]). The Council suggested that a more thorough appraisal of the jobs to be created was required to:
- provide a thorough, evidence-based assessment of the likelihood of local labour taking up roles [REP5-033];
 - demonstrate that the majority of employment activities would require trained specialists qualified to work on high voltage electricity lines [REP5-033];
 - maximise positive opportunities that may arise from hosting such projects [REP4-033];
 - define the skill sets needed within the workforce and compare this to the skills available in the local labour market [REP7-031].

- 3.13.21. The Applicant defended the integrity of its worker profile information [APP-066] throughout the Examination and explained the reasoning behind its view that a more detailed workforce profile was unnecessary ([REP3-049], [REP5-025], [REP6-045], [REP7-025], [REP9-025] and [REP10-006]). The Applicant explained how staff levels, the proportion of the workforce likely to be sourced from the local area, and the approach to sourcing the supply of skilled worker supply had been assessed in its response [REP7-025] to a written question from the ExA (MG2.0.15, [PD-005]).

Employment and skills strategy

- 3.13.22. Throughout the Examination, Essex County Council and Braintree District Council (jointly) and Suffolk County Council criticised the absence of an Employment, Skills and Education Strategy ([REP1-039], [REP6-051], [REP6-059] and [REP10-006]). The Applicant disagreed with the need to develop such a strategy ([REP5-025], [REP7-025], [REP7-026], [REP8-036], [REP9-025] and [REP10-006]).
- 3.13.23. In response to a written question from the ExA (MG2.0.16, [PD-005]), the Applicant highlighted [REP7-025] the small number of construction jobs that would be created and the likely insignificant socio-economics effects. Furthermore, the Applicant considered that the preparation of such a strategy would not be efficient or effective, and maintained [REP9-025] that the Proposed Development would not generate many jobs in the local area or place a large demand on the local workforce.

Community benefits

- 3.13.24. Section 22 of the joint LIR from Braintree District Council and Essex County Council [REP1-039] dealt with community benefits. Paragraph 22.1.3 noted:

'The Joint Councils would wish to see opportunities and options explored by the applicant for community ownership, together with detail of the scope and operation of a community fund open to applications from community projects or groups.'

- 3.13.25. In their joint LIR, Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] sought community benefits in respect of non-designated landscape areas, the Bramford substation off-site mitigation, and the Brett Valley:

'Community benefits should be additional to the required mitigation and compensation for the development, including those based on any emerging requirements from the recent consultation on Community Benefits for Electricity Transmission Network Infrastructure foreshadowed in the British Energy Security Strategy.'

- 3.13.26. In their final, signed SoCG [REP10-006] the host authorities agreed with the Applicant that community benefits were not a material planning consideration and should be discussed outside the planning process.

CONCLUSIONS

Community benefits

- 3.13.27. The Applicant's draft Statement of Common Ground with the host authorities [REP9-023] recorded that all those parties agreed that community benefits are not a material planning consideration and should be discussed outside the planning process.
- 3.13.28. The ExA concurs and notes the Applicant's willingness to continuing engagement with the host authorities regarding community benefits. It said that the parties would

work collaboratively outside the DCO process to develop a strategy for community benefits whilst Government guidance was awaited. The parties would look to develop a strategy for community benefits by decision of the application for development consent (expected mid-September 2024).

- 3.13.29. The Department for Energy Security and Net Zero issued its response to a consultation on Community Benefits for Electricity Transmission Infrastructure (March 2003) during the Examination (November 2003). This said that the Government would continue to develop voluntary guidance for community-wide benefits, and that this would be published in 2024. It would provide further information on the overall community benefits policy including options for developing a mandatory approach, community benefits register and a bill discount scheme.
- 3.13.30. The ExA agrees that the issue should not be addressed in the rDCO but wishes to appraise the Secretary of State that the Applicant and local authorities have been proactive in this respect.

Socio-economic matters

- 3.13.31. Despite socio-economic effects being scoped out of the ES, the ExA recognises the Applicant's intention (in paragraph 4.3.23 of Socio Economics and Tourism Report [APP-066]) to continue to work with the local authorities and businesses to further opportunities for investment in local and wider employment networks. The ExA agrees with the Applicant that any socio-economic impacts from the Proposed Development are likely to be of negligible significance.
- 3.13.32. In terms of the worker profile information, there is no substantiated technical evidence before the ExA to suggest that the data are insufficient given the context, and the ExA considers the Applicant's approach to be appropriate.
- 3.13.33. The ExA notes that it is not unusual for an Applicant to produce an Employment, Skills and Education Strategy for the implementation of a Nationally Significant Infrastructure Project. Nevertheless, the ExA considers the Applicant's approach to be reasonable and proportionate given the small number of construction jobs that would be created and the likely insignificant socio-economic effects, and it notes the Applicant's commitment [REP10-006] to investment in the jobs, skills and people that will be required to help deliver energy transition at a wider, regional scale.
- 3.13.34. Overall, the ExA is of the view that the Applicant has undertaken a proportionate approach to the assessment of potential socio-economic impacts and that the proposed good practice measures would satisfactorily respond to any minor adverse potential effects. As such, the requirements of NPS EN-1 have been addressed.
- 3.13.35. The ExA therefore concludes that the socio-economic effects of the Proposed Development are neutral and do not weigh for or against the making of the Order.

3.14. THE WATER ENVIRONMENT

INTRODUCTION

- 3.14.1. This section addresses the potential impact of the Proposed Development on water quality, water resources and flood risk.
- 3.14.2. The Applicant addressed these matters in Chapter 9 of the Environmental Statement (ES) [APP-077].

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.14.3. National Policy Statement (NPS) EN-1 notes that energy projects can have adverse effects on the water environment. Paragraph 5.15.2 states:

'Where the project is likely to have effects on the water environment, the applicant should undertake an assessment of the existing status of, and impacts of the proposed project on, water quality, water resources and physical characteristics of the water environment as part of the ES or equivalent'.

- 3.14.4. The 2024 NPS EN-1 includes similar wording at paragraph 5.16.3, with additional commentary on the need to make allowance for the effects of climate change on rainfall patterns and water availability.

- 3.14.5. Paragraph 5.7.4 of NPS EN-1 requires applications for energy projects of 1 hectare or greater in flood zone 1 and for all energy projects located in flood zones 2 and 3 to be accompanied by a Flood Risk Assessment (FRA). This should detail the risks of all forms of flooding to and from the project and demonstrate how any such risks would be managed, taking climate change into account. The 2024 NPS EN-1 requires a site-specific FRA for all energy projects in flood zones 2 and 3.

- 3.14.6. NPS EN-5 refers further to climate change resilience in paragraph 2.4.2:

'the resilience of the project to climate change should be assessed in the Environmental Statement (ES) accompanying an application. For example, future increased risk of flooding would be covered in any flood risk assessment'.

- 3.14.7. NPS EN-1 notes that a project should pass a sequential test (paragraph 5.7.13), and then an exception test (paragraphs 5.7.14 to 5.7.16) if development is to be considered permissible in a high-risk flood zone. Paragraph 5.7.12 of NPS EN-1 confirms that the Secretary of State should not consent development in Flood Zone 3 unless satisfied that the sequential and exception tests have been passed.

- 3.14.8. Paragraph 5.15.6 of NPS EN-1 also notes that:

'The [decision-maker] should satisfy itself that a proposal ... meets the requirements of the Water Framework Directive (including Article 4.7) and its daughter directives, including those on priority substances and groundwater'.

National Planning Policy Framework (NPPF) and Guidance

- 3.14.9. The NPPF intends for the planning system to support a transition to a low carbon future in a changing climate, taking full account of flood risk. The policy aims to avoid inappropriate development in areas at risk of flooding, and to steer development away from areas at highest risk of flooding. The NPPF advocates the application of the sequential and exception tests.

National Planning Practice Guidance (NPPG)

- 3.14.10. The NPPG gives practitioner advice on how to address flood risk, providing guidance on assessing and controlling flood risk and managing residual flood risk.

Other relevant policy and guidance

- 3.14.11. Other policy and guidance relevant to the Proposed Development's impacts on the water environment was set out in paragraphs 9.2.6 and 9.2.7 of the ES [[APP-077](#)].

THE APPLICATION

- 3.14.12. In addition to Chapter 9 of the ES, related water environment matters were referred to in Chapter 10, Geology and Hydrogeology [[APP-078](#)], Chapter 11, Agriculture and Soils [[APP-079](#)], and ES Chapter 12, Traffic and Transport [[APP-080](#)].
- 3.14.13. The supporting figures, appendices and assessments are listed in Table A7 at Appendix A to this Report.

Potential impacts on the water environment

- 3.14.14. The ES noted that the construction of the Proposed Development could potentially affect surface water receptors, including main rivers (Belstead Brook, River Brett, River Box and River Stour) and ordinary watercourses, the functional floodplain and other surface waters. Potential construction abstractions from, and discharges to surface water were considered in addition to the impacts of construction activities, such as the trenchless installation of cables under rivers and the installation of temporary river crossings, which were noted as having the potential to affect water quality or to change river water levels and flows. The Applicant committed to undertaking trenchless crossings at the River Box and River Stour.
- 3.14.15. No abstractions from, or discharges to watercourses were anticipated during the operational phase. The grid supply point substation and cable sealing end compounds would all be located within flood zone 1. As such, the Applicant concluded that the operation of the Proposed Development would have limited impact on the water environment.

Water quality and resources

- 3.14.16. Chapter 9 of the ES [[APP-077](#)] cross-referred to the Water Framework Directive (WFD) Assessment Report [[REP1-009](#)]. The underlying WFD groundwater bodies had been scoped out, but it included a compliance assessment of four surface water bodies against the objectives of the WPD. Embedded mitigation and good practice measures considered relevant to the WFD screening assessment were outlined at Appendix 1 to the WFD Assessment Report.
- 3.14.17. The WFD Assessment Report [[REP1-009](#)] concluded that the residual effects of construction activities on the screened-in waterbodies would be negligible. It went on to say that the Proposed Development would be compliant with the objectives of the WFD. This conclusion was inclusive of a sensitivity check on temporary crossing positions and the potential for cumulative effects.
- 3.14.18. The ecological status of the Rivers Box, Stour and Brett was reported [[APP-060](#)] as being moderate. Quality limiting factors included sewage discharges, land and livestock management practices, and physical modifications causing barriers to fish movement.

Flood risk - sequential and exception tests

- 3.14.19. Chapter 9 of the ES [[APP-077](#)] cross-referenced to a FRA [[APP-059](#)]. The scope of the assessment had been agreed with the Environment Agency and the Lead Local Flood Authorities (Suffolk County Council and Essex County Council).

- 3.14.20. The Applicant explained [\[APP-059\]](#) that some sections of the Proposed Development would unavoidably be in areas with a medium or high likelihood of flooding (flood zones 2 and 3) and presented evidenced compliance with the sequential test. The Applicant contended that the exception test is only required where the sequential test is not passed [\[APP-059\]](#) and that, as the Proposed Development would be in zones with a lower probability of flooding, the Exception Test was not required.
- 3.14.21. Fluvial, surface water and groundwater sources of flooding were considered in section 4.2 of the FRA [\[APP-059\]](#). Tidal, sewer and water mains flooding were screened out of the assessment. As set out in paragraphs 3.2.17 to 3.2.19, the Environment Agency's climate change allowances were considered.
- 3.14.22. Section 5 of the FRA [\[APP-059\]](#) included an assessment of flood risk. The conclusions were:
- The risk of flooding to the Proposed Development from rivers would be low; however, small areas near to some watercourse crossings would be at higher risk.
 - Most of the Proposed Development would be at very low risk of flooding from surface water.
 - Localised areas would be at higher risk of flooding from surface water in the vicinity of the proposed watercourses crossings.
 - The Proposed Development would be at low risk of groundwater flooding.
- 3.14.23. The Applicant [\[APP-059\]](#) considered that the Proposed Development would meet the requirements of NPS EN-1, NPS EN-5, the NPPF and its associated PPG with respect to flood risk.

Mitigating measures - construction

- 3.14.24. The Applicant committed to mitigation measures during the construction of the Proposed Development, notably:
- good practice measures W03 to W10, W14, W18 and GG01 in the Code of Construction Practice (CoCP) [\[REP9-035\]](#); and
 - embedded design measures EM-P07, EM-E05, EM-G04, and EM-G05 in the Register of Environmental Actions and Commitments (REAC) [\[REP9-037\]](#).
- 3.14.25. These would be secured by Requirement 4 of the Applicant's draft Development Consent Order (dDCO) [\[REP9-006\]](#).
- 3.14.26. Chapter 9 of the ES [\[APP-077\]](#) concluded that, with mitigation, there would be no likely significant residual effects on the water environment during construction or operation.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

Water Framework Directive

- 3.14.27. The Applicant's signed Statement of Common Ground (SoCG) with the Environment Agency [\[REP6-019\]](#) did not record any outstanding issues in relation to WFD matters. No concerns were raised by any other Interested Parties about the WFD assessment or compliance with WFD objectives.

FRA sequential test

3.14.28. Paragraph 3.2.10 of the FRA [APP-059] reported how the sequential test had been applied to the Proposed Development:

'The GSP substation and CSE compounds, which represent the parts of the project that are most vulnerable to flooding, are situated in Flood Zone 1, satisfying the Sequential Test'.

3.14.29. At paragraph 3.2.11, the Applicant did not discount the possibility that some new infrastructure may be sited in areas of medium to high flood risk, but noted that, '... as is inevitable with a linear scheme, some locations cross Flood Zones 2 and 3'.

3.14.30. In the same paragraph, the Applicant set out its strategy to meet the sequential test where new infrastructure is placed in areas of medium to high flood risk:

'National Grid would seek to avoid pylons outside of Flood Zones 2 and 3. Where this is not practicable, a Flood Risk Activity Permit application would be submitted to the Environment Agency. It is therefore concluded that the project passes the Sequential Test'.

3.14.31. The Applicant later confirmed in response to a written question [REP4-029] that its intention was to seek to avoid siting pylons within flood zones 2 and 3.

3.14.32. In response to a written question from the ExA (WE1.12.4, [PD-005]) on the sequential test, Babergh and Mid Suffolk District Councils [REP3-060] and Essex County Council and Braintree District Council (jointly) [REP3-061] considered that the Applicant's approach to sequential testing had been incorrect, and that the sequential test should have been applied to the whole of the Order Limits. Nevertheless, the local authorities believed that the test would have been passed if correctly applied.

3.14.33. Neither the Environment Agency [REP3-070] nor Suffolk County Council commented on the Applicant's application of the sequential and exception tests.

3.14.34. Clarification was provided by the Applicant [REP4-029]:

- The FRA [APP-059] allocated all land within the Order Limits to one of the three flood zones.
- It had not been possible to deliver the Proposed Development whilst wholly avoiding flood zones 2 and 3.
- The most vulnerable infrastructure, such as the grid supply point substation and cable sealing end compounds, had been located in flood zone 1, and pylon locations avoided land in flood zones 2 and 3 as far as was possible.

FRA exception test

3.14.35. Paragraph 3.2.12 of the FRA [APP-059] confirmed the Applicant's view that the exception test is only required for projects that do not pass the sequential test.

3.14.36. Babergh and Mid Suffolk District Councils [REP3-060] disagreed:

'the Exception Test should be applied for essential infrastructure development proposals in flood zones 3a and 3b when the sequential test has demonstrated that it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives)'.

- 3.14.37. Essex County Council and Braintree District Council (jointly) [\[REP3-061\]](#) suggested that the exception test had also been inappropriately applied.
- 3.14.38. Despite the local authorities' concerns, they considered that the Proposed Development would have passed the exception test had it been appropriately applied.
- 3.14.39. The Applicant [\[REP4-029\]](#) asserted that the exception test was met by virtue of information within the application documents, noting that these demonstrated wider sustainability benefits and that the project would be safe from flooding over its lifetime.
- 3.14.40. The ExA explored this further and asked the Applicant to provide the information in paragraph 5.7.16 of NPS EN-1 to support the construction of temporary and permanent infrastructure in flood zone 3 (WE2.12.1, [\[PD-008\]](#)).
- 3.14.41. In terms of Part 1 of the exception test (wider sustainability benefits), the Applicant [\[REP7-025\]](#) referred to section 1 of ES Chapter 1, Introduction [\[APP-069\]](#).
- 3.14.42. In terms of Part 2 of the exception test (no reasonable alternative sites), the Applicant [\[REP7-025\]](#) referred to sections 3.3 to 3.10 of ES Chapter 3, Alternatives Considered [\[APP-071\]](#).
- 3.14.43. Part 3 of the Exception Test requires that the Proposed Development would be safe and would not increase flood risk elsewhere. The Applicant [\[REP7-025\]](#) concluded that the Proposed Development would be safe from flooding over its lifetime on the following grounds:
- Those parts of the project that are most vulnerable to flooding (grid supply point substation and cable sealing end compounds) would be situated in flood zone 1.
 - Should pylons need to be located in flood zones 2 and 3, they would be positioned in accordance with the conditions of a Flood Risk Activity Permit from the Environment Agency.
 - The Permits would have conditions so that any works within flood zone 3 would be safe, without increasing flood risk elsewhere.
 - Whilst the temporary construction works for the trenchless crossing and the temporary access route associated with the crossings of the River Stour and River Box would take place in flood zone 3, the residual flood risk would be very low.

Adequacy of FRA generally

- 3.14.44. The Applicant assessed the residual flood risk during the construction phase following mitigation as low [\[APP-059\]](#).
- 3.14.45. In response to the ExA's written questions [\[PD-005\]](#), the Environment Agency considered the FRA to be thorough and to adequately assess and mitigate flood risk [\[REP3-070\]](#). Suffolk County Council gave a qualified response regarding the Applicant's compliance with NPS EN-1, NPPF and the PPG but acknowledged that the FRA represented an accurate and proportionate assessment [\[REP3-078\]](#). Essex County Council and Braintree District Council (jointly) also gave a qualified response to the Applicant's coverage of NPS EN-1 requirements but considered that the FRA represented an accurate and proportionate assessment of flood risk. Both Lead Local Flood Authorities concluded that the FRA adequately covered their specific areas of concern.

3.14.46. A SoCG was subsequently agreed between the Applicant and the Environment Agency [REP6-019]. The following matters related to flood risk were shown to be agreed:

- Flood risk modelling was not required due to the limited effects during construction and no anticipated operational effects.
- The approach taken to considering the effects of climate change on flood risk was appropriate.
- Current climate change allowances for rainfall would be adopted in the operational drainage design.
- No permanent access routes were proposed across main rivers.
- The Applicant would complete Flood Risk Activity Permits for the temporary works affecting the main rivers after the application for Development Consent.

3.14.47. The Environment Agency, Suffolk County Council, and Essex County Council and Braintree District Council (jointly) ([REP3-070], [REP3-078] and [REP3-061]) were content with the control measures set out in the CoCP and the REAC to manage flood risk.

Water resources

3.14.48. The ExA sought views (WE1.12.12, [PD-005]) on the Applicant's proposed measures to protect water resources and to control pollution and erosion that had been set out in section 9.2, Management Measures, of the Construction Environmental Management Plan (CEMP) [APP-177]. The Lead Local Flood Authorities ([REP3-078] and [REP3-061]) considered the measures appropriate for an active development site and that they would comply with best practice.

Drainage Management Plan

3.14.49. Requirement 5 of the Applicant's dDCO [REP9-006] would prevent any stage of the Proposed Development from being brought into operation until a Drainage Management Plan that provided details of the surface water and foul water drainage system had been approved by the relevant authority. There was disagreement about which authority should be responsible for discharging such a plan. This is addressed in section 7 of this Report.

Other Interested Parties' concerns

3.14.50. C E Gardiner and Sons [RR-026] stated that runoff of soil and water from a proposed temporary haul road would run directly into a ditch that feeds Pebmarsh Brook and subsequently the Colne River, causing '*major petrification further down the line*'.

3.14.51. The Applicant [REP1-025] described the features that would be used to control surface water runoff on site and concluded that the proposed good practice measures in the CEMP [APP-177] and CoCP [APP-178] would reduce the risk of surface water runoff during construction. The Applicant gave a commitment that there would be no intentional discharge of contaminated runoff to ditches without appropriate treatment and the agreement of the appropriate authority.

3.14.52. Ms Maslen ([REP4-003], [REP4-024] and [REP4-047]) raised concerns related to flooding at her property attributable to rainfall, fearing that the pylon foundations would increase the surface water runoff. The Applicant [REP5-025] referred to the findings of the FRA [APP-059], explaining that the pylon foundation surface area was very small and would not increase flood risk.

Stour and Orwell Estuaries Special Protection Area and Ramsar Site

- 3.14.53. The Rivers Stour, Box and Brett and the Belstead Brook all enter the Stour and Orwell Estuaries, approximately 5.72km downstream and to the south-east of the Order Limits. The matter is covered in detail at Appendix C to this Report.

Statements of Common Ground with the Environment Agency and East Suffolk Water Management Board

- 3.14.54. The ExA (WE1.12.19 [\[PD-005\]](#)) asked if the Environment Agency was confident that sufficient controls could be put in place to ensure that construction activities in flood zone 3 did not adversely impact the protected sites. The Environment Agency [\[REP3-070\]](#) considered that the implementation of control measures set out in the CoCP [\[REP9-035\]](#) would be sufficient to protect the integrity of the Stour and Orwell Estuary SPA and Ramsar site.
- 3.14.55. By the close of the Examination, the final SoCG [\[REP6-019\]](#) between the Applicant and the Environment Agency noted no outstanding matters between the Applicant and the Environment Agency. It considered:
- suitability of the electricity transmission route corridor;
 - proposals for trenchless crossings or other methods in relation to main rivers;
 - effects on watercourses during construction of overhead lines;
 - temporary route access over three main rivers;
 - consenting process relying on the use of Flood Risk Activity Permits in place of Protective Provisions;
 - adequacy of the surface water assessment;
 - adequacy of the Environmental Impact Assessment;
 - protecting fish and aquatic species;
 - maintaining passage of wildlife;
 - licensing arrangements for dewatering, water abstraction and discharging;
 - protecting watercourse habitats and reinstating watercourses;
 - preventing pollution of groundwater and surface water;
 - the Landscape and Ecological Management Plan;
 - the CEMP; and
 - the CoCP.
- 3.14.56. The Applicant's final SoCG [\[REP4-002\]](#) with the East Suffolk Water Management Board confirmed that no consents would be required from the Board. All matters were agreed, and it confirmed that the Proposed Development and the construction works would be unlikely to affect any watercourse falling within the remit of the Board.

CONCLUSIONS

- 3.14.57. The ExA considers that the Proposed Development accords with the requirements of the Water Framework Directive.
- 3.14.58. In terms of the FRA, the ExA is satisfied that the sequential test requirements have been met, but it considers that an exception test should have been undertaken to comply with NPS EN-1 (paragraphs 5.7.14 to 5.7.16). The ExA notes the Applicant's explanation of how the three parts of the exception test were satisfied by information in the application documents and is reassured by its commitment to obtain Flood Risk Activity Permits from the Environment Agency before any pylon is constructed in flood zones 2 or 3.

- 3.14.59. While recognising the concerns of key parties about the process followed, the ExA also notes that the evidence in front of the Examination was that such a test would have been satisfied had it been applied in accordance with best practice. The ExA is therefore satisfied that the requirements of the exception test have been met, and that the Proposed Development can be designed to ensure little or no risk of flooding.
- 3.14.60. The ExA is satisfied that, subject to the implementation of the identified mitigation measures, there should be no adverse effects on water quality or resources from the Proposed Development during construction or operation.
- 3.14.61. From the above points, the ExA is satisfied that the impact of the Proposed Development on water quality and resources and flood risk would be neutral and does not affect the planning balance.

3.15. TRAFFIC, TRANSPORT AND HIGHWAY SAFETY

INTRODUCTION

- 3.15.1. This section addresses impacts of the Proposed Development on traffic, road transport and highway safety. It also deals with the temporary access roads that would connect construction work areas with the local road network. Effects on navigable rivers are addressed in section 3.12.

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.15.2. Paragraph 5.13.3 of NPS EN-1 requires the Environmental Statement (ES) to include a transport assessment (TA) if a project is likely to have significant transport implications. Applicants should consult National Highways and highway authorities as appropriate about the assessment and mitigation. Where appropriate, an applicant should prepare a travel plan that includes demand management measures (paragraph 5.13.4).
- 3.15.3. The likely impact from heavy goods vehicles (HGVs) should be identified and controls on the number and routing of HGVs should be considered (paragraph 5.13.11).
- 3.15.4. Paragraph 5.13.6 says that the Secretary of State, in reaching a decision, should be satisfied that an applicant has sought to mitigate any impacts on the traffic network, including during the construction phase of the development.
- 3.15.5. The 2024 NPS EN-1 provides an evolution of the policy framework set out in the extant NPS EN-1, requires consideration of any possible disruption to transport services and infrastructure, and calls for proposed measures to:
- contribute to decarbonisation of the transport network; and
 - improve user travel options by offering genuine modal choice.
- 3.15.6. Paragraph 5.14.21 directs that the Secretary of State, in reaching a decision, 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
 - consideration had not been given to providing adequate active public or shared transport access and provision.

National Planning Policy Framework (NPPF)

- 3.15.7. The NPPF advises that transport impacts need to be considered from the earliest stages of development proposals (paragraph 104). In terms of decision making, at paragraph 111 it states that:

'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

Local planning policy

- 3.15.8. The Local Impact Reports (LIRs) from Suffolk County Council and Babergh and Mid Suffolk District Councils (joint response) [\[REP1-045\]](#), and Essex County Council and Braintree District Council (joint response) [\[REP1-039\]](#) identified the local planning policies that the host authorities consider may be important and relevant considerations in relation to the traffic and transport effects of the Proposed Development. The policies are listed in Table A5 at Appendix A to this Report.

THE APPLICATION

- 3.15.9. The Applicant's assessment of likely significant effects on traffic and transport was set out in ES Chapter 12, [\[APP-080\]](#). This highlighted links with other chapters, including ES Chapter 13, Air Quality [\[APP-081\]](#), ES Chapter 14, Noise and Vibration [\[APP-082\]](#) and ES Chapter 8, Historic Environment [\[APP-076\]](#), which considers effects on protected lanes in Essex and historic lanes in Suffolk.
- 3.15.10. Chapter 12 of the ES [\[APP-080\]](#) detailed the likely significance of effects on traffic and transport. It cross-referred to supporting figures, appendices, assessments and plans, which are listed in Table A7 at Appendix A to this Report.

Scope of the traffic and transport assessment

- 3.15.11. Chapter 12 of the ES [\[APP-080\]](#) cross-referred to the TA [\[APP-061\]](#). This concluded that the Proposed Development would not result in any significant effects on road network performance and safety, including bus journeys. The Applicant therefore concluded that these matters could be scoped out of the assessment.
- 3.15.12. Operational effects had been scoped out through the Scoping Opinion [\[APP-159\]](#), given the small number of vehicles that would be used for the inspection and maintenance of the Proposed Development.
- 3.15.13. The only aspect scoped into the assessment at application was construction effects on walkers, cyclists and horse riders using the local road network.

Potential effects and mitigation

- 3.15.14. Chapter 12 of the ES [\[APP-080\]](#) cross-referred to the TA [\[APP-061\]](#), noting that the construction of the Proposed Development had the potential to cause an increase in the number of vehicles on roads, principally as a result of construction HGVs. In response, paragraph 12.4.46 of the ES set out embedded traffic and transport mitigation measures. Further good practice measures were detailed in the Code of Construction Practice (CoCP) [\[REP9-035\]](#).
- 3.15.15. Chapter 12 of the ES recognised a need for additional mitigation measures in the form of warning signs at one particularly sensitive location, Church Road in

Twinstead. Baseline traffic flows here were fairly low, and the route passed a church and village hall with no dedicated footpaths.

- 3.15.16. Chapter 12 of the ES concluded that, *'there are no likely significant residual effects in relation to traffic and transport receptors during construction'*, and no other traffic and transport mitigation measures were proposed at application for the construction of the Proposed Development. The Applicant considered that the traffic and transport requirements of NPS EN-1 had been met.

The Transport Assessment

- 3.15.17. A TA [[APP-061](#)] was submitted as part of the application in accordance with NPS EN-1. The Applicant confirmed pre-application discussions with the relevant highway authorities (Suffolk County Council, Essex County Council and National Highways) regarding the scope and requirements of the TA. Paragraph 3.4.1 set out the published guidance that had been followed by the Applicant when preparing the TA.
- 3.15.18. The traffic flow and highway safety data used to inform the assessment had been compiled from 2022 traffic surveys, Department for Transport traffic counts (2021), and traffic collision data for the five-year period 2015-2019 (unaffected by the Covid-19 pandemic) [[APP-061](#)]. Traffic that would be generated by committed developments and transport schemes, including the A12 Junctions 19 to 25 widening project, was also considered. Growth factors were applied to base traffic levels to create the 2025 future baseline for the construction phase.
- 3.15.19. Section 1.5 of Appendix C to the TA [[APP-061](#)] set out key assumptions that had been used to derive key traffic and travel forecasts, including:
- construction traffic routing;
 - construction staff numbers; and
 - construction vehicle numbers.
- 3.15.20. The TA concluded that there would be limited temporary adverse impacts on the transport network during the morning and afternoon peak hours.

Construction Traffic Management Plan

- 3.15.21. Chapter 12 of the ES [[APP-080](#)] cross-referred to the Construction Traffic Management Plan (CTMP) [[APP-180](#)]. The Applicant considered the application CTMP to be the final version and did not intend it to be an outline document that would be developed into a final plan post-consent, though it included a process for updating if required. It would be secured by Requirement 4 of the Applicant's draft Development Consent Order (dDCO) [[REP9-006](#)].
- 3.15.22. The CTMP provided measures to:
- reduce route and journey mileage to, from and around site;
 - provide suitable control for the means of access and egress to the public highway;
 - identify access for emergency vehicles and set out measures to reduce safety risks; and
 - manage abnormal loads.
- 3.15.23. The CTMP provided details of the construction access and route strategy for the Proposed Development, including temporary and permanent access points to the site, the roads to be used to reach these accesses, a review of local highway issues

(pre-construction surveys), and routine and contingency routing for construction traffic. It also set out a signing strategy to ensure the construction routes and accesses would be properly used, including provision for temporary diversions.

- 3.15.24. Access points within the Order Limits would provide the entrances to construction sites off the local road network. The Applicant aimed to use existing accesses where available and, where not, to create new access points, most of which would be temporary for the period of construction. The Access, Rights of Way and Public Rights of Navigation Plans [APP-012] showed 126 proposed temporary access points, 74 of which were existing in some form. The plans also showed five new permanent access points on the local road network. New permanent access routes would be created for the grid supply point substation and for each of the four cable sealing end compounds.
- 3.15.25. A generic 'Temporary Bellmouth for Access' design was provided in the Design and Layout Plans [APP-030]. The proposed permanent and temporary access bellmouths along the length of the Proposed Development were shown on the Access, Rights of Way and Public Rights of Navigation Plans ([APP-012]. Some of the access points would need to be altered to create a suitable bellmouth to accommodate use by construction vehicles [APP-061]. The Applicant gave a commitment in the CTMP [APP-180] that detailed designs for the access points would be agreed with the relevant highway authority, and that any vegetation that needed to be removed to create the access or to provide suitable visibility would be managed in accordance with the measures set out in the Landscape and Ecological Management Plan (LEMP) [APP-182].
- 3.15.26. The temporary access routes shown on the general arrangement plans [APP-018] were, for the most part, relatively short. However, the proposed access route from the A131 to the Stour Valley west cable sealing end compound (Sheet 28, [APP-018]) and the working area to the west of the trenchless crossing to the south of Ansell's Grove (Sheet 27, [APP-018]) was of considerable length. The Applicant was also proposing to construct a temporary access route along the whole of the underground cable sections.
- 3.15.27. The construction of the temporary access routes would lead to the temporary closure and diversion of 19 public rights of way (PRoWs). Information about the projected closure times of PRoWs was provided (Appendix F, [APP-061]). Three main rivers (Brett, Box and Stour) would need to be crossed by the temporary access routes [APP-061].
- 3.15.28. Section 7 of the CTMP [APP-180] outlined how a travel plan would reduce reliance on single-occupancy car journeys and promote a shift towards more sustainable modes of transport through:
- the inclusion of public transport, cycle route and footpath details in travel information packs to be issued to all staff;
 - the promotion of vehicle sharing; and
 - the control of car parking.
- 3.15.29. The CTMP committed the contractor to set targets to increase the number of staff using sustainable travel options and generally reduce travel movements over the duration of the project. Any amendments to the targets would be discussed and agreed with the relevant highway authorities.

- 3.15.30. Section 8 of the CTMP [\[APP-180\]](#) explained how control measures would be monitored and enforced. The Applicant committed to review performance and liaise with the relevant highway authority to increase compliance with targets.

KEY ISSUES CONSIDERED DURING THE EXAMINATION

The strategic road network

- 3.15.31. National Highways recognised that no works or alterations would be needed on the strategic road network (the A14, A12 and A120 trunk roads) to facilitate the Proposed Development and that the impact on traffic there would be negligible. As such, it did not object to the principle of the Proposed Development. This was confirmed in the unsigned Statement of Common Ground between the Applicant and National Highways [\[REP3-022\]](#).

Emergency services

- 3.15.32. At the close of the Examination, all matters of relevance to Essex Police (also representing the interests of Suffolk Police) [\[REP8-028\]](#) and the East of England Ambulance Service NHS Trust [\[REP8-034\]](#) were agreed, including community liaison and communication, crime and security, construction traffic management, road safety, road closures, emergency planning, and the construction workforce profile.

Local Impact Reports

- 3.15.33. In their joint LIRs, Essex County Council and Braintree District Council [\[REP1-039\]](#) and Suffolk County Council and Babergh and Mid Suffolk District Councils [\[REP1-045\]](#) had concerns with many aspects of the Applicant's proposals in relation to traffic and transport.

- 3.15.34. By the close of Examination, the Statement of Common ground (SoCG) between the Applicant and the local authorities [\[REP10-006\]](#) confirmed agreement over the following matters:

- the methodology for the baseline survey counts;
- design and approval of non-prescribed road signage;
- the process to assess the feasibility of routes for abnormal indivisible loads;
- an additional good practice measure related to street furniture (TT04);
- monitoring vehicles entering and exiting each site, including times of access;
- monitoring construction staff vehicles and their occupancy;
- sharing of monitoring results with local highway authorities on a quarterly basis;
- targets for staff modal share, including crew vans and cars;
- discounting the need for a port traffic management plan;
- an obligation to share condition surveys with the local highway authorities; and
- a commitment to consider evidence of highway damage attributable to extraordinary traffic.

- 3.15.35. Matters not agreed between the local authorities and the Applicant ([\[REP10-006\]](#) and [\[REP10-018\]](#)) at the end of the Examination were:

- the need for an assessment of the hour of greatest change;
- assumptions and forecasts in the TA and ES and the peak hour assessment;
- restriction of HGV movements on certain routes;
- revised vehicle movement forecasts;
- securing traffic numbers per access for the construction period;
- bellmouth and junction design for accesses and visibility splays;

- a unique identifier for construction vehicles;
- the need for a cap on vehicle numbers;
- monitoring of construction and workforce traffic;
- requirement for wheel washing facilities;
- the 28-day period that was used in various Articles (e.g., street works, highway works, Traffic Regulation Orders);
- application of the street works permit schemes;
- the need for restrictions on HGV movements outside core working hours; and
- adequacy of the CTMP.

3.15.36. The points of disagreement are discussed further below.

TA: need for an assessment of the hour of greatest change

3.15.37. The local highway authorities held a view throughout the Examination that a traffic assessment of the hour of greatest change (the worst-case hour) was required ([REP1-045], [REP5-033], [REP6-051], [REP6-057], [REP8-040] and [REP10-006]). Their rationale was that there might be a proportionately large increase in vehicle movements on some quiet rural routes during the arrival and departure of construction staff vehicles. Essex County Council [REP6-051] reasoned that just because the peak hour represents the absolute peak, it does not mean that an adjacent hour might not be similarly busy, or even busier on certain parts of a transport network.

3.15.38. The Applicant noted ([REP6-041], [REP6-045], [REP7-026] and [REP9-065]) that there was no requirement in relevant published guidance to undertake such an assessment, and that it would be disproportionate and unnecessary, given the modest forecast traffic impacts. The Applicant explained [REP6-041] that ES Figure 12.4 [APP-154] presented traffic flow diagrams for the construction traffic estimated per day during the peak period of construction activity. These indicated that on all but three roads, the project would add less than 100 vehicles per direction per day during the peak construction period, inclusive of a contingency ([APP-061] section 6.2).

TA: assumptions about total construction staff numbers, peak construction vehicle numbers underlying the peak hour assessment

3.15.39. The TA [APP-061] required a range of assumptions to derive construction vehicle forecasts, construction staff vehicle forecasts, construction staff numbers, and construction traffic routing. These were set out at Appendix C to the TA [APP-061].

3.15.40. Essex County Council [REP6-051] listed several key assumptions it considered significantly affected the assessed impact, including the number of HGVs and the number of staff:

'It is recognised that there are elements of robustness within the assessment that have been set out by the Applicant, but this does not mean that these elements of robustness outweigh what are considered to be the risks with the assessment method'.

3.15.41. The ExA explored the robustness of the Applicant's assumptions on total staff numbers and construction vehicle numbers through written questions (TT2.13.10 and TT2.12.11 [PD-008]).

3.15.42. The Applicant explained [REP7-025] that forecast daily traffic movements had two components, construction staff vehicle movements and construction vehicle

movements, and how the estimates had been made, noting at each stage, 'a *substantial level of contingency into the calculation*'.

- 3.15.43. The calculation of construction staff vehicle movements was based on the peak daily staff requirement derived from the Applicant's experience of constructing electricity transmission lines. A maximum daily staff requirement for each access point to the construction site was calculated from the estimated number of staff who would be present during the peak month of construction.
- 3.15.44. Essex County Council [REP6-051] challenged assumptions made in the TA [APP-061] with regards to the assessed peak hours and staff shift patterns, providing reasons why the Applicant's peak hour assessment was considered inappropriate. It concluded that the peak hour assessment approach, *'is considered to fail to test the development's actual impact, because ... they have distributed workers traffic travelling between 0600 and 0900 in the AM peak period'*.
- 3.15.45. The Applicant (Table 4.1, [REP6-041]) explained its approach to conducting the peak hour assessment, and concluded that temporary construction traffic would be, *'very modest generally and insubstantial on most roads in the study area'*.
- 3.15.46. The Applicant reiterated [REP6-041] that there was no requirement in TA guidance to assess traffic impacts outside identified peak hours, and that it would not be proportional or reasonable to do so given the modest temporary levels of construction traffic.
- 3.15.47. At the end of the Examination the Applicant's peak hour assessment was still not agreed by Essex County Council.
- 3.15.48. Essex County Council [REP6-051] was content to rely on management processes to address concerns about the exceedance of assessed impacts on the highway network:

'The Council are outcomes focussed and due to the limited evidence that links construction works to vehicle movements are looking to achieve a pragmatic management process to look to minimise an exceedance of the assessed impacts on the highway network'.

- 3.15.49. Nevertheless, Essex County Council's final position, as set out in the signed SoCG between the Applicant and the local authorities [REP10-006], was:

'ECC have concerns regarding the assumptions within the Transport Assessment and is looking to minimise the risks associated with these assumptions through relevant controls. These risks relate to the following:

- *Total staff numbers.*
- *Peak construction vehicle numbers*
- *Staff shifts patterns and as a result the assessment hour*

There are no mechanisms in place that guarantee these HGV numbers or shift patterns, which could result in increased impacts on the highway network during the peak hour. This brings significant risk to the conclusions of the assessment.

The assessed peak hours are not agreed as the assessment assesses an hour of reduced development impact as per ECC submissions.'

- 3.15.50. The Applicant's final position is also set out:

'The Applicant does not consider it necessary or proportionate to restrict staff numbers, vehicle numbers or shift patterns; and consider that all could decrease the efficiency of the construction programme without a good rationale for doing so'.

CTMP: restriction of heavy goods vehicle movements on certain routes

- 3.15.51. The local highway authorities considered that there should be restrictions on HGV movements ([\[REP1-044\]](#), [\[REP5-031\]](#), [\[REP6-051\]](#), [\[REP8-040\]](#) and [\[REP10-006\]](#)).
- 3.15.52. The application CTMP [\[APP-180\]](#) outlined the Applicant's approach to the routing of construction vehicles. It favoured a hierarchical approach to determining construction routes, with the strategic road network the first choice, then A-roads, and finally recourse to B-roads and below, all while avoiding significant extensions to journey lengths. The Applicant submitted an updated CTMP [\[REP3-030\]](#) that included a map showing routes for HGV traffic. The Applicant acknowledged that narrow lanes were less suitable for construction traffic.
- 3.15.53. Essex County Council identified five rural routes predicted to carry no or very low HGV traffic ([\[REP5-031\]](#), [\[REP6-051\]](#)) due to their narrowness and rural nature. The County Council sought failsafe controls to restrict or limit HGV movements on these routes on the grounds of preventing negative effects such as delays and increased road safety risk. It also suggested mitigation in the form of new passing bays.
- 3.15.54. The Applicant noted ([\[REP6-045\]](#) and [\[REP7-022\]](#)) that the works around these five routes would relate to the removal of the existing overhead line, and that this would generate only limited HGV movements. Construction traffic in this area of the project would primarily use the temporary access route from the A131, limiting impacts on the local road network. The Applicant explained that the construction routes in the CTMP [\[REP6-025\]](#) were determined to be suitable for their proposed use based on the anticipated vehicle type and numbers.
- 3.15.55. Suffolk County Council [\[REP5-034\]](#) sought controls on the movements of HGVs to ensure movements did not exceed those assessed in the TA and ES. The Applicant [\[REP7-022\]](#) highlighted that the TA was based on a reasonable worst-case and did not consider it proportionate or necessary [\[REP7-026\]](#) to limit vehicle numbers given the low level of traffic generated and the fact that this traffic would be spread over a long, linear development. The Applicant concluded [\[REP9-065\]](#):

'The Applicant is not willing to secure traffic numbers given that traffic is not substantial and securing these details is unnecessary. The monitoring and management required to manage traffic over a large number of accesses is disproportional given the low number of vehicles and lack of impacts'.

CTMP: revised vehicle movement forecasts

- 3.15.56. In response to a written question from the ExA (DC2.6.15, [\[PD-008\]](#)), Essex County Council considered [\[REP7-029\]](#) that the CTMP [\[REP6-025\]](#) should be updated to include a construction programme informed by revised vehicle movement forecasts and worker numbers following appointment of a main works contractor.
- 3.15.57. The Applicant [\[REP8-033\]](#) pointed to the construction vehicle profile data spreadsheet [\[REP4-006\]](#). This presented the construction vehicle numbers that had been assumed in the TA [\[APP-061\]](#) for each access point on the Proposed Development, split into months and vehicle classification. The Applicant did not believe it necessary to submit a revised spreadsheet given that forecast traffic flows would not be substantial and would largely be limited to the construction period.

CTMP: securing traffic numbers per access for the construction period

- 3.15.58. Braintree District Council and Essex County Council noted [REP4-049] the absence of a mechanism to guarantee the peak construction vehicle numbers assumed in the TA [APP-061] and sought controls to limit the number of HGV movements during the peak hours.
- 3.15.59. The Applicant clarified ([REP6-046] and [REP7-022]) that traffic flows were not secured in its dDCO and confirmed that it would record traffic movements at each site during construction and share that information with the local highway authorities.
- 3.15.60. At the close of the Examination, the local highway authorities [REP10-006] requested that:
- the CTMP [REP8-018] should secure the traffic numbers assumed in the TA [APP-061]; and
 - the traffic numbers be monitored, with requirements for action if they were exceeded.
- 3.15.61. The Applicant did not agree [REP10-006] that traffic numbers needed to be secured:
- the assumed traffic numbers were unlikely to be exceeded, but this could not be guaranteed;
 - it was not possible to forecast with accuracy traffic numbers on a day-to-day basis by access point; and
 - the NPS EN-1 threshold (reflected in the 2024 NPS EN-1) requiring controls on the number, timing and routing of HGV traffic movements was not met.

CTMP: bellmouth and junction design for accesses and visibility splays

- 3.15.62. Table 7.1 of the final CTMP [REP8-018] set out the Applicant's commitments:
- the design of temporary and permanent accesses was to be approved by the local highway authority under Requirement 11 of the dDCO; and
 - temporary access routes and changed bellmouths would be removed after construction and reinstated, or as otherwise agreed in discharge of Requirement 11.
- 3.15.63. Throughout the Examination, the Applicant and local highway authorities could not reach agreement on the adequacy of the updated access design [REP3-005]. The local highway authorities contended that the generic design and layout made no allowance for the nature of the existing highway ([REP1-039], [REP1-045], [REP4-021], [REP5-031], [REP6-051], [REP6-057], [REP7-026] and [REP7-027]), noting that:

'... remains to be convinced that a generic bellmouth design in isolation is sufficient to determine the feasibility of an access design and to identify all impact';

'... inadequate information has been provided to allow the authority to assess the scale of vegetation required to provide safe access to the site';

'The plan in isolation does not show that the accesses proposed by the applicant are feasible or deliverable nor what impacts there will be in terms of vegetation clearance to provide safe visibility';

'This provides no local context nor provides any information as to whether the individual access point can be safely provided within land in the control of the developer and/or the highway boundary with regard to access geometry and visibility requirements'.

3.15.64. The Applicant [REP3-052] considered that the access design was based on worst case. To provide reassurance, it produced preliminary designs for a selection of potentially problematic proposed access points ([REP7-027], [REP8-030], [REP8-038] and [REP9-062]).

3.15.65. This failed to satisfy Suffolk County Council ([REP8-047] and [REP9-073]):

'However, the problem that the Applicant has not grappled with is that the red line for the DCO is fixed at this stage and yet the access designs are generic and it has not been demonstrated on a site by site basis that a suitable design can be achieved within the red line of the Order limits or land forming part of the highway';

'The concern that SCC has is that once the DCO has been made, any applications coming forward for approval under Requirement 11 will be confined to works within the red line and/ or works within the limits of the existing highway and the Applicant will argue that it has no power to do works on any other land. If SCC as LHA refuses to approve an access because what is proposed is unacceptable, whether for reasons of safety or visibility or loss of vegetation of nature conservation/ landscape/ cultural heritage value, the Applicant may seek to challenge that refusal on the basis that what has been proposed is the best that can be achieved within the confines of the powers given by the DCO.'

3.15.66. Suffolk County Council [REP8-047] sought additional wording in Requirement 11 of the dDCO to give the local highway authorities an unconstrained ability to refuse approval to any access they deemed unacceptable. This matter is addressed further in section 7 of this Report.

3.15.67. Suffolk County Council agreed with the Applicant's proposal to rationalise the number of accesses, but questioned the merits of some of the tools proposed to deliver them [REP7-027].

3.15.68. One of a range of solutions put forward by the Applicant to deliver accesses ([REP7-027], [REP8-030], [REP8-038] and [REP9-062]) was the making of temporary Traffic Regulation Orders. In the final CTMP [REP8-018], the Applicant explained that such Orders would be required to close smaller roads temporarily when constructing the access points and to regulate traffic for the purposes specified in Schedule 12 of the dDCO. Braintree District Council and Essex County Council and Suffolk County Council and Babergh and Mid Suffolk District Councils expressed their concerns ([REP1-045], [REP4-021], [REP6-051] and [REP6-057]) about the need for and likely effectiveness of these Traffic Regulation Orders. This matter is addressed further in section 7 of this Report in relation to Article 47 of the dDCO.

3.15.69. Essex County Council [REP9-071] highlighted the lack of evidence to demonstrate that some of the proposed accesses could be accommodated within highway land. The Council did, however, give a qualified endorsement of the Applicant's preliminary design exercise:

'... work undertaken by the Applicant has helped to alleviate some of our concerns on the deliverability of these accesses'.

- 3.15.70. Essex County Council [REP9-071] also pointed out that the Applicant had not correctly followed the Council's visibility standard on setback distance.
- 3.15.71. Overall, the Applicant [REP9-065] was confident that it would be possible to design access solutions to construct and operate the Proposed Development within the powers of the dDCO, noting that:
- 'Given that the Local Highways Authority... discharge Requirement 11... this is very much the Applicant's risk, rather than a SCC risk.'*
- 3.15.72. In the signed SoCG with the Applicant [REP10-006], Essex County Council and Suffolk County Council considered that detailed designs for accesses and visibility splays should have been presented at the application stage and that the generic bellmouth design in isolation did not provide a solution.
- 3.15.73. Essex County Council also noted that complete evidence had not been submitted to demonstrate that the access at the junction of the A131 and the proposed haul road could be accommodated, including appropriate visibility and a proposed ghost island.
- 3.15.74. The ExA sought [PD-009] additional wording in Requirement 11 to ensure that road safety implications arising from access designs were identified and considered, and the Applicant updated dDCO Requirement 11 to reflect this [REP8-004]. This matter is addressed further in section 7 of this Report.
- 3.15.75. The ExA also sought additional wording to Article 17 in relation to highway land altered by the Proposed Development and its adoption for maintenance at public expense. This matter is covered in detail in section 7 of this Report.

CTMP: unique identifier for construction vehicles

- 3.15.76. The local highway authorities ([REP7-029], [REP7-033] and [REP10-006]) promoted the use of unique identifiers on the windscreens of construction vehicles to enable local people to associate them with the Proposed Development.
- 3.15.77. From experience, the Applicant ([REP3-052] and [REP10-006]) did not consider that such a scheme was practicable and maintained that there would be no intention to use any sort of standardised livery on main contractors, sub-contractors or supplier vehicles.

CTMP: limit on vehicle numbers

- 3.15.78. Braintree District Council and Essex County Council [REP4-049] sought an upper limit on HGV movements:
- 'An initial cap on HGV movements that is equivalent to the project peaks assessed in the TA should be incorporated. If a contractor wanted to amend these caps; they could do so through amendments to the CTMP, approved by the relevant highway authority, and by evidencing that there would be no additional impacts.'*
- 3.15.79. Suffolk County Council proposed [REP4-008] control measures to secure assumptions used in the TA [APP-061]. It sought a cap on the peak daily number of workers on site and the number of vehicle movements during staff arrival and departure, and to restrict HGV movements to site working hours.

- 3.15.80. The Applicant [REP5-025] considered it unreasonable, unnecessary and impracticable to control daily worker numbers, arrival and departures split by time periods, or exact numbers on individual days.
- 3.15.81. The Applicant [REP5-025] noted that the TA [APP-061] had concluded that the impact of traffic from the Proposed Development on road network capacity during periods of peak construction activity would not be substantial and that no additional mitigation would be required. The Applicant also highlighted that, even with the large contingencies built into the TA, it was not considered necessary to restrict HGV movements.

CTMP: monitoring and non-compliance

- 3.15.82. Braintree District Council and Essex County Council were concerned (paragraph 21.1.9 [REP4-049] and paragraph 3.2.19 [REP5-031]) about the absence of monitoring of construction and workforce traffic, and sought further commitments to survey staff movements, to report the findings to the highway authorities and to have a meaningful process for remedial actions.
- 3.15.83. Suffolk County Council [REP5-033] similarly referred to a lack of detail about controls, monitoring, reporting and enforcement in the CTMP.
- 3.15.84. The Applicant [REP7-022] explained how construction and workforce traffic would be monitored for compliance with the CTMP:
- GPS tracking of the main contractor's HGVs on construction traffic routes between the strategic road network and the site.
 - Staff sign in on arrival and sign out on departure at each work location, to monitor vehicle movements and occupancy rates.
 - Surveys to monitor staff vehicle and crew van movements, number of people sharing cars and crew vans, and car park usage, to assess whether targets on modal share were being met.
- 3.15.85. The Applicant addressed [REP7-022] Suffolk County Council's concerns:
- 'Whilst the Applicant is seeking to update certain aspects of the CTMP in response to comments provided by the Councils, and notwithstanding that in some cases there is a difference of opinion with the Councils as to the nature and/or extent of controls, this does not mean that the CTMP in overall terms is incomplete and/or insufficiently detailed. Indeed, the Applicant considers that the CTMP provides appropriate information and controls for it to be considered "final" at the end of the Examination and certified as such by the Secretary of State. Should any future changes become necessary that would result in updates being required to the document these would need to be submitted to and agreed by the LHAs'.*
- 3.15.86. The final version of the CTMP [REP8-018] included reporting and management commitments:
- GPS information on construction route compliance to be shared with the local highway authorities;
 - the need for mitigation measures to be discussed with the local highway authorities;
 - travel pack to be shared with local highway authorities for information;
 - results of staff travel surveys, targets and progress against targets to be shared with the local highway authorities;

- staff and vehicle signing in and out of work locations information to be shared with the local highway authorities;
- information provided to the local highway authorities in one pack on a quarterly basis; and
- if required, measures to increase compliance would be discussed with the local highway authorities.

CTMP: requirement for wheel washing facilities

3.15.87. Braintree District Council and Essex County Council [REP10-018] referred to a, 'need for management of a requirement for wheel washing facilities'. The Applicant [REP9-065] noted that the CTMP [REP8-018] committed to provide wheel washing facilities and to share a plan with the relevant highway authorities. The arrangements for wheel washing and road sweeping had been agreed by Essex Police [REP8-028].

CTMP: restrictions on HGV movements outside core working hours

3.15.88. The local highway authorities argued throughout the Examination for restrictions on the timings of HGV movements on the local highway network to provide respite to local communities ([REP3-061], [REP4-008], [REP5-034], [REP7-029], [REP7-033], [REP8-040], [REP9-071] and [REP10-018]).

3.15.89. The Applicant did not agree, noting:

- HGV arrival times could not be guaranteed [REP3-049];
- HGVs would experience unavoidable delays due to incidents on the road, delays to deliveries at ports, personnel related delays, etc [REP5-025];
- construction traffic would not have a substantial impact [REP5-025];
- timing restrictions were not necessary or proportionate given the level of traffic expected, the temporary and linear nature, the urgency of the programme, and the use of temporary access routes ([REP5-025] and [REP7-022]);
- the situation would not meet the substantial HGV traffic timing test in paragraph 5.13.11 of NPS EN-1 [REP8-033];
- HGV deliveries were likely to be infrequent in nature, dispersed over a wide geographic area and would use the temporary access routes rather than the local highway network, where practicable [REP8-032];
- it would be impractical to secure HGV times on a day-to-day basis [REP7-022]; and
- timing restrictions would remove the flexibility built into the construction schedule [REP6-042].

3.15.90. The ExA [PD-009] suggested a change to draft Requirement 7(2) to prohibit abnormal indivisible load and HGV deliveries between 19.00 and 07.00, and on Sundays, Bank Holidays and other public holidays to limit impacts on local communities.

3.15.91. The Applicant disagreed [REP8-032] with any restriction on the timing of movements.

3.15.92. The Applicant noted that it is standard practice for abnormal indivisible load movements to take place at night under Police escort, and that restrictions on the timing of HGV deliveries would significantly inhibit the timely delivery of the Proposed Development.

- 3.15.93. Braintree District Council and Essex County Council [REP8-040] and Suffolk County Council ([REP8-045] and [REP9-074]) wanted the ExA's proposed restrictions [PD-009] extended to include Saturday afternoons.
- 3.15.94. On further reflection, Braintree District Council and Essex County Council [REP9-071] suggested that abnormal indivisible loads could reasonably be removed from the restriction, noting that such movements would be low in number.
- 3.15.95. This matter is addressed further in section 7 of this Report.

CTMP: adequacy

- 3.15.96. Essex County Council and Braintree District Council welcomed [REP10-006] many of the changes to the CTMP as it had evolved during the Examination ([APP-180], [REP3-030], [REP6-025] and [REP8-018]), though the local highway authorities continued to voice concerns about its adequacy.
- 3.15.97. The local highway authorities ([REP6-051] and [REP5-033]) remained concerned that the status of the CTMP was final, as this would not allow for additional details determined by the contractor that would ultimately be appointed to be submitted and approved. The Applicant considered [REP5-025] a further detailed iteration of the CTMP unnecessary, given the nature of the project and limited effects on highways.
- 3.15.98. The Applicant nevertheless confirmed [REP6-045] that the local highway authorities would be given an opportunity to agree any changes to the CTMP. Braintree District Council and Essex County Council (paragraph 3.2.19, [REP5-031]) seemed satisfied with this.

Adequacy of the length of the consent period to secure consent for street works, highway works and Traffic Regulation Orders

- 3.15.99. Draft Articles 11(3) (street works), 14(5) (power to alter layout, etc. of streets), 15(9) (temporary stopping up of streets and public rights of way), 16(2) (access to works), and 47(9) (traffic regulation) provided for deemed consents [REP9-008] and allowed local highway authorities 28 days to notify their decision on the consent being sought. Should no such consent be provided within that period, the consenting authority would be deemed to have granted consent. The matter is addressed in section 7 of this Report.

Application of the permit schemes to coordinate street works

- 3.15.100. Draft Article 12 referred to the permit schemes operated by Essex and Suffolk County Councils, [REP9-008] to coordinate street works. During the Examination, the Applicant acknowledged [REP6-043] limitations to the scope of street and highway works capable of being authorised by the permit schemes operated by Essex and Suffolk County Councils.
- 3.15.101. Braintree District Council, Essex County Council and Suffolk County Council argued that 28 days was inadequate to give thorough and effective scrutiny of applications. The matter is covered in detail in section 7 of this Report.

Other Interested Parties' concerns

- 3.15.102. The Royal Mail ([RR-023] and [REP2-030]) had concerns about road congestion, disruption and closures, and it sought measures to protect its operational performance during the construction of the Proposed Development. The Applicant considered any such measures unnecessary given the limited traffic effects that

were predicted but included additional wording in the CTMP (paragraph 5.4.13, [REP3-030]) to provide major road users, including the Royal Mail, with advance notifications of programmed diversions and closures.

3.15.103. Mr Alan Hall made written and oral submissions ([RR-083], [REP2-041], [REP2-043], [REP4-035], [REP4-007], [REP4-053], [REP8-055] and [EV-037]) contesting the Applicant's proposals to use two access points on Church Hill, identified as AP4 and AP5 on the Access, Rights of Way and Public Rights of Navigation Plans [APP-012]. In his final written submission [REP8-055], Mr Hall:

- expressed doubts about the veracity of the proposed form of construction of the track accessed via AP4;
- enquired whether a standard bellmouth access would be provided at AP5;
- challenged the accuracy of the likely impact on trees and vegetation near his property, as shown on the LEMP [REP7-008];
- sought confirmation that AP5 would be temporary and fully reinstated on completion of construction; and
- sought clarity on who would have oversight of access design, with particular concerns relating to the potentially large-scale felling of trees.

3.15.104. The Parish Councils of Assington, Bures St Mary, Leavenheath, Little Cornard, Polstead and Stoke by Nayland ([AS-010], [REP6-060], [REP6-061] and [REP8-050]) contested the need for, and positioning of the proposed permanent access road to the Stour Valley east cable sealing end compound from the B1508 [APP-018], and its proposed permanent bellmouth (G-AP3 on Sheet 20 of the Access, Rights of Way and Public Rights of Navigation Plans [APP-012]).

3.15.105. The Parish Councils made a case for an alternative route that would use an existing track and vehicular access onto the B1508. The Parish Councils considered that their alternative access route would improve access for local properties and have less environmental impact.

3.15.106. The Applicant noted that other access options to the Stour Valley east cable sealing end compound had been considered [REP9-065]:

- from the east (starting at proposed access points G-AP1 or G-AP2);
- from the north (near Workhouse Green); and
- various points off the B1508.

3.15.107. G-AP3 was the Applicant's preferred option for reasons that included access design, topography for HGVs, separation from residential properties, preventing unauthorised use and managing and diverting PRoWs. As set out in section 3.9 of this Report, the Applicant introduced additional landscape and visual mitigation in the detailed design of the permanent access route.

Temporary access routes

3.15.108. At Issue Specific Hearing 1 [EV-018], the ExA asked a question regarding the reasoning for the proposed selection of access routes for the temporary road network. The Applicant [REP1-034] responded:

'As stated in paragraph 5.4.2 of the CTMP [APP-180], the local road network around the Order Limits in Suffolk and particularly at the western end in Essex, consists of a number of narrow winding roads that are less suitable for construction vehicles than more major roads.'

As a result of the constraints on the local road network, the Applicant has sought to use temporary access routes in many locations to avoid modifications to and reduce the number of construction vehicles on the local road network. This is particularly the case for the underground cable sections, where a temporary access route would be used along the whole of the cable section. The exception being at the trenchless crossing to the south of Ansell's Grove where embedded measure EM-G08 in the Register of Environmental Actions and Commitments (REAC) [APP-179] states that there would be no temporary access route along the trenchless crossing to avoid impacts on the habitats at this location'.

- 3.15.109. In its written representation [REP2-015], Alphamstone and Lamarsh Parish Council recommended that the proposed access road to the south of pylon PCB80 (Sheet 20, [APP-018]) was joined to the principal east-west access road along the 132kV corridor. This would ensure that no site traffic would come through Lamarsh Village.
- 3.15.110. The Applicant [REP3-048] reviewed the need for construction traffic to use Henny Road in Lamarsh. The review confirmed that Henny Road would be required, as it would not be possible to build the western side of the crossing over the River Stour without construction traffic travelling through Lamarsh.
- 3.15.111. The temporary access route off the A131 was supported in principle by Essex County Council as the highway authority, but it was questioned by Braintree District Council given the impacts on landowners.
- 3.15.112. A number of Interested Parties, Affected Persons and Parish Councils were critical of the level and detail of the Applicant's engagement with the public and landowners prior to the start of the Examination in relation to the temporary access route off the A131. There was concern that the practical and technical details and the measures to mitigate its impact on farming operations had not been properly addressed ([RR-026], [RR-038], [RR-039], [RR-060], [RR-066], [RR-070], [RR-080], [RR-087], [RR-088], [RR-105], [RR-107], [RR-108], [RR-123], [RR-124], [RR-127], [RR-128], [RR-134], [REP2-017], [REP2-018], [REP2-039], [REP2-040], [REP2-054], [REP2-055], [REP2-056], and [REP2-057]).
- 3.15.113. The issues raised related to:
- the degree of interference with the use of the agricultural land required to construct and operate the road;
 - questions relating to the need for, routing of and traffic flows;
 - the time the temporary access route would be in place;
 - perceived lack of surveys;
 - the need for permanent access rights;
 - the alternatives considered;
 - the width, form of construction, field drainage, points of access, and restricting unwanted access;
 - the potential use of Henny Road (Lamarsh) by construction vehicles.
- 3.15.114. A technical note on the temporary access route off the A131 [REP3-053] was developed by the Applicant in response to these representations and questions from the ExA [PD-005]. This presented an assessment of various options for accessing the Stour Valley west cable sealing end compound. The technical note was later updated [REP4-009]. Section 6.1 provided detail of the temporary access route design. Figure 6.2 showed two images of a crossing point where vehicles travelling along the temporary access route would cross an existing road, as would occur at

four points along the proposed route between the A131 and the Stour Valley west cable sealing end compound.

- 3.15.115. The updated technical note presented the Applicant's options assessment for the temporary access route off the A131:
- Approach A that used the local road network with closures, works to widen the road and one-way systems.
 - Approach B that considered five different temporary access routes, including those suggested by local landowners Mr G V S Nott ([[REP2-055](#)] and [[REP3-084](#)]) and by Mr P Nott [[REP3-087](#)].
 - Approach C, a 'hybrid' approach, that used temporary access route sections and some of the local road network.
- 3.15.116. The Applicant outlined the consequential disadvantages, including traffic impacts and extensive widening works, if the temporary access route off the A131 was not provided. The preferred route was one of the Approach B options which was considered by the Applicant to be the most appropriate, taking account of the environmental impact, engineering requirements, highway design, access, safety and security and consultation feedback.
- 3.15.117. Braintree District Council and Essex County Council [[REP5-031](#)] provided their assessment of the Applicant's analysis [[REP4-009](#)]:
- 'The Councils welcome the additional work which has been carried out by National Grid to explore the alternative options put forward by the local farmers, in terms of accessing the Stour Valley West Cable Sealing End Compound. It is mentioned that options 3d and 2e would in part, not be suitable (or preferred) as they would provide insufficient manoeuvrability for AIL's – however the document doesn't contain the analysis which shows the swept paths of said AIL's to evidence this assertion. Is such evidence available to be presented so that the ExA can satisfy itself of the Applicants claims? In any case, The Council's trust that the ExA will review the findings carefully and listen to any further feedback provided by the local farmers.'*
- 3.15.118. The preferred temporary access route would be approximately 3.5km in length and would cross three public rights of way, two minor water courses and the local highway network at four locations.
- 3.15.119. The Applicant [[REP5-026](#)] modelled the swept path of an abnormal indivisible load travelling along the preferred route design [[REP4-009](#)], and further swept path assessments [[REP6-037](#)] for the alternative temporary access routes suggested by local landowners Mr G V S Nott (trading as D P Nott & Sons) and Mr P Nott. The assessment concluded that the substantial additional works that would be needed for the route put forward by Mr G V S Nott counted against it. The route put forward by Mr P Nott performed less well from a highway perspective than the preferred option.
- 3.15.120. Braintree District Council and Essex County Council [[REP8-040](#)] had no further comments on the Applicant's swept path assessments [[REP6-037](#)].
- 3.15.121. The forms of construction of the temporary access routes, along with measures to control the movement of traffic and to inspect and repair these roads, were set out in the CTMP [[REP8-018](#)] and CoCP [[REP9-035](#)]:
- Good practice measure W07 committed to achieving green field rates of surface water permeability. The design would also take flood risk into consideration.

- Good practice measure W16 committed, where appropriate, to pre-construction field drainage to help prevent waterlogging. The Applicant suggested this would allow current drainage systems to continue working throughout construction. Landowner input would also be sought on the design of the land drainage proposals.
- Good practice measure AS05 would ensure consultation with affected landowners to agree the current extent of land drainage. It would promote pre-construction land drainage to maintain the efficiency of the existing land drainage during construction, taking account of surface water runoff.
- Good practice measure GG26 would impose a speed limit for vehicles travelling on temporary access routes.
- Under good practice measure GG27, the Contractor would undertake regular inspections of the temporary access routes to check for defects and arrange for repairs in a timely manner.

3.15.122. In response to an ExA question about the degree of access over the proposed temporary haul roads that would be afforded to farmers and landowners (MG1.0.49, [PD-005]), the Applicant [REP3-052] pointed to good practice measure AS03 in the CoCP [REP9-035].

3.15.123. When asked by the ExA (MG1.0.22, [PD-005]) about the removal of temporary access routes, the Applicant [REP3-052] referred to good practice measure GG07 in the CoCP [REP9-035], relating to the reinstatement of the temporary access route footprint to pre-construction condition and use. The Applicant noted that all the temporary access routes [PDA-002] were assumed to be in place for the whole duration of construction, though some routes could be removed at the end of works in a particular area.

CONCLUSIONS

Non-assessment of the hour of greatest change

3.15.124. While mindful of the local highway authorities' dissatisfaction with this matter throughout the Examination, the ExA believes that the Applicant's decision not to undertake this assessment was reasonable. The Applicant had already conducted sensitivity testing and built a range of contingencies into the TA [APP-061]. The ExA considers that any such further traffic assessment would not have materially affected the ES conclusions.

Assumptions in the Transport Assessment

3.15.125. Essex County Council's concerns relating to the peak hour assessment stem from the Applicant's proposal for most workers to travel to and from site outside the highway network peak hours. The County Council believes the Applicant's peak hour assessment did not lead to robust projections of the impacts of construction traffic on the highway network. While recognising the analysis put forward by the County Council, the ExA considers that changing the assessed peak hours would not be likely to have a material effect on the traffic forecasts presented in the TA and ES on the basis of the forecast traffic changes during the AM and PM peak hours (Figure 7, [APP-061]) and the forecast increase in construction traffic numbers in both peak hours (Table 7.2, [APP-061]).

3.15.126. The ExA considers that the Applicant's method of estimation of the number of vehicle movements and worker numbers, both key inputs used in the TA [APP-061], would more likely have resulted in an overestimate of construction traffic flows and

impacts on traffic conditions, rather than an underestimate, and is satisfied with the matter.

Restriction of heavy goods vehicle movements on certain routes

- 3.15.127. The ExA notes the Applicant's construction route strategy to use major roads in preference to roads with a lower classification, and its acknowledgement that narrow roads were less suited for construction traffic. The ExA is satisfied that all routes taken by the main contractor's HGVs could be tracked by GPS. This tracking information could be monitored and corrected where there were deviations from HGV routing [REP7-022], in accordance with the relevant commitments in the CTMP [REP8-018]. The Applicant has also committed to record traffic movements at each site and share this information with the local highway authorities.
- 3.15.128. As such, while recognising the concerns of parties about HGV movements on sensitive routes, the ExA is satisfied with the proposed checks for compliance and does not consider that HGV movement restrictions or limitations are required.

Revised vehicle movement forecasts

- 3.15.129. No information was put before the Examination to demonstrate that the calculation of daily traffic movements and staff numbers was fundamentally flawed. On that basis, the ExA does not find a need for the submission of revised vehicle movement forecasts and worker numbers following appointment of the main works contractor, should consent be given.

Securing traffic numbers for each access

- 3.15.130. The Applicant argued against a cap on the number of vehicles per access being secured because it could not guarantee that the assumed level of vehicle usage would not be exceeded, however unlikely that might be. However, the ExA is satisfied that the monitoring and compliance mechanisms built into the CTMP [REP8-018] would provide a suitable checking process for the local highway authorities to identify short term impacts attributed to actual traffic numbers per access exceeding the assumed worst case.

Bellmouth and junction design for accesses and visibility splays

- 3.15.131. Securing safe access to construction work sites is considered very important to the implementation of the Proposed Development.
- 3.15.132. The ExA notes the absence of agreement between the Applicant and the local highway authorities about the suitability and sufficiency of the proposed designs for the construction accesses, and the local highways authorities' outstanding concerns about the:
- proposed generic access design;
 - preliminary access designs submitted by the Applicant during the Examination; and
 - management measures and tools suggested by the Applicant to overcome any departures and relaxations from design standards.
- 3.15.133. The ExA is nevertheless content that the amendment of draft Requirement 11 by the Applicant is a reasonable response to the local highway authorities' concerns. Should the Applicant ultimately fail to provide a convincing design for any of the accesses, the relevant local authority would have the option of refusing to discharge it in accordance with Requirement 11 of the rDCO.

Unique identifier for construction vehicles

- 3.15.134. Given the very low baseline traffic flows across most of the local roads that would be used by construction vehicles [APP-061], the ExA considers that the additional traffic associated with the Proposed Development, particularly HGVs, would be obvious to many local people.
- 3.15.135. The ExA considers that the implementation of the relevant good practice measures in the CoCP [REP9-035] and the monitoring and reporting systems in the CTMP [REP8-018] would provide sufficient oversight of the main contractor's HGV fleet to allow any transgression identified by local people to be related or otherwise to the Proposed Development. The ExA concludes that identification markers for individual construction vehicles are neither proportionate nor necessary.

Construction traffic monitoring and the need for a limit on vehicle numbers

- 3.15.136. The ExA is of the view that construction and construction workforce traffic movements could be managed through the traffic monitoring and review arrangements outlined in the CTMP. Given the robust arrangements that would be available to monitor and review these traffic movements and the non-significant road network performance and safety impacts set out in the TA and ES, the ExA finds no reason to recommend a cap on vehicle numbers.

Wheel washing facilities

- 3.15.137. The ExA is content that the CTMP [REP8-018] would secure appropriate highway cleanliness measures.

Restrictions on HGV movement timings

- 3.15.138. The ExA considers that timing restrictions on HGV deliveries are needed to protect local amenity and recommends an amendment to Requirement 7 in the rDCO restricting HGV movements to the recommended core working hours. The restriction would not apply to abnormal indivisible loads.
- 3.15.139. The ExA considers that the rDCO retains sufficient exemption to allow the Applicant to carry out construction critical operations outside core working hours (paragraph 2.3.2 [APP-061]), such that the construction programme would not be significantly compromised.

Adequacy of the CTMP

- 3.15.140. The ExA considers the final version of the CTMP [REP8-018] to be a significant improvement on the original application version [APP-180]. It would secure mitigation, management control, and compliance in relation to:
- pre-commencement highway works;
 - construction works affecting the highway;
 - construction vehicle routing;
 - staff travel;
 - movement of abnormal indivisible loads;
 - protecting pedestrian and public transport routes;
 - local highway condition surveys, repairs and cleanliness; and
 - emission standards.

- 3.15.141. Any necessary, post-consent, minor or non-material changes to the CTMP could be accommodated as set out in the Plan ([[REP8-018](#)] section 7.7), provided they would not alter any of its commitments, mitigations or methodologies.

Temporary construction access roads

- 3.15.142. The ExA is satisfied that practical and technical matters relating to the construction and operation of the proposed temporary access routes, including drainage issues, could be adequately addressed by measures in the CTMP [[REP8-018](#)] and CoCP [[REP9-035](#)].
- 3.15.143. The ExA is satisfied with the robustness of the routing options assessment described in the Applicant's technical note [[REP4-009](#)] and associated swept path analyses ([[REP5-026](#)] and [[REP6-037](#)]) that support the selection of the preferred route between the A131 and the Stour Valley west cable sealing end compound.

Overall conclusion

- 3.15.144. On balance, whilst recognising the outstanding concerns of the local authorities, the ExA considers the final CTMP to be adequate for purpose.
- 3.15.145. The ExA supports the construction of temporary access routes that relieve the local road network, which in some places is unsuitable for use by heavy vehicles.
- 3.15.146. The ExA is satisfied that the Proposed Development accords with policy set out in the extant NPSs and that it is not likely to have significant traffic and transport implications. Consideration of the additional policy matters in the 2024 NPSs would not change this conclusion.
- 3.15.147. Drawing together all the above points, the ExA is satisfied that the impact of the Proposed Development on traffic and transport would be neutral in the planning balance.

3.16. CUMULATIVE EFFECTS

POLICY BACKGROUND AND TESTS

National Policy Statements

- 3.16.1. NPS EN-1 notes that the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) require an assessment of potential cumulative effects as part of the EIA, and that the decision maker should take this into account. This is reflected in the 2024 NPS EN-1.

THE APPLICATION

- 3.16.2. The Applicant made an assessment of potential intra-project and inter-project cumulative effects in Chapter 15 of the Environmental Statement (ES) [[APP-083](#)].
- 3.16.3. This identified the potential for significant short-term cumulative landscape and visual amenity effects during construction with the East Anglia THREE and Stoke-by-Nayland Golf Course developments. Mitigation was considered impractical, and it was noted that artificial screening could in itself create visual intrusion.
- 3.16.4. Significant long-term operational potential cumulative landscape and visual effects were identified with:

- East Anglia THREE (reducing to not significant by year 20 of East Anglia THREE due to the combined mitigation of both planting schemes); and
- East Anglia GREEN (no effective mitigation possible as the 400kV pylons associated with the Proposed Development and East Anglia GREEN could not be fully screened by tree planting due to their height).

KEY ISSUES CONSIDERED DURING THE EXAMINATION

- 3.16.5. In response to a written question from the ExA [[PD-005](#)], the host authorities agreed in broad terms with the Applicant's list of projects with the potential for cumulative effects (Babergh and Mid Suffolk District Councils [[REP3-060](#)], Suffolk County Council [[REP3-078](#)] and Essex County Council and Braintree District Council [[REP3-061](#)]).
- 3.16.6. Approximately 20 Relevant Representations raised the potential for cumulative effects between the Proposed Development and other developments, most identifying 'other infrastructure' as a key consideration.
- 3.16.7. A number of these highlighted potential cumulative effects at and around the Bramford Substation. Design matters that arose in the Examination in relation to the potential for further mitigation or compensation are dealt with in section 3.6 of this Report, Good Design.
- 3.16.8. Four referred in general terms to cumulative effects with National Grid's Norwich to Tilbury proposal as a matter of concern.

CONCLUSIONS

- 3.16.9. No material detailed evidence of significant cumulative effects other than those set out in the Applicant's ES was put before the Examination.
- 3.16.10. The ExA concurs with the Applicant's cumulative assessment and mitigation conclusions [[APP-083](#)] in relation to cumulative landscape and visual amenity effects with the East Anglia THREE, Stoke-by-Nayland Golf Course and East Anglia GREEN developments. It attributes this little weight against the making of the Order.

4. SUMMARY OF THE HABITATS REGULATIONS ASSESSMENT

4.1. INTRODUCTION

- 4.1.1. The Examining Authority's (ExA's) detailed analysis and conclusions in relation to the Habitats Regulations Assessment (HRA) are set out at Appendix C to this Report. These will help the Secretary of State for Energy Security and Net Zero to perform the duties of Competent Authority under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
- 4.1.2. The Proposed Development was identified as giving rise to the potential for likely significant effects (LSE) on European sites and is therefore subject to an HRA.
- 4.1.3. The Proposed Development is described in section 1.3 of this Report. The relationship between the Order Limits and European sites was shown in Figure 1 of the Applicant's Habitats Regulations Assessment Report [[REP1-007](#)].
- 4.1.4. The Proposed Development is not directly connected to the management of a European site. Therefore, the Secretary of State should undertake an Appropriate Assessment (AA).
- 4.1.5. The ExA produced a Report on the Implications for European Sites (RIES) [[PD-010](#)] which compiled relevant information in the Examination up to 15 January 2024. It set out the ExA's understanding and the position of parties in relation to the effects of the Proposed Development on European sites at that point in time. Consultation on the RIES took place between 19 January 2024 and 15 February 2024. The ExA considers that the RIES process fulfils the duties of consultation under Regulation 63(3) of the Habitats Regulations.

4.2. SUMMARY OF ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

- 4.2.1. The ExA is satisfied with the Applicant's approach to the assessment of alone and in-combination LSE and that the correct impact pathways were assessed for each European site.
- 4.2.2. Considering the information provided and the view of Natural England as the Appropriate Nature Conservation Body, the ExA considers that the Proposed Development is likely to have a significant effect on the qualifying features of the Stour and Orwell Estuaries SPA and Ramsar site when considered alone, or in-combination with other plans or projects during construction. The ExA is satisfied that no other impact pathways would give rise to LSEs.

4.3. SUMMARY OF FINDINGS IN RELATION TO ADVERSE EFFECTS ON INTEGRITY

- 4.3.1. The Stour and Orwell Estuaries SPA and Ramsar site were further assessed in light of their conservation objectives to determine if they could be subject to Adverse Effects on Integrity (AEoI). The ExA is satisfied, based on the information provided that the correct impacts were assessed.
- 4.3.2. Based on the findings of the Examination, the ExA is content that the assessment in combination with other plans or projects can be based on information from the

Proposed Development, and that no other plans or projects need to be taken into account.

4.3.3. The assessment of AEoI focussed on the potential for downstream surface water and groundwater impacts from construction activities, the Applicant's foundation and hydrogeological risk assessments, and its proposed mitigation and pre-construction consultation approach.

4.3.4. Based on the Examination of all relevant information, the ExA is content that this LSE pathway would not result in an AEoI of the Stour and Orwell Estuaries SPA and Ramsar site from the Proposed Development alone or in-combination with other plans and projects, subject to the implementation of the agreed mitigation measures and pre-construction consultation proposals.

4.4. CONCLUSIONS

4.4.1. The European sites and qualifying features for which LSE were identified were not disputed by any party. The ExA is satisfied that the correct European sites and qualifying features were identified for assessment, and that all potential impacts that could give rise to significant effects were identified.

4.4.2. Subject to the mitigation measures that would be secured through the recommended Development Consent Order, the ExA considers that an AEoI of the Stour and Orwell Estuaries SPA and Ramsar site from the Proposed Development when considered alone or in-combination with other plans and projects can be excluded.

4.4.3. The ExA considers that there is sufficient information before the Secretary of State to undertake an AA to fulfil the requirements of the Habitats Regulations.

5. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

5.1. INTRODUCTION

5.1.1. This section sets out the Examining Authority's (ExA) overall conclusions about the planning merits of the Proposed Development. These have been reached in the policy context and framework set by the Overarching National Policy Statement for Energy (NPS EN-1) and the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5), which provide the primary basis for the Secretary of State to make decisions on development consent applications for electricity transmission Nationally Significant Infrastructure Projects (NSIPs) in England. All other relevant policy, law and guidance was also considered.

5.1.2. The ExA also took into account Relevant Representations, Written Representations, responses to the ExA's written questions and Rule 17 requests for further information, the Local Impact Reports (LIRs) from the host local authorities, and all other relevant oral and written representations made during the course of the Examination.

5.2. SUMMARY OF THE MAIN PLANNING ISSUES

NEED FOR THE PROPOSED DEVELOPMENT

5.2.1. The ExA is satisfied that the Proposed Development is needed to achieve the national objectives of meeting demand for electricity, increasing energy security, and reducing emissions associated with electricity generation to meet decarbonisation targets. It therefore adopted a presumption in favour of granting consent unless other policies indicated that development consent should be refused.

5.2.2. In the context of NPS EN-1, the ExA attributes great weight to the contribution that the Proposed Development would make toward satisfying the urgent need for new electricity network infrastructure in the UK. The ExA notes a strengthened policy position in the 2024 NPS EN-1, though this would not have changed the ExA's general position on the need case.

ALTERNATIVES

5.2.3. The Applicant considered alternatives in the context of relevant technical, economic and environmental factors at various levels, including a 'do nothing' scenario. The ExA notes the coverage of alternatives in paragraphs 4.3.22 and 4.3.23 of the 2024 NPS EN-1, and whilst mindful of its status, the ExA considers that there was full and proper scrutiny of alternatives during the Examination.

5.2.4. Overall, the ExA finds the Applicant's options appraisal appropriately iterative and robust and, taking account of all of the evidence in the context of relevant law and policy, it is content that the Applicant has adequately discharged its task in respect of assessing alternatives.

AIR QUALITY AND EMISSIONS

5.2.5. The ExA has noted the evidence that was submitted into the Examination on the matter of construction dust and whether the management plan control documents would offer a robust response to potential impacts. The ExA does not consider that

section 13 of the Construction Environmental Management Plan fulfils the purpose of a standalone Dust Management Plan and recommends a detailed written plan for the management of dust be secured through Requirement 4(4) of the recommended Development Consent Order (rDCO).

- 5.2.6. The ExA is content with the measures proposed to ensure that plant and vehicles would conform to relevant Euro VI standards and that construction traffic could be routed away from the Sudbury Air Quality Management Area.
- 5.2.7. The ExA is satisfied that the Proposed Development would accord with NPS EN-1 and NPS EN-5, and, taking into account that mitigation could be adequately secured through the rDCO, concludes that the Proposed Development in relation to air quality and emissions is neutral and does not weigh for or against making of the Order.

BIODIVERSITY, ECOLOGY AND THE HRA

- 5.2.8. The ExA is satisfied that, by the end of the Examination, the Applicant's biodiversity assessment addressed all necessary matters identified in NPS EN-1 and NPS EN-5.
- 5.2.9. A Habitats Regulations Assessment (HRA) Report was provided and in reaching its overall conclusion and recommendations in this report, the ExA considered all documentation relevant to HRA. The Secretary of State is the Competent Authority, and the ExA considers that sufficient information has been provided to undertake an appropriate assessment to fulfil the Habitats Regulations duty.
- 5.2.10. While Biodiversity Net Gain was not mandatory for this application, the ExA notes that it was offered by the Applicant and considered outside the Environmental Impact Assessment (EIA) process. The ExA is satisfied that significant biodiversity enhancement could be secured.
- 5.2.11. The ExA notes that the detailed bat mitigation measures would be secured through a bat licence from Natural England. This would have to include full and updated details of surveys, impacts and mitigation measures. The ExA considers that reliance can be placed on the legislation and rigorous licensing process in this respect.
- 5.2.12. The ExA tested at some length the possible impact of the Proposed Development on the Hintlesham Woods Site of Special Scientific Interest (SSSI), through which it would pass. With the mitigation and monitoring measures in place, the ExA is content with the conclusion of the Applicant's assessment in relation to noise and disturbance at Hintlesham Woods SSSI that no significant effects are anticipated. Taking into account the recommended changes in the rDCO in relation to the management plans, it generally agrees with the Applicant's contention that the construction activities along the coppiced swathe through the SSSI would be similar to those experienced during routine maintenance of the existing overhead line. The ExA nevertheless concludes a possible temporary minor, but not significant adverse impact on the Hintlesham Woods SSSI in practice.
- 5.2.13. The ExA concurs with the concerns of the Woodland Trust, Natural England and the host authorities that only a 15m buffer has been allowed for ancient woodlands from the Proposed Development, rather than the 30m recommended in Natural England and Forestry Commission standing advice. It considers that temporary construction effects on ancient woodland from factors such as dust, discharges and disturbance

could be greater than those concluded by the Applicant but does not consider it likely that they would be significant in themselves.

- 5.2.14. The ExA is satisfied that a precautionary assessment was made for veteran trees and that measures were secured to provide compensation for losses. Nevertheless, the ExA notes that the standing advice in relation to a suitable buffer zone would not be achieved, and that protection of veteran trees on the margins of construction works would be reliant on bespoke assessments and measures that are currently undetermined. Whilst recognising the small number of trees involved, given such uncertainty, the ExA considers the Applicant's conclusions unduly positive.
- 5.2.15. The ExA concurs with the Applicant's conclusion that the potential construction impact on 4.26ha of woodland represents a moderate and significant adverse effect. The Applicant proposes to provide mitigation through woodland creation and considered the residual effect to be neutral and not significant. The ExA has considered this alongside the matters discussed above and considers that the time lag between mitigation planting and ecological effectiveness and the cumulative impact on trees and woodlands of nature conservation value should be considered.
- 5.2.16. NPS EN-1 requires appropriate weight to be attached to habitats of principal importance for the conservation of biodiversity and to biodiversity interests in the wider environment. The NPS also directs that development consent should not be granted for proposals that would result in the loss or deterioration of ancient woodland unless the benefits outweigh those losses. The ExA concludes that there would be a temporary moderate and significant adverse effect on woodland habitats, which it considers affords moderate negative weight against the making of the Order.

GOOD DESIGN

- 5.2.17. The ExA is content that the Applicant has considered the use of natural resources and sustainability. It set out a commitment in relation to future design intentions, but the ExA notes that neither this commitment nor any of the associated mitigation is secured through the dDCO.
- 5.2.18. The ExA is content that the grid supply point substation went through an extensive design and mitigation process as part of gaining consent from the local planning authority through a TCPA application. While the ExA considers some of the landscape mounding to be out of character in this flat and expansive landscape, it accepts that extensive planting on and around it and its very close proximity to mature woodland will be sufficient to integrate it from key views.
- 5.2.19. The ExA recognises that much of the design set out in the application is of a preliminary or indicative nature, and that the dDCO allows considerable flexibility in terms of location, detailed design and construction methods. The ExA accepts the need for flexibility prior to the detailed design being developed by contractors, and that this aligns with policy on fitness for purpose and functionality in NPS EN-1. The ExA also recognises that the Applicant would have very limited choice in the aesthetic appearance of the infrastructure.
- 5.2.20. However, the ExA notes that, while the Applicant intends to identify further good design opportunities through later specification, in practice there would be little compunction to do so. Nevertheless, the Applicant is governed by its own and regulator obligations, so - on balance - the ExA is content that there is no strict need for an additional DCO Requirement in this respect.

- 5.2.21. In terms of the design of the parts of the Proposed Development at and around the Bramford Substation, the ExA is content with the Applicant's explanation that it was too early to identify with certainty the visual impacts of some of the other projects that had the potential for cumulative effects, and that it would not be appropriate to develop any anticipatory good design mitigation measures.
- 5.2.22. Overall, the ExA acknowledges the limits to which the design of energy infrastructure can enhance an area, but nevertheless considers that the Applicant responded less fully than might be considered appropriate to matters relating to good design, and that they carry a little weight against the making of the Order.

GREENHOUSE GAS EMISSIONS

- 5.2.23. The ExA is satisfied that greenhouse gas emissions associated with the construction and operation of the Proposed Development were estimated and compared to relevant UK carbon budget in order to assess their significance. The Applicant also provided an explanation about the need to use sulphur hexafluoride and explained the current lack of suitable alternatives.
- 5.2.24. Overall, the ExA is satisfied that the Proposed Development accords with the policy requirements of NPS EN-1 and NPS EN-5. On the evidence presented, the ExA considers it unlikely that the carbon emissions from the Proposed Development would have a material impact on the Government's ability to meet the carbon reduction targets.
- 5.2.25. The ExA's overall conclusion here on greenhouse gas emissions does not take into account the substantial weight given in policy to the need for new energy infrastructure to facilitate the transmission of electricity from new, low-carbon sources, as this is considered in the need case above. Otherwise, the ExA considers that greenhouse gas emissions carry little negative weight against the making of the Order.

HISTORIC ENVIRONMENT

- 5.2.26. The ExA examined the impact of the Proposed Development on all heritage assets identified in the application and considered during the Examination and, as required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, had full regard to the desirability of preserving designated heritage assets and the character and appearance of Conservation Areas and Scheduled Monuments and their settings.
- 5.2.27. The ExA did not identify any significant residual effects for Conservation Areas or scheduled monuments, though it considers the small disbenefits at the Moat Farm scheduled monument to amount to less than substantial harm.
- 5.2.28. In terms of listed buildings, the Examination had a particular focus on the Grade I listed Hintlesham Hall and its Grade II listed gate piers, gates and railings. The ExA concludes that the Applicant's secured solution to limit the flexibility offered by the limits of deviation in its vicinity is proportionate and secures the ongoing involvement of Historic England in the detailed design process.
- 5.2.29. Notwithstanding the presence of the existing 400kV line and the proposed mitigation planting, the ExA concludes that the addition of a second line somewhat closer to these assets and within their setting represents a moderate and significant effect. It notes Historic England's conclusion that the impact on Hintlesham Hall amounts to less than substantial harm and finds no reason to disagree.

- 5.2.30. The ExA is content that sufficient information and assessment of the specific cultural association between the landscape of the Dedham Vale and Stour Valley, Benton End House, Overbury Hall and other heritage assets with noted artists was before the Examination before its close. It concurs with the view of Suffolk County Council and Babergh and Mid Suffolk District Councils that the residual impact would be greater than small, that the effect would be significant, but that the impact on the setting of the assets would constitute less than substantial harm.
- 5.2.31. The ExA is satisfied that there is a clear and convincing justification for the harm that would arise to designated heritage assets, both individually and collectively, and is content that matters concerning the historic environment would accord with the relevant provisions of NPS EN-1.
- 5.2.32. The ExA is content that the archaeological Outline Written Scheme of Investigation was improved during the Examination, and that its conversion to a Detailed Written Scheme of Investigation would afford the host authorities an opportunity to request further changes to ensure alignment with their preferred terminology and processes, and to make a detailed consideration of all archaeological investigations.
- 5.2.33. The Outline Written Scheme of Investigation includes sufficient information and controls to ensure that the Detailed Written Scheme of Investigation would provide adequate mitigation of the potential effects, including the excavation and recording of any unavoidably affected assets. With this, the ExA concludes that no significant impacts on known archaeological assets are likely, and that it is unlikely that any unknown assets of similar or greater significance would be more seriously affected.
- 5.2.34. Overall, the Proposed Development would have moderate significant adverse effects on listed buildings, specifically the setting of Hintlesham Hall, and on the settings of the notable artist associated Benton End House and Overbury Hall in the Dedham Vale and Stour Valley. The ExA considers these to represent less than substantial harm to the significance of the assets, which requires convincing justification when it comes to weighing the public benefits of the Proposed Development in the planning balance. Other impacts on historic and archaeological assets would individually be no worse than small and would not be significant, but they are cumulatively considered to add to the less than substantial harm.
- 5.2.35. The ExA concludes that impacts on the historic environment carry moderate weight against the making of the Order.

LANDSCAPE AND VIEWS

- 5.2.36. The ExA is content that the Applicant had proper regard to its statutory duties under s85 of the Countryside and Rights of Way Act, and that its approach, including the identification of opportunities to enhance the designated landscape through the removal of redundant infrastructure, is also broadly compliant with the new duty under the Levelling-up and Regeneration Act.
- 5.2.37. The ExA concurs with the Applicant's assessment that identifies a major temporary effect during construction within 1km of the Order Limits, but only a small effect on the Dedham Vale AONB and Stour Valley SLA landscape at distances greater than 1km, and that the overall integrity of the protected landscape would not be affected.
- 5.2.38. The ExA considered relevant policy in NPS EN-1, which differentiates between proposals within nationally designated landscapes, development outside designated landscape that might affect them, and those that are in other areas. It notes that the

visibility of a project from within a designated area should not in itself be a reason for refusing consent.

- 5.2.39. In situations such as this, the 2024 NPS EN-5 will require the Secretary of State to be satisfied that an applicant has provided evidence to support a decision on whether undergrounding is or is not appropriate. The ExA is content that the Applicant has done so.
- 5.2.40. The ExA is content with the selection of viewpoints and is generally satisfied with the Applicant's assessment of visual effects.
- 5.2.41. However, the ExA has a number of concerns about whether effects on landscape and views are based on a worst-case scenario in respect of the generation of the Zone of Theoretical Visibility, the removal of hedges and trees, and the assessment of temporary construction structures such as bridges across rivers.
- 5.2.42. It finds the sensitivity testing of the indicative alignment to allow for the flexibility offered by the Order Limits somewhat unconvincing, especially in relation to the underground cabling and the potential variation in impact depending on where within the Order Limits the cables were to be installed. It also notes the use of modifiers such as 'where practicable' and 'is intending' in relation to some landscape mitigation measures. As such, the ExA has factored a possible underestimation of these impacts into its consideration, though it does not consider that they could be so much greater as to make any non-significant impacts significant.
- 5.2.43. Progress was made during the Examination in increasing the effectiveness of mitigation planting for the cable sealing end compounds, and in securing this for the lifetime of the infrastructure. Some visual impacts would remain, but the ExA notes that the NPSs acknowledge that facilities such as these cable sealing end compounds are likely to have effects on the landscape, and it is content that the proposed mitigation and compensation planting schemes are proportionate.
- 5.2.44. The host authorities still held concerns at the close of the Examination that some impacts on landscape and views could not be fully mitigated. The ExA concurs but disagrees with the host authorities' suggestion that this should mean that some form of compensation should be provided. The ExA does not believe that a compensation scheme of a kind promoted by the local authorities would be a proportionate response to the residual effects in this case, and notes that the Proposed Development will bring some significant benefits to the landscape and views. Overall, the ExA considers the Applicant's mitigation and enhancement proposals to be adequate.
- 5.2.45. The ExA concurs with the Applicant's assessment of significant impacts during construction on four landscape character areas and four local communities. As recognised by the NPSs, the landscape and visual impacts of several elements of the Proposed Development could not be adequately mitigated.
- 5.2.46. Overall, the ExA considers that the ES may have underestimated the magnitude of landscape and visual impacts that could occur during construction to a minor extent, though it considers it unlikely that the underestimation was sufficient to alter the significance of the assessment. On balance, the ExA concludes that impacts on the landscape and views carry a little weight against the making of the Order.

LAND USE, SOILS AND GEOLOGY

- 5.2.47. The ExA is satisfied that the Proposed Development would accord with the policy requirements of the extant NPS EN-1 and NPS EN-5 and that the assumption-based, worst-case baseline characterisation of best and most versatile (BMV) land is adequate and that the Applicant sought to minimise impacts on, and to justify the reasons for including parts of the Proposed Development on BMV land.
- 5.2.48. Given the high-level nature of parts of the management plan control documents, the ExA considers that it would be appropriate for information about soils, materials and waste to be shared with the relevant planning authority as it became more clearly defined. The ExA therefore recommends that detailed written plans are produced for submission to the planning authorities and that this is secured through the rDCO.
- 5.2.49. There would be a permanent loss of 11.6ha of BMV land, and the ExA concludes that land use, soil, and geology effects carry moderate negative weight against the Order being made.

NOISE AND VIBRATION

- 5.2.50. The local authorities were not supportive of the Applicant's proposed seven-day working and raised concerns about the noise and other effects this would have on local communities. The Applicant did not support any of the alternative construction working hours scenarios proposed by the local authorities to reduce the noise and other impacts, as it concluded that these would compromise its ability to meet the programme's key milestones, particularly a critical planned outage.
- 5.2.51. The ExA has concerns about the potential for prolonged and unbroken noise disturbance from a blanket seven-day working week. Whilst the Applicant intends to work only on alternate weekends, the ExA is mindful that this is not secured, so does not guarantee any respite at noise sensitive receptors.
- 5.2.52. The ExA considered the arguments put forward in relation to the inclusion of Sundays and Bank Holidays in the core construction working hours, and the potential impact on the construction schedule of removing the remaining Sundays and Bank Holidays in its rDCO. Noting that a final construction programme would be prepared post-consent by the appointed contractor, the ExA considers the exclusion of piling on Sundays and Bank Holidays to be reasonable.
- 5.2.53. For start-up and close down activities (one hour either side of the core working hours for construction), the ExA considers a 50dBA noise level limit more appropriate at the nearest noise sensitive receptors. This would be secured through Requirement 7(4) in its rDCO.
- 5.2.54. Both measures would go some way towards meeting the aims of NPS EN-1 to mitigate and minimise adverse impacts on health and quality of life from noise.
- 5.2.55. The ExA notes that BS5228-1 does not provide guidance on how to assess construction noise with distinctive characteristics and that a noise limit value in terms of average LAeq,T levels may not be appropriate. It considers it appropriate that the undertaker should share a greater level of detail on proposals for noise and vibration monitoring and management with the relevant planning authorities as matters become defined and finalised during the detailed design and construction phase.

- 5.2.56. Therefore, the ExA considers a detailed written plan for the management of noise and vibration should be secured through Requirement 4(4) of the rDCO.
- 5.2.57. Overall, the ExA is satisfied that the Proposed Development would accord with the noise and vibration policy requirements of the NPS EN-1 and NPS EN-5. Taking mitigation secured in the rDCO into account, the ExA concludes that the noise and vibration effects of the Proposed Development carry little negative weight against the making of the Order.

PUBLIC RIGHTS OF WAY

- 5.2.58. The ExA is satisfied that disruption to users of public rights of way (PRoWs) and navigable waters would be restricted to that which would be necessary, and that safe management of PRoWs during the construction period could be achieved by the implementation of the measures in the Public Right of Way Management Plan.
- 5.2.59. The ExA concludes that the mitigated temporary impact on users of the local PRoW network and the River Stour nevertheless carries moderate negative weight against the Proposed Development.

SOCIO-ECONOMICS AND COMMUNITY ISSUES

- 5.2.60. The ExA agrees with the Applicant that any socio-economic impacts from the Proposed Development are likely to be of negligible significance.
- 5.2.61. The ExA notes that it is not unusual for an Applicant to produce an Employment, Skills and Education Strategy for a NSIP. Nevertheless, the ExA considers the Applicant's approach to be reasonable and proportionate given the small number of construction jobs that would be created and the likely insignificant socio-economic effects, and it notes the Applicant's commitment to investment in the jobs, skills and people that will be required to help deliver energy transition at a wider, regional scale.
- 5.2.62. Overall, the ExA is of the view that the Applicant has undertaken a proportionate approach to the assessment of potential socio-economic impacts and that the proposed good practice measures would satisfactorily respond to any minor adverse potential effects. As such, the requirements of NPS EN-1 are addressed.
- 5.2.63. The ExA concludes that the socio-economic effects of the Proposed Development are neutral and do not weigh for or against the making of the Order.

THE WATER ENVIRONMENT

- 5.2.64. The ExA is content that the Proposed Development accords with the requirements of the Water Framework Directive.
- 5.2.65. In terms of Flood Risk Assessment, the ExA is satisfied that the sequential test requirements have been met, but it notes that an exception test is expected in order to comply with NPS EN-1. The ExA is aware of the Applicant's explanation of how the three parts of the exception test can be satisfied through information in the application and is reassured by its commitment to obtain Flood Risk Activity Permits from the Environment Agency before any pylon is constructed in flood zones 2 or 3. The ExA considers that the exception test would have been satisfied had it been applied in accordance with best practice. The ExA is therefore content that the requirements of the exception test have been met.

5.2.66. The ExA is satisfied that, subject to the implementation of the identified mitigation measures, there should be no adverse effects on water quality, resources or flooding from the Proposed Development and considers the impacts to be neutral and not affecting the planning balance.

TRANSPORT, TRAFFIC AND HIGHWAY SAFETY

5.2.67. The ExA believes that the Applicant's decision not to undertake an assessment of the hour of greatest change was reasonable and had no residual concerns in relation to assumptions or data used in the traffic assessment.

5.2.68. The ExA notes the sensitivity of some of the public highway routes to construction sites to HGV movements, but it is satisfied with the proposed checks for compliance and does not consider that HGV movement restrictions or limitations are required. The ExA supports the proposed use of temporary access routes that relieve the local road network.

5.2.69. The ExA notes the absence of agreement between the Applicant and the local highway authorities about the suitability of construction access designs, but it considers the additional dDCO drafting (Requirement 11) a reasonable response to the concerns.

5.2.70. The ExA considers that the implementation of the relevant monitoring and reporting measures in the Code of Construction Practice (CoCP) and Construction Traffic Management Plan (CTMP) would provide sufficient oversight of HGVs, and that identification markers for individual construction vehicles are neither proportionate nor necessary.

5.2.71. On balance, the ExA considers the final CTMP to be adequate for purpose. It is content that construction traffic movements could be properly managed through the arrangements outlined in the CTMP and finds no reason to impose any cap on vehicle numbers.

5.2.72. The ExA finds that the CTMP would secure appropriate highway cleanliness measures.

5.2.73. The ExA considers that timing restrictions are needed in relation to HGV deliveries to safeguard local amenity and the rDCO includes an amendment to Requirement 7 to restrict HGV movements, other than abnormal indivisible loads, to the recommended core working hours.

5.2.74. The ExA is satisfied that practical and technical matters relating to the construction and operation of the proposed temporary access routes, including drainage issues, could be adequately addressed by measures in the CTMP and CoCP.

5.2.75. The ExA is satisfied that the Proposed Development accords with policy set out in the extant NPSs and that it is not likely to have significant traffic and transport implications. Consideration of the additional policy matters in the 2024 NPSs would not change this conclusion.

5.2.76. Overall, the ExA considers that the impact of the Proposed Development on traffic, transport and highway safety would be neutral in the planning balance.

5.3. THE PLANNING BALANCE

- 5.3.1. This Section weighs the benefits and disbenefits of the Proposed Development to reach a recommendation as to whether or not the case is made for granting development consent.
- 5.3.2. Overall, the Proposed Development would meet relevant Government policy set out in NPS EN-1 and NPS EN-5. As a matter of law, applications for energy infrastructure must be decided in accordance with the relevant NPSs, unless a relevant consideration arising from s104(4) to (8) of the PA2008 applies.
- 5.3.3. The ExA has had regard to the host authority LIRs, to prescribed matters, and to all other important and relevant policy, including the 2024 National Policy Statements and local development plans.
- 5.3.4. The ExA has considered whether the adverse impacts of the Proposed Development would outweigh its benefits.
- 5.3.5. For the reasons summarised above, and in the light of the scale and urgency of the need for reinforcement of the electricity transmission network, the ExA attributes great weight to the benefits of the Order being made.
- 5.3.6. Weighing against this, the Proposed Development would give rise to some adverse effects locally, as identified in section 3 of this Report. The ExA has allocated moderate weight to the disbenefits around biodiversity, historic environment, land use, and public rights of way matters, and a little weight to disbenefits relating to greenhouse gas emissions, good design, landscape and views, noise and vibration, and cumulative effects. The other matters considered do not weigh for or against the making of the Order.
- 5.3.7. The ExA considers the adverse effects to be within the scope of the relevant policy provisions of NPS EN-1 and NPS EN-5 and is satisfied that the Proposed Development would be in accordance with the NPSs.
- 5.3.8. The ExA concludes that the adverse effects that would arise from the construction and operation of the Proposed Development would not outweigh its national benefit, particularly in terms of supporting decarbonisation and enhanced energy security. The ExA considers the Proposed Development to be clearly justified on the basis of NPS EN-1 and NPS EN-5, and that this conclusion would not be materially different if consideration was in the context of the 2024 NPSs.
- 5.3.9. The ExA has considered relevant additional tests and is content that they have been properly addressed. These include those derived from the Infrastructure Planning (Decisions) Regulations 2010 in relation to habitats, the Levelling-up and Regeneration Act 2023 in relation to the duty on public bodies in respect of the purposes of an AONB, and the Water Framework Directive and its daughter directives in relation to flood risk assessment. The ExA has considered section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and found less than substantial harm to the significance of listed buildings, conservation areas and scheduled monuments.
- 5.3.10. On the basis of all of the above, the ExA concludes that there is a convincing case for development consent to be granted.

6. LAND RIGHTS AND RELATED MATTERS

6.1. INTRODUCTION

- 6.1.1. This section sets out the relevant legislative requirements relating to Compulsory Acquisition (CA) and Temporary Possession (TP), describes the request made by the Applicant for CA and TP powers, explains the purposes for which land would be required, describes the examination of the CA and TP case and gives the Examining Authority's (ExA's) conclusions and recommendations.
- 6.1.2. The application included a request for CA and TP powers. The source of those powers was the Applicant's preferred draft Development Consent Order (dDCO) [\[REP9-006\]](#). (All further references to the DCO in this section relate to this version, unless otherwise stated.)

6.2. LEGISLATIVE REQUIREMENTS AND GUIDANCE

PLANNING ACT 2008 AND CA GUIDANCE

- 6.2.1. CA powers can only be granted if the conditions set out in section (s)122 and s123 of the Planning Act 2008 (PA2008) are met. The Examination followed *Guidance Related to Procedures for the Compulsory Acquisition of Land* (DCLG, September 2013) (the CA Guidance).
- 6.2.2. S122(2) provides that a DCO may include provision authorising CA only if the Secretary of State is satisfied that certain conditions are met. These include that the land subject to CA is required for the development to which the development consent relates or is required to facilitate or is incidental to it. In respect of land required for the development, the land to be taken must be no more than is reasonably necessary for that purpose and proportionate, as set out in the CA Guidance.
- 6.2.3. In addition, s122(3) of the PA2008 requires that there must be a compelling case in the public interest for land to be acquired compulsorily. For this to be met, the CA Guidance indicates that the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would derive from the CA would outweigh the private loss that would be suffered by those whose land was to be acquired. In balancing public interest against private loss, CA must be justified in its own right. However, this does not mean that the CA proposal can be considered in isolation from the wider consideration of the merits of the Proposed Development. There must be a need for the Proposed Development to be carried out and there must be consistency and coherency in the decision-making process.
- 6.2.4. S123 of the PA2008 relates to land to which authorisation of CA can cover. S123(1) permits CA if one of the following conditions in subsections (2) to (4) is met:
- that the application for the order included a request for CA of (rights over) the land to be authorised (s123(2));
 - that all persons with an interest in the land consent to the inclusion of the provision (s123(3)); or
 - that the prescribed procedure has been followed in relation to the land (s123(4)).
- 6.2.5. As the application included a request for CA of the land to be authorised, the ExA is satisfied that the condition set out in s123(2) of the PA2008 has been met.

- 6.2.6. Further to paragraph 2, Part 1 of Schedule 5 to the PA2008, TP powers are capable of being within the scope of a DCO. This allows for, amongst other things, the suspension of interests in or rights over land compulsorily or by agreement. The PA2008 and the CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to deprive or amend a person's interests in land permanently. However, they must be justifiable and compatible with the relevant human rights tests.
- 6.2.7. In addition to the legislative requirements set out above, paragraphs 8 to 10 of the CA Guidance set out a number of general considerations to be addressed when CA powers are sought. These are that:
- all reasonable alternatives to CA (including modifications to the Proposed Development) have been explored;
 - the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate;
 - the Applicant has a clear idea of how the land which it is proposing to acquire will be used;
 - there is a reasonable prospect of the requisite funds becoming available; and
 - the purposes for which the CA of land are included in the application are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.
- 6.2.8. In addition, paragraph 25 of the CA Guidance states that applicants should seek to acquire land by negotiation wherever practicable. It adds that, as a general rule, authority to acquire land compulsorily should only be sought as part of an Order granting development consent if attempts to acquire by agreement fail. Where proposals would entail the CA of many separate plots of land (such as for long, linear schemes) it may not always be practicable to acquire by agreement each plot of land. Where this is the case, the CA Guidance says it is reasonable to include provision authorising CA covering all the land required at the outset.

NEIGHBOURHOOD PLANNING ACT 2017

- 6.2.9. The Neighbourhood Planning Act 2017 includes a number of provisions relating to the TP of land including notice requirements, the service of counter notices and compensation. These provisions have not been brought into force and are described as technical changes in the explanatory notes that accompany the Act. Article 55 of the rDCO disapplies the provisions of the Act insofar as they relate to TP of land under articles 26 (Temporary use of land by National Grid), 27 (Temporary use of land by UK Power Networks (UKPN)) and 28 (Temporary use TP of land for maintaining the authorised development) to protect the Applicant's position should the provisions be brought into force after any consent.

EXA CONSIDERATION OF LEGISLATION AND GUIDANCE

- 6.2.10. The ExA has taken all relevant legislation and guidance into account when considering this matter and it sets out its conclusions at the end of this section.

6.3. THE REQUEST FOR CA AND TP POWERS

- 6.3.1. The application includes proposals for the CA and TP of land and rights over land and the extinguishment, suspension or interference with rights over land including easements, servitudes or other private rights. The powers are being sought in order to construct, operate and maintain the Proposed Development or to facilitate it, or for purposes incidental to it.

- 6.3.2. The Order Limits of the dDCO, as shown on the Land Plans [REP9-004], establish the extent of the land that would be affected by the CA and TP powers sought. The limits of deviation, provided for by Article 5 of the rDCO, represent the maximum locational flexibility for permanent infrastructure such as the overhead lines, pylons and underground cables. This allows for adjustment to the final positioning of the project features to avoid localised constraints or unknown or unforeseeable issues that may arise.
- 6.3.3. At this stage, all land within the Order Limits is considered to be necessary for the Proposed Development. However, under dDCO Article 23, should it transpire that any is not required, for instance as a result of the detailed design process, the Applicant could only seek to compulsorily acquire that part of the land required. In its Statement of Reasons [REP9-011], the Applicant explained that it is not seeking to compulsorily acquire the full extent of land that falls within the Order Limits. It is seeking temporary powers over an area greater than that proposed for permanent acquisition or acquisition of rights, which is identified through the Class of Rights shown on the Land Plans [REP9-004]. Once the Proposed Development was constructed, the Applicant would only require permanent rights to operate, access and maintain the development over a corridor within the limits of deviation if it had been unable to secure the permanent land or rights acquisition required via a voluntary agreement.
- 6.3.4. The Applicant owns a number of plots which may be subject to the rights of others which it considered to be incompatible with the construction and operation of the project. In order to ensure that any such interests can be removed (and the persons benefitting from them are compensated for such removal), the Applicant's own land has been included within the land to which the CA powers sought will apply. Thus, the CA powers sought in the dDCO [REP9-006] are expressed to apply to all interests in such land.
- 6.3.5. The Applicant also considered it necessary to seek to secure TP of some land for the purposes of the construction and maintenance of the project as well as to extinguish in a limited way some rights which are incompatible or rendered incapable of use by the project.
- 6.3.6. Similarly, land which is required for the installation or diversion of utilities or Statutory Undertakers' apparatus is proposed for outright CA in the application. This would ensure that if the Applicant were required by the Statutory Undertaker to grant rights to enable it to install, access and maintain apparatus, the Applicant would be able to grant such rights.
- 6.3.7. From all of the above, the Land Plans [REP9-004] present a worst-case scenario. This approach is necessary to provide sufficient flexibility to ensure that, in the absence of an agreed solution, the Applicant would be able to grant the rights required by Statutory Undertakers or by persons needing rights of access and still be able to deliver the Proposed Development.
- 6.3.8. A full description of the extent and existing nature of the land required by the Applicant for the construction, operation and maintenance of the Proposed Development is set out in the Statement of Reasons ([REP9-011], section 6.3).
- 6.3.9. At the commencement of the Examination, the application was accompanied by:
- a Statement of Reasons [APP-038];

- Statement of Reasons Appendix A - Details of Purpose for Which Compulsory Acquisition and Temporary Possession Powers are Sought [[APP-039](#)];
 - Statement of Reasons Appendix B - Schedule of Negotiations with Land Interests [[APP-040](#)];
 - a Funding Statement [[APP-037](#)];
 - a Book of Reference [[APP-042](#)];
 - Land Plans [[APP-008](#)];
 - Special Category Land Plans [[APP-009](#)];
 - Statement of Reasons Appendix C - Special Category Land Report [[APP-041](#)];
 - Explanatory Memorandum [[APP-035](#)]; and
 - Access, Rights of Way and Public Rights of Navigation Plans [[APP-012](#)].
- 6.3.10. Taken together, these documents set out the land and rights sought by the Applicant at the time of submission together with the reasons for those requirements and the basis under which compensation would be funded.
- 6.3.11. Where the Examination and due diligence processes required changes to this documentation, new versions and additional plans were submitted. The Applicant's final Navigation Document [[REP10-002](#)] charted the submission of these documents and summarised the structure of the application for development consent for the Proposed Development.
- 6.3.12. The final Examination version of documents were:
- Statement of Reasons [[REP9-011](#)];
 - Statement of Reasons Appendix A - Details of Purpose for Which Compulsory Acquisition and Temporary Possession Powers are Sought [[REP9-013](#)];
 - Statement of Reasons Appendix B - Schedule of Negotiations with Land Interests [[REP9-015](#)];
 - Funding Statement [[APP-037](#)];
 - Book of Reference [[REP9-016](#)];
 - Schedule of Changes to Book of Reference [[REP9-047](#)];
 - Land Plans [[REP9-004](#)];
 - Statement of Reasons Appendix C - Special Category Land Report [[REP3-011](#)];
 - Explanatory Memorandum [[REP9-008](#)];
 - Equality Impact Assessment [[REP3-047](#)];
 - Access, Rights of Way and Public Rights of Navigation Plans [[APP-012](#)]; and
 - Public Right of Way Management Plan [[REP8-024](#)].
- 6.3.13. These documents taken together formed the basis for the analysis set out in this section. References to the documents and plans in the remainder of this section are to the latest versions cited above.
- 6.3.14. The Access, Rights of Way and Public Rights of Navigation Plans, Land Plans, Special Category Land Plans, Book of Reference and Public Right of Way Management Plan would be secured by Article 57 of the dDCO.
- 6.3.15. The ExA was kept updated by the Applicant throughout the Examination on the progress of negotiations with Affected Persons (AP) by means of the Compulsory Acquisition and Temporary Possession Objections Schedule (the Schedule), the final version of which was submitted at Deadline 9 [[REP9-056](#)].
- 6.3.16. The details of the CA powers sought, including interference with third party rights, together with the TP powers and other compulsory powers sought were set out in Parts 2, 3, 5 and 6 of the dDCO. These powers include:

- Article 23, which would allow the undertaker to compulsorily acquire land listed in the Book of Reference [\[REP9-016\]](#) that would be required for the construction, operation or maintenance of the authorised development or was incidental to it or necessary to facilitate it.
- Article 24, which would allow the undertaker to acquire rights (and impose restrictions) over the Order land, including by creating new rights for the purpose of the authorised development. acquire rights and impose restrictions over land described in the Book of Reference by creating them as well as by acquiring rights and the benefits of restrictions already in existence. This would allow for flexibility in approach and possible reductions in the impact on land interests.
- Article 27, which would provide that, where the undertaker has powers of CA under Articles 23 or 24, it may choose to acquire only the subsoil underneath, or airspace over the land. This power was included for flexibility to minimise costs and impact on land interests.

6.3.17. The powers sought in relation to the TP of land did not constitute CA and were provided for in separate articles in Part 3 of the draft DCO. These powers included:

- Articles 26 and 27, which would allow two categories of land to be temporarily possessed to carry out the authorised development. The first of these is the land specified in columns (1), (2) and (3) of Schedule 10 of the dDCO for the purposes stated. The second of these is any other Order land where no notice of entry or general vesting declaration has been served. This would enable the undertaker to compulsorily acquire the minimum amount of land where TP could be used in certain areas to construct the Proposed Development. In addition, compensation would be payable to the owners and occupiers of land who suffer loss or damage arising from the exercise of TP.
- Article 28, which would provide for the TP of any land within the Order Limits for maintaining the Proposed Development. This power would cease to apply at the end of the maintenance period, which would generally be five years from the date on which that part of the Proposed Development was brought into operational use. The possession of the land under this Article would also be restricted for so long as may reasonably be necessary to carry out the maintenance. This would enable the undertaker to compulsorily acquire the minimum amount of land where TP could be used in certain areas to maintain the Proposed Development. Again, compensation would be payable.

6.3.18. The dDCO would give the following additional powers to the undertaker that could interfere with property rights and private interests:

- Article 19, Discharge of water, would enable the undertaker to discharge water into any watercourse, public sewer or drain with the approval of the owner of the destination, which is not to be unreasonably withheld.
- Article 20, Protective works, would apply to any land, building structure, apparatus or equipment within the Order Limits or which may be affected by the Proposed Development.
- Article 21, Authority to survey and investigate the land.
- Article 48, Felling or lopping, which would enable the undertaker to fell, lop, prune, cut, trim, coppice, pollard, or reduce in height or width, and tree, shrub, shrubbery, hedgerow or important hedgerow or cut back its root.

6.3.19. The Explanatory Memorandum set out in more detail these suggested DCO articles together with those that related to other compulsory powers sought [\[REP8-006\]](#). Section 6 of the Statement of Reasons [\[REP9-011\]](#) also described the land over which these powers were sought.

6.4. THE PURPOSES FOR WHICH LAND IS REQUIRED

- 6.4.1. The Statement of Reasons and its Appendix A, Details of Purpose for Which Compulsory Acquisition and Temporary Possession Powers are Sought, indicated that the Applicant's purpose for seeking CA powers was to secure the land and rights required to construct, operate, maintain and mitigate the Proposed Development ([[REP9-011](#)], sections 4 and 5, and [[REP9-013](#)]). The powers sought related primarily to the CA of land and rights over land together with the TP of land.

6.5. THE CA AND TP POWERS SOUGHT

Powers sought

- 6.5.1. The powers being sought by the Applicant relate to the CA of land and rights over land together with the TP of land. The Book of Reference sets out in detail seven classes under which land or rights may be acquired permanently or land possessed temporarily [[REP9-016](#)]. These are identified by the colour of the plot on the Land Plans [[REP9-004](#)] and by the wording used in the Book of Reference plot description. How those seven classes of land relate to the principal articles in the dDCO, and colours on the Land Plan is set out in Table 5.1 – Land Acquisition Powers of the Statement of Reasons [[REP9-011](#)] and Table 2.1 – Classification of acquisition and temporary use of land and rights of the Book of Reference [[REP9-016](#)].
- 6.5.2. The powers sought were:
- Class 1 (Brown) - Compulsory Acquisition of land, Article 23 (Compulsory Acquisition of land).
 - Class 2 (Green) - Compulsory Acquisition of rights – overhead line, Article 24 (Compulsory Acquisition of rights).
 - Class 3 (Orange) - Compulsory Acquisition of rights – underground cable, Article 24 (Compulsory Acquisition of rights).
 - Class 4 (Blue) - Compulsory Acquisition of rights of access, Article 24 (Compulsory Acquisition of rights).
 - Class 5 (Dark green) - Compulsory Acquisition of rights for Biodiversity Net Gain (BNG), Article 24 (Compulsory Acquisition of rights).
 - Class 6 (Pink) - Temporary use for construction, mitigation, maintenance and dismantling of redundant infrastructure, Article 26 (Temporary use of land by National Grid), 27 (Temporary use of land by UK Power Networks Holdings Limited (UKPN)), 28 (Temporary use of land for maintaining the authorised development) and 29 (Use of subsoil or airspace over streets).
 - Class 7 (Yellow) - Temporary use for access, Article 26 (Temporary use of land by National Grid), 27 (Temporary use of land by UKPN), 28 (Temporary use of land for maintaining the authorised development) and 29 (Use of subsoil or airspace over streets).
- 6.5.3. Land that was not subject to powers of acquisition (class 8) was uncoloured.
- 6.5.4. The Statement of Reasons describes the Proposed Development and the need for CA powers ([[REP9-011](#)] sections 4 and 5). Appendix A to the Statement of Reasons also lists the plots in the Order land and gives details of the purpose for which CA and TP powers are sought for each plot [[REP9-013](#)].
- 6.5.5. The Applicant's dDCO seeks powers for the Applicant and UKPN, together defined as the 'undertaker' in Article 2(1). Accordingly, each part of the Book of Reference sets out the respective interest, right or power to be acquired, extinguished, or used,

by National Grid and UKPN in relation to each parcel of land. How the respective rights and powers are classified is explained in section 2.8 of the Book of Reference.

Crown Land

- 6.5.6. No land within the Order Limits was identified as Crown land, as confirmed in the Book of Reference [\[REP9-016\]](#).

Special category land

- 6.5.7. S132 of the PA2008 applies to the CA of rights over common land, open space or fuel or field garden allotments. Such land is defined as 'special category land' under Regulation 2 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. In such cases, the PA2008 indicates that an Order granting development consent would be subject to special parliamentary procedure unless the Secretary of State is satisfied that one of the relevant subsections applies and that fact is recorded in the Order. Subsection 132(3) applies if the Order land, when burdened with the Order right, would be no less advantageous to the persons in whom it is vested, other persons entitled to rights of common or other rights, and the public.
- 6.5.8. The Applicant was seeking rights over special category land, more specifically classed as open space, and considered s132 of the PA2008 to be engaged ([\[REP9-011\]](#) section 8.2). The Book of Reference described the types of open space [\[REP9-016\]](#) in Part 5. The relevant plots of land were included in the Book of Reference and on the Special Category Land Plans [\[APP-009\]](#).

Statutory Undertakers

- 6.5.9. If a Statutory Undertaker makes a representation about the CA of land or a right over land that has been acquired for the purpose of its undertaking, and this is not withdrawn, s127 of the PA2008 applies. In these circumstances, the DCO can only include a provision authorising the CA of that land or right if the Secretary of State is satisfied that the land or right can be purchased without serious detriment to the carrying on of the undertaking, or that any such detriment can be made good by use of alternative land.
- 6.5.10. Amongst other things, the dDCO (Article 43) [\[REP9-006\]](#) includes provision to authorise the CA of land belonging to Statutory Undertakers and existing rights therein.
- 6.5.11. S138 of the PA2008 applies where an Order authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a relevant right or there is on, under or over the land relevant apparatus.
- 6.5.12. S138(4) provides that an Order may include provision for the extinguishment of the relevant right or the removal of relevant apparatus of Statutory Undertakers only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates. The dDCO (Article 43) [\[REP9-006\]](#) includes such a provision.

6.6. EXAMINATION OF THE CA AND TP CASE

- 6.6.1. The ExA's approach to the question of whether CA powers should be granted and, if so, what it should recommend to the Secretary of State to grant has been to seek to

apply the relevant sections of the PA2008, the CA Guidance, the Human Rights Act 1998 (HRA1988) and the Equality Act 2010. In addition, in light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.

- 6.6.2. In examining the application, the ExA considered all written material in respect of CA and TP and asked questions regarding justification of the need for the CA and TP in its first written questions (ExQ1) [\[PD-005\]](#) and further written questions (ExQ2) [\[PD-008\]](#).
- 6.6.3. In addition, the issues were explored in further detail at two Compulsory Acquisition Hearings (CAHs). CAH1 ([\[EV-028\]](#) and [\[EV-030\]](#)) and CAH2 [\[EV046\]](#). No APs chose to participate in CAH2.

THE APPLICANT'S GENERAL CASE FOR COMPULSORY ACQUISITION

- 6.6.4. The Applicant's general case for CA is set out in its Statement of Reasons [\[REP9-011\]](#):
- Chapter 5 – Compulsory Acquisition.
 - Chapter 6 – The Order land and persons with an interest in land.
 - Chapter 7 – Justification for powers of Compulsory Acquisition.
 - Chapter 8 – Special considerations.
 - Chapter 9 – Human rights and equalities.
- 6.6.5. The Applicant concluded that:
- The powers sought in the dDCO are reasonable, proportionate and necessary to deliver and thereafter maintain the Proposed Development.
 - Having identified the tests set out in s122 of the PA2008 that govern the grant of powers of CA, it has explained how those tests have been satisfied in its Statement of Reasons [\[REP9-011\]](#) whereby there is a compelling case in the public interest for the inclusion of CA powers based on the need to ensure the timely delivery of the project, for which there is a national need.
 - All reasonable alternatives to CA had been explored.
 - Its Funding Statement demonstrated that there was a reasonable prospect of the requisite funds being available to fund all aspects of the Proposed Development [\[APP-037\]](#).
 - In compliance with s132 of the PA2008, the acquisition of permanent rights over special category land, in this instance open space, would not make the land less advantageous to its owners or users, hence a certificate should be issued which confirms that special parliamentary procedure is not triggered.
 - Protective Provisions (PPs) included in the dDCO would ensure that Statutory Undertakers' statutory operations were not detrimentally affected by the Proposed Development.
 - The Proposed Development's significant public benefits would outweigh the effects of the dDCO on persons who own property in the Order Limits such that there would not be a disproportionate interference with their HRA1998 Article 8 and Article 1 First Protocol rights.
 - Account had been taken of its the duties under section 149 of the Equality Act 2010.
- 6.6.6. Overall, the ExA agrees with the Applicant's conclusions on the generality of the case for CA. Subject to its further consideration of the plots affected by outstanding

objections and representations below, the ExA considers that the tests set out in s122(2) and s122(3) of the PA2008 have been met.

ALTERNATIVES

- 6.6.7. The CA Guidance says that the Applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to CA, including modifications to the scheme, have been explored.
- 6.6.8. The consideration of alternatives is covered in detail in section 3.3 of this Report. The Applicant's approach to the consideration of alternatives in relation to CA was set out in section 7.4 of the Statement of Reasons [\[REP9-011\]](#).
- 6.6.9. In summary, having considered strategic options to meet the need case ([\[APP-162\]](#) and [\[APP-161\]](#)), a Bramford to Twinstead overhead connection was the alternative taken forward from that process as it would provide an appropriate reinforcement to the transmission network and a relatively direct and efficient route, which would achieve a balance between National Grid's technical, economic and environmental obligations. There was no strategic alternative to the project.
- 6.6.10. The alternatives in terms of the route, siting of component parts and construction were considered throughout that process, including in response to feedback received during the 2021 and 2022 consultations [\[APP-043\]](#). ES Chapter 3, Alternatives Considered [\[APP-071\]](#), provided further details on the alternatives considered throughout the project development process.
- 6.6.11. Having considered alternatives to the Proposed Development, the Applicant considered alternatives to CA.
- 6.6.12. In order to construct, operate and maintain the project, land and rights in the ownership of parties other than the Applicant would need to be acquired. Any practicable alternative location for the project would similarly require the acquisition or use of third-party land. This meant that acquisition or use of third-party land could not be avoided. Where appropriate, the Applicant has also sought TP powers rather than the CA of land or rights, as this is more proportionate where the permanent acquisition of land or rights is not required.

ExA conclusion on alternatives

- 6.6.13. The Applicant is seeking to acquire the necessary rights by agreement but has not yet been able to do so in relation to all of them. Whilst it expects to continue to negotiate to acquire the rights by voluntary agreement, the Applicant requires the powers of CA and TP that it is seeking in order to provide certainty that it will have all the rights required to construct and operate the Proposed Development in order to realise its significant public benefits. Without the powers of acquisition being compulsory, there is a risk that the urgent national need for the project could not be met because the land and rights required in the Order land may not be assembled.
- 6.6.14. This approach to making the application for the dDCO in parallel to conducting negotiations to acquire rights in land by agreement wherever practicable, is in accordance with paragraph 25 of the CA Guidance.
- 6.6.15. In light of the above, the ExA considers that the Applicant has satisfactorily demonstrated that all reasonable alternatives to CA have been explored.

LAND FOR TEMPORARY POSSESSION

- 6.6.16. In relation to the TP powers sought pursuant to Articles 26 to 28 of the dDCO, the Applicant provided details of the specific proposed use of land in which it sought powers of TP on a plot-by-plot basis in the Statement of Reasons Appendix A, Details of Purpose for Which Compulsory Acquisition and Temporary Possession Powers are sought (Tables A.6 (i) and A.6 (ii) [REP9-013]). The scope of Class 6 and 7 rights of TP were identified in the Book of Reference [REP9-016]. The Applicant said that the powers sought are required to carry out and thereafter maintain the Proposed Development. They would be needed for a limited time during construction and for occasional maintenance in the operational phase.
- 6.6.17. These TP powers are not CA powers and accordingly the tests under s122 and s123 of the PA2008 are not applicable. However, the request for such powers must be justified, and there must be adequate compensation provisions in place for those whose land is affected.
- 6.6.18. In considering objections to TP rights sought by the Applicant, the ExA has approached them mindful of the legal tests for CA, given that they would also interfere with established rights in land.

LAND FOR BIODIVERSITY NET GAIN

- 6.6.19. The Order land encompasses land for BNG. As part of National Grid's Our 2021-2026 Environmental Action Plan 2021–2026 (April 2021), the Applicant committed that by 2026 it will deliver at least 10% or greater environmental value (including biodiversity) on all construction projects. The Government intends to commence mandatory BNG on Nationally Significant Infrastructure Projects (NSIPs) accepted for examination from November 2025. 30 years will be set as the minimum period for which biodiversity gain must be secured.
- 6.6.20. The Government's guidance states the preference is that BNG should be provided on-site or in close proximity to a development site. Whilst the Applicant is seeking voluntary agreements with parties, if these cannot be agreed, it has identified areas for suitable BNG within the Order Limits, and the best chance of providing BNG successfully on-site or close to the proposed development, is to seek CA powers.
- 6.6.21. The 2024 NPS EN-1 (section 4.6 Environmental and Biodiversity Net Gain) is pertinent. Paragraph 4.6.2 suggests that BNG is an important and relevant consideration in advance of it becoming a statutory requirement in NSIPs in November 2025. Paragraph 4.6.1 is more explicit in what the Secretary of State must consider when making a decision, saying that they may not grant an application for a DCO unless satisfied that a BNG objective is met in relation to the onshore development in England to which the application relates.
- 6.6.22. The 2024 NPS EN-5 considers BNG in the context of electricity networks infrastructure at sections 2.5 Environmental and Biodiversity Net Gain and 2.6 Land Rights and Land Interests. Whilst paragraphs 4.1.8 and 4.1.9 of the 2024 NPS EN-1 refer to land rights in the context of mitigation and landscape enhancement, paragraph 2.6.6 of the 2024 NPS EN-5 includes BNG as one of the purposes for which an applicant may seek the CA of land or rights over that land. Any such application is to be considered under the provisions of the PA2008 and any associated guidance. There is no indication that this element of policy will only apply once BNG is mandated. In this context, the ExA concludes that the Applicant's proposed use of CA and TP powers for the provision and maintenance of the BNG

elements of the Proposed Development is consistent with policy and guidance and there is no reasonable alternative to it.

FUNDING

- 6.6.23. The capital cost of delivering the project was anticipated to be approximately £499 million. The Applicant's Funding Statement [[APP-037](#)] explained how the Proposed Development would be funded and how the acquisition of land necessary to build it would be financed. It said that the Applicant would have the ability to procure the financial resources required for the Proposed Development, including the cost of acquiring any rights and the payment of any compensation or blight claims brought by those interested in the land affected by the DCO.
- 6.6.24. In Table 0.5 of its Responses to First Written Questions, The Funding Statement [[REP3-052](#)], the Applicant gave comprehensive and persuasive responses to nine questions posed by the ExA [[PD-005](#)]. This was subject to the clarification provided at Item 9 of the Applicant's Written Summaries of Oral Submissions to Compulsory Acquisition Hearing 1 [[REP4-023](#)].
- 6.6.25. Funding to construct the grid supply point substation and to develop the DCO application through to the Examination phase had already been released.
- 6.6.26. Based on the submitted evidence, the ExA is satisfied that the necessary funds would be available to the Applicant to cover the likely costs of CA and TP.

6.7. CONSIDERATION OF INDIVIDUAL OBJECTIONS

- 6.7.1. This section considers individual objections made in relation to specific plots and the rights and powers sought. Consideration is given to whether these objections are sufficient to outweigh the ExA's finding on the general case in respect of these plots.
- 6.7.2. Although this section specifically considers objections and representations raised, the ExA appreciates that these represent only a proportion of the plots that would be affected by the Proposed Development. Even though a specific objection or representation may not have been raised in relation to a particular plot of land, the ExA has nevertheless applied the relevant tests to the whole of the land that would be the subject to the powers of CA or TP in reaching its overall conclusions.
- 6.7.3. The ExA has considered all the objections received, and many of the issues raised by objectors have also been addressed in earlier parts of this Report when considering the planning issues arising in relation to the Proposed Development. The objections considered here are in the context of the application for the grant of CA and TP powers. Where objections from APs refer to concerns other than CA or TP, they are not reported here.
- 6.7.4. This section reports on the APs who lodged objections that had not been withdrawn by the end of the Examination. The objections are ordered from north-east to south-west along the line of the Proposed Development, so that any matters which are linked by geography are dealt with sequentially.
- 6.7.5. Twenty-five representations were made by APs or their representatives that specifically related to concerns regarding the CA or TP of their land, and the impact on the use of the land. The Applicant entered into dialogue with all landowners, though one of the negotiations was unilaterally closed.

6.7.6. The following representations regarding CA or TP were withdrawn:

- Oliver Gwinnell [\[RR-082\]](#);
- Joan Valerie Peacock [\[RR-113\]](#);
- Gavin Dines [\[RR-068\]](#) (as relating to land rights only); and
- Edmund John Nott [\[RR-108\]](#) (as relating to land rights only).

6.7.7. The Compulsory Acquisition and Temporary Possession Objections Schedule [\[REP9-056\]](#) and Statement of Reasons Appendix B, Schedule of Negotiations with Land Interests [\[REP9-015\]](#), set out the status of objections and outstanding issues with each AP at the end of the Examination.

MR N FISKE, FISKE FARMS AND FISKE LAND TRUST

6.7.8. Mr Fiske is an AP (Book of Reference Parts 1, 2 and 3) with an interest in land to the south-west of Bramford substation. The Applicant proposed to take Class 2, 3, 4, 5 and 6 rights over 28 of his plots.

Representation

6.7.9. As they related to land rights, Mr Fiske's concerns were as follows [\[RR-034\]](#):

- lack of suitable consultation since the revival of the project, particularly the provision of inadequate maps;
- lack of proper engagement with landowners and lack of recognition of their detailed local knowledge whereby the Proposed Development was being forced upon them and handled in a way that disregarded the views and livelihoods of those affected; and
- proposed placing of pylons and other structures would maximise the detrimental effect on his ability to farm grade 1 agricultural land.

Applicant's response

6.7.10. The Applicant's Comments on Relevant Representations [\[REP1-025\]](#) (Table 2.2 – Consultation) set out extensive evidence of three consultation periods on its proposals since work resumed on the project in 2020, following extensive consultation between 2009 and 2013 prior to the project being paused. It referred to the Consultation Report [\[APP-043\]](#), which described the process and the regard to feedback. In Table 2.29, Affected Parties, Land Interests and Compensation, there was a grouped response to statements about lack of engagement. There was no specific response to Mr Fiske's concerns about the Proposed Development and its effect on his land rights.

6.7.11. The final form of the Heads of Terms (HoTs) was agreed in August 2023 and sent to the AP last October. These terms have yet to be agreed, despite weekly contact by the Applicant [\[REP9-056\]](#) and [\[REP9-015\]](#).

ExA's consideration

6.7.12. The Applicant's evidence on the extent of consultation is persuasive and, as the AP has been indirectly engaged in negotiation, the ExA considers it fair to assume that he is apprised of the extent of the Proposed Development's interference with his land rights. The ExA is satisfied that the consultation and information undertaken and provided by the Applicant has been satisfactory and in accordance with the CA Guidance.

- 6.7.13. In section 5 of this Report, consideration is given to the Proposed Development's effects on Best and Most Versatile land and the ExA is satisfied that, in respect of paragraphs 5.10.8 and 5.10.15 of NPS EN-1, the Applicant has sought to minimise impacts on, and justified the reasons for the use of such land. Where effects on farm income cannot be mitigated, the compensation code provides the appropriate vehicle for any recompense.
- 6.7.14. In terms of the CA powers sought, the ExA is satisfied that the route for the Proposed Development has been chosen in consideration of the effects of these powers. Furthermore, due consideration has been given to all reasonable alternatives to CA and the ExA has seen no lesser steps that could meet the identified need. Whilst the Fiske Farms would be affected both during the construction and operational phases of the Proposed Development, the CA powers sought are reasonable and proportionate in pursuit of the public interest. The ExA is satisfied that the CA powers are necessary for the Proposed Development and their grant is recommended.

MR A HALL

- 6.7.15. Mr Hall is an AP (Book of Reference Parts 1 and 2) with an interest in land at Church Hill, Burstall (Plots 2-05 and 2-08). The former relates to rights in public road and verges at Church Hill where he is the presumed owner of subsoil (half width of highway) and the latter to 121m² of grassland.
- 6.7.16. Class 4 CA rights of access are sought in the two plots to provide access to Work No 2, the overhead transmission electric lines from Bramford Substation to the Dedham Vale east cable sealing end compound, and in particular pylon RB4, details of which were provided in Schedule 1 of the dDCO [\[REP9-006\]](#) and on the Work Plans [\[APP-010\]](#). For the most part, the route to the proposed work area would follow an existing track. The Work Plans also showed a second proposed temporary access point to that pylon from a point further north on Church Hill, with a straighter alignment, shorter route and running nearer to the site of the proposed pylon. This would be accommodated on the swathe of land in which Class 2 CA of rights overhead line were sought.
- 6.7.17. The access point that serves the existing track was shown as AB-AP5 on the Access, Rights of Way and Public Rights of Navigation Plans [\[APP-012\]](#) and the alternative new one to the north, AB-AP4.

Representations

- 6.7.18. Mr Hall raised concerns ([\[RR-083\]](#), [\[REP2-041\]](#), [\[REP2-043\]](#), [\[REP4-007\]](#), [\[REP4-035\]](#), [\[REP4-053\]](#) and [\[REP8-055\]](#)) and participated in the third Issue Specific Hearing (ISH3) ([\[EV-036\]](#), [\[EV-037\]](#), [\[EV-038\]](#) and [\[EV-039\]](#)).
- 6.7.19. As they related specifically to land rights, Mr Hall's concerns were:
- Inadequate consultation and landowner engagement. The proposed use of the farm track was introduced for the first time in the targeted consultation of September 2022.
 - The Applicant ceased to respond to correspondence from the AP ([\[REP4-035\]](#) and [\[REP8-055\]](#)).
- 6.7.20. The AP had no objection in principle to the proposed use of the track, it was the design of the bellmouth with which he took issue. The proposed bellmouth to the existing track would entail unnecessary intrusion into the garden of a residential

property and involve the removal of vegetation, including mature oak trees, when an alternative could be pursued. Access could be taken on adjacent farmland, albeit that the Order Limits would require a minor modification.

- 6.7.21. Mr Hall submitted an illustrative example of an alternative point of access to the existing track [\[REP2-043\]](#) and said that whilst the Applicant had not objected on technical, environmental or other grounds to the proposed realignment, there had been no meaningful engagement to discuss the issue.
- 6.7.22. He provided evidence of the perceived comparative advantages of the alternative design for the access over that proposed.
- 6.7.23. He considered the Applicant's reasons for not changing the Order Limits to accommodate the amendment to be over-stated and incorrect in light of PINS Advice Note 16, *Requests to change applications after they have been accepted for Examination*.
- 6.7.24. The AP was sceptical that the appointed contractor would exercise any discretion in mitigating the worst-case scenario of encroachment onto his land when determining what dimensions of visibility splay would be required to the south-east of the junction of the track with the public road. This reduced the likelihood of the proposed alternative to the north representing a realistic fallback for the Applicant if 'excessive vegetation removal' would be required to use the existing track.
- 6.7.25. Mr Hall asked who would decide what would constitute 'excessive' and what mechanism would be employed to ensure that mitigation that the Applicant cited would be employed.
- 6.7.26. The AP said [\[REP8-055\]](#) that the Applicant's evidence on progression toward a voluntary agreement [\[REP6-034\]](#) was incorrect. He reiterated that he would welcome open discussion with the Applicant to try and resolve the matter.

Consultation and engagement

- 6.7.27. Table 2.2 of the Applicant's Comments on Relevant Representations [\[REP1-025\]](#) included its comments on consultation in response to associated RRs, including Mr Hall's. Table 4.1 of the Applicant's Comments on Written Questions [\[REP3-048\]](#), addressed, amongst other things, Mr Hall's submissions on inadequate consultation and ineffective engagement. It made initial contact with the AP in June 2021 as part of the land referencing exercise. The Applicant was satisfied that an appropriate level of engagement was undertaken.
- 6.7.28. In accordance with s42 of the PA2008, the AP was formally consulted as part of the Applicant's pre-application consultations. He was also contacted in September 2022 following updates made to the design of the Proposed Development between January 2022 and September 2022. The Applicant added that Mr Hall was suitably notified of the fact his land was within the Order Limits and an opportunity to provide feedback was offered. The Applicant and its agents were said to have maintained two-way communication from September 2022 to date and remain in discussion.
- 6.7.29. Section 8 of the Applicant's Consultation Report [\[APP-043\]](#) addressed targeted consultation and section 8.3 advised on who was consulted. This included Mr Hall. The General Arrangement Plan of September 2022 was appended to the Report and Sheet 2 shows both accesses to Pylon RB4 in the positions included within the application documentation.

6.7.30. The ExA found no evidence of a deficiency in the Applicant's consultation provisions prior to submission of its application. Refinement and amendment are usual features of a proposal's evolution. Mr Hall made multiple submissions to the Examination and participated in ISH3. The ExA has taken account of all his evidence even if not reported here. Whilst he may not have considered the extent of engagement with the Applicant to be appropriate, it responded to his submissions by undertaking further survey work that supported its preferred use of access point AB-AP5 over the alternative AB-AP4. The ExA is satisfied that Mr Hall had a fair hearing through the totality of the Examination process.

Access points AB-AP4 and AB-AP5

6.7.31. At ISH3, the Applicant provided clarification of a range of issues relating to the use of access point AB-AP5 as later set out in its written summary of oral submissions [\[REP4-050\]](#). Mr Hall was party to this debate. The matters considered were:

- the reasons for access point AB-AP5;
- the use of AB-AP5 and the alternative access point AB-AP4;
- flexibility in design of AB-AP5; vegetation and visibility;
- and the design of proposed access point AP-AB5.

6.7.32. In summary, the Applicant advised of three indicative time periods when access point AB-AP5 would be used for construction of the Proposed Development. It was favoured over AB-AP4 as it largely involved the use of an existing track, minimising impact on agricultural activities. Nevertheless, AB-AP4 would be pursued as an alternative if AP-AB5 could not be designed to the satisfaction of the local highway authority.

6.7.33. In respect of the Applicant seeking Class 4 rights in Mr Hall's land, it said that occasional maintenance access might be required, thus permanent rights in the land were being sought rather than TP. It added that, even if AB-AP5 was not used during construction, it would likely be employed during operation for the purposes of operating, maintaining and monitoring the proposed overhead line and pylons so as to avoid long term access being required across the agricultural field to the north from AB-AP4. The Applicant said that the alternative access AB-AP4 provided flexibility should AB-AP5 be unavailable for use during both construction and operation of the Proposed Development.

6.7.34. The AP and Applicant disagreed on the comparative scale and cost of works that would be required to form a new access at AP-AP4 with different conclusions on what would be the most effective option in financial and environmental terms and cause least disruption to users of Church Hill.

6.7.35. After ISH3, the Applicant submitted three different iterations of a Temporary and Permanent Access Note that included Access Point AB-AP5. Each version provided updates following further survey work. The first ([\[REP7-027\]](#) pages 5 and 6) included results of a topographic survey, the second reported on the outcome of a speed survey ([\[REP8-030\]](#), pages 5 and 6) and the final ([\[REP9-062\]](#) pages 5 to 7) referred to results of an arboricultural survey of the trees to the south-east of AB-AP5 to inform the vegetation loss assumptions, and provided the final design.

6.7.36. The Applicant [\[REP9-055\]](#) was confident that the bellmouth design would be in accordance with that shown on LEMP Appendix A, Vegetation Retention and Removal Plans [\[REP9-040\]](#). It was expected to achieve a visibility splay consistent with the highway design speed as well as meet the relevant bellmouth design criteria. The Applicant noted that a request for any vegetation removal would be

submitted to the local authority for approval before construction in accordance with Article 48 and Requirement 8 of the dDCO [REP9-006].

- 6.7.37. In its final Compulsory Acquisition and Temporary Possession Schedule [REP9-056], the Applicant set out a summary of Mr Hall's concerns and a chronology of interaction between the parties, culminating on 20 February 2024 with the offer of a meeting and issue of revised HoTs. These were not agreed.
- 6.7.38. The ExA notes that, should the Applicant ultimately fail to provide a convincing design for any of the proposed access points, the highway authority would have the option of refusing to discharge it in accordance with Requirement 11 of the dDCO [REP9-006].
- 6.7.39. By the end of the Examination, the ExA was satisfied that the Applicant's proposals in respect of access AB-AP5 were realistic and reasonable, and that the dDCO would afford sufficient oversight and control of the works proposed before construction could begin.
- 6.7.40. The ExA notes that the Applicant is seeking CA rights for both options for this access. The need for future access for maintenance justifies the use of CA powers over TP in accordance with section 2.6 of the 2024 NPS EN-5, which the ExA considers an important and relevant consideration. Regardless of which option the Applicant pursues, the proposed use of AB-AP5 to pylon RB4 during the operational phase would be a rational choice to minimise disruption to agriculture given that the alternative proposal from AB-AP4 would bisect the agricultural field.
- 6.7.41. For the reasons discussed, the proposed CA of rights of access in Plots 2-05 and 2-08 is required for the development to which the development consent relates and there is a compelling case in the public interest for it to be acquired compulsorily. Therefore, the tests in s122(b) and (c) of the PA2008 are satisfied. Should the parties not conclude voluntary agreement, the Secretary of State can be satisfied that CA of rights of access sought by the Applicant are necessary and proportionate.

MR J BRYCE

- 6.7.42. Mr J Bryce is an AP with an interest in land (Book of Reference Parts 1, 2 and 3) to the west of Burstall and Hintlesham Hall in which the Applicant seeks CA and TP in Classes 2, 3, 4 and 6.

Representation

- 6.7.43. Mr Bryce [RR-063] said that, from the perspective of a landowner who would be affected by the Proposed Development, individual consultation had been very poor.
- 6.7.44. Evidence was set out in the Applicant's Comments on Relevant Representations [REP1-025] at Table 2.2, Consultation, on three consultation periods on its proposals since work resumed on the project in 2020, following wide-ranging consultation between 2009 and 2013 prior to the project being paused. It referred to the Consultation Report [APP-043], which described the process and the regard to feedback.
- 6.7.45. The Applicant said that the AP returned signed HoTs to its agent on 11 December 2023 and solicitors had been instructed [REP9-056] and [REP9-015].

- 6.7.46. A Rule 17 request was sent to Mr Bryce on 27 February 2004 asking if voluntary agreement had been reached with the Applicant and if he wanted to withdraw his RR insofar as it related to land rights [PD-012]. The AP's agent advised that, whilst HoTs for a voluntary agreement were reached with the Applicant on 11 December 2023, due to a delay in its solicitor sending the relevant paperwork to the AP's counterpart, no legally binding voluntary agreement has been reached. Therefore, the AP's RR was not withdrawn [REP10-027].

ExA's consideration

- 6.7.47. Mr Bryce did not make an explicit objection to the CA and TP rights sought over his land, but consideration of his RR is included on a precautionary basis.
- 6.7.48. The ExA is satisfied that the Applicant has fulfilled its statutory duties regarding consultation. Route choice has been appropriately considered and the ExA saw nothing to suggest that alternatives to CA and TP had not been appropriately considered. Mr Bryce's land is required for the development to which the development consent relates and there is a compelling case in the public interest for his land to be acquired compulsorily. If voluntary agreement is not reached between the AP and Applicant, the Secretary of State can be satisfied that the proposed interference with land rights is necessary and proportionate.

MR W BRYCE

- 6.7.49. Mr W Bryce is an AP (Book of Reference Part 1) with an interest in land to the west of Burstall in which the Applicant seeks CA and TP in Classes 2, 4 and 6. CA and TP rights over the AP's land would be used to access Work No 1(k) proposed modifications to the existing overhead transmission electric line in accordance with Schedule 1 of the dDCO.

Representation

- 6.7.50. Mr Bryce said he was dissatisfied with the Applicant's lack of engagement [RR-065].
- 6.7.51. The Applicant's Comments on Relevant Representations [REP1-025] at Table 2.2, Consultation, set out extensive evidence on three consultation periods on its proposals since work resumed on the project in 2020, following extensive consultation between 2009 and 2013 prior to the project being paused. It referred to the Consultation Report [APP-043], which described the process and the regard to feedback.
- 6.7.52. The Applicant said that it had been in detailed negotiations with the AP's agent since 11 January 2023 with follow up meetings taking place throughout late February and March. The final form of the HoTs that the agent would recommend to his client was agreed in August 2023. These terms had yet to be agreed by the AP. The Applicant's agents met with the AP and land agent on site to progress HoT discussions on 31 October 2023. The AP's agent reported on 22 November 2023 that his clients were considering signing the HoTs. The Applicant spoke to the AP's agent on 28 November 2023, and he was following up with his client. The Applicant spoke with the AP's agent monthly thereafter [REP9-056].

ExA's consideration

- 6.7.53. Mr Bryce did not make an explicit objection to the CA and TP rights sought over his land, but consideration of his RR is included on a precautionary basis.

- 6.7.54. The ExA is satisfied that the Applicant has fulfilled its statutory duties regarding consultation. Whilst the parties have not reached voluntary agreement, they have engaged, including a meeting on site.
- 6.7.55. The ExA is content that route choice and alternatives to CA and TP have been appropriately considered. Mr Bryce's land is required for the development to which the development consent relates and there is a compelling case in the public interest for his land to be acquired compulsorily. If voluntary agreement is not reached between the AP and Applicant, the Secretary of State can be satisfied that the proposed interference with land rights is necessary and proportionate.

ROYAL SOCIETY FOR THE PROTECTION OF BIRDS (RSPB)

- 6.7.56. The RSPB is an AP (Book of Reference Parts 1, 2 and 3) with an interest in land to the north of Hintlesham Hall, which is proposed for Class 2 rights over land, and in Hintlesham Woods and their vicinity extending north-eastwards to Lady Lane (A1071), which is proposed for rights in Classes 2, 4, 6 and 7.

Representations

- 6.7.57. The RSPB initially reserved its position in commenting on land rights sought by the Applicant to potentially interfere with its management of the Hintlesham Woods Site of Special Scientific Interest (SSSI), including but not exclusively, through impacts on access [\[RR-044\]](#).
- 6.7.58. An agreed Statement of Common Ground between the Applicant and the RSPB was submitted at the penultimate deadline. It set out five areas of disagreement ([\[REP9-048\]](#), section 4).
- 6.7.59. In its Compulsory Acquisition and Temporary Possession Schedule [\[REP9-056\]](#), the Applicant set out the chronology of exchanges between the parties but said that a voluntary agreement had not been reached by the close of Examination.

ExA's consideration

- 6.7.60. The ExA concludes elsewhere in this Report that it is satisfied that the management plan control documents and Requirement 4 of the rDCO would protect the management and interest of the Hintlesham Woods SSSI. Therefore, if voluntary agreement is not concluded, the Secretary of State can be satisfied that the proposed CA of rights complies with the tests in s122 and s123 of the PA2008 and that TP powers are also necessary, reasonable and justified in the public interest.

FRANCIS PROSSER, JOHNATHAN PROSSER AND PATRICIA PROSSER

- 6.7.61. Mr F Prosser is an AP with an interest in land (Book of Reference Parts 1, 2 and 3) in respect of rights of access in Plots 6-30 and 6-31, south of Back Road, A1071.
- 6.7.62. Mr J Prosser is an AP with an interest in land (Book of Reference Parts 1, 2 and 3) in respect of rights of access in Plots 6-30 and 6-31, south of Back Road, A1071.
- 6.7.63. Mrs P Prosser is an AP with an interest in land (Book of Reference Parts 1 and 2) in respect of rights of access in Plots 6-30 and 6-31, south of Back Road, A1071.
- 6.7.64. The Applicant seeks Class 7 Rights – Temporary use for access across both plots.

Representations

- 6.7.65. As they related to his legal interest in land, Mr F Prosser's submissions ([\[RR-115\]](#), [\[AS-008\]](#), [\[PDA-015\]](#), [\[REP2-060\]](#), [\[REP3-072\]](#), [\[REP6-062\]](#) [\[REP7-043\]](#) and [\[REP7-044\]](#)) raised an extensive range of issues. Not all the plots that he referred to were ones in which the AP had a legal interest, but the proposed uses were either directly related to the proposed incorporation of the track in which he had rights of access in the Order Limits, or they related to the use of land to the rear of his home. In summary, the issues included:
- Inadequacy of the consultation process. Examples were given of changes that were said to have been made since consultation and without proper discussion or agreement.
 - Poor communication with landowners and residents.
 - Construction and mitigation plans were not finalised, with a wide degree of scope for deviation or change.
 - The access sought across land in which he has rights of access, '*would be completely unnecessary and not be required to access any environmental areas at ENV04 in the Application general arrangement plans and also now shown in its updated Book of Reference as 6-24 (also with reference to ENV19/ 6-21)*'.
 - There are better, safer and closer access points, at Plot 6-49 for example, that would not affect residents (this is his main and only road access to three properties, barns and land) nor unnecessarily run over 300m across arable fields, skirting around ancient woodland.
 - The area shown (estimated to be around 30m to 40m of track) would be unnecessarily large.
 - The proposed area shown would involve the unnecessary removal of ancient hedgerow and drainage ditch. The current access arrangement to the field is presently used by all types of agricultural equipment and would be more than adequate for the type of activity proposed.
 - As well as directly affecting 1800m², the access (Plot 6-32) would leave a strip of farmed land between it and the hedge, presumably making that un-usable and unnecessarily affecting a further estimated 1500m².
- 6.7.66. Mr F Prosser asked the ExA to consider the proposed use of his access track and road entrance unnecessary for several reasons.
- 6.7.67. He considered the rationale for access to Plots 6-24 and 6-21 to be dubious and asked that the proposals for Plot 6-21 to be reconsidered or discussed. He noted that without Plot 6-21, access over Plot 6-29 would not be required.
- 6.7.68. He concluded that the Applicant's proposals were excessive and not, as the Applicant had stated, the 'minimum land necessary'.
- 6.7.69. Mr J Prosser's RR [\[RR-116\]](#) raised wider concerns about the impact of the Proposed Development but did not say how it might affect land in which he had a legal right.
- 6.7.70. Ms P Prosser's RR [\[RR-117\]](#) raised a range of concerns about the wider impact of the Proposed Development but made passing reference as to how it might affect land in which she has legal rights.
- 6.7.71. The wider issues that all three APs raised, other than those specific to their legal interest in land that would be affected by the Proposed Development, are addressed elsewhere in this Report.

Application information and consultation process

- 6.7.72. Table 2.2 of the Applicant's Comments on Relevant Representations [\[REP1-025\]](#) set out its comments on consultation in response to associated RRs, including Mr F Prosser's. The Applicant addressed his submissions on the advertisement of the targeted consultation in Table 4.4 of the Applicant's Comments on Written Questions [\[REP3-048\]](#).
- 6.7.73. As a result of feedback received during its statutory consultation in Spring 2022 and further technical studies, the Applicant had made some further changes to the proposals and held a targeted consultation from 8 September 2022 to 7 October 2022. The amended General Arrangement Plans (Targeted Consultation) and Changes to Order Limits Plans presented at this targeted consultation were included in Appendix K of the Consultation Report [\[AS-009\]](#). The plans showed the proposed access off the A1071 and south of Keeble's Grove as later included in the application for development consent.
- 6.7.74. Where revisions to the draft Order Limits resulted in new landowners being affected by its proposals, the Applicant wrote to these landowners directly. The Applicant confirmed that a consultation letter was sent to the Mr F Prosser on 2 September 2022 [\[REP4-022\]](#). This was borne out by Appendix K3, Section 42(1)(d), Consultee List (Targeted Consultation) of the Consultation Report [\[AS-009\]](#).
- 6.7.75. In its response to Mr F Prosser's WR at Table 4.4 of its Comments on Written Representations [\[REP3-048\]](#), the Applicant said that it did not provide individual responses to consultation feedback. This feedback, along with the Applicant's response to comments, was accounted for in the Consultation Report [\[APP-043\]](#). However, the Applicant said that it still had direct contact with the AP outside consultation periods, including meetings and emails.
- 6.7.76. The ExA noted the AP's comments on the volume of material to keep abreast of during the pre-application and Examination process. However, consideration of concerns about the NSIP application process and associated provisions of the PA2008 are outside the scope of this Examination.
- 6.7.77. It is not unusual that proposals are refined and changed during the pre-application stage in response to public consultation or emerging technical or environmental evidence: it is an iterative process. There is no evidence that the Applicant did not observe its statutory obligations in respect of consultation in this instance.
- 6.7.78. The Applicant's submitted plans include proposed limits of deviation. These are a common feature of linear NSIPs as they provide flexibility during final design and construction, reducing the risk that an approved project could not be implemented for unforeseen engineering or environmental reasons. In this instance, the limits of deviation would be subject to the provisions of Article 5 of the dDCO [\[REP9-006\]](#). The management plans, subject of Requirement 4 of the dDCO [\[REP9-006\]](#), provide the framework for the construction process but also provide flexibility for the appointed contractor. They are an established feature of the NSIP regime.

Temporary access off the A1071

- 6.7.79. The Class 7 rights sought over the APs' land would be temporary in nature in accordance with Article 33 of the dDCO [\[REP9-006\]](#) and the Book of Reference ([\[REP9-016\]](#), page 13).

- 6.7.80. The Applicant said that it used existing accesses wherever possible rather than construct new ones [\[REP4-022\]](#). The existing access point AB-EAP2a would be used to accommodate vehicles and to facilitate mitigation and compensatory planting on land adjacent to the APs' ownership. An existing gap in the vegetation would be used for access off the lane into the field and temporary culverts would be installed should they be required.
- 6.7.81. Access Point AB-EAP2b shown on the Access, Rights of Way and Public Rights of Navigation Plans [APP- 012] in plot 6-49 is within an existing layby on the A1071. The Applicant would look to limit the works required at this location to lessen the disruption to the use of the layby by road users during the construction period. Access would be required from the layby for future maintenance requirements, which would involve infrequent visits [\[REP4-022\]](#).
- 6.7.82. Appendix A to the Landscape and Ecological Management Plan (LEMP), Vegetation Retention and Removal Plans ([\[REP9-040\]](#), sheet 6), showed that, with regards to the access over Plots 6-30 and 6- 31, vegetation management would be limited to some pruning of the line of trees along the westbound carriageway of the A1071. No permanent loss of vegetation or drainage ditch would be proposed at this location.
- 6.7.83. The positioning of the access route across Plot 6-31 was designed to avoid effects on the trees at Keeble's Grove, an ancient woodland and part of the SSSI.
- 6.7.84. The Applicant confirmed that the proposed use of the land at ENV04 (shown as MM09 on LEMP Appendix B, Vegetation Reinstatement Plan [\[REP9-041\]](#)), had not changed since the start of the Examination and remained as described under Additional Mitigation EIA_B01 in the REAC ([\[REP3-028\]](#), page 20).
- 6.7.85. Mr F Prosser was only added to the Book of Reference in respect of rights of access over Plots 6-30 and 6-31, between the Deadline 6 Schedule of Changes to the Book of Reference [\[REP6-027\]](#) and the final version at Deadline 9 [\[REP9-047\]](#). He was not included in the final version of the Applicant's Compulsory Acquisition and Temporary Possession Objections Schedule [\[REP9-056\]](#). However, it provided an update on negotiations with Mr J and Mrs P Prosser. HoTs were issued to their agent on 26 January 2024, and they were assessing options provided by the Applicant.
- 6.7.86. The Applicant provided persuasive evidence as to why taking access off the layby along the A1071 to the west would not negate the need to include the proposed access across the APs' plots within the Order Limits. It explained the rationale for the alignment of the proposed access track, outside the APs' ownership, in relation to Keeble's Grove.
- 6.7.87. The ExA considered the AP's point that if environmental measure ENV04 was excluded, there would be no need for TP of rights over his land. However, as set out elsewhere in this Report, the ExA accepts its inclusion as part of the Proposed Development.
- 6.7.88. The ExA is satisfied that TP of two plots over which the APs' have rights of access is required to facilitate the development to which the development consent relates and that there is a compelling case in the public interest for TP. Therefore, if voluntary agreement between the parties is not reached, the ExA sees no impediment to the Secretary of State granting the Applicant's request in respect of TP of the land in which the APs have rights of access.

Proposed landscape softening and access

- 6.7.89. Plot 6-21 is proposed for landscape softening (ENV 19), as shown on Sheet 6 of LEMP Appendix B: Vegetation Reinstatement Plans [\[REP9-041\]](#). Although these areas were not required to offset a significant effect, the planting could filter views of the project from specific properties identified in the community assessment [\[APP-108\]](#).
- 6.7.90. Plot 6-29 would provide for access to implement and maintain this planting should it be agreed with the landowner.
- 6.7.91. The ExA notes that the land required to provide the proposed planting would be contiguous with the boundary with the curtilages of the buildings at Ram's Farm. TP rights are sought therein and in land required to access it.
- 6.7.92. Paragraph 2.8.11 of NPS EN-5 says that off-site tree and hedgerow planting can be used to mitigate potential landscape and visual impacts of overhead line projects, softening the effect whilst providing some screening from visual receptors. These can only be implemented with the agreement of the relevant landowners.
- 6.7.93. The issue of the potential effect of this element of the Proposed Development on residential amenity is not relevant as to whether TP of the plots needed to provide and to access such planting is justified. The proposed planting and access would be incidental and there would be public benefit in providing new planting.

MS J EVANS AND MR M EVANS

- 6.7.94. Ms J Evans and Mr M Evans are APs with an interest in land (Book of Reference, Parts 1 and 2) to the west of Benton Lane (B1070), Layham, which is proposed for Classes 2, 4 and 6 CA and TP rights.

Representations

- 6.7.95. In terms of land rights, their objections ([\[RR-073\]](#), [\[RR-074\]](#) and [\[RR-075\]](#)) raised the following issues:
- the principle of the DCO allowing authorisation of CA of their home and land;
 - lack of consultation;
 - lack of clear timescale for the proposed works that would affect their land; and
 - no information regarding how access for future maintenance would be achieved.
- 6.7.96. The Applicant's Comments on Relevant Representations [\[REP1-025\]](#) at Table 2.2, Consultation, evidenced three consultation periods since work resumed on the project in 2020, following widespread consultation between 2009 and 2013 prior to the project being paused. It referred to the Consultation Report [\[APP-043\]](#), which described the process and the regard to feedback. It included a joint response to statements about lack of engagement in Table 2.29, Affected Parties, Land Interests and Compensation.
- 6.7.97. The Applicant advised that its agent had received signed HoTs from the APs' agent and that solicitors had been instructed [\[REP9-056\]](#) and [\[REP9-015\]](#).
- 6.7.98. Rule 17 requests were sent to Ms Evans and Mr Evans on 27 February 2004 asking if voluntary agreement had been reached with the Applicant and if either of them wanted to withdraw their RR insofar as it related to land rights [\[PD-012\]](#). Two emails were received in response advising that, whilst terms for a voluntary agreement had been reached, these had not yet been formalised. Until such time as a legally

binding document was provided to their solicitor for signature, their objections stood ([\[REP10-031\]](#) and [\[REP10-032\]](#)).

ExA's consideration

- 6.7.99. The legal framework for the exercise of CA and TP rights over land in an application for development consent has been set out earlier in this section. Whilst the Secretary of State has discretion in how they are exercised, they cannot be set aside on the basis of an objection to them.
- 6.7.100. As the APs have been engaged directly or indirectly in negotiations with the Applicant, the ExA considers it fair to assume that they are aware of the extent of the Proposed Development's interference with their land rights. According to the Land Plans [\[REP9-004\]](#), Work Plans [\[APP-010\]](#) and Book of Reference [\[REP9-016\]](#), the Applicant does not propose to exercise any CA or TP rights over the APs' home. The ExA is satisfied that the consultation undertaken, and information provided by the Applicant has been satisfactory and in accordance with its statutory duties.
- 6.7.101. Timescales for delivery of the Proposed Development and how it would relate to the APs' land would only be firmed up on appointment of a contractor. The Construction Environmental Management Plan (CEMP) [\[REP9-033\]](#), that would be secured by Requirement 4(2)(a) of the dDCO [\[REP9-006\]](#), provides for appointment of an Agricultural Liaison Officer who would provide a single point of contact between the contractor and the landowner.
- 6.7.102. How the undertaker could use the land that would be subject to CA and TP, including notice periods and compensation provisions, is set out in Articles 23, 26 and 27 of the dDCO.
- 6.7.103. The rights sought in the APs' land is needed to for the development to which the development consent would relate and there is a compelling case in the public interest for the land to be acquired compulsorily. Accordingly, the tests in s122(2) and s122(3) of the PA2008 are satisfied and the proposed CA of rights accords with s122 and s123. The ExA is content that there are adequate protections in the dDCO [\[REP9-006\]](#) to reasonably and proportionately limit the extent and impact of the CA and TP powers sought in respect of the APs' land. Therefore, if voluntary agreement is not concluded, the Secretary of State can be assured that the CA and TP powers sought could be granted.

MS S WESTWOOD AND MR M WESTWOOD

- 6.7.104. Ms and Mr Westwood are APs (Book of Reference, Parts 1 and 2) with an interest in land along Millwood Road and to the east of it. The Applicant is seeking Class 2, 4 and 6 rights.
- 6.7.105. Appendix B to the LEMP, Vegetation Reinstatement Plan [\[REP9-041\]](#), shows proposed hedgerow reinforcement on either side of Millwood Road partially on land in the APs' ownership.
- 6.7.106. The plots in which the APs have an interest abut or adjoin the site of the proposed Dedham Vale east cable sealing end compound.

Representations

- 6.7.107. The APs' representations ([\[RR-135\]](#), [\[RR-136\]](#), [\[REP2-064\]](#) and [\[REP2-065\]](#)) principally related to the relocation of the proposed Dedham Vale east cable sealing

end compound to Layham Quarry, a matter addressed by the ExA in section 3.9 of this Report. Other than saying that no compelling case could be established for acquisition of their land that is in the public interest, the APs gave no indication of how the rights sought would affect their legal interests.

- 6.7.108. The Applicant reported that it had been in detailed negotiations with the APs since February 2023 with various forms of communication each month. Revised and updated terms were issued in October 2023, taking account of feedback relating to landscape planting designed to mitigate the impact of the cable sealing end compound on their land. The parties met in October 2023 and Mr Westwood said that he would not agree to the proposed planting on his land. The Applicant subsequently confirmed that this was intended to be hedge reinforcement not woodland planting. It issued updated HoTs to the AP in November 2023. The AP said that he did not want to enter into an agreement with the Applicant [[REP9-056](#)].

ExA's consideration

- 6.7.109. The ExA is satisfied that the rights sought for CA in the APs' land are required to facilitate or are incidental to the development to which the development consent would relate as required by s122(2) of the PA2008. There is a compelling case in the public interest for the powers of both CA and TP to be granted, which would outweigh private loss. Accordingly, should the Secretary of State decide to grant the Order for the Proposed Development, the powers sought are proportionate and the ExA recommends that they be granted.

SPROTT'S FARMLAND

- 6.7.110. Sprotts Farmland is an AP (Book of Reference Parts 1, 2 and 3) over whose land in the vicinity of Heath Road and Holt Road to the south-west of Polstead Heath the Applicant seeks Class 3, 4, 6 and 7 CA and TP rights. The rights would be exercised for the construction of the underground line between Dedham Vale east and Dedham Vale west cable sealing end compounds and access thereto, in addition to TP powers for removal of the existing overhead distribution electric line between Burstall Bridge and Twinstead Tee. Where the line is to run underground between Stour Valley east and Stour Valley west cable sealing end compounds, land between B1508 St Edmund's Hill and Twinstead Road would be required for construction and temporary and permanent access.

Representation

- 6.7.111. Sprotts Farmland said that it reserved its position to object formally at the Examination once the final details of the project has been communicated. It expressed dissatisfaction at the Applicant and its agent's handling of the Proposed Development and lack of transparency as to exactly what work is required on its land, what it entails and the consequences and impact on its business [[RR-126](#)].
- 6.7.112. The Applicant provided extensive evidence of three consultation periods on its proposals since work resumed on the project in 2020, following wide-ranging consultation between 2009 and 2013 prior to the project being paused [[REP1-025](#)]. It referred to the Consultation Report [[APP-043](#)], which described the process undertaken and the regard it had to feedback. In Table 2.29, Affected Parties, Land Interests and Compensation, there was a grouped response to statements about lack of engagement [[REP1-025](#)].
- 6.7.113. The Applicant said that HoTs were issued to the AP's agent in September 2022 with a meeting and dialogue during the subsequent months. The final form of the HoTs

that the agent would recommend to his client were agreed between the parties' agents in August 2023. These terms had yet to be agreed by the AP. There remained an area of disagreement over the growing of cricket bat willow, which the Applicant is working to resolve with the AP. The Applicant was reviewing cable depths and any subsequent impact on the AP's agricultural operations [REP9-056].

ExA's consideration

- 6.7.114. Details of how the Proposed Development would relate to the AP's land are available in the Land Plans [REP9-004], Work Plans [APP-010], Book of Reference [REP9-016] and dDCO [REP9-006]. The Applicant's evidence on the extent of consultation is persuasive and, as the AP's agent has been engaged in negotiation with the Applicant's counterpart, it is fair to assume that the AP is apprised of the extent of the Proposed Development's interference with its land rights. The ExA is satisfied that the consultation and information undertaken and provided by the Applicant has been satisfactory and accords with its statutory duties.
- 6.7.115. Going forward, the CEMP [REP9-033], that would be secured by Requirement 4(2)(a) of the dDCO [REP9-006], provides for the appointment of an Agricultural Liaison Officer to provide a single point of contact between the contractor and the landowner. They would be responsible for delivering site access in line with pre-agreed timescales, facilitate dialogue between the contractor and the landowner as necessary and would be the first point of contact for any issues.
- 6.7.116. Section 3.10 of this Report considers the effect of the Proposed Development on agricultural operations. Where effects on income cannot be mitigated, the compensation code provides the appropriate vehicle for any recompense for landowners.
- 6.7.117. In terms of the powers sought, the ExA is satisfied that the route of the Proposed Development, siting of cable sealing end compounds and associated access routes has been chosen with due consideration of the effects and reasonable alternatives to CA and TP, and the ExA sees no lesser steps that could meet the identified need. Whilst the AP's land would be affected during the construction and operation of the Proposed Development, the powers sought are reasonable and proportionate in pursuit of the public interest. The ExA is satisfied that the CA powers are necessary for the Proposed Development and meet the legal tests in s122 and s123 of the PA2008. If the parties do not conclude a voluntary agreement, the Secretary of State can be satisfied that grant of both the CA and TP powers sought are legitimate and proportionate.

J AND J HOWARD ON BEHALF OF HOWARDS

- 6.7.118. J and J Howard are APs (Book of Reference Parts 1 and 2) with an interest in land to the west of Holt Road and north-east of Sprott's Farm, near Polstead Heath. The Applicant seeks Class 3 – CA rights over a plot to construct and maintain the proposed underground cable between Dedham Vale east cable sealing end compound and Dedham Vale west cable sealing end compound.

Representation

- 6.7.119. The Howards were concerned that the Proposed Development could affect their business and livelihood by making the land unusable for their fruit growing enterprise in that they would not be able to plant trees over the proposed works, making it unviable to carry on [RR-090].

- 6.7.120. In Table 2.29, Affected Parties, Land Interests and Compensation of its Comments on Relevant Representations [\[REP1-025\]](#), the Applicant set out an overview of compensation provisions that would apply to affected landowners.
- 6.7.121. The Applicant said that it has been in detailed negotiation with the APs' agent since March 2023 and that, whilst the form of the HoTs had been agreed, commercial negotiations were ongoing [\[REP9-015\]](#) and [\[REP9-056\]](#).

ExA's consideration

- 6.7.122. Section 5 of this Report considers the effects of the Proposed Development on agricultural operations, including the Howards' concerns about the impact on their fruit growing business. That specific issue was subject of a question to the Applicant in the ExA's first written questions (AQ1.1.14 [\[PD-005\]](#)). The Applicant estimated that a particular unplanted strip of land would not be suitable for orchard trees in the future due to the need to protect the underground cables. This amounted to approximately 15% of the holding. Having considered the issue in the round and the specific likely effects on the APs' business, the ExA agrees with the Applicant that, where effects on income cannot be mitigated, the compensation code provides the appropriate vehicle for any recompense for landowners.
- 6.7.123. In that context and in terms of the CA powers sought, the ExA is satisfied that the route for the Proposed Development has been chosen in consideration of the effects of these powers and reasonable alternatives to CA and can see no lesser steps that could meet the identified need. Whilst the Howard's holding would be affected during the construction and operation of the Proposed Development, the CA powers sought are reasonable and proportionate, in pursuit of public interest. The ExA is satisfied that the CA powers are necessary for the Proposed Development, accord with the legal tests set out in s122 and s123 of the PA2008 and, if voluntary agreement is not concluded, recommend their grant.

MR J HARRIS

- 6.7.124. Mr Harris is an AP with an interest in land at Leavenheath (Book of Reference Parts 1 and 3 [\[REP9-016\]](#)). The Applicant seeks Class 1, 3, 4 and 6 CA and TP rights over land that he owns or occupies.

Representation

- 6.7.125. Mr Harris said that there had been a lack of consultation and engagement with landowners since the revival of the Proposed Development. The proposed line would emerge from the ground in one of his fields and a 'substation' would be built disrupting his business and future income [\[RR-086\]](#). (This refers to the Dedham Vale west cable sealing end compound.)
- 6.7.126. The Applicant's Comments on Relevant Representations [\[REP1-025\]](#) at Table 2.2, Consultation, set out extensive evidence of three consultation periods on its proposals since work resumed on the project in 2020, following wide-ranging consultation between 2009 and 2013 prior to the project being paused. It referred to the Consultation Report [\[APP-043\]](#), which described the process undertaken and the regard to feedback. In Table 2.29, Affected Parties, Land Interests and Compensation, there was a grouped response to statements about lack of engagement.
- 6.7.127. The Applicant said that it has been in detailed negotiation with the AP's agent since March 2023 and had provided all the details requested. HoTs had been agreed with

his agent, including purchase of an access road and additional screen planting. At the close of Examination, the Applicant was revising its offer following further discussion with the AP's agent in November 2023 [\[REP9-056\]](#).

ExA's consideration

- 6.7.128. Details of how the Proposed Development would relate to the AP's land are available in the Land Plans [\[REP9-004\]](#), Work Plans [\[APP-010\]](#), Book of Reference [\[REP9-016\]](#) and dDCO [\[REP9-006\]](#). The Applicant's evidence on the extent of consultation is persuasive and as the AP's agent has been engaged in negotiation with the Applicant, the ExA considers it fair to assume that he is apprised of the extent of the Proposed Development's interference with this land rights. The ExA is satisfied that the consultation and information undertaken and provided by the Applicant has been satisfactory and in accordance with its statutory obligations.
- 6.7.129. Section 3.10 of this Report considers the effect of the Proposed Development on agricultural operations. Where effects on income cannot be mitigated, the compensation code provides the appropriate vehicle for any recompense for landowners.
- 6.7.130. In terms of the powers sought, the ExA is satisfied that the route for the Proposed Development, siting of cable sealing end compounds and associated access routes have been chosen in consideration of the effects of such interference with land rights. Furthermore, due consideration has been given to all reasonable alternatives to CA and TP and the ExA can see no lesser steps that could meet the identified need. Whilst the AP's land would be affected during the construction and operation of the Proposed Development, the powers sought are reasonable and proportionate, in pursuit of the public interest. The ExA is satisfied that the CA powers are necessary for the Proposed Development, compliant with s122 and s123 of the PA2008. If voluntary agreement is not reached, the Secretary of State can be assured that both CA and TP are a reasonable response in the public interest.

MR R COWLIN

- 6.7.131. Mr Cowlin is an AP with an interest in land to the south of the junction of Barracks Road, Bures Road and The Street, Assington (Book of Reference [\[REP9-016\]](#), Parts 1, 2 and 3). The Applicant sought the following CA and TP rights over his land: Class 2 (CA of rights – overhead line); Class 4 (CA of rights of access); and Class 6 (Temporary use for construction, maintenance, mitigation and dismantling of redundant infrastructure).
- 6.7.132. The Work Plans [\[APP-010\]](#), considered in tandem with the dDCO [\[REP9-006\]](#) and Land Plans [\[REP9-004\]](#), show that the CA of rights of access sought by the Applicant would be over a track leading south from the aforementioned road junction that would provide access to the area subject of the TP and the Class 2 rights. The former would be used in association with proposed Work No 8 – removal of existing overhead distribution electric line (Route PCB) between Burstall Bridge and the Twinstead Tee. The Class 2 CA powers would be used to accommodate Work No 4 – overhead transmission electric line from Dedham Vale west cable sealing end compound to the Stour Valley east cable sealing end compound.

Representations

- 6.7.133. Mr Cowlin said that he did not object to the overall project but on the detail as it affected him due to inadequate discussion, provision of details as to location of pylons, loss of trees and access details [RR-067].
- 6.7.134. In his subsequent WR [REP2-036], Mr Cowlin added that, in relation to the Applicant's proposed acquisition of land rights, he objected to the proposed temporary access routes across his land as:
- it would create an unnecessary break in the hedge and fence line at its western end; and
 - at the opposite end, the proposed access would cross rare upland freshwater marsh which he knew to be very unstable and of low bearing capacity.
- 6.7.135. His suggested alternatives, in summary, were:
- at the east end, use the existing gate access to the north into the field; and
 - at the west end access from the field to the north, through the horse paddocks, to the existing pylon PCB66 ([APP-010], Work Plan sheet 16) would be an easier and cheaper alternative.
- 6.7.136. The ExA ([PD-008], CA2.4.1) asked Mr Cowlin if the Applicant's Comments on Written Representations ([REP3-048], pages 69 and 70) allayed his concerns. Mr Cowlin replied that the Applicant had not acceded to requests by him or his agent to meet on site to inspect the land and features affected. He said that a desk-based response was of limited use and asked how the Applicant had sought to, '*find a route that has the least impact including vegetation removal*' without a site inspection. He related points of concern in his RR [RR-067] to the submitted annotated plan [REP7-041].
- 6.7.137. The Applicant indicated that signed HoTs were received from the AP in late November and solicitors instructed [REP9-056]. On 27 February, a Rule 17 request was issued to Mr Cowlin asking if voluntary agreement had been reached and if he wished to withdraw his RR insofar as it related to land rights [PD-012].
- 6.7.138. Mr Cowlin said that he did not as the Applicant had not met him, inspected the site, or addressed his concerns about access over his land as he had repeatedly asked [REP10-028].
- 6.7.139. The Applicant's comments on Relevant Representations cited Mr Cowlin's RR in Table 2.2, Consultation and Table 2.29, Affected Parties, Land Interests and Compensation, where it responded to RRs that it considered had raised associated concerns [REP1-025].
- 6.7.140. The Applicant engaged directly with Mr Cowlin's submission in its Comments on Written Representations ([REP3-048], Table 4.2).
- 6.7.141. The Applicant understood that the temporary access route being referred to was F-DAP4/ F-AP10 shown on the Access, Rights of Way and Public Rights of Navigation Plans [APP-012]. These accesses would be required to remove the existing 132kV pylons (PCB66 and PCB67) and construct the new 400kV pylon RB41, as shown on the Work Plans [APP-010]. The Applicant confirmed that consideration has been given to the concerns and alternatives raised by the AP prior to the application and since its submission. The Applicant said that it had sought to find a route that would have the least impact, including vegetation removal, which was the existing corridor

beneath the existing 132kV overhead line, as shown on the General Arrangement Plans [APP-018]. The Applicant would have already accessed PCB67, therefore a direct onward route to PCB66 would be the shortest and generally have less impact. The dDCO [REP9-006] would allow micro-siting of temporary access routes within the Order Limits to ensure the impact on the ground at the relevant time could be minimised.

- 6.7.142. In relation to the 132kV removal and access to the new 400kV pylon, as shown on Sheet 16 of LEMP Appendix A: Vegetation Retention and Removal Plan [REP9-040], the affected vegetation would entail pruning (and some coppicing) of two hedgerows and pruning and coppicing of woodland within the existing maintenance swathe. Additionally, the LEMP stated that the removal of the 132kV overhead line would cause limited woodland loss underneath it, where the height of the trees is already managed to maintain operational electrical safety clearances ([REP9-040, paragraph 7.2.4). Paragraph 7.3.1 of the LEMP said that the removal of the 132kV overhead line would cause limited hedgerow loss: it was assumed that a 5m gap would be required to allow access through it by construction vehicles. Existing hedgerow gaps or accesses would be used where practicable. The hedgerow would be coppiced to ground level (no excavation of the rootzone) with matting placed over the soil to protect the roots.
- 6.7.143. No soil stripping was proposed for access. Should the proposed access lie across wet ground at the time of removal, trackway would be used to protect the soil and ensure vehicles would not bog down. The Applicant added that the alternative route proposed by the AP to PCB67 was not on his land. Updated HoTs for an Option Agreement issued on 9 September 2023 included a commitment by the Applicant to undertake a record of condition to ensure that land subject to the Option Agreement would be reinstated appropriately post-construction. Additionally, the rights of the AP to claim for compensation would not be affected in lieu of the Option Agreement, thus ensuring that any fair and reasonable losses evidenced by him would be suitably compensated by the Applicant.
- 6.7.144. The Applicant said that it had engaged with the AP and agreed HoTs for a voluntary land agreement [REP9-056].

ExA's consideration

- 6.7.145. Table 2.1, Baseline Surveys, of the LEMP [REP9-039] identifies the surveys that informed the baseline assessment and where the results of those surveys can be found. These include an Important Hedgerow Survey [APP-115] and Arboricultural Survey [REP9-018]. The latter was undertaken within the Order Limits and a 15m buffer (paragraph 2.5.2).
- 6.7.146. The preceding section of the LEMP sets out procedure for identifying the final alignment of the Proposed Development, taking account of limits of deviation allowed for by Article 5 of the dDCO [REP9-006], but within the Order Limits shown on the Work Plans [APP-010]. It states that the Applicant would employ environmental specialists, including landscape architects, as required to advise on the design refinements and the micro-siting of project components within the limits of deviation. The final alignment would also be informed by the results of pre-construction surveys and consultation with the landowners ([REP9-044], paragraph 2.4.2).
- 6.7.147. The CEMP provides for the appointment of an Agricultural Liaison Officer who would provide a single point of contact between the contractor and landowners.

They would be responsible for delivering site access in line with pre-agreed timescales, facilitate dialogue between the contractor and the landowner and be the first point of contact for any issues. They would also be responsible for witnessing and agreeing all land condition surveys carried out by the contractor ([[REP9-033](#)], Table 3.1). This would be secured by Requirement 4(2)(a) of the dDCO [[REP9-006](#)].

- 6.7.148. Notwithstanding the AP's misgivings about the Applicant's lack of direct engagement, the ExA is persuaded that the Proposed Development as it would affect his land has been properly considered and that there would be opportunity for his input at the pre-construction phase.
- 6.7.149. The Applicant gave a persuasive explanation for why it did not amend the Proposed Development in response to Mr Cowlin's objections. Based on the annotated plan submitted by the AP, it appears that the suggested alternative access would be outside the Order Limits. If the Applicant's proposed access measures were to result in damage to the ground and voluntary agreement was not reached, which would include the commitment to undertake a record of condition survey, then the compensation provisions that would be available were set out in Table 2.29, Affected Parties, Land Interests and Compensation, in the Applicant's Response to Relevant Representations [[REP1-025](#)].
- 6.7.150. Taking all the above into account, the ExA is satisfied that the proposed CA complies with the tests set out in s122(2) and s122(3) of the PA2008. If voluntary agreement is not reached, the Secretary of State can be assured that CA and TP are a reasonable response in the public interest.

MS B BAXTER AND MR G BAXTER

- 6.7.151. Ms B Baxter and Mr G Baxter are APs with an interest in land at the B1508 St Edmund's Hill (Book of Reference Parts 1 and 2). The Applicant sought Class 3 and 4 CA rights.
- 6.7.152. The proposed underground cable between Stour Valley east cable sealing end compound and Stour Valley west cable sealing end compound would run to the north of the APs' home. Temporary access to the site of the proposed construction works would be taken from an existing access off the B1508 from a point south of, but outside, their dwelling's residential curtilage. The existing track served by that access is a field away from their home. The existing 132kV line runs to the north of their home and pylons to the north-west and north-east would be removed.
- 6.7.153. The proposed Stour Valley east cable sealing end compound would be several fields away to the north-east of the APs' property. It would have a permanent access route from the B1508 St Edmund's Hill, through the northern end of the field immediately north of the APs' house.

Representations

- 6.7.154. The APs each submitted a Relevant Representation ([[RR-056](#)] and [[RR-057](#)]). Their house was on the market, but the Proposed Development had deterred prospective buyers. The APs detailed the personal problems that not being able to move house would cause them and their family. They also provided extensive evidence on the detrimental impact the Proposed Development would have on their enjoyment of their property.
- 6.7.155. The Applicant's Comments on Relevant Representations [[REP1-025](#)] provided a grouped response to RRs that raised issues such as those raised by these APs.

- 6.7.156. Table 2.16, Construction Considerations, responded to concerns about the use of temporary construction lighting and proposed access points. The associated management plans would be subject of Requirement 4 of the dDCO.
- 6.7.157. Table 2.17, Construction Working Hours, responded to matters around working hours. The Applicant's rationale and justification for the working hours sought was revisited and revised throughout the Examination.
- 6.7.158. The Applicant said that it had been in negotiation with the APs and issued HoTs in March 2023 and reissued them in September 2023. It added that it has offered undertakings on their concerns about the property's septic tank and to take a schedule of condition of the property and make good if any damage was done. This was sent to the APs' agent and five subsequent reminders were sent between 24 November 2023 and 14 February 2024 [[REP9-056](#)].

ExA's consideration

- 6.7.159. The issues of noise and vibration including construction working hours, methods and controls are considered in section 3.11 of this Report. The ExA concluded that the Proposed Development would accord with noise and vibration policy, taking into account that necessary mitigation would be secured through the dDCO. The potential impact of construction dust was also considered and the ExA concluded that a detailed management plan (that is in accordance with the CEMP and the Code of Construction Practice (CoCP)) should be secured through Requirement 4(4) of the rDCO.
- 6.7.160. Chapter 5.5 of the CTMP provides for how individual access points would be subject to detailed design and for reinstatement measures to their pre-construction condition. These provisions are reviewed in paragraphs 3.15.62 to 3.15.75 of this report. Requirements 4 and 11 of the rDCO mandate the undertaker to comply with the approved management plans and pre-agree works to the highway with the relevant highway authority. Should the Applicant fail to provide a convincing design for any of the accesses, the relevant local authority would have the option of refusing to discharge it in accordance with Requirement 11 of the dDCO. If interference with the AP's septic tank and soakaway could not be avoided through such detailed design, or if voluntary agreement has not been reached on this and the other outstanding matters, the ExA is mindful that fair and reasonable compensation would be available under the relevant provisions in the Applicant's final dDCO [[REP9-006](#)].
- 6.7.161. Taking into consideration the APs' legal right to protect their property and entitlement to peaceful enjoyment of their possessions, the ExA is satisfied that a fair balance has been struck between the rights of the property owners in this instance and the public benefit that the Proposed Development would yield. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in the APs' land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. The ExA considers the CA powers sought in respect of this land to be necessary should the Secretary of State decide to grant the Order for the Proposed Development.

MR R BEST

- 6.7.162. Mr Best is an AP (Book of Reference Parts 1, 2 and 3) with an interest in land at Twinstead Road, north-west of Lamarsh, which is proposed for Class 6 and 7 TP rights to provide temporary access to remove the existing overhead line (Work No 8) [[REP9-006](#)].

Representation

- 6.7.163. In his RR [\[RR-059\]](#), Mr Best said that his main concern was that damage to the countryside would be made good and that replaced vegetation would be maintained until established. He referred to a minor amendment to the access route on his land that had been discussed with the Applicant's agent in June 2023, and he wanted to reserve his position subject to changes to the Proposed Development.
- 6.7.164. The Applicant's Comments on Relevant Representations [\[REP1-025\]](#) provided a grouped response to RRs who raised such issues:
- Table 2.18, Environmental Assessment, outlined how vegetation would be protected and managed during construction and how any vegetation removed by the project would be reinstated following construction.
 - Table 2.29, Affected Parties, Land Interests and Compensation, set out how those issues would be dealt with.
- 6.7.165. The Applicant said that in July 2023 it instructed its representatives on the basis of signed HoTs. Two emails requesting updates were sent to the AP in November 2023 and a further one the following month [\[REP9-056\]](#).
- 6.7.166. A Rule 17 request was sent to Mr Best on 27 February 2004 asking if voluntary agreement had been reached with the Applicant and if he wanted to withdraw his RR insofar as it related to land rights [\[PD-012\]](#). He did not respond.

ExA's consideration

- 6.7.167. The LEMP [\[REP9-044\]](#), Appendix A, Vegetation and Removal Plan [\[REP9-040\]](#), LEMP Appendix B, Vegetation Reinstatement Plan [\[REP9-041\]](#), LEMP, Appendix C Planting Schedules [\[REP9-042\]](#), and the Trees and Hedgerows to be Removed or Managed Plans [\[REP9-005\]](#), secured through the rDCO, should address the AP's concerns.
- 6.7.168. As the existing overhead line is already in place, the TP powers sought for its removal are necessary to implement the Proposed Development and are both reasonable and proportionate. It is unclear if Mr Best objected to the proposed TP of his land. Nevertheless, subject to specified exceptions, Articles 26 and 27 of the dDCO [\[REP9-006\]](#) require the undertaker to remove all temporary works and restore the land to the reasonable satisfaction of its owner before giving up possession, and to pay compensation to the owners and occupiers of land under those Articles for any loss or damage arising from the exercise in relation to the land of the provisions of those articles.
- 6.7.169. Therefore, the ExA is satisfied that the dDCO provides proportionate protection for the AP's interests. If voluntary agreement is not reached, the Secretary of State can be satisfied that the rights sought are necessary and reasonable in the public interest.

HOWLETT ALPHAMSTONE LAND

- 6.7.170. Howlett Alphamstone Land is an AP (Book of Reference Parts 1 and 2) in respect of land at Twinstead Road and Moat Lane, northwest of Lamarsh, which is proposed for Class 3, 6 and 7 CA and TP rights to accommodate the underground cable between the Stour Valley east and Stour Valley west cable sealing end compounds and to provide temporary access to enable removal of the existing overhead line (Work No 8) [\[REP9-006\]](#).

Representation

- 6.7.171. Howlett Alphamstone Land [[RR-037](#)] reported unresolved queries with the Applicant about surveys, boreholes, trial trenching and associated damage. It expressed uncertainty about the extent of the Proposed Development and its ramifications for the company's land rights.
- 6.7.172. Table 2.29, Affected Parties, Land Interests and Compensation, of the Applicant's Comments on Relevant Representations [[REP1-025](#)] provided a general, grouped response to RRs who had similar associated concerns.
- 6.7.173. The Applicant said that it had been in correspondence with the AP since September 2022 and updated HoTs were re-sent in August 2023. The AP was provided with detailed results of the surveys undertaken. The Applicant issued revised HoTs to the AP in October 2023 and six subsequent reminders between 21 November 2023 and 14 February 2024 [[REP9-056](#)].

ExA's consideration

- 6.7.174. Details of how the Proposed Development would relate to the AP's land are available in the Land Plans [[REP9-004](#)], Work Plans [[APP-010](#)], Book of Reference [[REP9-016](#)] and dDCO [[REP9-006](#)]. As the AP has been engaged with the Applicant since September 2022, the ExA considers it reasonable to assume that it is now aware of the extent of the Proposed Development's interference with its land rights.
- 6.7.175. As the existing overhead line is already in place, the TP powers sought for its removal are necessary to implement the Proposed Development and are both reasonable and proportionate. In terms of the CA powers sought, the ExA is satisfied that the route for the proposed underground cable has been chosen in consideration of the effects of these powers. Furthermore, due consideration has been given to all reasonable alternatives to CA and the ExA can see no lesser steps that could meet the identified need.
- 6.7.176. The ExA is satisfied that the dDCO provides proportionate protection for the AP's interests in land on which survey work was carried out and which would be subject of TP. As set out in Table 2.29: Affects Parties, Land Interest and Compensation, compensation provisions are available to the AP in respect of land are available subject of CA. If agreement were not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. The ExA considers the Applicant's approach in relation to the CA and TP powers sought in respect of this land to be acceptable should the Secretary of State decide to grant the Order for the Proposed Development.

MR W DRAKE

- 6.7.177. Mr Drake is an AP with interest in land (Book of Reference Parts 1, 2 and 3, [[REP9-016](#)]) at Twinstead Road, south-east of Twinstead, which is proposed for Class 6 and 7 TP rights to provide temporary access to enable removal of the existing overhead distribution electric line (Work No 8) [[REP9-006](#)].

Representations

- 6.7.178. In his RR [[RR-071](#)], Mr Drake said that one of the pylons to be removed is on his land and he would like any damage from the works to be made good in due course.

- 6.7.179. Table 2.29, Affected Parties, Land Interests and Compensation, of the Applicant's Comments on Relevant Representations [REP1-025] provided a general, grouped response to RRs with such concerns.
- 6.7.180. The Applicant said that signed HoTs were returned by the AP's agent on 12 January 2024 and that solicitors had been instructed [REP9-056].
- 6.7.181. A Rule 17 request was sent to Mr Drake on 27 February 2004 asking if voluntary agreement had been reached with the Applicant and if he wanted to withdraw his RR insofar as it related to land rights [PD-012].
- 6.7.182. His agent responded [REP10-029] to say that, whilst the terms of a voluntary agreement were reached between the parties on 12 January 2024, due to a delay in the Applicant's solicitor sending the relevant paperwork to the AP's counterpart, no legally binding voluntary agreement has been reached. Therefore, the AP would not be withdrawing his RR.

ExA's consideration

- 6.7.183. As the existing overhead line is already in place, the TP powers sought for its removal are necessary to implement the Proposed Development. They are reasonable and proportionate.
- 6.7.184. Subject to specified exceptions, Articles 26 and 27 of the rDCO require the undertaker to remove all temporary works and restore the land to the reasonable satisfaction of the owner of the land before giving up possession, and to pay compensation to the owners and occupiers for any loss or damage arising. Therefore, the ExA is satisfied that the rDCO provides proportionate protection for the AP's interests in land that is to be subject of TP.
- 6.7.185. If voluntary agreement is not reached, the Secretary of State can be assured that TP is a reasonable, proportionate and necessary response in the public interest.

MR P NOTT

- 6.7.186. Mr P Nott is an AP with an interest in land (Book of Reference Parts 1 and 2) sought for rights in accordance with Class 2, 3, 4 and 6 [REP9-016].
- 6.7.187. Mr Nott's objection solely related to 2 plots of land between the A131 Sudbury Road and Oak Road in which the Applicant sought Class 4 – CA of rights of access. These are shown on the Land Plans as Plots 29-06 and 29-07 [REP9-004].

Representations (as they relate to land rights)

- 6.7.188. Mr P Nott's RR [RR-039] noted that the proposed temporary access route off the A131 would run across three arable fields to a point where it would cross Oak Road and run on to a neighbour's land.
- 6.7.189. Mr Nott said that when the Proposed Development first came to his attention in 2013, an alternative access to the Stour Valley west cable sealing end compound was proposed, which would have had no impact his land. He first heard of the proposed temporary access route in September 2022 via a public consultation exercise. He provided a detailed chronology of contact with the Applicant up until February 2023, when the Applicant proposed to move the temporary access route to the north in response to negotiation between the parties. The AP had suggested

minor changes to the route to avoid drainage infrastructure, but the Applicant did not take these on board.

6.7.190. Mr Nott's representative subsequently engaged with the Applicant to:

- understand why the public road network could not be used for access to the proposed Stour Valley west cable sealing end compound;
- clarify the rationale for the proposed temporary access route and consider a hybrid route, accepting that passing places and areas of road-straightening might be required;
- review alternative routes to minimise disruption to Mr Nott's farming activities;
- get a plan that confirmed the area over which the Applicant was seeking to acquire rights;
- seek clarity on the rights to be acquired permanently and temporarily, the planning status of the land once the Proposed Development had been reinstated to agriculture and how this would be recorded as part of the DCO;
- clarify whether the easement would be solely the haul road, or if it would include working areas;
- confirm how the area would be calculated;
- get detail on why the width of the haul road would vary along its length as it passed through the AP's land so that he could identify areas which would be isolated and assess whether they could be farmed; and
- get information on access points onto the public roads and identify points where the road could be crossed by the landowner.

6.7.191. The AP asked the ExA to consider whether the rights sought by the Applicant needed to be permanent rather than just for construction. Whilst he accepted that works may be required in the future to the Proposed Development, he considered the imposition of a permanent limit on activities across a significant swathe of his holding to be disproportionate.

6.7.192. Mr Nott considered that the wording of the proposed restrictions in Class 4 to be unrepresentative of the proposed activities in relation to his land, in particular those in sub-paragraphs (c), (d) and (e), which seemed to relate to cable installation beneath the ground or pylons placed over it. He asked the ExA to consider whether an alternative Class would be more appropriate.

6.7.193. The AP expressed concerns about the lack of survey work to properly inform the Proposed Development and was worried about the existing drainage infrastructure, how the track would be surfaced, proper soil management, and whether sufficient storage would be provided to separate topsoil and subsoil. He was also worried that creating a new access from the A131 would create opportunities for unauthorised access and sought assurances that the proposed temporary access route would be suitably secured at all times.

6.7.194. Mr Nott's Written Representation [[REP2-057](#)] said that the Applicant initially discussed a temporary haul road, but this later became a permanent right to return to reinstall the track, subject to the service of 3 months' notice. The Applicant added wording to the proposed HoTs that would afford it the right to use the temporary access route without its full re-construction following the service of 28 days' notice, save in the case of an emergency. The AP reported that these changes had compounded his uncertainty as to the Applicant's precise proposed interference with his land rights.

- 6.7.195. In response to a question from the ExA [PD-005], the AP submitted plans showing existing drainage arrangements on his land, and his preferred alignment, and a note that had been sent to the Applicant's agent in July 2023 [REP3-087].
- 6.7.196. Mr Nott's concerns were examined at the first Compulsory Acquisition Hearing (CAH1) ([EV-028], [EV-029], [EV-030] and [EV-031]).
- 6.7.197. The Applicant's Comments on Relevant Representations [REP1-025] Table 2.13, Options and Routing - Temporary Access Route, responded to the following matters in relation to the proposed temporary access route off the A131:
- The alternatives considered.
 - The need for, location of and the traffic flows that would use the proposed temporary access route.
 - The duration that the proposed temporary access route would be in place.
 - Comments about perceived lack of surveys that had informed design.
 - The need for permanent access rights.
 - The assessed effects of the temporary access route.

Consultation

- 6.7.198. The Applicant confirmed [REP4-023] that its initial non-statutory and statutory consultations had not included the proposed temporary access route from the A131 (see paragraph 2.4.6 of this Report), but that it had been developed partially in response to feedback from local residents about the unsuitability of the local road network for large vehicles. The subsequent targeted consultation included it. Details were set out in the Applicant's Consultation Report, Appendix K, September 2022, Targeted Consultation Materials and Supporting Information [AS-009].

The need for the temporary access route and alternatives considered

- 6.7.199. The Applicant's Comments on Relevant Representations [REP1-025] Table 2.13, Options and Routing - Temporary Access Route, responded to RRs, including the AP's, and included comments on questions they asked about:
- the alternatives considered to the proposed temporary access route; and
 - the need for, location of and the traffic flows using the proposed temporary access route.
- 6.7.200. The Applicant explained ([REP1-025], pages 28 to 30) why it considered the road network unsuitable for the abnormal indivisible loads that would deliver components to the proposed Stour Valley west cable sealing end compound. It considered the hybrid option at the request of landowners (which would use a mixture of the local road network and temporary access across private land) and concluded that the proposed temporary access route was its preferred option.
- 6.7.201. The Applicant submitted a Technical Note on Temporary Access Route off the A131 [REP3-053] This explained how the options for accessing the Stour Valley west cable sealing end compound had been influenced by the local road network, vehicle types, vehicle numbers and abnormal indivisible loads that would be required in association with the Proposed Development. Section 5.5 said that, in addition to the options for the temporary access route that it set out in detail, a large number of localised modifications to the route of the temporary access route were put forward by Interested Parties (IPs) and Affected Persons (APs) (and their agents) during the pre-application period and post-application. The Applicant said that it considered these suggestions based on the considerations outlined earlier in the Note and

changes were incorporated into the route prior to the submission of the application. The Applicant added that it did not consider that any other suggestions proposed offered a better overall solution albeit they may have benefits to individual APs. It said that the temporary access route as proposed in the application had already taken account of a number of APs' suggestions as described in section 1.2 of the Note that set out the background to the consideration of alternatives for accessing the proposed Stour Valley west cable sealing end compound.

- 6.7.202. This was supplemented by the Applicant's Technical Note on Temporary Access Route off the A131 [REP4-009], which expanded on the Applicant's Deadline 1 explanation of the three main approaches considered. This included account being taken of design considerations and effects. It also introduced evidence of three options considered for the suggested hybrid approach and why it was rejected as an overall alternative, and four options for the route of the temporary access route that had been considered. It explained why Option 2a was preferred and included in the application for development consent.
- 6.7.203. The Note also included detailed consideration of Option 2e that it described as 'Variation of Option 2a for P Nott [REP3-087]'. The Applicant concluded that this route was similar to the selected Option 2a, but the changes meant it performed worse than the selected option. The route was at a higher risk of flooding than Option 2a, incorporated geometry that was not suitable for abnormal indivisible loads and routed closer to a protected lane.
- 6.7.204. The Applicant submitted swept path analyses to see whether large loads could be accommodated when negotiating the junction of the A131 and the proposed temporary access route ([REP5-026] and [REP6-037]). Options 2a and 2e were considered and the former remained the preferred route.
- 6.7.205. The ExA's further written questions ([PD-008], CA2.4.3) invited Mr Nott's representatives to make any further comment on the Applicant's assessment of his preferred alternative route for the temporary access route (Option 2e) as set out in its Technical Note on Temporary Access Route off the A131 [REP4-009]. No response was forthcoming.

Design and construction of the proposed temporary access route

- 6.7.206. The Applicant explained [REP3-052] why the Order Limits for the proposed temporary access route varied in width:
- the basic width including space for stored topsoil and subsoil, which was generally consistent throughout the route;
 - localised widening allowing for small embankments or cuttings to keep the track level so that large vehicles were not destabilised;
 - localised widening to accommodate swept path on bends where required; and
 - localised widening to accommodate passing and holding points.
- 6.7.207. The temporary access route was shown on Procedural Deadline A Submission 6.4 Environmental Statement Figures – Rev B [PDA-002] at sheet 30 of 30. This showed that it would comprise a 7m wide access route with 4m soil storage and not occupy the full width of the Order Limits, allowing for flexibility when it came to detailed design in accordance with Article 5 of the dDCO [REP9-006].
- 6.7.208. The Applicant submitted that these elements combined to define the land needed to deliver this part of the Proposed Development and it was therefore considered to be consistent with s122 of the PA2008.

The nature of the rights sought in the AP's land

- 6.7.209. The Applicant [[REP1-025](#)] clarified that the application intended the proposed temporary access route to be in place for the duration of construction activities, after which it would be removed and the land reinstated. It did not intend to use the temporary access route for routine maintenance. However, the Applicant sought permanent rights so that it could gain access to the Stour Valley west cable sealing end compound in the unlikely event that major works were required in the future.
- 6.7.210. The Applicant advised that a situation requiring the reinstallation of the temporary access route from the A131 would be unlikely, but it may be necessitated by repair or maintenance works that were of such magnitude that they were akin to the construction works themselves. When, and to what extent, the temporary access route from the A131 might need to be reinstalled would depend on the circumstances of any particular asset failure or disrepair, as well as the technologies available to the Applicant and the size and number of the construction vehicles required. It said that its preferred approach would be to make use of the local road network where practicable, but this would depend on the scale of the works [[REP4-023](#)]. If the temporary access route had to be reinstalled, the land would again be reinstated after works had been completed [[REP1-025](#)].
- 6.7.211. If land rights were acquired by voluntary agreement, the Applicant said that the notice period for the future use or reinstallation of the temporary access route from the A131 would be that agreed with the landowner. The Applicant confirmed that the draft HoTs at the time of CAH1, except in cases of emergency, made provisions for: 28 days should entry be required for access, without it being necessary to reinstall the temporary access route in full; and 3 months should it be necessary to reinstall and then use the access [[REP4-023](#)].
- 6.7.212. The dDCO [[REP9-006](#)] does not place an obligation on the Applicant to give a particular notice period ahead of future reinstallation should the CA powers be exercised. However, it cited the need to maintain ongoing relationships with the landowners and that it would be inconsistent with its corporate practice to seek to reinstall the temporary access route without any form of prior consultation or notice. In the absence of such voluntary agreement, it added that three months' notice would be given on exercise of the CA power, consistent with section 11 of the Compulsory Purchase Act 1965 and when executing a general vesting declaration, albeit the Applicant accepted that the exercise of the right itself pursuant to any general vesting declaration would be at a later date and not subject to such notice periods [[REP4-042](#)].
- 6.7.213. The Applicant understood that seeking CA of rights of access could lead to a degree of uncertainty for APs but considered it to be necessary and proportionate given the importance of ensuring the integrity of the electricity transmission system. It added that APs would be compensated for any proven loss.
- 6.7.214. The Applicant addressed the AP's contention that Class 4 – Compulsory Acquisition of Rights – Access was not appropriate in this instance. It noted that, in the event of a need to use the route after the completion of the Proposed Development was covered by an obligation to 'make good' in the HoTs that had been offered ([REP3-052](#)), page 58).
- 6.7.215. The issue was revisited at the first Compulsory Acquisition Hearing (CAH1), which the AP's representative attended and participated in, and when his concerns were the subject of examination and discussion ([EV-028](#)), [[EV-029](#)], [[EV-030](#)] and [[EV-](#)

031]). The Applicant re-confirmed the nature of the rights sought, as recorded in its Written Summaries of Oral Submissions to CAH1 [REP4-023]. It said that the CA of permanent rights of access was being sought under Article 24 (Compulsory acquisition of rights) of the dDCO [REP9-006], and that these are Class 4 rights, as described in Table 2.1 of the Book of Reference [REP9-016]. The temporary access would be temporary in the physical sense: it would be installed to enable the construction of the authorised development and would be removed once the construction phase has completed.

Mechanisms to secure the removal of the temporary access route

- 6.7.216. The dDCO [REP9-006] does not include a specific requirement to remove the temporary access route once construction is complete.
- 6.7.217. However, the Applicant pointed out that it would risk its actions being deemed ultra vires and unlawful if it physically retained the temporary access route post-construction, as the dDCO only permitted it for the purposes of constructing and maintaining the authorised development. Measure GG07 in the CoCP [REP9-035] required land used temporarily to be re-instated where practicable to its pre-construction condition and use. The CoCP would be secured through Requirement 4(2)(a) of the dDCO [REP9-006].
- 6.7.218. The Applicant noted that provision for further compensation could be included in voluntary agreements with landowners [REP4-023]. Should the rights be obtained using the CA powers, any claim for compensation would be time-barred after six years following the acquisition of the permanent rights. However, the Applicant confirmed that the initial compensation payable for the acquisition would account for the permanent rights sought and the potential for re-installation.

Drainage

- 6.7.219. In respect of the AP's concerns about potential impact on the field drainage system, the Applicant said [REP4-023]:
- that its projects commonly require working in agricultural areas and that it had well-established processes for ensuring that any impacts on field drainage would be addressed;
 - compensation would be available for any loss or damage caused by any impacts on field drainage; and
 - the current draft HoTs contain significantly improved drainage terms, including a number of covenants on the part of the Applicant.

Concerns regarding soil handling, storage, management and reinstatement

- 6.7.220. The Applicant noted [REP4-023], that Chapter 11 of the CEMP [REP9-033] included management measures for soil, and the CoCP [REP9-035] made commitments regarding soil handling. It said that soil surveys had been undertaken for approximately 40% of the route of the temporary access route before they were cut short by agricultural operations. The Applicant advised that it would complete the soil surveys to inform soil handling measures during construction.
- 6.7.221. The Applicant's Register of Environmental Actions and Commitments [REP9-037] summarised its commitments to undertake condition surveys (GG06), protect earthworks and stockpiled soil (GG18) and to include soil management measures (AS01) and a soil condition measure (AS02) for land being returned to agricultural use, which would be secured by the CEMP [REP9-033] and the Soil Management

Plan, through Requirements 4 and 14 of the dDCO [REP9-006]. The Soil Management Plan would be for the relevant planning authority's approval.

Preventing use of the temporary access route by the public

- 6.7.222. At CAH1 ([EV-028] and [EV-030]), the Applicant was asked to explain how unauthorised access along the temporary access route from the A131 would be prevented, and how any measures would be secured through the DCO. The Applicant said ([REP4-042] Action AP4) that a number of security measures would be secured.
- 6.7.223. Good practice measure GG24 of the CEMP Appendix A, CoCP [REP9-035], said that where working areas are fenced the type of fencing installed would take into consideration the level of security required in relation to the surrounding land and public access, rural or urban environment and arable or stock farming.
- 6.7.224. Paragraph 5.5.6 of the CTMP [REP8-018] said that security fencing would be installed around the roadside access areas along with signage restricting access to construction traffic and construction teams only.
- 6.7.225. Security measures at this location would also include ([REP6-044], Action Point 4 arising from Compulsory Acquisition Hearing 1):
- a manned security hub just off the A131;
 - the gating of any intermediate road crossings;
 - the operation of 'digital policeman' devices (a droid-type device that records and communicates back to the security company); and
 - patrols of the temporary access route by the security company.
- 6.7.226. Paragraph 5.5.5 of the CTMP also gives details of access control to the working areas that would be in place for safety and security.
- 6.7.227. Requirement 4 of the dDCO [REP9-006] would secure compliance with management plans.

Access for landowner during construction

- 6.7.228. Measure AS03 in the CoCP [REP9-035], secured by Requirement 4(2)(a) of the dDCO [REP9-006], would provide for access to and from residential and agricultural land users throughout the construction period or as agreed through the landowner discussions.

Progress of negotiations with AP to reach voluntary agreement

- 6.7.229. The Applicant said that HoTs were issued in March 2023 and that negotiations had continued, including several meetings with the AP's agent. Updated HoTs were sent to the AP's agent on 17 November 2023, 28 November 2023, 4 December 2023 and 15 January 2024 following correspondence, further negotiations and revised terms. It added that voluntary agreement would continue to be preferred and was hopeful that this could be concluded [REP9-056].

ExA's consideration

- 6.7.230. The ExA notes the evidence provided by the Applicant in response to the AP's concerns about the validity of the consultation process, and that the Applicant's Consultation Report [APP-043] describes the targeted consultation that took place between 8 September 2022 and 19 October 2022, including the proposed

temporary access route off the A131. The AP was included in that consultation. Table 8.8, Summary of Targeted Consultation Feedback and National Grid's Response to the Same (Non-Location Specific), of the Consultation Report addressed the responses received. The Consultation Report identified design changes that were incorporated into the Proposed Development as a result, one of which was the relocation of the permanent access track to Stour Valley west cable sealing end compound (paragraph 8.9.5).

- 6.7.231. Further consultation in February 2023 identified a realignment of the proposed temporary access route between the A131 and the proposed Stour Valley west cable sealing end compound. Chapter 9 of the Consultation Report contained details of who was consulted, and responses received. The Consultation Report, Appendix L [[APP-055](#)], showed that the exercise included Mr Nott and the letter that he received identified these changes.
- 6.7.232. The ExA considers that the Applicant's explanation of the change of plans to provide access to the Stour Valley west cable sealing end compound are logical, rationale and based on proper consideration of alternatives. It is not unusual that proposals are refined and changed during the pre-application stage in response to public consultation: it is an iterative process. The AP was consulted on the current version of the temporary access route before it was submitted as part of this application for development consent. The Applicant has not been deficient in the adequacy of its consultation.
- 6.7.233. The Applicant provided ample evidence about why Option 2a was preferred over Option 2e for the temporary access route ([\[REP3-053\]](#), [\[REP4-009\]](#), [\[REP5-026\]](#) and [\[REP6-037\]](#)). It demonstrated that potential impacts on land drainage and farm operations had been taken into account in its route selection. The ExA invited ([\[PD-008\]](#) CA2.4.3) Mr Nott to make any further comment on the Applicant's assessment of his preferred alternative route (Option 2e). No response was received.
- 6.7.234. The Applicant provided a persuasive explanation of why CA of rights in the land is sought rather than TP. Its approach is consistent with paragraph 2.6.4 of the 2024 NPS EN-5, which says that where CA of rights is sought, permanent arrangements are strongly preferred over voluntary wayleaves (which could, for example, be terminable on notice by the landowner) in view of their greater reliability and economic efficiency and reflecting the importance of the relevant infrastructure to the nation's Net Zero goals. The 2024 NPS EN-5 is an important and relevant consideration. The Applicant's reference to the temporary access route being temporary, despite it seeking CA of rights, is correct, given that it would be removed at the end of the construction phase and reinstated only if necessary.
- 6.7.235. The Examination addressed construction of the proposed temporary access route and its interface with public roads. In section 3 of this Report, provisions of the management plans were identified as they would relate to the construction of temporary access routes. These would be subject to Requirement 4 of the dDCO. Issues relating to security and maintenance of access for landowners were also examined and the ExA is satisfied that associated provisions would satisfactorily address these matters.
- 6.7.236. The Applicant's proposed measures for soil handling, storage, management and reinstatement were identified above. To require the undertaker to negotiate further with individual APs on associated detail during the construction phase would be inappropriate and disproportionate given the scale of the project and proven need

for it. The terms of any voluntary agreement between the parties and associated quantum of compensation are not matters for the ExA's consideration.

- 6.7.237. The ExA has considered how the Proposed Development would interfere with Mr Nott's rights based on submissions from his representatives and the Applicant in writing and at Hearings. The Proposed Development would interfere with the ability to farm parts of his land and the ExA recognises that the possible reinstatement of the temporary access route at some point in the future represents unwelcome uncertainty for him. However, the ExA does not consider that his alternatives can be justified on CA grounds.
- 6.7.238. Considered in the round, the ExA is satisfied that the temporary access route is required to facilitate the development to which the development consent relates and is content that there are suitable provisions for compensation in the dDCO.
- 6.7.239. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. Should the Secretary of State decide to grant the Order for the Proposed Development, the ExA considers that the Applicant's approach in relation to the CA powers sought in respect of this land are consistent with s122 and s123 of the PA2008.

MR G NOTT

- 6.7.240. Mr G Nott is an AP (Book of Reference Parts 1 and 2) with interest in land proposed for Class 4 – CA of rights of access. His plots lie in the vicinity of Lorkin's Lane, Bishop's Lane, Twinstead Road and Oak Road. He submitted his RR [\[RR-080\]](#) and WR [\[REP2-056\]](#) on behalf of D P Nott & Sons.
- 6.7.241. Mr Nott's land would be affected by the proposed temporary access route leading from the A131 Sudbury Road to the Stour Vally west cable sealing end compound.

Representations

Consultation

- 6.7.242. Mr Nott said that when the Proposed Development was initially mooted in 2013, an alternative access to the Stour Valley west cable sealing end compound was preferred, which would have had minimal impact on his land. He said he was not consulted on the route shown on the application plans. At the time, the proposed temporary access route was only to be used on a temporary basis during the construction phase of the Proposed Development. As part of the consultation process, the AP submitted a detailed response in respect of the proposed temporary access route, which highlighted his concerns and suggested alternative routes. In March 2023, he was issued with draft HoTs on the basis of the route proposed for the temporary access route in the application for development consent and requiring CA of rights. The AP's agent raised concerns and suggested alternative routes [\[RR-080\]](#).
- 6.7.243. Mr Nott added that the Applicant had not been clear as to its access requirements from the outset, which undermined the validity of the initial consultations. He added that the Applicant pressed ahead with this application without first fully exploring the concerns of the landowners affected by the proposed temporary access route, many of which could have been reduced had there been greater clarity [\[REP2-056\]](#).

- 6.7.244. The AP said that he was supportive of the Proposed Development in principle but wanted:
- clarity on the rights sought and proposed restrictions in the HoTs and the associated Deed of Easement in respect of the proposed temporary access route in terms of both their extent and effect;
 - clarity on the extent of the easement width and a clear basis for its determination;
 - to establish exactly what rights are required on a temporary and permanent basis; and
 - the Applicant to provide site-specific draft documentation for review, together with accompanying plans.
- 6.7.245. The Applicant [REP1-025] provided an overview of the scope and nature of consultation that it had undertaken. In specific response to Mr Nott's WR, the Applicant said in its Comments on Written Representations [REP3-048] that the classes of rights requested for the AP's land had not changed since submission of the current application. It added that at the Targeted Consultation in September 2022 and additional landowner consultation in February 2023, similar wording was included in the consultation materials, notices and letters to the APs. These documents are in Appendix K to the September 2022 Consultation Report, Targeted Consultation Materials and Supporting Information [AS-009], and Appendix L of the Consultation Report [APP-055]. In respect of the purpose of the DCO and the rights required, the Applicant said that the HoTs sent to him in March 2023 were clear that rights for it to return to reuse the temporary access route were included.
- 6.7.246. Following CAH1 [REP4-023], at which Mr Nott's agent was present, the Applicant confirmed that its initial non-statutory and statutory consultations did not include the proposed temporary access route from the A131. This is consistent with section 2.4.6 of this Report that referred to this temporary access route as being an amendment to the Proposed Development that post-dated the 2022 baseline conditions described in the ES. The Applicant acknowledged [REP3-048] that, at a meeting with Mr Nott in September 2022, prior to the targeted consultation exercise, it had suggested it might be possible to use the highway network for the route to the Stour Valley west cable sealing end compound.
- 6.7.247. The Applicant said [REP3-048] that it had sought to engage with Mr Nott and his agents and had many meetings and discussions in person, by email and telephone to explain details of the Proposed Development and listen to the concerns. After issue of the HoTs in March 2023, it had meetings with his agents to discuss amendments, the AP's concerns and his alternative routing proposals. Telephone calls and email correspondence continued. Revised HoTs were issued in November 2023 and in December 2023, and negotiations continued between December and February. The Applicant concluded that it was hopeful that voluntary terms would be agreed [REP9-056].
- 6.7.248. The ExA notes that the Applicant's Consultation Report [APP-043] describes the targeted consultation that took place between 8 September 2022 and 19 October 2022, including the proposed temporary access route off the A131. The AP was part of that consultation exercise. Table 8.8, Summary of Targeted Consultation Feedback and National Grid's Response to the Same (Non-Location Specific), of the Consultation Report addressed the responses received. The ExA sees that Chapter 8.9 of the Consultation Report identified a number of design changes that were incorporated into the Applicant's proposal following the close of targeted

consultation in October 2022, one of which was the relocation of the permanent access track to Stour Valley west cable sealing end compound (paragraph 8.9.5).

6.7.249. Further consultation and engagement were undertaken in February 2023 on slightly amended proposals following feedback from the targeted consultation, one of which was identified in paragraph 9.1.3 of the Consultation Report as realignment of the proposed temporary access route between the A131 and the proposed Stour Valley west cable sealing end compound. Chapter 9 of the Consultation Report contained details of who was consulted, and responses received. The Consultation Report, at Appendix L [\[APP-055\]](#), showed that the exercise included Mr Nott and the letter that he received identified changes to the Proposed Development that included the proposed realignment of the temporary access route.

6.7.250. The ExA is satisfied that Mr Nott was kept apprised of the Proposed Development as it would affect his land and sees no deficiency in the Applicant's consultation process prior to submission of this Application. Thereafter, there has been ongoing engagement with the AP and his agent and, if there was uncertainty as to what he was being asked to sign up to, there was opportunity through the Examination to seek clarification on the nature of the Proposed Development and the rights sought in Mr Nott's land.

6.7.251. The Proposed Development as how it would affect the AP's land is shown in the Book of Reference [\[REP9-016\]](#), Work Plans [\[APP-010\]](#), Land Plans [\[REP9-004\]](#) and General Arrangement Plans [\[APP-018\]](#). Detailed discussion about HoTs are a private matter between the Applicant and the AP and it is not for the ExA to intervene.

The need for the temporary access route and alternatives considered

6.7.252. Mr G Nott raised largely the same concerns on this issue as Mr P Nott. With the exception of the following differences, the parties' evidence on the matter at paragraphs 6.7.199 to 6.7.205 of this Report that was considered in respect of Mr P Nott's objection is equally applicable to that of Mr G Nott.

6.7.253. The Technical Note on Temporary Access Route off the A131 [\[REP4-049\]](#) also included consideration of Option 3c, which it described as '*Southern Variation of Option 2a for G Nott [REP2-055]*'. The Applicant concluded that this route reduced the impact on agricultural operations due to being routed around the edge of the field but would affect an additional section of Public Right of Way that would need to be managed alongside construction activities. The temporary access route would also be located closer to listed buildings. The geometry at points would not be suitable for abnormal indivisible loads and use of a small section of public highway would not be desirable, given that it could be easily avoided. The route is also longer than Option 2a and would require more materials to construct. Overall, the route is considered to be less preferred than Option 2a.

6.7.254. The ExA's further written questions ([\[PD-008\]](#), CA2.4.2) invited Mr Nott's representatives to make any further comment on the Applicant's assessment of his preferred alternative route for the temporary access route (Option 3c) as set out in its Technical Note on Temporary Access Route off the A131 [\[REP4-009\]](#). No response was forthcoming.

6.7.255. The ExA considers the Applicant's explanation of the change of plans in achieving access to the Stour Valley west cable sealing end compound to be logical, rational and based on proper consideration of alternatives. It is not unusual that proposals are refined and changed during the pre-application stage in response to public

consultation: it is an iterative process. Having considered the Applicant's Consultation Report [APP-043] and supporting Appendices, particularly Appendix K [AS-009] and Appendix L [APP-055], the ExA does not find short-comings in the Applicant's consultation with the AP.

6.7.256. Having considered the AP's preferred Option 3c, the Applicant's raft of evidence about why Option 2a remains the preferred route for the proposed temporary access route was extensive and comprehensive ([REP3-053], [REP4-009], [REP5-026] and [REP6-037]). It illustrated that the AP's concerns about impact on his land were fully taken account of, albeit that such consideration did not result in the incorporation of his proposed changes to the alignment of the temporary access route.

The Proposed Development and the nature of the rights sought in the AP's land

6.7.257. Mr Nott asked whether it was reasonable and necessary for the Applicant to acquire a permanent right of access over his land, given:

- that it would effectively bisect his holding;
- that it would impact future plans for the development or diversification of his farm business; and
- the anticipated duration before access would likely to be required again, which he said might be 25 years hence.

6.7.258. The AP asked the ExA to consider if Class 4 CA rights were appropriate as opposed to TP or whether an alternative class could be defined.

6.7.259. The Applicant's reported evidence on the nature of the rights sought in the AP's land, mechanisms to secure the removal of the temporary access route, and compensation available to the landowners in the event of re-installation are equally applicable to Mr G Nott's concerns as they were to those raised by Mr P Nott (considered in Paragraphs 6.7.209 to 6.7.218).

6.7.260. The ExA is satisfied that the plans and documents, including the dDCO, that would define the extent of any forthcoming consent, are publicly available in the Examination Library so that APs and their agents could establish the implications for their land rights. This includes the variation in the width of the Order Limits along the proposed temporary access route when the Procedural Deadline A Submission 6.4 Environmental Statement Figures, Rev B [PDA-002] is considered together with the Land Plans [REP9-004], Book of Reference [REP9-016] and dDCO [REP9-006]. The Applicant's response to the tailored question ([PD-005], CA1.4.19) provided helpful clarification.

6.7.261. The extent of the Class 4 rights sought in the AP's land is shown on the Land Plans [REP9-004] and explained in Table 2.1, Classification of acquisition and temporary use of land and rights, in the Book of Reference [REP9-016].

6.7.262. The ExA considers that the Applicant provided a persuasive explanation of why CA of rights in the land is sought as opposed to TP. Its approach is consistent with paragraph 2.6.4 of 2024 NPS EN-5, which says that where CA of rights is sought, permanent arrangements are strongly preferred over voluntary wayleaves in view of their greater reliability and economic efficiency and reflecting the importance of the relevant infrastructure to the nation's Net Zero goals. Given the possible need for future access, the policy concern is an equally applicable important and relevant consideration in respect of reliance on powers of TP of land.

6.7.263. The Applicant's reference to the temporary access route as temporary, despite it seeking CA of rights, is correct given that it would be removed at the end of the construction phase and reinstated if necessary. The confusion it caused was addressed as several junctures throughout the Examination when the nature of rights sought in the temporary access route was clarified together with when it would be removed, might be re-installed and the associated notice periods and compensation provisions. The ExA understands that seeking CA of rights of access would lead to a degree of uncertainty for individual APs. However, it is necessary and proportionate given the importance of ensuring the integrity of the electricity transmission system.

Remediation of land drainage

6.7.264. Mr Nott submitted that the route of the proposed temporary access route has been extensively drained over the last 70 years, with further mole drainage undertaken on a regular basis [\[RR-080\]](#). It would pass through what had been, until it was filled in and drained, a former pond on the crest of a field. There was substantial drainage within this area, which the AP and his contract farmer were concerned would be significantly impacted by the proposed works. Within the documentation submitted in support of the application, and in negotiations with him, Mr Nott said that the Applicant referred to its standard approach to land drainage and remediation thereof associated with the installation of cabling. As part of negotiations, he sought to expand on this standardised wording to reflect his anticipated requirements for the installation of both pre-construction and post-construction remedial land and mole drainage in the fields affected by the Proposed Development.

6.7.265. He asked that the ExA consider reviewing the Applicant's standardised form of wording pertaining to the remediation of land drainage to include provision for the cost of the appointment of specialist land drainage consultants to act and advise on the impact of the Proposed Development on affected land. They should have relevant practical experience of working in Suffolk and Essex and be engaged to carry out pre-construction and post-construction assessments of the impact that the Proposed Development has had or would have on drainage. He sought a commitment that, prior to undertaking any proposed drainage schemes, the Applicant would consult with landowners, occupiers and their appointed drainage consultant on the design of any land drainage works required in connection with construction work and on the design of any land drainage works required for the subsequent restoration of drainage.

6.7.266. The Applicant's evidence in this respect mirrored that in Paragraph 6.7.219 above save for the third bullet point.

6.7.267. The ExA notes that it cannot intervene in negotiations between APs and the Applicant about voluntary agreements.

6.7.268. The issue of drainage was considered in section 3 of this Report. On that basis, the ExA is satisfied that the cited measures that have been and would be incorporated in the management plans are sufficient to address the matter whilst taking account of localised variations and the scale of the Proposed Development. Those measures would be secured through Requirements 4 and 5 of the dDCO [\[REP9-006\]](#).

Soil management

- 6.7.269. Mr Nott said that the treatment and reinstatement of soil during the Proposed Development and after its completion was one of his main issues of concern. He asked the ExA to consider, as a minimum, imposing the following requirements:
- prior to the commencement of work, detailed testing be undertaken to establish existing soil nutrient values and soil profiles over both the working areas and adjacent land which would be sterilised from production;
 - detail of soil handling, storage, management, and reinstatement should be agreed in advance with the landowners and occupiers; and
 - details of post-completion soils testing and aftercare management, should be agreed with the landowners and occupiers.
- 6.7.270. From discussion with the Applicant's representatives in July 2023, the AP understood that the final design for the proposed temporary access route would be left for the appointed contractor to design and implement, but that it is likely that the soil would be stripped to a depth of 300 to 350mm. Given that the preliminary designs and provision in the plans attached to the application are for solely a single stack of soil, the AP asked the ExA to consider whether the Applicant had provided sufficient storage provision to the suitable separation of the top and sub soils.
- 6.7.271. The Applicant's evidence given in paragraphs 6.7.220 and 6.7.221 on soil handling, storage, management and reinstatement are equally applicable to Mr G Nott's concerns and those of Mr P Nott.
- 6.7.272. The ExA considers that requiring the undertaker, through provision in the dDCO, to negotiate with individual APs on associated matters of detail during the construction phase would be inappropriate and disproportionate given the scale of the project and proven need for it.

Private and agricultural access provision

- 6.7.273. The AP was advised by the Applicant that the issue of the provision of private and agricultural access could only be discussed in detail once contractors were appointed and that any retained access would need to comply with their Health and Safety requirements. He requested that the ExA consider imposing a requirement on the Applicant to ensure that 'reasonable' private and agricultural access is maintained for affected landowners to their residual land holdings to enable them to continue to farm their land and for sporting and amenity purposes.
- 6.7.274. Measure AS03 in the CoCP [\[REP9-035\]](#), secured by Requirement 4(2)(a) of the dDCO [\[REP9-006\]](#), would provide for access to and from residential and agricultural land uses throughout the construction period or as agreed through the landowner discussions.
- 6.7.275. The ExA is satisfied that the above measure addresses the AP's concerns.

Site security

- 6.7.276. Mr Nott said that the proposed temporary access route would effectively create a right of way through the centre his farm. He said that he was already aware that locals see the proposed temporary access route as one that could be for recreational purposes and potentially to facilitate third party access to the residual farmland. The ExA was asked to review the Applicant's proposed security arrangements and impose minimum standards including the requirement to;

- fence the temporary access route;
- create secure gates or bollards across the entrance onto the land over the public highway;
- provide manned guard points at each end of the temporary access route when in use to ensure that no unauthorised access is taken; and
- provide additional security measures outside of working hours.

6.7.277. The Applicant's evidence on proposed security arrangements for the temporary access route in paragraphs 6.7.222 to 6.7.227 applies equally to Mr G Nott's concerns.

6.7.278. On the above basis, the ExA is content with the security measures proposed in association with the temporary access route.

ExA's overall consideration of Mr G Nott's representations

6.7.279. The ExA has considered how the Proposed Development would impinge on the AP's rights. It would interfere with the ability to farm some parts of his land, at least during construction. In addition, the possible reinstatement of the temporary access route at some point in the future brings uncertainty that might interfere with plans to develop or diversify the farm business. However, the ExA does not consider that the alternatives put forward by him can be justified on CA grounds and is content with the Applicant's conclusions on the alternatives it considered. The ExA is satisfied that the temporary access route is required to facilitate the development to which the development consent relates and that there is a compelling case in the public interest for the land to be acquired compulsorily.

6.7.280. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in Mr G Nott's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. If the Order is granted, the Secretary of State can be reassured that the Applicant's approach is consistent with s122 and s123 of the PA2008.

ExA'S CONCLUSIONS ON OUTSTANDING INDIVIDUAL OBJECTIONS

6.7.281. The ExA is satisfied that the CA and TP powers sought over the land identified in the Land Plans [\[REP9-004\]](#) and Book of Reference [\[REP9-006\]](#) are required for the Proposed Development, to facilitate it or are incidental to it. Moreover, there is a compelling case in the public interest for the land to be acquired compulsorily. Accordingly, the rights sought meet the conditions set out in s122(2)(a) and s122(2)(b) of the PA2008.

6.7.282. The CA and TP powers sought might result in some adverse impacts on the private interests of the owners of the land affected. However, account has been taken of the following considerations:

- the development for which the land is sought would be in accordance with national policy as set out in NPS EN-1, and NPS EN-5 and development consent should be granted;
- there is a need to secure the land and rights required to deliver the Proposed Development and to construct it within a reasonable timeframe;
- the Proposed Development represents a significant public benefit to weigh in the balance;
- the private loss to those affected has been mitigated through the selection of the land and minimisation of the extent of rights and interests proposed to be acquired;

- the private losses suffered are not such as to outweigh the public benefits that would accrue from the grant of the CA and TP powers which are sought;
- the Applicant has, to the extent possible, explored all reasonable alternatives to the CA of the rights and interests sought, although for a project of this nature it is reasonable that the Applicant should retain CA and TP powers in a made Order, as a guarantee against the possible failure of voluntary agreements which, if left unmitigated, could cause substantial timescale and delivery cost over-runs that would not be in the public interest;
- there are no viable alternatives that ought to be pursued;
- funding is available to meet any compensation liabilities for CA and TP and the dDCO makes provision to ensure this; and
- CA and TP for the Proposed Development can be delivered in a manner that accords with relevant human rights considerations.

6.7.283. On that basis, the ExA is satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily, satisfying the requirement of s122(3) of the PA2008. The ExA cannot see anything in individual objections that would prevent the grant of the CA or TP powers sought and considers them necessary and proportionate should the Secretary of State decide to grant the Order for the Proposed Development.

6.8. STATUTORY UNDERTAKER LAND, RIGHTS AND APPARATUS

6.8.1. The land affected by the Proposed Development would include land, rights or other interests owned by several Statutory Undertakers. The Statement of Reasons reported on the Applicant's negotiations with each of these Statutory Undertakers ([\[REP9-011\]](#), section 8.3). Representations made by the following Statutory Undertakers were subsequently withdrawn:

- Cadent Gas Limited ([\[RR-024\]](#)); and
- Pivoted Power LLP ([\[RR-035\]](#) and [\[REP2-029\]](#)).

6.8.2. The Applicant made applications under s127 of the PA2008 in respect of the following Statutory Undertakers where representations were made and not withdrawn before the close of the Examination:

- Network Rail Infrastructure Limited ([\[REP8-037\]](#));
- East Anglia THREE Limited ([\[REP9-068\]](#)); and
- Anglian Water Services Limited ([\[REP9-069\]](#)).

6.8.3. The Applicant also made an application under s138 of PA2008, Statutory Undertakers Telecommunications Operators' Rights and Apparatus ([\[REP9-066\]](#)). The associated Schedule identified the Statutory Undertakers and Electronic Communications Code Operators whose rights and apparatus might be affected by the Proposed Development.

NETWORK RAIL INFRASTRUCTURE LIMITED

Rights sought by the Applicant

6.8.4. The Applicant sought CA of rights over land in which Network Rail Infrastructure Limited has a legal interest (Book of Reference Parts 1 and 3). The rights fell within Class 3 (Compulsory Acquisition of rights – underground cable) and Class 4 (Compulsory Acquisition of rights - access) as shown in the Book of Reference ([\[REP9-016\]](#) and the accompanying Land Plans [\[REP9-004\]](#)).

- 6.8.5. The works proposed over land in connection with the Proposed Development in which Network Rail Infrastructure Limited has a legal interest, as set out in the Applicant 's application under s127 of the PA2008 [\[REP8-037\]](#), included the following:
- Dismantling and removal of the existing 132kV overhead line that crosses above the Sudbury Branch Railway Line. These works would require the installation and removal of protective netting and scaffolding over rail infrastructure belonging to Network Rail Infrastructure Limited. The Applicant said that it anticipated that the railway line would need to be closed for up to one day to facilitate the overhead line removal. Subject to discussions with the Statutory Undertaker, the closure would be carried out during an off-peak period, either overnight or at a weekend, to reduce impacts on passengers.
 - Installation of an underground electric line beneath the Sudbury Branch Railway Line. The Applicant assumed that installation would be carried out using a trenchless crossing technique, subject to further consultation with the Statutory Undertaker.
 - Access across the Sudbury Branch Railway Line to undertake adjacent construction and dismantling works. Access would be taken using a level crossing located on private land (Plot 20-28) to the south of the planned cable undergrounding.
- 6.8.6. Table 1.1 of the s127 application [\[REP8-037\]](#), Proposed Works and Locations, identified the plot numbers over which rights were sought and the relevant work was identified and described.

Network Rail Infrastructure Limited's position

- 6.8.7. Network Rail Infrastructure Limited ([\[RR-021\]](#) and [\[REP2-028\]](#)) wanted to ensure that the Proposed Development would not have a detrimental impact on the operation of its Sudbury Branch Line and Marks Tey Line and that the safety of the railway would be maintained during its construction, operation and ongoing maintenance. As the Applicant proposed to compulsorily acquire land and rights to be exercised in close proximity to the railway, Network Rail Infrastructure Limited objected to the making of the Order on the basis that they might interfere with its safe and efficient operation. For it to be able to withdraw its objection, Network Rail Infrastructure Limited required adequate PPs or Requirements to be included in the Order and an agreement with the Applicant to ensure that the new rights sought were exercised in a regulated manner to prevent adverse impacts to the railway.
- 6.8.8. Network Rail Infrastructure Limited [\[REP8-052\]](#) said that it had told the Applicant that amended PPs were needed as the parties were unable to agree the terms of the easement required by the Applicant to deliver the Proposed Development. The basis of the disagreement between the parties on the PPs in the final dDCO [\[REP9-006\]](#) are considered in the next section of this Report.
- 6.8.9. Network Rail Infrastructure Limited added that it was not aware of any proposed CA of rights over the railway property involving the extinguishment of any rights or the removal of any apparatus belonging to it. However, if there were, Network Rail Infrastructure Limited would have no objection subject to the test in s138 of the PA2008 being satisfied. However, it submitted that the legal test would not be met for the same reasons as Network Rail Infrastructure Limited concluded that the requirements of s127 of the PA2008 were not satisfied.
- 6.8.10. The ExA issued a Rule 17 request to Network Rail Infrastructure Limited [\[PD-018\]](#) asking if it had anything to say over and above its submission in respect of the

Applicant's PPs in its favour in the latest dDCO [REP9-006], or about the Applicant's applications under s127 and s138 of the PA2008. No response was forthcoming.

The Applicant's position

- 6.8.11. The Applicant responded to Network Rail Infrastructure Limited's concerns ([REP1-025] and [REP3-048]) and reported active engagement throughout the Examination to try and reach voluntary agreement.
- 6.8.12. PPs for the benefit of Network Rail Infrastructure Limited were included in Schedule 14, Part 4 of the dDCO submitted with the application [APP-034]. At Table 2.2 of its Protective Provisions and Commercial Side Agreements Tracking List [REP7-020], the Applicant advised that these had been agreed with Network Rail Infrastructure Limited. In the penultimate version of the dDCO [REP8-004], the PPs at Schedule 14, Part 4, paragraphs 30(1), 30(6) and 30(7) were revised for reasons given in the accompanying Applicant's Schedule of Changes to the Draft Development Consent Order [REP8-022]. The Applicant also submitted an application under s127 of the PA2008 in respect of rights in Network Rail Infrastructure Limited land [REP8-037].
- 6.8.13. The Applicant submitted an application under s138 of the PA2008 [REP9-006]. Network Rail Infrastructure Limited was one of the Statutory Undertakers listed in the schedule forming part of the application. The Applicant said that it did not anticipate that there would be any interference with Network Rail Infrastructure Limited's rights under the Electronic Communications Code or apparatus to which s138 of the PA2008 applies. Nevertheless, in the absence of agreement between the parties, the Applicant considered it necessary to seek associated CA powers in the dDCO [REP9-006] to ensure that it would be able to deliver the Proposed Development in a comprehensive manner. It added that, if it was necessary to remove or alter any apparatus, protective measures would be implemented, or diversionary works undertaken in consultation Network Rail Infrastructure Limited and in accordance with the PPs and an asset protection agreement (once agreed).
- 6.8.14. At Deadline10, the Applicant said that a basic asset protection agreement had been completed with Network Rail Infrastructure Limited. This related to the design and construction of underground electric cable works and 132kV overhead line removal works forming part of the Proposed Development both beneath and above the Sudbury Branch Line near Lamarsh. However, it understood that a further commercial agreement may be needed to regulate the carrying out of works in proximity to the Sudbury Branch Line, and the related grant of rights.
- 6.8.15. The Applicant's position at the end of the Examination was that s127 and s138 of the PA2008 were engaged in respect of the Proposed Development's interface with Network Rail Infrastructure Limited interests ([REP10-012], pages 2 and 3 and [REP10-016]) as set out in its Examination submissions under s127 [REP8-037] and s138 ([REP9-066], page 13).
- 6.8.16. The Applicant said that as no land owned by Network Rail Infrastructure Limited needed to be compulsorily acquired, only rights over land, s127(2) and (3) of the PA2008 were not engaged.

ExA's consideration

- 6.8.17. Network Rail Infrastructure Limited's objection to the CA of rights over its land was not withdrawn, therefore the tests of s127 and s138 of the PA2008 apply. Having considered Network Rail Infrastructure Limited evidence, the ExA is satisfied that the tests in s127(1)(a), s127(1)(b) and s127(1)(c) of the PA2008 are met.

- 6.8.18. As no land owned by Network Rail Infrastructure Limited needs to compulsorily acquired, only rights over that land, s127(2) and s127(3) of the PA2008 are not engaged.
- 6.8.19. As s127(5) and s127(6) of the PA2008 apply, s127(4) does not.
- 6.8.20. Having considered the wording in the PPs for Network Rail Infrastructure Limited's benefit in the dDCO, the ExA considers that rights that are sought over its land could be acquired without serious detriment to the carrying out of its undertaking. In coming to this view, account has been taken of the scope of the proposed PPs that are addressed in section 7 of this Report. Accordingly, the Secretary of State can be satisfied that the requirements of s127(5) and s127(6) of the PA2008 are complied with.
- 6.8.21. Based on both parties' evidence, s138(1) of the PA2008 applies. In respect of Network Rail Infrastructure Limited's rights and apparatus, the application under s138 of the PA2008 [\[REP9-006\]](#) was made on a precautionary basis, subject to the need case set out at paragraph 1.3.4 thereof. Taking account of the nature of the proposed works set out in Schedule 1 of the dDCO [\[REP9-006\]](#) and shown on the Work Plans [\[APP-010\]](#), together with inclusion of the PPs for Network Rail Infrastructure Limited's benefit at Schedule 14, Part 4 of the rDCO, Network Rail Infrastructure Limited's rights would not be affected to the detriment of its ability to carry out its undertaking. In the absence of powers for the Applicant to extinguish the Statutory Undertaker's rights or remove its apparatus, the works associated with the Proposed Development might be unreasonably delayed or not completed. Accordingly, the test in s138(4) of the PA2008 is satisfied.

EAST ANGLIA THREE LIMITED

Rights sought by the Applicant

- 6.8.22. The Applicant sought CA of rights in which East Anglia THREE Limited has a legal interest (Book of Reference, Part 1, [\[REP9-016\]](#)). These were Plots 1-01, 1-02 and 1-03 (right of access) and 1-04 and 1-07 (in respect of apparatus). Those rights fell within: Class 1 – CA of land within and adjoining the existing Bramford Substation (Plot 1-04); Class 4 – CA of rights of access over Bullen Lane that leads to it (Plots 1-01, 1-02 and 1-03); and, Class 7 – Temporary use for Construction, Maintenance, Mitigation and Dismantling of Redundant Infrastructure on land to the north and north-west of Bramford Substation.
- 6.8.23. The works proposed over land in which East Anglia THREE Limited has a legal interest in connection with the Proposed Development, as set out in the Applicant's application under s127 of the PA2008 [\[REP9-068\]](#), include the following:
- the removal of a section of the existing 400kV overhead line (falling within the Order Limits applicable to The East Anglia THREE Offshore Wind Farm Order 2017) between pylons 4YL001 and 4YL004, and including the removal of pylons 4YL002 and 4YL003 as shown on the Work Plans [\[APP-010\]](#);
 - the realignment of the existing 400kV overhead line, including removal of the section of line extending north-west from the Bramford Substation;
 - the replacement of the 400kV line extending to the south-west from Bramford;
 - the realignment of the existing 400kV overhead line (including downleads and conductors) from the northern gantry;
 - the construction of two new 400kV overhead lines to come into two new western gantries, including associated switchgear and shunt reactors on the southernmost line;

- works to ensure East Anglia THREE Limited's access to the East Anglia One sustainable drainage system (SuDS) pond is maintained;
- the removal of minor landscaping to facilitate the removal of existing 400kV overhead lines and subsequent landscaping reinstatement;
- the removal and reinstatement of woodland to the south of the East Anglia One substation and adjacent to the shared access road from Bullen Lane to the East Anglia THREE Limited converter station if required; and
- temporary general construction works including access, working areas and protection works.

6.8.24. Table 1.1, Proposed Works and Locations, of the s127 application set out the plot numbers (1-04 and 1-07) that would be subject to the works identified in Schedule 1 of the dDCO [REP9-006] and the relevant work was identified and described. Paragraph 1.3.2 of the application [REP9-068] added that the Applicant also sought powers in the dDCO to facilitate, if required, the CA of rights over plots within the shared access road running between the public highway at Bullen Lane and its Bramford Substation. Part of the shared access road would be used by East Anglia THREE Limited for construction and the purposes of its undertaking once the East Anglia THREE Offshore Wind Farm was operational.

6.8.25. The applicant did not seek CA of any land owned by East Anglia THREE Limited, only rights over that land.

East Anglia THREE Limited's position

6.8.26. East Anglia THREE Limited explained that it was in the process of discharging requirements for East Anglia THREE Offshore Wind Farm. East Anglia THREE Limited's outstanding concerns [RR-029] regarding land rights were:

- Access to the East Anglia THREE substation by East Anglia THREE Limited must be maintained at all times during both the construction and operational phases of the Proposed Development.
- Works within East Anglia THREE Order Limits. The proposed removal of two 400kV pylons and the construction of a new 400kV pylon at Bramford Substation were within the East Anglia THREE Order Limits, on land owned by Scottish Power Renewables. It was imperative that the reinforcement works around Bramford Substation were designed to ensure there would be no impact on any East Anglia THREE Limited land required to mitigate or operate the East Anglia THREE project.
- Consideration was needed to ensure that any additional planting did not undermine the East Anglia THREE Landscape Master Plan commitments in the associated DCO and landscape management strategies. It cautioned that the requirement for any variation or consents for East Anglia THREE as part of these works would be the responsibility of the Applicant in consultation with it.

6.8.27. East Anglia THREE Limited submitted responses to ExA questions [PD-005] that related to CA and TP, construction matters and the dDCO [REP3-069]. These clarified and supplemented its position on matters raised in its RR.

6.8.28. In its Written Representation [REP2-022], East Anglia THREE Limited said engagement with the Applicant was ongoing. Negotiations between the parties progressed throughout the Examination. Updates were received from East Anglia THREE Limited ([REP4-044] and [REP5-036]) and finally in response [REP10-024] to the ExA's Rule 17 request of 27 February 2024 [PD-015].

- 6.8.29. Shortly before the close of the Examination, East Anglia THREE Limited confirmed that the key interface issues between East Anglia THREE and the Proposed Development and the HoTs for an interface agreement between it, the Applicant and Scottish Power Renewables had been agreed. The interface agreement was unlikely to be concluded prior to the close of the Examination. However, from East Anglia THREE Limited's recent experience in related matters, it said that it understood that the Secretary of State would be interested in ensuring that these matters were resolved between the parties. Therefore, East Anglia THREE Limited and Scottish Power Renewables confirmed their commitment to work as quickly as possible with the Applicant to ensure that the interface agreement was concluded. Subject to the relevant provisions being finally agreed, East Anglia THREE Limited said that it intended to withdraw its RR.
- 6.8.30. East Anglia THREE Limited added that neither it nor Scottish Power Renewables had any comments on the application made under s127 of the PA2008, East Anglia Three Limited [REP9-068], or that pursuant to s138 of the PA2008, Statutory Undertakers Telecommunications Operators' Rights and Apparatus [REP9-066].

The Applicant's position

- 6.8.31. At the final deadline, the Applicant submitted a signed Statement of Common Ground (SoCG) with East Anglia THREE Limited [REP10-010]. It explained that when the application for development consent was submitted, the subject of this SoCG was part of Draft Statement of Common Ground with TC East Anglia One OFTO Limited and East Anglia THREE Limited [APP-174], as Scottish Power Renewables owned both projects. However, the transmission assets of the East Anglia One Windfarm were subsequently transferred to TC East Anglia One OFTO Limited, who then held the transmission licence for these assets. Since the divestment of East Anglia One from Scottish Power Renewables, the Applicant engaged with the new licence holder for that project and, as such, the SoCG [REP10-010] related to East Anglia THREE only as it remained wholly owned by Scottish Power Renewables.
- 6.8.32. The Applicant submitted a separate SoCG with TC East Anglia One OFTO Limited [REP10-008].
- 6.8.33. The signed SoCG [REP10-010] also set out background on the East Anglia THREE project and the project interface. The Applicant considered whether the proposed works at Bramford Substation would be likely to impact on the proposed landscape planting north of Bramford Substation associated with the East Anglia THREE convertor station. This landscape planting was proposed to mitigate the landscape and visual impacts of the project's converter station. There was an interface plan showing the overlap of the parties' projects at Appendix 3 of the SoCG. The Applicant concluded that the proposed landscape planting would be contained to the north and north-west of the Order Limits of the Proposed Development and that there did not appear to be an interface between the parties' projects, as demonstrated by the East Anglia THREE approved landscaping proposals at Appendix 4 of the SoCG.
- 6.8.34. There were no matters of disagreement between the parties and, in section 3 of the SoCG, East Anglia THREE Limited confirmed that it had no objection to the principle of the Proposed Development.
- 6.8.35. The parties to the SOCG could see no reason why the Proposed Development and East Anglia THREE could not be implemented and operated without conflict.

- 6.8.36. East Anglia THREE Limited provided a plan of its apparatus (existing or proposed) in the vicinity of the Proposed Development and agreed that it had identified and listed those parts of its network apparatus (existing or proposed) that are located within the vicinity of all that land that may be required for the works required by the Proposed Development.
- 6.8.37. HoTs had been agreed for the interface agreement, which the Applicant anticipated would make provision for managing construction and other related interfaces capable of arising between the Proposed Development and the East Anglia THREE project. The parties were committed to agreeing its form as expeditiously as possible. Without prejudice to ongoing negotiations, the Applicant anticipated completion of the interface agreement shortly after the close of the Examination and intended to provide confirmation of the same by way of post-Examination correspondence [\[REP10-012\]](#).
- 6.8.38. The Applicant submitted an application under s127 of the PA2008, East Anglia Three Limited, on a without prejudice basis [\[REP9-068\]](#) and asked that if East Anglia THREE Limited withdrew its representation that the Secretary of State would also treat this application as having been withdrawn [\[REP9-068\]](#).
- 6.8.39. The Applicant understood Scottish Power Renewables to be the landowner in respect of land adjacent to Bramford Substation on which parts of the East Anglia THREE project were to be constructed, and that Scottish Power Renewables had granted East Anglia THREE Limited rights in that land for the purposes of its undertaking. Therefore, the Applicant concluded that the relevant Statutory Undertaker for the purposes of its application to acquire interests and rights in land was East Anglia THREE Limited.
- 6.8.40. In respect of the test applied by s127(6) of the PA2008, whereby a right in land can be purchased without serious detriment to the carrying on of the undertaking, the Applicant pointed out that there is no statutory definition of 'serious detriment'. It said that the test for 'serious detriment' was wide and holistic and was more than a mere disadvantage. It referred to the ExA's recommendation to the Secretary of State for Transport regarding The Lake Lothing (Lowestoft) Third Crossing Order 2020, which said at paragraph 8.5.138 that, '*serious detriment is a matter of judgement on the scale of impact on the undertaking and that the decision maker should take a holistic approach*'.
- 6.8.41. The Applicant gave a broad description of the purpose for which East Anglia THREE Limited's land was required and the rights that it would need to acquire ([\[REP9-068\]](#), paragraph 1.5.3). It submitted that the rights sought would co-exist within the plots affected alongside those of East Anglia THREE Limited and, for the most part, they would cause minimal interference to that Statutory Undertaker's undertaking. It cited specific operational measures to support this contention ([\[REP9-068\]](#), paragraphs 1.5.7 and 1.5.8).
- 6.8.42. East Anglia THREE Limited was also included in the Schedule of Statutory Undertakers and Electronic Communications Code Operators in the Applicant's application under s138 of the PA2008 [\[REP9-066\]](#). The application said that, in respect of East Anglia THREE Limited's land, rights were anticipated to be extinguished rather than apparatus removed or altered.

ExA's consideration

- 6.8.43. That East Anglia THREE Limited and Scottish Power Renewables declined the opportunity to comment on the applications that the Applicant made under s127 of the PA2008 [REP9-068] and s138 of the PA2008 [REP9-066] may reflect their confidence that voluntary agreement can be reached on matters that were unresolved between them at the close of Examination. Nevertheless, given the possibility that voluntary agreement might not be concluded, the applications remained to be considered.
- 6.8.44. While s127 of the PA12008 does not apply to the TP of rights in land, East Anglia THREE Limited's representation suggests that its rights and interest in all five plots within the Order Limits have been acquired by it for the purposes of its undertaking, that the land is used for the purposes of carrying out its undertaking and that it holds an interest in them for those purposes. Therefore, s127 of the PA2008 is engaged in respect of Plots 1-01, 1-02, 1-03, and 1-04 in which the Applicant seeks to compulsorily acquire rights.
- 6.8.45. As the Applicant is seeking to CA rights over land and is not pursuing CA of land owned by East Anglia THREE Limited, s127(4) provides that s127(2) and s127(3) do not apply. Therefore, s127(5) and s127(6) are engaged in respect of Plots 1-01, 1-02, 1-03 and 1-04 but not Plot 1-07, over which TP is sought as the procedure under s127(5) only applies to the CA of a right.
- 6.8.46. For the application to comply with s127(5) of the PA2008, the Secretary of State must be satisfied that the nature and situation of the land is such that one of the two matters set out in s127(6) is satisfied. The ExA is mindful that, for the purposes of s127, 'land' includes any interest in or right over land in accordance with s159 of the PA2008.
- 6.8.47. S127(6)(a) defines the first of the two matters as that the right can be purchased without serious detriment to the carrying on of the undertaking. The ExA notes the Applicant's reference to the definition of 'serious detriment' that it considered to set a precedent and finds it persuasive. Taking account of the nature and situation of the land in which the Applicant is seeking to acquire rights, its description of the purpose for which East Anglia THREE Limited's land is required and the rights that the Applicant would need to acquire, the ExA considers that s127(6)(a) is satisfied. As such, the ExA considers the Secretary of State can be satisfied that the Applicant's proposed CA of rights in East Anglia THREE Limited's land and that it is compliant with s127 of the PA2008.
- 6.8.48. Work No 1, as described in Schedule 1 of the dDCO [REP9-006], is an integral part of the Proposed Development for which the ExA has accepted a need. As the work required on Plot 1-07 would entail the dismantling and removal of the existing overhead electricity transmission line and pylons including foundations, there is no alternative to it. Although the legal test applied in the preceding paragraph is not applicable to the TP of rights in land, for the same reasons as the Applicant's proposed CA of rights in the other four plots that East Anglia THREE Limited has rights in could be achieved without serious detriment to the latter's undertaking, the proposed TP of rights in Plot 1-07 would not be detrimental to its interests. In all, the ExA concludes that the proposed interference with East Anglia THREE Limited's rights in that plot is for a legitimate purpose, necessary, proportionate and in the public interest. Therefore, the Secretary of State can be reassured that the grant of these TP powers would be soundly based.

- 6.8.49. For reasons already set out, s138(1) and s138(2) of the PA2008 are satisfied as East Anglia THREE Limited has rights over land and the dDCO, if granted, would authorise CA of that land. For the same reasons that the grant of CA and TP of land is recommended, the Secretary of State can be satisfied that the extinguishment of rights or, if required, removal of apparatus is necessary for the purpose of carrying out the development to which the Order relates in compliance with s138(4) of the PA2008.

ANGLIAN WATER SERVICES LIMITED

Rights sought by the Applicant

- 6.8.50. The Applicant sought CA of rights over land in which Anglian Water Services Limited has a legal interest (Book of Reference Parts 1, 2 and 3) [\[REP9-016\]](#) and shown on the accompanying Land Plans [\[REP9-004\]](#). The rights fall within Classes 1, 2, 3, 4 and 5.
- 6.8.51. The plots to which the application under s127 of the PA2008 in relation to Anglian Water Services Limited [\[REP9-069\]](#) and the class of rights sought were set out in Table 1.1, Land affected and interest or right to be acquired. This explained that the only plot in which Class 1 Rights were required (Plot 23-13) was one in which Anglian Water Services Limited had a Category 2 interest in respect of apparatus [\[REP9-016\]](#).
- 6.8.52. Section 1.3 of the application explained that the Proposed Development would interface with a section of Anglian Water Services Limited's Bury St Edmunds to Colchester Pipeline Scheme. Works to be undertaken as part of the Proposed Development at the project interface (Sheet 8 of the Work Plans [\[APP-010\]](#)) would be likely to comprise the following:
- removal of a section of the existing 132kV overhead line and pylons between pylons PCB20 and PCB21;
 - construction of the proposed 400kV overhead line between pylons RB16 and RB17;
 - proposed realignment of the existing 400kV overhead line between pylons 4YL017A and 4YL018A;
 - removal of a section of the existing 400kV overhead line between pylons RB16 and 4YL018A, including pylon 4YL018;
 - undergrounding, at various locations, of existing lower voltage electric lines on wooden poles;
 - provision of areas of land for environmental mitigation and enhancement; and
 - temporary construction works including access, working areas and protection works.
- 6.8.53. In addition, other works and operations forming part of the authorised development as described in Schedule 1 of the dDCO [\[REP9-006\]](#) are either proposed over, or are likely to interact in some way with, Anglian Water Services Limited's land.

Anglian Water Services Limited's position

- 6.8.54. In its RR [\[RR-022\]](#) as it related to land rights, Anglian Water Services Limited confirmed that PPs for the protection of Anglian Water Services Limited (Schedule 14, Part 3) in the dDCO [\[REP9-006\]](#) had been agreed.
- 6.8.55. Anglian Water Services Limited's focus was the interface between its 69km strategic pipeline project between Bury St Edmunds and Colchester and the Proposed

Development. Its project would be part of a significant new drinking water grid for the East of England to bring water from North Lincolnshire to Essex. The Applicant and Anglian Water Services Limited had discussed the construction interfaces between that project and the Proposed Development, the areas of land in common, and an interface agreement to provide a framework for collaboration in relation to the timelines for construction of both projects.

- 6.8.56. A proposed temporary construction compound to dismantle redundant infrastructure would occupy a track owned by Anglian Water Services Limited. This provides access to its water recycling centre at Wickham St Paul. Anglian Water Services Limited said that access is required 24/7 for regular checks, emergency repairs and maintenance to prevent the risk of pollution events. It sought that appropriate and continuous access to the water recycling centre be secured and that this be appropriately referenced in the CoCP [\[REP9-035\]](#).
- 6.8.57. Anglian Water Services Limited responded to the ExA's Rule 17 request [\[PD-020\]](#) in respect of the Applicant's application under s127 of the PA2008 (Anglian Water Services Limited) [\[REP9-069\]](#) and application under s138 of the PA2008 (Statutory Undertakers Telecommunications Operators' Rights and Apparatus) [\[REP9-066\]](#).
- 6.8.58. In respect of the Applicant's application under s127, Anglian Water Services Limited agreed that the PPs in Schedule 14, Part 3 of the dDCO [\[REP9-006\]](#) would ensure the necessary protection of its land and apparatus. It added that negotiations with the Applicant had concluded so that both parties were able to proceed towards finalising the agreement regarding mutual delivery of both its strategic pipeline and the Proposed Development [\[REP10-023\]](#).
- 6.8.59. In respect of the Applicant's application under s138 of the PA2008, Anglian Water Services Limited was satisfied that the PPs for its benefit in the dDCO would ensure that all appropriate steps must be taken by the Applicant in relation to its existing apparatus. Once the strategic pipeline was constructed this would also fall under the PPs. Any risk was purely in respect of the Proposed Development starting and the strategic pipeline was not constructed at the interface (Sheet 8 of the Work Plans [\[APP-010\]](#)). However, the strategic pipeline already has the benefit of planning permission with enabling works under way, which would allow construction to commence shortly. The timetable for construction indicated completion of construction (excavation of trenches, laying pipes and refilling trenches) by winter 2024. Anglian Water Services Limited considered that agreement is reached with the Applicant, its outstanding representation could be withdrawn and consequently the application under s127 of the PA2008 would be treated as having been withdrawn. Whilst this was not concluded within the Examination timetable, negotiations had finished to enable both parties to proceed towards finalising the agreement [\[REP10-023\]](#).

The Applicant's position

- 6.8.60. The Applicant's signed SoCG with Anglian Water Services Limited confirmed that the only outstanding matter was the interface agreement between the two parties' strategic projects but that there was positive progress towards its conclusion [\[REP9-031\]](#).
- 6.8.61. The Applicant's application under s127 of the PA2008, Anglian Water Services Limited was submitted [\[REP9-069\]](#) on a without prejudice basis and asked the Secretary of State to treat it as having been withdrawn if Anglian Water Services Limited subsequently withdrew its representation.

- 6.8.62. The Applicant said that no land owned by Anglian Water Services Limited would need to be compulsorily acquired, only rights over land. Therefore, s127(2) and s127(3) of the PA2008 would not be engaged. It understood that the rights and interests in the plots set out in Table 1.1 of its application had been acquired by Anglian Water Services Limited for the purposes of its undertaking. They were also required by the Applicant in order to deliver the Proposed Development. Therefore, s127(5) and s127(6) of the PA2008 would be engaged.
- 6.8.63. The Applicant considered that there would be no serious detriment to Anglian Water Services Limited's undertaking if it was to acquire these rights and interests and that the tests set out in s127(6) of the PA2008 would be satisfied. The rights it sought would co-exist within the plots affected alongside those of Anglian Water Services Limited and, for the most part, the rights would cause minimal interference to the Statutory Undertaker's undertaking ([\[REP9-069\]](#), paragraphs 1.5.7 to 1.5.11).

ExA's consideration

- 6.8.64. The ExA is content that the land over which Anglian Water Services Limited has a legal interest and in which the Applicant is seeking to secure rights has been acquired by that Statutory Undertaker for the purposes of its undertaking, and that it is either used for the purposes of its undertaking or its interest in land is held for those purposes. Anglian Water Services Limited's representation was not withdrawn during the Examination. On that basis, s127 of the PA2008 is engaged and the Applicant must satisfy its applicable tests.
- 6.8.65. For the reasons set out by the Applicant, the ExA agrees that s127(2) and s127(3) of the PA2008 do not apply. Therefore, s127(5) and s127(6) of the PA2008 are engaged.
- 6.8.66. For the application to comply with s127(5) of the PA2008, the Secretary of State must be satisfied that the nature and situation of the land is such that one of the two matters set out in s127(6) is satisfied. The ExA is mindful that, for the purposes of s127, 'land' includes any interest in or right over land in accordance with s159 of the PA2008.
- 6.8.67. S127(6)(a) defines the first of these two matters as that the right can be purchased without serious detriment to the carrying on of the undertaking. The ExA notes the Applicant's submissions in its application under s127 of the PA2008 as why it considers that would be the case in respect of Anglian Water Services Limited's rights [\[REP9-069\]](#). That evidence is persuasive, and the acquisition of rights would comply with s127(5) and s127(6)(a) of the PA2008.
- 6.8.68. The procedure under s127(5) of the PA2008 only applies to the CA of a right and is therefore not engaged in respect of the Applicant's proposed TP of part of the track leading to Anglian Water Services Limited's water recycling centre.
- 6.8.69. The final version of Appendix A to the CEMP, the CoCP [\[REP9-035\]](#), includes the same wording for measure AS03 as the version submitted with the application for development consent [\[APP-178\]](#) with which Anglian Water Services Limited expressed misgivings in respect of provision of uninterrupted access to its water recycling centre. It reads:

'Access to and from residential, commercial, community and agricultural land uses will be maintained throughout the construction period or as agreed through the landowner discussions. The latter may require signed diversions or temporary

restrictions to access. The means of access to affected properties, facilities and land parcels will be communicated to affected parties in advance of any change being implemented’.

- 6.8.70. Measure AS03 provides that temporary restrictions to access would only be introduced when agreed through landowner discussions. If they were not bilaterally agreed, then access would be maintained throughout the construction period. If this matter is not included within any voluntary agreement, it would not prejudice Anglian Water Services Limited’s continued, unrestricted use of the track. Accordingly, the TP powers sought are reasonable and would not disproportionately affect the Statutory Undertaker’s use of its land.
- 6.8.71. In light of the above, if the Secretary of State has not been informed of agreement between the parties following the close of the Examination that resulted in the withdrawal of Anglian Water Service’s representation, the ExA considers that this would not prevent the CA and TP of the relevant interests in Anglian Water Services Limited’s land.

ROYAL MAIL

Rights sought by the Applicant

- 6.8.72. The Applicant sought TP of rights over land in which Royal Mail has a legal interest (Book of Reference Parts 2 and 3). It enjoys rights in respect of apparatus over Plot 22-08 at Church Road, Twinstead in which the Applicant sought rights under Class 7 (Temporary Use for Access). The plot comprises 1,299 m² of public road and verges. TP was sought to facilitate access to existing pylons 4YL076 and 4YL076, part of Work No 10 – modifications to the transmission electric line and connection to the Grid Supply Point Substation, as set out at Schedule 1 of the DCO [REP9-006], the Land Plans [REP9-004] and Work Plans [APP-010].

Royal Mail’s position

- 6.8.73. Royal Mail’s submissions made no specific mention of the plot in which it has a legal interest and of which the Applicant wanted to take TP, or of PPs in Schedule 14, Part 2 of the dDCO for the protection of operators of electronic communications code networks. The substance of its concerns [RR-023] and [REP2-030] were considered in paragraphs 3.15.125 and 3.15.126 of this Report.

The Applicant’s position

- 6.8.74. Royal Mail was included in the Schedule to the application under s138 of the PA2008, Statutory Undertakers Telecommunications Operators’ Rights and Apparatus [REP9-066], though the Applicant said that no apparatus was anticipated to be removed or altered.

ExA’s consideration

- 6.8.75. Royal Mail was not listed in Appendix B to the Statement of Reasons, Schedule of Negotiations with Land Interests ([APP-040] and [REP9-015]). Taken together with what the Applicant stated in the Schedule to the application under s138 of the PA2008 suggests to the ExA that it was included on a purely precautionary basis.
- 6.8.76. The plot in question extends along Church Road on either side of a junction with a track that leads northwards, bifurcates and appears to lead to each of the two aforementioned pylons. The nature and situation of the land over which the Applicant sought TP suggests it would most likely be required in association with

visibility splays associated with use of that junction. Work No 10 is a constituent part of the Proposed Development and use of the plot over which Royal Mail has rights in respect of apparatus is necessary for the purpose of carrying out the development to which the order relates thereby satisfying the test in s138(4) of the PA2008.

OTHER UNDERTAKERS INCLUDED IN THE PA2008 s138 APPLICATION

- 6.8.77. The schedule to the Applicant's application under s138 of the PA2008, Statutory Undertakers Telecommunications Operator's Rights and Apparatus [REP9-066], listed Statutory Undertakers whose rights or apparatus might be interfered with as a result of the Proposed Development. All are included in the Book of Reference [REP9-016] and the Statement of Reasons ([REP9-011], section 8.3).
- 6.8.78. In addition to the Statutory Undertakers already considered, the following were included in the Schedule, which identified the relevant rights to be extinguished or relevant apparatus to be removed or altered:
- BT Openreach;
 - Gigaclear Limited;
 - UKPN;
 - Virgin Media Limited; and
 - Vodafone Limited.
- 6.8.79. None submitted representations to the Examination. Rule 17 requests issued to them afforded each the opportunity to comment on the s138 application under the PA2008 [PD-013]. No responses were received.
- 6.8.80. The schedule also included Pivoted Power LLP, which withdrew its representations by letter of 4 March 2024 [REP10-026], subsequent to the issue of the Rule 17 request [PD-019] affording it the opportunity to comment on the application under s138 of the PA2008.
- 6.8.81. Cadent Gas Limited was also listed on the Schedule. It had withdrawn its representations by letter of 21 February 2024 [AS-012], prior to receipt of the application under s138 of the PA2008 on 23 February 2024. It did not engage with the Rule 17 request [PD-013] that gave it the chance to respond to that application.

The Environment Agency

- 6.8.82. As it was included in the schedule to the application under s138 of the PA2008, a Rule 17 request was issued to the Environment Agency [PD-016]. It said [REP10-025] that it concurred with Applicant's comments on the schedule as they related to the requirement for a Flood Risk Activity Permit but also identified an issue that had not previously been raised in respect of its land rights.
- 6.8.83. The Environment Agency's concern related to impact on maintenance activities that might result from the proposed temporary bridge that would cross over part of the Bures to Cornard flood banks. These were raised defences built on the river's edge to keep flood waters off arable land. As these defences do not provide flood protection to people and property, they do not attract any recurring maintenance funding, so the Environment Agency does not carry out any recurring maintenance activities on these defences except an annual visual inspection for condition. It said that access would need to be available for this to take place.

- 6.8.84. The Environment Agency appeared to refer to the proposed temporary bridge over the River Stour (as shown on Sheet 20 of Figure 4.1, The Project [PDA-002]) that would cross between Plots 20-20 and 20-25. The Environment Agency has a right of access in Plot 20-25. Class 3 – CA of rights – underground cable is sought in both plots. However, the Book of Reference said that there are instances where a plot may have more than one type of interest, right or powers sought. Where two types of interest, rights or powers are sought over a given plot (such as temporary use during construction, as well as permanent rights to operate and maintain the works), the plot is coloured according to the more extensive power required ([REP9-016], paragraph 1.1.10). Schedule 1 of the dDCO includes the construction of bridges within the definition of Associated Development [REP9-006].
- 6.8.85. Schedule 14, Part 1 provides PPs for electricity, gas, water and sewerage undertakers. However, there is nothing to protect the Environment Agency's interest in respect of exercise of its rights of access in Plot 20-25.
- 6.8.86. The Access, Rights of Way and Public Rights of Navigation Plans showed the proposed temporary closure of public right of navigation on the River Stour through Plots 20-20 and 20-25 [APP-012]. ES Chapter 12, Traffic and Transport, said that there would be short term disruption to navigation along the River Stour for safety reasons during proposed lowering of the 132kV conductors and during installation and removal of the temporary bridge. These disruptions were anticipated to be short term (i.e., up to a week) ([APP-080], paragraph 12.3.8). The CEMP provides an undertaking that the Applicant would notify the Environment Agency at least one month prior to activities that affect the 'Navigation Envelope' of the River Stour, that the notification would contain sufficient information to enable it to understand the necessity of the closure and include details of - amongst other things - the nature and duration of the works ([REP9-033], paragraph 2.5.2). This commitment was agreed between the parties on 8 December 2023, as shown in the signed SoCG that advised that there were no matters outstanding or still under discussion between the parties [REP6-019].
- 6.8.87. The Environment Agency would have advance notice of the timing and duration of works that would affect Plot 20-20 through the provisions of the CEMP, secured by Requirement 4(2)(a) of the dDCO [REP9-006]. Therefore, by prior arrangement and despite the extinguishment of its right of access, there is no apparent practical reason why Environment Agency would not be able to programme its annual inspection to avoid the works associated with installation of the temporary bridge over the River Stour. The proposed extinguishment of the right of access is necessary for the purpose of carrying out the development to which the Order relates, in compliance with s138(4) of the PA2008 and Environment Agency would not be affected to the detriment of its ability to carry out its undertaking.

TC East Anglia One OFTO Limited

- 6.8.88. TC East Anglia One OFTO Limited did not make a representation but was issued with a Rule 17 request [PD-014] asking it to provide any response to the application under s138 of the PA2008, Statutory Undertakers Telecommunications Operators' Rights and Apparatus [REP9-066]. It did not respond.
- 6.8.89. Table 8.3 of the Statement of Reasons, Plots where the project requires rights, identified five plots that TC East Anglia One OFTO Limited has a legal interest in [REP9-011]. The Book of Reference ([REP9-016], Parts 1, 2 and 3) shows that it has a right of access over three of these and rights in respect of apparatus over the remainder.

- 6.8.90. The schedule to the application said that the nature of the rights anticipated to be extinguished would be in respect of apparatus, rights of access and mitigation planting. No apparatus was anticipated to be removed or altered. However, if it became necessary to do so, protective measures would be implemented, or diversionary works undertaken in consultation with TC East Anglia One OFTO Limited and in accordance with an interface agreement.
- 6.8.91. The Applicant anticipated that an interface agreement would be entered into once commercial terms had been agreed between the parties. It said that HoTs for the interface agreement were substantially agreed and that, so far as the Applicant was aware, there were no commercial or other substantive matters remaining outstanding. It also noted that the parties were committed to agreeing the form of interface agreement as expeditiously as possible following the close of the Examination [[REP10-012](#)].
- 6.8.92. This was consistent with the signed SoCG between the parties [[REP10-018](#)], which gave useful background information to the East Anglia One project and its relationship with the Proposed Development. The East Anglia One Offshore Wind Farm includes an onshore substation adjacent to the existing substation at Bramford, to connect the windfarm to the national grid. A plan showing East Anglia One's Order Limits was included at Appendix 1 of the SoCG. Section 2.3 explained the project interface saying that the Proposed Development included the removal or installation of overhead lines either on or in close proximity to elements of East Anglia One's existing development near Bramford Substation.
- 6.8.93. Of particular importance, East Anglia One had implemented a substation, including associated landscaping to the south-west of the existing Substation. This planting was implemented as part of the East Anglia One Order requirements to mitigate landscape and visual impacts. The ExA observed these features during its unaccompanied site inspection (USI1) [[EV-001](#)].
- 6.8.94. The SoCG advised that a number of changes to the Proposed Development had been incorporated around Bramford Substation to reduce the impact on the landscape planting south-west of the East Anglia One substation. Nevertheless, the Order Limits for the Proposed Development fell within the area of landscape planting south-west of the East Anglia One substation where removal of a short section of the existing 400kV overhead line, including pylons 4YL002 and 4YL003, was proposed.
- 6.8.95. The ExA asked ([[PD-005](#)] CM1.5.4) the Applicant to provide an annotated drawing showing the area and extent of the works associated with Proposed Development that might affect the East Anglia One landscaping mitigation measures. In response [[REP3-052](#)], it reported problems in communication and that it had been unable to obtain the shapefile for the approved landscape planting, to overlay the designs with the Proposed Development's general arrangement. Nonetheless, the Applicant had reviewed East Anglia One's Discharge of Requirement Material and it understood that its approved Soft Landscape General Arrangement Plan in this location to be the plan that it had attached as Appendix C, East Anglia One DCO Approved Landscaping, an extract of which was also provided at Appendix 4 of the since signed SoCG [[REP10-018](#)].
- 6.8.96. Referring to the soft landscape legend of that plan and '*WM1-C (Core Woodland comprising generally slower growing mixed broadleaf species such as oak)*', a very small section of this feature would overlap with the Order Limits for the Proposed Development. However, the Applicant said that it was likely that this planted area

would remain untouched and that it would only be affected if the preferred alignment was moved north within the limits of deviation, when it would be possible that a section of the woodland planting may need to be coppiced or pollarded to facilitate the cable swing.

6.8.97. In addition, in respect of the removal of the short section of the existing 400kV overhead line and pylons 4YL002 and 4YL003, soil stripping beneath the pylon bases would be required, which is shown as 'G3 (species Rich Grass Land seed mix)' on East Anglia One's approved Soft Landscape General Arrangement Plan in this area. However, this would be reinstated in line with measure GG07 in the CEMP Appendix A, CoCP [REP9-025], secured by Requirement 4(2)(a) of the dDCO [REP9-006], which provided that:

'Land used temporarily will be reinstated where practicable (bearing in mind any restrictions on planting and land use) to its pre-construction condition and use...'

6.8.98. On that basis, the ExA agrees with the Applicant's conclusion that this interface would be limited.

6.8.99. Subsequently, the matters agreed between the parties [REP10-008] included:

- TC East Anglia One OFTO Limited had no objection to the principle of the Proposed Development.
- The parties could see no reason why the Proposed Development and East Anglia One could not be implemented and operated without conflict with one another.
- The parties agreed to continue discussing landscape mitigation in the areas of land in which they have an interest (located within the vicinity of all that land that may be required for the Proposed Development and falls within its Order Limits). Meanwhile, if any of East Anglia One's existing landscape planting was removed for the Proposed Development, it would need to be replaced and further discussions would be required on the subsequent maintenance of any replacement planting over a ten-year period.
- The parties agreed on the technical interface between the two respective projects and broadly on the items that would need to be included in the interface agreement, which was anticipated shortly after the close of Examination.

6.8.100. Compliance with s138(4) of the PA2008 hinges on whether the Secretary of State is satisfied that the extinguishment of the relevant right or removal of the relevant apparatus is necessary for the purpose of carrying out the development to which the Order relates.

6.8.101. Details of the works associated with the Proposed Development that may interface with East Anglia One's development were set out in the application under s138 of the PA2008 ([REP9-066], paragraph 2.3.4). The extinguishment of TC East Anglia One OFTO Limited's rights would be necessary for the purpose of carrying out the development to which the Order relates. In the absence of powers for the Applicant to extinguish such rights or remove or reposition such apparatus, the works associated with the Proposed Development could not be completed.

6.8.102. Were agreement not reached, there is nothing in the PPs in Schedule 12, Part 1 of the dDCO [REP9-006] that would address the issue of mitigation planting that is to be subject of the proposed interface agreement. Therefore, were the Proposed Development to go ahead, TC East Anglia One OFTO Limited might be in breach of the Order granting it development consent in respect of the mitigation planting.

However, unlike s127 of the PA2008, there is nothing in s138 that empowers the ExA to consider whether allowing interference with the right to be acquired would be detrimental to TC East Anglia One OFTO Limited's undertaking. Therefore, there is no reason to recommend to the Secretary of State that powers under s138 should be denied in this instance.

ExA's conclusion on the s138 application

- 6.8.103. Schedule 14, Part 1 of the dDCO [[REP9-006](#)] provides protection for electricity, gas, water and sewerage undertakers and Part 2 for operators of electronic communications code networks.
- 6.8.104. S138(1) of the PA2008 has effect as the dDCO would authorise the acquisition of land (compulsorily or by agreement) and there subsists over the land a relevant right or there is on, under or over the land relevant apparatus. S159 of the PA2008 defines 'land' as including any interest in land. Whilst not all these Statutory Undertakers submitted representations to the Examination, in accordance with s138 of the PA2008, the Secretary of State must be satisfied that the extinguishment of the relevant right or the removal of the relevant apparatus is necessary for the purposes of carrying out the development to which the Order relates.
- 6.8.105. Section 1.3.4 of the s138 application states the Applicant's case as to why it considers the rights sought to be necessary as required by s138(4). Taking account of that evidence, the ExA is persuaded that that the Secretary of State can be satisfied that extinguishment of the relevant right or the removal of the relevant apparatus would be necessary for the purpose of carrying out the development to which the Order relates.
- 6.8.106. The ExA notes that the Applicant is seeking to negotiate with some of the Statutory Undertakers identified in the schedule to the application made under s138 of the PA2008 to acquire the rights necessary for the Proposed Development, and to manage any interfaces between the project and their apparatus or rights vested on, under or over land within the Order Limits, by private treaty. However, in the absence of voluntary agreement between the parties, the associated CA powers that the Applicant seeks are needed to ensure that it would be able to enforce powers consistently and uniformly to deliver the project in a comprehensive manner. If acquisition of the required rights is not agreed between the parties, the ExA considers that the Secretary of State can be assured that the requirements of s138(4) of the PA2008 are satisfied.

6.9. CROWN LAND

- 6.9.1. The Book of Reference [[REP9-016](#)] reported that no land within the Order Limits had been identified as Crown land.

6.10. SPECIAL CATEGORY LAND: OPEN SPACE

- 6.10.1. S131 of the PA2008 applies to the CA of common land, open space or fuel or field garden allotments and s132 applies to the CA of rights over such land. Common land, open space or fuel or field garden allotments is defined as 'special category land' under Regulation 2 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
- 6.10.2. S131 and s132 of the PA2008 make provision for special parliamentary procedure to apply where a DCO authorises the CA of, or rights over special category land unless the Secretary of State is satisfied that one of the relevant subsections

applies and that fact is recorded in the Order. Special parliamentary procedure requires that powers of CA relating to the special category land be subject to further scrutiny by Parliament, before the DCO covering the CA can come into effect.

- 6.10.3. The Applicant sought rights over special category land, more specifically classed as open space ([\[REP3-011\]](#) section 2.1.4). The Book of Reference describes the types of open space [\[REP9-016\]](#) in Part 5. The relevant plots of land are included in the Book of Reference and on the Land Plans [\[REP9-004\]](#) and the Special Category Land Plans [\[APP-009\]](#).

THE APPLICANT'S CASE

- 6.10.4. The Applicant's case for the grant of CA and TP powers was set out in the Statement of Reasons ([\[REP9-011\]](#), sections 2.6 and 8.2) together with the Statement of Reasons, Appendix C, Special Category Land Report [\[REP3-011\]](#).
- 6.10.5. Open Space is defined in the Acquisition of Land Act 1981 as, '*any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground.*'
- 6.10.6. The Applicant said that it had taken a precautionary approach to include all land that could be considered open space.
- 6.10.7. Open space within the Order Limits and in respect of which powers of CA were sought was shown shaded blue-green on the Special Category Land Plans [\[APP-009\]](#) and listed in Table 8.1, Special Category Land of the Statement of Reasons [\[REP9-011\]](#). These described the four parcels of land that the Applicant identified as open space, the plot numbers involved, activities to be undertaken and CA classes sought. The four areas were:
- Hintlesham Golf Course;
 - Hintlesham Wood;
 - Hadleigh Railway Walk; and
 - Assington Green.
- 6.10.8. Special parliamentary procedure would be engaged unless the Secretary of State was satisfied that one of a number of exemptions could be shown to apply. The potential exemptions are defined in s132 of the PA2008. In this case, only rights (for overhead lines, underground cables, access and BNG) were being sought over land identified as open space. No CA of land was sought. Therefore, the exemption that the Applicant sought to rely on is that set out in s132(3) of the PA2008, which required that the Order land, when burdened with the Order right, would be no less advantageous than it was before, to the following persons:
- a. the persons in whom it is vested;
 - b. other persons, if any, entitled to rights of common or other rights; and
 - c. the public.
- 6.10.9. The Applicant considered that that the Secretary of State could be satisfied that the Proposed Development would not cause the land to be less advantageous to these parties and hence could confirm by certificate that special parliamentary procedure would not apply.
- 6.10.10. In support of this contention, the Applicant supplemented the evidence in the Statement of Reasons with a Special Category Land Report. This provided an assessment of powers of the CA of rights sought in respect of each of the four

parcels that it considered to be open space, based on its precautionary approach ([\[REP3-011\]](#) Chapter 4). It described the current land use of each, why the CA of rights in the land were needed and its rationale for the conclusion in each instance that the land would be no less advantageous when burdened with the rights sought.

- 6.10.11. The Applicant included land at Hintlesham Golf Course as open space (Plots 2-54, 3-06, 3-13, 3-15, 3-16, 3-17, 3-18, 3-20, 3-22, 3-23). CA Class 3 and 4 rights were sought therein [\[REP9-016\]](#). The land is part of a golf course and was included on a precautionary basis. It would be used for a low voltage diversion from overhead line to underground cable, access and landscape planting. These works would be located at the western side of the golf course, in the vicinity of the club house and maintenance yard and would utilise an existing access road. Whilst there would be short term disruption from the proposed works, due to the remoteness from the main course, greens and fairways the Applicant said that the activity would not change the ability of those who enjoy the golf course, to continue to do so. It concluded that the land would be no less advantageous when burdened with the rights sought [\[REP3-012\]](#).
- 6.10.12. In respect of land at Assington Green (Plots 16-71, 16-76 and 16-79), in which Class 2 and Class 4 rights were sought, the Applicant said:
- it was included on a precautionary basis;
 - it is privately owned grazing land, orchard and wet deciduous woodland;
 - it partially overlaps what was designated in the Assington Neighbourhood Plan as Mill Farm Land Local Green Space;
 - a public right of way borders the southern and western extents of the designated land, outside the designation, but the land itself is not publicly accessible;
 - the existing 400kV overhead line oversails the northern boundary of the land;
 - the 132kV overhead line also oversails the land, with two pylons on the land itself.
- 6.10.13. The Proposed Development would remove the existing 132kV line and pylon PCB 67, and build a new transmission tower and install conductors, in a similar alignment and location, approximately 50m to the south). The proposed new overhead line would run broadly parallel to the existing transmission line and a new pylon might be sited within the designation, subject to the limits of deviation as they might be applied in this location. The construction activities associated with removing the existing line and the installation of the new line would take place at different times, but both would be short term, each envisaged to be in the region of six weeks.
- 6.10.14. The Applicant said that the conductors do not (and would not) impact the usage of the open space (being space used and enjoyed at ground level only). The proposed pylon would replace an existing pylon. The proposed pylon would only make contact with the ground at its four corners and would not materially alter the ability of the open space to be enjoyed as such.
- 6.10.15. The Applicant added that discussions were ongoing in relation to agreement to acquire the necessary interests in the Open Space land by agreement. However, if voluntary agreement was not possible, in respect of all four parcels of land, they would be no less advantageous when burdened with the rights sought, in compliance with s132 of the PA2008.
- 6.10.16. The Applicant asserted that all the land shown on the Land Plans [\[REP9-004\]](#) and described in the Book of Reference [\[REP9-016\]](#) for CA and TP were required either for the purposes of the project, to facilitate it or for purposes incidental thereto. The

exercise of all those powers would therefore be necessary where land or rights over land could not be acquired by voluntary agreement.

- 6.10.17. Section 7 of the Statement of Reasons [\[REP9-011\]](#) set out the Applicant's justification for that conclusion where it also reviewed alternatives to the Proposed Development and to CA. The Applicant asserted that all the CA and TP land shown on the Land Plans [\[REP9-004\]](#) and described in the Book of Reference [\[REP9-016\]](#) was required either for the purposes of the project, to facilitate it or for purposes incidental thereto. This included the special category land shown on the Special Category Land Plans [\[APP-009\]](#).
- 6.10.18. Notwithstanding pursuance of voluntary agreements, the Applicant still sought powers to CA rights over special category land through the dDCO as they would enable it to deliver its statutory and contractual duties without potential delay, if for any reason the voluntary acquisition of rights were ultimately unsuccessful. Without the powers of acquisition being compulsorily, there would be a risk that the urgent national need for the project could not be met because the land and rights required in the Order land may not be assembled.
- 6.10.19. Section 7.5 of the Statement of Reasons explained why the Applicant considered its proposed interest in land to be legitimate, necessary and proportionate. The explanation included mention that compensation would be payable for the CA of rights in land and referred to its Funding Statement [\[APP-037\]](#) as having demonstrated that there would be a reasonable prospect of the requisite funds being able to fund all aspects of the project, which would include compensation for the CA of rights in special category land.

EXAMINATION OF THE CA CASE

- 6.10.20. Six of the ExA's first written questions on land and rights considerations related to special category land ([\[PD-005\]](#), CA1.4.30 to CA1.4.35 inclusive). One was directed to Babergh and Mid Suffolk District Councils, the remainder to the Applicant.
- 6.10.21. The Applicant submitted an update to the Special Category Land Report [\[REP3-011\]](#) to address discrepancies raised in two of the questions. These were also added to the Errata List [\[REP9-054\]](#).
- 6.10.22. The ExA asked ([\[PD-005\]](#), CA1.4.31) about the proposed works on special category land at Hintlesham Golf Course, shown as environmental area ENV02, and whether they would be consistent with the excepting provision in s132(3) of the PA2008 on which it sought to rely. The Applicant said that the works, as shown on LEMP Appendix B, the Vegetation Reinstatement Plan [\[REP9-041\]](#), and in the Environmental Gain Report [\[APP-176\]](#) would not be different in area and would not affect the golf course use of this land. The Applicant added that it is only seeking rights across the land and no CA of land. It concluded that the land, when burdened with the CA right, would be no less advantageous to the parties, as set out in s132(3) of PA2008 [\[REP3-011\]](#).
- 6.10.23. Whilst noting that the Applicant had taken a precautionary approach to include all land that might be considered to be open space, in light of the statutory definition of the term at s19(4) of the Acquisition of Land Act 1981 and its statement in the Special Category Land Report that the land is not publicly accessible [\[REP3-011\]](#), the Applicant was asked why it considered that the three plots at Assington Green, shown on Sheet 5 of the Special Category Land Plans [\[APP-009\]](#) to fit the legal definition of open space. The Applicant said that its inclusion on a precautionary

basis was for the purposes of public recreation. It referred to paragraph 4.1.18 of the Assington Neighbourhood Plan that included this site as a Local Green Space, the criteria being that it holds a particular local significance such as beauty, historic, recreational, tranquillity or richness of wildlife [\[REP3-052\]](#).

6.10.24. In respect of that question, Babergh and Mid Suffolk District Councils said that National Planning Practice Guidance at paragraph 020 stated that:

'Designating a green area as Local Green Space would give it protection consistent with that in respect of Green Belt...'

6.10.25. Paragraph 017 said that the land does not need to be publicly accessible:

'... land could be considered for designation even if there is no public access (e.g. green areas which are valued because of their wildlife, historic significance and/or beauty).'

6.10.26. The Assington Local Green Space affected (ASS-10) is only physically accessible from the PRow to the west and south but this provides extensive views over the Local Green Space [\[REP3-060\]](#).

6.10.27. Responses were also received to the ExA's question ([\[PD-005\]](#), CA1.4.34) that asked Babergh District Council if the Applicant's case that s132(3) of the PA2008 was engaged in respect of the four parcels of open space over which it sought to CA rights. The answers related only to the open space south of Assington.

6.10.28. Babergh and Mid Suffolk District Councils [\[REP3-060\]](#) referred to the Special Land Category Report ([\[REP3-011\]](#), paragraph 4.1.20), which said that that the proposed new pylon would only be in a similar position to the old one, not the same position, and around 50m to the south. It understood that instead of skirting the northern edge of the Local Green Space as the current pylon line does, this would place the new pylon and line more centrally within the Local Green Space thus spreading adverse visual effects over a wider area and affecting users of the PRow to the west and south of the Local Green Space. Therefore, it suggested that the usage of the land could be affected by the CA rights sought and be less advantageous. Thus, as the Secretary of State could not be satisfied that the Proposed Development would not cause the land to be less advantageous, special parliamentary procedure should apply.

6.10.29. Although responding to a different question, Assington Parish Council gave evidence pertinent to this one where it submitted that the Proposed Development would be 'deeper into' the Local Green Space than the existing 132kV line, and the proposed infrastructure would be larger and considerably taller than the existing pylon. In this respect, the Proposed Development would inevitably harm local residents' enjoyment of the Local Green Space. The proposed access route would also create a break in the mature hedge line that is a feature of the Local Green Space [\[REP3-059\]](#).

6.10.30. The Applicant also responded to a question ([\[PD-005\]](#), CA1.4.35) about whether the CA rights it sought were consistent with Policy ASSN-10 Local Green Spaces of the Assington Neighbourhood Plan [\[REP3-052\]](#). Babergh and Mid Suffolk District Councils also addressed that issue ([\[REP3-060\]](#), CA1.4.35). Assington Parish Council set out why it considered the proposed CA of rights in the land contrary to the National Planning Policy Framework (NPPF) and Assington Neighbourhood Plan [\[REP3-059\]](#).

- 6.10.31. Two of the ExA's further written questions were asked of the Applicant in relation to the land at Assington that it considered to be open space ([\[PD-008\]](#), CA2.4.8 and CA2.4.9).
- 6.10.32. The first asked how, if sited within the area that is subject to Policy ASSN10 Local Green Spaces of the Assington Neighbourhood Plan, the existing pylon PCB 67 shown on Work Plan 16 [\[APP-10\]](#) might compare in terms of scale (including footprint and height) and base level Above Ordnance Datum (AOD) to the proposed pylon RB41 when the maximum lateral and height tolerances allowed by the limits of deviation were applied [\[REP9-006\]](#).
- 6.10.33. The Applicant said ([\[REP7-025\]](#), CA2.4.8) that the existing 132kV pylon (PCB 67), owned and operated by UKPN, was understood to be a PL16 design of a standard height suspension type. At ground level, assuming a level site, the base of this pylon (back-to-back of the leg steelwork) should be approximately 4.2m x 4.2m. The height of the pylon would be 26.44m above an approximate ground level of 56.7m AOD. The proposed 400kV pylon (RB41) would be a L6M design of a suspension type extended 3m above standard height. At ground level, assuming a level site, the base of this pylon (back-to-back of the leg steelwork) would be approximately 11.9 x 11.9m. The height of the pylon would be 53.59m above an approximate setting level of 52.14m AOD. The Applicant's assessment was based on an assumed position for the proposed 400kV pylon (RB41), as shown on the Work Plan, Sheet 16 [\[APP-10\]](#). It noted that this was a sloping site and that the setting level may alter.
- 6.10.34. The crossarms on each side of the existing PL16 suspension type pylon were 3.73m in length (top and bottom crossarms) and 4.65m in length (middle crossarms). By comparison, the crossarms on each side of the proposed L6M design of a suspension type pylon would be 8.44m in length (bottom crossarms), 10.45m in length (middle crossarms) and 6.98m in length (top crossarms).
- 6.10.35. In response to the ExA's question, the Applicant gave detailed evidence as to the possible worst-case scenario if the limits of deviation subject of Article 5 of the dDCO were applied in terms of the proposed pylon's height and ground levels ([\[REP7-025\]](#), pages 24 and 25).
- 6.10.36. The second question asked the Applicant to address the specific comments made by Assington Parish Council [\[REP3-059\]](#) and Babergh and Mid Suffolk District Councils [\[REP3-060\]](#) about the comparative impact on the landscape and views from the Local Green Space. In doing so, it was asked to address the 'worst-case' scenario in terms of scale and the highest potential spot height within the Order Limits where they overlap with the designation, and where the pylon might be placed.
- 6.10.37. The Applicant said ([\[REP7-025\]](#), CA2.4.8) that the designated area hosted an existing 132kV pylon (PCB 67) and an existing 400kV pylon (4YL056). It was proposing to remove the 132kV pylon and replace it with a 400kV pylon (RB41), similar in size and style to the existing 400kV pylon (4YL056). The nearest publicly accessible location was along the PRow that followed the western boundary of the Local Green Space. Users of this footpath had views of the existing 132kV pylon (PCB 67) some 45m to the east. The lower parts of this pylon were seen against a backdrop of woodland, but the upper part was prominent on the skyline where it was seen alongside multiple 132kV and 400kV pylons.
- 6.10.38. The proposed 400kV pylon (RB41) would be taller than the existing 132kV pylon but would be of a similar size and appearance to the 400kV pylon to be retained. Based

on the Proposed Alignment, as shown on Sheet 16 of the General Arrangement Plans [APP-018], pylon RB41 would be approximately 120m away from the PRoW. This would moderate its perceived height and impact on views from the PRoW and it would also be seen alongside pylons on the existing 400kV overhead line.

- 6.10.39. The proposed 400kV overhead line would replace the existing 132kV overhead line and would be seen in the context of the existing 400kV overhead line. This was said to result in a residual long-term, minor adverse but not significant effect. This was because pylons were already a key element in the view and the presence of the new 400kV pylon would not fundamentally change its composition or character by comparison with the baseline scenario.
- 6.10.40. Based on the flexibility assumptions in terms of lateral and vertical limits of deviation, the Applicant noted that pylon RB41 could be closer to the PRoW than shown on Work Plan 16 [APP-010] and the maximum height of the pylon could be 56.59m. This would increase its visibility from the footpath but would not affect the outcome of the assessment in relation to the village of Assington (section 2.3 of ES Appendix 6.5, Assessment of Effects on Communities [APP-108]) as this was based on general visual amenity across the parish rather than individual viewpoints. In terms of landscape character, the area that is subject to Policy ASSN-10 is already influenced by the presence of multiple pylons and this situation would not change.
- 6.10.41. Vegetation would be affected by the removal of the existing 132kV pylon and gaining access to the location of the new 400kV pylon, as shown on Sheet 16 of LEMP Appendix A, the Vegetation Retention and Removal Plan [REP9-040]. Two hedgerows would be affected by pruning and coppicing, and there would be further pruning and coppicing along an existing maintenance swathe through a woodland.
- 6.10.42. Additionally, the LEMP stated that the removal of the 132kV overhead line would cause limited woodland loss where the height of the trees is already managed to maintain operational electrical safety clearances ([REP9-040, paragraph 7.2.4). Paragraph 7.3.1 of the LEMP said that the removal of the 132kV overhead line would cause limited hedgerow loss: it was assumed that a 5m gap would be required to allow access by construction vehicles. Existing hedgerow gaps or accesses would be used where practicable. The hedgerow would be coppiced to ground level without excavation, with matting placed over the soil to protect the roots.

ExA's CONSIDERATION

- 6.10.43. The ExA is content that two parcels of land at Hintlesham Wood and Hadleigh Railway Walk are open space for the purposes of s132(1) of the PA2008. As the Applicant is seeking the CA of rights over land to which s132 applies by the creation of a new right over land, the Secretary of State must be satisfied that one of the subsections (3) to (5) applies.
- 6.10.44. Whilst special category land would be affected by the CA of rights sought in the manner set out in the Special Category Land Report ([REP3-011], section 4), the ExA considers that the reasons for which the rights would be exercised in those two locations would not affect the character of the land beyond the construction phase. Even at that stage, the nature of the works proposed on and over the land would be temporary and short term. The ExA notes that no representations were received in respect of the proposed CA of rights in this special category land.

- 6.10.45. Taking account of all the evidence submitted in respect of the Applicant's proposed exercise of the CA rights that it seeks in the aforementioned areas of open space, the ExA is content that the Order land when burdened with the Order right would be no less advantageous than it was. Accordingly, in respect of those two areas of open space, it recommends to the Secretary of State that the Order granting development consent should not be subject to special parliamentary procedure.
- 6.10.46. S132(12) of the PA2008 defines 'open space' as having the same meaning as s19 of the Acquisition of Land Act 1981:
- '... any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground'.*
- 6.10.47. Hintlesham Golf Course is used for recreation but there was no suggestion that it was open for use by the public in general rather than club members or their visitors.
- 6.10.48. There was no disagreement that there was no public right of access to the land south of Assington over which the Applicant was seeking to acquire CA rights. It is only that legal definition that is determinant in whether the land is open space, subject to the associated provisions in the PA2008.
- 6.10.49. The ExA is not persuaded that either of these two parcels of land can reasonably be termed open space as defined in s19 of the Acquisition of Land Act 1981. However, it is mindful of the Applicant's precautionary approach to the definition of open space and, considering that the Secretary of State may want to adopt a similar approach or thinks that the ExA's opinion on the legal definition is incorrect, the ExA has assessed this element of the request for CA powers on the basis that the land is open space for the purposes of applying s132 of the PA2008.
- 6.10.50. There was no objection to the proposed use of the land defined by the Applicant as open space at Hintlesham Golf Club. Taken in conjunction with the reasons set out by the Applicant in paragraphs 6.10.11 and 6.10.22, the ExA agrees that the land, when burdened with the rights sought, would be no less advantageous to any of the persons subject of s132(3) of the PA2008. Therefore, as this aspect of the Proposed Development accords with s132(3) of the PA2008, it is exempt from special parliamentary procedure in accordance with s132(2) of the PA 2008.
- 6.10.51. The issue of whether the Applicant's CA of rights in the land for the purpose specified in the Work Plans [[APP-010](#)] and described in the Special Category Land Report ([REP3-011](#)), section 4) complies with Policy ASSN10, Local Green Spaces, of the Assington Neighbourhood Plan is not germane to the ExA's consideration of whether an exemption to special parliamentary procedure is merited by virtue of one of the exceptions identified by s132 of the PA2008. The Applicant contends that s132(3) applies in respect of it and it is for the ExA to consider whether the Order land when burdened with the Order right would be no less advantageous that it was before.
- 6.10.52. The land that the Applicant deemed to be open space is occupied and jointly owned by an AP whose objection to the CA and TP of his land was considered in paragraphs 6.7.131 to 6.7.150 of this Report. The ExA concluded that the proposed CA of his land is consistent with s122 and s123 of the PA2008 and that TP is similarly necessary, reasonable, justified and in the public interest. However, if considered to be open space, s132(a) of the PA2008 applies a different legal test and requires that the Order land, when burdened with the Order right, will be no less advantageous than it was before to the persons in whom it is vested.

- 6.10.53. In applying the tests of s122 and 123 of the PA2008, consideration was given to vegetation removal and management and concerns about the effect that access by plant and machinery to the Applicant's proposed work areas may have ground conditions. Albeit that a different legal test is applicable in this context, for reasons previously set out, the ExA is satisfied that the control measures in the management plans and compensation provisions secured by the dDCO [\[REP9-006\]](#), would ensure that this element of the Proposed Development would be consistent with the test imposed by s132(3)(a) of the PA2008.
- 6.10.54. There was no suggestion that the Statutory Undertakers with rights in this land identified by the Applicant as open space would find it less advantageous when burdened with the Order right than it was before. Therefore, this element of the Proposed Development is consistent with s132(3)(b) of the PA2008.
- 6.10.55. Section 132(3)(c) of the PA2008 requires that the Order land, when burdened with the Order right, will be no less advantageous to the public than it was before.
- 6.10.56. The issue of whether the Applicant's CA of rights in the land for the purpose specified in the Work Plans [\[APP-10\]](#) and described in the Special Category Land Report ([\[REP3-011\]](#), section 4) complies with Policy ASSN10, Local Green Spaces, of the Assington Neighbourhood Plan is not germane to the ExA's consideration of whether an exemption to special parliamentary procedure is merited by virtue of one of the exceptions identified by s132 of the PA2008. The Applicant contends that s132(3) applies and the ExA must consider whether the Order land when burdened with the order right would be no less advantageous to the public than it was before.
- 6.10.57. Babergh and Mid Suffolk District Councils and Assington Parish Council considered that the replacement pylon would have a comparatively greater impact on the visual amenity of the portion of the Neighbourhood Plan designation that overlaps with the land that the Applicant deemed to be open space. As the public has no right of access to that land, the pivotal issue in applying this test is the Proposed Development's comparative impact on landscape character and visual amenity from publicly accessible areas.
- 6.10.58. When viewed locally from the adjoining PRoW, the ExA agrees with the local authorities that the proposed pylon would have a greater effect on landscape character and visual amenity than the one that would be removed. However, when considered in the context of existing electricity transmission infrastructure, the ExA is content with the Applicant's assessment of the comparative views with and without the Proposed Development and its conclusion that, compared with the baseline scenario, its composition or character would not be fundamentally changed.
- 6.10.59. Considering the cumulative effect of the vegetation management and removal together with the comparative scale of the existing and proposed pylons on landscape character and impact on visual amenity from public vantage points, the ExA considers that it would not be such that the Order land when burdened with the Order right would be less advantageous than it was before to the public. Therefore, the Proposed Development is consistent with s132(3)(c) of the PA2008.
- 6.10.60. As this aspect of the Proposed Development is consistent with s132(3)(a), (b) and (c) of the PA2008, on the basis of s132(2)(a), an exemption to SPP is merited in respect of the proposed CA of rights over this land.

Summary of ExA's consideration of special category land matters

- 6.10.61. The Order land includes land that the Applicant identified as special category land, more specifically open space. Although the ExA had misgivings about whether two of the four parcels of special category land in which the Applicant seeks to acquire rights satisfy the definition of open space at s19(4) of the Acquisition of Land Act 1981, the applicable legal tests were applied to all on a precautionary basis and to assist the Secretary of State's consideration of the issue. As the Applicant was seeking rights over the land rather than to compulsorily acquire it, the tests set out in s132 of the PA2008 were engaged.
- 6.10.62. S132(2) of the PA2008 exempts an Order granting development consent from being subject to special parliamentary procedure if, amongst other things, the Secretary of State is satisfied that one of subsections (3) to (5) applies. As the Applicant sought to rely on s132(3) of the PA2008, those tests were applied to each of the four parcels of land that it considered to be open space.
- 6.10.63. In respect of all four, the ExA considered the Proposed Development to be consistent with s132(3)(a), (b) and (c) of the PA2008. Accordingly, on the basis of s132(2)(a), an exemption to special parliamentary procedure is merited in respect of the proposed CA of rights over this land provided that s132(2)(b) is observed.

6.11. HUMAN RIGHTS ACT 1998

- 6.11.1. The Human Rights Act 1998 places the European Convention on Human Rights (ECHR) into UK statute. The ECHR is subscribed to by member states of the Council of Europe. ECHR rights are enforceable in the domestic courts but with final recourse to the European Court of Human Rights. The ECHR, the Council of Europe and the European Court of Human Rights are not European Union (EU) institutions and were unaffected by the UK's decision to leave the EU.
- 6.11.2. Schedule 1 of the Human Rights Act 1998 sets out the articles. Articles 6 and 8 and Article 1 of the First Protocol are engaged by the Proposed Development.
- 6.11.3. Article 6 entitles those affected by powers sought for the Proposed Development to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- 6.11.4. Article 8 protects the right to respect for private and family life, home and correspondence. No public authority can interfere with this right except if it is accordance with the law and is necessary in the interests of, amongst other things, national security, public safety or the economic well-being of the country.
- 6.11.5. Article 1 of the First Protocol to the Convention protects the right of everyone to the peaceful enjoyment of their possessions. No one can be deprived of possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. However, this does not impair the right of state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest.
- 6.11.6. The Applicant acknowledged in its Statement of Reasons [\[REP9-011\]](#) that, if made, the DCO had the potential to infringe on the rights of APs.

ARTICLE 6 OF THE HUMAN RIGHTS ACT 1998

- 6.11.7. Having taken account of the Applicant's Consultation Report [[APP-043](#)] and its associated Appendices ([[APP-044](#)] to [APP-053], [[AS-009](#)] and [[APP-055](#)]), the ExA considers that appropriate consultation took place with APs before this Application was submitted. The ExA was established in accordance with Section 2 of the PA2008 and examined the Application in accordance with Section 4 thereof.
- 6.11.8. It is satisfied that, during the Examination process, there has been fair and reasonable opportunity for APs to make written and oral representations to the ExA, including the Open Floor Hearing and Compulsory Acquisition Hearings. Those representations were taken into account in asking questions of IPs and APs about interference with Human Rights and in making the ExA's recommendation to the Secretary of State. Furthermore, should the Order be made, APs would have the opportunity to seek judicial review of the Secretary of State's decision. The ExA considers the obligations set out by Article 6 of the Human Rights Act 1998 have been satisfied.

ARTICLE 8 AND ARTICLE 1 OF THE FIRST PROTOCOL OF THE HUMAN RIGHTS ACT 1998

- 6.11.9. In its Statement of Reasons ([[REP9-011](#)], page 23), the Applicant explained why voluntary rights in land for proposed underground cables and overhead lines, including pylons, would be sought by way of an option for easement under the terms of a Grant of Deed as opposed to the grant of temporary wayleaves. APs were asked if they agreed with that approach ([[PD-005](#)], CA1.4.1).
- 6.11.10. Brooks Leney, who said that they were representing a large number of landowners and persons with interest in land along the proposed route, contended [[REP3-080](#)] that a Deed of Grant, rather than a wayleave, would put undue burden on their clients' land and did not believe that it allowed for full assessment of appropriate compensation. There was no elaboration on how such assessment was perceived to be deficient.
- 6.11.11. To supplement the evidence in its Statement of Reasons, the Applicant said that policy, custom and practice worked together to shape the rights that it sought in land in order to deliver transmission infrastructure. It added that the vast majority of the assets forming part of the electricity network were secured via the lowest level of intervention with the landowner concerned, through rights in the form of wayleaves and easements, rather than by ownership. Freeholds were only sought where necessary. However, the Applicant noted that its approach here was driven by NPS EN-5, and that custom and practice were applied where DCOs were not involved. The Applicant quoted from the November 2023 draft NPS EN-5, which confirmed that this approach should continue ([[REP3-052](#)], pages 54 to 56).
- 6.11.12. The issue of the provisions of section 2.6 Land Rights and Land Interests of the draft NPS EN-5 was raised with the Applicant, and it explained [[REP6-044](#)] why it considered its approach was closely aligned with that draft policy.
- 6.11.13. The ExA notes that section 2.6 of the 2024 NPS EN-5 includes a new section on Land Rights and Land Interests, which states that where the CA of rights is sought, permanent arrangements are strongly preferred over voluntary wayleaves because of their greater reliability and economic efficiency and in reflecting the importance of such infrastructure to the nation's Net Zero goals.

- 6.11.14. The ExA is content with the Applicant's justification for the use of easements rather than wayleaves and considers that they would not give rise to greater interference with private rights than would be necessary. The 2024 NPS EN-5 is an important and relevant matter in this regard as it represents a clear direction of travel toward the benefit of greater certainty over land rights in Government policy, so providing further support to this conclusion.
- 6.11.15. The Applicant's Statement of Reasons ([[REP9-011](#)], paragraphs 9.1.5 to 9.1.9) said that it had weighed the potential infringement of the ECHR consequent on the inclusion of compulsory powers within the dDCO and had concluded that significant public benefits would outweigh the effects of CA and TP on persons who own property in the Order Limits such that there would not be a disproportionate interference with rights enshrined in Article 8 and Article 1 of the First Protocol. The ExA asked it to explain more fully the factors that were considered in the balance, the weight attributed to those factors and how this exercise was undertaken ([[PD-005](#)], CA1.4.14). The Applicant's comprehensive response [[REP3-052](#)] persuaded the ExA that the balance had been undertaken in a reasonable and proportionate manner, informed by law, policy and guidance, and that its conclusion was robust.
- 6.11.16. The Applicant was also asked ([[PD-005](#)], CA1.4.12) if it could confirm the factors that were considered in weighing public benefit against private loss and how that exercise was undertaken. In doing so, it was asked to cross-reference between the Statement of Reasons [[REP9-011](#)], the Planning Statement [[REP6-011](#)] and the Need Case [[APP-161](#)]. The Applicant explained [[REP3-052](#)] the steps it had taken to ensure that land acquisition was proportionate and would not give rise to interference with private rights beyond what would be necessary. This supplemented Chapter 9 of its Statement of Reasons [[REP9-011](#)], which addressed compliance with the relevant provisions of the ECHR and fair compensation. The Applicant concluded that any infringement of the ECHR in relation to those whose interests would be affected by the inclusion of powers of CA and TP in the DCO would be proportionate and legitimate, in the public interest and in accordance with national and European law. The ExA agrees that such interference would be proportionate and necessary when compared to the benefits of the Proposed Development.
- 6.11.17. As noted, the Applicant sought to minimise the amount of land affected by CA and TP and included suitable provisions for the payment of compensation in the dDCO. The ExA has found that there is a compelling case in the public interest for all the land subject of CA and TP.
- 6.11.18. Taking account of the rights conferred on individuals by virtue of Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998, the ExA considers that the proposed interference with them would be necessary, proportionate and justified in the public interest when compared to the benefits that would be realised by the Proposed Development.
- 6.11.19. Therefore, the ExA concludes that the Proposed Development is compatible with the relevant provisions of the Human Rights Act 1998 and the ECHR.

6.12. EQUALITY ACT 2010

- 6.12.1. S149 of the Equality Act 2010 requires a public authority, in the exercise of its functions, to have due regard to a variety of matters. Those that are relevant here are the need to:

- eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic (age, sex and sexual orientation, gender reassignment, disability, pregnancy and maternity, religion or belief and race) and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.12.2. The ExA has had regard to this duty throughout the Examination and in its consideration of the issues raised in this Report. Account has been taken of the Applicant's Equality Impact Assessment (EQIA) [REP3-047], including Table 4.2, Impacts on Equality Groups, where potential differentials are identified in relation to persons who share a protected characteristic as compared to persons who do not, during both the construction and operational phases of the Proposed Development. Where construction effects would not be temporary and short-term and the effects localised, the Applicant incorporated good practice measures or incorporated mitigation measures to address them.

6.12.3. Note was also taken of the Applicant's response to the ExA's question ([PD-005], CA1.4.6) that asked if, in relation to its duties under s149 of the EA2010, it was aware of any APs identified as having protected characteristics. It responded ([REP3-052], page 50) by setting out where the issue had been considered in its evidence and pointed to its EQIA that confirmed that no equality impacts were expected as a consequence of the exercise of CA powers.

6.12.4. Overall, the ExA considers that due regard has been paid by the Applicant and the ExA to the needs identified in the Public Sector Equality Duty. In addition, the other public authorities involved in the application and Examination, in the exercise of their functions, have had due regard to these needs, and the ExA finds no breach of the Public Sector Equality Duty.

6.13. CONCLUSIONS ON LAND RIGHTS AND RELATED MATTERS

6.13.1. Having considered all material submitted to the Examination, the ExA concludes:

- The application site has been appropriately selected.
- All reasonable alternatives to CA have been explored.
- The proposed use of CA and TP powers for the provision and maintenance of the BNG elements of the Proposed Development is consistent with policy and guidance and there is no reasonable alternative to it.
- The Applicant would have access to the necessary funds, including the cost of acquiring any rights and the payment of any compensation or blight claims brought by those interested in the land affected by the DCO.
- The legal interests in all plots of land included in the final Book of Reference [REP9-016] and indicated on the final Land Plans [REP9-004] would be required for the Proposed Development with regard to both CA and TP powers.
- The land to be taken under CA is no more than is reasonably required and the proposed land take is proportionate.
- There is a need to secure the land and rights required to construct, operate and maintain the Proposed Development within a reasonable timeframe.
- The Proposed Development represents a significant public benefit.
- That in all cases relating to individual objections and issues, CA and TP are justified as sought, to enable implementation of the Proposed Development.

- The powers sought satisfy the conditions set out in s122 and s123 of the PA2008 as well as the CA Guidance.
- The powers sought in relation to Statutory Undertakers meet the conditions set out in s127 and s138 of the PA2008 and the CA Guidance.
- The powers sought in relation to special category land meet the conditions set out in s132 of the PA2008 and the CA Guidance.
- The application, disapplication and modification of public general legislation included in Schedule 15 and amendment of local legislation in Schedule 16 of the dDCO [REP9-006], and the subject of Articles 55 and 56 thereof, are reasonable and necessary to deliver the Proposed Development.

6.13.2. Considering all the above, the ExA finds there is a compelling case in the public interest for the CA and TP powers sought.

6.13.3. If the Secretary of State is minded to grant development consent for the Proposed Development, the following outstanding matters should be considered:

- If agreement has been reached between the Applicant and Network Rail Infrastructure Limited about the wording of Schedule 14, Part 4, Paragraphs 30(1), (6) and (7) of the Applicant's dDCO [REP9-006], whether the objection can be withdrawn.
- If agreement has been reached between the Applicant and Network Rail Infrastructure Limited, whether the Applicant's applications under s127 and s138 of the PA2008 can be withdrawn.
- A potential interface agreement between the Applicant, East Anglia THREE Limited and Scottish Power Renewables, which may result in the associated representation being withdrawn.
- The Applicant's request to the Secretary of State that its relevant application under s127 of the PA2008 be withdrawn if East Anglia THREE Limited's representation is withdrawn.
- Anglian Water Service Limited's position that if an interface agreement is concluded with the Applicant that its representation be withdrawn.
- The Applicant's request to the Secretary of State that its application under s127 of the PA2008 be withdrawn if the Anglian Water Services Limited representation is withdrawn.
- A potential interface agreement between the Applicant and TC East Anglia One OFTO Limited that might expedite the Secretary of State's consideration of the former's application under s138 of the PA2008.

6.13.4. If the Secretary of State is minded to grant development consent for the Proposed Development, the ExA recommends that:

- the CA powers included in the rDCO be granted;
- the TP powers included in the rDCO be granted;
- the powers authorising the CA of Statutory Undertakers' land and rights over land included in the rDCO be granted;
- the powers authorising the extinguishment of rights and removal of apparatus of Statutory Undertakers included in the rDCO be granted; and
- the powers authorising the CA of rights over open space included in the rDCO be granted.

7. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

7.1. INTRODUCTION

7.1.1. The application included a draft Development Consent Order (dDCO) [APP-034] and an Explanatory Memorandum [APP-035]. Both documents were updated throughout the Examination, with final versions submitted at Deadline 9 ([REP9-006] and [REP9-008] respectively).

7.1.2. The Explanatory Memorandum explained the purpose and effect of each Article and Schedule, and why they were required. It also identified and explained departures from the now-repealed Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (the model provisions). The Explanatory Memorandum described how the dDCO drew on drafting used in other made Orders. The dDCO was provided in the form of a statutory instrument, as required by Section (s)117(4) of the Planning Act 2008 (PA2008).

7.1.3. During the Examination, updated versions of the dDCO were submitted by the Applicant to incorporate changes arising from the Examining Authority's (ExA) written questions and Schedule of Changes to the Draft Development Consent Order ([PD-005], [PD-008] and [PD-009]), points made by Interested Parties and from the proceedings at the Issue Specific Hearings that focused on the DCO. Those were held on:

- 14 September 2023 [EV-010], [EV-012], [EV-014] and [EV-016];
- 8 November 2023 [EV-032] and [EV-034]; and
- 13 December 2023 [EV-048] and [EV-050].

7.1.4. This section of the Report provides an overview of the Examination of the dDCO, including notable changes made during the Examination and changes made to the final dDCO [REP9-006] in order to arrive at the ExA's recommended DCO (rDCO) (included at Appendix D to this Report).

7.1.5. Changes that were necessary to correct typographical or grammatical errors and minor changes in the interests of clarity or consistency are not reported. Unless otherwise stated, all references to the dDCO in this section are to the Applicant's final dDCO [REP9-006].

7.2. THE ORDER AS APPLIED FOR

7.2.1. The structure of the Applicant's final dDCO was:

7.2.2. Part 1 (Preliminary):

- Article 1 sets out how the Order may be cited and when it comes into force; and
- Article 2 sets out the meaning of various terms used in the Order.

7.2.3. Part 2 (Principal Powers):

- Articles 3 and 4 provide development consent for the Proposed Development, and allow it to be constructed, maintained and operated;
- Article 5 sets out the lateral and vertical limits of deviation that apply in respect of linear and non-linear works;

- Articles 6 and 7 set out who has the benefit of the powers of the Order and how those powers can be transferred;
- Article 8 deals with the application of the Town and Country Planning Act 1990 in respect of temporary construction works;
- Article 9 clarifies the position of proposed 'buildings' in relation to the Community Infrastructure Levy Regulations 2010; and
- Article 10 permits certain development authorised by a planning permission within the Order limits without breaching the Order.

7.2.4. Part 3 (Streets):

- Articles 11 to 18 provide for the undertaker to be able to carry out works to, within and under certain streets. These include matters relating to the application of the New Roads and Street Works Act 1991; the relationship between the Order powers and the traffic management permit schemes operated by Essex County Council and Suffolk County Council; to alter the layout of streets; to create or improve accesses; to temporarily close streets and public rights of way; to create or improve accesses; construction, alteration and maintenance of streets; and agreements with street authorities.

7.2.5. Part 4 (Supplemental Powers):

- Article 19 provides supplemental powers in relation to the discharge of water, including amendments to the Land Drainage Act 1991;
- Article 20 sets out powers to carry out protective works to land, buildings, structures, apparatus or equipment;
- Article 21 provides authority to the undertaker to survey and investigate the land; and
- Article 22 requires the undertaker, before it carries out any development or works which will or may disturb any human remains, to remove those remains.

7.2.6. Part 5 (Acquisition and Possession of Land):

- Articles 23 to 41 provide powers in relation to the Compulsory Acquisition (CA) and Temporary Possession (TP) of land. This includes the extinguishment and suspension of private rights; power to override easements; modification of the Compulsory Purchase Act 1965; and temporary use of land for the carrying out of works and their maintenance. It also provides for powers in relation to the land and apparatus of Statutory Undertakers.

7.2.7. Part 6 (Miscellaneous and General):

- Articles 45 to 59 provide various general provisions including: the application of landlord and tenant law; defence to proceedings in respect of statutory nuisance; traffic regulation; felling or lopping of trees and removal of shrubs and (important) hedgerows; protection of interests through Protective Provisions (PPs); certification of plans, service of notices, procedure regarding certain approvals; safeguarding the authorised development from development in the vicinity; no double recovery of compensation; application, disapplication and modification of legislative provisions; amendment of local legislation; and arbitration. It also sets out powers in respect of the temporary closure of, and works in, the River Stour.

7.2.8. There are 17 Schedules to the Order:

- Schedule 1, providing the description of the authorised development pursuant to Article 3.

- Schedule 2, specifying plans to be certified in accordance with Article 57.
- Schedule 3, setting out the 14 Requirements that control the powers contained in the various Articles.
- Schedule 4, providing the procedure for the discharge of Requirements and consents under any other provision of the Order by relevant authorities, pursuant to Article 52.
- Schedule 5, listing streets subject to street works, pursuant to Article 11.
- Schedule 6, listing streets subject to alteration of layout, be that permanent (Part 1) or temporary (Part 2), pursuant to Article 14.
- Schedule 7, listing streets or Public Rights of Way (PRoW) to be temporarily stopped pursuant to Article 15. A diversion is to be provided for those in Part 1, and no diversion is to be provided for those in Part 2.
- Schedule 8, describing points of access to works in each administrative area, pursuant to Article 16.
- Schedule 9, setting out the modifications to the statutory provisions applicable to compensation and compulsory purchase enactments for creation of new rights under the Order, pursuant to Article 24.
- Schedule 10, setting out the land referred to in Articles 26 and 27 which the undertakers may temporarily occupy and the purpose for which that temporary possession may be taken.
- Schedule 11, listing the plots where rights in relation to removed apparatus are to be extinguished, pursuant to Article 40.
- Schedule 12, listing roads that are to be subject of Traffic Regulation Orders, pursuant to Article 47. Those in Part 1 are to be subject to temporary restriction of waiting and restriction of speed, Part 2 temporary restriction of access, Part 3 temporary restriction of movement and Part 4 temporary No Overtaking Orders.
- Schedule 13, listing trees subject to Tree Preservation Orders, pursuant to Article 49.
- Schedule 14, providing, in five Parts, PPs for Statutory Undertakers whose equipment may be affected by the authorised development, pursuant to Articles 43, 44 and 51.
- Schedule 15, specifying the general public legislation that Article 55 makes provision for applying, modifying and excluding.
- Schedule 16, specifying the local legislation to be excluded in relation to the authorised development, further to Article 56
- Schedule 17 lists the plans and documents to be certified pursuant to Article 57.

7.2.9. The ExA finds the structure of the Applicant’s final dDCO [\[REP9-006\]](#) fit for purpose and does not recommend any structural changes.

7.3. EXAMINATION OF THE DEVELOPMENT CONSENT ORDER

7.3.1. The Applicant submitted clean and tracked change versions of its dDCO at various stages during the Examination. In each case, the changes were summarised in a Schedule of Changes to the Draft Development Consent Order. Updated versions of the Explanatory Memorandum were also submitted.

7.3.2. The versions of the dDCO submitted by the Applicant are summarised in Table 7.1.

Table 7.1: Key DCO documentation submitted into the Examination

dDCO revision	Deadline	Examination Library reference
01	Submission	Application dDCO [APP-034]

dDCO revision	Deadline	Examination Library reference
		Explanatory Memorandum [APP-035]
02	D2	dDCO (clean) [REP2-004] dDCO (tracked) [REP2-005]
03	D3	dDCO (clean) [REP3-007] dDCO (tracked) [REP3-008] Explanatory Memorandum (clean) [REP3-009] Explanatory Memorandum (tracked) [REP3-010] Schedule of Changes (clean) [REP3-040] Schedule of Changes (tracked) [REP3-041]
04	D4	dDCO (clean) [REP4-030] dDCO (tracked) [REP4-015] Explanatory Memorandum (clean) [REP4-045] Explanatory Memorandum (tracked) [REP4-040] Schedule of Changes (clean) [REP4-012] Schedule of Changes (tracked) [REP4-004]
05	D5	dDCO (clean) [REP5-005] dDCO (tracked) [REP5-006] Explanatory Memorandum (clean) [REP5-007] Explanatory Memorandum (tracked) [REP5-008] Schedule of Changes (clean) [REP5-020] Schedule of Changes (tracked) [REP5-021]
06	D6	dDCO (clean) [REP6-003] dDCO (tracked) [REP6-004] Explanatory Memorandum (clean) [REP6-005] Explanatory Memorandum (tracked) [REP6-006] Schedule of Changes (clean) [REP6-030] Schedule of Changes (tracked) [REP6-031]
07	D8	dDCO (clean) [REP8-004] dDCO (tracked) [REP8-005] Explanatory Memorandum (clean) [REP8-006] Explanatory Memorandum (tracked) [REP8-007]

dDCO revision	Deadline	Examination Library reference
		Schedule of Changes (clean) [REP8-022] Schedule of Changes (tracked) [REP8-023]
08	D9	dDCO (clean) [REP9-006] dDCO (tracked) [REP9-007] Validation Report for Development Consent Order [REP9-010] Final Explanatory Memorandum (clean) [REP9-008] Final Explanatory Memorandum (tracked) [REP9-009] Schedule of Changes (clean) [REP9-052] Schedule of Changes (tracked) [REP9-053]

7.3.3. The material and notable changes made to the dDCO are summarised in Table 7.2.

Table 7.2: Notable changes made to the dDCO

Version	Notable changes
02/D2	Articles 11, 14, 15, 16, 19, 21, 47 and 48 – Modifying or qualifying the deemed consent provision by addition of the words ‘unless otherwise agreed’ or ‘unless otherwise agreed, if’. Schedule 1, Associated Development - The inadvertent omission of the words ‘materially new’ in sub-paragraph (r) was remedied. Schedule 4, Paragraph 3(2) deleted - provided for the return of fees paid pursuant to Paragraph 3(1) where an application made pursuant to Schedule 4 was rejected as having been invalidly made or was not determined within the specified period.
03/D3	Article 2(1) - A new definition of ‘Public Rights of Way Management Plan’ was included. Article 2(1) - The definitions of ‘Construction Traffic Management Plan’ and ‘Landscape and Ecological Management Plan’ were amended to specifically reference their appendices. Requirement 4 - Sub-paragraph (2) of 4 (Management Plans) was updated to include reference to the Public Rights of Way Management Plan. Requirement 10 - The title of Requirement 10 was amended to ‘Reinstatement planting plan – implementation, compliance and replacement planting’.
04/D4	Articles 11, 14, 15, 16, 19, 21, 47 and 48 - Further amended by deletion of Deadline 2 insertion ‘unless otherwise agreed’ and addition of either ‘(or such other period as agreed by the street authority and the undertaker)’ or a variation thereof dependent on the relevant discharging authority or authorities. Schedule 3, Requirements (Paragraph 1(4)) - Sub-paragraph 1(4) of Schedule 3 (Requirements) ‘is unlikely to’ replaced ‘does not’.

Version	Notable changes
	Schedule 3, Requirements (R11) - A new sub-paragraph (3) was included.
05/D5	<p>Article 2 - The definitions of 'Archaeological Framework Strategy' and 'Outline Written Scheme of Investigation' were amended to reference the fact that both documents are now listed in Schedule 17 (Certified Documents) for the purposes of Article 57.</p> <p>Requirement 7 – A new sub-paragraph (2) was included in to ensure that no percussive piling operations took place on Sundays and Bank Holidays.</p> <p>Requirement 11 - Sub-paragraph (3) added so that all 'pre-commencement operations' (as defined in Article 2(1)) involving the construction or alteration of temporary accesses must be carried out in accordance with sub-paragraphs (1) and (2) of Requirement 11 unless otherwise agreed with the relevant highway authority.</p> <p>Schedule 14, Protective Provisions - A new Part 5 included Protective Provisions for the protection of Cadent Gas Limited as gas undertaker.</p>
06/D6	Requirement 9 - Sub-paragraph (2) was included to make clear that any reinstatement planting plan submitted under sub-paragraph (1) must, where relevant to that stage, include a landscape plan showing landscape mounding, planting and proposed finishes for hard landscape features in respect of each cable sealing end compound.
07/D8	<p>Articles 46(1)(a)(ii), 46(1)(b) and 46(2) were amended.</p> <p>Article 47 - Articles 47(1) and 47(2) were amended and a new Article 47(6) included.</p> <p>Requirement 1 – New definition of 'Reinstatement planting' included.</p> <p>Requirement 5 – Two amendments to provisions for limits of deviation.</p> <p>Requirement 7 – Various amendments to construction hours.</p> <p>Schedule 4, Paragraph 3(1)(b) amended so relevant authority could charge £145 for discharge of a Requirement.</p> <p>Schedule 14, Part 4, amendments to Paragraphs 30(1), (6) and (7) of the Protective Provisions for Network Rail Infrastructure Limited.</p> <p>Schedule 15, Public General Legislation – Paragraph 3 (Town and Country Planning Act 1990) was deleted.</p>
08/D9	<p>A new Requirement 14 (Approval and implementation of Soil Management Plan) was included.</p> <p>Schedule 9, Modification of Compensation and Compulsory Purchase Enactments for Creation of New Rights - A new Paragraph 6 was included in order to give effect to existing drafting in paragraph (3) of Article 24</p> <p>Schedule 14, Part 2 - Paragraph 9 was amended to reflect the repeal of Schedule 2 to the Telecommunications Act 1984.</p>

DRAFTING CONVENTION

7.3.4. The ExA notes that Planning Inspectorate guidance is for the dDCO to be submitted as a draft Statutory Instrument, following the statutory drafting conventions of the

Office of the Parliamentary Counsel. As such, the use of the word 'shall' should be avoided.

- 7.3.5. The drafting conventions also direct that words are used rather than numerals for references to quantities between one and ten inclusive, and that references to the Order that is sought are capitalised. The ExA has followed the conventions in its recommended changes to the dDCO and highlights where amendments are required in the Applicant's drafting for consistency. It has also made some presentational amendments to references to times for consistency.
- 7.3.6. The ExA therefore recommends changes in line with this policy. These are listed at Appendix A of this Report in Tables A8 and A9 and have been incorporated in the rDCO.

DISCUSSION OF MATTERS OF CONTENTION

- 7.3.7. As evidenced in the final dDCO [\[REP9-006\]](#) and Table 7.2 above, the Applicant addressed some of the matters raised by the ExA and Interested Parties (IPs) in relation to the dDCO through drafting amendments during the Examination. Where the Applicant chose not to revise the dDCO in response to matters raised in submissions, questions, and the ExA's Schedule of Changes to the dDCO [\[PD-009\]](#), it explained the reasons for this and, in some cases, added wording to the Explanatory Memorandum or relevant management plans secured by the dDCO to achieve what it considered to be the same outcome.
- 7.3.8. This section of the Report focusses on the principal matters that had not been agreed between IPs and the Applicant by the end of the Examination and certain matters that were the subject of the ExA's written questions or discussion at hearings about potential changes to the Applicant's final dDCO [\[REP9-006\]](#).
- 7.3.9. Table 7.3 sets out the dDCO provisions that the ExA recommends are changed. Bold text in Table 7.3 identifies insertion of new recommended text, while text shown with a strike through is suggested for deletion. The recommended changes are reflected in the rDCO at Appendix D to this Report.
- 7.3.10. The remainder of this section covers the following matters:
- Interpretation, Article 2 and Requirement 1.
 - Principal powers.
 - Streets and public rights of way including general issues relating to deemed consent and the time-period for considering applications made under articles and requirements.
 - Protective works, Article 20.
 - Authority to survey and investigate land, Article 21.
 - Removal of human remains, Article 22.
 - Temporary Possession, Articles 26, 27 and 28.
 - Safeguarding, Article 53.
 - Schedule 1 Authorised Development.
 - Schedule 3 Requirements.
 - Schedule 4 Discharge of Requirements.
 - Schedule 14, Part 4, For the protection of Network Rail Infrastructure Limited.
- 7.3.11. Matters relating to Compulsory Acquisition (Articles 23 and 24 of the dDCO [\[REP9-006\]](#)) and PPs for Statutory Undertakers, other than Network Rail Infrastructure Limited, (Schedule 14 of the dDCO) are addressed in section 6 of this Report.

PART 1 PRELIMINARY

Interpretation: Bank Holiday

- 7.3.12. Suffolk County Council was content with how 'Bank Holiday' was defined in Article 2(1) of the dDCO [REP9-006] but considered that, as its use was confined to Schedule 3, the definition should be moved to Requirement 1(1) [REP9-074].
- 7.3.13. The Applicant pointed out that, as the definition of 'business day' in Article 2(1) of the dDCO included reference to Bank Holidays, it was appropriate to retain the definition in its current location [REP10-020].

ExA's consideration

- 7.3.14. The ExA agrees with the Applicant's view that the definition is correctly included in Article 2(1). No change is recommended.

Interpretation: Environmental Statement

- 7.3.15. In the ExA's Schedule of Changes to the dDCO [PD-009] it was suggested that the Applicant amend its definition of the Environmental Statement (ES) to include a wider range of documents than originally captured within the definition. Whilst the Applicant was content to include the Errata List, it explained why it was not amenable to including all documents listed under Volume 6, Environmental Information, in the final version of the Navigation Document, and 'any environmental management plan' submitted for the purposes of complying with or discharging Requirements as opposed to 'any environmental statement' ([REP8-032] pages 2 and 3).
- 7.3.16. Suffolk County Council said [REP8-045] that as neither the Navigation Document or Errata List were referred to in the dDCO, a definition of each should be included in Article 2(1) and in Schedule 17 (Certified Documents). The Applicant said that the purpose and effect of the Errata List is self-evident, it would be a certified document, thus no definition is needed [REP10-014].

ExA's consideration

- 7.3.17. The ExA is persuaded by the Applicant's evidence about why the suggested inclusion of all documents listed under Volume 6, Environmental Information is unnecessary and agrees with its reference to 'any environmental statement' rather than 'any environmental management plan'.
- 7.3.18. Regarding the definition of the Navigation Document [REP10-002] and Errata List [REP9-054], the ExA agrees with the Applicant that their scope and purpose are self-evident. The Errata List is rightly included at Schedule 17 on the list of certified documents as it relates to errors in other documents that are to be certified, thus its inclusion is essential. Section 1.2 of the Navigation Document sets out its purpose: it does not update or amend any of the documents to which it refers, its purpose is for ease of reference. Therefore, it does not need to be included in Schedule 17.
- 7.3.19. As the dDCO [REP9-006] includes the necessary amendment, no further change is recommended.

Interpretation: Landscape and Ecological Management Plan

- 7.3.20. In the ExA's Schedule of Changes to the dDCO [PD-009], the Applicant was asked to revise the definition of the Landscape and Ecological Management Plan (LEMP)

to reflect the fact that there were three separately produced Appendices in addition to the parent document. The Applicant did this in its next iteration of the dDCO. Suffolk County Council subsequently pointed out that the suffixes to the Appendices needed to be updated to reflect revised versions of all four documents submitted at Deadline 7 [REP8-045].

ExA's consideration

- 7.3.21. The ExA is content that the LEMP is correctly defined in Article 2, reflecting the most recent versions of the LEMP and its Appendices, and that this has been correctly transposed into Article 57 of the dDCO [REP9-006]. No further change is needed.

PART 2 PRINCIPAL POWERS

Article 3: Development consent etc. granted by the Order

- 7.3.22. Having noted that the PA2008 explicitly provides for the installation of overhead electricity transmission lines but not for their use, the ExA suggested that Article 3 be amended by deletion of sub-paragraphs (4) and (5). Relevant made Orders for electricity transmission lines (The National Grid (Hinkley Point C Connection Project) Order 2016 and The National Grid (Richborough Connection Project) Development Consent Order 2017) did not appear to include powers to use those NSIPs for transmission, so those projects were assumed to rely on alternative mechanisms for authorising the use of the electricity lines for transmission. The Explanatory Memorandum [REP6-005] did not provide sufficient explanation or justification as to why a different approach to seeking operational powers was sought in this case [PD-009].
- 7.3.23. Suffolk County Council agreed with the recommend change for the reasons given by the ExA [REP8-045], whereas the Applicant did not [REP8-032]. It referred to Section 2.1 of the Planning Statement [REP6-011], which explained that the Applicant held an electricity transmission licence covering England and Wales, whilst UKPN (as Distribution Network Operator for the geographic area in which the Proposed Development is sited) held an electricity distribution licence. Those licences allowed for the operation and use of infrastructure and apparatus (including electric lines as defined in Article 2(1) of the dDCO) forming part of the electricity transmission and distribution networks (respectively), subject to compliance with conditions.
- 7.3.24. Whilst the Applicant noted the ExA's observations, it considered it appropriate, as a matter of clarification from both a planning and a land use perspective (as distinct from a regulatory perspective), to include sub-paragraphs (4) and (5) in Article 3. It identified the legal basis for including sub-paragraphs (4) and (5) as s120(3) or s120(5) of the PA2008, noting that s120(3) allowed for, 'an order granting development consent [to] make provision relating to, or to matters ancillary to, the development for which consent is granted', whilst s120(5)(d) permitted, amongst other things, the inclusion of, 'incidental, consequential, supplementary, transitional or transitory provisions and savings.'

ExA's consideration

- 7.3.25. The Applicant's explanation for not incorporating the recommended changes to Article 3 in the dDCO [REP9-006] was persuasive and the ExA is content that no amendment is needed.

Article 10: Planning Permission

- 7.3.26. The Applicant set out its rationale for inclusion of Article 10, which would permit certain development authorised by a planning permission within the Order Limits without breaching the Order, at section 3.14 of its Explanatory Memorandum [\[REP9-008\]](#).
- 7.3.27. The ExA asked [\[PD-005\]](#) three questions of the Applicant (DC1.6.19, DC1.6.20 and DC1.6.21), which it answered in its Response to First Written Questions [\[REP3-052\]](#). The ExA followed up with four suggested changes to Article 10 in its Schedule of Changes to the Draft Development Consent Order [\[PD-009\]](#). The Applicant disagreed with the proposed changes and set out its reasons for doing so [\[REP8-032\]](#).
- 7.3.28. The Applicant explained that insofar as it needed to obtain any other planning permission for anything relating to the authorised development (i.e., to facilitate its completion, construction, use or operation), Article 10(1) would seek to avoid any question as to the interface between any such planning permission and the Order (i.e., those planning permissions would not constitute a breach of the terms of the Order) [\[REP9-008\]](#). It added that, whilst there was no current intention to do so, it was considered necessary and appropriate to provide for a possibility whereby certain elements of the authorised development might be required to be consented through other means. For example, it might be the case that express planning permission may have to be sought for certain other access or enabling works, or to facilitate future maintenance or operation. Without Article 10(1), the Applicant perceived there would be both legal and practical uncertainty as to whether a breach of the Order would occur pursuant to s161 of the PA2008 if development was undertaken in accordance with those other permissions without compliance with, for example, the Requirements of the Order [\[REP8-032\]](#).
- 7.3.29. Suffolk County Council was not persuaded by the need for this provision because, as the Applicant acknowledged, there was no intention to do what it provided for. It recognised the existence of precedent but said that those provisions were the exception rather than the rule for DCO drafting [\[REP9-074\]](#).

ExA's consideration

- 7.3.30. Having re-considered its position in light of the Applicant's response to the suggested amendments to Article 10 [\[PD-009\]](#) and Suffolk County Council's submission on Article 10(1), the ExA found the former's evidence persuasive and is not suggesting changes to the provision. However, as pointed out by Suffolk County Council, for factual correctness, Article 10(3) needs to be amended to refer to 'sub-paragraphs (1) and (2)' [\[REP8-045\]](#). This amendment has been included in Table 7.3 of this Report and the rDCO.

PART 3 STREETS

Article 11: street works (and others)

- 7.3.31. In their Local Impact Report (LIR), Suffolk County Council and Babergh and Mid Suffolk District Councils [\[REP1-045\]](#) said that, in respect of Article 11(3), 56 days would be more suitable than 28 days for notifying the Applicant of any decision by the County Council of planned street works within the scope of Article 11 [\[REP9-006\]](#).

- 7.3.32. Suffolk County Council subsequently took a firmer position [\[REP2-013\]](#) on the notification period for deemed approvals. It was mainly concerned that 28 days would not be a sufficient period within which to assess and decide on the Applicant's proposals for street works and asked the ExA to take account of the following:
- it would be receiving a considerable number of requests for approval across several NSIPs;
 - a 28-day decision-making period would be unrealistic, and potentially detrimental to the effective consideration of applications; and
 - the notification period should be paused should the highway authority consider that additional information would reasonably be required to enable it to make a decision.
- 7.3.33. The Applicant [\[REP2-004\]](#) revised Article 11(3) and explained that the amendment would allow the undertaker and the street authority to agree on a case-by-case basis an alternative period of time within which the street authority would be permitted to determine an application, before consent would otherwise be deemed to have been given.
- 7.3.34. The Applicant further said [\[REP3-049\]](#) it had given due regard to the Council's comments on the 28-day consent period and committed to give advance notice to the relevant highway authorities of when applications seeking consent to carry out works on the public highway would be submitted, but reasserted that the deemed decision-making period was necessary for the timely delivery of the Proposed Development.
- 7.3.35. The Applicant noted [\[REP3-049\]](#) there was precedent for a 28-day period in existing Orders, including:
- The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (for example, Articles 18(9) and 19(8)).
 - The A57 Link Roads Development Consent Order 2022 (for example, Articles 14(6) and 18(11)).
 - Awel y Môr Offshore Wind Farm Order 2023 (for example, Articles 12(6) and 15(6)).
- 7.3.36. Suffolk County Council was not convinced [\[REP4-043\]](#) that the proposed re-drafting of Article 11(3) would achieve the Applicant's aim of allowing the undertaker and street authority to agree an alternative period. Furthermore, it did not consider the Applicant's revision was satisfactory as it could withhold its agreement to extend the 28-day period. Suffolk County Council also noted that the determination period should begin on the date the notification was received, not made.
- 7.3.37. The Applicant subsequently amended Article 11(3) at Deadline 4 [\[REP4-030\]](#) to revise the start of the determination period to the date the notification was received.
- 7.3.38. The ExA [\[PD-009\]](#) suggested a change to Article 11(3) to extend the period of proposed notification by seven days to provide a reasonable period that would allow for the exchange of any requisite further information.
- 7.3.39. Braintree District Council and Essex County Council [\[REP8-040\]](#) were supportive of the recommended increase in the time period. Suffolk County Council was not wholly satisfied [\[REP8-045\]](#) and set out further reasoning why it should be increased to 56 days:

- the number of NSIPs that the County Council was dealing with, and would be dealing with for the foreseeable future, was unprecedented; and
- from corporate experience, 56 days would be a reasonable time frame.

7.3.40. The Applicant held its position [\[REP8-032\]](#) and disagreed with the ExA's recommended amendment to Article 11(3). It recognised the practical pressures faced by the host authorities and remained committed to working closely with them to ensure that they were fully aware of when applications for consent were proposed to be submitted under Article 11(2).

7.3.41. The Applicant said that it was likely that the submission of a staging plan pursuant to Requirement 3 would be of particular benefit in this context. In addition, the inclusion of the words, 'unless otherwise agreed' in Article 11(3) was intended to allow for matters, including requests made by the local authorities for further information, to be dealt with on a case-by-case basis and in line with the terms of the framework highways agreement or any future planning performance agreement.

7.3.42. However, from the Applicant's perspective, it was equally important to have regard to the fact that it was bound by, and subject to, various statutory and regulatory duties. These included the requirement to maintain the national electricity transmission system safely, reliably, economically, and efficiently, in accordance with Section 9 of the Electricity Act 1989 and, at all times, to adhere to the standards set out in the National Electricity Transmission System Security and Quality of Supply Standard. When considered alongside the immediate and pressing national need for the project, the Applicant considered that 28 days was proportionate, appropriate, and necessary.

7.3.43. While Suffolk County Council considered 35 days preferable to 28 days, it maintained its position ([\[REP1-045\]](#), [\[REP2-013\]](#), [\[REP4-043\]](#) and [\[REP9-074\]](#)) that the period was too short and should be 56 days. The same point applied to the time limits included in 14(5), 15(9), 16(2), 19(9), 21(8), 47(8), 48(5) and Paragraph (1) of Schedule 4 of the dDCO. It added that this position was accepted by the Secretary of State in the Sizewell C DCO, where there was a time limit for acceptance. Similarly, the Sunnica Energy Farm applicant had included the 56-day time limit in its draft Order. For consistency across projects, the Council argued that the same time limit should be included in this draft Order.

7.3.44. Suffolk County Council noted that it was the host authority for several DCOs. It was discharging requirements or being consulted on the discharge of requirements arising from the DCOs for the East Anglia One North Offshore Wind Farm Order 2022, the East Anglia Two Offshore Wind Farm Order 2022 and the Sizewell C (Nuclear Generating Station) Order 2022.

7.3.45. The Secretary of State's decision on the Sunnica Energy Farm DCO was due in March 2024 and, if consent were granted, Suffolk County Council would also be responsible for discharging requirements and would be consulted on requirements being discharged by others for that project. In addition to its ongoing work on this application, it noted that further DCO applications were also at their formative stages, namely North Falls Offshore Wind Farm, Five Estuaries Offshore Wind Farm, Sea Link, LionLink Multi- Purpose Interconnector, and the Nautilus Interconnector. These would, in due course, require substantial input.

7.3.46. The Council added that its officers would be responsible for discharging requirements on several DCOs simultaneously for many years. The number of similar projects that it was dealing with, and would be dealing with for the

foreseeable future, was considered unprecedented in terms of host authorities in other parts of the country and this had to be reflected in the Orders themselves. It would be essential that officers had sufficient time to carry out their duties properly and, owing to its experience of hosting NSIPs, Suffolk County Council considered 56 days to be a reasonable time frame.

- 7.3.47. The host authorities revisited the issue in their final position statements ([[REP9-072](#)], page 8) and ([[REP10-018](#)], Section 6.2) respectively. In those final position statements, on the general topic of the discharge of requirements, Braintree District Council and Essex County Council [[REP10-018](#)] and Suffolk County Council and Babergh and Mid Suffolk District Councils [[REP9-072](#)] stated:

'it is in the public interest that the matters that are the subject of the discharge submissions are given thorough and effective scrutiny by the discharging authority, and that outcome is likely to be frustrated if the period of time available is inadequate. SCC therefore does not accept the Applicant's arguments for retaining a 28 day period and maintains its position that 56 days is needed'.

- 7.3.48. The Applicant's position remained unchanged at the end of the Examination [[REP10-006](#)]. It asserted that the suggested alternative of 56 days would not be conducive to the timely delivery of the Proposed Development for which there was a critical national need.

ExA's consideration

- 7.3.49. The ExA considers that 28 days would not provide sufficient time for the street authorities to consider the Applicant's detailed proposals to carry out works on, under or over streets. For example, the use of scaffolding to over-sail a highway [[REP9-033](#)] as a temporary works safeguarding feature, which is not common to publicly accessible streets, would require complex and bespoke design to ensure they remain safe. The level of design would come under the category of highest design risk for temporary works, needing robust and thorough design check certification and the likely need for the exchange of information.
- 7.3.50. The ExA noted Suffolk County Council's suggestion that Sizewell C and Sunnica Energy Farm provided precedent that should be followed for sake of consistency. The submission dDCO for Sizewell C offered 56 days from the outset in, for example, Articles 11(4), 12(3) and 19(2). In Schedule 23, 8 weeks was allowed for applications made under Requirement. Whilst the Secretary of State's decision is pending in respect of Sunnica Energy Farm, the ExA notes that, for example, the 8-week period provided for the discharge of Requirements in Schedule 13(2) was also included by the Applicant from the outset in the submission dDCO. In those instances, the Applicant obviously considered that the notification or discharge periods were consistent with their stated need for the development and timeframes for construction. In this instance, the Applicant has been unequivocal and consistent in its stated need for a maximum of 28 days.
- 7.3.51. Whilst the Applicant's reasons in this respect are noted, as is Suffolk County Council's evidence about the cumulative impact of consented and proposed NSIPs on its resources, the ExA considers that a further seven days should be allowed for the street authority to make its decision in respect of the deemed consent provision in Article 11(3). The 35-day period is considered to be a necessary, reasonable and proportionate balance. This is recommended in respect of Article 11(3), as shown in Table 7.3 and in the rDCO.

- 7.3.52. This raises the issue of consistency in respect of similar articles and Paragraph 1 of Schedule 4 that have the same notification period. The ExA reviewed relevant made Orders, including Richborough and the Southampton to London Pipeline, and noted that there is internal consistency in timeframes across different provisions albeit that the actual time-period is different in those instances.
- 7.3.53. For the sake of consistency, the ExA considers that the same change should be made to the notification period in 14(5), 15(9), 16(2), 19(9), 21(8), 47(9), 48(5), and paragraph 1(1) of Schedule 4, as shown in Table 7.3 and included in the rDCO.

Article 11: street works, deemed consent and ‘unreasonably withheld or delayed’ (and others)

- 7.3.54. There were several representations (for example, Suffolk County Council [[REP9-074](#)]) that highway-related provisions in the dDCO, where they include deemed consent provisions, should omit reference to such consent not being unreasonably withheld or delayed.
- 7.3.55. Suffolk County Council said that it would already be required to approve various documents, and there was also a provision that it is deemed to be given after the prescribed period. Inclusion of, ‘which consent should not unreasonably be withheld or delayed’, appeared to be unprecedented in DCOs or not well preceded. For instance, the words were included in Article 11(2) of this dDCO [[REP9-006](#)] but they did not appear in the equivalent provisions of the DCOs cited by the Applicant as precedents in Section 3.19 of the Explanatory Memorandum [[REP9-008](#)]. No justification was provided for the inclusion of both, ‘unreasonably withheld or delayed’ and, in Suffolk County Council’s opinion, a very short deeming provision.
- 7.3.56. Suffolk County Council added that it would be receiving considerable numbers of requests for approval and would ensure that they were dealt with as quickly as possible. With the deeming provisions included, there was no need to say that the approvals must not be unreasonably withheld or delayed, and, in some cases, the deeming provisions were unprecedented and unnecessary. Moreover, by virtue of s161(1)(b) of the PA2008 it would be an offence for a person to fail to comply with the terms of a DCO. The Council considered it excessive to potentially face criminal liability in these circumstances.
- 7.3.57. Suffolk County Council considered that, as well as being removed from Article 11(2), the words ‘unreasonably withheld or delayed’ should be omitted from equivalent articles.

ExA’s consideration

- 7.3.58. Where provision is made for deemed consent after a given time-period, the ExA is not persuaded of the need to retain reference to ‘unreasonably withheld or delayed’ elsewhere in the article or Schedule 4 provision, especially when Suffolk County Council’s point about potential legal liability is factored in. It is unreasonable and unnecessary.
- 7.3.59. Therefore, as shown in Table 7.3 and the rDCO, consequent amendments have been made to Articles: 11(2) (street works); 14(4) (power to alter layout, etc. of streets); 15(2) and 15(5)(b) (temporary stopping up of streets and rights of way); 16(1)(b) (access to works); 19(3) and 19(4)(a) (discharge of water); 21(5) (authority to survey and investigate the land); 47(2) (traffic regulation); and 52(1) (procedure regarding certain approvals etc).

Article 12: Application of the permit schemes

- 7.3.60. The Applicant acknowledged [REP6-043] there were limitations to the scope of street and highway works capable of being authorised by the permit schemes operated by Essex County Council and Suffolk County Council. It noted that proposed framework highway agreements with the two authorities would be used to regulate those elements of the highway works and operations associated with the Proposed Development that fall outside of the scope of the permit schemes.
- 7.3.61. Suffolk County Council [REP6-057] reported that some of the planned street and highway activities would need to be authorised by licences under the Highways Act 1980 such as:
- s169 control of scaffolding on highways;
 - s178 restriction on placing rails, beams etc over highways; and
 - s278 agreements as to execution of works.
- 7.3.62. The placement of portable road signage would be authorised by the permit scheme [REP6-057].
- 7.3.63. As the ExA considered that powers granted to the Applicant under Article 12 to carry out maintenance of the Proposed Development were neither proportionate nor necessary, it suggested an amendment to limit the scope of Article 12(1) and (3) to the construction stage [PD-009].
- 7.3.64. The Applicant did not accept the recommended change and said [REP8-032] that it drafted Article 12(1) and (3) to give effect to the position agreed between the Applicant and the local highways authorities, namely that the permit schemes would apply to both the construction and maintenance of the Proposed Development, subject to the qualifications set out in Article 12(2) and (3). The Applicant added that the recommended change had not been sought by the local highway authorities.
- 7.3.65. Braintree District Council, Essex County Council and Suffolk County Council ([REP8-040] and [REP8-045]) agreed with the ExA's recommended change to Article 12.

ExA's consideration

- 7.3.66. The Applicant proposed that the powers of Article 12(1) and (3) should be extended to cover the operating lifetime of the Proposed Development. The ExA considers that such powers would be unnecessary beyond the duration of construction of the Proposed Development. The ExA has therefore recommended amendment Article 12(1) and (3) to cover the construction phase only as set out in Table 7.3 and included in the rDCO.

Article 17: Construction, alteration and maintenance of streets

- 7.3.67. In their LIRs, Braintree District Council and Essex County Council [REP1-039] and Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] requested that procedures were introduced to:
- notify the County Council of the completion of highway works before the end of the maintenance period;
 - approve the designs and inspect the construction of such works; and
 - require any sub-standard works to be made good before adoption.

- 7.3.68. The Applicant ([[REP3-049](#)] and [[REP3-050](#)]) pointed out that Article 17 required highway works to be completed to the satisfaction of the relevant highway authority and said that a notification mechanism relating to completion of works would be helpful. It expected to enter into a framework highway agreement with the two authorities to regulate how street works and other highways powers would be exercised during construction of the Proposed Development.
- 7.3.69. Whilst the Explanatory Memorandum [[REP6-005](#)] mentioned a 12-month maintenance period, there was no reference to any maintenance period in Article 17 of the dDCO [[REP6-003](#)]. The ExA therefore recommended amendment of Article 17(1) and (2) to include reference to a 12-month maintenance period.
- 7.3.70. Suffolk County Council [[REP8-045](#)] agreed with the proposed amendments. Essex County Council did not comment.
- 7.3.71. The Applicant referred [[REP8-032](#)] the ExA to its previous submissions ([[REP3-049](#)] and [[REP3-050](#)]), in which it said that this matter could be addressed in the framework highways agreement with the local highways authorities in order to regulate how street works and other highways powers would be exercised during construction. Notwithstanding that its position remained as set out in the previous submissions, the Applicant incorporated the recommended amendment into the dDCO [[REP9-006](#)].

ExA's consideration

- 7.3.72. As the Applicant included the ExA's suggested amendments in its dDCO, no further change is required.

PART 4 SUPPLEMENTAL POWERS

Article 20: Protective works

- 7.3.73. The unresolved issues associated with this Article at the end of the Examination emerged from the ExA's first written questions ([[PD-005](#)], DC1.6.41 and DC1.6.42).
- 7.3.74. East Anglia THREE Limited and Scottish Power Renewables understood the need for what they described as the very broad scope of the powers sought. They had no objection provided the impacts of the powers exercised and the works carried out under the provision were mitigated through a side agreement between them and the Applicant [[REP3-069](#)].
- 7.3.75. Article 20(5) would require the undertaker to give not less than 14 days' notice to the owners or occupiers of land or buildings of its intentions to exercise its rights in accordance with Articles 20(1), (3) and (4). Article 20(6) required the recipient of such notice to serve counter-notice on the undertaker within ten days of service of the notice if it opted to refer to arbitration whether it was necessary or expedient to carry out the protective works or enter the building or land.
- 7.3.76. East Anglia THREE Limited and Scottish Power Renewables said that the notice periods should be 28 and 21 days respectively to afford sufficient time to evaluate what the Applicant proposed to do as, given the nature of the East Anglia THREE Limited and Scottish Power Renewables works, rights and apparatus might be affected.
- 7.3.77. The Applicant said that Article 20 was a temporary power that would allow the undertaker to enter onto land to undertake protective works [[REP3-052](#)]. Paragraph

3.24 of the Explanatory Memorandum [REP9-008] noted that the equivalent power had been included in other DCOs and the same 14-day notice period was permitted in those instances. A 14-day notice period was also consistent with the notice period stipulated in Article 21 (in respect of surveys and investigations) and Articles 26 and 27 (in respect of temporary use of land). It added that if a party upon whom notice was served did not wish for such works to be undertaken, then they could serve a counter notice.

- 7.3.78. The Applicant also referred to on-going negotiation with East Anglia THREE Limited and Scottish Power Renewables regarding an interface agreement in respect of their land at Bramford Substation that was subject of the Statement of Common Ground between the parties [REP10-010] and the parties' response [REP10-024] to the ExA's Rule 17 request [PD-015].
- 7.3.79. Braintree District Council and Essex County Council sought clarification as to whether protective works outside the Order Limits would constitute development for which planning permission was required [REP3-061]. The Applicant advised that it expected that planning permission, and possibly further consents, would need to be obtained where protective works to be undertaken outside of the Order Limits comprised development within the meaning of s55 of the Town and Country Planning Act 1990. However, the Applicant added that it would not be appropriate for the dDCO to attempt to address all such eventualities, especially those already controlled as a matter of general planning law, and particularly to prescribe steps to be taken in respect of operations outside the Order Limits [REP3-052].

ExA's consideration

- 7.3.80. The ExA notes the precedent that the Applicant referred to in its Explanatory Memorandum [REP9-008]. The Affected Persons' (APs) evidence as to why both the notice and counter-notice periods should be extended, when weighed against the precedent set by other linear projects, does not persuade the ExA to recommend that that Article 20(5) or (6) be amended.
- 7.3.81. At any rate, East Anglia THREE Limited and Scottish Power Renewables' representative reported at the close of the Examination that the parties continued to have productive discussion, the key interface issues had been agreed, and the Heads of Terms (HoTs) for an interface agreement between them had been agreed. As a fallback position, reported in the previous section of this Report, the ExA concluded that the Compulsory Acquisition (CA) of rights in the APs' land complied with s127 of the PA2008. The ExA concludes that Article 20(5) and (6) do not need to be amended.
- 7.3.82. The Applicant's response to Braintree District Council and Essex County Councils provided clarity on what it saw as the ambit of Article 20. On this basis, the ExA considers that there is no need to amend Article 20.

Article 21: Authority to survey and investigate the land

- 7.3.83. In accordance with Article 21(3), authority to survey and investigate land would be subject to serving at least 14 days' notice on every owner and occupier of the land.
- 7.3.84. This provision was the subject of two of the ExA's first written questions ([PD-005], DC1.6.43 and DC1.6.44). The first asked the Applicant why it considered 14 days to be appropriate and reasonable notice. The second gave APs the chance to say whether they considered it an appropriate and reasonable notice period. One

respondent considered 14 days to be acceptable [REP3-060] and two considered 28 days to be more appropriate and reasonable ([REP3-069] and [REP3-080]).

7.3.85. The Applicant cited three made Orders for linear projects [REP3-052] where the Secretary of State deemed a 14-day period to be reasonable. It considered that this period was proportionate in the circumstances and would ultimately be longer than those that landowners agreed to, in most cases, in relation to carrying out of pre-submission surveys. In addition, authority pursuant to s53 of the PA2008, Paragraph 10 of Schedule 4 to the Electricity Act 1989, and s172 of the Housing and Planning Act 2016 were also exercisable on 14 days' notice.

7.3.86. Article 21 also extends to land owned or occupied by a highway or street authority. By virtue of Article 21(8), if an application to survey and investigate land owned or occupied by them was not determined within 28 days of receipt, the undertaker would benefit from deemed consent to do so.

ExA's consideration

7.3.87. To extend the notice period in Article 21(3) from 14 to 28 days in respect of owners and occupiers of land would be unjustifiably inconsistent with the Applicant's cited precedent as there are no apparent characteristics to persuasively distinguish the Proposed Development from those other linear projects.

7.3.88. Highway and street authorities are already afforded a lengthier notice period. This difference, compared to other owners and occupiers of land is fair and reasonable, given the authorities' statutory duties and possible implications for public safety.

7.3.89. In paragraphs 7.3.52 and 7.3.52 it was decided that the deemed consent provision should only take effect after 35 days instead of 28 given submissions about the public authorities' workloads and competing demands on their time. For the sake of consistency throughout the Order, it was recommended that the same extension apply to Article 21(8) and that mention of consent not being unreasonably withheld or delayed is deleted from Article 21(5). Both recommended changes are set out in Table 7.3 and have been included in the rDCO.

Article 22: Removal of human remains

7.3.90. The Applicant sets out its rationale for inclusion of Article 22 in section 3.26 of its Explanatory Memorandum [REP9-008].

7.3.91. Section 9.4 of the Applicant's Planning Statement [REP6-011] said that it had undertaken a detailed assessment of the land within or near the Order Limits to determine if it was open space, including site visits and a review of aerial photography to identify any land that appeared to be a disused burial ground. Table 9.2, Open Space Assessment, identified potential open space. One site comprised a church building and ancient burial ground but was located outside the Order Limits.

7.3.92. Chapter 8 of the ES, Historic Environment, [APP-076] included relevant non-designated archaeological remains:

7.3.93. A complex cropmark site near Grasmere Farm included enclosures and ring ditches that may date to the prehistoric period. The southern portion of this site also incorporated Dedmans Hill Field (Tithe), a placename that might suggest a burial ground or possible gallows location.

- 7.3.94. Former field boundaries on the south-west side of A134 and the presence of Romano-British archaeology as evidenced from geophysical survey and archaeological trial trenching indicated a settlement with a cremation burial.
- 7.3.95. In addition, the Applicant's 2021 geophysical survey identified further sites of archaeological interest within the Order Limits that might indicate the presence of cremated human remains. One was the proposed construction compound off the A134 around Leavenheath and Assington, where trial trenching confirmed the geophysics results. The Outline Written Scheme of Investigation [REP9-045] said that this would be one of the sites where strip map and sample excavation would be applied.
- 7.3.96. In its Explanatory Memorandum, the Applicant noted that a similar provision was removed from the National Grid (Richborough Connection Project) Development Consent Order 2017 but considered it appropriate to include it in this Order, given the nature of the proposed underground electrical works.

ExA's consideration

- 7.3.97. The ExA notes paragraph 9.1 of the Secretary of State's Richborough decision whereby provisions in relation to human remains and burial grounds were removed as they were judged to conflict with the Archaeological Mitigation Written Scheme of Works. Whilst issued after close of this Examination, the ExA is also aware that the Secretary of State removed a corresponding article from the DCO in the Yorkshire GREEN Energy Enablement Project decision, as it was considered unnecessary given there were no known burial grounds within the Order Limits and any human remains could be dealt with in accordance with the Archaeological Written Scheme of Investigation.
- 7.3.98. The baseline in this instance shows cremated human remains, a settlement with a cremation burial and the possibility of a burial site at Dedmans Hill Field within the Order Limits. On that evidential basis, the ExA considers the Proposed Development to be distinguishable from the cited DCOs. Therefore, it recommends that Article 22 be retained.
- 7.3.99. If the Secretary of State reaches a contrary conclusion and decides to delete Article 22, a fallback position would be available. Good Practice Measure H03 of the Construction Environmental Management Plan, Appendix A, Code of Construction Practice requires that, in the event of finds of human remains, the contractors would comply with the requirements of the relevant legislation and best practice guidance [REP9-035]. That management plan would be secured through Requirement 4(2) of the dDCO [REP9-006]. In addition, the Outline Written Scheme of Investigation [REP9-045] includes a requirement for the archaeological contractor to detail the proposed treatment of human remains, as well as stipulating the need to obtain a project-wide burial licence from the Ministry of Justice prior to the commencement of fieldwork. The Outline Written Scheme of Investigation is secured by Requirement 6 of the dDCO.

PART 5 ACQUISITION AND POSSESSION OF LAND

Temporary Possession: Articles 26, 27 and 28

- 7.3.100. Articles 26(2) and 27(2) require that not less than 14 days' notice be given to the owners and occupiers of land before the undertaker took temporary possession (TP). Article 28(3) would give them not less than 28 days' notice for entry to

maintain the authorised development, except where Article 28(11) would apply if there was a potential risk to safety.

- 7.3.101. The ExA's first written questions [PD-005] asked APs if they agreed with those notice periods. One landowner considered them acceptable [REP3-060] and the other respondent said that the 14 days was 'very tight' and should be increased to 28 days [REP3-069]. The Applicant countered that the minimum 14-day notice period in Articles 26(2) and 27(2) was necessary, appropriate and proportionate given the urgent and well-established need for the Proposed Development [REP3-052].

ExA's consideration

- 7.3.102. The Applicant's evidence is persuasive given the ExA's conclusions on the need case for the Proposed Development earlier in this Report. Whilst not less than 28 days, provided there is no risk to safety, would be appropriate for planned maintenance during the Proposed Development's operational period, the accepted need for it renders the associated notice period distinguishable during the construction phase. No corresponding changes to the dDCO [REP9-006] are required.

PART 6 MISCELLANEOUS AND GENERAL

Article 46: Defence to proceedings in respect of statutory nuisance

- 7.3.103. Article 46 amends the terms of the defence in the case of noise nuisance and relate to controls imposed by the local authority under the Control of Pollution Act 1974, controls and measures relating to noise as described in the Construction Environment Management Plan, or as a consequence of the use of the authorised development and that it cannot reasonably be avoided.
- 7.3.104. Braintree District Council and Essex County Council suggested ([REP6-051], paragraph 6.3.7) that Articles 46(1)(a)(iii) and (iv) should be amended so that it would be for the undertaker to demonstrate to the reasonable satisfaction of the 'relevant local planning authority' that any statutory nuisance was a consequence of the construction or maintenance of the authorised development or a consequence of complying with a Requirement of the Order and therefore could not reasonably be avoided. They said that those amendments would add useful clarity as to which party would determine whether noise in that context could be reasonably avoided. Article 12(1)(b) of The Sizewell C (Nuclear Generating Station) Order 2022 was cited as precedent.
- 7.3.105. The Applicant responded that, notwithstanding the limited precedent found in The Sizewell C (Nuclear Generating Station) Order 2022, it did not consider that the amendments specified were necessary. Indeed, given that the defence relates to proceedings to be heard in the Magistrates' Court, it would be inappropriate for the 'relevant local planning authority' to determine whether or not statutory noise nuisance was a consequence of either the construction or maintenance of the authorised development or compliance with an Order requirement, particularly where the technical content underlying any such determination extended beyond the expertise of that authority [REP7-026].

ExA's consideration

- 7.3.106. The ExA is mindful of the precedent cited but considers that it would be for the court to be persuaded on the undertaker's defence to proceedings in respect of statutory

nuisance in the first instance and there is no need for a local authority to act as an intermediary. Therefore, a change to Article 46 is considered unnecessary.

Article 47: Traffic Regulation

- 7.3.107. Traffic Regulation Orders would be required to regulate traffic during construction and removal of accesses, the erection and dismantling of temporary works and where underground cables cross the local road network.

Consent of the traffic authority

- 7.3.108. In their LIR, Suffolk County Council and Babergh and Mid Suffolk District Councils [\[REP1-045\]](#) suggested a change to the wording of Article 47(1) so that the consent of the traffic authority would be required before the Applicant could exercise powers to regulate traffic on the roads and to the extent specified in Parts 1 to 4 of Schedule 12.

- 7.3.109. The Applicant did not agree and made the following observations [\[REP3-049\]](#):

- the powers given in Article 47 paragraph (1) would be constrained to those geographic locations and purposes specified in Parts 1 to 4 of Schedule 12 to the dDCO [\[REP9-006\]](#);
- Parts 1 to 4 of Schedule 12 would be open to detailed scrutiny, including by the relevant traffic authorities, as part of the Examination of the Proposed Development;
- the detailed content of Parts 1 to 4 of Schedule 12 would be necessary and expedient in relation to the construction or maintenance of the Proposed Development; and
- further scrutiny would be counterintuitive to the fundamental aims of the DCO process.

- 7.3.110. Suffolk County Council did not respond to these points in its subsequent submission to the Examination [\[REP4-008\]](#).

Consultation requirements

- 7.3.111. Suffolk County Council and Babergh and Mid Suffolk District Councils also raised concerns in their LIR [\[REP1-045\]](#) that the consultation requirements under this Article were insufficient. Suffolk County Council considered that the consultation requirements should be comparable with the consultation regime set out in the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, which it would have to follow when making a Traffic Regulation Order.

- 7.3.112. During Issue Specific Hearing 6 (ISH6) [\[EV-057\]](#), the Applicant provided further details of the consultation approach it would follow when the consultation procedures set out in Article 47(3) were activated. It made further comments on the nature and extent of consultation required in its written summary [\[REP6-043\]](#).

- 7.3.113. In its post-hearing submission, Suffolk County Council [\[REP6-057\]](#) welcomed confirmation of the Applicant's consultation approach.

Need for all the Traffic Regulation Orders

- 7.3.114. In their LIRs ([\[REP1-039\]](#) and [\[REP1-045\]](#)), the host authorities questioned the rationale for the Orders set out in Parts 1 and 3 of Schedule 12 of the application dDCO [\[APP-034\]](#). Suffolk County Council added that the proposed parking

restrictions were disproportionate, for example, in terms of signage and road markings, compared to the risk of parked vehicles obstructing the carriageway.

- 7.3.115. The ExA explored the proposed temporary Traffic Regulation Orders in hearings ([[EV-002](#)], [[EV-026](#)] and [[EV-030](#)]) and through written questions [[PD-005](#)], with an emphasis at ISH3 and ISH6 on understanding the need and rationale for them.
- 7.3.116. The Applicant explained its approach to devising the Orders included in Schedule 12 of the dDCO ([[REP1-024](#)], [[EV-039](#)] and [[EV-057](#)]) and provided clarification on the purpose of the Orders in Part 1 of Schedule 12 ([[REP4-050](#)] and [[EV-057](#)]).
- 7.3.117. In its ISH6 post-hearing submission [[REP6-043](#)] the Applicant said:
- the number of Traffic Regulation Orders included in Schedule 12 of the dDCO [[REP5-006](#)] would not be revised downwards;
 - the Traffic Regulation Orders were considered to reflect a reasonable worst-case scenario;
 - the future detailed design stage would draw out site-specific requirements; and
 - it would adopt a proportionate approach in terms of the implementation of traffic regulation measures.
- 7.3.118. In their ISH6 post-hearing submissions, Braintree District Council and Essex County Council and Suffolk County Council ([[REP6-051](#)] and [[REP6-057](#)]) had no objections to the proposed Orders. However, the latter commented that, *'the use of such orders is much greater than for similar projects'*.
- 7.3.119. The Applicant updated the Construction Traffic Management Plan (CTMP) [[REP8-018](#)] and committed to impose Traffic Regulation Orders only where it was necessary to do so.

Addition of Article 47(6)

- 7.3.120. The ExA sought to ensure that the powers provided by Article 47(2) would not remain in force permanently and recommended a new paragraph to this effect [[PD-009](#)].
- 7.3.121. Braintree District Council, Essex County Council and Suffolk County Council ([[REP8-040](#)] and [[REP8-045](#)]) agreed with this. The Applicant acknowledged [[REP8-032](#)] its intent but was concerned that it would prevent the implementation of any Traffic Regulation Orders required to remove temporary works. Therefore, in an updated to the dDCO, it put forward revised wording that would enable Traffic Regulation Orders made by the Applicant to remain in force for up to five years from the date that the Proposed Development was brought into operational use [[REP8-032](#)].
- 7.3.122. Suffolk County Council [[REP9-074](#)] noted the Applicant's justification for the inclusion of Article 47(6) but was unclear:
- why a period of five years had been chosen; and
 - how the Applicant would inform the traffic authority of any expiration in Article 47(6) and how much notice would be given.

ExA's reasoning

- 7.3.123. The ExA does not consider that:
- there is a need for an additional level of scrutiny to be applied by the traffic authorities to regulate traffic on the roads to the extent specified in Schedule 12 of the dDCO; and
 - the powers of Article 47 should extend to the maintenance of the Proposed Development.
- 7.3.124. Therefore, it has included corresponding amendments in the rDCO as shown at Table 7.3. The ExA is satisfied that the powers given in Article 47 would not give rise to permanent Traffic Regulation Orders. In response to Suffolk County Council's concern, the ExA has included a new sub-paragraph (7) in the rDCO as shown in Table 7.3 and included in the rDCO.
- 7.3.125. With the insertion of a new Article 47(7), the remaining sub-paragraphs have been re-numbered and relevant cross-references amended accordingly.
- 7.3.126. For reasons already explained, the ExA has amended what is now Article 47(10) to provide 35 days for the streets authority to make a decision before deemed consent provisions take effect. A corresponding amendment has been made to Article (2) to delete reference to consent not being unreasonably withheld or delayed. These are shown in Table 7.3 and included in the rDCO.

Article 48: Felling or lopping

- 7.3.127. The Applicant sets out its rationale for inclusion of Article 48 at section 3.52 of its Explanatory Memorandum [[REP9-008](#)].
- 7.3.128. The ExA considered early drafts of Article 48(8) imprecise, and changes were agreed following the issue of the Schedule of Changes to the Draft Development Consent Order [[PD-009](#)] to clarify that the powers sought to lop or fell trees were restricted to affected vegetation identified in the Trees and Hedgerows to be Removed or Managed Plans [[REP9-005](#)]. The Applicant made the relevant amendments to the Deadline 8 version of the dDCO [[REP8-004](#)].
- 7.3.129. Suffolk County Council [[REP8-045](#)] suggested a further amendment to Article 48(8), considering that it would be helpful for the undertaker to notify the highway authority before it implemented these powers in relation to a highway tree. The Applicant said that it would not object to the inclusion of such a clause but felt it would create an unnecessary administrative burden.
- 7.3.130. In addition, Suffolk County Council [[REP4-043](#)] considered the words 'or near' (any part of the authorised development...) in draft Article 48(1) vague and suggested that they should be deleted. The Applicant [[REP3-049](#)] considered the power sought through Article 48 (1) to be limited, that it would be self-explanatory in the light of any specific circumstances, and that it could only be exercised for the specific statutory purposes set out (to prevent an obstruction or interference with the authorised development). It noted precedents in made Orders and concluded that the words should remain in Article 48(1).

ExA's consideration

- 7.3.131. The ExA is content with Suffolk County Council's further suggested amendment to require advance notification of works to a highway tree and recommends the addition of Article 48(8)(b) in the rDCO accordingly.

7.3.132. Having considered the likely application of any powers given by Article 48(1), the ExA is mindful of circumstances such as the need for vegetation management at accesses off the public highway and associated visibility splays and is content that the words ‘or near’ should remain.

Article 53: Safeguarding

7.3.133. In its Explanatory Memorandum [[REP9-006](#)], the Applicant explained that the principle of Article 53 was to safeguard the Proposed Development, and other infrastructure in the construction and operational phases, from adverse effects of development in its vicinity and to maintain its operational integrity. It added that the authorisation of works by this Order would be nugatory if their safety could be jeopardised by other works undertaken in close proximity, particularly as yet unknown future activities by third parties.

7.3.134. The Applicant said that the extent of this provision would fall short of preventing the grant of planning permission. The right conferred would be restricted to consultation and for its response to be taken into account. The relevant local planning authority would then be able to consider the undertaker’s engineering evidence as to the likely effect of any works on the safety and all other parts of the Proposed Development within the Order Limits.

7.3.135. The Applicant added that there was no established statutory mechanism to achieve this objective. It considered the vires for the inclusion of this provision to be s120(3) and (5) of the PA2008. The safeguarding provision would be a ‘provision relating to, or to matters ancillary to, the development for which consent is granted’ by this Order (s120(3)) and, ‘necessary or expedient for giving full effect to’ the other provisions of this Order (s120(5)(c)).

7.3.136. The Applicant acknowledged that Article 53 was not well precedented and the principal instance relied on was the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014. In response to the ExA’s first written questions ([\[PD-005\]](#), DC1.6.62) the Applicant said that it and the Proposed Development were both lengthy, linear infrastructure projects, passing through environments where other developments were likely to occur. Whilst the two were distinguishable in basic geographic terms, the ES Appendix 15.3: Long List of Other Developments [[APP-142](#)] showed the sheer volume and extent of known and anticipated, planned, or proposed development within or close to the Order Limits. The Applicant submitted that there was an important role which Article 53 might play in the context of the Proposed Development even if its overall scale and nature were of a lower order of magnitude than that encountered in the context of the Thames Tideway Tunnel project.

7.3.137. The ExA asked why the Applicant considered existing legal checks and balances to be insufficient to protect its interests ([\[PD-005\]](#), DC1.6.60). It responded [[REP3-052](#)] that Article 53 was not concerned with the sufficiency or otherwise of existing legal checks and balances, noting that those principally relate to the underlying decision-making process i.e., whether a decision reached could be said to be unreasonable, irrational, or procedurally improper.

7.3.138. Much of the scrutiny of this Article during the Examination was aimed at discerning roles and responsibilities in registering its provisions as a local land charge, associated costs in terms of both time and money, and its practical implementation alongside the Town and County Planning Act 1990 (TCPA) regime. Whilst the local planning authorities assisted in consideration of these issues, they maintained their

scepticism as to the perceived need for the Article. For example, Suffolk County Council, '*...maintains concerns in principle about this article*' [REP9-074]. The Applicant's draft Statement of Common Ground with the local authorities [REP9-023] showed that the Article was one of the matters not agreed between them.

- 7.3.139. One of the ExA's recommended changes was in respect of Article 53(5) that would require a relevant planning authority, when determining an application for planning permission, to take into account any representations received in accordance it and ensure that the matters raised therein were addressed. Section 70(2) of the TCPA requires a local authority to have regard to, amongst other things, any other material considerations. The ExA was concerned to ensure that local authorities' discretion in this respect would not be unjustifiably interfered with [PD-009]. This concern was shared by Suffolk County Council, Braintree District Council and Essex County Council ([REP6-056], [REP8-045] and [REP6-051]).
- 7.3.140. The Applicant reiterated that its primary position as to the drafting of Article 53(5) was set out in response to ExQ1 DC1.6.61 [REP3-052], namely that the requirement for a relevant planning authority to ensure that any representations made by the Applicant were 'addressed' was an appropriate reflection of what were likely to be inherently technical submissions concerning the safeguarding of critical national infrastructure. However, without prejudice to the above, the Applicant was cognisant of the discretion conferred by virtue of Section 70(2) of the TCPA and, on that basis, would be content to accept an amendment to Article 53(5) in the form proposed if the ExA was minded to make such a change [REP8-032]. Suffolk County Council agreed with the ExA's recommendation [REP9-074].
- 7.3.141. The ExA recommended that a replacement Article 53(7) be added to ensure that the requirements of Article 53 would only remain in force until the Proposed Development were decommissioned [PD-009]. The Applicant acknowledged the principle but included an alternative form of wording within the dDCO [REP9-006]. Concurrently, Suffolk County Council also suggested amended wording to address the ExA's concern [REP8-045]. Having considered the Applicant's re-drafting, for the sake of clarity, it asked the Applicant to explain the difference between (i) completion of the decommissioning of the authorised development and (ii) completion of the decommissioning of the final part of the authorised development [REP9-074].
- 7.3.142. The Applicant referred to Section 4.10 (Decommissioning) of ES Chapter 4, Project Description [APP-072], which said that there was no certainty as to whether the Proposed Development would, at an unspecified future point in time, be removed as a whole or in part. Moreover, given the nature of the network reinforcements proposed, the Proposed Development could be decommissioned in stages. The drafting in Article 53(7) was therefore intended to accommodate such an eventuality and to ensure that the operational protections which Article 53 was intended to afford, continued to have practical effect until the point in time at which the last part of the authorised development ceased to exist [REP10-014].
- 7.3.143. Further to raising the issue in its further written questions ([PD-009], DC2.6.9), the ExA recommended that the definition of 'exempt applications' be extended so that, if the dDCO was consented, planning applications on which a decision was due to issue were not unduly delayed when the safeguarding provisions came into force. The Applicant acknowledged the principle that underpinned the proposed drafting but included an amended form of wording of Article 53(8) in the dDCO in preference to that sought by the ExA [PD-009]. Suffolk County Council engaged with this

difference in approach and considered the Applicant's re-drafting to be acceptable [\[REP9-074\]](#).

- 7.3.144. The concerns about the practical implications of setting up and implementing the safeguarding provisions were examined through written questions ([\[PD-005\]](#), DC1.6.58) and ([\[PD-009\]](#), DC 2.6.89). Responses came from Babergh and Mid Suffolk District Councils [\[REP7-028\]](#), Braintree District Council and Essex County Council [\[REP7-029\]](#) and Suffolk County Council [\[REP7-033\]](#). The Applicant welcomed their clarification and said that, as previously set out, (for example, its responses to DC1.6.58 to DC1.6.62 of the Applicant's Responses to First Written Questions [\[REP3-052\]](#)), it would be pleased to discuss these administrative matters further with each of the relevant planning authorities [\[REP8-033\]](#).

ExA's consideration

- 7.3.145. Taking account of the Applicant's perceived need for Article 53 and the local planning authorities' ongoing contention that it is unjustified and unnecessary, on fine balance, the ExA recommends that it should be retained. It is necessary and relevant to the proposal. In making this recommendation, account has been taken of the useful evidence that the relevant planning authorities gave as to how the practicalities of Article 53 would be realised. However, irrespective of how the Applicant distinguished the context of the Proposed Development from highly urban locations where it had been included to date and that establishing and administering the requirements of Article 53 did not appear unduly onerous on the relevant planning authorities, the ExA is mindful that it might set a precedent for linear developments in rural areas where development pressure is generally less intense.
- 7.3.146. The ExA is not persuaded that the potentially complex, technical nature of the matters that the Applicant might raise in its response to consultation on a planning application, would merit a different standard being applied to how such a submission would be weighed in decision-making compared to other statutory consultees. For the reasons set out during the Examination, the ExA recommends that Article 53(5) be amended as set out in Table 7.3 and included in the rDCO.
- 7.3.147. The Applicant gave a cogent explanation of why it addressed the ExA's concerns about safeguarding provisions potentially outlasting the Proposed Development in a different manner to that suggested and addressed Suffolk County Council's request for clarification. The ExA is satisfied with its amending wording to address its concern and recommends no further change to the dDCO in this respect.

SCHEDULE 1 – AUTHORISED DEVELOPMENT

- 7.3.148. Each of the introductions to the 12 works and Associated Development identified in Schedule 1 of the dDCO [\[REP9-006\]](#) preceded the list with the words 'which may include'. The ExA recommended that this be replaced with 'to include' [\[PD-009\]](#) to ensure that all mitigation and compensation works were shown as required rather than possible, and to align the dDCO with convention in recently made Orders.
- 7.3.149. Suffolk County Council agreed with the recommended amendment for the reasons given by the ExA [\[REP8-045\]](#).
- 7.3.150. The Applicant disagreed [\[REP8-032\]](#) and said that the dDCO was inherently permissive. It considered Article 3 to support this proposition insofar as it permitted, but did not mandate, the carrying out of the authorised development as described in Schedule 1. Insofar as the Order were exercised, then Article 3 made it clear that the development consent granted was subject to the Requirements and its other

provisions. An ordinary interpretation of the words ‘to include’ might be argued by third parties to have the effect of removing any discretion afforded to the undertaker as to the nature of the works and operations to be carried out in order to construct and install the Proposed Development. The Applicant said that it would refute any such argument as the DCO is a consent, that the undertaker may exercise at its discretion.

7.3.151. The Applicant added that the lettered works and operations listed under each of the principal Work Numbers in Schedule 1 set out the types of works and operations which the Applicant anticipated, in the absence of detailed design, would need to be undertaken to construct and install the Proposed Development. Likewise, the lettered works and operations under the heading of Associated Development were not all required to be carried out or undertaken for the purposes of or in connection with the construction or maintenance of the principal Works. They simply afforded the undertaker flexibility should future circumstances dictate. The Applicant also cited recent precedent which it said supported its proposed drafting (*Hillside Parks Ltd v Snowdonia National Park Authority* [2022], UKSC 30).

7.3.152. In response to the ExA’s specific reference to the securing of mitigation and compensation works, the Applicant noted that all required mitigation and compensation would be secured through the Requirements out in Schedule 3, including principally Requirement 4 (Management Plans). As it noted above, Article 3 would bring these controls into force in respect of the development consent granted. The Applicant did not consider there to be any utility in amending Schedule 1 for this purpose, but if the ExA did not favour the words ‘may include’, then the Applicant would be amenable to use of the word ‘including’ instead.

ExA’s consideration

7.3.153. The ExA notes the Applicant’s explanation of why it considers that the recommended amendment might fetter its discretion and considers that the suggested compromise is reasonable. The recommended amendment has been included in Table 7.3 and the rDCO.

Work No. 12 – Temporary Site Compounds

7.3.154. Braintree District Council and Essex County Council said that there was uncertainty around the siting of the proposed temporary site compounds. It was unclear whether there was scope, within the Order Limits, for the temporary site compounds to move from the position shown on Table 4.1 of the Construction Environmental Management Plan (CEMP) [[REP9-033](#)] and the General Arrangement Plans [[APP-018](#)]. They said that clarity should be provided on this, as noise impacts from the temporary site compounds could be more impactful at noise sensitive receptors at different locations within the Order Limits [[REP7-029](#)].

7.3.155. Braintree District Council and Essex County Council added that they perceived uncertainty over how the temporary site compounds would be used in terms of:

- the nature of use of each compound;
- how many teams would use it at any one time;
- how long they would be *in situ*; and
- what plant would be used at the compounds.

7.3.156. The local authorities suggested the information could be provided by way of Requirement, should it not be available until a main works contractor was appointed [[REP7-029](#)].

- 7.3.157. Babergh and Mid Suffolk District Councils were concerned that the temporary site compounds' precise location had not been determined. They echoed Braintree District Council and Essex County Council regarding further details they considered necessary, including the volume of traffic on a 24-hour basis to each compound, before they could be satisfied with the level of detail provided [REP7-028].
- 7.3.158. In response to one of the ExA's further written questions ([PD-008], DC2.6.11), Suffolk County Council set out its concerns as to how the details of the temporary site compounds would be secured through the DCO [REP7-033].
- 7.3.159. The Applicant confirmed that the approximate area given for the temporary site compounds in Table 4.1 of the CEMP was consistent with the zone shown for temporary construction compounds on the General Arrangement Plans [APP-018] and had been rounded to the closest 0.1ha [REP7-025].
- 7.3.160. The Applicant addressed the local authorities' response to the ExA's written question by saying it considered there would be sufficient control as to the positioning of the temporary site compounds in the dDCO and measures were set out in the management plans to avoid significant environmental effects [REP8-033]. The Applicant signposted where the concerns about the operation and use of the temporary site compounds had been addressed and how the CEMP [REP9-033], the Code of Construction Practice (CoCP) [REP9-035] and the CTMP [REP8-018] would control these matters.

ExA's consideration

- 7.3.161. Table 4.1 of the CEMP, Temporary Site Compounds [REP9-033], identifies the 12 proposed temporary site compounds, gives a grid reference for each, stipulates an approximate area and sets out their broad purpose. The ExA notes the Applicant's confirmation [REP7-025] that the proposed land-take for each has been rounded to the nearest 0.1ha as shown on Table 4.1.
- 7.3.162. The locations of the 'temporary construction compounds' are shown on the General Arrangement Plans [APP-018]. These are not included on the list of Certified Documents in Schedule 17. However, Figure 4.1 in the ES Figures [PDA-002], The Project, includes them. The description of the 'Environmental Statement' in Article 2(2) and in Schedule 17 of the dDCO includes these Figures. Whilst Schedule 17 and Article 57 merely provide for the certification of documents, the relevant ES documents reflect the locational information in the CEMP in plan form for ease of reference as opposed to relying on grid references. The CEMP and Schedule 1 of the dDCO use the same terminology 'temporary site compounds', so the difference in terminology would not cause any issues with enforcement of the dDCO.
- 7.3.163. As defined in Article 2.2, the definition of the CEMP includes its Appendices. Compliance with the provisions of the CEMP, the CoCP and CTMP are secured by Requirement 4(2)(a) and (c) of the dDCO [REP9-006].
- 7.3.164. Distillation of the provisions of the management plans that would control the location, extent, and use of the temporary site compounds into a single, composite Requirement would be more user friendly for the authorities charged with ensuring compliance with the DCO and for residents and local communities' information. Whilst desirable, it is not necessary to do so as provision is made to control this element of the Proposed Development through Requirement 4. Therefore, the ExA is content that as the dDCO already makes provision to control this element of the Proposed Development, duplication is not necessary.

SCHEDULE 3 - REQUIREMENTS

Requirement 1: Interpretation, Biodiversity metric

- 7.3.165. In its Schedule of Changes to the Draft Development Consent Order [[PD-009](#)] the ExA recommended revising the definition of 'biodiversity metric' in Requirement 1(1) with reference to the statutory biodiversity metric published by Defra on 29 November 2023 or any subsequent Government adopted version.
- 7.3.166. Suffolk County Council agreed with the proposed change for the reason given by the ExA [[REP8-045](#)]. Braintree District Council and Essex County Council [[REP8-040](#)] said that whilst they agreed that any new application should use the Statutory Metric, as this was submitted prior to its introduction, it would likely mean that all Biodiversity Net Gain (BNG) for this Proposed Development would need to be recalculated, which might not be possible at that late stage.
- 7.3.167. The Applicant [[REP8-032](#)] referred to the draft Statement of Common Ground (SoCG) with Natural England [[REP8-010](#)], where the latter confirmed that Biodiversity Metric 3.1 was appropriate for use in the context of the Proposed Development.
- 7.3.168. An agreed SoCG between the Applicant and Natural England was submitted at the penultimate deadline [[REP9-027](#)] and Table 3.1, Matters Agreed, included this issue. Those parties reiterated their position that the Defra 3.1 Metric was a suitable tool for calculating 10% BNG on the project. Natural England could agree to using Metric 3.1 so long as it is used consistently and not 'mixed and matched' with other versions. Once BNG became mandatory for NSIPs, developers would need to use the Statutory Metric.

ExA's consideration

- 7.3.169. Appraised of the agreed position between the Applicant and Natural England, the ExA is not pursuing its suggested change and no change is needed to Requirement 1(1) [[REP9-006](#)] in this respect.

Requirement 1: Interpretation, Heavy Goods Vehicle

- 7.3.170. Given the suggested amendment to Requirement 7(2), the ExA Schedule of Changes to the Draft Development Consent Order [[PD-009](#)] included a definition of a Heavy Goods Vehicle (HGV) to mean lorries over 3.5 tonnes maximum gross weight.
- 7.3.171. Without prejudice to its primary objection to the ExA's suggested change to Requirement 7(2), the Applicant was content with the proposed definition if required [[REP8-032](#)]. Suffolk County Council agreed with the proposed change for the reason given by the ExA [[REP8-045](#)].

ExA's consideration

- 7.3.172. The definition, shown in Table 7.3 of this Report, has been added to Requirement 1(1) of the rDCO.

Requirement 1: Interpretation, reinstatement planting

- 7.3.173. The submission version of the dDCO [[APP-034](#)] did not include a definition of 'reinstatement planting'. The Applicant added the definition to Requirement 1(1) in the dDCO submitted at Deadline 8 [[REP8-004](#)]:

“reinstatement planting” includes, unless otherwise agreed with the relevant planning authority, embedded planting, reinstatement planting and mitigation planting as each are described in the Landscape and Ecological Management Plan.’

- 7.3.174. The Applicant said that this change responded to feedback received from the host authorities and other environmental stakeholders as to the scope of ‘reinstatement planting’ pursuant to Requirements 9 and 10. Given the late stage of the Examination, it agreed that clarification of this nature was appropriate and avoided cross-referencing and other similar issues which would arise if Requirements 9 and 10 were themselves renamed [\[REP8-032\]](#).
- 7.3.175. At the penultimate deadline, Suffolk County Council noted [\[REP9-074\]](#) that the then current LEMP [\[REP7-006\]](#) referred to ‘replacement hedgerow planting’ and asked for the Applicant’s explanation as to why the term was not included in its definition of ‘reinstatement planting’.
- 7.3.176. The Applicant considered that ‘replacement hedgerow planting’ was already covered within the term ‘reinstatement planting’ [\[REP10-014\]](#).

ExA’s consideration

- 7.3.177. The ExA notes that reference to ‘Replacement hedgerow planting’ in the LEMP [\[REP9-044\]](#) was made in feedback on the draft LEMP by Natural England who wanted to see provision made should hedgerows fail to regenerate naturally in the first growing season after works had taken place. The Applicant said it had addressed such concerns by adding text to Section 9.2 of that document. The ExA notes that the agreed SoCG between the Applicant and National England [\[REP9-027\]](#) does not include any such item in Table 4.1, Matters Not Agreed.
- 7.3.178. Mindful of the above and the Applicant’s submission, the ExA nonetheless considers that amending the following definition, also included in the rDCO and Table 7.3 of this Report, would give necessary clarity, putting the matter beyond doubt:

“reinstatement planting” includes, unless otherwise agreed with the relevant planning authority, embedded planting, reinstatement hedgerow or other planting and mitigation planting as each are described in the Landscape and Ecological Management Plan.’

Requirement 1: Interpretation, lead local flood authority

- 7.3.179. For reasons arising from consideration of Requirement 5, Approval and Implementation of Drainage Management Plan, later in this Report (paragraph 7.3.212) the ExA recommends that Requirement 5 is amended at 5(1) and 5(2) to include reference to the lead local flood authority. This raises the matter of whether a corresponding definition of lead local flood authority is required.

ExA’s consideration

- 7.3.180. For the sake of precision and enforceability, the ExA considers it necessary to add a definition of lead local flood authority to Requirement 1(1), as included in Table 7.3 of this Report and the rDCO.

Requirement 1: interpretation, low key maintenance and safety checking of plant and machinery

- 7.3.181. 'Low key maintenance and safety checking of plant and machinery' was one of the 'start-up and close down activities' defined in the submission dDCO [APP-034] in draft Requirement 1(1)(g). In order to limit the effects of plant and machinery noise on local communities, the ExA suggested that the activity be amended by adding, '*where this does not lead to audible noise beyond the Order limits*' [PD-009].
- 7.3.182. The Applicant said [REP8-032] that the term 'audible noise' would likely be both legally uncertain and practically unworkable. It was particularly concerned that the inherent ambiguity as to what would constitute an 'audible' noise, and indeed who would be responsible for determining whether or not a noise was 'audible', could lead to an inadvertent breach of the Order pursuant to s161 of the PA2008. In addition, it disagreed with the use of the Order Limits as the reference point for this particular provision. As the intent of the proposed drafting was to prevent disturbance or noise nuisance to local communities, the restriction should properly be limited to locations where noise sensitive receptors have been identified. Noting the limited numbers of noise sensitive receptors identified as part ES Chapter 14, Noise and Vibration [APP-082], application of the restriction to all parts of the Order Limits would be disproportionate and unnecessary. However, the Applicant included further clarification in Chapter 14 of the CEMP [REP9-033] as to the controls and measures which would be put in place in order to achieve the ExA's intended outcome.
- 7.3.183. Suffolk County Council agreed with the ExA's recommended amendment for the reason given [REP8-045]. Braintree District Council and Essex County Council [REP9-071] supported the principle and suggested that, to address the Applicant's concerns, the wording could be revised to avoid any ambiguity, but still ultimately retain the principle of limiting activities in the start-up and close down periods which would likely lead to noise impacts for noise sensitive receptors outside the core working hours. They added that it was not apparent where the CEMP had been amended to capture the ExA's intended objective.
- 7.3.184. For the start-up and close down activities either side of the core working hours, the Applicant confirmed [REP7-025] that LOAEL was set at 50dBA during daytime periods (07.00 to 23.00), and 40dBA during night-time periods (23.00 to 07.00). These levels would be applied to any activities occurring during these times.
- 7.3.185. The Applicant added a statement to the CEMP [REP8-012] that construction-related noise levels would not exceed 55dB at the nearest noise sensitive receptors, and it advised [REP10-014] that this addressed the issue that had been raised [REP9-033]. The Register of Environmental Actions and Commitments (REAC) [REP9-037] had also been amended to stipulate that construction noise levels would not exceed 55dB at the nearest noise sensitive receptor (Figure 14.1: Noise Baseline in the ES Figures Part 9 [APP-154]) during start-up and close down activities (as defined in R1(1) of the dDCO [REP9-006]).
- 7.3.186. The Applicant's final SoCG with the local authorities [REP10-006] noted that Suffolk County Council and Babergh and Mid Suffolk District Council did not consider that a 55dB restriction on these activities would alleviate amenity impacts.

ExA's consideration

- 7.3.187. Considered in tandem with conclusions on management of noise and vibration in Chapter 3 of this Report, the ExA is content that the additions to the management

plans described above address the concern that underpinned its suggested change to Requirement 1(1)(g). Compliance with those documents would be secured by Requirement 4(2)(a) of the dDCO [REP9-006]. Therefore, amendment of Requirement 1(1)(g) is unnecessary.

- 7.3.188. However, taking into consideration LOAEL related matters discussed during the Examination, the ExA considers that for start-up and close down activities (one hour either side of the core working hours for construction), a 50dBA noise level limit (LOAEL) would be more appropriate at the nearest noise sensitive receptors. This would be secured through Requirement 7(4) in the rDCO.

Requirement 2: time limits

- 7.3.189. The ExA's first written questions ([PD-005], DC.1.6.75, DC1.6.76 and DC1.6.77) raised issues about the relationship between Article 2 and Requirement 2, whether a definition of 'begin' was needed and whether both limbs of Requirement 2 were precise and enforceable.
- 7.3.190. Braintree District Council and Essex County Council explained why they considered a definition would be useful [REP3-061]. The Applicant and Suffolk Council Council's responses both referred to the provisions of s11 of the Interpretation Act 1978 and its relationship with s155 of the PA2008 [REP3-052] and [REP3-078]. Suffolk County Council concluded that a definition was not needed but if Requirement 2 was amended by addition of sub-paragraph (3) to define 'begin' as having the same meaning as in s155(1) of the PA2008, it would not object.
- 7.3.191. At the same deadline, the Applicant amended its Explanatory Memorandum [REP9-008] with the addition of footnote 44 which read:

'By virtue of section 11 of the Interpretation Act 1978, and since no contrary intention appears in Requirement 2 or elsewhere in the Order, the date on which the authorised development is deemed to have 'begun' is to be read in accordance with section 155(1) of the Act; i.e. "on the earliest date on which any material operation comprised in, or carried out for the purposes of, the development begins to be carried out". Therefore, a specific definition of 'begin' is not required'.

ExA's consideration

- 7.3.192. The ExA is cognisant of the fact that the Explanatory Memorandum is not a certified document. Whilst Suffolk County Council's suggested addition to Requirement 2 would be useful it is not, as it acknowledged, necessary given the provisions of s155(1) of PA2008. The Explanatory Memorandum provides useful clarity but the dDCO is clear on its face in this respect and no associated amendment is required.

Requirement 3: stages of authorised development

- 7.3.193. Requirement 1 defined 'stage' as a defined stage of the authorised development, the extent of which is shown in a scheme submitted to the relevant planning authority pursuant to Requirement 3. Notwithstanding this, the ExA asked if it was sufficiently clear what 'stage' meant in the context of Requirement 3, and whether the written scheme referred to in Requirement 3 should be subject to approval by the relevant planning authority ([PD-005], DC1.6.78 and DC1.6.79).
- 7.3.194. Braintree District Council and Essex County Council said [REP3-061] that it was not clear whether stage referred to a physical location or a place within a timeline, otherwise the definition was clear. They added that the staging plan should be

subject to subsequent approval as it would effectively become a control document and cited the Brechfa Forest Connection DCO as precedent.

- 7.3.195. Suffolk County Council set out its concerns stemming from Examination of the Richborough Connection Project and suggested that a new paragraph be added to Requirement 3, setting out what the document would include and that this would be for approval of the relevant planning authority following consultation with the relevant highway authority ([[REP3-078](#)], pages 35 to 37). At the penultimate deadline, it revisited the issue as to why it considered that written notice of the stages of the authorised development should also be given to the relevant highway authority and added that 28 instead of no less than 7 days' notice be given under Requirement 3(1) [[REP9-074](#)].
- 7.3.196. The Applicant said that the purpose of Requirement 3 was to provide notice of intended works to provide practical assistance to the relevant planning authorities and, in turn, affected local communities and residents [[REP9-008](#)]. To this end, it amended the dDCO [[REP9-006](#)] at the ExA's recommendation [[PD-009](#)] to include pre-commencement operations. The required written scheme would also enable the relevant planning, or other discharging authority, to be able to discharge the plans which subsequently come forward in that knowledge.
- 7.3.197. Its intention was that the stages of the authorised development would be defined once the practical delivery had been determined. The written scheme setting out the stages of the Proposed Development would confirm the spatial scope of the stage (the area within which the works would take place), the temporal scope (when it was likely to commence and be completed), and the works that it related to. Given the nature of the Proposed Development, the Applicant said that there were likely to be works that would take place at a particular location and on a particular date, but it might be necessary to return to the same site to undertake further works at subsequent points during the construction process.
- 7.3.198. The Applicant said that the omission of an approvals mechanism in Requirement 3 was intentional. Its staging plan would be submitted to the relevant planning authority for information only. The Applicant added that it considered it inappropriate for the authorities concerned to approve the stages because it should be able to define the way in which the project is ultimately constructed [[REP3-050](#)].
- 7.3.199. The Applicant said that notification of other authorities in the circumstances contemplated by Requirement 3(1) was a matter wholly for the relevant planning authority to administer. It was also unconvinced as to the necessity of providing at least 28 days' notice pursuant to Requirement 3(1). Given the nature of the 'pre-commencement operations', it was unclear as to why the relevant planning authority would require an extended notice period [[REP10-014](#)].

ExA's consideration

- 7.3.200. The Applicant's explanation of stages of the authorised development having both a temporal and spatial dimension crossed over with the local authorities' submissions at the same deadline when they said that cited precedent supported their stance that that explanation of the same should be included in Requirement 3. The written scheme subject of Requirement 3 is not a control document; it is outside the scope of Requirement 4. The purpose of the written notice and written scheme is to inform.
- 7.3.201. Therefore, although the Applicant's explanation of the stages' extent is not included in Requirement 3, that omission would not undermine its function. The ExA has

considered the cited precedent and the relevance of the evidential basis for the Proposed Development and concludes that further amendment to Requirement 3 is not needed.

- 7.3.202. The ExA finds the Applicant's response to Suffolk County Council's suggested further changes to Requirement 3 to be persuasive: it is at the relevant planning authority's discretion as to who it consults on receipt of written notice stipulated by Requirements 3(1) and (4). No further amendment is need to Requirement 3 as included in the Applicant's final dDCO [\[REP9-006\]](#).

Requirement 4: management plans

- 7.3.203. Requirement 4 (Management Plans) requires construction works including pre-commencement operations to be carried out in accordance with the CEMP, CoCP, REAC, CTMP, Materials and Waste Management Plan (MWMP) and LEMP, unless otherwise agreed with the relevant planning authority or other discharging authority.
- 7.3.204. At the close of Examination, the local planning authorities ([\[REP9-072\]](#) and [\[REP10-018\]](#)) objected to the making of the Order, partially on the grounds of the status of the control document management plans. They judged that the management plans should be considered outline, and that final versions of each that would require their approval should be submitted by the Applicant post-consent. Throughout the Examination, the Applicant held a different position on this matter. The reasoning is summarised in the Statement of Common Ground between the Applicant and the local authorities [\[REP10-006\]](#).

ExA's consideration

- 7.3.205. The ExA considers the management plans to be high-level with often generic measures to mitigate impacts. Examples of these generic measures are given within the relevant topics in section 3 of this Report. Taking these matters into account, the ExA recommends that the following documents are produced and presented to the relevant planning authority:
- a detailed written plan for the management of dust that is in accordance with the CEMP and its Appendices;
 - detailed written plans for the management of materials and management of waste that are in accordance with the CEMP and its Appendices and the MWMP; and
 - a detailed written plan for the management of noise and vibration that is in accordance with the outline details set out in the CEMP and its Appendices.
- 7.3.206. Accordingly, recommended Requirement 4(4) is included in Table 7.3 and the rDCO in tandem with Requirement 4(5) to secure compliance with it.
- 7.3.207. Additionally, Requirement 4(2)(e) refers to 'Public Rights of Way Management Plan' whereas the Applicant's Document 8.5.8 (B) is 'Public Right of Way Management Plan' [\[REP8-024\]](#). This recommended amendment is also included in Table 7.3 of this Report and the rDCO.

Requirement 5: Drainage Management Plan

- 7.3.208. This matter was raised in section 3.14 of this Report. In summary, Requirement 5 would stop any stage of the Proposed Development from being brought into operation until a Drainage Management Plan had been approved by the relevant planning authority, after consultation with the relevant highway authority. The

Drainage Management Plan would contain details of the surface water and foul water drainage system.

- 7.3.209. Suffolk County Council believed [\[REP10-006\]](#) that reference in Requirement 5 to the planning authority as the discharging authority was 'wrong in law' as the relevant authority for the Drainage Management Plan should be the lead local flood authority [\[REP8-045\]](#).
- 7.3.210. The Applicant took a neutral position on this matter [\[REP10-006\]](#).

ExA's consideration

- 7.3.211. The ExA is of the view that the local planning authority is rightfully the discharging authority for the Drainage Management Plan. The role of the lead local flood authorities is typically to undertake a statutory consultee role providing technical advice on surface water drainage and flood risk issues to local planning authorities, National Planning Practice Guidance (NPPG), (Paragraph: 040 Reference ID: 7-040-20220825) refers.
- 7.3.212. The ExA recommends amendment of Requirement 5(1) and 5(2) to include reference to the relevant drainage authority as a consultee along with the relevant highway authority, as set out Table 7.3 of this Report and included in the rDCO.

Requirement 6: archaeology

- 7.3.213. The joint LIR from Suffolk County Council and Babergh and Mid Suffolk District Councils [\[REP1-045\]](#) recommended an amendment to Requirement 6 to prevent works in any stage commencing until either a preservation *in situ* management plan or Detailed Written Scheme of Investigation of areas of archaeological interest had been submitted to and approved by the relevant planning authority.
- 7.3.214. The Applicant ([\[REP4-029\]](#) and [\[REP4-049\]](#)) highlighted that the Outline Written Scheme of Investigation [\[AS-001\]](#) was secured through Requirement 6 of the dDCO, which states that the authorised development must be undertaken in accordance with the Archaeological Framework Strategy [\[APP-186\]](#) and the Outline Written Scheme of Investigation [\[APP-187\]](#). Section 2.4 of the Outline Written Scheme of Investigation set out what the Detailed Written Scheme of Investigation must include. This list encompassed all items listed in the joint LIR. As such, the Applicant did not consider it necessary to amend the wording in the dDCO.
- 7.3.215. Suffolk County Council disagreed [e.g., [REP9-072](#)] with the Applicant's contention that all of the relevant topics were adequately detailed in the Archaeological Framework Strategy [\[APP-186\]](#) and the Outline Written Scheme of Investigation [\[APP-187\]](#). It considered that the documents lacked provision for post-excavation assessment, reporting, publication, dissemination of results and archiving, and that the current drafting could be read to impose some obligations in relation to these that the local authorities were not in a position to fulfil.

ExA's consideration

- 7.3.216. The ExA generally concurs with Suffolk County Council's concerns and has recommended some additional text in Requirement 6 to address them (see Table 7.3). The additions allow for the submission of either a preservation *in situ* management plan or a Detailed Written Scheme of Investigation and secure the additional information highlighted by Suffolk County Council in the Detailed Written

Scheme of Investigation, with clarity as to which parties are responsible for the analysis, archiving and dissemination of archaeological findings.

Requirement 7: construction hours

- 7.3.217. Requirement 7 specifies the hours during which construction work may be carried out and includes a list of a number of activities that are not subject to the core working hours. Start-up and close down activities are also not subject to the core working hours.
- 7.3.218. The host authorities objected to the Applicant's proposed construction working hours and activities outside core construction hours ([\[RR-001\]](#), [\[RR-002\]](#), [\[RR-004\]](#) and [\[RR-006\]](#)). They were not supportive of the Applicant's proposed seven-day working and raised concerns about the noise and other effects this would have on local communities. The Applicant did not support any of the alternative construction working hours scenarios proposed by the local authorities to reduce the noise and other impacts, as it concluded that these would compromise its ability to meet the programme's key milestones (particularly a critical planned outage).

ExA's consideration

- 7.3.219. The ExA explored the baseline construction schedule with critical path [\[REP5-027\]](#) to gain a better insight into likely noise (and other) impacts and considered that it was necessary to:
- exclude piling on Sundays and Bank Holidays;
 - limit the effects of construction activities outside the core working hours and public holidays at seven noise sensitive receptors;
 - for start-up and close down activities (one hour either side of the core working hours for construction), introduce a more appropriate 50dBA noise limit (LOAEL) at the nearest noise sensitive receptors; and
 - link severe weather conditions to the construction programme critical path, and for related extended construction activities to be notified with a justification to the relevant local authority.
- 7.3.220. The reasoning for this approach is given in more detail in section 3 of this Report.
- 7.3.221. The ExA's examination of timing restrictions on abnormal indivisible load and HGV deliveries and the respective positions of the parties are described in section 3.15 of this Report and not repeated in full here. In summary, the ExA concluded that timing restrictions on HGV deliveries were needed to safeguard local amenity and recommended restricting HGV movements to the recommended core working hours. The restriction would not apply to abnormal indivisible loads.
- 7.3.222. The consequent recommended amendments to Requirement 7 are set out in Table 7.3 of this Report and included in the rDCO.

Requirement 8: retention and removal of trees, woodlands and hedgerows

- 7.3.223. Requirement 8 relates to the submission and approval of a plan showing the vegetation to be retained and removed prior to the commencement of any stage of the works.
- 7.3.224. Early in the Examination, the ExA asked [\[PD-005\]](#) the Applicant whether Requirement 8 should refer to the relevant baseline information and assessment about the retention and removal of trees, woodlands and hedgerows set out in its Arboricultural Impact Assessment [\[REP1-011\]](#). The Applicant [\[REP3-052\]](#)

highlighted that this information was in the LEMP at Appendix A, Vegetation to be Retained or Removed [APP-183], which used the baseline information from the arboricultural surveys and was already referred to in the Requirement.

- 7.3.225. The Applicant concluded that Requirement 8 did not need to refer to the Arboricultural Impact Assessment, but agreed to amend the drafting of 8(3) to specifically refer to LEMP Appendix A:

'The plan submitted under sub-paragraph (1) must be in general accordance with the Landscape and Ecological Management Plan and the Trees and Hedgerows to be Removed or Managed Plans.'

- 7.3.226. In its Schedule of Changes to the dDCO [REP8-045], the ExA suggested that the modifier 'general' should be removed from this. The Applicant disagreed, noting that 'in general accordance' was intended to provide a proportionate degree of flexibility to ensure that the vegetation retention and removal plan could accurately reflect the detailed design, construction methodologies and pre-construction surveys. It suggested that literal adherence to the Trees and Hedgerows to be Removed or Managed Plans would unduly fetter necessary vegetation removal or retention and, in turn, the delivery of the Proposed Development. Theoretically it could also necessitate the removal of vegetation where there was no longer an operational requirement to do so.

- 7.3.227. Suffolk County Council (e.g., [REP9-072]) sought changes to secure further detail of what was required on the plan to be submitted under sub-paragraph (1), such as the species and condition of the trees referred to. The Applicant suggested this was unnecessary as it was available in the Arboricultural Impact Assessment [REP9-018].

ExA's consideration

- 7.3.228. The ExA recognises that some flexibility must be allowed for to accommodate detailed changes that may occur following final design between the Trees and Hedgerows to be Removed or Managed Plans and the final vegetation retention and removal plans. However, the information and commitments in the LEMP are at a more strategic level, and in common with similar provisions in the rDCO, it does not consider that the modifier 'general' is appropriate. Requirement 8 of its rDCO therefore reads:

'(3) The plan submitted under sub-paragraph (1) must be in accordance with the Landscape and Ecological Management Plan and in general accordance with the Trees and Hedgerows to be Removed or Managed Plans.'

- 7.3.229. The ExA notes that the Applicant decided not to include the Arboricultural Impact Assessment [REP9-018] in the ES, and that it is not a certified document in Schedule 17 of the dDCO. As such, the ExA considers that it would be unsatisfactory to rely on it when securing the detail of what would be required on the plan submitted under sub-paragraph (1). It therefore makes an additional amendment to Requirement 8 in the rDCO:

'(2) The plan submitted under sub-paragraph (1) must include details of the location, species and condition of the trees, groups of trees, woodlands and hedgerows to be removed and retained during that stage of the authorised development.'

Requirement 9: reinstatement planting plan

7.3.230. Requirement 9 relates to the submission and approval of a plan showing the vegetation to be reinstated prior to the commencement of any stage of the works.

7.3.231. In its Schedule of Changes to the dDCO [PD-009], the ExA suggested that the modifier 'general' should be removed from 9(4):

'4) The reinstatement planting plan submitted under sub-paragraphs (1) and (2) must be in general accordance with the Landscape and Ecological Management Plan.'

7.3.232. The Applicant disagreed, noting the reinstatement planting plan would need to reflect the final retention and removal plans submitted pursuant to Requirement 8. The words 'in general accordance' would be necessary to allow for this.

ExA's consideration

7.3.233. The ExA is content with the Applicant's reasoning and, in this instance, recommends that the modifier 'general' is retained to allow flexibility for response to the final version of the vegetation retention and removal plans, the details of which are secured under Requirement 8.

Requirement 11: highway works

7.3.234. Requirement 11 provides that no work to construct, alter or temporarily alter any highway, including any new or existing means of access to a highway, would commence until written details have been submitted and approved by the relevant highway authority.

7.3.235. Requirement 11(1) and (2), as drafted in the application, stated that these powers applied to the construction of permanent and temporary means of access to a highway.

7.3.236. In their LIR, Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] said that Requirement 11 should be amended to cover all highway works.

7.3.237. The Applicant provided the following clarification [REP3-049]:

"Access" in this context is taken to mean all enabling highway works, for example street furniture removal to accommodate AIL movements; localised alterations to accommodate swept paths.'

7.3.238. Other highway works to enable the construction of the Proposed Development were raised during the Examination, namely the erection of permanent signposts with foundations, [REP6-057] and the use of temporarily stopped up streets as working sites [REP8-033].

7.3.239. For the avoidance of doubt regarding the scope of works covered by Requirement 11, the ExA recommended a revised drafting of Requirement 11(1) and (2) to ensure these powers covered all enabling highway works [PD-009].

7.3.240. The Applicant agreed [REP8-032] with the ExA's recommended additional wording and updated the dDCO at Deadline 8. Braintree District Council, Essex County Council and Suffolk County Council also agreed ([REP8-040] and [REP8-045]).

ExA's consideration

- 7.3.241. As the Applicant amended the dDCO [REP9-006], no further change is required in respect of Requirement 11 (1) and (2).

Requirement 11: Road Safety Audits

- 7.3.242. The ExA explored the Applicant's approach to the Road Safety Audit process through hearings ([EV-015], [EV-039] and [EV-030]) and written questions [PD-005], with an emphasis on deliverability of highway accesses to the Proposed Development.
- 7.3.243. In post-hearing submissions ([REP1-024], [REP4-050], and [REP6-043]) the Applicant stated its commitment to carry out Road Safety Audits and to include additional drafting in Requirement 11 requiring it to undertake Road Safety Audits of highway works associated with the Proposed Development.
- 7.3.244. In its Deadline 5 submission, Suffolk County Council [REP5-033] stated that a proportionate approach should be taken to following the Road Safety Audit process.
- 7.3.245. Braintree District Council and Essex County Council [REP1-039] considered that a Stage 1 Road Safety Audit, regarding the form and construction of the temporary access road junction with the A131, should have been included with the DCO submission.
- 7.3.246. Braintree District Council and Essex County Council maintained that a Stage 1 Road Safety Audit, along with a follow up designer's response would be needed to inform the 'worst case' design of the accesses to the Proposed Development, ([REP4-049] and [REP5-031]), and that this information should be provided as part of the dDCO:

'The nub of this issue is that there is a disparity between the information being provided at the DCO stage by the applicant and what the HA think should be included in the DCO. Preliminary design information should be available now for each access location which in turn with dictate the red line boundary of the DCO and this should be the subject of a stage 1 RSA. This is particularly important for the A131 access and the minor road crossing points as a minimum'.

- 7.3.247. The Applicant was not persuaded to incorporate Road Safety Audit information in the dDCO. In its Deadline 6 submission [REP6-045], it said that the minor nature of the five proposed permanent access works, and temporary nature and low traffic generation over most of the Proposed Development meant that its approach was reasonable.
- 7.3.248. The ExA sought to ensure that Road Safety Audit phases were undertaken separately, particularly stages 1 and 2, so that significant road safety implications arising from land take and basic highway design principles would be identified, and the road safety actions arising were implemented.
- 7.3.249. At the same time, the ExA was concerned that the approach should be proportionate to the highway and road safety circumstances, whereby the Applicant and local highway authorities could agree to take a differing approach, such as combining some of the Road Safety Audit stages or not undertaking the latter stages.

- 7.3.250. The ExA thereby recommended a re-wording of Requirement 11(4) to achieve these aims, [\[PD-009\]](#).
- 7.3.251. In its response, Braintree District Council and Essex County Council [\[REP8-040\]](#) emphasised the need for a proportionate approach to the Road Safety Audit process.
- 7.3.252. Suffolk County Council [\[REP8-045\]](#) agreed with the recommended revised wording of Requirement 11(4).
- 7.3.253. The Applicant disagreed [\[REP8-032\]](#) with the ExA's recommended wording requiring implementation of the road safety actions arising from the Road Safety Audits as it considered that it would limit the usual discretion afforded in relation to the process.
- 7.3.254. The Applicant therefore put forward ([\[REP8-022\]](#) and [\[REP8-032\]](#)) a revised form of wording in order to:
- reflect its engagement with the highway authorities on the phasing of the Road Safety Audit process and, in particular, the suitability and phasing of Stages 3 and 4; and
 - retain the original wording requiring Road Safety Audit recommendations to be implemented.
- 7.3.255. The Applicant included the new wording in the update to the dDCO at Deadline 8.
- 7.3.256. Suffolk County Council [\[REP9-074\]](#) was content with the amendments made by the Applicant [\[REP8-022\]](#) to the ExA's recommended wording of Requirement 11(4).

ExA's reasoning

- 7.3.257. The ExA is satisfied that the Road Safety Audit process detailed in Requirement 11(4) would provide an effective means of identifying and addressing road safety matters associated with the Proposed Development. No amendment is recommended.

Requirement 11: additional paragraph

- 7.3.258. Suffolk County Council [\[REP8-047\]](#) sought additional wording in Requirement 11 to give the local highway authorities an unconstrained ability to refuse approval to any highway access they deemed unacceptable and recommended:

'11(5) For the avoidance of doubt, when considering any proposals submitted for approval under sub-paragraph (1), the relevant highway authority shall be entitled to deem those proposals to be not acceptable and to withhold approval irrespective of whether the Applicant can provide any alternative access arrangement that the local highway authority deems to be acceptable within the limits of any land currently controlled by the Applicant or land forming part of the maintainable highway'.

- 7.3.259. The Applicant did not accept [\[REP9-065\]](#) that the proposed change to Requirement 11 was necessary:

'It is by definition within SCC's gift to "refuse to approve proposals under Requirement 11 that it deems to be unacceptable".'

ExA's consideration

- 7.3.260. The ExA considers that Requirement 11 would provide the local highway authorities with sufficient information and powers to refuse approval of any highway accesses they deemed unacceptable. Therefore, it sees no need to amend Requirement 11 in this respect.

Requirement 12: decommissioning

- 7.3.261. In response to the ExA's first written questions ([\[PD-005\]](#), DC1.6.94) the Applicant referred to ES Chapter 4, Project Description [\[APP-072\]](#), where it had summarised its expectations as to decommissioning when there were no current plans to do so. However, it set out what that might entail and what issues that a decommissioning scheme submitted pursuant to Requirement 12 might involve. It concluded that, given the remoteness of the possible timeframe when such works might be carried out, it was not appropriate to be more prescriptive at that time [\[REP3-052\]](#).
- 7.3.262. Suffolk County Council raised associated concerns in its LIR [\[REP1-045\]](#) and, in the ExA's first written questions ([\[PD-005\]](#), DC1.6.119), it was asked to suggest wording that it considered necessary to address those misgivings, which it did [\[REP3-078\]](#). Through its further written questions ([\[PD-008\]](#), DC2.6.17), the ExA asked Suffolk County Council to explain why it perceived Requirement 12 to be deficient as written.
- 7.3.263. The ExA suggested changes to Requirement 12(1) to include consultation with the relevant highway authority and insertion of Requirement 12(4) whereby the written scheme of decommissioning, submitted under sub-paragraph (1), must have included a reassessment of the environmental implications of decommissioning [\[PD-009\]](#).
- 7.3.264. The Applicant included the suggested change to Requirement 12(1) in the dDCO [\[REP9-006\]](#) but it did not agree with the suggested Requirement 12(4). Whilst it said that it would comply with all applicable laws and regulations at the point at which the authorised development was decommissioned, the Applicant was cognisant of the evolving nature of environmental assessment. Therefore, it considered that it would be inappropriate for the Order to mandate the steps that must be taken at an unspecified future point and without certainty as to the framework for environmental assessment that would apply at that time.
- 7.3.265. However, if an additional Requirement of this nature was included, the Applicant suggested that it be made clear that any assessment must be proportionate and undertaken in accordance with all laws and regulations applicable at the point at which the written scheme of decommissioning was submitted under Requirement 12(1) [\[REP8-032\]](#).
- 7.3.266. Suffolk County Council agreed with the ExA's recommended changes [\[REP8-045\]](#).

ExA's consideration

- 7.3.267. Upon reviewing the wording of Requirement 12(1) that included its previous recommendation, the ExA is concerned that it could be read as fettering the discharging authority's discretion when it might come to consider any scheme of decommissioning. This could be remedied by incorporating the recommended revised Requirement 12(1) that has been included in Table 7.3 and the rDCO.

7.3.268. The ExA recommends that the new Requirement 12(4) reads as in Table 7.3 and included in the rDCO.

Requirement 14: approval and implementation of Soil Management Plan

7.3.269. Essex County Council and Braintree District Council [REP8-040] submitted an expert review of the agriculture and soil protection measures in the Applicant's CEMP [REP6-021] and its Appendices [REP3-026] and [REP6-023]. This did not agree that the CEMP fulfilled the function of a Soil Management Plan and recommended the production of an outline Soil Management Plan, then a detailed Soil Management Plan after the appointment of a contractor.

7.3.270. The Applicant updated the CEMP [REP9-033] to include a commitment to produce a Soil Management Plan prior to construction for each stage of the authorised development. This would be secured by Requirement 14 of the rDCO that requires approval by the relevant planning authority of the SMP prior to commencement of the authorised development.

7.3.271. Essex County Council and Braintree District Council [REP10-019] raised what they described as a procedural issue with Requirement 14(1). As it would apply at each stage, the Requirement would have to be discharged multiple times. However, each stage would likely come forward at different times, owing to the linear nature of the project. As such, they suggested that the Work numbers, as set out in Schedule 1, Authorised Development of the dDCO [REP9-006], were included in the condition as appropriate. Inclusion of the stages would enable the contractor to apply to part discharge stage 1 for example, and for auditing and monitoring purposes, the discharging authority could readily see what had been discharged and what had not.

7.3.272. The authorities also considered it necessary to remove the word 'general' from the Requirement, as it allowed for flexibility that could have unintended consequences and lead to soil quality degradation. They added that the Soil Management Plan should be followed in full. Should an amendment be required, this could be agreed with the local authority as stipulated by the Requirement.

ExA's consideration

7.3.273. The ExA is satisfied that the revision to the CEMP and addition of Requirement 14 will address the local authorities' concerns.

7.3.274. The stages of the authorised development would have geographic and temporal dimensions, and they would not necessarily be geographically sequential. The written scheme setting out all stages of the authorised development could not be submitted during the Examination as it was dependent on the appointment of a contractor. Therefore, at this juncture, listing stages by reference to Schedule 1 would potentially conflict with Requirement 3 both in terms of its rationale and specific out-workings.

7.3.275. The ExA agrees with Essex County Council and Braintree District Council that the word 'general' should be omitted from Requirement 14(2) in the interest of clarity and certainty. The recommended amendment to Requirement 14(2), as shown in Table 7.3 and the rDCO, would address this whilst providing the undertaker with the ability to amend the Soil Management Plan should operational circumstances require, while ensuring consistency with Requirement 1(4).

Consideration of suggested additional Requirements

- 7.3.276. A number of submissions identified issues that IPs considered should be subject of additional Requirements (e.g., [REP1-039], [REP3-061] and [REP4-043]). Some associated issues have already been discussed in this Report such as design and the need for additional controls over HGVs in section 3. In this section, those submissions prompted amendment to Requirement 12, decommissioning, and the addition of Requirement 14, approval and implementation of a Soil Management Plan. Others had already been considered by the Applicant in the ES, management plans or other submitted documents. Whilst only lighting is specifically considered in this context, the ExA has taken on board all the issues raised in its assessment of whether associated changes need to be made to the dDCO [PD-009].

Additional Requirement: lighting

- 7.3.277. The host authorities made various submissions on the perceived need for an additional Requirement to control lighting at the grid supply point substation, cable sealing end compounds and temporary site compounds (e.g., Braintree District Council and Essex County Council ([REP3-061] Appendix 3, and Suffolk County Council [REP4-043]).
- 7.3.278. The Applicant ([REP5-025], pages 10, 11, 71, 72, 88, 114 and 115) referred to ES Chapter 4, Project Description [APP-072] and Section 6.4 of the CEMP [REP9-034].
- 7.3.279. The ExA asked three associated written questions ([PD-008], DC2.6.19, DC2.6.20 and DC2.6.21), and responses were received from the Applicant ([REP7-025] and [REP7-026]), Braintree District Council and Essex County Council [REP7-029], and Suffolk County Council [REP7-033].

ExA's consideration

- 7.3.280. Section 6.4, Lighting Planning and Preparation, of the CEMP [REP9-033] summarises the Applicant's proposed measures. The level of detail provided does not match the IPs' expectations. However, amongst other things, it identified the British Standards and guidance documents that would be considered when designing the lighting for use during construction. The measures set out there would be secured through Requirement 4(2)(a) and, if necessary, could be legally enforced. Precedent quoted by IPs of DCOs where more precise Requirements were specified have been considered. However, the ExA is satisfied that the CEMP is the appropriate tool for controlling this aspect of the Proposed Development and has not recommended an additional Requirement.

SCHEDULE 4 – DISCHARGE OF REQUIREMENTS

Applications to discharge a Requirement

- 7.3.281. The issue of the period for consideration of an application to discharge a Requirement was dealt with in paragraphs 7.3.52 and 7.3.53 as common concerns were raised in respect of several Articles.
- 7.3.282. Having carefully considered the host authorities' stance that a 56-day period was needed, the ExA recommended that the period of 28 days in Paragraph 1(1)(a) be extended to 35 days and the corresponding change has been included in Table 7.3 and the rDCO.

- 7.3.283. Braintree District Council and Essex County Council said that the three business days period in Paragraph 2(2) should be increased to seven business days for reasons set out in LIR. It added that, in respect of paragraph 2(3), provision should be made for the Applicant to consult the relevant Requirement consultee at the same time as serving the relevant authority to promote effective use of time ([\[REP1-039\]](#), paragraphs 21.6.3 and 21.6.4).
- 7.3.284. In response to Braintree District Council and Essex County Council and the ExA's first written questions, the Applicant noted that the 'further information' process was akin to the validation process which accompanied applications for planning permission. The relevant authority was not required to determine the extent application as part of the 'further information process': it was simply a discretionary procedural step which the authority may have recourse to in certain circumstances.
- 7.3.285. In that context, the Applicant anticipated that the proposed Planning Performance Agreement (PPA) would make provision for 'shadow' submissions to be made in advance to the relevant authority. Comments raised by the relevant authority as part of that pre-engagement process would, where appropriate, be addressed by the Applicant prior to the formal submission of the application. It was expected that this would ultimately negate the need for 'further information' to be requested pursuant to paragraph 2 of Schedule 4.
- 7.3.286. In respect of Paragraph 2(3), the Applicant considered that consultation would be a matter wholly for the relevant authority to administer ([\[REP3-050\]](#) and [\[REP3-052\]](#)).
- 7.3.287. Braintree District Council and Essex County Council reiterated their initial position. In respect of paragraph 2(2) they said that the matter could be pursued under PPA discussions. In regard to paragraph 2(3) they said that where there was a requirement to consult on any consent application, were the Applicant to serve the relevant consultee at the same time as a time saving measure, this would support discharging authorities in being able to meet the range of different consents they would be asked to assess and process during the construction period. If the Applicant could not agree to this, the local authorities considered this to support their request that more than 28 days should be allowed for consent applications [\[REP4-049\]](#).
- 7.3.288. Whilst the Applicant maintained its position, it added that it would be willing to consider whether the proposed PPA could make provision for the Applicant to provide reasonable assistance to the relevant authority with regard to the consultation process in these circumstances [\[REP5-025\]](#).

ExA's consideration

- 7.3.289. The ExA agrees with the Applicant as to what the process entails and that administrative procedures are an organisational matter for the local authorities themselves.
- 7.3.290. For reasons already set out, the ExA recommends that the 28-day period in Schedule 4, paragraph 1(1) be extended to 35 days. However, having reviewed several made Orders for linear projects it noted that, despite some variation, the time periods included in Paragraph 2 are consistent with those that the Secretary of State has previously deemed to be reasonable and necessary. For those reasons, the ExA is not persuaded of the necessity of any changes to Paragraph 2.

Fees

- 7.3.291. The local authorities considered that the fee of £145 per application made under Schedule 4, Paragraph (3) to be inadequate. For example, Braintree District Council and Essex County Council said that they were still negotiating with the Applicant on a PPA for the discharge of Requirements as the prescribed fee would not enable them to operate on a cost-neutral basis [REP8-040]. To that end, Suffolk County Council suggested amended wording for paragraph (3)(1) and addition of a new paragraph 3(2) [REP8-045].
- 7.3.292. The Applicant said that the PPA would provide for the basis to agree any bespoke uplift of the £145 fee set out in paragraph 3(1)(b). It added that negotiations had been started with the host authorities in respect of a supplementary PPA to cover the post-Examination period and it had no further comments to make on the matter [REP9-064].

ExA's consideration

- 7.3.293. The ExA was concerned that if paragraph 3 was not amended to provide for a different fee to the prescribed £145 that, despite any PPA that might be agreed between the parties outside the Examination process, the DCO provision might frustrate implementation of that alternative fee protocol. Account was taken of Suffolk County Council's suggested wording, but the ExA considers that the recommended amendment to paragraph 3(1)(b) in Table 7.3 and included in the rDCO would achieve the same end but in a more straightforward manner.

Materiality of changes to effects

- 7.3.294. Various provisions in the dDCO [REP9-006] would afford the undertaker flexibility to carry out works that would not give rise to any materially new or materially different environmental effects from those assessed in the ES. The host authorities' concerns about this were not resolved by the close of the Examination.
- 7.3.295. For example, Essex County Council and Braintree District Council were concerned with the use of the proviso in the definition of 'maintain' in Article 2(1) ([REP1-039], paragraph 21.2.60).
- 7.3.296. In respect of the certified documents in Schedule 17 and subject of Article 53, Essex County Council and Braintree District Council said that there needed to be a mechanism for ensuring that the local planning authority would be provided with sufficient information to enable it to identify and assess any materially new or different environmental impacts of any proposed changes in the control documents and, where it did consent, that the agreed changes were properly reflected ([REP1-039], paragraph 21.3.14). They added that a mechanism was also needed for dealing with circumstances where the local planning authority, acting reasonably, could not agree to a proposed amendment.
- 7.3.297. The ExA asked ([PD-005], DC1.6.107) who would be the arbiter in deciding whether a change would give rise to a materially new or materially different environmental effect from that concluded in the ES. The Applicant said that it would be responsible for determining this, based on the specific facts and circumstances and the application of reasoned professional judgment [REP3-052]. However, it added [REP3-050] that ES Chapters 4 and 5 ([APP-072] and [APP-073]) together made clear that its environmental assessment included sensitivity testing which took account of the application of flexibility as permitted by the dDCO [REP9-006] in respect of the design or construction method of the project. The Applicant used the

findings of the ES to inform the commitments set out in the management plans that would be implemented during construction of the project. Therefore, it did not consider that the detailed design of the project was likely to give rise to any materially new or materially different environmental impacts to those already assessed. To the extent that such circumstances did arise, the management plans included a 'Change Process', for example, Section 15.5 of the CEMP [\[REP9-033\]](#).

- 7.3.298. The Applicant added that, notwithstanding the above, if a local authority felt that there was an issue, it would have recourse to the provisions in the PA2008 such as the ability to request information pursuant to s167 [\[REP3-052\]](#).

ExA's consideration

- 7.3.299. The ExA is persuaded by the Applicant's submission on sensitivity testing of the ES and the inclusion of mechanisms within the management plans to manage change. Having considered all the associated evidence, the ExA is not convinced that further control in this respect needs to be included within the rDCO.

7.4. PROTECTIVE PROVISIONS

- 7.4.1. Schedule 14 of the dDCO provides PPs for Statutory Undertakers and their apparatus. The status of PPs with Statutory Undertakers can be found in Table 2.2 of the Applicant's Protective Provisions and Commercial Side Agreements Tracking List [\[REP9-060\]](#). PPs, as set out below, have been agreed for the most part:

- Part 1 (For the Protection of Electricity, Gas, Water and Sewerage Undertakers) are generic PPs to cover those undertakers for whom there are no tailored PPs. These PPs take a form that is consistent with that contained in other DCOs. The Applicant is also negotiating commercial side agreements with UK Power Networks, Pivoted Power LLP, TC East Anglia OFTO Limited, East Anglia THREE Limited and Scottish Power Renewables.
- Part 2 (For the Protection of Operators of Electronic Communications Code Networks) are generic PPs to cover for electronic communications code network operators where there are no tailored PPs. These PPs take a form which is consistent with that contained in other DCOs. Save for Network Rail Infrastructure Limited as considered in the previous section of this Report, no other representations relating to them were received during the Examination process.
- Part 3 (For the Protection of Anglian Water Services Limited) are bespoke PPs for the benefit of Anglian Water Services Limited. In the Applicant's Protective Provisions and Commercial Side Agreements Tracking List it said that whilst PPs have been agreed between the parties, negotiation is on-going in respect of a co-operation deed, that includes a construction interface agreement, between the Proposed Development and Anglian Water Services Limited's Bury St Edmunds to Colchester Pipeline Scheme. HoTs have been agreed and the parties were said to be close to overall agreement. The Applicant reported that it anticipated completion shortly after close of the Examination and would provide confirmation of same by post-Examination correspondence.
- Part 4 (For the Protection of Network Rail Infrastructure Limited). As of Deadline 10, negotiation over a further commercial agreement had stalled thus the Applicant made Applications under s127 and s138 of the PA2008, as discussed in the previous section of this Report. The points of difference in respect of PPs are considered below.
- Part 5 (For the Protection of Cadent Gas Limited as Gas Undertaker). The Applicant and the Statutory Undertaker concurred that agreement had been

reached on the form of PPs for the benefit of Cadent Gas Limited thus the representation was withdrawn on 21 February 2024 [\[AS-012\]](#).

PROTECTIVE PROVISIONS FOR NETWORK RAIL INFRASTRUCTURE LIMITED

- 7.4.2. Network Rail Infrastructure Limited registered as an IP [\[RR-021\]](#) and submitted a Written Representation [\[REP2-028\]](#). It said that investigations were ongoing to establish the extent of the risk to its assets and, amongst other things, that it required PPs to be included in the dDCO to ensure that its interests were adequately protected and to ensure compliance with the relevant safety standards.
- 7.4.3. PPs for the benefit of Network Rail Infrastructure Limited were included in Schedule 14, Part 4 of the dDCO submitted with the application [\[APP-034\]](#). At Table 2.2 of its Protective Provisions and Commercial Side Agreements Tracking List [\[REP7-020\]](#), the Applicant advised that these had been agreed with Network Rail Infrastructure Limited.
- 7.4.4. In the penultimate version of the dDCO [\[REP8-004\]](#), the PPs at Schedule 14, Part 4, paragraphs 30(1), 30(6) and 30(7) were revised for reasons given in the Applicant's Schedule of Changes to the Draft Development Consent Order [\[REP8-022\]](#). At that same Deadline, Network Rail Infrastructure Limited said [\[REP8-052\]](#) that it had told the Applicant that amended PPs were needed as the parties had been unable to agree the terms of the easement required by the Applicant to deliver the Proposed Development. Network Rail Infrastructure Limited's required changes would reinstate Schedule 14, Part 4, paragraph 30 as included in the original dDCO [\[APP-034\]](#).
- 7.4.5. The ExA issued a Rule 17 request to Network Rail Infrastructure Limited [\[PD-018\]](#) asking, amongst other things, if it had anything to say over and above its submission in respect of the Applicant's PPs in its favour in the final dDCO [\[REP9-006\]](#). No response was forthcoming.
- 7.4.6. At the final deadline, the Applicant informed the Examination that a basic asset protection agreement has been completed with Network Rail Infrastructure Limited. This related to the design and construction of underground electric cable works and the removal of the 132 kV overhead line that formed part of the Proposed Development beneath and above the Sudbury Branch Line near Lamarsh. However, it understood that a further commercial agreement may be needed to regulate the carrying out of works in proximity to the Sudbury Branch Line, and the grant of rights in relation to the same [\[REP10-012\]](#).
- 7.4.7. The Applicant's position at the end of the Examination was that s127 and s138 of the PA2008 were engaged in respect of the Proposed Development's interface with Network Rail Infrastructure Limited interests ([\[REP10-012\]](#), pages 2 and 3, and [\[REP10-016\]](#)) as set out in its Applications under s127 and s138 of the PA2008 ([\[REP8-037\]](#) and [\[REP9-066\]](#), page 13). CA of rights in Network Rail Infrastructure Limited's land was considered in the previous section of this Report. However, in relation to PPs, there were three outstanding matters not agreed in respect of Schedule 14, Part 4, paragraph 30 of the dDCO [\[REP9-006\]](#):
- restriction on the use of compulsory powers without Network Rail Infrastructure Limited's prior consent – paragraph 30(1);
 - restrictions on the exercise of Network Rail Infrastructure Limited's consent – paragraph 30(6); and

- qualification of the undertaker's responsibilities in securing an asset protection agreement - paragraph 30(7).

Consent provisions: dDCO paragraph 30(1)

7.4.8. Paragraph 30(1) provided for CA powers that are the subject of four articles not being granted in respect of any railway property without Network Rail Infrastructure Limited's prior consent. Network Rail Infrastructure Limited required [\[REP8-052\]](#) that:

- additional articles (Articles 3, 4, 23, 24, 25, 26, 27, 28, 29 and 34, 36 to 40 and 46) be added to those in paragraph 30(1); and
- powers conferred by section (s)11(3) (power of entry) of the Compulsory Purchase Act 1965, s203 (power to override easements and rights) of the Housing and Planning Act 2016, s172 (right to enter and survey land) of the Housing and Planning Act 2016 and any powers in respect of the temporary possession of land under the Neighbourhood Planning Act 2017 all be included [\[REP8-052\]](#).

7.4.9. The basis of Network Rail Infrastructure Limited's objection to the deletions in paragraph 30(1) compared to the submission dDCO [\[APP-034\]](#) was that they would give rise to a significant and unacceptable risk that the Applicant could compulsorily acquire rights over railway land that would not be subject to the conditions, limitations, and restrictions that it typically required to facilitate the safe and efficient operation of the railway. This could have catastrophic consequences and compromise Network Rail Infrastructure Limited's ability to comply with its network licence that would not be acceptable to its regulator. It considered that an appropriate function and purpose of PPs was to secure the necessary protection to Network Rail Infrastructure Limited to properly regulate the rights to be exercised over its railway network.

7.4.10. Network Rail Infrastructure Limited accepted that there would be some protection for the railway in the currently proposed PPs, as the undertaker would have to enter into an asset protection agreement (paragraph 30(7)) and seek Network Rail Infrastructure Limited's prior approval of any plans (paragraph 31(1)) before any works commenced. However, Network Rail Infrastructure Limited did not consider that these protections would afford it any control over how the Applicant could exercise a right to access the railway in carrying out the proposed installation works or future maintenance works. On the other hand, it referred to paragraph 48 that provided a mechanism for any disputes arising from the operation of paragraph 30(1) to be resolved through arbitration. It added that the PPs also required it to act reasonably in the exercise of paragraph 30(1) [\[REP8-052\]](#).

7.4.11. The Applicant acknowledged that although consent in accordance with the enhanced powers sought by Network Rail Infrastructure Limited, by virtue of a revised paragraph 30(1), could not be unreasonably withheld, it was concerned that it would not be provided expeditiously. Moreover, it expressed serious misgivings that retention of the original wording would enable Network Rail Infrastructure Limited to dictate not only the nature of the interests in railway property granted for the Proposed Development but also the commercial terms on which such an interest may be granted, and statutory powers exercised. As previously drafted, the Applicant was concerned that the provision would have the potential to hinder progress of the Proposed Development since it would fetter its rights under the dDCO [\[REP10-016\]](#).

7.4.12. The Applicant said that because the Order would require the undertaker to secure Network Rail Infrastructure Limited's approval before carrying out any 'specified work' (paragraphs 31 and 32), the Statutory Undertaker's operational undertaking would not be adversely affected by works forming part of the Proposed Development ([[REP8-022](#)], Table 7.1 and [[REP10-016](#)], Table 2.1). The Applicant concluded that, as amended, paragraph 30(1) would be appropriate, proportionate and necessary to avoid what would otherwise be an inappropriate and unnecessary further constraint on its ability to successfully deliver the Proposed Development ([[REP8-022](#)], Table 7.1).

7.4.13. Both parties cited examples of made DCOs in which their preferred PPs had been included, (Applicant [[REP10-016](#)], Table 2.1, and Network Rail Infrastructure Limited [[REP8-052](#)]). Neither the Richborough Connection Project Order (Schedule 14, Part 4) nor the Hinkley Point C Connection Project Order (Schedule 15, Part 4) contained the equivalent of paragraph 30(1). The Applicant said that, as far as it was aware, the form of PPs included in those Orders had not inhibited the safe and efficient operation of the railway network nor had Network Rail Infrastructure Limited been placed in a position of conflict with the terms of its network licence [[REP10-016](#)].

ExA's consideration

7.4.14. Paragraph 30(5) prohibits the undertaker from doing anything that would result in railway property being incapable of being used or maintained or which would affect the safe running of trains. This, coupled with the comfort already provided by the approvals that would be required from Network Rail Infrastructure Limited, whilst not going as far as it would wish, would give it a role in assessing risk and taking precautionary measures to prevent any serious detriment to its undertaking.

7.4.15. The ExA has not recommended changes to the Applicant's final dDCO in this respect. In reaching this recommendation not to include the Network Rail Infrastructure Limited proposed additions to paragraph 30(1), the ExA has been mindful of the specific risks as presented in Network Rail Infrastructure Limited's representation in respect of the PPs sought [[REP8-052](#)].

Restrictions on the exercise of Network Rail Infrastructure Limited's consent – dDCO Paragraph 30(6)

7.4.16. A related matter to the consent provisions is the disagreement between the parties about safeguarding measures against 'unreasonable delay' in paragraph 30(6)(b) that reads:

'(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not—

(b) be unreasonably delayed and if, by the end of 28 days beginning with the date on which such request for Network Rail's consent was made, Network Rail has not intimated its refusal together with the grounds of any such refusal of such consent, the undertaker may serve upon Network Rail written notice requiring Network Rail to intimate approval or disapproval within a further period of 14 days beginning with the date upon which Network Rail receives written notice from the undertaker. If by the expiry of the further 14 days Network Rail has not intimated consent or refusal of consent, Network Rail is deemed to have given consent for the exercise of the respective powers.'

- 7.4.17. Network Rail Infrastructure Limited said [\[REP8-052\]](#) that the proposed blanket obligation to respond within 42 days would need to take account of the specific circumstances or particulars of such a request, which may need a longer period. For example, if Network Rail Infrastructure Limited needed to seek technical advice from its engineers, the process could take up to 3 months. Conversely, some requests might be dealt with in less than 42 days. Network Rail Infrastructure Limited considered that the provision for deemed consent would be inappropriate and contrary to its duty to carry on its statutory undertaking and comply with its network licence.
- 7.4.18. The objection in principle aside, Network Rail Infrastructure Limited said that the wording of the obligation was inappropriate as it obliged it not to unreasonably delay providing its 'consent', but rather it ought to be worded to provide that Network Rail Infrastructure Limited should not unreasonably delay providing its 'response' to such a request. Network Rail Infrastructure Limited affirmed that it was content to agree not to unreasonably delay providing its response to a request for consent but, in order to address the issue of implied pre-determination, proposed a new paragraph 30(6A):
- '(6A) Where Network Rail is asked to give its consent pursuant to this paragraph, Network Rail's response to such a request must not be unreasonably delayed.'*
- 7.4.19. The Applicant's rationale for retention of paragraph 30(6)(b) echoed concerns about timely delivery of the Proposed Development that it put forward in support of retaining paragraph 30(1) in the final dDCO [\[REP9-006\]](#). Although paragraph 30(6)(a) precluded Network Rail Infrastructure Limited from unreasonably withholding consent for exercise of the undertaker's powers conferred by the Articles subject of paragraph 30(1), the Applicant considered that provision to expedite Network Rail Infrastructure Limited's decision on a request for consent was needed given its serious concerns as to the Statutory Undertaker's continued ability to respond to requests for information or approval in a timely manner.
- 7.4.20. Whilst it appreciated that certain approvals may take longer than others to obtain, the Applicant considered that a period of 42 days was reasonable when account was taken of the critical national need for the timely delivery of the Proposed Development, the very limited nature of requests for the consent to which paragraph 30(6)(b) would apply, and the nature of the Network Rail Infrastructure Limited assets that could conceivably form the subject matter of any approvals process, namely the very limited interactions between the Proposed Development and the Sudbury Branch Line. In this context, the Applicant deemed paragraph 30(6)(b) to be appropriate, proportionate, and necessary ([\[REP8-022\]](#) and [\[REP10-016\]](#)).
- 7.4.21. The Applicant noted that paragraph 31(2) also included a deemed consent mechanism but that was not in dispute: indeed, it submitted that the mechanism formed part of Network Rail Infrastructure Limited's standard PPs. Therefore, it queried the factual correctness of Network Rail Infrastructure Limited's statement that any such provision would be contrary to its duty to carry on its statutory undertaking and comply with its network licence and suggested that limited weight be attached to this consideration.
- 7.4.22. Pursuant to Network Rail Infrastructure Limited's concern about the drafting of paragraph 30(6)(b), the Applicant suggested that the final sentence of paragraph 30(6)(b) should read:

'If by the expiry of a further 14 days Network Rail has not intimated consent or refusal of consent, Network Rail is deemed to have approved the exercise of the respective powers'.

ExA's consideration

- 7.4.23. affected and the contextual factors cited by the Applicant as limiting the challenge that compliance with such a provision would present to Network Rail Infrastructure Limited, the ExA considers that retention of Paragraph 30(6)(b) is necessary and reasonable in principle.
- 7.4.24. The ExA agrees with Network Rail Infrastructure Limited that paragraph 30(6), when read in the round, could suggest pre-determination and that 'consent' and 'request' need to be clearly distinguished to address tension between the wording of paragraph 30(6) and its sub-paragraph (b). It concludes that neither the Applicant's nor Network Rail Infrastructure Limited's suggested rewording remedies the problem.
- 7.4.25. The ExA's recommended wording for paragraph 30(6) is included in Table 7.3 and the rDCO.

Qualification of the undertaker's responsibilities in securing an asset protection agreement – dDCO Paragraph 30(7)

- 7.4.26. Paragraph 30(7) of the final dDCO [[REP9-006](#)] reads:
- '(7) Unless otherwise agreed, the undertaker must use reasonable endeavours to enter into an asset protection agreement prior to the carrying out of any specified work.'*
- 7.4.27. Network Rail Infrastructure Limited favoured the version that was included in the dDCO initially submitted with the Application [[APP-034](#)] that said:
- '(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work'.*
- 7.4.28. The amendment to the wording of paragraph 30(7) was unacceptable to Network Rail Infrastructure Limited on the basis that in order to comply with its network licence, it must ensure that any person accessing railway property enters into an asset protection agreement to ensure the safe and efficient running of trains on the railway. It said that an asset protection agreement would ensure that any person accessing railway property complied with the relevant conditions and procedural requirements deemed by Network Rail Infrastructure Limited to be reasonably necessary to maintain the safety of that person and the safety of users of the railway.
- 7.4.29. Network Rail Infrastructure Limited said that it was under an obligation not to act unreasonably, save for matters that concern safety, when it would have absolute discretion, in entering into such an agreement under paragraph 30(6). This, it said, should be sufficient comfort to the Applicant that Network Rail Infrastructure Limited may not otherwise act unreasonably in imposing requirements in an asset protection agreement. On this basis, Network Rail Infrastructure Limited 's position was that such an obligation could not be subject to the use of reasonable endeavours and that its suggested amendment was necessary.

7.4.30. By seeking to amend what was previously an absolute agreement to enter into an asset protection agreement, the Applicant restated that, on the basis of engagement to date with Network Rail Infrastructure Limited, it had serious concerns that the other party would not be inclined to enter into an appropriate form of asset protection agreement in a timely manner. It added that any delay to carrying out 'specified works' would have significant implications in terms of delivery of the Proposed Development as a whole. Therefore, paragraph 30(7) sought to cater for a potential scenario whereby Network Rail Infrastructure Limited's prompt engagement in respect of an asset protection agreement was not forthcoming or indeed where the terms it sought were unreasonable.

7.4.31. The Applicant considered that the amended wording would balance its obligation to ensure that Statutory Undertakers' apparatus and equipment was protected through the inclusion of adequate PPs, whilst ensuring that any PPs are reasonable, proportionate and would not lead to unnecessary or unjustified cost burdens which would ultimately be borne by the consumer.

ExA's consideration

7.4.32. Parties may have reached consensus on voluntary land agreements by the time the Secretary of State is considering this Report. In any case, paragraph 30(6) provides some comfort for the Applicant in Network Rail Infrastructure Limited's engagement with it and the ExA agrees with the latter's suggested reinstatement of the original dDCO wording (reported above), regarding any asset protection agreement. This would provide a way forward for the powers sought by the Applicant if voluntary land agreements had not been negotiated and agreed.

7.4.33. The ExA's recommended wording for paragraph 30(7) is included in Table 7.3 and the rDCO.

ExA's conclusion on Schedule 14, Part 4

7.4.34. Subject to the amendments to Part 4 and paragraphs 30(1), (6) and (7), the ExA is satisfied with the wording of Schedule 14 and that adequate protection is provided to Statutory Undertakers such that there would be no serious detriment to the carrying out of their respective roles and functions.

7.5. ExA'S PROPOSED CHANGES

Table 7.3: Changes to DCO provisions recommended by the ExA

(Deletions struck through in ~~bold~~ and additions in **bold**.)

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
Article 2(1)	Amend as follows: "Public Rights of Way Management Plan" means the document of that description (together with its appendices) (Document 8.5.8 (B)) certified by the Secretary of State as the Public Rights of Way Management Plan for the purposes of this Order under article 57 (certification of documents);	Typographical error

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
Article 10(3)	<p>Amend as follows:</p> <p>(3) Any development or any part of a development within the Order limits which is constructed or used under the authority of a planning permission granted under section 57 of the 1990 Act, including permissions falling under sub-paragraph (1) or (3) (2) or otherwise, is deemed not to be a breach of, or inconsistent with, this Order and shall not prevent the authorised development being carried out or used or any other power or right under this Order being exercised.</p>	Typographical error
Article 11(2)	<p>Amend as follows:</p> <p>(2) Without limiting the scope of the powers conferred by paragraph (1) but subject to the consent of the street authority, which consent shall not be unreasonably withheld or delayed, the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes set out at sub-paragraph (1)(a) to (i) and paragraph (3) of article 8 (application of the 1990 Act) applies.</p>	See paragraphs 7.3.54 to 7.3.59
Article 11(3)	<p>Amend as follows:</p> <p>(3) If a street authority that receives an application for consent under paragraph (2) fails to notify the undertaker of its decision within 28 35 days (or such other period as agreed by the street authority and the undertaker) beginning with the date on which the application was received, that authority will be deemed to have granted consent.</p>	See paragraphs 7.3.31 to 7.3.51
Article 12(1)	<p>Amend as follows:</p> <p>(1) The permit schemes apply to the construction and maintenance of the authorised development and will have effect in connection with the exercise by the undertaker of any powers conferred by this Part.</p>	See paragraph 7.3.66
Article 12(3)	<p>Amend as follows:</p> <p>(3) Irrespective of anything which is stated to the contrary within the permit schemes, where the undertaker submits an application for a permit in relation to the construction or maintenance of the authorised development subject to proposed conditions and the relevant highway authority wishes for different conditions to be imposed on the permit, the relevant highway authority must seek to reach agreement with the undertaker on the conditions subject to which the permit is to be granted and provide alternative permit conditions to the undertaker within 10 working days following the date on which the application for the permit is made by the undertaker and must not refuse an application for a permit before the end of</p>	See paragraph 7.3.66

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
	the period which is 5 working days following the date on which the alternative permit conditions are provided to the undertaker.	
Article 14(4)	Amend as follows: (4) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority (such consent not to be unreasonably withheld or delayed).	See paragraphs 7.3.54 to 7.3.59
Article 14(5)	Amend as follows: (5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 35 days (or such other period as agreed by the street authority and the undertaker) beginning with the date on which the application was received, it is deemed to have granted consent.	See paragraphs 7.3.31 to 7.3.53
Article 15(2)	Amend as follows: (2) Without limitation on the scope of paragraph (1), the undertaker may, with the consent of the street authority (such consent not to be unreasonably withheld or delayed), use as a temporary working site any street or public right of way which has been temporarily stopped up, altered or diverted under the powers conferred by this article.	See paragraphs 7.3.54 to 7.3.59
Article 15(9)	Amend as follows: (9) If a street authority which receives an application for consent under sub-paragraph (2) or (5)(b) fails to notify the undertaker of its decision before the end of the period of 28 35 days (or such other period as agreed by the street authority and the undertaker) beginning with the date on which the application was received, it is deemed to have granted consent.	See paragraphs 7.3.31 to 7.3.53
Article 16(1)(b)	Amend as follows: (b) with the consent of the relevant planning authority (such consent not to be unreasonably withheld or delayed) after consultation with the relevant highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.	See paragraphs 7.3.54 to 7.3.59
Article 16(2)	Amend as follows: (2) If a relevant planning authority which receives an application for consent under sub-paragraph (1)(b) fails to notify the undertaker of its decision before the end of the period of 28 35 days (or such other period as agreed by the	See paragraphs 7.3.31 to 7.3.53

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
	relevant planning authority and the undertaker) beginning with the date on which the application was received, it is deemed to have granted consent.	
Article 19(3)	Amend as follows (3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld or delayed.	See paragraphs 7.3.54 to 7.3.59
Article 19(4)(a)	Amend as follows: (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld or delayed; and	See paragraphs 7.3.54 to 7.3.59
Article 19(9)	Amend as follows: (9) If a person who receives an application for consent under paragraph (3) or approval under sub-paragraph (4)(a) fails to notify the undertaker of a decision within 28 35 days (or such other period as agreed by the person receiving the application and the undertaker) of receiving an application, that person is deemed to have granted consent or given approval, as the case may be.	See paragraphs 7.3.31 to 7.3.53
Article 21(5)	Amend as follows: (5) No trial holes, boreholes, excavations or horizontal cores may be made under this article— (a) on land located within the highway boundary without the consent of the relevant highway authority; or (b) in a private street without the consent of the street authority, but such consent must not be unreasonably withheld or delayed.	See paragraphs 7.3.54 to 7.3.59
Article 21(8)	Amend as follows: (8) If a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 35 days (or such other period as agreed by the highway authority or the street authority and the undertaker) of receiving the application for consent— (a) under sub-paragraph (5)(a) in the case of a highway authority; or (b) under sub-paragraph (5)(b) in the case of a street authority,	See paragraphs 7.3.31 to 7.5.53

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
	that authority is deemed to have granted consent.	
Article 47(2)	<p>Amend as follows:</p> <p>(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld or delayed, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction of the authorised development, or for purposes ancillary to it, at any time—</p>	See paragraphs 7.3.54 to 7.3.59
(Following Article 47(6))	<p>Insert a new sub-paragraph (7) as follows:</p> <p>(7) The undertaker must not exercise the powers in paragraph (6) unless it has—</p> <p>(a) given at least four weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and</p> <p>(b) advertised its intention in such manner as the traffic authority may specify in writing within seven days of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).</p>	See paragraphs 7.3.123 and 7.3.124
Article 47(7)	<p>Amend as follows:</p> <p>Article 47(7) as shown in dDCO [REP9-006] to be renumbered as Article 47(8) and amended as follows:</p> <p>(7) (8) Before complying with the provisions of paragraphs (3) and (7) the undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated</p>	See paragraph 7.3.124
Article 47(8)	<p>Amend as follows:</p> <p>Article 47(8) as shown in dDCO [REP9-006] to be renumbered as Article 47(9) as follows:</p> <p>(8) (9) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.</p>	Consequential amendment
Article 47(9)	<p>Amend as follows:</p> <p>Article 47(9) as shown in dDCO [REP9-006] to be renumbered as Article 47(10) and amended as follows:</p> <p>(9) (10) If the traffic authority fails to notify the undertaker of its decision within 28 35 days (or such other period as agreed by the traffic authority and the undertaker) of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.</p>	Consequential amendment

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
Article 47(10)	<p>Amend as follows:</p> <p>Article 47(10) as shown in dDCO [REP9-006] to be renumbered as Article 47(11) and amended as follows:</p> <p>(10) (11) Any application for consent under paragraph (2) must include a statement that the provisions of paragraph (9) (10) apply to that application.</p>	Consequential amendment
Article 47 (11)	<p>Article 47(11) as shown in dDCO [REP9-006] to be renumbered as Article 47(12) and amended as follows:</p> <p>(11) (12) If an application for consent under paragraph (2) does not include the statement required under paragraph (10) (11), then the provisions of paragraph (9)-(10) will not apply to that application.</p>	Consequential amendment
Article 48(5)	<p>Amend as follows:</p> <p>(5) If the relevant highway authority fails to notify the undertaker of its decision within 28 35 days (or such other period as agreed by the relevant highway authority and the undertaker) of receiving an application for consent under paragraph (4) the relevant highway authority is deemed to have granted consent.</p>	See paragraphs 7.3.31 to 7.3.53
Article 48(8)	<p>Amend as follows:</p> <p>(8) The consent of the relevant highway authority is not required under paragraph (4) where –</p> <p>(a) the tree to be felled, lopped, pruned, cut, trimmed, coppiced, pollarded, or reduced in height or width is described or shown in as ‘affected vegetation’ on the Landscape and Ecological Management Plan Trees and Hedgerows to be Removed or Managed Plans; and</p> <p>(b) the undertaker has notified the relevant highway authority of its intention to carry out any of the operations described in sub-paragraph (a).</p>	See paragraphs 7.3.128, 7.3.129 and 7.3.131
Article 52(1)	<p>Amend as follows:</p> <p>(1) Where an application or request is submitted to a relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of the provisions of this Order such consent, agreement or approval, if given, must be given in writing and must not be unreasonably withheld or delayed.</p>	See paragraphs 7.3.54 to 7.3.59
Article 53(5)	<p>Amend as follows:</p> <p>(5) In determining an application for planning permission a relevant planning authority must take into account any</p>	See paragraphs 7.3.139,

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
	representations received in accordance with this article and ensure that the matters raised in any such representations are addressed.	7.3.140 and 7.3.146
Schedule 1, Work No. 1	Amend as follows: Works as shown on Sheets 1, 2, 3, 6 and 8 of the Work Plans to modify and reconfigure the existing overhead transmission electric line (Route 4YL) from and within Bramford Substation to existing pylon 4YL019 (including transpositions to the north and south of Hintlesham Woods), which may include including —	See paragraphs 7.3.148 to 7.3.153
Schedule 1, Work No. 2	Amend as follows: Works as shown on Sheets 1, 2, 3, 6 and 8 to 12 (inclusive) of the Work Plans to construct and install a new overhead transmission electric line from and within Bramford Substation to the two sealing end compound gantries at the Dedham Vale East Cable Sealing End Compound and to modify and reconfigure the existing overhead transmission electric line (Route 4YL), which may include including —	See paragraphs 7.3.148 to 7.3.153
Schedule 1, Work No. 3	Amend as follows: Works as shown on Sheets 12 to 15 (inclusive) of the Work Plans to construct and install a new underground transmission electric line (5.5 kilometres in length) in the section of the works between and including the Dedham Vale East Cable Sealing End Compound and the Dedham Vale West Cable Sealing End Compound, which may include including —	See paragraphs 7.3.148 to 7.3.153
Schedule 1, Work No. 4	Amend as follows: Works as shown on Sheets 15, 16, 17 and 19 of the Work Plans to construct and install a new overhead transmission electric line between the two sealing end compound gantries at the Dedham Vale West Cable Sealing End Compound and the two sealing end compound gantries at the Stour Valley East Cable Sealing End Compound, which may include including —	See paragraphs 7.3.148 to 7.3.153
Schedule 1, Work No. 5	Amend as follows: Works as shown on Sheets 19, 20, 21, 27 and 28 of the Work Plans to construct and install a new underground transmission electric line (5.1 kilometres in length) in the section of the works between and including the Stour Valley East Cable Sealing End Compound and the Stour Valley West Cable Sealing End Compound, which may include including —	See paragraphs 7.3.148 to 7.3.153
Schedule 1, Work No. 6	Amend as follows:	See paragraphs

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
	Works as shown on Sheets 27 and 28 of the Work Plans to realign the existing overhead transmission electric line (Route 4YLA) between the two sealing end compound gantries at the Stour Valley West Cable Sealing End Compound and a point indicated as 4YLA007 (Route 4YLA), which may include including —	7.3.148 to 7.3.153
Schedule 1, Work No. 7	Amend as follows: Works as shown on Sheets 21, 27 and 28 of the Work Plans to allow the removal of 2.5 kilometres of the existing overhead transmission electric line (Route 4YLA) between the Twinstead Tee at a point indicated as 4YL073 and a point to the southwest of Alphamstone indicated as 4YLA007, which may include including —	See paragraphs 7.3.148 to 7.3.153
Schedule 1, Work No.8	Amend as follows: Works as shown on Sheets 4, 5, 7 to 17 (inclusive), 19, 20, 21 and 22 of the Work Plans to allow the removal of 25 kilometres of the existing overhead distribution electric line (Route PCB) between Burstall Bridge at a point indicated as PCB5 and a point to the west of Twinstead Tee indicated as PCB89, which may include including —	See paragraphs 7.3.148 to 7.3.153
Schedule 1, Work No. 9	Amend as follows: Works as shown on Sheet 23 of the Work Plans to construct the Grid Supply Point Substation between Butler's Wood and Waldegrave Wood, to the east of Wickham St. Paul, which may include including —	See paragraphs 7.3.148 to 7.3.153
Schedule 1, Work No. 10	Amend as follows: Works as shown on Sheet 23 of the Work Plans to reconfigure the existing overhead transmission electric line (Route 4YL) adjacent to the Grid Supply Point Substation and to construct a single circuit cable sealing end compound to the southwest of the Grid Supply Point Substation, which may include including —	See paragraphs 7.3.148 to 7.3.153
Schedule 1, Work No. 11	Amend as follows: Works as shown on Sheets 23, 25 and 26 of the Work Plans to modify the existing overhead distribution electric line (Route PCB) between a point indicated as PCB97 and a point indicated as PCB103 and to construct and install a new underground distribution electric line between the Grid Supply Point Substation and the existing overhead distribution electric line (Route PCB), which may include including —	See paragraphs 7.3.148 to 7.3.153
Schedule 1, Work No. 12	Amend as follows:	See paragraphs

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
	Works to construct temporary site compounds as part of the authorised development and in each case which may include including —	7.3.148 to 7.3.153
Schedule 1, Associated Development	Amend as follows: Such associated development not listed above, within the Order limits, as may be necessary or expedient for the purposes of or in connection with the construction or maintenance of the above Work Nos. or any of them, which may include including —	See paragraphs 7.3.148 to 7.3.153
Requirement 1(1)	Add the following definition to Requirement 1(1): “HGV” means lorries over 3.5 tonnes maximum gross weight;	See paragraphs 7.3.170 and 7.3.171
Requirement 1(1)	Add the following definition to Requirement 1(1): “lead local flood authority” has the same meaning as in section 6(7) of the Flood and Water Management Act 2010.	See paragraphs 7.3.179 and 7.3.180
Requirement 1(1)	Amend the following definition as shown: <i>“reinstatement planting” includes, unless otherwise agreed with the relevant planning authority, embedded planting, reinstatement hedgerow or other planting and mitigation planting as each are described in the Landscape and Ecological Management Plan.</i>	See paragraphs 7.3.173 to 7.3.178
Requirement 4(2)(e)	Amend as follows: Public Rights of Way Management Plan	Typographical error
Requirement 4(4)	Insert new sub-paragraph as follows: (4) No stage of the authorised development may commence until, for that stage, detailed written plans for the management of construction materials, construction waste, dust, and noise and vibration, as relevant to that stage, that are in accordance with the Construction Environmental Management Plan and its Appendices and Materials and Waste Management Plan referred to in sub-paragraph (2), have been submitted to the relevant planning authority.	See paragraphs 7.3.210 and 7.3.211
Requirement 4(5)	Insert new sub-paragraph as follows: (5) The construction works for each stage of the authorised development must be carried out in accordance with the detailed written plans referred to in sub-paragraph (4) unless otherwise agreed with the relevant planning authority.	See paragraph 7.3.211

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
Requirement 5(1)	<p>Amend as follows:</p> <p>(1) No stage of the authorised development may be brought into operational use until, for that stage, a Drainage Management Plan, to address operational surface water management matters, has been submitted to and approved by the relevant planning authority, after consultation with the lead local flood authority and the relevant highway authority</p>	See paragraphs 7.3.209 to 7.3.212
Requirement 5(2)	<p>Amend as follows:</p> <p>(2) The operational use of each stage of the authorised development must be carried out in accordance with the approved Drainage Management Plan referred to in subparagraph (1) or with any amended Drainage Management Plan that may subsequently be approved by the relevant planning authority, after consultation with the lead local flood authority and with the relevant highway authority.</p>	See paragraphs 7.3.209 to 7.3.212
Requirement 6(2)	<p>Amend as follows:</p> <p>(2) No stage of the authorised development may commence until either a preservation <i>in situ</i> management plan, or a Detailed Written Scheme of Investigation of areas of archaeological interest relevant to that stage (if any), as identified within the Outline Written Scheme of Investigation or identified through evaluation work as set out in the Outline Written Scheme of Investigation, has been submitted to and approved by the County Archaeologist the relevant planning authority.</p>	See paragraphs 7.3.213 to 7.3.216
Requirement 6(4)	<p>Amend as follows:</p> <p>(4) The Detailed Written Scheme of Investigation must be in accordance with the Outline Written Scheme of Investigation and must identify areas where archaeological works are required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found and must include an implementation timetable:</p> <p>(a) an assessment of significance and research questions;</p> <p>(b) the programme of methodology of site investigation and reporting;</p> <p>(c) the programme for post-investigation assessment;</p> <p>(d) proposals for providing for the analysis of site investigation and recording;</p> <p>(e) proposals for providing archive deposition of the analysis and records of the site investigation;</p>	See paragraphs 7.3.213 to 7.3.216

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
	<p>(f) nomination of a competent person or persons/organisation to undertake the works set out within the Detailed Written Scheme of Investigation; and</p> <p>(g) an implementation timetable.</p>	
Requirement 7(2)	<p>Amend as follows:</p> <p>(2) No piling operations may take place between 19.00 and 07.00, or on Sundays, Bank Holidays or other public holidays, and, unless otherwise agreed with the local highway authority, no HGV deliveries may be made to site between 19.00 and 07.00, or on Sundays, Bank Holidays or other public holidays.</p>	See paragraphs 7.3.217 to 7.3.222
Requirement 7(3)	<p>To be deleted:</p> <p>(3) No percussive piling operations may take place on Sundays and Bank Holidays.</p>	See paragraphs 7.3.217 to 7.3.222
Requirement 7(4)	<p>To be renumbered as 7(3), 7(3)(g) and 7(3)(k) amended as follows:</p> <p>(4) (3)The following operations may take place outside the core working hours referred to in sub-paragraph (1)—</p> <p>(a) trenchless crossing operations including beneath highways, railway lines, woodlands or watercourses;</p> <p>(b) the installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines or watercourses;</p> <p>(c) the jointing of underground cables (save for the cutting of underground cables);</p> <p>(d) the continuation of operations commenced during the core working hours to a point where they can safely be paused;</p> <p>(e) any highway works requested by the highway authority to be undertaken on a Saturday, Sunday or a Bank Holiday or outside the core working hours;</p> <p>(f) the testing or commissioning of any electrical plant installed as part of the authorised development;</p> <p>(g) the completion of works delayed or held up by severe weather conditions which disrupted or interrupted normal construction activities that the undertaker and its contractor agree forms the critical path for the accepted construction programme. In such cases, the undertaker must, as soon as practicable, notify the</p>	See paragraphs 7.3.217 to 7.3.222

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
	<p>relevant planning authority of the disruption or interruption and explain why that work could not be completed within the core working hours referred to in sub-paragraph (1);</p> <p>(h) activity necessary in the instance of an emergency where there is a risk to persons or property;</p> <p>(i) security monitoring;</p> <p>(j) non-intrusive surveys; and</p> <p>(k) intrusive surveys, in the instance of an emergency where there is a risk to persons or property or following a request made by the relevant planning authority.</p>	
Requirement 7(5)	<p>To be renumbered as Requirement 7(4):</p> <p>(5) (4) The core working hours referred to in sub-paragraph (1) exclude start up and close down activities up to 4 one hour either side of the core working hours. A 50dBA noise limit (LOAEL) will apply at the nearest noise-sensitive receptors for start-up and close down activities up to one hour either side of the core working hours.</p>	See paragraphs 7.3.217 to 7.3.222
Requirement 7(5)	<p>Add replacement sub-paragraph as follows:</p> <p>(5) No construction activities may take place between 19.00 and 07.00, or on Sundays, Bank Holidays or other public holidays at:</p> <p>(a) pylon PCB 64; (b) pylon 4Y004A; (c) pylon RB44; (d) pylon RB7; (e) pylon RB33; (f) pylon RB25; and (g) pylon 4YLA002,</p> <p>as shown on Figure 4.1 in the Environmental Statement Figures (document reference 6.4(B)).</p>	See paragraphs 7.3.217 to 7.3.222
Requirement 7(6)	<p>Insert new sub-paragraph as follows:</p> <p>(6) The severe weather conditions referred to in sub-paragraph 3(g) means any weather which prevents work from taking place during the core working hours referred to in sub-paragraph (1) by reason of physical incapacity (whether for reasons of visibility, ground conditions, power availability, site access or otherwise) or being contrary to safe working practices.</p>	See paragraphs 7.3.217 to 7.3.222
Requirement 8(2)	<p>Amend as follows:</p> <p>(2) The plan submitted under sub-paragraph (1) must include details of the location, species and condition of the trees,</p>	See paragraph 7.3.229

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
	groups of trees, woodlands and hedgerows to be removed and retained during that stage of the authorised development.	
Requirement 8(3)	Amend as follows: (3) The plan submitted under sub-paragraph (1) must be in general accordance with the Landscape and Ecological Management Plan and the Trees and Hedgerows to be Removed or Managed Plans.	See paragraph 7.3.228
Requirement 12(1)	Amend part (1) of Requirement 12 to read as follows: 12.-(1) In the event that, at some future date, the authorised development, or part of it, is to be decommissioned, a written scheme of decommissioning must be submitted for approval by to the relevant planning authority for its approval in consultation with the relevant highway authority, at least six months prior to any decommissioning works.	See paragraphs 7.3.261 to 7.3.268
Requirement 12(4)	Add a new part (4) as follows: (4) The written scheme of decommissioning submitted under sub-paragraph (1) must include an environmental assessment undertaken in accordance with the laws and regulations applicable at the time it is submitted to the relevant planning authority.	See paragraphs 7.3.261 to 7.3.268
Requirement 14(2)	Amend as follows: (2) The construction works for each stage of the authorised development must be carried out in general accordance with the approved Soil Management Plan referred to in sub-paragraph (1), or with any amended Soil Management Plan that may subsequently be approved by unless otherwise agreed with the relevant planning authority.	See paragraphs 7.3.272 and 7.3.275
Schedule 4, Paragraph 1(1)	Amend as follows: 1.—(1) Where an application has been made to a relevant authority for any consent, agreement or approval required by a Requirement (including consent, agreement or approval in respect of part of a Requirement), the relevant authority must give notice to the undertaker of its decision on the application within a period of 28 35 days beginning with—	See paragraphs 7.3.31 to 7.3.53
Schedule 4, Paragraph 3(1)(b)	Amend as follows: (b) a fee of £145 per request unless a bespoke arrangement has been agreed between the Applicant and discharging authority and legally secured.	See paragraphs 7.3.291 to 7.3.293
Schedule 6, Part 2, Essex	Amend column (2) of entry relating to Old Road to read:	Typographical error

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
County Council	At access points H-AP3, H-AP4, H-AP5, H-AP6, H-AP7, H-YLAP1, six a temporary bellmouths will be created (as shown on Sheet 24) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.	
Schedule 6, Part 2, Essex County Council	Amend column (2) of entry relating to Park Road to read: At access point H-AP8 a temporary bellmouths will be created (as shown on Sheet 26) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.	Typographical error
Schedule 14 Part 3, Paragraph 21(2)	There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus...	For consistency
Schedule 14 Part 3, Paragraph 21(3)	If in accordance with the provisions of this Part of this Schedule... the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.	For consistency
Schedule 14, Part 4, Paragraph 30(6)	Amend paragraph 30(6) to read: (6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not (a) such consent must not be unreasonably withheld but may be given subject to reasonable conditions, but it shall never will not be considered unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion); and (b) any such request must not be unreasonably delayed and if, by the end of 28 days beginning with the date on which such request for Network Rail's consent was made, Network Rail has not intimated its refusal together with the grounds of any such refusal of such consent, the undertaker may serve upon Network Rail written notice requiring Network Rail to intimate approval or disapproval within a further period of 14 days beginning with the date upon which Network Rail receives written notice from the undertaker. If by the expiry of the further 14 days Network Rail has not intimated consent or refusal of consent, Network Rail is deemed to have given consent for the exercise of the respective powers.	See paragraphs 7.4.23 to 7.4.25
Schedule 14, Part 4,	Amend as follows:	See paragraphs

Provision in dDCO [REP9-006]	Recommended change	ExA's reasoning
Paragraph 30(7)	(7) Unless otherwise agreed to The undertaker must use reasonable endeavours to enter into an asset protection agreement prior to the carrying out of any specified work.	7.4.32 and 7.4.33
Schedule 14, Part 5, 57(7)	Add full stop to the end of the sentence, as follows: ... for which protective works are required prior to commencement.	Typographical error
Schedule 17, first column, penultimate row in table	Amend as follows: Public Rights of Way Management Plan	Typographical error

7.6. CONCLUSIONS

- 7.6.1. The ExA has examined all iterations of the dDCO as provided by the Applicant (from the submission version [\[APP-034\]](#) to the final version [\[REP9-006\]](#), as set out in Table 7.1), and has considered the extent to which the Applicant's final dDCO has addressed matters arising during the Examination.
- 7.6.2. The ExA is satisfied that, subject to the amendments recommended in Table 7.3, the Requirements set out in the Applicant's final dDCO will provide mitigation for potential adverse effects identified in the ES. In this regard, the ExA considers that the Requirements, subject to the recommended amendments, are necessary, reasonable, enforceable and sufficiently precise, as well as being relevant to planning and to the Proposed Development.
- 7.6.3. A number of matters relating to the provisions of the dDCO are the subject of recommendations in this section (as set out in Table 7.3) and are included in the rDCO at Appendix D to this Report.
- 7.6.4. Taking all matters relevant to the DCO raised in this section and in the remainder of this Report fully into account, should the Secretary of State be minded to make the DCO, is the ExA recommends it be made in the form set out at Appendix D to this Report.

8. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

8.1. CONSIDERATION OF FINDINGS AND CONCLUSIONS

- 8.1.1. The application for development consent for the Bramford to Twinstead Reinforcement was made by National Grid Electricity Transmission plc. Following its examination of the Proposed Development, these are the conclusions of the Examining Authority (ExA) and its recommendation to the Secretary of State for Energy and Net Zero about whether a Development Consent Order (DCO) should be made.
- 8.1.2. The electricity transmission network in East Anglia will soon lack the capability to deal with increased low carbon generation, including extensive offshore wind power, which would play a key role in delivering the UK Government's Net Zero ambitions.
- 8.1.3. NPS EN-1, the Overarching National Policy Statement for Energy, and NPS EN-5, the National Policy Statement for Electricity Networks Infrastructure, designated in 2011 apply here for the purposes of s104(2)(a) of the Planning Act 2008 (PA2008).
- 8.1.4. On 22 November 2023, the Department for Energy Security and Net Zero published updated versions of the draft revised Energy NPSs. The 2024 NPSs came into force on 17 January 2024, during the course of the Examination. The ExA invited and received comments from relevant parties on the potential implications, and it took all responses into consideration.
- 8.1.5. The ExA has considered the changes in the 2024 energy NPSs, including further recognition of the urgent requirement for low carbon energy infrastructure to enhance energy security and for the achievement of Net Zero. It has noted that qualifying electricity transmission infrastructure is now considered to be a development of 'critical national priority', and the implications of this, as set out in the 2024 NPS EN-1.
- 8.1.6. The prescribed transitional arrangements mean that, for any application accepted for examination before the designation of the 2024 NPSs, as is the case here, the 2011 NPSs should have effect in accordance with the terms of those NPSs. Nevertheless, the ExA considers the 2024 NPSs to be important and relevant in the recommendation and decision-making processes.
- 8.1.7. In reaching its conclusions, the ExA had regard to the joint Essex County Council and Braintree District Council Local Impact Report, and the joint Suffolk County Council and Babergh and Mid Suffolk District Councils Local Impact Report. It notes that the final Statement of Common Ground between the host authorities and the Applicant records some outstanding objections from those authorities, including insufficient landscape and visual mitigation and compensation, some of the assumptions and findings of the construction traffic assessment, and the adequacy of the management plan control documents. All of the outstanding matters are considered by the ExA in section 3 of this Report.
- 8.1.8. Having considered local policy and representations from the relevant host county, district and parish councils, the ExA considers that the Proposed Development would not conflict in principle or substantially with relevant development plan policy, which has been taken into account in this recommendation.

- 8.1.9. Whilst the Secretary of State for Energy Security and Net Zero is the Competent Authority under the Conservation of Habitats and Species Regulations 2017, the ExA is satisfied that, subject to mitigation secured in the rDCO, adverse effects on the integrity of European sites from the Proposed Development when considered alone or in combination with other plans or projects can be excluded.
- 8.1.10. The ExA has also considered whether the determination of this application in accordance with the relevant NPSs would lead the UK to breach any of its international obligations, or to the Secretary of State being in breach of any duty imposed under any enactment or be otherwise unlawful. The ExA is content that this would not be the case.
- 8.1.11. As required by Regulation 3(1) of the Infrastructure Planning (Decisions) Regulations 2010, the ExA had regard to the desirability of preserving listed buildings, their settings and any features of special architectural or historic interest that they possess. Similar regard was given to the desirability of preserving or enhancing the character or appearance of conservation areas and the desirability of preserving Scheduled Monuments and their settings.
- 8.1.12. Where the ExA found harm to the significance of designated heritage assets (section 3.8 of this Report), it considers that it would be less than substantial in each instance. Taking into account the public benefits of the Proposed Development, the ExA finds a convincing justification for the harm that would arise to designated heritage assets.
- 8.1.13. In terms of Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA is satisfied that biodiversity and ecology matters have been adequately assessed and that the requirements of the NPSs have been met. The ExA considers that the voluntary Biodiversity Net Gain proposals arising from the Proposed Development would most likely provide considerable biodiversity benefits.
- 8.1.14. The ExA finds nothing to indicate that the application should be decided other than in accordance with NPS EN-1 and NPS EN-5. Given the scale and urgency of the need for reinforcement of the electricity transmission network, the ExA attributes great weight to the benefits of the Order being made. Weighing against this, the ExA allocates moderate weight to the disbenefits around biodiversity, historic environment, land use, and public rights of way matters, and a little weight to disbenefits relating to greenhouse gas emissions, good design, landscape and views, noise and vibration, and cumulative effects.
- 8.1.15. Taking account of the mitigation secured through the rDCO at Appendix D to this Report, and despite its concern that the ES may have underestimated the landscape and visual effects of the Proposed Development to a minor extent, on the basis of the 2011 NPS EN-1 and NPS EN-5 the ExA finds no adverse impacts arising from the Proposed Development that would outweigh its benefits. For these reasons, the ExA concludes that the Proposed Development would meet the tests in s104 of PA2008. The ExA notes that its recommendation would not have been any different in the context of the 2024 NPS EN-1 and 2024 NPS EN-5 and had the Proposed Development been afforded critical national priority status.
- 8.1.16. Outstanding matters between the Applicant and various Statutory Undertakers at the close of the Examination were listed in paragraph 6.13.3 of this Report. Notwithstanding these, the ExA is satisfied that it has been able to make its recommendation in the context of all important and relevant information. Similarly, if these matters were not resolved following the close of the Examination, the ExA is

content that the Secretary of State has all of the important and relevant information required to make a decision.

8.1.17. The ExA has considered the Applicant's case for the Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights in order to implement the Proposed Development. Having considered all the material submitted to the Examination, it has concluded:

- The application site has been appropriately selected.
- All reasonable alternatives to CA have been explored.
- The Applicant would have access to the necessary funds.
- There is a clear need for all the land included in the Book of Reference to be subject to CA or TP.
- There is a need to secure the land and rights required to construct, operate and maintain the Proposed Development within a reasonable timeframe.
- The Proposed Development represents a significant public benefit.
- That in all cases relating to individual objections and issues that CA and TP are justified to enable implementation of the Proposed Development.
- The powers sought satisfy the conditions set out in ss122 and 123 of the PA2008 as well as the CA Guidance.
- The powers sought in relation to Statutory Undertakers meet the conditions set out in ss127 and 138 of the PA2008 and the CA Guidance.
- The powers sought in relation to special category land meet the conditions set out in s132 of the PA2008 and the CA Guidance.

8.1.18. The ExA had regard to the Public Sector Equality Duty (PSED) throughout the Examination and in producing this Report. It is satisfied that the Proposed Development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, there would be no breach of the PSED.

8.1.19. The ExA also had regard to the provisions of the Human Rights Act 1998, in particular Article 6 (Acts of public authorities), Article 8 (Judicial remedies) and Article 1 of the First Protocol (Protection of property). The ExA considers that the Examination gave a fair and public hearing, and that any interference with human rights arising from implementation of the Proposed Development would be proportionate and would strike a fair balance between the rights of the individual and the public interest. Compensation would be available in respect of any quantifiable loss. There is no conflict with the provisions of the Human Rights Act 1998.

8.1.20. In respect of all other matters and representations received, the ExA is satisfied that there are no important or relevant matters that would individually or collectively lead to a different recommendation from that set out below.

8.2. RECOMMENDATION

8.2.1. For all the above reasons, and in light of all of its findings and conclusions on the important and relevant matters set out in this Report, the ExA considers that the Proposed Development meets the tests in s104 of the PA2008 and concludes that the case for Proposed Development has been made. It recommends that the Secretary of State makes The National Grid (Bramford to Twinstead Reinforcement) Order 20[XX] in the form recommended at Appendix D to this Report.

APPENDICES

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Table A1: The ES

The list of documents the ExA considers to constitute the Environmental Statement (in whole or in part)	
Documents from the Applicant's Volume 6, Environmental Information	
[APP-068]	ES Non Technical Summary
[APP-069]	ES Chapter 1 Introduction
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[APP-090]	ES Appendix 4.1 Good Design
[APP-091]	ES Appendix 4.2 Construction Schedule
[APP-092]	ES Appendix 4.3 Greenhouse Gas Assessment
[APP-093]	ES Appendix 5.1 Scope of the Assessment
[APP-094]	ES Appendix 5.2 Response to Consultation Feedback
[APP-095]	ES Appendix 5.3 Major Accidents and Disasters Scoping
[APP-096]	ES Appendix 5.4 Assessment Criteria
[APP-097]	ES Appendix 6.1 Landscape and Visual Methodology
[APP-098]	ES Appendix 6.2 Assessment of Effects on Designated Landscapes

[APP-099]	ES Appendix 6.2 Annex A Dedham Vale AONB Approach and Identification of Setting Study
[APP-100]	ES Appendix 6.3 Assessment of Effects on Landscape Character
[REP4-038]	ES Appendix 6.4 Viewpoint Assessment Section AB Part 1
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[REP4-019]	ES Appendix 6.4 Viewpoint Assessment Section F Part 5
[APP-106]	ES Appendix 6.4 Viewpoint Assessment Section G Part 6
[APP-107]	ES Appendix 6.4 Viewpoint Assessment Section H Part 7
[APP-108]	ES Appendix 6.5 Assessment of Visual Effects on Communities
[APP-109]	ES Appendix 7.1 Habitats Baseline Report
[APP-110]	ES Appendix 7.1 Annex A Habitats Baseline UKHab Descriptions
[REP9-020]	ES Appendix 7.1 Annex B Hintlesham Woods SSSI Assessment
[APP-112]	ES Appendix 7.2 Species Baseline Report
[APP-113]	ES Appendix 7.3 Aquatic Ecology Baseline Report
[APP-114]	ES Appendix 7.4 Ancient Woodland and Potential Ancient Woodland Report
[APP-115]	ES Appendix 7.5 Important Hedgerows Assessment
[APP-116]	ES Appendix 7.6 Protected and Controlled Species Legislation Compliance Report
[APP-117]	ES Appendix 7.7 Bat Survey Report
[APP-118]	ES Appendix 7.7 Annex A Bat Draft Licence
[APP-119]	ES Appendix 7.8 Dormouse Survey Report
[REP9-022]	ES Appendix 7.8 Annex A Dormouse Draft Licence
[APP-121]	ES Appendix 7.9 Badger Survey Report CONFIDENTIAL
[APP-124]	ES Appendix 7.9 Annex A Badger Draft Licence CONFIDENTIAL
[APP-125]	ES Appendix 8.1 Historic Environment Baseline
[APP-126]	ES Appendix 8.1 Annex A Historic Environment Gazetteer
[APP-127]	ES Appendix 8.2 Historic Environment Impact Assessment
[APP-128]	ES Appendix 8.2 Annex A Hintlesham Hall Assessment
[APP-129]	ES Appendix 9.1 Water Environment Baseline
[APP-130]	ES Appendix 10.1 Geology Baseline and Preliminary Risk Assessment
[APP-131]	ES Appendix 10.2 Groundwater Baseline and Assessment
[APP-132]	ES Appendix 10.3 Minerals Resource Assessment
[APP-133]	ES Appendix 11.1 Agricultural Land Classification Survey
[APP-134]	ES Appendix 12.1 Traffic and Transport Significance of Effects Tables

[APP-135]	ES Appendix 13.1 Dust Risk Assessment
[APP-136]	ES Appendix 14.1 Construction Noise and Vibration Data
[APP-137]	ES Appendix 14.2 Construction Traffic Noise and Vibration Assessment
[APP-138]	ES Appendix 14.3 Overhead Line Noise Assessment
[APP-139]	ES Appendix 14.4 Grid Supply Point Substation Noise Assessment
[APP-140]	ES Appendix 15.1 Cumulative Effects Baseline
[APP-141]	ES Appendix 15.2 Intra Project Cumulative Effects Matrix
[APP-142]	ES Appendix 15.3 Long List of Other Developments
[APP-143]	ES Appendix 15.4 Shortlist of Other Developments
[APP-144]	ES Appendix 15.5 Inter Project Cumulative Effects Assessment
[PDA-002]	ES Figures
[APP-146]	Environmental Statement Figures Part 1
[APP-147]	Environmental Statement Figures Part 2
[APP-148]	Environmental Statement Figures Part 3
[APP-149]	Environmental Statement Figures Part 4
[APP-150]	Environmental Statement Figures Part 5
[APP-151]	Environmental Statement Figures Part 6
[APP-152]	Environmental Statement Figures Part 7
[APP-153]	Environmental Statement Figures Part 8
[APP-154]	Environmental Statement Figures Part 9
[APP-155]	Environmental Statement Figures Part 10
[APP-156]	Environmental Impact Assessment Scoping Report Main Report
[APP-157]	Environmental Impact Assessment Scoping Report Appendices
[APP-158]	Environmental Impact Assessment Scoping Report Figures
[APP-159]	Scoping Opinion
	Other documents
[APP-006]	Glossary and Acronyms
[PDA-001]	Photomontages
[APP-063]	Photomontages Appendix 3 Part 1
[APP-064]	Photomontages Appendix 3 Part 2
[APP-065]	Photomontages Appendix 3 Part 3
[APP-066]	Socio Economics and Tourism Report
[REP9-033]	Construction Environmental Management Plan (CEMP)
[REP9-035]	CEMP Appendix A Code of Construction Practice
[REP8-018]	Construction Traffic Management Plan
[REP3-032]	Materials and Waste Management Plan

[REP9-044]	Landscape and Ecological Management Plan (LEMP)
[REP9-040]	LEMP Appendix A Vegetation Retention and Removal Plan
[REP9-041]	LEMP Appendix B Vegetation Reinstatement Plan
[REP9-042]	LEMP Appendix C Planting Schedules
[APP-186]	Archaeological Framework Strategy
REP9-045]	[Outline Written Scheme of Investigation
[REP8-024]	Public Right of Way Management Plan
[REP1-032]	Dedham Vale AONB Special Qualities and Statutory Purpose
[REP1-033]	Identified Setting of Dedham Vale AONB with Project Viewpoints
[REP1-036]	Ecological Survey of the Temporary Access Route Off the A131
[REP9-054]	Errata List
[REP9-058]	Technical Note on Noise Levels at Hintlesham Woods
[REP3-046]	Technical Note on Ancient and Potential Ancient Woodland
[REP5-028]	Technical Note on Cultural Associations
[REP6-047]	Technical Note on Noise Sensitive Receptors
[REP6-049]	Technical Note on Public Right of Way Closure Sequencing

Table A2: Summary of Other Relevant Legislation

Equality Act 2010
<p>Section 149 of the Equality Act 2010 established the Public Sector Equality Duty (PSED). Included in this duty is the requirement for a public authority in the exercise of its functions to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not.</p> <p>The PSED is applicable to an Examining Authority (ExA) in the conduct of an Examination and reporting, and to the Secretary of State in decision making. The ExA had particular regard to the PSED in terms of holding blended, in-person and virtual meetings, producing guidance on holding those meetings, ensuring participants could be provided with hard copy correspondence, where requested, and in the conduct of site inspections to ensure full appreciation of the potential impacts of the Proposed Development on any persons with protected characteristics.</p>
Human Rights Act 1998
<p>The Compulsory Acquisition of land can engage various relevant articles under the Human Rights Act 1998. The implications of this are considered in section 6.11 of this report.</p>
Climate Change Act 2008
<p>The Climate Change Act 2008 established the world's first long-term, legally binding framework to tackle the dangers of climate change. It sets statutory climate change projections and carbon budgets. A key provision is the setting of legally binding targets for greenhouse gas emission reductions in the UK of at least 100% by 2050.</p>
Electricity Act 1989
<p>Section 38 and Schedule 9 of the Electricity Act require a transmission licence holder to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. A licence holder is also required to take reasonable measures to mitigate any adverse effect that its proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.</p>
Levelling-up and Regeneration Act 2023
<p>This Act introduced changes to the planning system, environmental protection and local democracy.</p>
Acquisition of Land Act 1981
<p>This Act governs the process of acquiring land for public purposes and provides the legal framework for compulsory purchase orders.</p>
National Parks and Access to the Countryside Act 1949
<p>This Act provides the framework for the establishment of National Parks and Areas of Outstanding National Beauty (AONBs). The Act also establishes powers to declare National Nature Reserves, to notify Sites of Special Scientific Interest (SSSIs) and for local authorities to establish Local Nature Reserves.</p>

Wildlife and Countryside Act 1981

The Wildlife and Countryside Act is the primary legislation to protect certain animals, plants and habitats in the UK. It provides for the notification and confirmation of SSSIs. In England, these sites are notified for their flora, fauna, geological or physiographical interest by the statutory nature conservation body, Natural England.

Countryside and Rights of Way Act 2000

The Countryside and Rights of Way Act 2000 includes provisions in respect of open countryside and public rights of way, improved protection for SSSIs and wildlife, and further measures to protect AONBs, such as the production of a Management Plan. The Dedham Vale AONB and Stour Valley Management Plan 2021 to 2026 is the current, adopted plan of relevance to the Proposed Development.

Natural Environment and Rural Communities Act 2006

Section 40 places a duty on public authorities to conserve and enhance biodiversity. Actions that may be taken by an authority to further the general biodiversity objective include conserving, restoring or enhancing a population of a particular species or type of habitat.

Protection of Badgers Act 1992

The Protection of Badgers Act 1992 creates offences relating to killing, injuring or taking of a badger, and interfering with a badger sett.

Salmon and Freshwater Fisheries Act 1975

This Act sets out offences related to causing fish mortality, barriers to migration, and degradation of habitat. The Order Limits cross the River Stour, the River Brett, the River Box and Belstead Brook.

Town and Country Planning Act 1990

This Act makes provisions regarding Tree Preservation Orders (TPOs). Schedule 13 of the draft Development Consent Order (dDCO) [[REP9-006](#)] identifies trees subject to TPOs, and Article 49 describes the scope of works.

Ancient Monuments and Archaeological Areas Act 1979

The Ancient Monuments and Archaeological Areas Act provides for Scheduled Monuments to be protected and for the maintenance of a list of Scheduled Monuments. It also imposes a requirement for Scheduled Monument Consent for any works of demolition, repair, and alteration that might affect a designated Scheduled Monument.

Burial Act 1857

It is an offence to remove buried human remains without the necessary consent.

Treasure Act 1996

The Act requires treasures to be reported to the local coroner.

Planning (Listed Buildings and Conservation Areas) Act 1990

This Act sets out the principal statutory provisions that must be considered in the determination of any application affecting listed buildings and conservation areas.

Environmental Protection Act 1990

Part II, section 33(1)(a) identifies actions as offences if depositing, treating, keeping or disposing controlled waste not in accordance with a licence. Part IIA sets out the

contaminated land regime and Part III, section 79(1) identifies matters that are considered to represent statutory nuisance.

Environment Act 1995

The Environment Act 1995 makes provisions for improved pollution control measures by regulating waste and emissions.

Environment Act 2021

A key aim of the Environment Act 2021 is to make provision for long-term, legally binding targets, plans and policies with the intention of improving the natural environment. Its provision for Biodiversity Net Gain (BNG) in respect of Nationally Significant Infrastructure Projects is not expected to be enacted before late 2025, and BNG was not mandatory for the Proposed Development.

Pollution Prevention and Control Act 1999

The Pollution Prevention and Control Act applies an integrated environmental approach to the regulation of certain industrial activities. This means that emissions to air, land and water, including discharges to sewer, plus a range of other environmental effects, must be considered together.

Water Resources Act 1991, Flood and Water Management Act 2010, Water Act 2003 and 2014, Land Drainage Act 1994.

These Acts set out the relevant regulatory controls that provide protection to waterbodies and water resources from abstraction pressures, discharge and pollution, flooding, and for drainage management related to non-main rivers.

Highways Act 1980

The Highways Act 1980 places a duty on the local highway authority to maintain the public highway network in a condition that is safe for users. The public highway network includes all adopted roads, footpaths and verges but does not include unadopted or privately owned roads.

New Roads and Street Works Act 1991

The New Roads and Street Works Act 1991 provides a legislative framework for street works by undertakers, including utility companies, and works for road purposes.

Health and Safety at Work etc. Act 1974

The Act governs the general duties that employers have towards employees and members of the public, and it is the primary piece of legislation covering occupational health and safety in the UK.

Control of Pollution Act 1974

Sections 60 and 61 of the Control of Pollution Act 1974 provide the main legislation regarding demolition and construction site noise and vibration. If noise complaints are received, a section 60 notice may be issued by the local planning authority with instructions to cease work until specific conditions to reduce noise have been adopted. Section 61 of the Control of Pollution Act provides a means for applying for prior consent to carry out noise generating activities during construction.

Traffic Management Act 2004

The Act places a duty on local traffic authorities to manage their road network to make sure that traffic can move freely on their roads and on the roads of other traffic authorities.

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) categorise developments and determine whether there is a need for an environmental impact assessment.

The Proposed Development falls within Schedule 1, paragraph 20, construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15km, and it is thus EIA development.

Regulation 14(1) requires that an application for an Order granting development consent for EIA development must be accompanied by an Environmental Statement (ES). The Applicant provided an ES as Volume 6 [[APP-068](#)] to [APP-159] of the submitted application. An Errata List [[REP9-054](#)] captured relevant changes to the application ES documents.

The Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations (the Habitats Regulations) are the principal means by which the Habitats Directive and the Birds Directive were transposed into UK law for terrestrial projects. The associated assessment process is referred to as Habitats Regulations Assessment (HRA). At least one European site was considered relevant to the application, so it included an HRA Report [[REP1-007](#)]. The competent authority for the HRA will be the Secretary of State for Energy Security and Net Zero.

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

These Regulations establish a framework for the protection of surface water and groundwater.

The Waste (England and Wales) Regulations 2011 (SI 2011/988)

The Waste (England and Wales) Regulations 2011 require businesses to confirm that they have applied the waste management hierarchy when transferring waste and include a declaration to this effect.

Controlled Waste (England and Wales) Regulations 2012 (SI 2012/811)

The Controlled Waste Regulations (England and Wales) 2012 state that household, industrial and commercial waste are classed as controlled waste and are subject to the Environmental Protection Act 1990.

Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894)

These Regulations set out the regime for the control and tracking of the movement of hazardous waste for the purpose of the prevention, reduction and elimination of pollution caused by hazardous waste.

The Air Quality Standards Regulations 2010

These Regulations set out the requirements for exposure reduction to particulate matter (PM2.5) within the general population and the requirements for action to be taken when levels of air pollutants persistently exceed the limit values.

The Electricity Safety, Quality and Continuity Regulations 2002

These Regulations provide for a minimum height above the ground for an overhead line conductor, electrical protection requirements, marking requirements for underground cable and substation security features.

Control of Electromagnetic Fields at Work Regulations 2016

This regime refers to control of occupational exposures to electric and magnetic fields.

Infrastructure Planning (Decisions) Regulations 2010

Regulation 3 requires the decision maker to have regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

Regulation 7 requires that when deciding an application for development consent, the decision maker must have regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992.

The Eels (England and Wales) Regulations 2009

These Regulations enable regulators to implement measures for the recovery of European eel stocks.

The Hedgerows Regulations 1997

The Hedgerow Regulations 1997 protect 'important' hedgerows with licensing, enforcement and penalties.

The Control of Substances Hazardous to Human Health (COSHH) Regulations 2002

The main aim of the COSHH Regulations is to protect people from the hazards of substances used or likely to be present in the workplace and to impose specific duties regarding the import and use of certain specified substances.

Environmental Permitting (England and Wales) Regulations 2016

The aim of the environmental permit regime is to protect the environment so that statutory and Government policy environmental targets and outcomes are achieved, and to deliver permitting and compliance with permits and certain environmental targets.

Construction (Design and Management) Regulations 2015

These Regulations cover the management of health, safety and welfare when carrying out construction projects and place specific duties on duty holders such as clients, principal designers, and principal contractors.

The Management of Health and Safety at Work Regulations 1999

These Regulations sets out duties and responsibilities to maintain a safe and healthy workforce and for the employer to protect employees and others from harm.

The Traffic Management Permit Scheme (England) Regulations 2007

These Regulations are related to permit schemes to undertake certain street works and works on public highways.

The Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020

These makes amendments to environmental laws to address minor errors and to ensure they continue to operate effectively after the end of the Brexit implementation period. It also makes necessary amendments to directly applicable retained EU law.

The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019

These amendments ensure that the environmental permitting framework remains effective and aligned with the UK's legal requirements after its exit from the EU.

The Espoo and Aarhus Conventions

The United Kingdom is a signatory to the Espoo and Aarhus conventions and has obligations to engage with other signatory states and their public where relevant. The Conventions set out provisions for public participation in the EIA process and access to environmental information during decision making. Where relevant, the Planning Inspectorate is required to invite participation in the PA2008 process from the public in EEA State(s) and any other Convention states.

Bern Convention on the Conservation of European Wildlife and Habitats

The Bern Convention was ratified by the UK in 1982. The obligations of the Convention have been transposed by the Wildlife and Countryside Act 1981.

The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) 1979

The convention on the Conservation of Migratory Species of Wild Animals aims to conserve terrestrial, marine and avian migratory species throughout their range.

United Nations Environmental Programme (UNEP) Convention on Biological Diversity 1992

This is an international legal instrument for the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources.

Article 14 of the Convention (Impact Assessment and Minimising Adverse Impacts) requires environmental impact assessment of the proposed project that is likely to have significant adverse effects on biological diversity with a view to avoiding or minimising such effects.

The Kunming-Montreal Global Biodiversity Framework

As a signatory to this Framework, the UK Government has committed to address the loss of biodiversity and to set goals. The Framework is not legally binding but requires the UK to monitor and report on its progress against the set goals and targets at least every five years.

Other relevant Directives and assimilated EU laws:

Habitats Directive (92/43/EEC)
Hazardous Waste Directive (2008/98/EC)
Landfill Directive (1999/31/EC)
The Birds Directive (2009/147/EC)
Water Framework Directive (2000/60/EC)
Waste Framework Directive (WaFD) (2008/98/EC)

Table A3: Summary of National Policy Statements

<p>The extant July 2011 Overarching National Policy Statement for Energy (NPS EN-1)</p>
<p>NPS EN-1 (July 2011) sets out general principles and generic impacts to be taken into account in considering applications for energy sector Nationally Significant Infrastructure Projects (NSIPs). The other energy NPSs sit under the framework provided by this NPS. It provides the primary basis for determining if development consent should be granted. The other energy NPSs are used alongside and in combination with this NPS.</p>
<p>Part 2 of NPS EN-1 sets out Government policy on energy infrastructure development and reaffirms the commitment to meet legally binding targets to cut greenhouse gas emissions. Paragraphs of note include:</p> <ul style="list-style-type: none"> ▪ Paragraph 2.2.1 sets out the Government’s commitment to meet the UK’s legally binding target to cut greenhouse gas emissions by at least 80% by 2050, compared to 1990 levels. ▪ Paragraph 2.2.8 confirms that to avoid the most dangerous impacts of climate change, global emissions must start falling as a matter of urgency.
<p>Part 3 of NPS EN-1 sets out the need for new nationally significant energy infrastructure projects. Paragraphs of note include:</p> <ul style="list-style-type: none"> ▪ Paragraph 3.1.1 sets out the need for the types of energy infrastructure covered by the NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions. ▪ Paragraph 3.1.4 states that the Secretary of State should give substantial weight to the contribution which projects would make towards satisfying this need.
<p>Part 4 of NPS EN-1 sets out assessment principles and general policies against which applications for development consent relating to energy infrastructure are to be decided.</p> <p>Paragraphs of note include:</p> <ul style="list-style-type: none"> ▪ Paragraph 4.1.2 sets out a presumption in favour of granting consent to applications for energy NSIPs, unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused. ▪ Paragraph 4.1.3 states that the Secretary of State should consider potential benefits in meeting the need for energy infrastructure, job creation and any long-term or wider benefits; and its potential adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.
<p>Part 5 of NPS EN-1 lists a number of generic impacts that relate to most types of energy infrastructure, which the Secretary of State should take into account when considering applications.</p>
<p>The relevant policy tests in NPS EN-1 for the Examination are considered in section 3 of this Report under the relevant individual topics.</p>
<p>The extant July 2011 Overarching National Policy Statement for Electricity Networks Infrastructure (NPS EN-5)</p>
<p>NPS EN-5 identifies the main elements of electricity networks infrastructure, including transmission and distribution systems, and associated infrastructure such as substations.</p> <p>Sections 2.7 to 2.9 refer to specific considerations that apply to electricity networks infrastructure, and Section 2.10 refers to Electric and Magnetic Fields (EMFs).</p>

The amended National Policy Statements

Along with others, the revised NPS EN-1 and revised NPS EN-5 (November 2023) came into force in January 2024 (the amended NPSs). These consider large-scale infrastructure (as described in the NPSs) to be urgently required for both energy security and for achieving Net Zero.

For any application accepted for examination prior to the designation of the 2023 amendments, the 2011 suite of NPSs should have effect in accordance with the terms of those NPSs. The revised NPS EN-1 nevertheless notes that any emerging draft NPSs (or those designated but not yet having effect) 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 2008 and with regard to the specific circumstances of each Development Consent Order application.

Table A4: Summary of Other Relevant National Policies

<p>The National Planning Policy Framework (NPPF)</p> <p>A new version of the National Planning Policy Framework (NPPF) was published in December 2023. The NPPF, and the accompanying Planning Practice Guidance (PPG), set out the Government’s planning policies for England and how these are expected to be applied.</p> <p>Paragraph 5 of the NPPF notes that it does not contain specific policies for NSIPs as these are determined in accordance with the decision-making framework set out in the Planning Act 2008 (PA2008) and relevant National Policy Statements (NPSs), as well as any other relevant matters (which may include the NPPF).</p> <p>Paragraphs 7 and 8 describe the Government’s approach to achieving sustainable development through the planning system, based on three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways.</p> <p>Paragraph 11 state that plans and decisions should apply a presumption in favour of sustainable development.</p> <p>The NPPF and the PPG are capable of being important and relevant considerations in decisions on NSIPs, but only to the extent where it is relevant to that project.</p>
<p>Energy White Paper: Powering our Net Zero Future</p> <p>In December 2020, the Government published its Energy White Paper, Powering our Net Zero Future, which builds on an earlier Ten Point Plan and sets out the Government’s policies and commitments to achieve Net Zero and tackle climate change.</p>
<p>A Green Future: Our 25 Year Plan to Improve the Environment (2018)</p> <p>This plan sets out the Government’s long-term approach to protecting and enhancing natural landscapes and habitats in England.</p>
<p>British Energy Security Strategy (2022)</p> <p>This policy paper sets out how the UK Government is <i>‘going to bring clean, affordable, secure power to the people for generations to come’</i> and <i>‘build a British energy system that is much more self-sufficient.’</i></p>
<p>Powering Up Britain (March 2023)</p> <p>This provides updated details on how the Government intends to enhance the UK’s energy security and deliver on Net Zero commitments. It includes plans to expand the grid at an unprecedented scale and pace, to deliver more clean power, and to accelerate the delivery of strategic transmission upgrades.</p>
<p>Transmission Acceleration Action Plan (November 2023)</p> <p>This Plan is the Government’s response to the Electricity Networks Commissioner’s report on accelerating electricity transmission network build. It considers how to engage communities effectively and the provision of community benefits for those hosting transmission infrastructure.</p>

**Getting Great Britain building again: speeding up infrastructure delivery
(November 2023)**

This policy paper highlights the importance of building the right economic infrastructure to connect people, provide opportunity, drive productivity and prosperity, meet the challenge of climate change, and forge a dynamic growing economy in every part of the UK.

Other relevant policies, statements, strategies, and guidance

Environment Agency Groundwater Protection Position Statements (2018).

The Air Quality Strategy for England, Scotland, Wales, and Northern Ireland (2007).

The Noise Policy Statement for England (2010).

International Commission on Non-Ionising Radiation Protection, Guidelines for limiting exposure to time-varying electric, magnetic and electromagnetic fields. *Health Physics*, **74(4)** 494-522 (1998).

Department of Energy and Climate Change (DECC), Power Lines: demonstrating compliance with EMF public exposure guidelines. A voluntary Code of Practice (2012a).

DECC, Optimum phasing of high voltage double-circuit power lines. A voluntary Code of Practice (2012b).

Holford Rules: guidelines for the routeing of new high voltage overhead transmission lines (1959).

National Grid, Horlock Rules: National Grid company substations and the environment – guidelines on siting and design (2009).

Table A5: Summary of Relevant Local Policies

<p>The Proposed Development area falls within the jurisdiction of the following local planning authorities: Suffolk County Council Essex County Council Babergh District Council Mid Suffolk District Council Braintree District Council</p>	
<p>Essex County Council</p>	<p>The Minerals and Waste Development Plan for Essex consists of the Essex and Southend-on-Sea Waste Local Plan (adopted July 2017) and the Essex Minerals Local Plan (adopted July 2014).</p>
	<p>Essex Minerals Local Plan - relevant policies: S8: Mineral Safeguarding Area.</p>
	<p>Essex and Southend on Sea Waste Local Plan - relevant policies: S4: Reducing the Use of Mineral Resources. S8: Safeguarding Minerals Resources.</p>
	<p>Other relevant policies and plans: Local Highway - Development Management (February 2011). Essex County Council’s Local Transport Plan (2011 to 2025). Essex Minerals Local Plan Sustainability Appraisal and Strategic Environmental Assessment (2012). The Sustainable Drainage Systems Design Guide for Essex (2020). Essex Preliminary Flood Risk Assessment (PFRA) (2011, amended 2018). The Essex Design Guide (2018). Net Zero: Making Essex Carbon Neutral – Essex Climate Action Commission (2021). The Developer’s Guide to Infrastructure Contributions (2020). Essex Sector Development Strategy (2022). Green Skills Infrastructure Review for Essex County Council (March 2022). Essex Parking Standards (2009). External Artificial Lighting SPD (2009). Essex Coast RAMS SPD (2020). Essex Green Infrastructure Strategy (2020). Essex Green Infrastructure Standards (2022). Everyone’s Essex ECC (2021). Developers’ Guide to Infrastructure Contributions ECC (2020). Essex Sector Development Strategy (2022). Levelling Up Essex: An Essex White Paper (2022). Construction Growth in Essex 2020-2040 (2020). Green Skills Infrastructure Review for Essex (2022).</p>

	<p>ECC Skills and Employment Principles for Major Projects and Developments (2019). Essex Skills Plan ECC (2022). Local Skills Improvement Plan, Essex Chambers of Commerce <i>et al</i> (2023).</p>
Suffolk County Council	<p>The Suffolk Minerals and Waste Local Plan was adopted in July 2020 - relevant policies: MS9: Safeguarding of port and rail facilities, and facilities for the manufacture of concrete, asphalt and recycled materials. MS10: Minerals consultation and safeguarding areas. WP18: Safeguarding of waste management sites. MS5: Layham.</p>
	<p>Other relevant policies and plans: Energy and Climate Adaptive Infrastructure Policy. The Suffolk Climate Emergency Plan (undated). Suffolk's Local Transport Plan 2011-2031. Green Access Strategy. Dedham Vale Area of Outstanding Natural Beauty and Stour Valley Management Plan 2021-2026.</p>
Braintree District Council	<p>Braintree District Council has adopted a new Braintree Local Plan for the period 2013- 2033. It is in two sections. Section 1 was not considered to be important or relevant by the ExA as it comprises a strategic plan for North Essex (shared with Colchester Borough Council and Tendring District Council). Section 2 includes the relevant policies, maps and sites for development in Braintree District. It was adopted on 25 July 2022.</p>
	<p>Relevant policies: SP1: Presumption in Favour of Sustainable Development. SP2: Recreational Disturbance Avoidance and Mitigation Strategy RAMS. SP3: Spatial Strategy for North Essex. SP6: Infrastructure and Connectivity. SP7: Place Shaping Principles. LPP1: Development Boundaries. LPP42: Sustainable Transport. LPP43: Parking Provision. LPP47: Built and Historic Environment. LPP50: Provision for Open Space, Sport and Recreation. LPP52: Layout and Design of Development. LPP53: Conservation Areas. LPP57: Heritage Assets and their Settings. LPP59: Archaeological Evaluation, Excavation and Recording. LPP63: Natural Environment and Green Infrastructure. LPP64: Protected Sites. LPP65: Tree Protection.</p>

	<p>LPP66: Protection, Enhancement, Management and Monitoring of Biodiversity.</p> <p>LPP67: Landscape Character and Features.</p> <p>LPP69: Protected Lanes.</p> <p>LPP70: Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards.</p> <p>LPP71: (Climate Change)</p> <p>LPP73: (Renewable Energy Schemes)</p> <p>LPP74: (Flooding Risk and Surface Water Drainage)</p> <p>LPP75: (Surface Water Management Plan).</p> <p>LPP76: (Sustainable Urban Drainage Systems).</p> <p>LPP77: External Lighting.</p> <p>LPP78: (Infrastructure Delivery and Impact Mitigation).</p>
	<p><i>Other Planning Policy not subject to Public Consultation</i></p> <p>Landscape Character Assessment Section 3 Landscape Character of Braintree District (September 2006).</p> <p>Braintree Protected Lanes Report (July 2013).</p>
<p>Babergh District Council and Mid Suffolk District Council</p>	<p>While Babergh District Council and Mid Suffolk District Council are legally separate, they share many services (including planning) and adopted a Babergh and Mid Suffolk Joint Local Plan on 20 November 2023, during the course of the Examination. This replaced previously adopted Local Plans and Core Strategies. Following its examination in March 2021, a Part 2 Plan was proposed. This is programmed to reach the pre-submission consultation during the autumn of 2024. Limited weight has been afforded to the emerging Plan by the ExA.</p> <p>Relevant policies from the Babergh Core Strategy:</p> <p>CS1: Applying the presumption in favour of sustainable development.</p> <p>CS13: Renewable/low carbon energy.</p> <p>CS14: Green infrastructure.</p> <p>CS15: Implementing sustainable development in Babergh.</p> <p>CS17: The rural economy.</p> <p>Relevant policies from the Babergh Local Plan:</p> <p>EN22: Outdoor lighting – lighting pollution.</p> <p>CR02: AONB Landscape.</p> <p>CR03: Special Landscape Areas.</p> <p>CR07: Landscaping schemes.</p> <p>CR08: Hedgerows.</p> <p>CN01: Design standards.</p> <p>CN06: Listed buildings – alteration/extension/change of use.</p> <p>CN08: Development in or near conservation areas.</p> <p>CN10: Overhead lines in conservation areas.</p> <p>CN14: Historic Parks and gardens – national.</p> <p>CN15: Historic Parks and gardens – local.</p> <p>RE06: Small- and medium-scale recreation.</p>

	<p>RE07: Large scale recreation. TP15: Parking standards – new development. TP16: Green travel plans.</p>
	<p>Relevant policies from the Mid Suffolk Core Strategy: CS2: Development in the countryside. CS4: Adapting to climate change. CS5: Mid Suffolk’s Environment.</p>
	<p>Relevant policies from the Mid Suffolk Core Strategy Focused Review: FC1: Presumption in favour of sustainable development. FC1.1: Mid Suffolk approach to delivering sustainable development.</p>
	<p>Relevant policies from the Mid Suffolk Local Plan. HB1: Protection of historic buildings. HB14: Ensuring archaeological remains are not destroyed. CL1: Guiding principle to development in the countryside. CL3: Major utility installations and powerlines in the countryside. CL5: Protecting existing woodland. CL6: Tree preservation orders. CL7: Green Lanes. CL8: Protecting wildlife habitat. CL9: Recognised wildlife sites. T2: Minor highways improvements. T4: Planning obligations and highways infrastructure. T9: Parking standards. T10: Highways considerations. T11: Facilities for pedestrians and cyclists. SC4: Protection of groundwater supplies.</p>
	<p>Relevant policies from the Babergh and Mid Suffolk Joint Local Plan: SP09: Enhancement and Management of the Environment. LP15: Environmental Protection. LP16: Biodiversity and Geodiversity. LP17: Landscape. LP18: Area of Outstanding Natural Beauty. LP19: The Historic Environment. LP23: Sustainable Construction and Design. LP24: Design and Residential Amenity. LP25: Energy Sources, Storage and Distribution. LP26: Water Resources and Infrastructure. LP27: Flood Risk and Vulnerability. LP29: Safe, Sustainable and Active Transport.</p>
	<p><i>Other Planning Policy not subject to Public Consultation</i> Valued Landscape Assessment – Stour Valley Project Area.</p>

	<p>Dedham Vale Area of Outstanding Natural Beauty (AONB) Natural Beauty and Special Qualities and Perceived and Anticipated Risks. Special Qualities of the Dedham Vale AONB Evaluation of Area Between Bures and Sudbury.</p>
<p>Neighbourhood Plan status for parishes that coincide with the proposed Order Limits</p>	<p>Bramford No emerging plan.</p> <p>Sproughton Neighbourhood Plan adopted 28 November 2023.</p> <p>Burstall No emerging plan.</p> <p>Hintlesham and Chattisham Neighbourhood Plan in progress.</p> <p>Hadleigh Neighbourhood Plan in progress.</p> <p>Layham No emerging plan.</p> <p>Polstead No emerging plan.</p> <p>Shelley No emerging plan.</p> <p>Stoke by Nayland Neighbourhood Plan in progress.</p> <p>Leavenheath Neighbourhood Plan adopted 27 July 2023. Relevant policies: LEAV4: Surface water drainage.</p> <p>Assington Neighbourhood Plan adopted 2 March 2022. Relevant policies: ASSN7: Area of Local Landscape Sensitivity. ASSN8: Protected Views. ASSN9: Dark Skies. ASSN10: Local Green Spaces. ASSN11: Biodiversity. ASSN12: Heritage Assets. ASSN13: Assington Special Character Area. ASSN14: Design Considerations.</p> <p>Bures St Mary Bures Hamlet and Bures St Mary In the process of preparing a joint Neighbourhood Plan.</p> <p>Little Cornard Neighbourhood Plan adopted 20 July 2022. Relevant policies: LCO2: Access into the countryside. LCO3: Views.</p> <p>Alphamstone and Lamarsh No emerging plan.</p> <p>The Hennys, Middleton and Twinstead</p>

	No emerging plan. Bulmer No emerging plan. Wickham St Paul No emerging plan. Gestingthorpe No emerging plan. Raydon No emerging plan. Pebmarsh No emerging plan. Little Maplestead No emerging plan. Wenham Magna No emerging plan.
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Table A6: Made Orders

Made Orders referred to in the application and Examination
<ul style="list-style-type: none">▪ The National Grid (Richborough Connection Project) Development Consent Order 2017(S.I.2017/817) and The National Grid (Richborough Connection Project) (Correction) Order 2018 (S.I. 2018/572).▪ The National Grid (Hinkley Point C Connection Project) Development Consent Order 2016 (S.I. 2016/0049) and The National Grid (Hinkley Point C Connection Project) (Correction) Order 2017 (S.I. 2017/786).▪ The East Anglia One North Offshore Wind Farm Order 2022 (S.I. 2022/432)▪ The Southampton to London Pipeline Development Consent Order 2020 (S.I. 2020/1099).▪ The A303 (Amesbury to Berwick Down) Development Consent Order 2020 (S.I. 2020/129).▪ The A19/A184 Testo's Junction Alteration Development Consent Order 2018 (S.I. 2018/994).▪ The A428 Black Cat to Caxton Gibbet Development Consent Order 2022 (S.I. 2022/934).▪ The A417 Missing Link Development Consent Order 2022 (S.I. 2022/1248).▪ The Network Rail (North Doncaster Chord) Development Consent Order 2012 (S.I. 2012/2635).▪ The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014/2384).▪ The National Grid (North London Reinforcement Project) Order 2014 (S.I. 2014/1052).▪ The Hinkley Point C (Nuclear Generating Station) Order 2013 (S.I. 2013/648).▪ The Sizewell C (Nuclear Generating Station) Order 2022 (S.I. 2022/853).▪ The Silvertown Tunnel Order 2018 (S.I. 2018/574).▪ The Transport and Works (Model Clauses for Railways and Tramways) Order 2006 (S.I.2006/1954).▪ The National Grid (King's Lynn B Power Station Connection) Order 2013 (S.I. 2013/3200).▪ The Network Rail (Hitchin (Cambridge Junction)) Order 2011 (S.I. 2011/1072)▪ The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117).▪ The Network Rail (Nuneaton North Chord) Order 2010 (S.I 2010/1721).▪ The Network Rail (Ipswich Chord) Order 2012 (S.I.2012/2284).▪ The Network Rail (Norton Bridge Area Improvements) Order 2014 (SI 2014/909).▪ The Nottingham Express Transit System Order 2009 (S.I. 2009/1300).▪ The River Humber Gas Pipeline Replacement Order 2016 (S.I. 2016/853).▪ The Wrexham Gas Fired Generating Station Order 2017 (S.I. 2017/766).▪ The Rookery South (Resource Recovery Facility) Order 2011 (S.I. 2013/680).▪ The North Wales Wind Farms Connection Order 2016 (S.I. 2016/818).▪ The Norfolk Vanguard Offshore Wind Farm Order 2022 (S.I. 2022/138).▪ The Lake Lothing (Lowestoft) Third Crossing Order 2020 (S.I. 2020/474)▪ The Brechfa Forest Wind Farm Connection Order 2016 (S.I. 2016/987) and The Brechfa Forest Wind Farm (Correction) Order 2017 (S.I. 2017/343)
In addition, the Applicant made reference to the following draft Order
<ul style="list-style-type: none">▪ The AQUIND Interconnector Order

Table A7: Main Examination documents used in relation to the planning issues (section 3)

Documents (with Examination Library number)
3.2 The Need Case
<p>ES Chapter 1 Introduction [APP-069] ES Chapter 3 Alternatives Considered [APP-071] Need Case [APP-161]</p> <ul style="list-style-type: none"> • Graph 3.1 Changes to the East Anglia Generation Export, Thermal and Stability Boundary Limits <p>Strategic Options Report [APP-162] Planning Statement [REP6-011]</p>
3.3 Alternatives
<p>Consultation Report [APP-043] ES Chapter 3 Alternatives Considered [APP-071]</p> <ul style="list-style-type: none"> • Figure 3.1 Route Corridors [PDA-002] • Figure 3.3, Sheet 2, Considered Options Hintlesham Woods Statutory Consultation Options [PDA-002] • Figure 3.3, Sheet 6, Temporary Access Route Options [PDA-002] • Table 3.3 Summary of Route Corridor Options [APP-071] • Table 3.4 Comparison between Overhead Line and Underground Cables [APP-071] • Table 3.5 Initial Appraisal of Possible Alignments in Section AB: Bramford Substation/ Hintlesham Options [APP-071] • Table 3.6 Summary of the Alignment Options [APP-071] • Table 3.7 Options in and Around Hintlesham Woods SSSI [APP-071] • Table 3.8 Section E: Dedham Vale AONB, Dollops Wood Options [APP-071] • Table 3.9 Long List for Section G; Stour Valley [APP-071] • Table 3.10 Summary of the Short List Options for Section G: Stour Valley [APP-071] • Table 3.11 Strategic Options Considered to Maintain Security of Electricity Supply [APP-071] • Table 3.12 Summary of the GSP Substation Sites [APP-071] • Table 3.13 Summary of the Options Considered for the CSE Compounds [APP-071] • Table 3.14 Underground Cable Installation Techniques [APP-071] <p>ES Appendix 4.1 Good Design [APP-090] Scoping Opinion [APP-156] Need Case [APP-161] Evolution of the Project [APP-166] Strategic Options Report [APP-162]</p> <ul style="list-style-type: none"> • Figure 6.2 Potential strategic options and the East Anglia Transmission System Planning Boundary <p>Route Corridor Study [APP-163] Connection Options Report [APP-164] Substation Siting Study [APP-165]</p>
3.4 Air Quality and Emissions
<p>ES Chapter 13 Air Quality [APP-081] ES Chapter 7 Biodiversity [APP-075] (significance of the effects of dust and emissions on ecological receptors)</p>

Transport Assessment [APP-061] (baseline information used to assess the impacts of construction traffic using the road network on air quality).

ES Appendix 13.1: Dust Risk Assessment [APP-135]

ES Figures Part 8 [APP-153]

- Figure 12.1 Traffic and Transport Study Area

ES Figures Part 9 [APP-154]

Figure 13.1 Air Quality Study Area

Relevant documents subsequently submitted into the Examination by the Applicant (with EL number):

Technical Note on Ancient and Potential Ancient Woodland [REP3-046]

3.5 Biodiversity and Ecology

Statutory and Non Statutory Sites of Nature Conservation Geological and Landscape Importance [APP-013]

Habitats of Protected Species and Important Habitats [APP-014]

Trees and Hedgerows to be Removed or Managed Plans [APP-017]

ES Chapter 7 Biodiversity [APP-075]

ES Appendix 7.1 Habitats Baseline Report [APP-109]

ES Appendix 7.1 Annex A Habitats Baseline UKHab Descriptions [APP-110]

ES Appendix 7.1 Annex B Hintlesham Woods SSSI Assessment [APP-111]

ES Appendix 7.2 Species Baseline Report [APP-112]

ES Appendix 7.3 Aquatic Ecology Baseline Report [APP-113]

ES Appendix 7.4 Ancient Woodland and Potential Ancient Woodland Report [APP-114]

ES Appendix 7.5 Important Hedgerows Assessment [APP-115]

ES Appendix 7.6 Protected and Controlled Species Legislation Compliance Report [APP-116]

ES Appendix 7.7 Bat Survey Report [APP-117]

ES Appendix 7.7 Annex A Bat Draft Licence [APP-118]

ES Appendix 7.8 Dormouse Survey Report [APP-119]

ES Appendix 7.8 Annex A Dormouse Draft Licence [APP-120]

ES Appendix 7.9 Badger Survey Report (confidential) [APP-121]

ES Appendix 7.9 Badger Survey Report (confidential) [APP-122]

ES Appendix 7.9 Annex A Badger Draft Licence (confidential) [APP-123]

ES Appendix 7.9 Annex A Badger Draft Licence (confidential) [APP-124]

Environmental Statement Figures Part 2 [APP-147]

- Figure 7.1.1: Biodiversity Statutory Designated Sites
- Figure 7.1.2: Biodiversity Non-Statutory Designated Sites

Environmental Statement Figures Part 3 [APP-148]

- Figure 7.1.3: Habitats of Principal Importance and Ground Water Dependent Terrestrial Ecosystems
- Figure 7.1.4: UK Habitat Classification (UKHab) Survey - Areas
- Figure 7.1.5: UK Habitat Classification (UKHab) Survey - Linear Features

Environmental Statement Figures Part 4 [APP-149]

- Figure 7.1.6: Notable Plants and Important Arable Plant Assemblages
- Figure 7.1.7: Invasive Non-Native Species
- Figure 7.1.8: Proposed Works around Hintlesham Woods
- Figure 7.2.1: Otter and Water Vole Survey Results
- Figure 7.2.2: Hintlesham Woods Breeding Bird Survey - Priority Species
- Figure 7.2.3: Marsh Tit (*Poecile palustris*)

<ul style="list-style-type: none"> • Figure 7.2.4: Nightingale (<i>Luscinia megarhynchos</i>) • Figure 7.2.5: Schedule 1 Bird Species Baseline • Figure 7.2.6: Reptiles Habitat Suitability Assessment • Figure 7.2.7: Terrestrial Invertebrates Habitat Suitability Assessment • Figure 7.2.8: Other Notable Species Habitat Suitability Assessment • Figure 7.3.1: Aquatic Ecology Baseline • Figure 7.4.1: Ancient Woodland and Veteran Trees <p>Environmental Statement Figures Part 5 [APP-150]</p> <ul style="list-style-type: none"> • Figure 7.5.1: Important Hedgerows • Figure 7.7.1: Bats - Desk Study • Figure 7.7.2: Previous Bat Survey • Figure 7.7.3: Bat Survey - Buildings • Figure 7.7.4: Bat Survey - Trees • Figure 7.7.5: Habitat Suitability Model for Myotis Bat Species • Figure 7.7.6: Habitat Suitability Model for Brown Long-eared Bat • Figure 7.7.7: Habitat Suitability Model for Barbastelle Bat • Figure 7.7.8: Habitat Suitability Model for Serotine Bat • Figure 7.7.9: Habitat Suitability Model for Soprano Pipistrelle Bat • Figure 7.7.10: Habitat Suitability Model for Common Pipistrelle Bat • Figure 7.7.11: Habitat Suitability Model for Nathusius' Pipistrelle Bat • Figure 7.7.12: Habitat Suitability Model for Leisler's Bat <p>Environmental Statement Figures Part 6 [APP-151]</p> <ul style="list-style-type: none"> • Figure 7.7.13: Habitat Suitability Model for Noctule Bat • Figure 7.7.14: Crossing Point and Static Detector Survey Locations • Figure 7.7.15: Bat Trapping Locations and Results • Figure 7.8.1: Desk Study and Habitat Suitability Assessment <p>Figure 7.8.2: Survey Areas and Results</p>
<p>Relevant documents subsequently submitted into the Examination by the Applicant (with EL number):</p>
<p>Updated version of ES Chapter 7 Biodiversity [REP6-009] Updated Hintlesham Woods SSSI assessment [REP9-020] Technical Note on Ancient and Potential Ancient Woodland [REP3-046] (not ES) Technical Note on Noise Levels at Hintlesham Woods [REP9-058] (not ES)</p>
<p>3.6 Good Design</p>
<p>ES Appendix 4.1, Good Design [APP-090] Design and Layout Plans ([APP-019] to [APP-033]) ES Chapter 3, Alternatives Considered [APP-071] ES Chapter 4, Project Description [APP-072]</p>
<p>3.7 Greenhouse Gas Emissions</p>
<p>ES Appendix 4.3 – Greenhouse Gas Assessment [APP-092]</p>
<p>3.8 Historic Environment</p>
<p>ES Chapter 8, Historic Environment [APP-076] ES Appendix 8.1 Historic Environment Baseline [APP-125] ES Appendix 8.1 Annex A Historic Environment Gazetteer [APP-126] ES Appendix 8.2 Historic Environment Impact Assessment [APP-127] ES Appendix 8.2 Annex A Hintlesham Hall Assessment [APP-128] Environmental Statement Figures Part 4 [APP-149]</p>

<ul style="list-style-type: none"> • Figure 7.4.2: Hintlesham Woods - Non-Designated Archaeological Assets <p>Environmental Statement Figures Part 6 [APP-151]</p> <ul style="list-style-type: none"> • Figure 8.1: Archaeological Assets • Figure 8.2: Built Heritage Assets <p>Environmental Statement Figures Part 7 [APP-152]</p> <ul style="list-style-type: none"> • Figure 8.3: Historic Landscape • Figure 8.4: Built Heritage Designations and Zone of Theoretical Visibility • Figure 8.5: Historic Environment Surveys • Figure 8.6: Hintlesham Hall Assessment <p>Archaeological Framework Strategy [APP-186] Outline Written Scheme of Investigation [APP-187] Statutory and Non-Statutory Sites and Features of the Historic Environment [APP-015]</p>
<p>Relevant documents subsequently submitted into the Examination by the Applicant (with EL number):</p> <p>Updated Statutory and Non-Statutory Sites and Features of the Historic Environment [REP5-004]</p>
<p>3.9 Landscape and Views</p>
<p>Statutory and Non Statutory Sites of Nature Conservation Geological and Landscape Importance [APP-013] Trees and Hedgerows to be Removed or Managed Plans [APP-017] Photomontages [APP-062] Photomontages Appendix 3 Part 1 [APP-063] Photomontages Appendix 3 Part 2 [APP-064] Arboricultural Impact Assessment [APP-067] ES Chapter 6 Landscape and Visual [APP-074] Appendix 6.4 Viewpoint Assessment Section AB Part 1 [APP-101] Appendix 6.4 Viewpoint Assessment Section C Part 2 [APP-102] Appendix 6.4 Viewpoint Assessment Section D Part 3 [APP-103] Appendix 6.4 Viewpoint Assessment Section E Part 4 [APP-104] Appendix 6.4 Viewpoint Assessment Section G Part 6 [APP-106] Appendix 6.4 Viewpoint Assessment Section H Part 7 [APP-107] ES Appendix 6.5 Assessment of Visual Effects on Communities [APP-108] Environmental Statement Figures Part 1 [APP-146]</p> <ul style="list-style-type: none"> • Figure 6.1: Landscape and Visual Impact Assessment Study Area and Landscape Designations • Figure 6.2: Landform and Drainage • Figure 6.3: Tree Cover • Figure 6.4: Settlements and Infrastructure • Figure 6.5: Landscape Character • Figure 6.6: Visual Receptors and Viewpoints • Figure 6.7: Comparative Zone of Theoretical Visibility (ZTV) of Pylons to be Removed and Proposed Pylons <p>Environmental Statement Figures Part 2 [APP-147]</p> <ul style="list-style-type: none"> • Figure 6.8: ZTV of Proposed 400kV Overhead Line by Project Section • Figure 6.9: ZTV of Dedham Vale East Cable Sealing End Compound • Figure 6.10: ZTV of Dedham Vale West Cable Sealing End Compound • Figure 6.11: ZTV of Stour Valley East Cable Sealing End Compound • Figure 6.12: ZTV of Stour Valley West Cable Sealing End Compound

<ul style="list-style-type: none"> Figure 6.13: ZTV of Proposed Grid Supply Point Substation Landscape and Ecological Management Plan (LEMP) [APP-182] LEMP Appendix A Vegetation Retention and Removal Plan [APP-183] LEMP Appendix B Vegetation Reinstatement Plan [APP-184] LEMP Appendix C Planting Schedules [APP-185]
<p>Relevant documents subsequently submitted into the Examination by the Applicant (with EL number):</p> <p>Photomontages, Revision B [PDA-001] (to replace [APP-062])</p> <p>Comments on Relevant Representations (Themes 19 and 26) [REP1-025]</p> <p>Dedham Vale AONB Special Qualities and Statutory Purpose [REP1-032] (not ES)</p> <p>Identified Setting of Dedham Vale AONB with Project Viewpoints [REP1-033] (not ES)</p> <p>Images Captured by the Applicant During Accompanied Site Visit [REP5-015] (not ES)</p>
<p>3.10 Land Use, Soil and Geology</p>
<p>ES Chapter 7 Biodiversity [APP-075] (effects on habitats that rely on soil types and characteristics)</p> <p>ES Chapter 10 Geology and Hydrogeology [APP-078]</p> <p>ES Chapter 11 Agriculture and Soils [APP-079]</p> <p>ES Appendix 10.1 Geology Baseline and Preliminary Risk Assessment [APP-130]</p> <p>ES Appendix 10.3 Minerals Resource Assessment [APP-132]</p> <p>ES Appendix 11.1 Agricultural Land Classification Survey [APP-133]</p> <p>ES Figures Part 8 [APP-153]</p> <ul style="list-style-type: none"> Figure 10.1: Superficial Geology Figure 10.2: Bedrock Geology Figure 10.3: Mineral Reserves Figure 10.5: Land with Potentially Contaminative Former Use Figure 10.6: Cross Section of the River Box Figure 10.7: Cross Section of the River Stour and Sudbury Branch Railway Line Figure 10.8: Cross Section to the South of Ansell's Grove Figure 11.1: Soils Mapping Figure 11.2: Provisional Agricultural Classification Mapping Figure 11.3: Detailed Agricultural Land Classification Mapping Figure 11.4: Agri-Environment Schemes <p>Figure 11.5: Forestry Schemes</p>
<p>Relevant documents subsequently submitted into the Examination by the Applicant (with EL number):</p> <p>Planning Statement [REP6-011]</p> <p>Statement of Reasons [REP9-011]</p>
<p>3.11 Noise and Vibration</p>
<p>ES Chapter 7 Biodiversity [APP-075] (noise and vibration effects on ecological receptors)</p> <p>ES Chapter 8 Historic Environment [APP-076] (noise and vibration effects in relation to historical assets and listed buildings)</p> <p>ES Appendix 14.1 Noise and Vibration Data [APP-136]</p> <p>ES Appendix 14.2 Construction Traffic Noise and Vibration Assessment [APP-137]</p> <p>ES Appendix 14.3 Overhead Line Noise Assessment [APP-138]</p> <p>ES Appendix 14.4 Grid Supply Point Substation Noise Assessment [APP-139]</p> <p>ES Figures Part 8 [APP-153]</p>

<ul style="list-style-type: none"> • Figure 12.1: Traffic and Transport Study Area ES Figures Part 9 [APP-154] • Figure 14.1: Noise Baseline ES Figures Part 9 [APP-154] • Figure 14.2: Potential Construction Noise Effects Figure 14.3: Potential Construction Vibration Effects
<p>Relevant documents subsequently submitted into the Examination by the Applicant (with EL number): Technical Note for Noise Sensitive Receptors [REP6-047]</p>
<p>3.12 Public Rights of Way</p>
<p>Relevant documents submitted at the application stage (with EL number): Access, Rights of Way and Public Rights of Navigation Plans [APP-012]</p>
<p>Relevant documents subsequently submitted into the Examination by the Applicant (with EL number): Public Right of Way Management Plan, [REP3-056] – updated [REP8-024] Technical Note on Public Right of Way Closure Sequencing, [REP6-049]</p>
<p>3.13 Socio-economics and Community Issues</p>
<p>Socio Economics and Tourism Report [APP-066]</p>
<p>3.14 The Water Environment</p>
<p>ES Chapter 9 Water Environment [APP-077] ES Appendix 9.1: Water Environment Baseline [APP-129] ES Figures Part 8 [APP-153]</p> <ul style="list-style-type: none"> • Figure 9.1: Water Environment Features Figure 9.2: Water Framework Directive Waterbody Status
<p>Relevant documents also submitted at application (with EL number): Flood Risk Assessment [APP-059] Water Bodies in the River Basin Management Plan [APP-016]</p>
<p>Relevant documents subsequently submitted into the Examination by the Applicant (with EL number): Water Framework Directive Assessment [REP1-009]</p>
<p>3.15 Traffic, Transport and Highway Safety</p>
<p>ES Chapter 12 Traffic and Transport [APP-080] ES Appendix 12.1: Traffic and Transport Significance of Effects Tables ES Figures Part 8 [APP-153]</p> <ul style="list-style-type: none"> • Figure 12.1: Traffic and Transport Study Area ES Figures Part 9 [APP-154] • Figure 12.2: Active Travel Network • Figure 12.3: Traffic Survey Locations Figure 12.4: Construction Traffic Flow Diagram
<p>Relevant documents also submitted at application (with EL number): Transport Assessment [APP-061] Design and Layout Plans Temporary Bellmouth for Access, [APP-030]</p>
<p>Relevant documents subsequently submitted into the Examination by the Applicant (with EL number):</p>

Applicant's Response to Questions Raised at the Preliminary Meeting on 12 September 2023 Regarding the Temporary Access Route off the A131, [REP1-022]
 Design and Layout Plans Temporary Bellmouth for Access, [REP3-005]
 Transport Assessment Construction Vehicle Profile Data, [REP4-006]
 Technical Note on Temporary Access Route off the A131, [REP3-053] – updated [REP4-009]
 Temporary Access Route off the A131 Concept Design and Swept Path Assessment, [REP5-026]
 Swept Path Assessment for Alternative Temporary Access Routes off the A131, [REP6-037]
 Reports on Abnormal Indivisible Load Access for Cable Drums, Transformers and Shunt Reactors, [REP6-038]
 Transport Assessment Summary of Junction Modelling Analysis, [REP6-048]
 Transport Assessment Traffic Survey Data, [REP7-024]
 Temporary and Permanent Access Technical Note - Suffolk County Council (Tracked), [REP7-027] - updated [REP8-031], [REP9-062]
 Temporary and Permanent Access Technical Note - Essex County Council, [REP8-038]

3.16 Cumulative Effects

ES Chapter 15 Cumulative Effects Assessment [APP-083]

Table A8: Full details of amendments made in the rDCO in relation to the use of the word ‘shall’ in the final dDCO

Applicant’s final draft DCO		ExA’s recommended DCO
Article 2(9)	References in this Order to materially new or materially different environmental effects in comparison with those reported in the Environmental Statement shall not be construed so as to include the avoidance, removal or reduction of an adverse environmental effect that was reported in the Environmental Statement as a result of the authorised development.	References in this Order to materially new or materially different environmental effects in comparison with those reported in the Environmental Statement should not be construed so as to include the avoidance, removal or reduction of an adverse environmental effect that was reported in the Environmental Statement as a result of the authorised development.
Article 7(5)	Where a transfer or grant has been made in accordance with paragraph (1), the undertaker shall notify the relevant planning authority of the same.	Where a transfer or grant has been made in accordance with paragraph (1), the undertaker must notify the relevant planning authority of the same.
Article 10(3)	Any development or any part of a development within the Order limits which is constructed or used under the authority of a planning permission granted under section 57 of the 1990 Act, including permissions falling under sub-paragraph (1) or (3) or otherwise, is deemed not to be a breach of, or inconsistent with, this Order and shall not prevent the authorised development being carried out or used or any other power or right under this Order being exercised.	Any development or any part of a development within the Order limits which is constructed or used under the authority of a planning permission granted under section 57 of the 1990 Act, including permissions falling under sub-paragraph (1) or (3) or otherwise, is deemed not to be a breach of, or inconsistent with, this Order and will not prevent the authorised development being carried out or used or any other power or right under this Order being exercised.
Article 17(6)	In determining who is the street authority in relation to a street for the purposes of Part III of the 1991 Act, any obligation of the undertaker to maintain the street under paragraph (1) or (2) shall be disregarded	In determining who is the street authority in relation to a street for the purposes of Part III of the 1991 Act, any obligation of the undertaker to maintain the street under paragraph (1) or (2) should be disregarded
Article 22(7)	If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who shall remove the remains and as to the payment of the costs of the application.	If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who will remove the remains and as to the payment of the costs of the application.
Article 42(1)	So much of the special category land that is required for the purposes of the exercising by the undertaker of the Order rights shall be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of the Order rights.	So much of the special category land that is required for the purposes of the exercising by the undertaker of the Order rights will be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of the Order rights.

Article 43(2)	Without prejudice to sub-paragraph (1)(b) paragraphs (3) and (4) shall apply in relation to apparatus of statutory undertakers not falling within sub-paragraph (1)(b).	Without prejudice to sub-paragraph (1)(b) paragraphs (3) and (4) will apply in relation to apparatus of statutory undertakers not falling within sub-paragraph (1)(b).
Article 47(6)	Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2) will cease to have effect on the expiry of the period of five years beginning with the date on which the authorised development is first brought into operational use, except where the authorised development is replacement or landscape planting in which case the period of five years shall begin with the date on which that part of the replacement or landscape planting is completed.	Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2) will cease to have effect on the expiry of the period of five years beginning with the date on which the authorised development is first brought into operational use, except where the authorised development is replacement or landscape planting in which case the period of five years will begin with the date on which that part of the replacement or landscape planting is completed.
Article 50(3)	The power conferred by paragraphs (1) and (2) shall be exercised in such a way which secures— ...	The power conferred by paragraphs (1) and (2) will be exercised in such a way which secures— ...
Schedule 14 14	... and for the purpose of this definition, where words are defined by section 219 of the Water Industry Act 1991, they shall be taken to have the same meaning; and for the purpose of this definition, where words are defined by section 219 of the Water Industry Act 1991, they will be taken to have the same meaning; ...
Schedule 14 18(7)	If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.	If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which will remain the sole responsibility of Anglian Water or its contractors.
Schedule 14 18(8)	Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall , before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water’s reasonable requests for a reasonable period of time to enable Anglian Water to: ...	Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker must , before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water’s reasonable requests for a reasonable period of time to enable Anglian Water to: ...
Schedule 14 24	Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it	Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it

	shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable	must inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable
Schedule 14 31(2)	The approval of the engineer under subparagraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.	The approval of the engineer under subparagraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer will be deemed to have approved the plans as submitted.
Schedule 14 32(2)	If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.	If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.
Schedule 14 36(c)	in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;	in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it may be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
Schedule 14 37(6)	Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to subparagraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network	Prior to the commencement of operation of the authorised development the undertaker must test the use of the authorised development in a manner that will first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to subparagraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network

	Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.	Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.
Schedule 14 37(7)(d)	the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.	the undertaker will not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.
Schedule 14 37(10)	For the purpose of paragraph 36(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.	For the purpose of paragraph 36(a) any modifications to Network Rail's apparatus under this paragraph will be deemed to be protective works referred to in that paragraph.
Schedule 14 37(11)	In relation to any dispute arising under this paragraph the reference in article 59 (Arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.	In relation to any dispute arising under this paragraph the reference in article 59 (Arbitration) to the Institution of Civil Engineers should be read as a reference to the Institution of Engineering and Technology.
Schedule 14 41(1)(f)	and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.	and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision will not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.
Schedule 14 41(3)	The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.	The sums payable by the undertaker under sub-paragraph (1) will if relevant include a sum equivalent to the relevant costs.
Schedule 14 41(5)	The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall , in the event of default, be enforceable directly by any train operator concerned to the extent that such sums	The obligation under sub-paragraph (3) to pay Network Rail the relevant costs will , in the event of default, be enforceable directly by any train operator concerned to the extent that such sums

	would be payable to that operator pursuant to sub paragraph (4).	would be payable to that operator pursuant to sub paragraph (4).
Schedule 14 48	In relation to any dispute arising under this part of this Part of this Schedule (except for those disputes referred to in paragraph 37(11)), the provisions of article 59 (Arbitration) shall not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.	In relation to any dispute arising under this part of this Part of this Schedule (except for those disputes referred to in paragraph 37(11)), the provisions of article 59 (Arbitration) will not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.
Schedule 14 52(1)	Without prejudice to the generality of any other protection afforded to Cadent elsewhere in the Order, where any street is stopped up under article 15 (temporary stopping up of streets and public rights of way), if Cadent has any apparatus is in the street or accessed via that street Cadent will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker will grant to Cadent, or will procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph shall affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 55.	Without prejudice to the generality of any other protection afforded to Cadent elsewhere in the Order, where any street is stopped up under article 15 (temporary stopping up of streets and public rights of way), if Cadent has any apparatus is in the street or accessed via that street Cadent will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker will grant to Cadent, or will procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph will affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 55.
Schedule 14 52(3)	The Protective Provisions in this Part of this Schedule apply and take precedence over article 38 (apparatus and rights of statutory undertakers in stopped up streets) of the Order which shall not apply to Cadent.	The Protective Provisions in this Part of this Schedule apply and take precedence over article 38 (apparatus and rights of statutory undertakers in stopped up streets) of the Order which will not apply to Cadent.
Schedule 14 53(2)	Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made by Cadent, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an	Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof will be made by Cadent, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an

	opportunity to make representations as to the claim or demand.	opportunity to make representations as to the claim or demand.
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Table A9: Full details of amendments made in the rDCO in relation to other statutory drafting conventions

	Applicant's final draft DCO	ExA's recommended DCO
Preamble page 4, paragraph 1	An application under section 37 of the Planning Act 2008 (the "2008 Act") and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 has been made to the Secretary of State for an order granting development consent.	An application under section 37 of the Planning Act 2008 (the "2008 Act") and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 has been made to the Secretary of State for an Order granting development consent.
Preamble page 4, paragraph 6	The Secretary of State, having decided the application, has determined to make an order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.	The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.
Article 12(3)	... and provide alternative permit conditions to the undertaker within 10 working days following the date on which the application for the permit is made by the undertaker and must not refuse an application for a permit before the end of the period which is 5 working days...	... and provide alternative permit conditions to the undertaker within ten working days following the date on which the application for the permit is made by the undertaker and must not refuse an application for a permit before the end of the period which is five working days...
Article 12(4)	... before the expiry of 5 working days following the date on which any such alternative permit conditions are provided to the undertaker...	... before the expiry of five working days following the date on which any such alternative permit conditions are provided to the undertaker...
Article 20(2)(b)	after the completion of any part of the authorised development in the vicinity of the land, building, structure, apparatus or equipment, at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first brought into operational use.	after the completion of any part of the authorised development in the vicinity of the land, building, structure, apparatus or equipment, at any time up to the end of the period of five years beginning with the day on which that part of the authorised development is first brought into operational use.
Article 20(6)	... by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served...	... by serving a counter-notice within the period of ten days beginning with the day on which the notice was served...
Article 20(8)(b)	within the period of 5 years beginning with the day on which the part of the authorised development carried out...	within the period of five years beginning with the day on which the part of the authorised development carried out...
Article 26(5)(e)	remove any ground-strengthening works (being either works listed in Schedule 10 of this order or other works to provide safe and stable ground conditions) which have been placed in that land to facilitate	remove any ground-strengthening works (being either works listed in Schedule 10 of this Order or other works to provide safe and stable ground conditions) which have been placed in that land to facilitate

	construction of the authorised development;	construction of the authorised development;
Article 34(9)	... the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made...	... the undertaker may, within the period of six weeks beginning with the day on which the determination is made...
Article 47(3)(a)	given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and	given not less than four weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
Article 47(3)(b)	advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).	advertised its intention in such manner as the traffic authority may specify in writing within seven days of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).
Article 58(6)	Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy...	Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy...
Article 58(8)(b)	such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.	such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.
Schedule 3 Requirement 2(1)	The authorised development must begin no later than the expiration of 5 years beginning with the date on which this Order comes into force	The authorised development must begin no later than the expiration of five years beginning with the date on which this Order comes into force
Schedule 3 Requirement 2(2)	The authorised development must commence no later than the expiration of 5 -years beginning with the date on which this Order comes into force	The authorised development must commence no later than the expiration of five years beginning with the date on which this Order comes into force
Schedule 3 Requirement 3(1)	... must be given to the relevant planning authority no less than 7 days prior to the date...	... must be given to the relevant planning authority no less than seven days prior to the date...
Schedule 3 Requirement 3(4)	... must be given to the relevant planning authority within 10 business days of the relevant event occurring.	... must be given to the relevant planning authority within ten business days of the relevant event occurring.
Schedule 3 Requirement 7(1)	Subject to sub-paragraphs (2) to (5), work may only take place between 0700 and 1900 Monday to Friday and between 0800 and 1700 on Saturdays, Sundays and Bank Holidays (the core working hours), unless otherwise approved by the relevant planning authority.	Subject to sub-paragraphs (2) to (5), work may only take place between 07.00 and 19.00 Monday to Friday and between 08.00 and 17.00 on Saturdays, Sundays and Bank Holidays (the core working hours), unless otherwise approved by the relevant planning authority.
Schedule 3 Requirement 7(5)	The core working hours referred to in sub-paragraph (1) exclude start up and close down activities up to 4 hour either side of the core working hours.	The core working hours referred to in sub-paragraph (1) exclude start up and close down activities up to one hour either side of the core working hours.

Schedule 3 Requirement 10(4)	... within a period of 5 years after planting...	... within a period of five years after planting...
Schedule 4 2(2)	... the relevant authority must, within 3 business days of receipt of the application...	... the relevant authority must, within three business days of receipt of the application...
Schedule 4 2(3)	... must issue the consultation to the requirement consultee within 3 business days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 3 business days of receipt...	... must issue the consultation to the requirement consultee within three business days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within three business days of receipt...
Schedule 4 4(2)(a)	the undertaker must within 6 weeks of the date of the notice of the decision or determination...	the undertaker must within six weeks of the date of the notice of the decision or determination...
Schedule 4 4(2)(d)	... appeal to the appointed person within 10 business days beginning with the first day...	... appeal to the appointed person within ten business days beginning with the first day...
Schedule 4 4(2)(e)	the appeal parties may make any counter-submissions to the appointed person within 10 business days beginning with the first day...	the appeal parties may make any counter-submissions to the appointed person within ten business days beginning with the first day...
Schedule 4 4(6)	Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).	Any such representations must be submitted to the appointed person and made available to all appeal parties within ten business days of the date mentioned in sub-paragraph (3).
Schedule 9 12 6	The authority must serve notice of its decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served ("the decision period").	The authority must serve notice of its decision on the owner within the period of three months beginning with the day on which the counter-notice is served ("the decision period").
Schedule 9 12 14(1)	If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal make its determination withdraw the notice to treat in relation to that land.	If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal make its determination withdraw the notice to treat in relation to that land.
Schedule 12 Part 1 FOR EACH ENTRY:	No waiting restriction between 7:00am to 7:00pm Monday to Sunday...	No waiting restriction between 07.00 and 19.00 Monday to Sunday...
Schedule 14 Part 1 7, final paragraph	... if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier...	... if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier...
Schedule 14	... if the works include the placing of apparatus provided in substitution for	... if the works include the placing of apparatus provided in substitution for

Part 3 21(5)	apparatus placed more than 7 years and 6 months earlier...	apparatus placed more than seven years and six months earlier...
Schedule 14 Part 5 58(5)	... if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier...	... if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier...

APPENDIX B: LIST OF ABBREVIATIONS

Abbreviation	Meaning
AA	Appropriate Assessment
AEoI	Adverse Effects on Integrity
AHLV	Area of High Landscape Value
AIL	Abnormal Indivisible Load
ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty
AP	Affected Person
AQMA	Air Quality Management Area
ASI	Accompanied Site Inspection
BDC	Braintree District Council
BMV	Best and Most Versatile (land)
BEIS	Department for Business, Energy and Industrial Strategy
CA	Compulsory Acquisition
CAH	Compulsory Acquisition Hearing
CEMP	Construction Environmental Management Plan
CL:AIRE 2011	Definition of Waste: Development Industry Code of Practice Contaminated Land: Applications in Real Environments, 2011
CO ₂	Carbon Dioxide
CO ₂ e	Carbon Dioxide Equivalent
CoCP	Code of Construction Practice
CSE	Cable Sealing End
CTMP	Construction Traffic Management Plan
DCO	Development Consent Order

dDCO	Draft Development Consent Order
Defra	Department for Environment, Food and Rural Affairs
DMP	Drainage Management Plan
DMRB	Design Manual for Roads and Bridges
DNO	Distribution Network Operator
ECC	Essex County Council
ECHR	European Convention on Human Rights
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended)
EMF	Electromagnetic field
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
EQIA	Equality Impact Assessment
ES	Environmental Statement
ESO	Electricity System Operator
EU	European Union
ExA	Examining Authority
ExQ1	ExA's First Written Questions
ExQ2	ExA's Further Written Questions
FRA	Flood Risk Assessment
FRAP	Flood Risk Activity Permit
GPS	Global Positioning System
GSP	Grid Supply Point (substation)
ha	Hectare
HDD	Horizontal Directional Drilling

HGV	Heavy Goods Vehicle
HPI	Habitat of Principal Importance
HRA	Habitats Regulations Assessment
HoTs	Heads of Terms
IAPA	Initial Assessment of Principal Issues
IAQM	Institute of Air Quality Management
IP	Interested Party
ISH	Issue Specific Hearing
ktCO ₂ e	Kilotonnes of Carbon Dioxide Equivalent
kV	Kilovolt
LA _{eq}	A-weighted equivalent continuous sound level
LEMP	Landscape and Ecological Management Plan
LGV	Light goods vehicle
LHA	Local Highway Authority
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LOAEL	Lowest Observed Adverse Effect Level
LSE	Likely Significant Effects
LVIA	Landscape and visual impact assessment
MCZ	Marine Conservation Zone
MWMP	Materials and Waste Management Plan
MSA	Minerals Safeguarding Area
MtCO ₂ e	Million Tonnes of Carbon Dioxide Equivalent
NETS	National Electricity Transmission System
NGESO	National Grid Electricity System Operator

NGET	National Grid Electricity Transmission
NOA	Network Options Assessment
NOEL	No Observed Effect Level
NO _x	Nitrogen Oxides
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
NPS	National Policy Statement for Electricity Networks
NPSE	Noise Policy Statement for England
NPS EN-1	Overarching National Policy Statement for Energy
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure
NSIP	Nationally Significant Infrastructure Project
Ofgem	Office of Gas and Electricity Markets
OFH	Open Floor Hearing
OWSI	Outline Written Scheme of Investigation
PPA	Planning Performance Agreement
PPV	Peak Particle Velocity
PA2008	Planning Act 2008
PPG	Planning Practice Guidance
PM	Preliminary Meeting
PPs	Protective Provisions
PRoW	Public Right of Way
PRoWMP	Public Right of Way Management Plan
rDCO	Recommended Development Consent Order
REAC	Register of Environmental Actions and Commitments
RIES	Report on Implications for European Sites

RR	Relevant Representation
s	Section
SAC	Special Area of Conservation
SCC	Suffolk County Council
SF ₆	Sulphur Hexafluoride
SI	Statutory Instrument
SLA	Special Landscape Area
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SPA	Special Protection Area
SQSS	Security and Quality of Supply Standard
SRN	Strategic Road Network
SSSI	Site of Special Scientific Interest
TA	Transport Assessment
TASC	Together Against Sizewell C
tCO ₂ e	Tonnes of Carbon Dioxide Equivalent
TCPA	Town and Country Planning Act 1990
TP	Temporary Possession
TPO	Tree Preservation Order
UK	United Kingdom
UKPN	UK Power Networks (Operations) Limited
USI	Unaccompanied Site Inspection
WFD	Water Framework Directive
WR	Written Representation
ZTV	Zone of theoretical visibility

APPENDIX C: FINDINGS AND CONCLUSIONS IN RELATION TO THE HABITATS REGULATIONS ASSESSMENT

C1: INTRODUCTION

This Appendix sets out the Examining Authority's (ExA's) analysis and conclusions in relation to the Habitats Regulations Assessment (HRA). This will help the Secretary of State for Energy Security and Net Zero to perform the duties of Competent Authority under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').

This Appendix is structured as follows:

- Section C2: Findings in relation to Likely Significant Effects on the UK National Site Network and other European sites.
- Section C3: Conservation Objectives for sites and features.
- Section C4: Findings in relation to Adverse Effects on Integrity.
- Section C5: HRA conclusions.

In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s) and no reasonable scientific doubt remains (Case Law CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij).

The term 'European sites' includes Special Areas of Conservation (SAC), proposed SACs, Special Protection Areas (SPA), potential SPAs, Ramsar, proposed Ramsar and sites identified or required as compensatory measures for adverse effects on any of these sites. The 'UK National Site Network' refers to the network of European sites within the UK.

Policy considerations and the legal obligations under the Habitats Regulations are described in sections 2 and 4 and at Appendix A, Table 2A to this Report.

The Overarching National Policy Statement for Energy Infrastructure (NPS EN-1) confirms that prior to granting development consent, the Secretary of State must, under the Habitats Regulations, consider whether the Proposed Development may have a significant effect on a European site, or any site to which the same protection is applied as a matter of policy, either alone or in combination with other plans and projects. NPS EN-1 continues that the Applicant should seek the advice of Natural England and provide the Secretary of State with such information as may be reasonably required to determine whether an appropriate assessment (AA) is required. If an AA is required, the Applicant must provide such information as may be reasonably required to enable the Secretary of State to conduct the AA. This should include any information on any mitigation measures that are proposed to minimise or avoid likely effects.

The Proposed Development is one that has been identified as giving rise to the potential for likely significant effects (LSE) on European sites and is therefore subject to an HRA.

The ExA has been mindful throughout the Examination of the need to ensure that the Secretary of State has such information as may reasonably be required to carry out Competent Authority duties. The ExA has sought evidence from the Applicant

and the relevant Interested Parties (IPs), including Natural England as the Appropriate Nature Conservation Body (ANCB), through written questions and Issue Specific Hearings (ISHs).

Report on the Implications for European Sites (RIES) and consultation

The ExA produced a Report on the Implications for European Sites (RIES) [PD-010] which compiled, documented, and signposted HRA-relevant information provided in the Development Consent Order (DCO) application and Examination representations up to Deadline 7 (15 January 2024). The RIES was issued to set out the ExA's understanding of HRA-relevant information and the position of the IPs in relation to the effects of the Proposed Development on European sites at that point in time. Consultation on the RIES took place between 19 January 2024 and 15 February 2024. Comments were received from the Applicant [REP8-035] and Natural England [REP8-054]. These comments have been taken into account in the drafting of this Appendix.

The ExA's recommendation is that the RIES, and consultation on it, may be relied upon as an appropriate body of information to enable the Secretary of State to fulfil their duties of consultation under Regulation 63(3) of the Habitats Regulations should the Secretary of State wish to do so.

Proposed Development Description and HRA Implications

The Proposed Development is described in section 1 of this Report. The spatial relationship between the Order Limits of the Proposed Development and European sites is shown in Figure 1 of the Applicant's HRA Report [REP1-007].

The Proposed Development is not directly connected with, or necessary to, the management of a European site. Therefore, the Secretary of State must make an AA of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.

The Applicant's assessment of effects is presented in a report titled Bramford to Twinstead Reinforcement HRA Report [APP-057], which was updated at D1 [REP1-007] ('the HRA Report') in response to a request by Natural England [RR-042] to incorporate the full wording of good practice measure GH07 in the Code of Construction Practice (CoCP) [REP9-035]. This Appendix refers to the final iteration of the Report [REP1-007].

The Applicant did not identify any LSEs on non-UK European sites in European Economic Area (EEA) States in its HRA Report [REP1-007]. Only UK European sites are addressed in this Report. No such impacts were raised for discussion by any IPs during the Examination.

C2: FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS

Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an AA and the activities, sites or plans and projects to be included for further consideration in the AA.

European sites within the UK National Site Network

The HRA Report [REP1-007] used the screening criteria from the Design Manual for Roads and Bridges (DMRB) guidance (LA 115 HRA) to identify pathways to European sites. Paragraph 2.2.1 set out the DMRB criteria, which the HRA Report stated is suitable for assessing other large linear projects.

The HRA Report [REP1-007] confirmed that there were no European sites with 2km of the Proposed Development and no European sites within 30km with bats as a qualifying feature.

The HRA Report [REP1-007] also considered potential for functionally linked land that could provide habitat for bird qualifying features of European sites within the Order Limits and surrounding area. Paragraph 2.3.2 stated that a desk study and survey was undertaken, with the results compared to five-year average bird records for the Stour and Orwell Estuaries SPA and Ramsar sites (from the British Trust for Ornithology (BTO) WeBS Report Online) to ascertain potential for functionally linked land. A one percent threshold was applied to identify presence of functionally linked land for bird qualifying features.

The HRA Report stated that the Proposed Development is of sufficient distance (5.72km) from the European sites that functionally linked land does not need to be considered for other, comparatively immobile species' groups.

Natural England [RR-042] stated that it, 'accepts the evidence presented in the HRA Report (paragraph 4.5.3 and section 5.2) that the project will not result in a likely significant effect due to loss of functionally linked land.'

The European sites and qualifying features considered in the Applicant's assessment of LSE are set out in Table C1. These are discussed in the HRA Report [REP1-007] at section 3 and Table 3.1.

Table C1: European sites considered in the Applicant's HRA Report [REP1-007]

European Site	Distance from the Application site at the nearest point	Qualifying features
Stour and Orwell Estuaries Ramsar site	5.72km south-east	Criterion 2: seven nationally scarce plants and five British Red Data Book invertebrates.
Stour and Orwell Estuaries SPA	5.72km south-east	Dark-bellied brent goose (non-breeding).

Natural England confirmed [REP8-054] that, based on the information available, it did not consider there to be any additional UK European sites or qualifying features that could be affected by the Proposed Development.

Likely significant effects from the Proposed Development alone

The Applicant identified potential impacts of the Proposed Development considered to have the potential to result in LSE alone in the HRA Report [REP1-007], section 5 and Table 5.1. The European sites and qualifying features assessed for each impact pathway are listed in the HRA Report [REP1-007], Appendix A, Tables A2 and A3.

The impacts considered by the Applicant to have the potential to result in LSE were:

- habitat loss (from loss of functionally linked land);
- habitat or species' fragmentation (fragmentation of habitat during construction of underground cables and operational barriers to birds in flight);
- reduction in species' density (mortality or injury risk during vegetation clearance on functionally linked land, collision with overhead line, mortality of Ramsar

designated aquatic invertebrates and degradation or reduction in distribution or extent of Ramsar designated plants);

- disturbance or displacement (noise, visual, lighting and avoidance); and
- changes in key indicators of conservation value (changes to air, surface water and groundwater quality).

The HRA Report [REP1-007] assessed the potential impacts during construction, operation and maintenance, and decommissioning of the Proposed Development.

Natural England ([RR-042] [REP9-027]) did not dispute the impact pathways identified by the Applicant.

The HRA Report [REP1-007] concluded that LSE from the Proposed Development alone on the qualifying features of the Stour and Orwell Estuaries SPA and Ramsar site could not be excluded for changes in key indicators (surface water and groundwater quality) during construction.

The HRA Report [REP1-007] considered the other impact pathways identified, including habitat loss, habitat or species' fragmentation, reduction in species' density, disturbance to species and change in air quality during construction and operation, and changes to ground and surface water quality during operation. It screened these impact pathways from further assessment on the basis that there was no pathway for LSE. Natural England [RR-042] agreed with the Applicant's conclusions and the reasoning provided.

The Applicant's conclusions in relation to the Stour and Orwell Estuaries SPA and Ramsar site and their qualifying features were not disputed by Natural England ([RR-042], [REP2-026] and [REP9-027]) or any other IPs during the Examination.

LSE from the Proposed Development in combination

The Applicant addressed potential in-combination effects arising from the Proposed Development in the HRA Report [REP1-007], section 2.7, paragraph 2.7.2 listed criteria that would be used for identifying other plans and projects for consideration.

An in-combination LSE has been identified on the qualifying features of the Stour and Orwell Estuaries SPA and Ramsar site due to the changes in key indicators (surface water and groundwater quality) impact pathway.

No in-combination LSE were identified due to impact pathways where LSE were excluded from the Proposed Development alone. In-combination effects from these impact pathways were excluded by the Applicant [REP1-007] because they were determined to be de minimis and incapable of contributing to a potentially significant in-combination effect.

Natural England ([RR-042], [REP2-026] and [REP9-027]) did not dispute the Applicant's approach to in-combination assessment.

LSE assessment outcomes

The Applicant concluded that LSE could occur for the qualifying features of the European sites considered in the HRA Report [REP1-007] from changes to surface water and groundwater during construction from the Proposed Development alone and in combination with other plans and projects. The LSE assessment outcomes are summarised in Table C2.

Table C2 European sites and features for which LSEs could not be excluded

European Site	Qualifying features	LSEs alone from:	LSEs in combination from:
Stour and Orwell Estuaries Ramsar site	All qualifying features listed in Table C1	Change to surface water and groundwater quality during construction	Change to surface water and groundwater quality during construction
Stour and Orwell Estuaries SPA			

The ExA is satisfied, based on the information provided, that the correct impact-effect pathways on each European site have been assessed. The ExA is satisfied with the Applicant’s approach to the assessment of alone and in-combination LSE.

Taking into account the information provided and the view of Natural England as ANCB, the ExA considers that the Proposed Development is likely to have a significant effect on the qualifying features of the European sites identified in Table C1.2.2 when considered alone, or in-combination with other plans or projects, from changes in key indicators (surface water and groundwater quality) during construction. The ExA is satisfied that none of the other impact pathways considered would give rise to LSE and that these can be screened out of further assessment.

C3: CONSERVATION OBJECTIVES

The Conservation Objectives for the Stour and Orwell Estuaries SPA are set out in the HRA Report [REP1-007] at Chapter 3. Paragraph 3.2.5 stated that there is no specific information on Conservation Objectives for the Stour and Orwell Estuaries Ramsar site. Section 3.3 listed the site vulnerabilities of the Ramsar site.

The ExA ([PD-010], Q3.1.1) asked Natural England whether it was satisfied with the Applicant’s approach to assessment of the Stour and Orwell Estuaries Ramsar site in the absence of Conservation Objectives. Natural England [REP8-054] confirmed it was satisfied.

The HRA Report [REP1-007] did not state whether the European sites are in favourable or unfavourable condition. The ExA ([PD-010], Q3.1.2) asked the Applicant to confirm the condition of the European sites. The Applicant [REP8-035] listed the status of features within the underpinning sites of special scientific interest (SSSI). It differentiated features that are also SPA and Ramsar site features through use of bold text. The features listed below were identified as being in unfavourable status, whilst other features were stated to be in favourable condition:

- Nationally scarce plants: *Limonium humile*, *Sarcocornia perennis* and *Zostera noltei*; and
- Non-breeding birds: dunlin, pintail and shelduck.

The ExA ([PD-010], Q3.1.3) also asked Natural England to submit any information it held about site condition. Natural England [REP8-054] provided a hyperlink to information about the condition of notifiable features of the SSSIs underpinning the European sites.

C4: FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY (AEol)

The European sites and qualifying features identified in Table C1.2.2 were further assessed by the Applicant to determine if they could be subject to AEol from the Proposed Development, either alone or in-combination. The assessment of AEol was made in light of the Conservation Objectives for the Stour and Orwell Estuaries SPA [REP1-007].

The ExA is satisfied, based on the information provided that the correct impacts have been assessed.

The Applicant's approach to the in-combination assessment is set out in the HRA Report [REP1-007], section 2.7 and paragraph 6.4.2.

The ExA ([PD-005], EC1.3.12) asked the Applicant and Natural England whether any further relevant plans or projects had come forward since the list used for the HRA [REP1-007] was fixed on 31 January 2023.

The Applicant ([REP3-052], EC1.3.12) stated that monthly reviews of planning registers were being carried out to identify any that should be considered in the long list for the cumulative effects assessment in ES Chapter 15 [APP-083]. The Applicant confirmed that there were no new or changed projects or plans that would affect the conclusions in the HRA Report [REP1-007].

Natural England [REP3-074] confirmed that it was not aware of any further relevant plans or projects but that it had not conducted a search and that it was for the Applicant to provide the information required to carry out an HRA.

Based on the findings of the Examination, the ExA is satisfied that an assessment of AEol from the Proposed Development in combination with other plans or projects can be based on this information and that no other plans or projects are required to be taken into account.

The ExA's consideration of AEol is described below.

Sites for which the Applicant concluded AEol can be excluded

The Applicant concluded that, with the appropriate mitigation in place, AEol could be excluded for the Stour and Orwell Estuaries SPA and Ramsar site [REP1-007].

The Applicant's conclusions of no AEol in relation to these European sites were discussed throughout the Examination regarding the adequacy of the proposed mitigation. The account of the Examination of these matters is set out in the following sections.

Stour and Orwell Estuaries SPA and Ramsar site

The HRA Report [REP1-007] assessed the potential for AEol from the Proposed Development alone or in-combination with other plans and projects as a result of changes in surface water and groundwater quality during construction resulting in habitat degradation and indirect reduction in species' density.

Section 6 of the Applicant's assessment [REP1-007] concluded that there would be no AEol from the Proposed Development alone with relevant mitigation measures implemented, as these measures would disrupt the pathway and reduce the likelihood of effect, such that potential impact through pollution and sedimentation incidents would be avoided.

Paragraph 6.4.2 of the Applicant's assessment [REP1-007] concluded that, as there would be no effect from the Proposed Development alone, there was no feasible risk of water pollutants or sedimentation acting in combination with other plans and projects.

Table 6.1 of the HRA Report [REP1-007] summarised the proposed mitigation measures. These included trenchless crossings and the good practice measures set out in the CoCP [REP9-035] (Appendix A to the Construction Environmental Management Plan (CEMP) [REP9-033]). Adherence to the CEMP would be secured through Requirement 4 of the dDCO [REP9-006].

Mitigation – hydrogeological and foundation risk assessments

Natural England [RR-042] raised concerns about the adequacy of the Applicant's proposed mitigation to avoid AEol. It requested the following:

More detail about good practice measures GH06 (foundation risk assessment) and GH07 (hydrogeological risk assessment) in the CoCP to include a requirement to consider potential risks to the European sites.

A detailed contingency plan for bentonite (or other lubricant) breakout, should it occur during construction.

The Applicant [REP1-025] stated that the proposed foundation and hydrogeological risk assessments would consider risks to all relevant receptors, including the Stour and Orwell Estuaries SPA and Ramsar site, should a pathway be identified.

Natural England [REP2-026] welcomed the Applicant's proposed amendments to good practice measures GH06 and GH07, which were captured in an updated CoCP [REP3-026]. Natural England requested to be consulted on the hydrogeological risk assessment and stated that the CEMP and CoCP, 'should be secured once further details on the risk assessments have been provided and agreed.'

The Applicant ([REP3-048], Table 2.9) responded that the Environment Agency was the relevant authority for ground and surface water quality and was best placed to approve the hydrogeological risk assessment. The Applicant stated that if the Environment Agency is satisfied there is no risk to watercourses within the Order Limits, then it can be concluded there is no risk to the European sites. The Applicant [REP4-034] restated this position at ISH4. At ISH2, the Applicant [REP4-017] explained its position on management plans, which was to provide a finalised set for the Secretary of State to consider as part of the DCO application.

In an updated draft Statement of Common Ground (SoCG) ([REP5-011], 5.4.1) Natural England acknowledged the Applicant's response but stated that, whilst the Environment Agency is the relevant authority for ground and surface water, Natural England is an advisor to other competent authorities, acting as a nature conservation body under Regulation 5 of the Habitats Regulations and considers it should be consulted. Natural England ([REP5-011], 5.3.7a and 5.3.7c) stated that it considered there to be outstanding matters with the CEMP [REP3-024], which may lead to further refinement of the CoCP [REP3-026] when resolved.

The ExA ([PD-008], EC2.3.7) requested Natural England and the Environment Agency to explain the process that would be followed to ensure that Natural England was consulted on the hydrogeological risk assessment. The ExA ([PD-008], DC2.6.16) also requested the Applicant to submit without prejudice draft wording for Requirement 4 of the dDCO [REP5-005] that would treat the submitted management plans, including the CEMP [REP6-021], as outline versions.

The Environment Agency ([[REP7-036](#)], EC2.3.7) requested that the Applicant consult both Natural England and the Environment Agency so both could provide their respective responses. Natural England ([[REP7-038](#)], EC2.3.7) requested the same opportunity as the Environment Agency to comment on the assessment and associated AA. Natural England stated that it could not comment on how it would be consulted as it was unclear what approval mechanism was proposed by the Applicant.

The Applicant ([[REP7-025](#)], DC2.6.16) provided alternative wording for Requirement 4 of the dDCO on a without prejudice basis. One part of the alternative wording would require submission of a final CEMP, substantially in accordance with the outline CEMP, and approval by the relevant planning authority or other discharging authority prior to a relevant stage of the Proposed Development commencing. The Applicant stated that the alternative wording was not reflective of its primary contention and that its inclusion could result in delay during discharge of the Requirement and affect timescales for the delivery of the Proposed Development.

The ExA ([[PD-010](#)], Q3.3.2) sought comments from Natural England on the alternative wording submitted by the Applicant. Natural England [[REP8-054](#)] confirmed that it considered the alternative wording sufficient to ensure that the CEMP [[REP6-021](#)] and CoCP [[REP3-026](#)] would not be finalised until the outcome of the hydrogeological risk assessment was known.

The ExA ([[PD-010](#)], Q3.3.2) also sought comments from the Applicant on Natural England's request to be consulted on the hydrogeological risk assessment. The Applicant [[REP8-035](#)] agreed to amend good practice measure GH07 to include a commitment to submit the assessment to Natural England, together with the Environment Agency's contact details, so that Natural England could provide comments to the Environment Agency as part of its approval process.

Good practice measure GH07 in the final version of the CoCP [[REP9-035](#)] would require a hydrogeological risk assessment to be undertaken once trenchless crossing methods had been confirmed, with risks assessed to include consideration of a contingency for the breakout of bentonite and other agents. GH07 would require mitigation measures or alternative crossing methods to be proposed, assessed and used if unacceptable risks to groundwater or surface water quality were identified in the hydrogeological risk assessment. It included a commitment for Natural England to be involved in the Environment Agency approval process for the hydrogeological risk assessment.

Natural England ([[REP8-054](#)] 3.3.1) confirmed that its request for a detailed bentonite breakout contingency plan had been resolved based on the revised wording for GH07 [[REP9-035](#)], provided that this measure along with other measures in the HRA Report [[REP1-007](#)] were secured.

The final signed SoCG [[REP9-027](#)] recorded agreement from Natural England with the Applicant's conclusion of no AEoI to the Stour and Orwell Estuaries SPA and Ramsar site from the Proposed Development alone or in combination with other plans and projects, subject to the revised wording of good practice measure GH07 and all measures identified in the HRA Report [[REP1-007](#)] being secured.

Mitigation – construction activities in Flood Zone 3

The ExA ([[PD-005](#)], WE1.12.19) sought confirmation from the Environment Agency that it was confident that sufficient controls could be put in place to ensure that activities in Flood Zone 3, including horizontal directional drilling (HDD) under the River Stour, would not result in adverse impacts. The Environment Agency [[REP3-](#)

[070](#)] was satisfied that if the CEMP and CoCP were implemented, the Proposed Development would not adversely affect the integrity of the European sites.

The ExA ([\[PD-008\]](#), WE2.12.4) also sought confirmation from Natural England on this matter. Natural England ([\[REP7-038\]](#), WE2.12.4) considered that sufficient information had not been provided as the method of construction had not been confirmed. The ExA ([\[PD-010\]](#), Q3.3.4) asked Natural England whether there was a sufficient control framework in the CEMP [\[REP6-021\]](#) and CoCP [\[REP3-026\]](#) and the requirement to obtain a flood risk activity permit for it to be satisfied that AEoI could be avoided. Natural England [\[REP8-054\]](#) confirmed that there was sufficient control, noting that its response was made based on the Applicant's alternative wording for Requirement 4 [\[REP7-025\]](#) being incorporated into the final DCO.

ExA's conclusions on surface water and groundwater quality during construction

Based on the above information, the ExA is satisfied that this LSE pathway would not result in AEoI to the Stour and Orwell Estuaries SPA and Ramsar site from the Proposed Development alone or in-combination with other plans and projects. The ExA's conclusion is subject to implementation of the mitigation measures identified in the HRA Report and set out in the CoCP, adherence to which would be secured through implementation of the CEMP as required by Requirement 4 of the dDCO.

The ExA is satisfied that through good practice measure GH07 in the CoCP, the Applicant will be required to undertake a hydrogeological risk assessment once crossing methods, including any HDD in Flood Zone 3, are confirmed and that this assessment would identify any mitigation or alternative methods proposed if an unacceptable risk to groundwater or surface water quality was identified.

The ExA is satisfied that GH07 requires the Applicant to obtain Environment Agency approval for the hydrogeological risk assessment prior to construction commencing and that Natural England would be consulted as part of this process. On that basis, the ExA is satisfied that the Applicant's alternative wording for Requirement 4, in respect of a final version of the CEMP, does not need to be incorporated into the recommended DCO (rDCO).

C5: HRA CONCLUSIONS

The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the Proposed Development with respect to adverse effects on potentially affected sites must be assessed by the Secretary of State.

Two European Sites and their qualifying features were considered in the Applicant's assessment of LSEs:

- Stour and Orwell Estuaries SPA.
- Stour and Orwell Estuaries Ramsar site.

LSE were identified from the Proposed Development alone and in-combination with other plans and projects for the features and impact pathways listed in Table C.1.2.2 of this Appendix.

The European sites and qualifying features for which LSE were identified were not disputed by any IP. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.

The ExA's findings are that, subject to the mitigation measures in the rDCO being secured, AEoI on the Stour and Orwell Estuaries SPA and the Stour and Orwell

Estuaries Ramsar site from the Proposed Development when considered alone or in-combination with other plans and projects can be excluded for the impact pathways assessed.

The ExA considers that there is sufficient information before the Secretary of State to undertake an AA to fulfil the duty under the requirements of the Habitats Regulations.

APPENDIX D: THE RECOMMENDED DCO

2024 No.

INFRASTRUCTURE PLANNING

**The National Grid (Bramford to Twinstead Reinforcement)
Order 2024**

Made - - - - *12th September 2024*

Coming into force *4th October 2024*

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SCHEDULE 16	—	AMENDMENT OF LOCAL LEGISLATION
SCHEDULE 17	—	CERTIFIED DOCUMENTS

An application under section 37 of the Planning Act 2008(a) (the “2008 Act”) and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) has been made to the Secretary of State for an Order granting development consent.

The application has been examined by a panel of four members (“the Panel”), appointed pursuant to Chapter 2 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The Panel, having examined the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with section 74(2) of the 2008 Act, submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the report and recommendation of the Panel, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(d) and has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

The Secretary of State is satisfied that the special category land within the Order limits, when burdened with the rights imposed by this Order, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and to the public; and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

Accordingly, the Secretary of State, in exercise of the powers in sections 114, 115, 117, 120, 122 and 123 of the 2008 Act, makes the following Order:

(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of, and Schedule 13 to, the Localism Act 2011 (c. 20).
(b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I.2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378, S.I.2019/734, S.I 2020/1534, S.I 2020/764, S.I 2021/978 and S.I. 2022/634.
(c) S.I. 2010/103, amended by S.I. 2012/635.
(d) S.I. 2017/572, amended by S.I. 2017/1012, S.I. 2018/695, S.I. 2018/834, S.I. 2018/942, S.I. 2018/1232, S.I. 2020/764, S.I. 2020/904 and S.I. 2020/1534.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the National Grid (Bramford to Twinstead Reinforcement) Order 2024 and comes into force on 4th October 2024.

Interpretation

2.—(1) In this Order, unless where provided or the context requires otherwise—

“1961 Act” means the Land Compensation Act 1961(a);

“1965 Act” means the Compulsory Purchase Act 1965(b);

“1980 Act” means the Highways Act 1980(c);

“1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(d);

“1984 Act” means the Road Traffic Regulation Act 1984(e);

“1990 Act” means the Town and Country Planning Act 1990(f);

“1991 Act” means the New Roads and Street Works Act 1991(g);

“2003 Act” means the Communications Act 2003;(h)

“2008 Act” means the Planning Act 2008(i);

“2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016(j);

“access, rights of way and public rights of navigation plans” means the plans listed in Part 1 of Schedule 2 (plans) and certified under article 56 (certification of documents), and references to a particular access, rights of way and public rights of navigation plan are to be construed accordingly;

“archaeological framework strategy” means the document of that description (document 7.9), certified by the Secretary of State as the archaeological framework strategy for the purposes of this Order under article 56 (certification of documents), identifying steps to mitigate predicted effects on archaeology, geo-archaeology, palaeo-environmental and historic landscape heritage assets during construction of the authorised development;

“authorised development” means the development described in Schedule 1 (authorised development), including any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;

“bank holiday” means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(k);

“book of reference” means the book of reference (document 4.3 (F)) certified under article 56 (certification of documents) by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“business day” means Monday to Friday excluding bank holidays and other public holidays;

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- (a) 1961 c. 33.
(b) 1965 c. 56.
(c) 1980 c. 66.
(d) 1981 c. 66.
(e) 1984 c. 27.
(f) 1990 c. 8.
(g) 1991 c. 22.
(h) 2003 c. 21.
(i) 2008 c. 29.
(j) S.I. 2016/1154.
(k) 1971 c. 80

“carriageway” has the same meaning as in the 1980 Act;

“commence” means the carrying out of any material operation (as defined in section 155(2) (when development begins) of the 2008 Act) forming part of the authorised development other than the pre-commencement operations and “commencement” and “commenced” are to be construed accordingly;

“electric line” has the meaning set out in section 64 of the 1989 Act (interpretation etc. of Part 1) which includes but is not limited to new pylons, foundations and steelwork, conductors, insulators and fittings, fibre optic earthwire conductors, joint boxes, joint pits, joint bays, cables, cable ducts and link pillars;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“environmental statement” means the environmental statement (Documents 6.1 to 6.4 (inclusive)) together with any supplemental or additional environmental information certified under article 56 (certification of documents), and any environmental statement submitted for the purposes of complying with and/or discharging the requirements, and any entries in the final version of the errata list (Document 8.4.3 (C)) that relate to any of these documents;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“land plans” mean the relevant plans listed in Part 2 of Schedule 2 (plans) and certified under article 56 (certification of documents), and references to a particular land plan are to be construed accordingly;

“limits of deviation” means the limits of deviation referred to in article 5 (limits of deviation) and shown on the work plans;

“maintain” includes inspect, repair, adjust, alter, dismantle, remove, clear, refurbish, paint, surface treat, decommission, improve, reconstruct or replace any part, but not remove, reconstruct or replace the whole, of the authorised development including through the use of robots, helicopters, drones, gadgets or similar devices either remote controlled or autonomous, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, and any derivative of “maintain” must be construed accordingly;

“National Grid” means National Grid Electricity Transmission plc (registered company number 2366977);

“operational use” occurs when part of the authorised development first transmits electricity at either 400kV or higher voltages;

“Order land” means the land shown on the land plans and described in the book of reference;

“Order limits” means the limits shown on the Work Plans within which the authorised development may be carried out;

“outline construction environmental management plan” means the document of that description (together with its appendices) (Documents 7.5 (E), 7.5.1 (D) and 7.5.2 (F)) certified by the Secretary of State as the outline construction environmental management plan for the purposes of this Order under article 56 (certification of documents);

“outline construction traffic management plan” means the document of that description (together with its appendices) (document 7.6 (D)) certified by the Secretary of State as the outline construction traffic management plan for the purposes of this Order under article 56 (certification of documents);

“outline landscape and ecological management plan” means the document of that description (together with its appendices) (documents 7.8 (D), 7.8.1 (C), 7.8.2 (D) and 7.8.3 (C)) certified by the Secretary of State as the outline landscape and ecological management plan for the purposes of this Order under article 56 (certification of documents);

“outline materials and waste management plan” means the document of that description (Document 7.7 (B)) certified by the Secretary of State as the outline materials and waste management plan for the purposes of this Order under article 56 (certification of documents);

“outline public right of way management plan” means the document of that description (together with its appendices) (document 8.5.8 (B)) certified by the Secretary of State as the outline public right of way management plan for the purposes of this Order under article 56 (certification of documents);

“outline written scheme of investigation” means the document of that description (document 7.10 (D)), certified by the Secretary of State as the outline written scheme of investigation for the purposes of this Order under article 56 (certification of documents), setting out the proposed approach to archaeological mitigation and investigations to be undertaken in association with the construction of the authorised development;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(a);

“permit schemes” means any scheme made under Part 3 of the Traffic Management Act 2004(b) as in force at the date on which this Order is made including the Traffic Management (Essex County Council) Permit Scheme Order 2015(c) as varied by The Essex County Council (Permit Scheme) (Variation) Order 2015;

“pre-commencement operations” means operations consisting of engineering investigations and surveys, environmental (including archaeological) investigations and monitoring, surveys and monitoring investigations for the purpose of assessing ground conditions, diversion and laying of services, demolition of existing buildings, site clearance, environmental mitigation measures, remediation in respect of any contamination or other adverse ground conditions, set up works associated with the establishment of construction compounds, temporary accesses, erection of any temporary means of enclosure or temporary demarcation fencing marking out site boundaries and the temporary display of site notices or advertisements;

“provisional advance authorisation” has the same meaning as in regulation 2 of the Traffic Management Permit Scheme Regulations 2007(d);

“relevant highway authority” means, in any given provision of this Order, the local highway authority for the area to which the provision relates;

“relevant planning authority” means, in any given provision of this Order, the local planning authority for the area to which the provision relates;

“relevant street authority” means, in any given provision of this Order, the local highway authority for the area to which the provision relates;

“requirements” means the requirements listed in Schedule 3 (requirements), and any reference to a numbered requirement is to be construed accordingly;

“special category land plans” means the plans listed in Part 3 of Schedule 2 (plans) and certified under article 56 (certification of documents) and references to a particular special category land plan are to be construed accordingly;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“temporary construction works” means the temporary construction works described in Schedule 1 (authorised development) to the Order;

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- (a) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 (Part I) to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.
- (b) 2004 c. 18.
- (c) S.I. 2015/37.
- (d) S.I. 2007/3372.

“the table of parameters” means the information shown on the sheet labelled as Table of Parameters within the Work Plans;

“traffic” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act;

“traffic authority” has the same meaning as in the 1984 Act;

“traffic regulation order plans” mean the plans listed in Part 4 of Schedule 2 (plans) and certified under article 56 (certification of documents), and references to a particular traffic regulation order plan are to be construed accordingly;

“trees and hedgerows to be removed or managed plans” means the plans listed in Part 5 of Schedule 2 (plans) and certified under article 56 (certification of documents), and references to a particular trees and hedgerows to be removed or managed plan are to be construed accordingly;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“UKPN” means UK Power Networks Holdings Limited (registered company number 07290590) and/or its affiliate Eastern Power Networks plc (registered company number 02366906);

“the UKPN Works” means those works to UKPN assets or equipment forming part of the authorised development, including Work Nos. 8 and 11;

“undertaker”—

(c) in relation to the authorised development, means National Grid; and

(d) in relation to the UKPN Works and subject to paragraph (5) of article 6 (benefit of Order), includes UKPN;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, rhynes, sewers and passages through which water flows except a public sewer or drain; and

“work plans” means the plans listed in Part 6 of Schedule 2 (plans) and certified under article 56 (certification of documents), and references to a particular work plan are to be construed accordingly.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictions in respect of land are references to restrictions over land which interfere with the interests or rights of another and are for the benefit of land which is acquired, or rights over which are acquired, under this Order.

(3) All distances, directions, levels and lengths referred to in this Order, are approximate. Distances between points on a work comprised in the authorised development are taken to be measured along that work. All distances for scheduled linear works referred to in this Order are measured along the centre line of the limits of deviation for that work. All pylon identification numbers set out in this Order are identified by reference to the work plans, and are subject to the limits of deviation for that work, such that the tower numbering and location of towers may adjust in accordance with the limits of deviation identified in article 5 (limits of deviation). Unless otherwise specified in Schedule 1 (authorised development), heights and depths in this Order or on the work plans are measured from the proposed final ground level.

(4) All areas described in square metres in the book of reference are approximate.

(5) References in this Order to numbered Works are references to the Works as numbered in Schedule 1 (authorised development).

(6) References in this Order to “document” followed by a number or numbers are references to documents submitted by National Grid in support of the application for development consent that resulted in the making of this Order.

(7) References in this Order to any statutory body includes that body’s successor in respect of functions which are relevant to this Order.

(8) References in this Order to any statute, order, regulation or similar instrument are to be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

- 3.—(1) Subject to the provisions of this Order (including the requirements)—
- (a) National Grid is granted development consent for the authorised development set out in Schedule 1 (authorised development) to be carried out within the Order limits; and
 - (b) Subject to article 6(5) (benefit of Order), UKPN is granted development consent for the UKPN Works to be carried out within the Order limits.
- (2) National Grid may—
- (a) install and keep installed the authorised development; and
 - (b) remove or replace any electric line including pylons that may require removal as part of the authorised development.
- (3) UKPN may—
- (a) Subject to paragraphs (3) and (5) of article 6 (benefit of Order), carry out the UKPN Works; and
 - (b) remove or replace any electric line including pylons or poles that may require removal in relation to the UKPN Works.
- (4) National Grid may operate and use the electric lines and any other elements of the authorised development (excluding the UKPN Works) as part of the high-voltage electricity transmission system in England and Wales.
- (5) UKPN may operate and use the electric line and any other elements of the UKPN Works as part of the electricity distribution network.
- (6) The authorised development must be constructed and installed in the lines and situations shown on the work plans listed in Schedule 2, subject to article 5 (limits of deviation) and to the requirements.
- (7) Schedule 3 (requirements) has effect.

Maintenance of authorised development

- 4.—(1) National Grid may at any time maintain the authorised development (excluding the UKPN Works), except to the extent that this Order, or an agreement made under this Order, provides otherwise.
- (2) UKPN may at any time maintain the UKPN Works, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

Limits of deviation

- 5.—(1) Subject to paragraph (4), in respect of the permanent overhead electric line and underground electric line works forming part of Work Nos. 1, 2, 3, 4, 5, 6, 10 and 11 (inclusive) of the authorised development for which it is granted development consent by paragraph (1) of article 3 (development consent etc. granted by the Order), the undertaker may—
- (a) deviate laterally from the centreline for the linear works of the authorised development shown on the work plans within the limits of deviation relating to a Work shown on those plans and carry out construction activities for the purpose of the authorised development within the Order limits; and
 - (b) in respect of the pylons deviate vertically from the levels of the authorised development shown on the table of parameters—
 - (i) to any extent upwards not exceeding 4 metres;
 - (ii) to such extent downwards as the undertaker considers necessary or convenient;

- (c) in respect of the overhead conductors and fibre-optic earth wires deviate vertically to such extent as the undertaker considers necessary or convenient;
- (d) in respect of the underground electric line, deviate vertically—
 - (i) upwards such that the minimum distance that will be kept between the top of the protective tiles or (where there are no protective tiles) the top of the cable ducts and the top of the finished ground level is 0.9 metres; and
 - (ii) downwards to such extent as the undertaker considers necessary or convenient.

(2) Without prejudice to article 3(6) (development consent etc. granted by the Order) the removal, clearance, decommissioning and demolition of any existing electric line may take place within the Order limits.

(3) Subject to paragraph (4), in respect of other permanent above ground structures, erections and apparatus, including the Grid Supply Point Substation, Bramford Substation and cable sealing end compounds forming part of the authorised development:

- (a) the authorised development is to be carried out within any applicable non-linear limits of deviation shown on the work plans; and
- (b) the undertaker may deviate to any extent upwards not exceeding 10% above the maximum height shown on the table of parameters and to such extent downwards as the undertaker considers necessary or convenient.

(4) The maximum limits of vertical deviation specified in paragraphs (1)(b), (1)(d) and (3)(b) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority and any other person the Secretary of State considers appropriate having regard to the proposed deviation in question and the statutory roles and responsibilities of such person, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects to those identified in the Environmental Statement.

Benefit of Order

6.—(1) Subject to article 7 (consent to transfer benefit of Order), the provisions of this Order have effect for the benefit of—

- (a) National Grid in respect of the authorised development; and
- (b) Subject to paragraph (5), UKPN in respect of the UKPN Works.

(2) Paragraph (1) does not apply to the benefit of the consent granted by this Order for works carried out by the undertaker for the benefit or protection of land or persons (including statutory undertakers) affected by the authorised development.

(3) UKPN may not carry out the UKPN Works under article 3(3)(a) (development consent etc. granted by the Order) except in accordance with the written consent of National Grid, which may be granted subject to reasonable conditions.

(4) If UKPN fails to carry out any of the UKPN Works in accordance with National Grid's consent, National Grid may give UKPN and the Secretary of State notice that National Grid intends to carry out those UKPN Works under article 3(3)(a) (development consent etc. granted by the Order) from a date specified in the notice.

(5) On the date specified in any notice under paragraph (4) of this article—

- (a) UKPN is to cease to have the benefit of article 3(1)(b) (development consent etc. granted by the Order) and sub-paragraph (1)(b) of this article;
- (b) UKPN is to cease to be an undertaker for the installation of the UKPN Works but remains an undertaker for the purposes of keeping installed and maintaining the electric lines included in the UKPN Works; and
- (c) references to UKPN in article 27 (temporary use of land for maintaining the authorised development) are to be read as including National Grid.

Consent to transfer benefit of Order

7.—(1) National Grid in relation to the authorised development (not including the UKPN Works), and UKPN in relation to the UKPN Works, may, with the consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between National Grid or UKPN and the transferee;
- (b) grant to another person (“the lessee”) for a period agreed between National Grid or UKPN and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where a transfer or grant has been made in accordance with paragraph (1) references in this Order to National Grid or UKPN (as the case may be), except in paragraphs (3) and (4), are to include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights transferred or granted in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by National Grid or UKPN.

(4) Any rights or benefits in relation to the UKPN Works that are transferred or granted by UKPN under paragraph (1) are subject to paragraphs (3) to (5) of article 6 (benefit of Order) as if they had remained exercisable by UKPN.

(5) Where a transfer or grant has been made in accordance with paragraph (1), the undertaker must notify the relevant planning authority of the same.

Application of the 1990 Act

8.—(1) In respect of the temporary construction works, section 57(2) of the 1990 Act (planning permission required for development) applies as if the development consent granted by this Order were planning permission granted for a limited period.

(2) Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as not being operational land).

(3) In the exercise of the power under paragraphs (1) and (2) of article 11 (street works) the undertaker is to be deemed to be the highway authority for the purposes of section 55(2)(b) of the 1990 Act.

Application of the Community Infrastructure Levy Regulations 2010

9. Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010(a) any building comprised in the authorised development is deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Planning Permission

10.—(1) If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order,

(a) S.I. 2010/948.

then the carrying out, use or operation of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.

(2) To the extent any development carried out or used pursuant to a planning permission granted under section 57 (planning permission required for development) of the 1990 Act or compliance with any conditions of that permission is inconsistent with the exercise of any power or right under this Order or the authorised development—

- (a) that inconsistency is to be disregarded for the purposes of establishing whether any development which is the subject matter of that planning permission is capable of physical implementation; and
- (b) in respect of that inconsistency, no enforcement action under the 1990 Act may be taken in relation to development carried out or used pursuant to that planning permission whether inside or outside the Order limits.

(3) Any development or any part of a development within the Order limits which is constructed or used under the authority of a planning permission granted under section 57 of the 1990 Act, including permissions falling under sub-paragraph (1) or (2) or otherwise, is deemed not to be a breach of, or inconsistent with, this Order and will not prevent the authorised development being carried out or used or any other power or right under this Order being exercised.

PART 3 STREETS

Street works

11.—(1) The undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter upon so much of any of the streets specified in column (2) of Schedule 5 (streets subject to street works) as is within the Order limits and may without the consent of the street authority—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel, drill or bore under the street, or carry out any works to strengthen or repair the carriageway;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in the street (including signage);
- (e) maintain, renew or alter apparatus or furniture in or on the street or change its position;
- (f) execute any works to provide or improve sight lines required by the highway authority;
- (g) execute and maintain any works to provide hard and soft landscaping and any other works for the benefit or protection of the environment;
- (h) carry out re-lining and placement of new temporary markings; and
- (i) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (h).

(2) Without limiting the scope of the powers conferred by paragraph (1) but subject to the consent of the street authority, the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes set out at sub-paragraph (1)(a) to (i) and paragraph (3) of article 8 (application of the 1990 Act) applies.

(3) If a street authority that receives an application for consent under paragraph (2) fails to notify the undertaker of its decision within 35 days (or such other period as agreed by the street authority and the undertaker) beginning with the date on which the application was received, that authority will be deemed to have granted consent.

(4) Any application for consent under paragraph (2) must include a statement that the provisions of paragraph (3) apply to that application.

(5) If an application for consent under paragraph (2) does not include the statement required under paragraph (4), then the provisions of paragraph (3) will not apply to that application.

(6) The authority given by paragraph (1) or (2) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(7) The powers conferred in paragraphs (1) or (2) are without limitation of the powers of the undertaker under the Electricity Act 1989(a).

(8) In this article “apparatus” has the meaning given in Part 3 of the 1991 Act.

Application of the Permit Schemes

12.—(1) The permit schemes apply to the construction of the authorised development and will have effect in connection with the exercise by the undertaker of any powers conferred by this Part.

(2) For the purposes of this Order—

- (a) a permit may not be refused or granted subject to conditions which relate to the imposition of moratoria;
- (b) a permit may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions through the exercise of the powers conferred by this Order;
- (c) a permit may not be refused where the proposed reason for refusal is the inability to impose a condition which will not comply with paragraph (b); and
- (d) where a provisional advance authorisation has been granted to the undertaker in advance of the grant of a permit in relation to the construction of the authorised development, the relevant street authority may not grant a permit for any other works in the location during the time period to which that provisional advance authorisation relates save that nothing will restrict the ability of the local highway authority to grant a permit for immediate works.

(3) Irrespective of anything which is stated to the contrary within the permit schemes, where the undertaker submits an application for a permit in relation to the construction of the authorised development subject to proposed conditions and the relevant highway authority wishes for different conditions to be imposed on the permit, the relevant highway authority must seek to reach agreement with the undertaker on the conditions subject to which the permit is to be granted and provide alternative permit conditions, as appropriate, to the undertaker within ten working days following the date on which the application for the permit is made by the undertaker and must not refuse an application for a permit before the end of the period which is five working days following the date on which the alternative permit conditions are provided to the undertaker.

(4) Where the undertaker confirms its agreement to the alternative permit conditions provided by the relevant highway authority pursuant to paragraph (3) before the expiry of five working days following the date on which any such alternative permit conditions are provided to the undertaker, the relevant highway authority must grant the permit subject to those conditions.

(5) Any alternative permit conditions provided by a relevant highway authority in accordance with paragraph (3) must comply with paragraph (2)(b).

(6) References to moratoria in paragraph (2) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.

(7) Reference to immediate works in paragraph (2)(d) means emergency works as that term is defined in section 52 of the 1991 Act and urgent works as that term is defined in regulation 3(1) of the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007(b).

(8) Without restricting the undertaker’s recourse to any alternative appeal mechanism which may be available under the permit schemes or otherwise, the undertaker may appeal any decision to refuse

(a) 1989 c. 29.
(b) S.I. 2007/1951.

to grant a permit or to grant a permit subject to conditions pursuant to the permit schemes in accordance with the mechanism set out in Schedule 4 (Discharge of Requirements) of this Order.

Application of the 1991 Act

13.—(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway must be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of the 1991 Act (highway authorities, highways and related matters); or
- (b) they are works which, had they been executed by the relevant highway authority, might have been carried out in exercise of the powers conferred by section 64 (dual carriageways and roundabouts) or section 184 (vehicle crossings over footways and verges) of the 1980 Act.

(2) In Part 3 of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

- (a) section 56 (power to give directions as to timing of street works);
- (b) section 56A (power to give directions as to placing of apparatus);
- (c) section 58 (restrictions on works following substantial road works);
- (d) section 58A (restriction on works following substantial street works);
- (e) section 73A (power to require undertaker to re-surface street);
- (f) section 73B (power to specify timing etc. of re-surfacing);
- (g) section 73C (materials, workmanship and standard of re-surfacing);
- (h) section 78A (contributions to costs of re-surfacing by undertaker); and
- (i) Schedule 3A (restriction on works following substantial street works).

(4) The following provisions of the 1991 Act do not apply in relation to any works executed under article 12 (application of the Permit Schemes) of this Order—

- (a) section 53 (the street works register);
- (b) section 54 (advance notice of certain works);
- (c) section 55 (notice of starting date of certain works);
- (d) section 57 (notice of emergency works); and
- (e) section 66 (avoidance of unnecessary delay or obstruction).

(5) The provisions of the 1991 Act mentioned in paragraph (6) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved under those provisions, apply (with necessary modifications) in relation to any closure, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 15 (temporary closure of streets and public rights of way) whether or not the closure, alteration or diversion constitutes street works within the meaning of that Act.

(6) The provisions of the 1991 Act referred to in paragraph (5) are—

- (a) section 54 (advance notice of certain works), subject to paragraph (7);
- (b) section 55 (notice of starting date of works), subject to paragraph (7);
- (c) section 57 (notice of emergency works);
- (d) section 59 (general duty of street authority to co-ordinate works);
- (e) section 60 (general duty of undertakers to co-operate);

- (f) section 68 (facilities to be afforded to street authority);
- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 71 (materials, workmanship and standard of reinstatement);
- (i) section 75 (inspection fees);
- (j) section 76 (liability for cost of temporary traffic regulation);
- (k) section 77 (liability for cost of use of alternative route); and
- (l) all such other provisions as apply for the purposes of the provisions mentioned in subparagraphs (a) to (k).

(7) Sections 54 and 55 of the 1991 Act as applied by paragraph (5) have effect as if references in section 57 of that Act to emergency works were references to a closure, alteration or diversion (as the case may be) required in a case of emergency.

Power to alter layout, etc. of streets

14.—(1) The undertaker may, without the consent of the street authority, and for the purposes of carrying out the authorised development, permanently or temporarily alter the layout of, or carry out any works in, a street specified in column (1) of Part 1 or 2 of Schedule 6 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2).

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street (and carry out works ancillary to such alterations) whether or not within the Order limits and the layout of any street having a junction with such a street and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track, central reservation or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track, central reservation or verge;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers, turning lanes and passing places;
- (f) execute any works of surfacing or resurfacing of the highway;
- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
- (h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians; and
- (i) execute any works to provide or improve sight lines required by the highway authority.

(3) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 35 days (or such other period as agreed by the street authority and the undertaker) beginning with the date on which the application was received, it is deemed to have granted consent.

(6) Any application for consent under paragraph (2) must include a statement that the provisions of paragraph (5) apply to that application.

(7) If an application for consent under paragraph (2) does not include the statement required under paragraph (6), then the provisions of paragraph (5) will not apply to that application.

Temporary closure of streets and public rights of way

15.—(1) During and for the purposes of carrying out the authorised development, the undertaker may temporarily close, alter or divert any street or public right of way shown on the access, rights of way and public rights of navigation plans or within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or public right of way.

(2) Without limitation on the scope of paragraph (1), the undertaker may, with the consent of the street authority, use as a temporary working site any street or public right of way which has been temporarily closed, altered or diverted under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary closure, alteration or diversion under this article if there would otherwise be no reasonable access.

(4) Without limitation on the scope of paragraph (1), the undertaker may temporarily close, alter or divert the streets or public rights of way specified in columns (1) and (2) of Parts 1 and 2 of Schedule 7 (streets or public rights of way to be temporarily closed) to the extent specified, by reference to the letters and numbers shown on the access, rights of way and public rights of navigation plans, in column (3) of that Schedule, and, if it does so in respect of a street or public right of way specified in Part 1 of Schedule 7, must provide the temporary diversion as specified in column (4) of that Part.

(5) The undertaker must not temporarily close, alter or divert—

- (a) any street or public right of way specified as mentioned in paragraph (4) without first consulting the street authority; or
- (b) any other street or public right of way without the consent of the street authority which may attach reasonable conditions to any consent.

(6) Where the undertaker provides a temporary diversion under paragraph (4), the temporary alternative route is not required to be of a higher standard than the temporarily closed street or public right of way in columns (1) and (2) of Parts 1 and 2 of Schedule 7 (streets or public rights of way to be temporarily closed).

(7) Prior to the reopening of any street or public right of way temporarily closed, altered or diverted under paragraph (4), the undertaker must remove all temporary works and restore the street or public right of way to the reasonable satisfaction of the street authority.

(8) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(9) If a street authority which receives an application for consent under sub-paragraph (2) or (5)(b) fails to notify the undertaker of its decision before the end of the period of 35 days (or such other period as agreed by the street authority and the undertaker) beginning with the date on which the application was received, it is deemed to have granted consent.

(10) Any application for consent under sub-paragraph (2) or (5)(b) must include a statement that the provisions of paragraph (9) apply to that application.

(11) If an application for consent under sub-paragraph (2) or (5)(b) does not include the statement required under paragraph (10), then the provisions of paragraph (9) will not apply to that application.

Access to works

16.—(1) The undertaker may, for the purposes of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the location specified in column (2) of Schedule 8 (access to works); and
- (b) with the consent of the relevant planning authority after consultation with the relevant highway authority, form and lay out such other means of access or improve existing means

of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) If a relevant planning authority which receives an application for consent under sub-paragraph (1)(b) fails to notify the undertaker of its decision before the end of the period of 35 days (or such other period as agreed by the relevant planning authority and the undertaker) beginning with the date on which the application was received, it is deemed to have granted consent.

(3) Any application for consent under sub-paragraph (1)(b) must include a statement that the provisions of paragraph (2) apply to that application.

(4) If an application for consent under sub-paragraph (2) does not include the statement required under paragraph (3), then the provisions of paragraph (2) will not apply to that application.

Construction, alteration and maintenance of streets

17.—(1) Any street (other than any private streets) to be constructed under this Order must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained to the same condition (including any culverts or other structures laid under that part of the highway) by and at the expense of the undertaker for a period of 12 months from its completion and, at the expiry of that period, by and at the expense of the street authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by and at the expense of the undertaker for a period of 12 months from its completion and, at the expiry of that period, by and at the expense of the street authority.

(3) Where new land not previously part of the public highway is to form part of the public highway further to the provisions of this Order it must, unless otherwise agreed with the street authority, be deemed as dedicated as part of the public highway on the expiry of the period of 12 months from its completion.

(4) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(6) In determining who is the street authority in relation to a street for the purposes of Part 3 of the 1991 Act, any obligation of the undertaker to maintain the street under paragraph (1) or (2) should be disregarded.

Agreements with street authorities

- 18.—**(1) A street authority and the undertaker may enter into agreements with respect to—
- (a) the construction of any new street including any structure carrying the street over or under an electric line authorised by this Order;
 - (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under an electric line authorised by this Order;
 - (c) any temporary closure, alteration or diversion of a street authorised by this Order;
 - (d) the carrying out in the street of any of the works referred to in article 11 (street works) or article 14 (power to alter layout, etc. of streets); and
 - (e) such other matters as the parties may agree, including such matters as may be included in agreements made pursuant to section 38 or section 278 of the 1980 Act.
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works;
 - (c) provide for the dedication of any new street as public highway;
 - (d) contain such terms as to payment as the parties consider appropriate; and
 - (e) contain such other terms as the parties may agree.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

19.—(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development, and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) must be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose.

- (4) The undertaker must not make any opening into any public sewer or drain except—
- (a) in accordance with plans approved by the person to whom the sewer or drain belongs; and
 - (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker must, unless otherwise authorised under the provisions of this Order or any environmental permit relating to the discharge of water in connection with the authorised development, take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be

(a) 1991 c. 56. Section 106 was amended by sections 36 and 99 of the Water Act 2003 (c. 37). There are other amendments to section 106 which are not relevant to this Order.

practicable from gravel, soil or other solid substance, oil or matter in suspension; but nothing in this Order requires the undertaker to maintain a watercourse or public sewer or drain or the drainage works.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the 2016 Regulations.

(8) This article does not permit any activity listed in paragraph 3(1) of Schedule 21 to the 2016 Regulations.

(9) If a person who receives an application for consent under paragraph (3) or approval under sub-paragraph (4)(a) fails to notify the undertaker of a decision within 35 days (or such other period as agreed by the person receiving the application and the undertaker) of receiving an application, that person is deemed to have granted consent or given approval, as the case may be.

(10) Any application for consent under paragraph (3) or approval under sub-paragraph (4)(a) must include a statement that the provisions of paragraph (9) apply to that application.

(11) If an application for consent under paragraph (3) or approval under sub-paragraph (a) does not include the statement required under paragraph (10), then the provisions of paragraph (9) will not apply to that application.

(12) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, a harbour authority within the meaning of section 57 of the Harbours Act 1964^(a), an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation;
- (b) “main river” has the same meaning as in the Water Resources Act 1991^(b); and
- (c) other expressions, excluding watercourse, used both in this article and in the 2016 Regulations have the same meaning as in those Regulations.

Protective works

20.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any land, building, structure, apparatus or equipment, lying within the Order limits or which may be affected by the authorised development, as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the land, building, structure, apparatus or equipment, of any part of the authorised development or works ancillary to it; or
- (b) after the completion of any part of the authorised development in the vicinity of the land, building, structure, apparatus or equipment, at any time up to the end of the period of five years beginning with the day on which that part of the authorised development is first brought into operational use.

(3) For the purpose of determining how the functions under this article are to be exercised, the undertaker may enter and/or survey—

- (a) any land, building, structure, apparatus or equipment, falling within paragraph (1) and any land within its curtilage; and
- (b) where reasonably necessary, any land which is adjacent to the land, building, structure, apparatus or equipment, whether or not within Order limits,

and place on, leave on and remove from the building, structure, apparatus or equipment any apparatus and equipment for use in connection with the survey.

(4) For the purpose of carrying out protective works under this article to any land, building, structure, apparatus or equipment, the undertaker may (subject to paragraphs (5) and (6))—

(a) 1964 c. 40. Paragraph 9B was inserted into Schedule 2 by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 9(5).
(b) 1991 c. 57.

- (a) enter the land, building or structure and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the land, building or structure but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to any land, building, structure, apparatus or equipment;
- (b) a right under paragraph (3) to enter and/or survey any land, building, structure, apparatus or equipment, and land within its curtilage or any adjacent land;
- (c) a right under sub-paragraph (4)(a) to enter the land, building or structure and land within its curtilage; or
- (d) a right under sub-paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specify the protective works proposed to be carried out.

(6) Where a notice is served under sub-paragraph (5)(a), (c) or (d), the owner or occupier of the land, building, structure, apparatus or equipment concerned may, by serving a counter-notice within the period of ten days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 58 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any land, building, structure, apparatus or equipment, in relation to which rights under this article have been exercised, for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to any land, building, structure, apparatus or equipment; and
- (b) within the period of five years beginning with the day on which the part of the authorised development carried out in the vicinity of the land, building, structure, apparatus or equipment is first brought into operational use it appears that the protective works are inadequate to protect the land, building, structure, apparatus or equipment against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the land, building, structure, apparatus or equipment for any loss or damage sustained by them.

(9) Subject to article 53 (no double recovery), nothing in this article relieves the undertaker from any liability to pay compensation under section 152(a) of the 2008 Act (compensation in case where no right to claim in nuisance).

(10) Section 13(b) (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125(c) (application of compulsory acquisition provisions) of the 2008 Act.

(11) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(12) In this article “protective works” in relation to any land, building, structure, apparatus, equipment or the authorised development means—

- (a) underpinning, strengthening, ground strengthening, earthing and any other works the purpose of which is to prevent damage which may be caused to the land, building, structure,

(a) Section 152 was amended by S.I. 2009/1307.

(b) Section 13 was amended by sections 62(3) and 139(4) to (9) of, and paragraph 28(2) of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(c) Section 125 was amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).

apparatus, equipment or the authorised development by the carrying out, maintenance or use of the authorised development; and

- (b) any works the purpose of which is to remedy any damage which has been caused to the land, building, structure, apparatus or equipment by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

21.—(1) The undertaker may for the purposes of this Order enter on any land either shown within the Order limits or land which may be affected by the authorised development and—

- (a) survey, monitor or investigate the land (including any watercourses, groundwater, static water bodies or vegetation on the land);
- (b) without prejudice to the generality of sub-paragraph (a), survey, monitor or investigate the land and any buildings on that land for the purpose of investigating the potential effects of the authorised development on that land or buildings on that land or for enabling the construction, use and maintenance of the authorised development;
- (c) without limitation on the scope of sub-paragraph (a), make trial holes, boreholes, excavations or take horizontal cores in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil, groundwater and other materials below ground level and/or remove soil, rock, water and/or other material samples and discharge water from sampling operations on to the land;
- (d) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations and monitoring on the land, including making any excavations or trial holes on the land for such purposes; and
- (e) place on, leave on and remove from the land apparatus (including but not limited to welfare facilities and apparatus attached to buoys) for use in connection with the survey, monitoring or investigation of land, making of trial holes, boreholes, excavations, cores, and/or the carrying out of ecological or archaeological investigations or monitoring.

(2) The power conferred by paragraph (1) includes without prejudice to the generality of that paragraph the power to take, and process, samples of or from any of the following found on, in or over the land—

- (a) water;
- (b) air;
- (c) soil or rock;
- (d) flora;
- (e) bodily excretions, or dead bodies, of non-human creatures; or
- (f) any non-living thing present as a result of human action.

(3) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 14 days' notice has been served on every owner and occupier of the land.

(4) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so;
- (b) must, before entering the land, provide in the notice details of the purpose specified in paragraph (1) to survey and investigate the land; and
- (c) may take onto the land such vehicles and equipment as are necessary to carry out the survey, monitoring or investigation or to make the trial holes.

(5) No trial holes, boreholes, excavations or horizontal cores may be made under this article—

- (a) on land located within the highway boundary without the consent of the relevant highway authority; or
- (b) in a private street without the consent of the street authority.

(6) As soon as reasonably practicable following the completion of any activities or programme of activities carried out under paragraph (1), the undertaker must remove any apparatus and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(8) If a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 35 days (or such other period as agreed by the highway authority or the street authority and the undertaker) of receiving the application for consent—

- (a) under sub-paragraph (5)(a) in the case of a highway authority; or
- (b) under sub-paragraph (5)(b) in the case of a street authority,

that authority is deemed to have granted consent.

(9) Any application for consent under either sub-paragraph (5)(a) or sub-paragraph (5)(b) must include a statement that the provisions of paragraph (8) apply to that application.

(10) If an application for consent under either sub-paragraph (a) or sub-paragraph (5)(b) does not include the statement required under paragraph (9), then the provisions of paragraph (8) will not apply to that application.

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

PART 5

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Compulsory acquisition of land

22.—(1) National Grid may acquire compulsorily so much of the Order land described in the book of reference as is required for the construction, operation and maintenance of the authorised development (including the UKPN Works) or is incidental to it or required to facilitate it.

(2) UKPN may acquire compulsorily so much of the Order land described in the book of reference as is required for the construction, operation and maintenance of that part of the UKPN Works forming part of Work No. 9 only.

(3) This article is subject to article 23 (compulsory acquisition of rights), article 24 (acquisition of subsoil or airspace only), article 25 (temporary use of land by National Grid), article 26 (temporary use of land by UKPN), article 27 (temporary use of land for maintaining the authorised development), article 31 (compulsory acquisition of land – incorporation of the mineral code), article 33 (acquisition of part of certain properties), article 40 (crown rights) and Schedule 14 (protective provisions).

Compulsory acquisition of rights

23.—(1) Subject to the provisions of this article, the undertaker may acquire compulsorily the rights, and impose the restrictions, over the Order land, described in the book of reference, by creating them as well as by acquiring rights and the benefits of restrictions already in existence.

(2) This article is subject to article 22 (compulsory acquisition of land), article 25 (temporary use of land by National Grid) and article 26 (temporary use of land by UKPN).

(3) Subject to section 8 of the 1965 Act (other provisions as to divided land) as substituted by Schedule 9 to this Order (modification of compensation and compulsory purchase enactments for

creation of new rights), where the undertaker acquires a right over land or imposes a restriction under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 9 to this Order has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restriction.

(5) In any case where the acquisition of rights or the imposition of a restriction under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights or impose such restrictions to the relevant statutory undertaker.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) Nothing in this article authorises the acquisition of rights over, or the imposition of restrictions affecting, an interest which is for the time being held by or on behalf of the Crown.

Acquisition of subsoil or airspace only

24.—(1) The undertaker may compulsorily acquire so much of, or such rights in, the subsoil of, or the airspace of, the land referred to in article 22 (compulsory acquisition of land) and article 23 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired or for which rights over or under the land may be acquired under those provisions instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 35 (application of Part 1 of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A)(c) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraph (2) does not prevent article 33 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

(5) Subject to paragraph (6), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) Compensation is not payable under paragraph (5) to any person who is a statutory undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary possession of land

Temporary use of land by National Grid

25.—(1) National Grid may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) so much of the land specified in column (1) of Schedule 10 (land of which only temporary possession may be taken) to exercise the powers described in the Book of Reference for the purpose specified in relation to that land in column (2) of that

Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and

- (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any electric line, electrical plant, buildings, structures, pylons, apparatus, equipment, vegetation or any other thing from that land;
- (c) construct temporary or permanent works (including the provision of means of access and buildings or structures on that land); and
- (d) construct any works specified in relation to that land in column (2) of Schedule 10 or any other mitigation works.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article, National Grid must serve notice of the intended entry on the owners and occupiers of the land.

(3) National Grid may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land referred to in sub-paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 10, or
- (b) in the case of land referred to in sub-paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless National Grid has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) National Grid must provide the owners of any land of which temporary possession has been taken under this article with written notice of the date of completion of the works for which temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which temporary possession has been taken under sub-paragraph (1)(a)(i), unless otherwise agreed with the owners of the land, National Grid must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, but National Grid is not required to—

- (a) replace a building, structure, apparatus, equipment, electric line, electrical plant or pylon removed under this article;
- (b) restore the land on which any works or mitigation have been carried out under sub-paragraph (1)(d) including insofar as the element of works shown in column (4) of Schedule 10 is concerned;
- (c) remove any foundations below 1.5 metres which had been placed in that land to support pylons and electric lines constructed upon those foundations;
- (d) remove any permanent work including pylons, electric lines, underground cables, or other permanent services, constructed or installed on, over, under or in that land as part of the authorised development;
- (e) remove any ground-strengthening works (being either works listed in Schedule 10 of this Order or other works to provide safe and stable ground conditions) which have been placed in that land to facilitate construction of the authorised development;
- (f) remove or reposition any apparatus belonging to statutory undertakers;
- (g) remove any drainage works; or
- (h) restore ground levels adjusted as part of the authorised development.

(6) Before giving up possession of land of which temporary possession has been taken under sub-paragraph (1)(a)(ii), unless otherwise agreed by the owners of the land, National Grid must either acquire the land or the interest on, over, or in the land in accordance with the provisions of sub-paragraph (3)(b) or remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but National Grid is not required to—

- (a) replace a building, structure, apparatus, equipment, electric line, electrical plant or pylon removed under this article;
- (b) restore the land on which any mitigation works have been carried out under sub-paragraph (1)(d);
- (c) remove any foundations below 1.5 metres which had been placed in that land to support pylons and electric lines constructed upon those foundations;
- (d) remove any permanent work including pylons, electric lines, underground cables, or other permanent services, constructed or installed on, over, under or in that land as part of the authorised development;
- (e) remove any ground-strengthening works (being works to provide safe and stable ground conditions) which have been placed in that land to facilitate construction of the authorised development;
- (f) remove or reposition any apparatus belonging to statutory undertakers;
- (g) remove any drainage works; or
- (h) restore ground levels adjusted as part of the authorised development.

(7) National Grid must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where National Grid takes possession of land under this article, National Grid is not required to acquire the land or any interest in it.

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) Nothing in this article prevents National Grid from taking temporary possession more than once in relation to any land specified in sub-paragraph (1)(a).

Temporary use of land by UKPN

26.—(1) UKPN may, in connection with the carrying out of the UKPN Works—

- (a) enter on and take temporary possession of—
 - (i) so much of the land specified in column (1) of Schedule 10 (Land of which only temporary possession may be taken) to exercise the powers described in the Book of Reference for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and
 - (ii) any other Order land in respect of the UKPN Works in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any electric line, electrical plant, buildings, structures, pylons, apparatus, equipment, vegetation or any other thing from that land;
- (c) construct temporary or permanent works (including the provision of means of access and buildings or structures on that land); and

(d) construct any works specified in relation to that land in column (2) of Part 2 of Schedule 10 or any other mitigation works.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article, UKPN must serve notice of the intended entry on the owners and occupiers of the land.

(3) UKPN may not, without the agreement of the owners of the land, remain in possession of any land under this article—

(a) in the case of land referred to in sub-paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 10, or

(b) in the case of land referred to in sub-paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless UKPN has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) UKPN must provide the owner(s) of any land of which temporary possession has been taken under this article with written notice of the date of completion of the works for which temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which temporary possession has been taken under sub-paragraph (1)(a)(i), unless otherwise agreed with the owners of the land UKPN must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, but UKPN is not required to—

(a) replace a building, structure, electric line, electrical plant or pylon removed under this article;

(b) restore the land on which any works have been carried out under sub-paragraph (1)(d) insofar as the element of works shown in column (4) of Schedule 10 is concerned;

(c) remove any foundations below 1.5 metres which had been placed in that land to support pylons and electric lines constructed upon those foundations; or

(d) remove any pylons or electric lines or underground cables constructed or installed on, over, under or in that land as part of the UKPN Works.

(6) Before giving up possession of land of which temporary possession has been taken under sub-paragraph (1)(a)(ii), unless otherwise agreed by the owners of the land, UKPN must either acquire the land or the interest on, over, or in the land in accordance with the provisions of paragraph (3)(b) or remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but UKPN is not required to—

(a) replace a building, structure, electric line, electrical plant or pylon removed under this article;

(b) restore the land on which any works have been carried out under sub-paragraph (1)(d) insofar as the element of works shown in column (4) of Schedule 10 is concerned;

(c) remove any foundations below 1.5 metres which had been placed in that land to support pylons and electric lines constructed upon those foundations; or

(d) remove any pylons or electric lines or underground cables constructed or installed on, over, under or in that land as part of the UKPN Works.

(7) UKPN must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where UKPN takes possession of land under this article, UKPN is not required to acquire the land or any interest in it.

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) Nothing in this article prevents:

- (a) UKPN from taking temporary possession more than once in relation to any land specified in sub-paragraph (1)(a); or
- (b) National Grid from taking temporary possession more than once in relation to any land specified in sub-paragraph (1)(a) of article 25.

Temporary use of land for maintaining the authorised development

27.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose; and
- (c) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and that notice must explain the purpose for which entry is taken, except as provided in paragraph (11).

(4) The undertaker may remain in possession of land under this article only for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to the acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) Where the undertaker has identified a potential risk to the safety of—

- (a) the authorised development or any part of it; or
- (b) the public; or
- (c) the surrounding environment,

the requirement to serve not less than 28 days' notice under paragraph (3) does not apply and the undertaker may enter the land pursuant to paragraph (1) subject to giving such period of notice (if any) as is reasonably practicable in all the circumstances.

(12) In this article “the maintenance period” in relation to any part of the authorised development means the period of five years beginning with the date on which that part of the authorised development is brought into operational use, except where the authorised development is replacement or landscape planting where “the maintenance period” means the period of five years beginning with the date on which that part of the replacement or landscape planting is completed.

Use of subsoil under or airspace over streets

28.—(1) The undertaker may enter on and use so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development or for any other purpose ancillary to the authorised development and may use the subsoil or airspace for those purposes.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Compensation

Disregard of certain interests and improvements

29.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the Tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the Tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.

Set-off for enhancement in value of retained land

30.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including any subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil), under article 3 (compulsory acquisition of rights), the Tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

Supplementary

Compulsory acquisition of land – incorporation of the mineral code

31. Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981(a) (minerals) are incorporated into this Order subject to the modifications that—

- (a) paragraph 8(3) is not incorporated;
- (b) for “the acquiring authority” substitute “the undertaker”;
- (c) for “undertaking” substitute “authorised development”; and
- (d) for “compulsory purchase order” substitute “this Order”.

Time limit for exercise of authority to acquire land and rights compulsorily

32.—(1) After the end of the period of five years beginning with the day on which this Order comes into force—

- (a) no notice to treat may be served under Part 1 of the 1965 Act; and
- (b) no declaration may be executed under section 4 of the 1981 Act as applied by article 34 (application of the 1981 Act)(b).

(2) The authority conferred by article 25 (temporary use of land by National Grid) and article 26 (temporary use of land by UKPN) ceases at the end of the period referred to in paragraph (1), save that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

(3) If any proceedings are begun to challenge the validity of this Order, the period specified in paragraph (1) is extended for the period specified in paragraph (4).

(4) Under paragraph (3) the period is taken to be extended by—

- (a) a period equivalent to the period beginning with the day the proceedings are filed and ending on the day they are withdrawn or finally determined, or
- (b) if shorter, one year.

(5) Proceedings are not finally determined for the purposes of sub-paragraph (4)(a) if any appeal—

- (a) could be brought (ignoring any possibility of an appeal out of time with permission), or

(a) 1981 c. 67. Sub-paragraph (5) of paragraph 1 of Part 1 of Schedule 2 was amended by section 67 of, and paragraph 27(3) of Schedule 9 to, the Coal Industry Act 1994 (c. 21). There are other amendments to the 1981 Act which are not relevant to this Order.

(b) 1981 c. 66. Sections 2 and 116 were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). There are other amendments to the 1981 Act which are not relevant to this Order.

- (b) has been made and not withdrawn or finally determined.

Acquisition of part of certain properties

33.—(1) This article applies where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 28 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner is required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner is required to sell only the land subject to the notice to treat must, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determines that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner is required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determines that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determines that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where by reason of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of six weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Application of the 1981 Act

- 34.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as so applied, has effect with the following modifications.
- (3) In section 1 (application of Act) for subsection (2) there is substituted—
- “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”
- (4) In section 5(2)(a) (earliest date for execution of declaration), omit the words from “, and this subsection” to the end.
- (5) Section 5A(b) (time limit for general vesting declaration) is omitted.
- (6) In section 5B(c) (extension of time limit during challenge)—
- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118(d) of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and
- (b) for “the three year period mentioned in section 5A” substitute “the five year period mentioned in article 32 of the National Grid (Bramford to Twinstead Reinforcement) Order 2024”.
- (7) For section 6(1)(b)(e) (notices after execution of declaration) substitute—
- “(b) on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134(f) (notice of authorisation of compulsory acquisition) of the Planning Act 2008.”
- (8) In section 7(1)(a)(g) (constructive notice to treat), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (9) In Schedule A1(h) (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—
- “(2) But see article 24(3) (acquisition of subsoil or airspace only) of the National Grid (Bramford to Twinstead Reinforcement) Order 2024, which excludes the acquisition of subsoil or airspace only from this Schedule.”

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- (a) Section 5 was amended by section 183 of, and paragraphs 4 and 6 of Schedule 15 to, the Housing and Planning Act 2016.
- (b) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.
- (c) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016.
- (d) Section 118 was amended by sections 128 (2) and 237 of and, paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25, to the Localism Act 2011 (c.20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c. 2).
- (e) Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and section 183 of, and paragraphs 4 and 7 of Schedule 15 to the Housing and Planning Act 2016.
- (f) Section 134 was amended by sections 142 and 237 of, and Part 21 of Schedule 25 to, the Localism Act 2011 (c. 20) and S.I. 2017/16.
- (g) Section 7 was substituted by section 199(2) and paragraphs 1 and 3 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).
- (h) Schedule A1 was inserted by section 199 (2) and paragraphs 1 and 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(10) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 of the 2008 Act (application of compulsory acquisition provisions) and as modified by article 35 to the compulsory acquisition of land under this Order.

Application of Part 1 of the 1965 Act

35.—(1) Part 1 of the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act is modified as follows.

(2) In section 4 (time limit for giving notice to treat) for “after the end of the period of 3 years beginning with the day on which the compulsory purchase order becomes operative” substitute “after the end of the period stated in article 32 (time limit for exercise of authority to acquire land and rights compulsorily) of the National Grid (Bramford to Twinstead Reinforcement) Order 2024”.

(3) In section 4A(1) (extension of time limit during challenge)—

- (a) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and
- (b) for “the three year period mentioned in section 4” substitute “the five year period mentioned in article 32 (time limit for exercise of authority to acquire land and rights compulsorily) of the National Grid (Bramford to Twinstead Reinforcement) Order 2024”.

(4) In section 11A (powers of entry: further notice of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”; and
- (b) in subsection (2), after “land” insert “under that provision”.

(5) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 32 (time limit for exercise of authority to acquire land and rights compulsorily) of the National Grid (Bramford to Twinstead Reinforcement) Order 2024”.

(6) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“2. But see article 24(3) (acquisition of subsoil or airspace only) of the National Grid (Bramford to Twinstead Reinforcement) Order 2024, which excludes the acquisition of subsoil or airspace only from this Schedule”

(b) and after paragraph 29, insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 20 (protective works), 25 (temporary use of land by National Grid), 26 (temporary use of land by UKPN) or 27 (temporary use of land for maintaining the authorised development) of the National Grid (Bramford to Twinstead Reinforcement) Order 2024.”

Extinguishment and suspension of private rights

36.—(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to compulsory acquisition under this Order are extinguished or suspended—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights and restrictive covenants over land owned by the undertaker which, being within the Order limits, is required for the purposes of this Order, are extinguished on the start of any activity authorised by this Order which interferes with or breaches such rights or such restrictive covenants.

(3) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictions under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right acquired or the burden of the restriction imposed—

- (a) as from the date of the acquisition of the right or the benefit of the restriction by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(4) Subject to the provisions of this article and article 39 (extinguishment of private rights and restrictive covenants relating to apparatus belonging to National Grid or UKPN removed from land subject to temporary possession), all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land and in so far as their continuation would be inconsistent with the exercise of the powers under this Order or a breach of a restriction as to the user of land arising by virtue of a contract.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 42 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker's appropriation of it;
 - (iii) the undertaker's entry onto it; or
 - (iv) the undertaker's taking temporary possession of it,that any or all of those paragraphs do not apply to any right specified in the notice; and
- (b) any agreement made, in so far as it relates to the authorised development, at any time between the undertaker and the person in or to whom the right or restrictive covenant in question is vested, belongs or benefits.

(8) If any such agreement as is referred to in sub-paragraph (7)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) A reference in this article to private rights and restrictive covenants over land includes any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support, and including restrictions as to the user of land arising by virtue of a contract.

Power to override easements and other rights

37.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article “authorised activity” means—

- (a) the erection, construction or maintenance of any part of the authorised development;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land (including the temporary use of land).

(3) The interests and rights to which this article applies include any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support, and including restrictions as to the user of land arising by virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a person deriving title under the undertaker by whom the land in question was acquired—

- (a) is liable to pay compensation by virtue of paragraph (4), and
- (b) fails to discharge that liability,

the liability is to be enforceable against that undertaker in accordance with section 204(3) of the Housing and Planning Act 2016(a).

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

Statutory authority to override easements and other rights

38.—(1) The carrying out or use of development authorised by this Order and the doing of anything else authorised by this Order is authorised by virtue of section 158 (nuisance: statutory authority) of the 2008 Act, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to user of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to user of land arising by virtue of contract,

authorised by virtue of this Order and the operation of section 158 of the 2008 Act.

(3) The interests and rights to which this article applies include any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including

(a) 2016 c. 22.

any natural right to support, and including restrictions as to the user of land arising by virtue of a contract.

(4) Subsection (2) of section 10 (further provision as to compensation for injurious affection) of the 1965 Act applies to paragraph (2) by virtue of section 152(5) of the 2008 Act.

(5) Any rule or principle applied to the construction of section 10 of the 1965 Act will be applied to the construction of paragraph (2) (with any necessary modifications).

Extinguishment of private rights and restrictive covenants relating to apparatus belonging to National Grid or UKPN removed from land subject to temporary possession

39.—(1) This article applies to any Order land specified in Schedule 11 (extinguishment of private rights and restrictive covenants relating to apparatus belonging to National Grid or UKPN removed from land subject to temporary possession) and any other Order land of which National Grid takes temporary possession under article 25 (temporary use of land by National Grid) or UKPN takes temporary possession under article 26 (temporary use of land by UKPN).

(2) All private rights or restrictive covenants in relation to apparatus belonging to National Grid or UKPN removed from any land to which this article applies are extinguished from the date on which National Grid or UKPN gives up temporary possession of that land under article 25 (temporary use of land by National Grid) or 26 (temporary use of land by UKPN), as the case may be.

(3) The extinguishment of rights by paragraph (2) does not give rise to any cause of action relating to the presence on or in the land of any foundations (save for those which lie less than 1.5 metres underground) referred to in sub-paragraph (5)(c) and (6)(b) of article 25 or sub-paragraph (5)(c) and (6)(c) of article 26 (National Grid and UKPN not required to remove foundations when giving up temporary possession).

(4) Schedule 11 (extinguishment of private rights and restrictive covenants relating to apparatus belonging to National Grid or UKPN removed from land subject to temporary possession) has effect.

Crown rights

40.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any part of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to His Majesty in right of the Crown and forming part of the Crown Estate, without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of the Crown Estate, without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in section 227 of the 2008 Act) that is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1)—

- (a) may be given unconditionally or subject to terms and conditions; and
- (b) is deemed to have been given in writing where it is sent electronically.

Special category land

41.—(1) So much of the special category land that is required for the purposes of the exercising by the undertaker of the Order rights will be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of the Order rights.

(2) In this article—

“Order rights” means the rights exercisable over the special category land by the undertaker under article 23 (compulsory acquisition of rights); and

“special category land” means the land as forming part of a common, open space, or fuel or field allotment and which is identified in the book of reference and marked as such on the plan entitled “special category land plans”.

Statutory undertakers

42.—(1) Subject to the provisions of Schedule 14 (protective provisions) the undertaker may—

- (a) further to the power in article 22 (compulsory acquisition of land), acquire compulsorily the Order land belonging to statutory undertakers, and described in the book of reference;
- (b) extinguish or suspend the rights of, remove or reposition apparatus belonging to statutory undertakers where such apparatus is anywhere over or within the Order limits notwithstanding that repositioning may be outside of the Order limits;
- (c) further to the power in article 23 (compulsory acquisition of rights), acquire compulsorily existing rights, create and acquire the new rights and impose restrictive covenants over land belonging to statutory undertakers described in the book of reference and indicated on the land plans;
- (d) construct the authorised development in such a way as to cross underneath or over apparatus belonging to statutory undertakers and other like bodies within the Order limits; and
- (e) construct over existing apparatus belonging to statutory undertakers any necessary track or roadway (whether temporary or permanent) together with the right to maintain or remove the same and install such service media under or over the existing apparatus needed in connection with the authorised development.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which Part 3 (street works in England and Wales) of the 1991 Act applies.

Recovery of costs of new connections

43.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 42 (statutory undertakers), any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer, but where such a sewer is removed under article 42 (statutory undertakers) any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) In this article—

“public communications provider” has the same meaning as in section 151(1) of the 2003 Act; and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

PART 6

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

44.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Defence to proceedings in respect of statutory nuisance

45.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisances) in relation to a nuisance falling within paragraphs (g) and (ga) of section 79(1) of that Act no order must be made, and no fine must be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site) or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(b); or
 - (ii) relates to premises used by the undertaker for the purposes of or in connection with the construction of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with the controls and measures relating to noise as described in the construction environmental management plan approved pursuant to requirement 4; or
 - (iii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
 - (iv) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided; or

(a) 1990 c. 43. Section 82 is amended by section 5 of the Noise and Statutory Nuisance Act 1993, c. 40, section 106 of, and Schedule 17 to, the Environment Act 1995, c. 25 and section 103 of the Clean Neighbourhoods and Environment Act 2005, c. 16. There are other amendments to this Act which are not relevant to this Order.

(b) 1974 c. 40. Section 61(9) was amended by section 162 of, and paragraph 15(3) of Schedule 15 to, the Environmental Protection Act 1990, c. 43. There are other amendments to the 1974 Act which are not relevant to this Order.

(b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) For the purposes of paragraph (1) above in relation to the construction of the authorised development only, compliance with the controls and measures relating to noise described in the construction environmental management plan approved pursuant to requirement 4 will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Where a relevant planning authority is acting in accordance with section 60(4) and section 61(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the local authority must also have regard to the controls and measures relating to noise referred to in the construction environmental management plan approved pursuant to requirement 4.

(4) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

(5) In this article “premises” has the same meaning as in section 79 of the Environmental Protection Act 1990(a).

Traffic regulation

46.—(1) Subject to the provisions of this article, the undertaker may at any time for the purposes of construction of the authorised development or for purposes ancillary to the construction of the authorised development—

- (a) prohibit waiting of vehicles and regulate vehicular speed by imposing a speed restriction on vehicles in the manner specified in Part 1 of Schedule 12 (traffic regulation orders) on a road specified in column (2) and along the lengths and between the points specified in column (3) in the manner specified in column (4) of that Part of that Schedule;
- (b) prohibit use of roads by through traffic in the manner specified in Part 2 of Schedule 12 (traffic regulation orders) on the roads specified in column (2) and along the lengths and between the points specified in column (3) in the manner specified in column (4) of that Part of that Schedule;
- (c) regulate the direction of vehicular movements in the manner specified in Part 3 of Schedule 12 (traffic regulation orders) on the roads specified in column (2) and along the lengths and between the points specified in column (3) in the manner specified in column (4) of that Part of that Schedule; and
- (d) prohibit overtaking in the manner specified in Part 4 of Schedule 12 (traffic regulation orders) on the roads specified in column (2) and along the lengths and between the points specified in column (3) in the manner specified in column (4) of that Part of that Schedule.

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction of the authorised development, or for purposes ancillary to it, at any time—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the maximum speed, direction or priority of vehicular traffic on any road; and
- (e) permit, prohibit or restrict vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(a) 1990 c. 43.

- (3) The undertaker must not exercise the powers in paragraphs (1) and (2) unless it has—
- (a) given not less than four weeks’ notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
 - (b) advertised its intention in such manner as the traffic authority may specify in writing within seven days of its receipt of notice of the undertaker’s intention as provided for in sub-paragraph (a).
- (4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2)—
- (a) has effect as if duly made by—
 - (i) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
 - (ii) the local authority in whose area the road is situated as an order under section 32 of the 1984 Act (power of local authorities to provide parking places),
 and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 12 (traffic regulation orders)) to which the prohibition, restriction or other provision is subject; and
 - (b) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004(a) (road traffic contraventions subject to civil enforcement).
- (5) Any prohibition, restriction or other provision made under this article may at any time be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraphs (1) and (2).
- (6) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2) will cease to have effect on the expiry of the period of five years beginning with the date on which the authorised development is first brought into operational use, except where the authorised development is replacement or landscape planting in which case the period of five years will begin with the date on which that part of the replacement or landscape planting is completed.
- (7) If any prohibition, restriction or other provision has been made by the undertaker under paragraph (1) or (2), then before the expiration of the period referred to in paragraph (6) the undertaker must
- (a) give at least four weeks’ notice in writing to the chief officer of police and to the traffic authority in whose area the road is situated; and
 - (b) advertise the fact in such manner as the traffic authority may specify in writing within seven days of its receipt of notice of the undertaker’s notice as provided for in sub-paragraph (a).
- (8) Before complying with the provisions of paragraphs (3) and (7) the undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated.
- (9) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.
- (10) If the traffic authority fails to notify the undertaker of its decision within 35 days (or such other period as agreed by the traffic authority and the undertaker) of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.
- (11) Any application for consent under paragraph (2) must include a statement that the provisions of paragraph (10) apply to that application.
- (12) If an application for consent under paragraph (2) does not include the statement required under paragraph (11), then the provisions of paragraph (10) will not apply to that application.

Felling or lopping

47.—(1) The undertaker may fell, lop, prune, cut, trim, coppice, pollard, or reduce in height or width, any tree, shrub, shrubbery, hedgerow, or important hedgerow under or within or overhanging

(a) 2004 c. 18.

or near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, shrub, shrubbery, hedgerow or important hedgerow—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons constructing, maintaining, or operating the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause any unnecessary damage to any tree, shrub, shrubbery or hedgerow, or important hedgerow and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) Subject at all times to paragraph (8), the undertaker must not pursuant to paragraph (1) fell, lop, prune, cut, trim, coppice, pollard, or reduce in height or width a tree within or overhanging the extent of the public highway without the consent of the relevant highway authority.

(5) If the relevant highway authority fails to notify the undertaker of its decision within 35 days (or such other period as agreed by the relevant highway authority and the undertaker) of receiving an application for consent under paragraph (4) the relevant highway authority is deemed to have granted consent.

(6) Any application for consent under paragraph (4) must include a statement that the provisions of paragraph (5) apply to that application.

(7) If an application for consent under paragraph (4) does not include the statement required under paragraph (6), then the provisions of paragraph (6) will not apply to that application.

(8) The consent of the relevant highway authority is not required under paragraph (4) where—

- (a) the tree to be felled, lopped, pruned, cut, trimmed, coppiced, pollarded, or reduced in height or width is described or shown as 'affected vegetation' on the Trees and Hedgerows to be Removed or Managed Plans; and
- (b) the undertaker giving 5 days notice to the relevant highway authority of its intention to carry out any of the operations described in sub-paragraph (a).

(9) The power conferred by paragraph (1) removes any obligation upon the undertaker to secure any consent to remove hedgerows under the Hedgerows Regulations 1997(a).

(10) In this article "hedgerow" and "important hedgerow" have the same meaning as in the Hedgerow Regulations 1997.

Trees subject to Tree Preservation Orders

48.—(1) The undertaker may fell, lop, prune, cut, trim, coppice, pollard, or reduce in height or width, any tree described in Schedule 13 (trees subject to tree preservation orders) and identified on the trees and hedgerows to be removed or managed plans, or cut back its roots, if it reasonably believes it to be necessary in order to do so to prevent the tree—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons constructing, maintaining, or operating the authorised development.

(2) The undertaker may fell, lop, prune, cut, trim, coppice, pollard, or reduce in height or width, any tree within or overhanging land within the Order limits subject to a tree preservation order which was made after 31 January 2023, or cut back its roots, if it reasonably believes it to be necessary to do so in order to prevent the tree—

(a) S.I. 1997/1160

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
 - (b) from constituting a danger to persons constructing, maintaining, or operating the authorised development.
- (3) In carrying out any activity authorised by paragraph (1) or (2)—
- (a) the undertaker must do no unnecessary damage to any tree and must pay compensation to any person for any damage arising from such activity; and
 - (b) the duty in section 206(1) of the 1990 Act (replacement of trees) does not apply.
- (4) The authority given by paragraphs (1) and (2) constitutes a deemed consent under the relevant tree preservation order.
- (5) Any dispute as to a person's entitlement to compensation under paragraph (3), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

Temporary closure of, and works in, the River Stour

- 49.**—(1) The undertaker may, in connection with the construction of the authorised development, temporarily interfere with the relevant part of the river.
- (2) Without limitation on the powers conferred by paragraph (1) but subject to paragraph (4) the undertaker may, in connection with the construction of the authorised development—
- (a) temporarily moor or anchor barges or other vessels or craft in the relevant part of the river and may load or unload into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction or maintenance of the authorised development; and
 - (b) on grounds of health and safety only, temporarily close to navigation the relevant part of the river.
- (3) The power conferred by paragraphs (1) and (2) will be exercised in such a way which secures—
- (a) that no more of the relevant part of the river is closed to navigation at any time than is necessary in the circumstances; and
 - (b) that, if complete closure to navigation of the relevant part of the river becomes necessary, all reasonable steps are taken to secure that the period of closure is kept to a minimum and that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the part so closed.
- (4) Any person who suffers loss as a result of the suspension of any private right of navigation under this article is entitled to be paid compensation for such loss by the undertaker, to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (5) In this article, “the relevant part of the river” means so much of the River Stour as is shown shaded yellow on the access, rights of way and public rights of navigation plans.

Protection of interests

50. Schedule 14 (protective provisions) has effect.

Procedure regarding certain approvals etc.

- 51.**—(1) Where an application or request is submitted to a relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of the provisions of this Order such consent, agreement or approval, if given, must be given in writing.
- (2) Schedule 4 (discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements, and any document referred to in any Requirement.

(3) The procedure set out in paragraphs 3, 4 and 5 of Schedule 4 (discharge of requirements) has effect in relation to any other consent, agreement or approval required under this Order where such consent, agreement or approval is granted subject to any condition to which the undertaker objects, or is refused or is withheld.

Safeguarding

52.—(1) Save in respect of exempt applications, before granting planning permission for development to which this article applies, a relevant planning authority must consult the undertaker.

(2) This article applies to development which would be wholly or partly within the Order limits.

(3) Where this article requires a relevant planning authority to consult the undertaker before granting planning permission—

(a) they must give the undertaker notice of the application for planning permission (unless the applicant has served a copy of the application on the undertaker); and

(b) they may not determine the application before the end of the period of 21 days, beginning two working days after the relevant planning authority has sent the notice to the undertaker by first class post or by such other means of service as may be agreed with the relevant planning authority, which will be deemed to be the date on which the undertaker receives the notice or copy of the application.

(4) But a relevant planning authority may determine an application during that period if the undertaker has—

(a) made representations to the relevant planning authority about the application, or

(b) notified the relevant planning authority that it does not intend to make representations.

(5) In determining an application for planning permission a relevant planning authority must take into account any representations received in accordance with this article.

(6) The requirement to consult under this article is a local land charge.

(7) The requirement to consult will cease to have effect upon completion of the decommissioning of the authorised development or the final part of it.

(8) In this article—

“exempt applications” means—

(i) an application for planning permission which relates to development that—

(aa) consists of an alteration to an existing building, or the change of use of an existing building or land; and

(bb) does not involve, or is not likely to involve, any construction engineering or other operations below existing ground level,

(ii) an application for planning permission which is to be determined by a relevant planning authority in the period of 21 days beginning on the day after the date on which the Order comes into force; and

“relevant planning authority” means the planning authority in receipt of an application for planning permission to which this article applies.

No double recovery

53. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, contract or deed or rule of law, or under two or more different provisions of this Order.

Application, disapplication and modification of legislative provisions

54. Schedule 15 (public general legislation) to this Order, which makes provision applying, modifying and excluding statutory provisions which relate to matters for which provision may be made by this Order, has effect.

Amendment of local legislation

55.—(1) Any statutory provision of local application and, in particular, the local enactments specified in Schedule 16 (amendment of local legislation), and any byelaws or other provisions made under any of those enactments, are hereby excluded and do not apply insofar as inconsistent with a provision of, or a power conferred by, this Order.

(2) In particular, a power conferred by this Order may be exercised despite, and without having regard to, a provision made by or by virtue of a specified enactment, or any other statutory provision of local application, that—

- (a) requires or permits a specified road, path, passage, bridge, parapet, fence or other place or structure to be kept open or maintained generally or in a specified manner;
- (b) requires or permits the provision and maintenance of lights or other apparatus or structures generally or in a specified manner;
- (c) prohibits or restricts (or imposes conditions or penalties on or in relation to) the obstruction or removal of, or the causing of damage to, a specified place or structure (or class of places or structures);
- (d) prohibits or restricts (or imposes conditions on or in relation to) the erection of structures, or the undertaking of other works, in a specified place or structure (or class of places or structures);
- (e) permits or requires a specified place or structure to be closed;
- (f) makes provision about the conduct of persons using a specified walkway or other place or structure (or class of places or structures) whether by prohibiting or restricting movement (of persons, vehicles or animals) or otherwise;
- (g) specifies a minimum or maximum depth for, or otherwise restricts or imposes conditions in relation to, the laying of pipes or the carrying out of any other works;
- (h) prohibits the laying of pipes or the carrying out of any other works generally or without the consent of a specified person;
- (i) makes provision about the construction or maintenance of, or any other matter relating to, pipes, drains or other means of connecting with sewers; or
- (j) in any other way would or might apply in relation to anything done, or omitted to be done, in the exercise of a power conferred by this Order.

(3) For the purpose of paragraph (1) a provision is inconsistent with the exercise of a power conferred by this Order if and insofar as (in particular)—

- (a) it would make it an offence to take action, or not to take action, in pursuance of the power;
- (b) action taken in pursuance of the power would cause the provision to apply so as to enable a person to require the taking of remedial or other action or so as to enable remedial or other action to be taken; or
- (c) action taken in pursuance of a power or duty under the provision would or might interfere with the exercise of any work authorised by this Order.

(4) Where any person notifies the undertaker in writing that anything done or proposed to be done by the undertaker or by virtue of this Order would amount to a contravention of a statutory provision of local application, the undertaker must as soon as reasonably practicable, and in any event within 14 days of receipt of the notice, respond in writing setting out—

- (a) whether the undertaker agrees that the action taken or proposed does or would contravene the provision of local application;
- (b) if the undertaker does agree, the grounds (if any) on which the undertaker believes that the provision is excluded by this article; and
- (c) the extent of that exclusion.

Certification of documents

56.—(1) National Grid must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the plans and documents identified in Schedule 17 (certified documents) of this Order for certification as true copies of those plans and documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) Where any plan or document identified in Schedule 17 is required to be amended to reflect the terms of the Secretary of State's decision to make this Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(4) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies the provision by number or combination of numbers and letters, which is different from the number or combination of numbers or letters by which the corresponding provision of this Order is identified in the Order as made;

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provisions (if any) corresponding to that provision in the Order as made.

(5) The undertaker must, following certification of the plans or documents in accordance with paragraph (1), make those plans or documents available in electronic form for inspection by members of the public.

Service of notices

57.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the written consent of the recipient and subject to paragraphs (5) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(a) 1978 c. 30.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or part of that notice or other document, the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

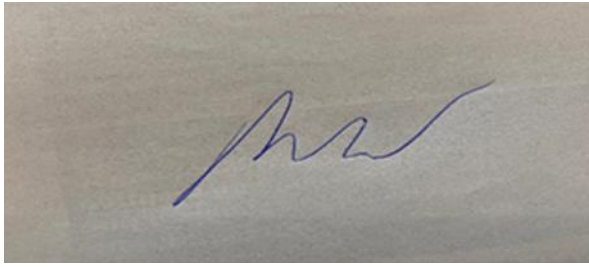
(10) In this article “legible in all material respects”, in relation to a notice or document, means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

58.—(1) Subject to article 51 (procedures regarding certain approvals, etc.) and except where otherwise expressly provided for in this Order or unless otherwise agreed between the parties, any difference under any provision of this Order must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

(2) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order shall not be subject to arbitration.

Signed by authority of the Secretary of State for Energy Security and Net Zero

A photograph of a handwritten signature in blue ink on a light-colored, textured paper. The signature is stylized and appears to be the initials 'PS' followed by a flourish.

12th September 2024

Deputy Director Energy Infrastructure Planning
Department for Energy Security and Net Zero

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

A nationally significant infrastructure project as defined in sections 14 and 16 of the 2008 Act and associated development within the meaning of section 115(2) of the 2008 Act, comprising—

TRANSMISSION ELECTRIC LINE

In the Districts of Mid-Suffolk and Babergh

Work No. 1 — Bramford Substation line entries and Route 4YL

Works as shown on Sheets 1, 2, 3, 6 and 8 of the work plans to modify and reconfigure the existing overhead transmission electric line (Route 4YL) from and within Bramford Substation to existing pylon 4YL019 (including transpositions to the north and south of Hintlesham Woods), including—

- (a) the dismantling and removal of all existing overhead transmission electric line and pylons including foundations between the existing Bramford Substation gantries and a point indicated as 4YL004A on Sheet 1 of the work plans (and including the existing pylon 4YL004);
- (b) the dismantling and removal of all existing overhead transmission electric line and pylons including foundations between a point indicated as 4YL012A on Sheet 3 of the work plans and a point indicated as RB11 on Sheet 3 of the work plans (and including the existing pylon 4YL012);
- (c) the dismantling and removal of all existing overhead transmission electric line and pylons including foundations between a point indicated as 4YL018A on Sheet 8 of the work plans and a point indicated as RB16 on Sheet 8 of the work plans (and including the existing pylon 4YL018);
- (d) the realignment of the existing Bramford Substation gantries;
- (e) the foundations and steelwork to construct new pylons;
- (f) the installation of 0.5 kilometres of overhead transmission electric line between the realigned Bramford Substation gantries and a point indicated as new pylon 4YL004A on Sheet 1 of the work plans;
- (g) the installation of 2.6 kilometres of overhead transmission electric line between a point indicated as 4YL012A on Sheet 3 of the work plans and a point indicated as 4YL018A on Sheet 8 of the work plans;
- (h) the installation of conductors, busbars, switchgear and fittings, including downloads and droppers at each realigned gantry, to facilitate connection from the equipment within the gas insulated switchgear building situated within Bramford Substation to a point indicated as new pylon 4YL003C on Sheet 1 of the work plans;
- (i) the installation of fibre optic earthwire conductors, with optical fibres terminated in a joint box at a point indicated as new pylon 4YL003C on Sheet 1 of the work plans;
- (j) the temporary diversion of the existing overhead transmission electric line to facilitate the works; and
- (k) modifications to the existing overhead transmission electric line between a point indicated as 4YL004A on Sheet 1 of the work plans and a point indicated as 4YL007 on Sheet 2 of the work plans, between a point indicated as 4YL011 on Sheet 3 of the work plans and a point indicated as 4YL012A on Sheet 3 of the work plans and between a point indicated as

4YL018A on Sheet 8 of the work plans and a point indicated as 4YL019 on Sheet 8 of the work plans.

Work No. 2 — overhead transmission electric lines from Bramford Substation to the Dedham Vale East Cable Sealing End Compound

Works as shown on Sheets 1, 2, 3, 6 and 8 to 12 (inclusive) of the work plans to construct and install a new overhead transmission electric line from and within Bramford Substation to the two sealing end compound gantries at the Dedham Vale East Cable Sealing End Compound and to modify and reconfigure the existing overhead transmission electric line (Route 4YL), including—

- (a) the installation of two new gantries within Bramford Substation;
- (b) the foundations and steelwork to construct new pylons;
- (c) the installation of 3.6 kilometres of overhead transmission electric line between the two new Bramford Substation gantries and a point indicated as RB11 on Sheet 3 of the work plans;
- (d) the installation of 6.6 kilometres of overhead transmission electric line between a point indicated as RB16 on Sheet 8 of the Work Plans and the two sealing end compound gantries at the Dedham Vale East Cable Sealing End Compound;
- (e) the installation of conductors, busbars, shunt reactors, switchgear and fittings, including downleads and droppers at each new gantry, to facilitate connection to the equipment within the gas insulated switchgear building situated within Bramford Substation;
- (f) the installation of conductors, insulators and fittings, including downleads and droppers at each gantry to facilitate connection to the equipment within the Dedham Vale East Cable Sealing End Compound;
- (g) the installation of fibre optic earthwire conductors, with optical fibres terminated in joint boxes;
- (h) the temporary diversion of the existing overhead transmission electric line to facilitate the works; and
- (i) modifications to the existing overhead transmission electric line between a point indicated as RB11 on Sheet 3 of the work plans and a point indicated as RB16 on Sheet 8 of the work plans.

In the District of Babergh

Work No. 3 — underground transmission electric line from the Dedham Vale East Cable Sealing End Compound to the Dedham Vale West Cable Sealing End Compound

Works as shown on Sheets 12 to 15 (inclusive) of the work plans to construct and install a new underground transmission electric line (5.5 kilometres in length) in the section of the works between and including the Dedham Vale East Cable Sealing End Compound and the Dedham Vale West Cable Sealing End Compound, including—

- (a) the installation of 5.5 kilometres of underground transmission electric line, including cable ducts, joint bays, link pillars, fibre optic earthwire conductors and earthing and protection and control systems, to facilitate a connection between the Dedham Vale East Cable Sealing End Compound and the Dedham Vale West Cable Sealing End Compound;
- (b) Dedham Vale East Sealing End Compound sealing end equipment including switchgear and connection to overhead transmission electric line conductors including gantries;
- (c) Dedham Vale West Sealing End Compound sealing end equipment including switchgear and connection to overhead transmission electric line conductors including gantries;
- (d) Dedham Vale East Cable Sealing End Compound permanent compound, security fencing and gates, within which is situated the sealing end equipment, earthing and protection and control systems, portable relay room, supervisory control and data acquisition communication, switchgear, connection to overhead electric line including fibre optic cable

- to joint boxes, gantries, transformers, cables, surface troughs, fibre optic cable and joint boxes;
- (e) Dedham Vale West Cable Sealing End Compound permanent compound, security fencing and gates, within which is situated the sealing end equipment, earthing and protection and control systems, portable relay room, supervisory control and data acquisition communication, switchgear, connection to overhead electric line including fibre optic cable to joint boxes, gantries, transformers, cables, surface troughs, fibre optic cable and joint boxes;
- (f) permanent vehicular access road(s), hardstanding, drainage (including attenuation ponds), and site services, including power supply, for each of the Dedham Vale East Sealing End Compound and the Dedham Vale West Sealing End Compound; and
- (g) landscaping, including mitigation planting at each of the Dedham Vale East Sealing End Compound and the Dedham Vale West Sealing End Compound.

Work No. 4 — overhead transmission electric line from Dedham Vale West Cable Sealing End Compound to the Stour Valley East Cable Sealing End Compound

Works as shown on Sheets 15, 16, 17 and 19 of the work plans to construct and install a new overhead transmission electric line between the two sealing end compound gantries at the Dedham Vale West Cable Sealing End Compound and the two sealing end compound gantries at the Stour Valley East Cable Sealing End Compound, including—

- (a) the foundations and steelwork to construct new pylons;
- (b) the installation of 5.3 kilometres of overhead transmission electric line between the two sealing end compound gantries at the Dedham Vale West Cable Sealing End Compound and the two sealing end compound gantries at the Stour Valley East Cable Sealing End Compound;
- (c) the installation of conductors, insulators and fittings, including downloads and droppers at each gantry to facilitate connection to the equipment within the Dedham Vale West Cable Sealing End Compound and the Stour Valley East Cable Sealing End Compound; and
- (d) the installation of fibre optic earthwire conductors, with optical fibres terminated in joint boxes.

In the Districts of Babergh and Braintree

Work No. 5 — underground transmission electric line from the Stour Valley East Cable Sealing End Compound to the Stour Valley West Cable Sealing End Compound

Works as shown on Sheets 19, 20, 21, 27 and 28 of the work plans to construct and install a new underground transmission electric line (5.1 kilometres in length) in the section of the works between and including the Stour Valley East Cable Sealing End Compound and the Stour Valley West Cable Sealing End Compound, including—

- (a) the installation of 5.1 kilometres of underground transmission electric line, including cable ducts, joint bays, link pillars, fibre optic earthwire conductors and earthing and protection and control systems, to facilitate a connection between the Stour Valley East Cable Sealing End Compound and the Stour Valley West Cable Sealing End Compound;
- (b) Stour Valley East Cable Sealing End Compound sealing end equipment including switchgear and connection to overhead transmission electric line conductors including gantries;
- (c) Stour Valley West Cable Sealing End Compound sealing end equipment including switchgear and connection to overhead transmission electric line conductors including gantries;
- (d) Stour Valley East Cable Sealing End Compound permanent compound, security fencing and gates, within which is situated the sealing end equipment, earthing and protection and

control systems, portable relay room, supervisory control and data acquisition communication, switchgear, connection to overhead electric line including fibre optic cable to joint boxes, gantries, transformers, cables, surface troughs, fibre optic cable and joint boxes;

- (e) Stour Valley West Cable Sealing End Compound permanent compound, security fencing and gates, within which is situated the sealing end equipment, earthing and protection and control systems, portable relay room, supervisory control and data acquisition communication, switchgear, connection to overhead electric line including fibre optic cable to joint boxes, gantries, transformers, cables, surface troughs, fibre optic cable and joint boxes;
- (f) permanent vehicular access road(s), hardstanding, drainage (including attenuation ponds), and site services, including power supply, for each of the Stour Valley East Cable Sealing End Compound and the Stour Valley West Cable Sealing End Compound; and
- (g) landscaping, including mitigation planting at each of the Stour Valley East Cable Sealing End Compound and the Stour Valley West Cable Sealing End Compound.

In the District of Braintree

Work No. 6 — overhead transmission electric line from the Stour Valley West Cable Sealing End Compound to the existing 4YLA overhead transmission electric line (Route 4YLA) southwest of Alphamstone

Works as shown on Sheets 27 and 28 of the work plans to realign the existing overhead transmission electric line (Route 4YLA) between the two sealing end compound gantries at the Stour Valley West Cable Sealing End Compound and a point indicated as 4YLA007 (Route 4YLA), including—

- (a) the modification of existing pylon 4YLA007;
- (b) the foundations and steelwork to construct new pylon 4YLA006C;
- (c) the installation of 0.6 kilometres of overhead transmission electric line between the two sealing end compound gantries at the Stour Valley West Cable Sealing End Compound and a point indicated as 4YLA007 on Sheet 28 of the Work Plans;
- (d) the installation of conductors, insulators and fittings, including downleads and droppers at each gantry to facilitate connection to the equipment within the Stour Valley West Cable Sealing End Compound; and
- (e) the installation of fibre optic earthwire conductors, with optical fibres terminated in joint boxes.

Work No. 7 — removal of existing overhead transmission electric line (Route 4YLA) between the Twinstead Tee and a point to the southwest of Alphamstone

Works as shown on Sheets 21, 27 and 28 of the work plans to allow the removal of 2.5 kilometres of the existing overhead transmission electric line (Route 4YLA) between the Twinstead Tee at a point indicated as 4YL073 and a point to the southwest of Alphamstone indicated as 4YLA007, including—

- (a) the modification of existing pylon 4YL073;
- (b) the dismantling and removal of all overhead transmission electric line and pylons including foundations between Twinstead Tee commencing at a point indicated as 4YL073 on Sheet 21 of the work plans (but not including pylon 4YL073) and terminating at a point to the southwest of Alphamstone indicated as 4YLA007 on Sheet 28 of the work plans (but not including pylon 4YLA007); and
- (c) the dismantling and removal of conductors, insulators and fittings.

DISTRIBUTION ELECTRIC LINE

Work No. 8 — removal of existing overhead distribution electric line (Route PCB) between Burstall Bridge and the Twinstead Tee

Works as shown on Sheets 4, 5, 7 to 17 (inclusive), 19, 20, 21 and 22 of the work plans to allow the removal of 25 kilometres of the existing overhead distribution electric line (Route PCB) between Burstall Bridge at a point indicated as PCB5 and a point to the west of Twinstead Tee indicated as PCB89, including—

- (a) the modification of existing pylons PCB5 and PCB89;
- (b) the dismantling and removal of all overhead distribution electric line and pylons including foundations between Burstall Bridge commencing at a point indicated as PCB5 on Sheet 4 of the work plans (but not including pylon PCB5) and terminating at a point to the west of Twinstead Tee indicated as PCB89 on Sheet 22 of the work plans (but not including pylon PCB89); and
- (c) the dismantling and removal of conductors, insulators and fittings.

GRID SUPPLY POINT SUBSTATION

In the District of Braintree

Work No. 9 — Grid Supply Point Substation to the east of Wickham St. Paul

Works as shown on Sheet 23 of the work plans to construct the Grid Supply Point Substation between Butler's Wood and Waldegrave Wood, to the east of Wickham St. Paul, including—

- (a) the construction of foundations to support all new structures and equipment;
- (b) the installation of two Super Grid Transformers (SGTs);
- (c) the installation of support structures;
- (d) the construction of gantries for the termination of overhead electric line connections into the Grid Supply Point Substation;
- (e) the installation of equipment between gantries and switchgear;
- (f) the installation of switchgear and equipment;
- (g) the installation of electrical control panels;
- (h) the installation of a diesel generator;
- (i) the installation of troughs and below ground services;
- (j) the installation of new relay rooms, battery rooms, storage rooms and other welfare facilities;
- (k) the installation of electric vehicle charging points;
- (l) the installation of telecommunications equipment;
- (m) the installation of above ground water tanks;
- (n) drainage works;
- (o) the installation of other site furniture;
- (p) the erection of a security fence around the perimeter of the Grid Supply Point Substation;
- (q) the construction of site access roads, hardstanding, car parking and roadways;
- (r) utility service connections for electricity, communications and potable water and/or connection of power supply made from temporary generators;
- (s) utility service connection or on site storage for later disposal of grey water and sanitation;
- (t) earthworks including to create platforms for the new Grid Supply Point Substation equipment, structures, landscaping, roads and compounds; and

- (u) landscaping, including mitigation planting.

Work No. 10 — modifications to the transmission electric line and connection to the Grid Supply Point Substation

Works as shown on Sheet 23 of the work plans to reconfigure the existing overhead transmission electric line (Route 4YL) adjacent to the Grid Supply Point Substation and to construct a single circuit cable sealing end compound to the southwest of the Grid Supply Point Substation, including—

- (a) the modification of existing pylon 4YL080, including the installation of downleads to the Grid Supply Point Substation;
- (b) the temporary diversion of 0.7 kilometres of the existing overhead transmission electric line (Route 4YL) to facilitate the dismantling and removal of existing pylon 4YL081 and the installation of new pylon 4YL081A;
- (c) the dismantling and removal of existing pylon 4YL081 including foundations;
- (d) the installation of new pylon 4YL081A including foundations, steelwork and associated conductors, droppers and downleads, insulators and fittings;
- (e) single circuit cable sealing end equipment including switchgear and connection to overhead electric line conductors including gantries;
- (f) a permanent single circuit cable sealing end compound, within which is situated the sealing end equipment, earthing and protection and control systems, supervisory control and data acquisition communication, switchgear, connection to overhead electric line including fibre optic cable to joint boxes, gantries, transformers, cables, surface troughs, fibre optic cable and joint boxes;
- (g) the installation of a new underground transmission electric line to facilitate a connection between the single circuit cable sealing end compound and the Grid Supply Point Substation;
- (h) the installation of telecommunications equipment;
- (i) the installation of other site furniture;
- (j) the erection of a security fence around the perimeter of the single circuit cable sealing end compound; and
- (k) the construction of site access roads, hardstanding, and drainage.

Work No. 11 — modifications to the distribution electric line and connection to the Grid Supply Point Substation

Works as shown on Sheets 23, 25 and 26 of the work plans to modify the existing overhead distribution electric line (Route PCB) between a point indicated as PCB97 and a point indicated as PCB103 and to construct and install a new underground distribution electric line between the Grid Supply Point Substation and the existing overhead distribution electric line (Route PCB), including—

- (a) the dismantling and removal of existing pylon PCB98 including foundations;
- (b) the temporary diversion of the existing overhead distribution electric line (Route PCB) to facilitate the dismantling and removal of existing pylon PCB98;
- (c) the installation of a new cable sealing end platform pylon PCB98A including foundations, steelwork and associated conductors, downleads, insulators and fittings;
- (d) the installation of 1.1 kilometres of new underground distribution electric line, including cable ducts, joint bays, link pillars, fibre optic earthwire conductors and earthing and protection and control systems, to facilitate a connection between the Grid Supply Point Substation (Work No. 9) and the new cable sealing end platform pylon PCB98A (at a point indicated as PCB98A on Sheet 23 of the work plans); and

- (e) modifications to the existing overhead distribution electric line between a point indicated as PCB97 on Sheet 23 of the work plans and a point indicated as PCB103 on Sheet 26 of the work plans.

CONSTRUCTION, MAINTENANCE AND USE

In the Districts of Mid-Suffolk, Babergh and Braintree

Work No. 12 — Temporary Site Compounds

Works to construct temporary site compounds as part of the authorised development and in each case including—

- (a) earthworks, soil stripping and storage, ground improvement;
- (b) car parking, hard standing, roadways and access roads (including construction site services and temporary bridges);
- (c) drainage works (including attenuation ponds);
- (d) offices and staff welfare facilities;
- (e) utility service connections for electricity, communications and potable water and/or connection of power supply made from temporary generators;
- (f) utility service connection or on site storage for later disposal of grey water and sanitation;
- (g) emergency electrical generator;
- (h) materials, tools and fuel storage and laydown areas;
- (i) assembly areas;
- (j) plant and equipment storage areas;
- (k) wheel cleaning facilities;
- (l) security cabin and fencing and gates;
- (m) construction and security lighting; and
- (n) construction waste management facilities.

ASSOCIATED DEVELOPMENT

Such associated development not listed above, within the Order limits, as may be necessary or expedient for the purposes of or in connection with the construction or maintenance of the above Work Nos. or any of them, including—

- (a) ramps, means of access, footpaths, bridleways, trackways and pontoons;
- (b) embankment, bridge, aprons, abutments, foundations, retaining walls, drainage, wing walls, fencing and culverts;
- (c) works to alter the position of apparatus, including mains, sewers, drains, conductors and cables;
- (d) works to alter the position of UKPN apparatus, including construction and installation, decommissioning and partial removal and alteration of conductors and cables;
- (e) works to alter the course of, or otherwise interfere with a watercourse, drainage works, attenuation ponds, and temporary culverts;
- (f) landscaping and other works to mitigate any adverse effects of the construction, maintenance, operation or use of the authorised development, together with means of access;
- (g) tree and hedgerow planting and maintenance works;
- (h) works for the benefit or protection of the environment;

- (i) works for the benefit or protection of land, structures, apparatus or equipment affected by the authorised development (including arcing horns, earthing and works for monitoring);
- (j) works required for the strengthening, improvement, maintenance, or reconstruction of any streets;
- (k) works to streets and any alteration, removal or installation of road furniture, including where required to facilitate the construction of temporary accesses;
- (l) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing buildings or structures and the creation of alternative footpaths), earthworks (including soil stripping and storage, site levelling, ground improvement);
- (m) establishment of site construction compounds, temporary laydown and storage areas, temporary offices, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction and security lighting and haulage roads;
- (n) establishment of launch pits and/or receiving pits to facilitate the use of horizontal directional drilling techniques to install any underground electric line;
- (o) wheel cleaning facilities;
- (p) supervisory control and data acquisition communication equipment;
- (q) installation of wires, cables, ducts, pipes and conductors, establishment of winching points and the installation of scaffolding; and
- (r) such other works, including scaffolding, working sites storage areas, and works of demolition (which includes but is not limited to demolition of residential properties), as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development and which do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

SCHEDULE 2

Article 2

PLANS

PART 1

ACCESS, RIGHTS OF WAY AND PUBLIC RIGHTS OF NAVIGATION PLANS

Drawing Title	Drawing Number	Revision
Key Plan for Access, Rights of Way and Public Rights of Navigation Plans	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 1 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 2 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 3 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 4 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 5 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 6 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 7 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 8 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 9 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 10 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 11 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 12 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 13 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 14 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 15 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 16 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 17 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 18 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 19 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 20 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 21 of 30	BT-NG-020621-545-0013	A

Drawing Title	Drawing Number	Revision
A1/PRoW/21847/01Access, Rights of Way and Public Rights of Navigation Plans - Sheet 22 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 23 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 24 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 25 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 26 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 27 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 28 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 29 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans - Sheet 30 of 30	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans – Plan A	BT-NG-020621-545-0013	A
Access, Rights of Way and Public Rights of Navigation Plans – Plan B	BT-NG-020621-545-0013	A

PART 2

LAND PLANS

Drawing Title	Drawing Number	Revision
Key Plan for Land Plans	BT-NG-020621-545-0007	C
Land Plans – Sheet 1 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 2 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 3 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 4 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 5 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 6 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 7 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 8 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 9 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 10 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 11 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 12 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 13 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 14 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 15 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 16 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 17 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 18 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 19 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 20 of 30	BT-NG-020621-545-0007	C

Drawing Title	Drawing Number	Revision
Land Plans – Sheet 21 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 22 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 23 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 24 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 25 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 26 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 27 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 28 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 29 of 30	BT-NG-020621-545-0007	C
Land Plans – Sheet 30 of 30	BT-NG-020621-545-0007	C

PART 3

SPECIAL CATEGORY LAND PLANS

Drawing Title	Drawing Number	Revision
Key Plan for Special Category Land Plans	BT-WSP-020621-545-0001	A
Special Category Land Plans – Sheet 1 of 6	BT-WSP-020621-545-0001	A
Special Category Land Plans – Sheet 2 of 6	BT-WSP-020621-545-0001	A
Special Category Land Plans – Sheet 3 of 6	BT-WSP-020621-545-0001	A
Special Category Land Plans – Sheet 4 of 6	BT-WSP-020621-545-0001	A
Special Category Land Plans – Sheet 5 of 6	BT-WSP-020621-545-0001	A
Special Category Land Plans – Sheet 6 of 6	BT-WSP-020621-545-0001	A

PART 4

TRAFFIC REGULATION ORDER PLANS

Drawing Title	Drawing Number	Revision
Key Plan for Traffic Regulation Order Plans	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 1 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 2 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 3 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 4 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 5 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 6 of 30	BT-NG-020621-545-0009	A

Drawing Title	Drawing Number	Revision
Traffic Regulation Order Plans – Sheet 7 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 8 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 9 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 10 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 11 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 12 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 13 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 14 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 15 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 16 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 17 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 18 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 19 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 20 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 21 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 22 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 23 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 24 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 25 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 26 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 27 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 28 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 29 of 30	BT-NG-020621-545-0009	A
Traffic Regulation Order Plans – Sheet 30 of 30	BT-NG-020621-545-0009	A

PART 5

TREES AND HEDGEROWS TO BE REMOVED OR MANAGED PLANS

Drawing Title	Drawing Number	Revision
Key Plan for Trees and Hedgerows to be Removed or Managed Plans	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 1 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 2 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 3 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 4 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 5 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 6 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 7 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 8 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 9 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 10 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 11 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 12 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 13 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 14 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 15 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 16 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 17 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 18 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 19 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 20 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 21 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 22 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 23 of 30	BT-NG-020621-545-0012	B

Drawing Title	Drawing Number	Revision
Trees and Hedgerows to be Removed or Managed Plans – Sheet 24 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 25 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 26 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 27 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 28 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 29 of 30	BT-NG-020621-545-0012	B
Trees and Hedgerows to be Removed or Managed Plans – Sheet 30 of 30	BT-NG-020621-545-0012	B

PART 6
WORK PLANS

Drawing Title	Drawing Number	Revision
Key Plan for Work Plans	BT-NG-020621-545-0008	A
Work Plans – Sheet 1 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 2 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 3 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 4 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 5 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 6 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 7 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 8 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 9 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 10 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 11 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 12 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 13 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 14 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 15 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 16 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 17 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 18 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 19 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 20 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 21 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 22 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 23 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 24 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 25 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 26 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 27 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 28 of 30	BT-NG-020621-545-0008	A

Drawing Title	Drawing Number	Revision
Work Plans – Sheet 29 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 30 of 30	BT-NG-020621-545-0008	A
Work Plans – Sheet 1 of 1 (Table of Parameters)	BT-NG-020621-545-0008	A

SCHEDULE 3 REQUIREMENTS

Article 2

Interpretation

1.—(1) In this Schedule unless the context requires otherwise—

“biodiversity metric” means Biodiversity Metric 3.1 as published by Natural England in April 2022;

“discharging authority” means the body responsible for giving any consent, agreement or approval required by a requirement included in this Order, or further to any document referred to in any requirement, or the local authority in the exercise of functions set out in sections 60 or 61 of the Control of Pollution Act 1974(a);

“HGV” means lorries over 3.5 tonnes maximum gross weight;

“intrusive” means an activity which requires or is facilitated by breaking the surface of the ground;

“lead local flood authority” has the same meaning as in section 6(7) of the Flood and Water Management Act 2010;

“part” means a given geographical section, component or location of the authorised development;

“reinstatement planting” includes, unless otherwise agreed with the relevant planning authority, embedded planting, reinstatement hedgerow or other planting and mitigation planting as each are described in the Landscape and Ecological Management Plan approved pursuant to requirement 4;

“reinstatement planting plan” means the plan referenced at Requirements 9 and 10 and which provides detail on reinstatement planting to be prepared for each stage of the authorised development;

“stage” means a defined stage of the authorised development, the extent of which is shown in a scheme submitted to the relevant planning authority pursuant to Requirement 3;

“start-up and close down activities” means—

- (a) arrival and departure of workforce and staff at site and movement to and from places of work;
- (b) general refuelling of plant;
- (c) site inspections and safety checks;
- (d) site meetings inspections and walkovers;
- (e) site clean-up (site housekeeping that does not require the use of plant);
- (f) general site maintenance; and
- (g) low key maintenance and safety checking of plant and machinery.

(2) Where under any of the Requirements the approval or agreement of the relevant planning authority or the relevant highway authority is required, that approval or agreement must be given in writing.

(3) Where any Requirement requires the authorised development to be carried out in accordance or general accordance with matters including a plan, document, or details approved by the relevant planning authority or the relevant highway authority, those matters are to be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority or the relevant highway authority.

(4) Where an approval or agreement is required under the terms of any Requirement or a document referred to in a Requirement, or any Requirement specifies “unless otherwise approved” or “unless otherwise agreed” by the relevant highway authority or the relevant planning authority, such approval

(a) 1974 c.40

or agreement may only be given in relation to minor or immaterial changes and where it has been demonstrated to the satisfaction of the relevant highway authority or the relevant planning authority that the subject matter of the approval or agreement sought will not give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement.

(5) Unless otherwise provided in this Order, where a Requirement relates to a specific site or work and it specifies “commencement of development”, it refers to the commencement of development on that site or in relation to that work only.

Time Limits

2.—(1) The authorised development must commence no later than the expiration of five years beginning with the date on which this Order comes into force.

(2) If any proceedings are begun to challenge the validity of this Order, the period specified in paragraph (1) is extended for the period specified in paragraph (3).

(3) Under paragraph (2) the period is taken to be extended by—

- (a) a period equivalent to the period beginning with the day the proceedings are filed and ending on the day they are withdrawn or finally determined, or
- (b) if shorter, one year.

(4) Proceedings are not finally determined for the purposes of sub-paragraph (3)(a) if any appeal—

- (a) could be brought (ignoring any possibility of an appeal out of time with permission), or
- (b) has been made and not withdrawn or finally determined.

Stages of authorised development

3.—(1) Unless otherwise agreed with the relevant planning authority, written notice setting out the anticipated programme for the carrying out of pre-commencement operations must be given to the relevant planning authority no less than seven days prior to the date on which those pre-commencement operations are first carried out.

(2) The authorised development may not commence until a written scheme setting out all stages of the authorised development has been submitted to the relevant planning authority.

(3) Any revisions to the written scheme referred to in sub-paragraph (2) above must be submitted to the relevant planning authority in advance of the commencement of the stage of the authorised development to which the revisions relate.

(4) Written notice of the commencement and completion of construction of each stage of the authorised development, and the operational use of each stage of the authorised development, must be given to the relevant planning authority within ten business days of the relevant event occurring.

(5) The authorised development must be carried out in accordance with the written scheme submitted further to sub-paragraph (2) or (3) and, to the extent applicable, in general accordance with the written notice submitted further to sub-paragraph (1).

Management Plans

4.—(1) No stage of the authorised development may commence until, for that stage, the following plans as relevant to that stage, have been submitted to and approved by the relevant planning authority (in consultation with Natural England in the case of the landscape and ecological management plan) or other discharging authority as may be appropriate to the relevant plan concerned and in the case of the construction traffic management plan, the relevant highway authority. The relevant plans are—

- (a) A construction environmental management plan (which must be substantially in accordance with the outline construction environmental management plan);
- (b) A materials and waste management plan (which must be substantially in accordance with the outline materials and waste management plan);
- (c) A construction traffic management plan (which must be substantially in accordance with the outline construction traffic management plan);

- (d) A landscape and ecological management plan (which must be substantially in accordance with the outline landscape and ecological management plan); and
- (e) A public right of way management plan (which must be substantially in accordance with the outline public right of way management plan).

(2) All construction works forming part of the authorised development must be carried out in accordance with the plans listed in paragraph (1), unless otherwise agreed with the relevant planning authority or other discharging authority as may be appropriate to the relevant plan concerned, and in the case of the construction traffic management plan, the relevant highway authority.

(3) For the avoidance of doubt, all pre-commencement operations must be carried out in accordance with the outline construction environmental management plan, the outline materials waste management plan, the outline construction traffic management plan, the outline landscape and ecological management plan and the outline public right of way management plan unless otherwise agreed with the relevant planning authority or other discharging authority as may be appropriate to the relevant plan concerned, and in the case of the Construction Traffic Management Plan, the relevant highway authority.

Approval and implementation of Drainage Management Plan

5.—(1) No stage of the authorised development may be brought into operational use until, for that stage, a drainage management plan, to address operational surface water management matters, has been submitted to and approved by the relevant planning authority, after consultation with the lead local flood authority and the relevant highway authority.

(2) The operational use of each stage of the authorised development must be carried out in accordance with the approved drainage management plan referred to in sub-paragraph (1) or with any amended drainage management plan that may subsequently be approved by the relevant planning authority, after consultation with the lead local flood authority and the relevant highway authority.

Archaeology

6.—(1) The authorised development must be undertaken in accordance with the archaeological framework strategy and the outline written scheme of investigation.

(2) No stage of the authorised development may commence until either a preservation *in situ* management plan, or a detailed written scheme of investigation of areas of archaeological interest relevant to that stage (if any), as identified within the outline written scheme of investigation or identified through evaluation work as set out in the outline written scheme of investigation has been submitted to and approved by the relevant planning authority.

(3) Any detailed archaeological works must be carried out in accordance with the approved detailed written scheme of investigation for that stage.

(4) The detailed written scheme of investigation must be in accordance with the outline written scheme of investigation and must identify areas where archaeological works are required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found and must include—

- (a) an assessment of significance and research questions;
- (b) the programme of methodology of site investigation and reporting;
- (c) the programme for post-investigation assessment;
- (d) proposals for providing for the analysis of site investigation and recording;
- (e) proposals for providing archive deposition of the analysis and records of the site investigation;
- (f) nomination of a competent person or persons/organisation to undertake the works set out within the detailed written scheme of investigation; and
- (g) an implementation timetable.

Construction hours

7.—(1) Subject to sub-paragraphs (2) to (4), work may only take place between 07.00 and 19.00 Monday to Friday and between 08.00 and 17.00 on Saturdays, Sundays and Bank Holidays (the core working hours), unless otherwise approved by the relevant planning authority.

(2) No piling operations may take place between 19.00 and 07.00, or on Sundays, Bank Holidays or other public holidays, and, unless otherwise agreed with the local highway authority, no HGV deliveries may be made to site between 19.00 and 07.00, or on Sundays, Bank Holidays or other public holidays.

(3) The following operations may take place outside the core working hours referred to in sub-paragraph (1)—

- (a) trenchless crossing operations including beneath highways, railway lines, woodlands or watercourses;
- (b) the installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines or watercourses;
- (c) the jointing of underground cables (save for the cutting of underground cables);
- (d) the continuation of operations commenced during the core working hours to a point where they can safely be paused;
- (e) any highway works requested by the highway authority to be undertaken on a Saturday, Sunday or a Bank Holiday or outside the core working hours;
- (f) the testing or commissioning of any electrical plant installed as part of the authorised development;
- (g) the completion of works delayed or held up by severe weather conditions which disrupted or interrupted normal construction activities that the undertaker and its contractor agree forms the critical path for the accepted construction programme. In such cases, the undertaker must, as soon as practicable, notify the relevant planning authority of the disruption or interruption and explain why that work could not be completed within the core working hours referred to in sub-paragraph (1);
- (h) activity necessary in the instance of an emergency where there is a risk to persons or property;
- (i) security monitoring;
- (j) non-intrusive surveys; and
- (k) intrusive surveys, in the instance of an emergency where there is a risk to persons or property or following a request made by the relevant planning authority.

(4) The core working hours referred to in sub-paragraph (1) exclude start-up and close down activities up to one hour either side of the core working hours. A 50dBA noise limit (LOAEL) will apply at the nearest noise-sensitive receptors for start-up and close down activities up to one hour either side of the core working hours.

(5) No construction activities may take place between 19.00 and 07.00, or on Sundays, Bank Holidays or other public holidays at:

- (a) pylon PCB 64;
- (b) pylon 4Y004A;
- (c) pylon RB44;
- (d) pylon RB7;
- (e) pylon RB33;
- (f) pylon RB25; and
- (g) pylon 4YLA002,

as shown on Figure 4.1 in the environmental statement figures (document reference 6.4(B)).

(6) The severe weather conditions referred to in sub-paragraph 3(g) means any weather which prevents work from taking place during the core working hours referred to in sub-paragraph (1) by

reason of physical incapacity (whether for reasons of visibility, ground conditions, power availability, site access or otherwise) or being contrary to safe working practices.

Retention and removal of trees, woodlands and hedgerows

8.—(1) Unless otherwise agreed with the relevant planning authority, no stage of the authorised development may commence until, for that stage, a plan showing the trees, groups of trees, woodlands and hedgerows to be retained and/or removed during that stage has been submitted to and approved by the relevant planning authority.

(2) The plan submitted under sub-paragraph (1) must include details of the location, species and condition of the trees, groups of trees, woodlands and hedgerows to be removed and retained during that stage of the authorised development.

(3) The plan submitted under sub-paragraph (1) must be in accordance with the outline landscape and ecological management plan (or the final landscape and ecological management plan if approved pursuant to requirement 4) and the trees and hedgerows to be removed or managed plans.

(4) All trees, groups of trees, woodlands and hedgerows shown on the relevant plan for that stage of the authorised development must be retained and/or removed in accordance with the relevant plan for that stage of the authorised development, unless otherwise approved by the relevant planning authority.

Reinstatement planting plan

9.—(1) Unless otherwise agreed with the relevant planning authority, no stage of the authorised development may be brought into operational use until, for that stage, a reinstatement planting plan for trees, groups of trees, woodlands and hedgerows to be reinstated during that stage has been submitted to and approved by the relevant planning authority.

(2) Unless otherwise agreed with the relevant planning authority, the reinstatement planting plan submitted under sub-paragraph (1) must include a landscape plan for each cable sealing end compound where relevant to that stage, which will show landscape mounds, planting and proposed finishes for hard landscape features.

(3) The reinstatement planting plan submitted under sub-paragraphs (1) and (2) must include a schedule of trees, hedgerows or other plants or seedlings to be planted, noting numbers, species, sizes and planting density of any proposed planting or seedlings.

(4) The reinstatement planting plan submitted under sub-paragraphs (1) and (2) must be in general accordance with the outline landscape and ecological management plan (or the final landscape and ecological management plan if approved pursuant to requirement 4).

Reinstatement planting plan— implementation, compliance and replacement planting

10.—(1) Unless otherwise agreed with the relevant planning authority, all reinstatement planting works referred to in requirement 9 must be implemented at the earliest opportunity and no later than by the first available planting season after that part of the authorised development to which the reinstatement planting works apply is first brought into operational use.

(2) All reinstatement planting works referred to in requirement 9 must be carried out in accordance with the relevant reinstatement planting plan for that stage of the authorised development, unless otherwise approved by the relevant planning authority.

(3) All reinstatement planting works referred to in requirement 9 must be implemented, monitored and maintained in accordance with the ‘Aftercare’ section of the landscape and ecological management plan approved pursuant to requirement 4.

(4) Any trees or hedgerows planted as part of an approved reinstatement planting plan that, within a period of five years after planting (or such other period as is specified in the landscape and ecological management plan approved pursuant to requirement 4), are removed, die or become in the opinion of the relevant planning authority seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

Highway works

11.—(1) No work to construct, alter or temporarily alter any highway, including any new or existing means of access to a highway to be used by vehicular traffic, may commence until written details of design, layout and reinstatement of those highway works have been submitted to and approved by the relevant highway authority.

(2) The highway works must be constructed and reinstated in accordance with the details approved under sub-paragraph (1).

(3) For the avoidance of doubt, all pre-commencement operations involving the construction or alteration of temporary accesses must be carried out in accordance with sub-paragraphs (1) and (2) unless otherwise agreed with the relevant highway authority

(4) Unless otherwise agreed with the relevant highway authority, the undertaker must—

- (a) carry out Stage 1 and Stage 2 road safety audits of the highway works authorised by this Order in accordance with Standard GG 119 (Revision 2) of the Department for Transport's Design Manual for Roads and Bridges or any superseding Standard;
- (b) agree with the relevant highway authority on a case by case basis the need for a Stage 3 and, where applicable, a Stage 4 road safety audit of any elements of the highway works authorised by this Order and, where so agreed, carry out such audit(s) in accordance with Standard GG 119 (Revision 2) of the Department for Transport's Design Manual for Roads and Bridges or any superseding Standard; and
- (c) to the reasonable satisfaction of the highway authority, implement any recommendations to mitigate or remove road safety problems and defects identified in any such road safety audits arising out of the authorised development.

Decommissioning

12.—(1) In the event that, at some future date, the authorised development, or part of it, is to be decommissioned, a written scheme of decommissioning must be submitted to the relevant planning authority for its approval in consultation with the relevant highway authority, at least six months prior to any decommissioning works.

(2) The approved scheme must be implemented as approved as part of the decommissioning of the authorised development or relevant part of it.

(3) This requirement does not apply to the part of the authorised development and associated development described in Schedule 1 (authorised development) which relates to the dismantling and removal of existing infrastructure or apparatus.

(4) The written scheme of decommissioning submitted under sub-paragraph (1) must include an environmental assessment undertaken in accordance with the laws and regulations applicable at the time it is submitted to the relevant planning authority.

Biodiversity Net Gain

13. Unless otherwise agreed with the relevant planning authority, written evidence (in the form of the outputs of the biodiversity metric) demonstrating how at least ten per cent in biodiversity net gain is to be delivered as part of the authorised development must be submitted to the relevant planning authority no later than the date on which that part of the authorised development comprising the transmission electric line forming part of the authorised development is first brought into operational use.

Approval and implementation of Soil Management Plan

14.—(1) Unless otherwise agreed with the relevant planning authority, no stage of the authorised development may commence until, for that stage, a soil management plan prepared in accordance with Chapter 11 of the outline construction environmental management plan (or the final construction environmental management plan if approved pursuant to requirement 4) describing how construction works should be undertaken to minimise effects on the nature and quality of soil has been submitted to and approved by the relevant planning authority.

(2) The construction works for each stage of the authorised development must be carried out in general accordance with the approved soil management plan referred to in sub-paragraph (1), unless otherwise agreed with the relevant planning authority.

DISCHARGE OF REQUIREMENTS

Applications made under Requirements

1.—(1) Where an application has been made to a relevant authority for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement), the relevant authority must give notice to the undertaker of its decision on the application within a period of 35 days beginning with—

- (a) where no further information is requested under paragraph 2, the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under paragraph 2(2), the day immediately following that on which further information has been supplied by the undertaker; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) Subject to sub-paragraph (3), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

- (a) an application has been made to the relevant authority for any consent, agreement or approval required by a Requirement included in this Order;
- (b) the relevant authority does not determine such application within the period set out in sub-paragraph (1); and
- (c) the application is accompanied by a report that considers it likely that the subject matter of the application is to give rise to any materially new or materially different environmental effects in comparison with those reported in the Environmental Statement,

then the application is taken to have been refused by the relevant authority at the end of that period.

Further information

2.—(1) Where an application has been made under paragraph 1 the relevant authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(2) If the relevant authority considers further information is necessary and the Requirement does not specify that consultation with a requirement consultee is required, the relevant authority must, within seven business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within seven business days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within seven business days of receipt of such a request and in any event within 21 business days of receipt of the application.

(4) If the relevant authority does not give the notification mentioned in sub-paragraphs (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

(5) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 1 and in this paragraph.

Fees

3.—(1) Where an application is made to a relevant authority for any consent, agreement or approval required by a Requirement (including consent, agreement or approval in respect of part of a Requirement), a fee must be paid to the relevant authority as follows—

- (a) such fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission); or
- (b) a fee of £145 per request unless a bespoke arrangement has been agreed between the Applicant and discharging authority and legally secured.

Appeals

4.—(1) The undertaker may appeal if—

- (a) the relevant authority refuses an application for:
 - (i) any consent, agreement or approval required by a requirement or any document referred to in any requirement; or
 - (ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;
- (b) having received a request for further information under paragraph 2(1) the undertaker considers that either the whole or part of the specified information requested by the relevant authority is not necessary for consideration of the application; or
- (c) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The procedure for appeals is as follows—

- (a) the undertaker must within six weeks of the date of the notice of the decision or determination, or (where no determination has been made) expiry of the decision period under paragraph 1(1), submit to the Secretary of State a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
- (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
- (c) as soon as is practicable after receiving the appeals documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;
- (d) the relevant authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within ten business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties may make any counter-submissions to the appointed person within ten business days beginning with the first day immediately following the date of receipt of written representations pursuant to sub-paragraph (d) above; and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.

(6) Any such representations must be submitted to the appointed person and made available to all appeal parties within ten business days of the date mentioned in sub-paragraph (3).

Outcome of appeals

5.—(1) On an appeal under paragraph 4, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed or set by the appointed person under this paragraph.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(5) Any consent, agreement or approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of Schedule 3 (requirements) as if it had been given by the relevant authority.

(6) The relevant authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(7) Except where a direction is given pursuant to sub-paragraph (8) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.

(8) On application by the relevant authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid.

(9) In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance published by the Department for Communities and Local Government or any circular or guidance which may from time to time replace it.

Interpretation of Schedule 4

6. In this Schedule—

“the appeal parties” means the relevant authority, the requirement consultee and the undertaker;

“relevant authority” means the body responsible for giving and consent, agreement or approval under this schedule or relevant owner of a watercourse, sewer or drain as may be appropriate to the consent, agreement or approval sought; and

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that requirement.

SCHEDULE 5

Article 11

STREETS SUBJECT TO STREET WORKS

(1) Authority	(2) Streets subject to works	(3) Plan Reference
Suffolk County Council	Bullen Lane	Sheet 1 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Burstall Hill	Sheets 1 and 2 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Church Hill	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	A1071 (Back Road)	Sheets 3 and 6 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	A1071 (Hadleigh Road)	Sheet 4 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Washbrook Road	Sheet 4 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Lower Barn Road	Sheet 5 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Chattisham Lane	Sheet 5 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Mill Lane	Sheet 5 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	A1071 (Ipswich Road)	Sheet 6 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Duke Street	Sheet 7 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Clay Hill	Sheet 7 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Woodlands Road	Sheet 8 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Pond Hall Road	Sheets 8 and 9 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Clay Lane	Sheets 8 and 9 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	B1070 (Pipkin Hill)	Sheet 10 of the Access, Rights of Way and Public Rights of Navigation Plans

(1) Authority	(2) Streets subject to works	(3) Plan Reference
Suffolk County Council	B1070 (The Street)	Sheet 10 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Layham Road	Sheet 10 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Overbury Hall Road	Sheet 11 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Rands Road	Sheets 11 and 12 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Pope's Green Lane	Sheet 12 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Millwood Road	Sheet 12 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Heath Road	Sheets 12 and 13 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Holt Road	Sheet 13 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Whitestreet Green	Sheets 13 and 14 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	B1068 (Stoke Road)	Sheet 15 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Brick Kiln Hill	Sheet 15 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	A134 (Colchester Road)	Sheets 15 and 16 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	A134 (Nayland Road)	Sheet 15 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Nayland Road	Sheet 16 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Barracks Road	Sheets 16 and 17 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	The Street	Sheets 16 and 17 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Bures Road	Sheet 17 of the Access, Rights of Way and Public Rights of Navigation Plans

(1) Authority	(2) Streets subject to works	(3) Plan Reference
Suffolk County Council	Wormingford Road	Sheets 17 and 18 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Dorking Tye	Sheets 17 and 19 of the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	B1508 (St Edmunds Hill)	Sheet 20 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Henny Road	Sheet 20 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Loshouse Farm Road	Sheet 21 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Losh House Lane	Sheet 21 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Twinstead Road	Sheets 21 and 27 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Lorkin's Lane	Sheets 21, 27, 28 and 29 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Clay Hill	Sheet 22 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Watery Lane	Sheet 22 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Green Lane	Sheet 23 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	A131 (Sudbury Road)	Sheets 23 and 30 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Old Road	Sheets 23 and 26 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Rectory Lane	Sheet 24 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Hedingham Road	Sheet 24 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Church Road	Sheet 24 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Park Road	Sheet 26 of the Access, Rights of Way and Public Rights of Navigation Plans

(1) Authority	(2) Streets subject to works	(3) Plan Reference
Essex County Council	Henny Back Road	Sheets 27 and 28 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Moat Lane	Sheet 27 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Whitelands Road	Sheet 28 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Oak Road	Sheet 29 of the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Catley Cross	Sheet 29 of the Access, Rights of Way and Public Rights of Navigation Plans

SCHEDULE 6

Article 14

STREETS SUBJECT TO ALTERATION OF LAYOUT

PART 1

STREETS SUBJECT TO PERMANENT ALTERATION OF LAYOUT

SUFFOLK COUNTY COUNCIL

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Millwood Road	At access point D-DAP2 a permanent bellmouth will be created (as shown on Sheet 12) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
B1068 (Stoke Road)	At access point F-AP4 a permanent bellmouth will be created (as shown on Sheet 15) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
B1508 (St Edmunds Hill)	At access point G-AP3 a permanent bellmouth will be created (as shown on Sheet 20) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.

ESSEX COUNTY COUNCIL

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
A131 (Sudbury Road)	At access point H-AP1 a permanent bellmouth will be created (as shown on Sheet 23) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Henny Back Road	At access point G-AP14 a permanent bellmouth will be created (as shown on Sheet 27) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.

PART 2

STREETS SUBJECT TO TEMPORARY ALTERATION OF LAYOUT

SUFFOLK COUNTY COUNCIL

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Bullen Lane	At access point AB-AP1 a temporary bellmouth will be created (as shown on Sheet 1) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Burstall Hill	At access points AB-AP2A and AB-AP2B, two temporary bellmouths will be created (as shown on Sheets 1 and 2) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Church Hill	At access point AB-AP3, AB-AP4, AB-AP5, three temporary bellmouths will be created (as shown on Sheet 2) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
A1071 (Back Road)	At access points AB-AP6, AB-AP7, AB-AP8, AB-EAP1 and AB-EAP2a, five temporary bellmouths will be created (as shown on Sheets 3 and 6) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
A1071 (Ipswich Road)	At access point AB-EAP2b a temporary bellmouth will be created (as shown on Sheet 6) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
A1071 (Hadleigh Road)	At access point AB-DAP1 a temporary bellmouth will be created (as shown on Sheet 4) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Washbrook Road	At access points AB-DAP2, AB-DAP3, two temporary bellmouths will be created (as shown on Sheet 4) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Lower Barn Road	At access point AB-DAP4 a temporary bellmouth will be created (as shown on Sheet 5) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Mill Lane	At access point AB-DAP5 a temporary bellmouth will be created (as shown on Sheet 5) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Duke Street	At access point AB-DAP6 a temporary bellmouth will be created (as shown on Sheet 7) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Clay Hill	At access point AB-DAP7 a temporary bellmouth will be created (as shown on Sheet 7) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Pond Hall Road	At access points AB-DAP8, AB-AP9, AB-AP11, AB-AP12, AB-AP13, AB-AP14, AB-AP17, seven temporary bellmouths will be created (as shown on Sheets 7 to 9) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Woodlands Road	At access point AB-DAP9 a temporary bellmouth will be created (as shown on Sheet 8) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Clay Lane	At access points AB-DAP10, AB-AP15, AB-AP16, three temporary bellmouths will be created (as shown on Sheet 8) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
B1070 (Pipkin Hill)	At access points C-AP1 and C-AP2, two temporary bellmouths will be created (as shown on Sheet 10) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
B1070 (The Street)	At access point C-DAP1 a temporary bellmouth will be created (as shown on Sheet 10) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Layham Road	At access points C-AP3, C-AP4, two temporary bellmouths will be created (as shown on Sheet 10) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Overbury Hall Road	At access points C-AP5, D-AP1, two temporary bellmouths will be created (as shown on Sheet 11) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Rands Road	At access points D-DAP1, D-AP2, two temporary bellmouths will be created (as shown on Sheet 11) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Millwood Road	At access points D-AP3, D-AP4, two temporary bellmouths will be created (as shown on Sheet 12) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Heath Road	At access points D-AP6, D-AP7, D-DAP2A, D-DAP3, four temporary bellmouths will be

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
	created (as shown on Sheet 12) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Holt Road	At access points D-AP8, E-AP1, two temporary bellmouths will be created (as shown on Sheet 13) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Whitestreet Green	At access points E-AP4, E-AP5, E-AP6, E-DAP2, E-DAP3, five temporary bellmouths will be created (as shown on Sheets 13 and 14) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Brick Kiln Hill	At access points E-AP8, F-DAP1, two temporary bellmouths will be created (as shown on Sheet 15) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
B1068 (Stoke Road)	At access points E-AP7, E-DAP4, E-DAP5, F-AP1 and at points BM-1 and BM-2, six temporary bellmouths will be created (as shown on Sheet 15) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required. Note: points BM-1 and BM-2 have no associated construction traffic, they are only used as crossing points.
Colchester Road (A134)	At access points F-AP5, F-AP6, F-AP7, F-DAP2, four temporary bellmouths will be created (as shown on Sheets 15 and 16) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Nayland Road	At access points F-AP8, F-AP9, F-DAP3, three temporary bellmouths will be created (as shown on Sheet 16) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
	surface, road markings, kerbing and a suitable drainage system, where required.
Bures Road	At access points F-AP10, F-AP12, F-AP13, F-DAP4, F-DAP5, five temporary bellmouths will be created (as shown on Sheet 17) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Wormingford Road	At access point F-AP11 a temporary bellmouth will be created (as shown on Sheet 17) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Dorking Tye	At access points F-AP14, G-AP1, G-AP2 three temporary bellmouths will be created (as shown on Sheets 17) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
B1508 (St Edmunds Hill)	At access points G-AP4, G-DAP1, G-DAP2, three temporary bellmouths will be created (as shown on Sheet 20) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.

ESSEX COUNTY COUNCIL

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Henny Road	At access points G-AP5, G-AP6, G-DAP3, G-DAP4, four temporary bellmouths will be created (as shown on Sheet 20) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Losh House Lane	At access points G-AP9, G-AP13, two temporary bellmouths will be created (as shown on Sheet 21) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Twinstead Road	At access points G-DAP5, G-DAP6, G-DAP7, G-DAP8, four temporary bellmouths will be created (as shown on Sheets 21 and 27) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Lorkin's Lane	At access point G-AP10 a temporary bellmouth will be created (as shown on Sheets 21 and 27) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Clay Hill	At access point G-YLAP3 a temporary bellmouth will be created (as shown on Sheet 22) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Church Road	At access point G-YLAP4 a temporary bellmouth will be created (as shown on Sheet 22) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Watery Lane	At access point G-YLAP5 a temporary bellmouth will be created (as shown on Sheet 22) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Rectory Lane	At access point H-YLAP2 a temporary bellmouth will be created (as shown on Sheet 24) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Church Road	At access points H-YLAP3, H-YLAP4, two temporary bellmouths will be created (as shown on Sheet 24) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Hedingham Road	At access points H-YLAP5, H-YLAP6, two temporary bellmouths will be created (as shown

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
	on Sheet 24) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Old Road	At access points H-AP3, H-AP4, H-AP5, H-AP6, H-AP7, H-YLAP1, six temporary bellmouths will be created (as shown on Sheets 23 and 26) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Park Road	At access point H-AP8 a temporary bellmouth will be created (as shown on Sheet 26) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Moat Lane	At access points G-AP7, G-AP8, two temporary bellmouths will be created (as shown on Sheet 27) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Henny Back Road	At access points G-AP11, G-AP12, G-AP15, H-AP10, H-AP11, five temporary bellmouths will be created (as shown on Sheet 28) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Whitelands Road	At access points H-AP12, H-AP13, H-AP16 and H-AP17, four temporary bellmouths will be created (as shown on Sheet 29) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Lorkin's Lane	At access points H-AP14, H-AP15, two temporary bellmouths will be created (as shown on Sheet 29) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Oak Road	At access points H-AP18, H-AP19, two temporary bellmouths will be created (as shown

(1) Street subject to alteration of layout	(2) Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans
	on Sheet 29) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.
Sudbury Road (A131)	At access point H-AP20 a temporary bellmouth will be created (as shown on Sheet 30) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.

SCHEDULE 7

Article 15

STREETS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED

PART 1

STREETS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED FOR WHICH A DIVERSION IS TO BE PROVIDED

(1) Area	(2) Street or public right of way to be temporarily stopped up	(3) Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans	(4) Temporary diversion Route as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	W-155/001/0 (Bramford footpath 001)	Between points P-AB-1 and P-AB-1 as shown on Sheet 1	Between points P-AB-1 and P-AB-1 via line PD-AB-1 as shown on Sheet 1
Suffolk County Council	W-174/010/0 (Burstall footpath 010)	Between points P-AB-4 and P-AB-4 as shown on Sheets 1 and 2	Between points P-AB-4 and P-AB-4 via line PD-AB-4 as shown on Sheets 1 and 2
Suffolk County Council	W-174/011/0 (Burstall footpath 011)	Between points P-AB-5 and P-AB-5 as shown on Sheet 2	Between points P-AB-5 and P-AB-5 via line PD-AB-5 as shown on Sheet 2
Suffolk County Council	Burstall Hill, Ipswich Road and Church Hill	Between points SM-AB-3 and SM-AB-4 as shown on Sheet 2	Between points SM-AB-3 and SM-AB-4 via line SMD-AB-2 as shown on Sheets 1, 2 and Plan A
Suffolk County Council	W-318/031/0 (Hintlesham footpath 031)	Between points P-AB-8 and P-AB-8 as shown on Sheet 3	Between points P-AB-8 and P-AB-8 via line PD-AB-8 as shown on Sheet 3
Suffolk County Council	W-318/053/0 (Hintlesham footpath 053)	Between points P-AB-9 and P-AB-9 as shown on Sheet 3	Between points P-AB-9 and P-AB-9 via line PD-AB-9/10 as shown on Sheets 3 and 6
Suffolk County Council	W-318/055/0 (Hintlesham footpath 055)	Between points P-AB-10 and P-AB-10 as shown on Sheet 3	Between points P-AB-10 and P-AB-10 via line PD-AB-9/10 as shown on Sheets 3 and 6
Suffolk County Council	W-318/056/0 (Hintlesham footpath 056)	Between points P-AB-11 and P-AB-11 as shown on Sheet 6	Between points P-AB-11 and P-AB-11 via line PD-AB-11 as shown on Sheet 6
Suffolk County Council	W-318/068/0 (Hadleigh footpath 068)	Between points P-AB-14A and P-AB-14A as shown on Sheet 6	Between points P-AB-14A and P-AB-14A via line PD-AB-14 as shown on Sheet 6

(1) Area	(2) Street or public right of way to be temporarily stopped up	(3) Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans	(4) Temporary diversion Route as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	W-289/046/0 (Hadleigh footpath 046)	Between points P-AB-14B and P-AB-14B as shown on Sheet 6	Between points P-AB-14B and P-AB-14B via line PD-AB-14 as shown on Sheet 6
Suffolk County Council	W-318/046/0 (Hintlesham footpath 046)	Between points P-AB-15 and P-AB-15 as shown on Sheet 6	Between points P-AB-15 and P-AB-15 via line PD-AB-15 as shown on Sheets 3, 6 and 8
Suffolk County Council	W-289/031/0 (Hadleigh footpath 031)	Between points P-AB-24 and P-AB-24 as shown on Sheets 9	Between points P-AB-24 and P-AB-24 via line PD-AB-24 as shown on Sheets 8 to 10 and Plan A
		Between points P-C-1 and P-C-1 as shown on Sheet 10	Between points P-C-1 and P-C-1 via line PD-C-1 as shown on Sheets 9, 10 and Plan A
Suffolk County Council	W-432/033/0 (Polstead footpath 033)	Between points P-D-1 and P-D-1 as shown on Sheet 12	Between points P-D-1 and P-D-1 via line PD-D-1 as shown on Sheet 12
Suffolk County Council	W-432/020/0 (Polstead footpath 020)	Between points P-E-3 and P-E-3 as shown on Sheet 14	Between points P-E-3 and P-E-3 via line PD-E-3 as shown on Sheet 14
Suffolk County Council	W-362/002/0 (Leavenheath footpath 002)	Between points P-F-1 and P-F-1 as shown on Sheet 15	Between points P-F-1 and P-F-1 via line PD-F-1 as shown on Sheet 15
Suffolk County Council	W-362/001/0 (Leavenheath footpath 001)	Between points P-F-3 and P-F-3 as shown on Sheet 15 and Plan A	Between points P-F-3 and P-F-3 via line PD-F-3 as shown on Sheet 15 and Plan A
Suffolk County Council	Washbrook Road	Between points SM-AB-9 and SM-AB-10 as shown on Sheet 4	Between points SM-AB-9 and SM-AB-10 via line SMD-AB-6 as shown on Sheet 4 and Plan A
Suffolk County Council	Lower Barn Road	Between points SM-AB-11 and SM-AB-12 as shown on Sheet 5	Between points SM-AB-11 and SM-AB-12 via line SMD-AB-7 as shown on Sheets 4, 5 and Plan A
Suffolk County Council	Mill Lane	Between points SM-AB-15 and SM-AB-16 as shown on Sheet 5	Between points SM-AB-15 and SM-AB-16 via line SMD-AB-9 as shown on Sheets 4, 5 and Plan A

(1) Area	(2) Street or public right of way to be temporarily stopped up	(3) Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans	(4) Temporary diversion Route as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Clay Hill and Duke Street	Between points SM-AB-19 and SM-AB-20 as shown on Sheet 7 and Plan A	Between points SM-AB-19 and SM-AB-20 via line SMD-AB-12 as shown on Sheets 3, 5, 7 and Plan A
Suffolk County Council	Woodlands Road	Between points SM-AB-22 and SM-AB-23 as shown on Sheet 8	Between points SM-AB-22 and SM-AB-23 via line SMD-AB-13 as shown on Sheets 7 to 9 and Plan A
Suffolk County Council	Clay Lane and Pond Hall Road	Between points SM-AB-24 and SM-AB-27 as shown on Sheets 8 and 9	Between points SM-AB-24 and SM-AB-27 via line SMD-AB-14 as shown on Sheets 7 to 9 and Plan A
Suffolk County Council	Layham Road	Between points SM-C-3 and SM-C-5 as shown on Sheet 10	Between point SM-C-3 and SM-C-5 via line SMD-C-2 as shown on Sheets 10, 11 and Plan A
Suffolk County Council	Overbury Hall Road	Between points SM-C-8 and SM-D-1 as shown on Sheet 10	Between point SM-C-8 and SM-D-1 via line SMD-C-5 as shown on Sheets 10, 11 and Plan A
Suffolk County Council	Rands Road	Between points SM-D-1 and SM-D-2 as shown on Sheet 11	Between point SM-D-1 and SM-D-2 via line SMD-D-1 as shown on Sheets 11, 12 and Plan A
Suffolk County Council	Millwood Road	Between points SM-D-6 and SM-D-9 as shown on Sheet 12	Between point SM-D-6 and SM-D-9 via line SMD-D-4 as shown on Sheets 12, 13 and Plan A
Suffolk County Council	Millwood Road	Between points SM-D-6 and SM-D-7 as shown on Sheet 12	Between point SM-D-6 and SM-D-7 via line SMD-D-5 as shown on Sheet 12 and Plan A
Suffolk County Council	Heath Road	Between points SM-D-11 and SM-D-12 as shown on Sheets 12 and 13	Between point SM-D-11 and SM-D-12 via line SMD-D-9 as shown on Sheets 12, 13 and Plan A
Suffolk County Council	Holt Road	Between points SM-E-1 and SM-E-2 as shown on Sheet 13	Between points SM-E-1 and SM-E-2 via line SMD-E-1 as shown on Sheets 13, 14 and Plan A

(1) Area	(2) Street or public right of way to be temporarily stopped up	(3) Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans	(4) Temporary diversion Route as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Holt Road	Between points SM-E-3 and SM-E-4 as shown on Sheet 13	Between points SM-E-3 and SM-E-4 via line SMD-E-2 as shown on Sheets 13, 14 and Plan A
Suffolk County Council	Whitestreet Green	Between points SM-E-5 and SM-E-6 as shown on Sheets 13 and 14	Between points SM-E-5 and SM-E-6 via line SMD-E-3 as shown on Sheets 13, 14 and Plan A
Suffolk County Council	Brick Kiln Hill	Between points SM-F-3 and SM-F-4 as shown on Sheet 15	Between points SM-F-3 and SM-F-4 via line SMD-F-3 as shown on Sheets 15, 16 and Plan B
Suffolk County Council	Nayland Road	Between points SM-F-7 and SM-F-8 as shown on Sheet 16	Between points SM-F-7 and SM-F-8 via line SMD-F-5 as shown on Sheets 15, 16 and Plan B
Suffolk County Council	Barracks Road and The Street	Between points SM-F-9 and SM-F-10 as shown on Sheet 16	Between points SM-F-9 and SM-F-10 via line SMD-F-6 as shown on Sheet 16 and Plan B
Suffolk County Council	Barracks Road and Bures Road	Between points SM-F-9 and SM-F-11 as shown on Sheet 17	Between points SM-F-9 and SM-F-11 via line SMD-F-7 as shown on Sheets 16 to 18 and Plan B
Suffolk County Council	The Street and Bures Road	Between points SM-F-10 and SM-F-11 as shown on Sheet 17	Between points SM-F-10 and SM-F-11 via line SMD-F-8 as shown on Sheets 16 to 18 and Plan B
Suffolk County Council	Wormingford Road	Between points SM-F-11 and SM-F-12 as shown on Sheets 17 and 18	Between points SM-F-11 and SM-F-12 via line SMD-F-9 as shown on Sheets 16 to 18 and Plan B
Suffolk County Council	Bures Road	Between points SM-F-11 and SM-G-1 as shown on Sheet 17	Between points SM-F-11 and SM-G-1 via line SMD-F-10 as shown on Sheets 17, 18 and Plan B
Suffolk County Council	Dorking Tye	Between points SM-G-1 and SM-G-3 as shown on Sheets 17 and 19	Between points SM-G-1 and SM-G-3 via line SMD-G-2 as shown on Sheets 17 to 20 and Plan B

(1) Area	(2) Street or public right of way to be temporarily stopped up	(3) Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans	(4) Temporary diversion Route as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	W-171/001/0 (Bures St Mary footpath 001)	Between points P-G-4 and P-G-4 as shown on Sheets 19 and 20	Between points P-G-4 and P-G-4 via line PD-G-4 as shown on Sheets 19 and 20
Essex County Council	Henny Road	Between points SM-G-6 and SM-G-7 as shown on Sheet 20	Between points SM-G-6 and SM-G-7 via line SMD-G-4 as shown on Sheets 20, 21, 27 and Plan B
Essex County Council	FP 7 93	Between points P-G-5 and P-G-5 as shown on Sheet 27	Between points P-G-5 and P-G-5 via line PD-G-5 as shown on Sheet 27
Essex County Council	FP 26 58	Between points P-G-12 and P-G-12 as shown on Sheet 28	Between points P-G-12 and P-G-12 via line PD-G-12 as shown on Sheets 27 and 28
Essex County Council	FP 11 116	Between points P-G-17 and P-G-17 as shown on Sheets 28 and 29	Between points P-G-17 and P-G-17 via line PD-G-17 as shown on Sheets 28 and 29
Essex County Council	FP 17 118	Between points P-H-4 and P-H-4 as shown on Sheet 23	Between points P-H-4 and P-H-4 via line PD-H-4 as shown on Sheets 23 and 25
Essex County Council	FP 13 118	Between points P-H-5 and P-H-5 as shown on Sheet 25	Between points P-H-5 and P-H-5 via line PD-H-5 as shown on Sheets 23 and 25
Essex County Council	Twinstead Road	Between points SM-G-8 and SM-G-9 as shown on Sheets 21 and 27	Between points SM-G-8 and SM-G-9 via line SMD-G-5 as shown on Sheets 20, 21, 27 and Plan B
Essex County Council	Moat Lane	Between points SM-G-9 and SM-G-11 as shown on Sheet 27	Between points SM-G-9 and SM-G-11 via line SMD-G-6 as shown on Sheets 20, 21, 27 and Plan B
Essex County Council	Twinstead Road	Between points SM-G-9 and SM-G-13 as shown on Sheets 21 and 27	Between points SM-G-9 and SM-G-13 via line SMD-G-11 as shown on Sheets 20, 21, 27 and Plan B
Essex County Council	Loshouse Farm Road and Losh House Lane	Between points SM-G-13 and SM-G-15 as shown on Sheet 21	Between points SM-G-13 and SM-G-15 via line SMD-G-9 as shown on Sheets 20, 21, 27 and Plan B

(1) Area	(2) Street or public right of way to be temporarily stopped up	(3) Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans	(4) Temporary diversion Route as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	Henny Back Road	Between points SM-G-19 and SM-G-20 as shown on Sheets 27 and 28	Between points SM-G-19 and SM-G-20 via line SMD-G-13 as shown on Sheets 27 and 28
Essex County Council	Lorkin's Lane	Between points SM-H-4 and SM-H-5 as shown on Sheets 28 and 29	Between points SM-H-4 and SM-H-5 via line SMD-H-2 as shown on Sheets 22, 23, 25, 28, 29 and Plan B
Essex County Council	Twinstead Road	Between points SM-H-5 and SM-H-6 as shown on Sheet 29	Between points SM-H-5 and SM-H-6 via line SMD-H-3 as shown on Sheets 22, 23, 25, 28, 29 and Plan B
Essex County Council	Oak Road and Catley Cross	Between points SM-H-9 and SM-H-10 as shown on Sheet 29	Between points SM-H-9 and SM-H-10 via line SMD-H-5 as shown on Sheets 29, 30 and Plan B
Essex County Council	Old Road	Between points SM-H-17 and SM-H-18 as shown on Sheet 23	Between points SM-H-17 and SM-H-18 via line SMD-H-10 as shown on Sheets 23, 25 and 26
Essex County Council	Old Road	Between points SM-H-19 and SM-H-20 as shown on Sheets 23, 25 and 26	Between points SM-H-19 and SM-H-20 via line SMD-H-11 as shown on Sheets 23, 25 and 26
Essex County Council	Park Road	Between points SM-H-21 and SM-H-22 as shown on Sheet 26	Between points SM-H-21 and SM-H-22 via line SMD-H-12 as shown on Sheets 23, 25 and 26

PART 2

STREETS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED FOR WHICH NO DIVERSION IS TO BE PROVIDED

(1) Area	(2) Street or public right of way to be temporarily stopped up	(3) Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	W-174/009/0 (Burstall bridleway 009)	Between points P-AB-2 and P-AB-2 as shown on Sheet 1
Suffolk County Council	W-174/012/0 (Burstall footpath 012)	Between points P-AB-3 and P-AB-3 as shown on Sheet 1
Suffolk County Council	W-318/014/0 (Hintlesham footpath 014)	Between points P-AB-6 and P-AB-6 as shown on Sheet 2
Suffolk County Council	Burstall Hill	Between points SM-AB-1 and SM-AB-2 as shown on Sheets 1 and 2
Suffolk County Council	Burstall Hill	Between points SM-AB-2 and SM-AB-3 as shown on Sheet 2
Suffolk County Council	Ipswich Road, Church Hill and Burstall Hill	Between points SM-AB-2 and SM-AB-4 as shown on Sheet 2
Suffolk County Council	W-318/032/0 (Hintlesham footpath 032)	Between points P-AB-7 and P-AB-7 as shown on Sheet 3
Suffolk County Council	W-318/048/0 (Hintlesham footpath 048)	Between points P-AB-12 and P-AB-12 as shown on Sheet 3
Suffolk County Council	W-318/057/0 (Hintlesham footpath 057)	Between points P-AB-13 and P-AB-13 as shown on Sheet 6
Suffolk County Council	W-318/019/0 (Hintlesham footpath 019)	Between points P-AB-16 and P-AB-16 as shown on Sheet 4
Suffolk County Council	W-185/006/0 (Chattisham footpath 006)	Between points P-AB-17 and P-AB-17 as shown on Sheet 5
Suffolk County Council	W-185/004/0 (Chattisham footpath 004)	Between points P-AB-18 and P-AB-18 as shown on Sheet 5
Suffolk County Council	W-185/002/0 (Chattisham footpath 002)	Between points P-AB-19 and P-AB-19 as shown on Sheet 5
Suffolk County Council	W-318/041/0 (Hintlesham footpath 041)	Between points P-AB-20 and P-AB-20 as shown on Sheet 7
Suffolk County Council	W-318/042/0 (Hintlesham footpath 042)	Between points P-AB-21 and P-AB-21 as shown on Sheet 7
Suffolk County Council	W-318/044/0 (Hintlesham footpath 044)	Between points P-AB-22 and P-AB-22 as shown on Sheets 7 and 8
Suffolk County Council	W-318/045/0 (Hintlesham footpath 045)	Between points P-AB-23 and P-AB-23 as shown on Sheet 8
Suffolk County Council	W-289/030/0 (Hadleigh footpath 030)	Between points P-AB-25 and P-AB-25 as shown on Sheet 9
Suffolk County Council	Hadleigh Railway Walk	Between points P-AB-26 and P-AB-26 as shown on Sheet 9
Suffolk County Council	W-432/033/0 (Polstead footpath 033)	Between points P-D-1 and P-D-1 as shown on Sheet 12
Suffolk County Council	W-432/032/0 (Polstead footpath 032)	Between points P-D-2 and P-D-2 as shown on Sheet 13

(1) Area	(2) Street or public right of way to be temporarily stopped up	(3) Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	W-432/013/X (Polstead footpath 013X)	Between points P-E-1 and P-E-1 as shown on Sheet 13
Suffolk County Council	W-432/008/0 (Polstead footpath 008)	Between points P-E-2 and P-E-2 as shown on Sheet 13
Suffolk County Council	W-432/020/0 (Polstead footpath 020)	Between points P-E-3 and P-E-3 as shown on Sheet 14
Suffolk County Council	W-362/002/0 (Leavenheath footpath 002)	Between points P-F-1 and P-F-1 as shown on Sheet 15
Suffolk County Council	W-362/002/0 (Leavenheath footpath 002)	Between points P-F-2 and P-F-2 as shown on Sheet 15
Suffolk County Council	W-362/001/0 (Leavenheath footpath 001)	Between points P-F-3 and P-F-3 as shown on Sheet 15
Suffolk County Council	W-113/007/0 (Assington restricted byway 007)	Between points P-F-4 and P-F-4 as shown on Sheet 17
Suffolk County Council	W-113/005/0 (Assington footpath 005)	Between points P-F-5 and P-F-5 as shown on Sheet 17
Suffolk County Council	W-113/001/0 (Assington restricted byway 001)	Between points P-G-1 and P-G-1 as shown on Sheet 17
Suffolk County Council	W-171/002/X (Bures St Mary restricted byway 002X)	Between points P-G-2 and P-G-2 as shown on Sheet 19
Suffolk County Council	W-171/002/0 (Bures St Mary footpath 002)	Between points P-G-3 and P-G-3 as shown on Sheet 19
Essex County Council	W-171/001/0 (Bures St Mary footpath 001)	Between points P-G-4 and P-G-4 as shown on Sheets 19 and 20
Suffolk County Council	A1071 (Back Road) and A1071 (Ipswich Road)	Between points SM-AB-5 and SM-AB-6 as shown on Sheets 3 and 6
Suffolk County Council	A1071 (Thorpe's Hill)	Between points SM-AB-7 and SM-AB-8 as shown on Sheet 4
Suffolk County Council	Chattisham Lane and Mill Lane	Between points SM-AB-13 and SM-AB-14 as shown on Sheet 5
Suffolk County Council	Duke Street	Between points SM-AB-17 and SM-AB-18 as shown on Sheet 7
Suffolk County Council	Pond Hall Road and Duke Street	Between points SM-AB-19 and SM-AB-21 as shown on Sheets 7 and 8
Suffolk County Council	Pond Hall Road	Between points SM-AB-25 and SM-AB-27 as shown on Sheet 9
Suffolk County Council	Pond Hall Road	Between points SM-AB-26 and SM-AB-27 as shown on Sheet 9
Suffolk County Council	B1070 (Benton End), B1070 (Pipkin Hill) and B1070 (The Street)	Between points SM-C-1 and SM-C-2 as shown on Sheet 10
Suffolk County Council	Church Lane	Between points SM-C-4 and SM-C-5 as shown on Sheet 10
Suffolk County Council	Overbury Hall Road	Between points SM-C-5 and SM-C-6 as shown on Sheet 10
Suffolk County Council	Overbury Hall Road	Between points SM-C-8 and SM-D-1 as shown on Sheet 10

(1) Area	(2) Street or public right of way to be temporarily stopped up	(3) Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Suffolk County Council	Pope's Green Lane	Between points SM-D-3 and SM-D-4 as shown on Sheet 12
Suffolk County Council	B1068 (Stoke Road)	Between points SM-F-1 and SM-F-3 as shown on Sheet 15
Suffolk County Council	B1068 (Stoke Road)	Between points SM-F-2 and SM-F-3 as shown on Sheet 15
Suffolk County Council	A134 (Colchester Road) and A134 (Nayland Road)	Between points SM-F-5 and SM-F-6 as shown on Sheets 15 and 16
Suffolk County Council	Dorking Tye	Between points SM-G-1 and SM-G-2 as shown on Sheet 18
Suffolk County Council	B1508 (Bures Road) and B1508 (St Edmunds Hill)	Between points SM-G-4 and SM-G-5 as shown on Sheet 20
Essex County Council	FP 7 93	Between points P-G-5 and P-G-5 as shown on Sheet 27
Essex County Council	FP 5 93	Between points P-G-6 and P-G-6 as shown on Sheet 21
Essex County Council	FP 22 84	Between points P-G-7 and P-G-7 as shown on Sheet 21
Essex County Council	FP 23 84	Between points P-G-8 and P-G-8 as shown on Sheet 21
Essex County Council	FP 24 84	Between points P-G-9 and P-G-9 as shown on Sheet 21
Essex County Council	FP 17 116	Between points P-G-10 and P-G-10 as shown on Sheet 21
Essex County Council	FP 16 116	Between points P-G-11 and P-G-11 as shown on Sheet 21
Essex County Council	BR 13 84	Between points P-G-13 and P-G-13 as shown on Sheet 22
Essex County Council	BR 15 116	Between points P-G-14 and P-G-14 as shown on Sheet 22
Essex County Council	FP 16 116	Between points P-G-15 and P-G-15 as shown on Sheet 22
Essex County Council	FP 2 116	Between points P-G-16 and P-G-16 as shown on Sheet 22
Essex County Council	FP 11 116	Between points P-G-17 and P-G-17 as shown on Sheets 28 and 29
Essex County Council	FP 20 84	Between points P-H-1 and P-H-1 as shown on Sheet 22
Essex County Council	BR 1 116	Between points P-H-2 and P-H-2 as shown on Sheet 23
Essex County Council	BR 18 84	Between points P-H-3 and P-H-3 as shown on Sheet 23
Essex County Council	BR 14 69	Between points P-H-6 and P-H-6 as shown on Sheet 23
Essex County Council	BR 28 116	Between points P-H-7 and P-H-7 as shown on Sheet 23
Essex County Council	FP 18 69	Between points P-H-8 and P-H-8 as shown on Sheet 24

(1) Area	(2) Street or public right of way to be temporarily stopped up	(3) Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans
Essex County Council	FP 13 118	Between points P-H-9 and P-H-9 as shown on Sheet 24
Essex County Council	Moat Lane	Between points SM-G-10 and SM- G-11 as shown on Sheet 27
Essex County Council	Henny Back Road	Between points SM-G-11 and SM- G-12 as shown on Sheet 27
Essex County Council	Lorkin's Lane	Between points SM-G-13 and SM- G-14 as shown on Sheets 21 and 27
Essex County Council	Clay Hill	Between points SM-G-16 and SM- G-17 as shown on Sheet 22
Essex County Council	Watery Lane	Between points SM-G-18 and SM- H-3 as shown on Sheet 22
Essex County Council	Henny Back Road	Between points SM-G-19 and SM- G-20 as shown on Sheets 27 and 28
Essex County Council	Whitelands Road	Between points SM-G-21 and SM- G-22 as shown on Sheet 28
Essex County Council	Bishops Lane	Between points SM-G-23 and SM- G-24 as shown on Sheet 28
Essex County Council	Twinstead Road	Between points SM-G-25 and SM- H-5 as shown on Sheet 29
Essex County Council	Church Road	Between points SM-H-1 and SM- H-2 as shown on Sheet 22
Essex County Council	Lorkin's Lane	Between points SM-H-4 and SM- H-5 as shown on Sheets 28 and 29
Essex County Council	Twinstead Road	Between points SM-H-5 and SM- H-6 as shown on Sheet 29
Essex County Council	Oak Road and Catley Cross	Between points SM-H-9 and SM- H-10 as shown on Sheet 29
Essex County Council	Pebmarsh Road	Between points SM-H-7 and SM- H-8 as shown on Sheet 29
Essex County Council	Oak Road	Between points SM-H-8 and SM- H-10 as shown on Sheet 29
Essex County Council	A131 (Sudbury Road)	Between points SM-H-11 and SM- H-12 as shown on Sheet 30
Essex County Council	Green Lane and Old Road	Between points SM-H-13 and SM- H-14 as shown on Sheet 23
Essex County Council	A131 (Sudbury Road)	Between points SM-H-15 and SM- H-16 as shown on Sheet 23
Essex County Council	Rectory Lane	Between points SM-H-25 and SM- H-26 as shown on Sheet 24
Essex County Council	Church Road	Between points SM-H-27 and SM- H-28 as shown on Sheet 24
Essex County Council	Hedingham Road	Between points SM-H-29 and SM- H-30 as shown on Sheet 24

SCHEDULE 8

ACCESS TO WORKS

SUFFOLK COUNTY COUNCIL

(1) Street	(2) Access to works reference	(3) Plan Reference
Bullen Lane	Access AB-AP1	Sheet 1 of the Access, Rights of Way and Public Rights of Navigation Plans
Burstall Hill	Access AB-AP2A	Sheets 1 and 2 of the Access, Rights of Way and Public Rights of Navigation Plans
Church Hill	Access AB-AP3, Access AB-AP4, Access AB-AP5	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans
A1071 (Back Road)	Access AB-AP6, Access AB-AP7, Access AB-AP8, Access AB-EAP1, Access AB-EAP2a	Sheets 3 and 6 of the Access, Rights of Way and Public Rights of Navigation Plans
A1071 (Hadleigh Road)	Access AB-DAP1	Sheet 4 of the Access, Rights of Way and Public Rights of Navigation Plans
Washbrook Road	Access AB-DAP2, Access AB-DAP3	Sheet 4 of the Access, Rights of Way and Public Rights of Navigation Plans
Lower Barn Road	Access AB-DAP4	Sheet 5 of the Access, Rights of Way and Public Rights of Navigation Plans
Mill Lane	Access AB-DAP5	Sheet 5 of the Access, Rights of Way and Public Rights of Navigation Plans
A1071 (Ipswich Road)	Access AB-EAP-2b	Sheet 6 of the Access, Rights of Way and Public Rights of Navigation Plans
Duke Street	Access AB-DAP6	Sheet 7 of the Access, Rights of Way and Public Rights of Navigation Plans
Clay Hill	Access AB-DAP7	Sheet 7 of the Access, Rights of Way and Public Rights of Navigation Plans
Pond Hall Road	Access AB-DAP8, Access AB-AP9, Access AB-AP11, Access AB-AP12, Access AB-AP13, Access AB-AP14, Access AB-AP17	Sheets 7 to 9 (inclusive) of the Access, Rights of Way and Public Rights of Navigation Plans
Woodlands Road	Access AB-DAP9	Sheet 8 of the Access, Rights of Way and Public Rights of Navigation Plans
Clay Lane	Access AB-DAP10, Access AB-AP15, Access AB-AP16	Sheet 8 of the Access, Rights of Way and Public Rights of Navigation Plans
B1070 (Pipkin Hill)	Access C-AP1, C-AP2	Sheet 10 of the Access, Rights of Way and Public Rights of Navigation Plans

(1) Street	(2) Access to works reference	(3) Plan Reference
B1070 (The Street)	Access C-DAP1	Sheet 10 of the Access, Rights of Way and Public Rights of Navigation Plans
Layham Road	Access C-AP3, Access C-AP4	Sheet 10 of the Access, Rights of Way and Public Rights of Navigation Plans
Overbury Hall Road	Access C-AP5, Access D-AP1	Sheet 11 of the Access, Rights of Way and Public Rights of Navigation Plans
Rands Road	Access D-DAP1, Access D-AP2	Sheet 11 of the Access, Rights of Way and Public Rights of Navigation Plans
Millwood Road	Access D-DAP2, Access D-AP3, Access D-AP4, Access D-EAP1	Sheet 12 of the Access, Rights of Way and Public Rights of Navigation Plans
Heath Road	Access D-AP6, Access D-AP7, Access D-DAP2A, Access D-DAP3	Sheet 12 of the Access, Rights of Way and Public Rights of Navigation Plans
Holt Road	Access D-AP8, Access E-AP1	Sheet 13 of the Access, Rights of Way and Public Rights of Navigation Plans
Whitestreet Green	Access E-AP4, Access E-AP5, Access E-AP6, Access E-DAP2, Access E-DAP3	Sheets 13 and 14 of the Access, Rights of Way and Public Rights of Navigation Plans
Brick Kiln Hill	Access E-AP8, Access F-DAP1	Sheet 15 of the Access, Rights of Way and Public Rights of Navigation Plans
B1068 (Stoke Road)	Access E-AP7, Access E-DAP4, Access E-DAP5, Access F-AP1, Access F-AP4	Sheet 15 of the Access, Rights of Way and Public Rights of Navigation Plans
A134 (Nayland Road)	Access F-AP5, Access F-AP6, Access F-DAP2	Sheets 15 and 16 of the Access, Rights of Way and Public Rights of Navigation Plans
A134 (Colchester Road)	Access F-AP7	Sheet 16 of the Access, Rights of Way and Public Rights of Navigation Plans
Nayland Road	Access F-AP8, Access F-AP9, Access F-DAP3	Sheet 16 of the Access, Rights of Way and Public Rights of Navigation Plans
Bures Road	Access F-AP10, Access F-AP12, Access F-AP13, Access F-DAP4, Access F-DAP5	Sheet 17 of the Access, Rights of Way and Public Rights of Navigation Plans
Wormingford Road	Access F-AP11	Sheet 17 of the Access, Rights of Way and Public Rights of Navigation Plans
Dorking Tye	Access F-AP14, Access G-AP1, Access G-AP2	Sheet 17 of the Access, Rights of Way and Public Rights of Navigation Plans
B1508 (St Edmunds Hill)	Access G-AP3, Access G-AP4, Access G-DAP1, Access G-DAP2	Sheet 20 of the Access, Rights of Way and Public Rights of Navigation Plans

ESSEX COUNTY COUNCIL

(1) Street	(2) Access to works reference	(3) Plan Reference
Henny Road	Access G-AP5, Access G-AP6, Access G-DAP3, Access G-DAP4	Sheet 20 of the Access, Rights of Way and Public Rights of Navigation Plans
Losh House Lane	Access G-AP9, Access G-AP13	Sheet 21 of the Access, Rights of Way and Public Rights of Navigation Plans
Twinstead Road	Access G-DAP5, Access G-DAP6, Access G-DAP7, Access G-DAP8	Sheets 21 and 27 of the Access, Rights of Way and Public Rights of Navigation Plans
Lorkin's Lane	Access G-AP10	Sheets 21 and 27 of the Access, Rights of Way and Public Rights of Navigation Plans
Clay Hill	Access G-YLAP3	Sheet 22 of the Access, Rights of Way and Public Rights of Navigation Plans
Church Road	Access G-YLAP4	Sheet 22 of the Access, Rights of Way and Public Rights of Navigation Plans
Watery Lane	Access G-YLAP5	Sheet 22 of the Access, Rights of Way and Public Rights of Navigation Plans
A131 (Sudbury Road)	Access H-AP1, Access H-AP2	Sheet 23 of the Access, Rights of Way and Public Rights of Navigation Plans
Rectory Lane	Access, H-YLAP2	Sheet 24 of the Access, Rights of Way and Public Rights of Navigation Plans
Church Road	Access, H-YLAP3, Access H- YLAP4	Sheet 24 of the Access, Rights of Way and Public Rights of Navigation Plans
Hedingham Road	Access, H-YLAP5, Access H- YLAP6	Sheet 24 of the Access, Rights of Way and Public Rights of Navigation Plan
Old Road	Access H-AP3, Access H-AP4, Access H-AP5, Access H-AP6, Access H-AP7, Access, H-YLAP1	Sheets 23 and 26 of the Access, Rights of Way and Public Rights of Navigation Plans
Park Road	Access H-AP8	Sheet 26 of the Access, Rights of Way and Public Rights of Navigation Plans
School Road	Access H-AP9	Sheet 26 of the Access, Rights of Way and Public Rights of Navigation Plan
Moat Lane	Access G-AP7, Access G-AP8	Sheet 27 of the Access, Rights of Way and Public Rights of Navigation Plans

(1) Street	(2) Access to works reference	(3) Plan Reference
Henny Back Road	Access G-AP10, Access G-AP11, Access G-AP12, Access G-AP14, Access H-AP10, Access H-AP11	Sheets 27 and 28 of the Access, Rights of Way and Public Rights of Navigation Plans
Whitelands Road	Access H-AP12, Access H-AP13, Access H-AP16, Access H-AP17,	Sheets 28 and 29 of the Access, Rights of Way and Public Rights of Navigation Plans
Lorkin's Lane	Access H-AP14, Access H-AP15	Sheet 29 of the Access, Rights of Way and Public Rights of Navigation Plans
Oak Road	Access H-AP18, Access H-AP19	Sheet 29 of the Access, Rights of Way and Public Rights of Navigation Plans
A131 (Sudbury Road)	Access H-AP20	Sheet 30 of the Access, Rights of Way and Public Rights of Navigation Plans

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right, by the creation of a new right or imposition of a restriction as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 5—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

3.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For Section 5A(5A) (relevant valuation date) of the 1961 Act, after “If” substitute—

- “(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act, as modified by paragraph (8) of Schedule 9 (modification of compensation and compulsory purchase enactments for creation of a new right) to the National Grid (Bramford to Twinstead Reinforcement Order 2024;
- (b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 11 of Schedule 9 to the National Grid (Bramford to Twinstead Reinforcement) Order 2024 to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”

Application of the 1965 Act

4.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land must be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restriction, with the modifications specified in the following provisions of this Schedule.

(a) 1973 c. 26.

- (3) Section 4 (time limit for giving notice to treat) is omitted.
- (4) In section 4A(1) (extension of time limit during challenge)—
- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent”); and
 - (b) for “the three year period mentioned in section 4” substitute “the five year period mentioned in article 32 of the National Grid (Bramford to Twinstead Reinforcement) Order 2024”.

5. For section 7 of the 1965 Act (measure of compensation in case of severance) substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

6. For section 8 of the 1965 Act (provisions as to divided land) substitute—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the tribunal; and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
 - (i) where that land consists of a house, building or factory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the National Grid (Bramford to Twinstead Reinforcement) Order 2024 (“the Order”) ceases, in relation to that person, to authorise the purchase of the right or imposition of a restriction and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section must be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”

7. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);

- (b) paragraph 10(3) of Schedule 1 (conveyance of the land or interest);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

8. Section 11(a) of the 1965 Act (powers of entry) is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restriction, it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(b) (penalty for unauthorised entry) and 13(c) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

9. Section 20(d) of the 1965 Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

10. Section 22 of the 1965 Act (interests omitted from purchase) is modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or to enforce the restriction imposed, subject to compliance with that section as respects compensation.

11. In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase) for “section 4 of this Act” substitute “article 32 (time limit for exercise of authority to acquire land and rights compulsorily) of the National Grid (Bramford to Twinstead Reinforcement) Order 2024”.

12. For Schedule 2A of the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 34 (application of the 1981 Act) of the National Grid (Bramford to Twinstead Reinforcement) Order 2024 in respect of the land to which the notice to treat relates.

2. In this Schedule, “house” includes any park or garden belonging to a house.

-
- (a) Section 11 was amended by Schedule 4 to the Acquisition of Land Act 1981 (c. 67, sections 186, 187 and 188 of, and Schedules 14 and 16 to, the Housing and Planning Act 2016 (c.22), and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1) and S.I. 2009/1307.
 - (b) Section 12 was amended by paragraph 4 of Schedule 16 to the Housing and Planning Act 2016 (c.22).
 - (c) Section 13 was amended by section 139(4) to (9) of, and paragraph 28 of Schedule 13 and paragraph 1 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
 - (d) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of its decision on the owner within the period of three months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal make its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

15. Any dispute as to the compensation is to be determined by the Upper Tribunal.”

13. In this Schedule, references to entering on and taking possession of land do not include doing so under articles 20 (protective works), 25 (temporary use of land by National Grid) or 27 (temporary use of land for maintaining the authorised development) of this Order.

SCHEDULE 10

Articles 25 and 26

LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE TAKEN

(1) Plot number of land shown on Land Plan	(2) Purpose for which temporary possession may be taken	(3) Relevant part of the authorised development	(4) Element of Work in respect of which land is not required to be reinstated
1-05	Temporary use for access	Work No. 1 and Work No. 2	
1-07, 1-09, 1-15, 1-21, 1-23, 1-24, 1-25, 1-27	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 1 and Work No. 2	1-07 – removal of pylon foundations only to a depth of 1.5m 1-09 – planting 1-21 – removal of pylon foundations only to a depth of 1.5m 1-15 – planting
2-03	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 1 and Work No. 2	
2-11, 2-24, 2-35, 2-36, 2-38, 2-39, 2-42, 2-44	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 1 and Work No. 2	2-24 – planting 2-38 – planting 2-42 – planting 2-44 – planting
3-03, 3-07, 3-08	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 1 and Work No. 2	3-08 – planting
3-01, 3-02	Temporary use for access	Work No. 1 and Work No. 2	
3-11, 3-12, 3-51, 3-52, 3-53, 3-55, 3-57, 3-58, 3-60, 3-62, 3-63, 3-64, 3-67, 3-68, 3-69, 3-70, 3-71, 3-73, 3-74, 3-78, 3-80, 3-81, 3-82, 3-83, 3-87, 3-88, 3-96, 3-99, 3-106, 3- 108, 3-109, 3-110,	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No 1 and Work No. 2	3-11 – planting 3-12 – planting 3-51 – planting 3-53 – planting 3-55 – planting 3-57 – planting 3-62 – planting 3-63 – planting 3-64 – planting 3-68 – planting

3-111, 3-112, 3-113, 3-115			3-73 – planting 3-74 – planting 3-82 – planting 3-83 – planting
4-01, 4-02	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	
4-03, 4-04, 4-05	Temporary use for access	Work No. 8	
4-06	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	
4-07	Temporary use for access	Work No. 8	
4-08, 4-09, 4-10, 4-11, 4-13	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	4-09 – removal of pylon foundations only to a depth of 1.5m
4-16	Temporary use for access	Work No. 8	
4-17, 4-18	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	
4-24	Temporary use for access	Work No. 8	
4-25, 4-26, 4-27, 4-28	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	4-25 – removal of pylon foundations only to a depth of 1.5m 4-27 – removal of pylon foundations only to a depth of 1.5m
4-29	Temporary use for access	Work No. 8	
4-30, 4-31, 4-33, 4-34, 4-36, 4-37, 4-39, 4-40	Temporary use for construction, mitigation, maintenance, and dismantling of	Work No. 8	4-31 – removal of pylon foundations only to a depth of 1.5m

	redundant infrastructure		4-40 – removal of pylon foundations only to a depth of 1.5m
5-01, 5-02	Temporary use for access	Work No. 8	
5-03, 5-04, 5-05, 5-06, 5-07	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	5-06 – removal of pylon foundations only to a depth of 1.5m
5-08, 5-09, 5-10, 5-11	Temporary use for access	Work No. 8	
5-12, 5-14, 5-15, 5-16, 5-19	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	5-15 – removal of pylon foundations only to a depth of 1.5m
5-20	Temporary use for access	Work No. 8	
6-06, 6-10, 6-21, 6-16	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 1 and Work No. 2	6-06 – planting 6-10 – planting 6-21 – planting
6-22, 6-23	Temporary use for access	Work No. 1 and Work No. 2	
6-25,	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 1 and Work No. 2	6-25 – planting
6-29, 6-30, 6-31, 6-32, 6-33, 6-35	Temporary use for access	Work No. 1 and Work No. 2	
6-41, 6-43	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 1 and Work No. 2	6-41 – planting 6-43 – planting
6-45, 6-46, 6-47, 6-50	Temporary use for access	Work No. 1 and Work No. 2	
7-01	Temporary use for construction, mitigation, maintenance, and dismantling of	Work No. 8	7-01 – removal of pylon foundations only to a depth of 1.5m

	redundant infrastructure		
7-02, 7-03, 7-04, 7-05, 7-06, 7-07, 7-08	Temporary use for access	Work No. 8	
7-09	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	7-09 – removal of pylon foundations only to a depth of 1.5m
7-10, 7-11	Temporary use for access	Work No. 8	
7-12, 7-13	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	
7-14	Temporary use for access	Work No. 8	
7-15	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	7-15 – removal of pylon foundations only to a depth of 1.5m
7-16, 7-17	Temporary use for access	Work No. 8	
7-19, 7-20, 7-21, 7-22, 7-23, 7-24, 7-25, 7-27, 7-28, 7-29, 7-30, 7-31, 7-32, 7-33, 7-34, 7-35, 7-37, 7-38, 7-39, 7-40, 7-41, 7-43, 7-44, 7-45, 7-46, 7-47, 7-49, 7-50,	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	7-50 – removal of pylon foundations only to a depth of 1.5m
8-03, 8-04, 8-05	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	8-03 – planting
8-06, 8-07, 8-08, 8-09, 8-10, 8-11	Temporary use for access	Work No. 8	
8-12, 8-14, 8-15, 8-16, 8-18, 8-19, 8-23, 8-25, 8-29, 8-33, 8-34, 8-38, 8-39, 8-53, 8-55,	Temporary use for construction, mitigation, maintenance, and dismantling of	Work No. 1 and Work No. 2 and Work No. 8	8-12 – removal of pylon foundations only to a depth of 1.5m 8-15 – planting

8-57, 8-58, 8-59, 8-60, 8-61, 8-62, 8-66, 8-73, 8-74, 8-88, 8-96, 8-100, 8-104, 8-113, 8-114, 8-118, 8-119, 8-120, 8-126, 8-128	redundant infrastructure		8-53 – planting 8-57 – removal of pylon foundations only to a depth of 1.5m 8-66 – planting 8-74 – planting 8-100 – planting 8-118 – planting
9-09	Temporary use for access	Work No. 2 and Work No. 8	
9-11, 9-14	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 2 and Work No. 8	
9-12, 9-15, 9-19, 9-21, 9-23, 9-27, 9-28	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 2 and Work No. 8	
10-17	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 2 and Work No. 8	10-17 – planting
10-21	Temporary use for access	Work No. 2 and Work No. 8	
10-30	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 2 and Work No. 8	10-30 – planting
11-02	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 2 and Work No. 8	11-02 – planting
12-04, 12-10, 12-22	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 2 and Work No. 8	12-10 – planting

12-23, 12-25, 12-27, 12-50, 12-51	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 3 and Work No. 8	12-23 – removal of pylon foundations only to a depth of 1.5m 12-51 – removal of pylon foundations only to a depth of 1.5m
12-52, 12-54, 12-55	Temporary use for access	Work No. 3 and Work No. 8	
13-01	Temporary use for access	Work No. 8	
13-05	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	13-05 – removal of pylon foundations only to a depth of 1.5m
13-14	Temporary use for access	Work No. 8	
13-15	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	
13-16, 13-17	Temporary use for access	Work No. 3 and Work No. 8	
13-18	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	13-18 – removal of pylon foundations only to a depth of 1.5m
13-19, 13-20, 13-24, 13-25, 13-26, 13-27, 13-28	Temporary use for access	Work No. 3 and Work No. 8	
13-29, 13-30	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 3 and Work No. 8	13-30 – removal of pylon foundations only to a depth of 1.5m
13-31, 13-32, 13-33	Temporary use for access	Work No. 3 and Work No. 8	
14-06, 14-08	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 3 and Work No. 8	14-06 – planting

14-17, 14-18, 14-20, 14-21, 14-22, 14-24, 14-27, 14-28, 14-30, 14-31, 14-32, 14-33, 14-34	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 3 and Work No. 8	14-24 – planting 14-31 – removal of pylon foundations only to a depth of 1.5m
14-35, 14-37	Temporary use for access	Work No. 3 and Work No. 8	
14-38, 14-39	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	14-38 – removal of pylon foundations only to a depth of 1.5m
14-40, 14-41, 14-42, 14-43, 14-44, 14-45,	Temporary use for access	Work No. 3 and Work No. 8	
15-16	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	
15-10, 15-15, 15-17, 15-18	Temporary use for access	Work No. 8	
15-19	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	
15-20, 15-22, 15-23	Temporary use for access	Work No. 3 and Work No. 8	
15-24	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 3 and Work No. 8	
15-25	Temporary use for access	Work No. 3 and Work No. 8	
15-26	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 3 and Work No. 8	15-26 – removal of pylon foundations only to a depth of 1.5m
15-27	Temporary use for access	Work No. 3 and Work No. 8	

15-28	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 3 and Work No. 8	15-28 – removal of pylon foundations only to a depth of 1.5m
15-29	Temporary use for access	Work No. 3 and Work No. 8	
15-31, 15-32	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 3 and Work No. 8	15-31 – removal of pylon foundations only to a depth of 1.5m
15-33, 15-46, 15-47, 15-48, 15-49, 15-50, 15-51, 15-52, 15-53	Temporary use for access	Work No. 3 and Work No. 8	
15-54, 15-55	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 3 and Work No. 8	15-55 – removal of pylon foundations only to a depth of 1.5m
15-56, 15-57, 15-58, 15-63	Temporary use for access	Work No. 3 and Work No. 8	
15-66, 15-69, 15-85, 15-86	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 3, Work No. 4 and Work No. 8	15-85 – planting
15-97, 15-99, 15-104, 15-110, 15-112, 15-114,	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 4 and Work No. 8	15-97 – planting
16-03, 16-10, 16-14, 16-20, 16-22, 16-35	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 4 and Work No. 8	
16-51, 16-54	Temporary use for access	Work No. 4 and Work No. 8	
16-58	Temporary use for construction, mitigation, maintenance, and	Work No. 4 and Work No. 8	16-58 – removal of pylon foundations only to a depth of 1.5m

	dismantling of redundant infrastructure		
16-65	Temporary use for access	Work No. 4 and Work No. 8	
16-67, 16-69, 16-72, 16-73, 16-74, 16-84, 16-88	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 4 and Work No. 8	
17-01	Temporary use for access	Work No. 4 and Work No. 8	
17-13, 17-29, 17-30, 17-34, 17-35, 17-37, 17-42, 17-67, 17-68, 17-69	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 4 and Work No. 8	17-34 – planting 17-35 – planting 17-37 – planting 17-42 – removal of pylon foundations only to a depth of 1.5m 17-68 – removal of pylon foundations only to a depth of 1.5m
17-70	Temporary use for access	Work No. 4 and Work No. 8	
17-104, 17-108, 17-109	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 4 and Work No. 8	17-109 – removal of pylon foundations only to a depth of 1.5m 17-109 – planting
19-08	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 4 and Work No. 8	19-08 – removal of pylon foundations only to a depth of 1.5m
19-16	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 5 and Work No. 8	19-16 – removal of pylon foundations only to a depth of 1.5m
19-24, 19-25, 19-26	Temporary use for access	Work No. 5 and Work No. 8	
19-29, 19-30, 19-31, 19-32, 19-34, 19-36	Temporary use for construction, mitigation, maintenance, and dismantling of	Work No. 5 and Work No. 8	

	redundant infrastructure		
20-01	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 5 and Work No. 8	
20-06, 20-07	Temporary use for access	Work No. 5 and Work No. 8	
20-10	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 5 and Work No. 8	
20-13, 20-14, 20-15, 20-16	Temporary use for access	Work No. 5 and Work No. 8	
20-46, 20-47, 20-48	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 5 and Work No. 8	
20-53	Temporary use for access	Work No. 5 and Work No. 8	
20-57, 20-58	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 5 and Work No. 8	20-58 – removal of pylon foundations only to a depth of 1.5m
21-01, 21-03, 21-04, 21-05, 21-06, 21-07, 21-09, 21-10, 21-11, 21-12, 21-13, 21-14	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 5 and Work No. 8	21-04 – removal of pylon foundations only to a depth of 1.5m 21-09 – removal of pylon foundations only to a depth of 1.5m
21-15, 21-16, 21-17, 21-18, 21-19	Temporary use for access	Work No. 8	
21-20, 21-21	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	21-21 – removal of pylon foundations only to a depth of 1.5m
21-22	Temporary use for access	Work No. 8	

21-23	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	
21-24	Temporary use for access	Work No. 8	
21-25	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 8	21-25 – removal of pylon foundations only to a depth of 1.5m
21-26, 21-27, 21-28, 21-29, 21-30, 21-31, 21-32	Temporary use for access	Work No. 7 and Work No. 8	
21-33, 21-34, 21-35	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 7 and Work No. 8	
21-36	Temporary use for access	Work No. 7 and Work No. 8	
21-37, 21-38	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 7 and Work No. 8	21-38 – removal of pylon foundations only to a depth of 1.5m
21-39, 21-40	Temporary use for access	Work No. 7 and Work No. 8	
21-41, 21-42, 21-44, 21-47, 21-49, 21-50, 21-51, 21-52, 21-55, 21-56, 21-57, 21-58, 21-59, 21-61	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 7 and Work No. 8	
21-62, 21-63, 21-64, 21-65	Temporary use for access	Work No. 7 and Work No. 8	
21-66, 21-67, 21-68, 21-69, 21-70, 21-71	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 7 and Work No. 8	21-68 – removal of pylon foundations only to a depth of 1.5m 21-71 – removal of pylon foundations only to a depth of 1.5m
21-72	Temporary use for construction,	Work No. 10	

	mitigation, maintenance, and dismantling of redundant infrastructure		
21-73	Temporary use for access	Work No. 10	
22-01	Temporary use for access	Work No. 10	
22-02	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 10	
22-03, 22-04, 22-05, 22-06, 22-07, 22-08, 22-09, 22-10, 22-11, 22-12	Temporary use for access	Work No 10	
22-13	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 10	
22-14, 22-15, 22-16, 22-17, 22-18, 22-19	Temporary use for access	Work No. 10	
22-20	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 10	
22-21	Temporary use for access	Work No. 10	
22-22, 23-01	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 10	
23-02, 23-03	Temporary use for access	Work No. 10	
23-04	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 9 and Work No. 10 and Work No. 11	

23-06, 23-07, 23-08, 23-09, 23-10	Temporary use for access	Work No. 10	
23-11, 23-16, 23-15, 23-18, 23-21, 23-22, 23-25	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 9, Work No. 10 and Work No. 11	
23-26, 23-27	Temporary use for access	Work No. 9, Work No. 10 and Work No. 11	
23-33, 23-37, 23-45, 23-47, 23-49, 23-55	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 9 and Work No. 10 and Work No. 11	
23-50, 23-51, 23-53, 23-54, 23-56	Temporary use for access	Work No. 9 and Work No. 10 and Work No. 11	
23-57	Temporary use for access	Work No. 9 and Work No. 10 and Work No. 11	
23-58, 23-59, 23-60	Temporary use for access	Work No. 9 and Work No. 10 and Work No. 11	
24-01	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No 10	
24-02, 24-03, 24-04	Temporary use for access	Work No 10	
24-05, 24-06, 24-07	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No 10	
24-08	Temporary use for access	Work No. 10	
24-09	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 10	
24-10, 24-11, 24-12, 24-13, 24-14, 24-15	Temporary use for access	Work No. 10	

24-16	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 10	
24-17	Temporary use for access	Work No. 10	
24-18	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 10	
24-19, 24-20	Temporary use for access	Work No. 10	
24-21	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 10	
24-22, 24-23	Temporary use for access	Work No. 10	
24-24	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 10	
24-25, 24-26, 24-27, 24-28	Temporary use for access	Work No. 10	
25-02, 25-03, 25-04, 25-05, 25-06, 25-07, 25-09, 25-10, 25-11, 25-12	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 11	
25-13	Temporary use for access	Work No. 11	
26-01	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 11	
26-02, 26-03	Temporary use for access	Work No. 11	
26-04	Temporary use for construction,	Work No. 11	

	mitigation, maintenance, and dismantling of redundant infrastructure		
26-05, 26-06, 26-07	Temporary use for access	Work No. 11	
26-08	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 11	
26-09	Temporary use for access	Work No. 11	
26-10	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 11	
26-11, 26-12, 26-13, 26-14, 26-15	Temporary use for access	Work No. 11	
26-16	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 11	
27-09, 27-30, 27-31, 27-33, 27-36, 27-38, 27-46, 27-47, 27-48, 27-56	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 5 and Work No. 7	
27-49, 27-52	Temporary use for access	Work No. 5 and Work No. 7	
28-01, 28-02, 28-18, 28-19, 28-22, 28-23, 28-24, 28-25, 28-27, 28-28, 28-29, 28-33, 28-37, 28-44, 28-58	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 5, Work No. 6 and Work No. 7	

SCHEDULE 11

Article 39

EXTINGUISHMENT OF PRIVATE RIGHTS AND RESTRICTIVE COVENANTS RELATING TO APPARATUS BELONGING TO NATIONAL GRID OR UKPN REMOVED FROM LAND SUBJECT TO TEMPORARY POSSESSION

National Grid

Area	Plot
District of Mid-Suffolk	1-07, 1-21, 1-23, 1-24, 1-25, 1-27
District of Braintree	21-37, 21-38, 21-41, 21-66, 21-68, 21-69
District of Braintree	27-29, 27-31, 27-34, 27-36, 27-42, 27-43

UKPN

Area	Plot
District of Babergh	2-03
District of Babergh	3-15, 3-19, 3-27, 3-55, 3-57, 3-60, 3-64, 3-69, 3-108, 3-109, 3-115
District of Babergh	4-06, 4-08, 4-09, 4-10, 4-11, 4-16, 4-17, 4-18, 4-23, 4-24, 4-25, 4-26, 4-27, 4-28, 4-30, 4-31, 4-33, 4-34, 4-35, 4-36, 4-40
District of Babergh	5-03, 5-04, 5-05, 5-06, 5-07, 5-12, 5-14, 5-15, 5-19,
District of Babergh	7-01, 7-09, 7-12, 7-13, 7-15, 7-20, 7-21, 7-23, 7-28, 7-29, 7-32, 7-35, 7-37, 7-43, 7-44, 7-45, 7-46, 7-47, 7-50
District of Babergh	8-12, 8-57, 8-118, 8-119, 8-120, 8-128
District of Babergh	9-12, 9-15, 9-19, 9-21, 9-23, 9-27, 9-28
District of Babergh	12-23, 12-50, 12-51
District of Babergh	13-05, 13-15, 13-18, 13-29, 13-30
District of Babergh	14-06, 14-08, 14-18, 14-24, 14-30, 14-31, 14-32, 14-33, 14-36, 14-38, 14-39
District of Babergh	15-16, 15-24, 15-26, 15-28, 15-31, 15-54, 15-55, 15-69
District of Babergh	16-22, 16-35, 16-58, 16-67, 16-69, 16-72, 16-73, 16-74, 16-84
District of Babergh	17-13, 17-30, 17-42, 17-67, 17-68, 17-69, 17-109
District of Babergh	19-08, 19-16
District of Braintree	20-58
District of Braintree	21-01, 21-03, 21-04, 21-05, 21-09, 21-20, 21-21, 21-23, 21-25, 21-38, 21-41, 21-55, 21-58, 21-59, 21-60, 21-71

SCHEDULE 12

Article 46

TRAFFIC REGULATION ORDERS

PART 1

TEMPORARY RESTRICTION OF WAITING AND RESTRICTION OF SPEED

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
Suffolk County Council	Burstall Hill	Between points TRO-AB-1 and TRO-AB-2 as shown on Sheets 1 and 2	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Burstall Hill	Between points TRO-AB-2 and TRO-AB-3 as shown on Sheet 2	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Ipswich Road, Church Hill and Burstall Hill	Between points TRO-AB-2 and TRO-AB-4 as shown on Sheet 2	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	A1071 (Ipswich Road) and A1071 (Back Road)	Between points TRO-AB-5 and TRO-AB-6 as shown on Sheets 3 and 6	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	A1071 (Hadleigh Road)	Between points TRO-AB-7 and TRO-AB-8 as shown on Sheet 4	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Washbrook Road	Between points TRO-AB-9 and TRO-AB-10 as shown on Sheet 4	No waiting restriction between 07.00 and 19.00

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
			Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Lower Barn Road	Between points TRO-AB-11 and TRO-AB-12 as shown on Sheet 5	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Mill Lane	Between points TRO-AB-15 and TRO-AB-16 as shown on Sheet 5	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Duke Street	Between points TRO-AB-17 and TRO-AB-18 as shown on Sheet 7	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Pond Hall Road and Duke Street	Between points TRO-AB-19 and TRO-AB-21 as shown on Sheets 7 and 8	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Clay Hill and Duke Street	Between points TRO-AB-19 and TRO-AB-20 as shown on Sheet 7	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Woodlands Road	Between points TRO-AB-22 and TRO-AB-23 as shown on Sheet 8	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
			restricted to 30mph.
Suffolk County Council	Clay Lane and Pond Hall Road	Between points TRO-AB- 24 and TRO-AB-27 as shown on Sheets 8 and 9	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Pond Hall Road	Between points TRO-AB- 25 and TRO-AB-27 as shown on Sheet 9	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	B1070 (Benton End), B1070 (Pipkin Hill) and B1070 (The Street)	Between points TRO-C-1 and TRO-C-2 as shown on Sheet 10	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Layham Road	Between points TRO-C-3 and TRO-C-5 as shown on Sheet 10	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Overbury Hall Road	Between points TRO-C-7 and TRO-D-1 as shown on Sheet 11	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Rands Road	Between points TRO-D-1 and TRO-D-2 as shown on Sheet 11	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
Suffolk County Council	Millwood Road	Between points TRO-D-6 and TRO-D-9 as shown on Sheet 12	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Millwood Road	Between points TRO-D-6 and TRO-D-7 as shown on Sheet 12	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Heath Road	Between points TRO-D-11 and TRO-D-12 as shown on Sheets 12 and 13	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Holt Road	Between points TRO-E-1 and TRO-E-2 as shown on Sheet 13	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Holt Road	Between points TRO-E-3 and TRO-E-4 as shown on Sheet 13	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Whitestreet Green	Between points TRO-E-5 and TRO-E-6 as shown on Sheets 13 and 14	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	B1068 (Stoke Road)	Between points TRO-F-1 and TRO-F-3 as shown on Sheet 15	No waiting restriction between 07.00 and 19.00 Monday to

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
			Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	B1068 (Stoke Road)	Between points TRO-F-2 and TRO-F-3 as shown on Sheet 15	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Brick Kiln Hill	Between points TRO-F-3 and TRO-F-4 as shown on Sheet 15	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	A134 (Colchester Road) and A134 (Nayland Road)	Between points TRO-F-5 and TRO-F-6 as shown on Sheets 15 and 16	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Nayland Road	Between points TRO-F-7 and TRO-F-8 as shown on Sheet 16	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Bures Road	Between points TRO-F-10 and TRO-F-11 as shown on Sheets 16 and 17	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Wormingford Road	Between points TRO-F-11 and TRO-F-12 as shown on Sheets 17 and 18	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
Suffolk County Council	Bures Road	Between points TRO-F-11 and TRO-G-1 as shown on Sheet 17	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Dorking Tye and Upper Road	Between points TRO-G-1 and TRO-G-3 as shown on Sheets 17 and 19	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	B1508 (Bures Road) and B1508 (St Edmunds Hill)	Between points TRO-G-4 and TRO-G-5 as shown on Sheet 20	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Henny Road	Between points TRO-G-6 and TRO-G-7 as shown on Sheet 20	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Twinstead Road	Between points TRO-G-8 and TRO-G-9 as shown on Sheets 21 and 27	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Twinstead Road	Between points TRO-G-9 and TRO-G-13 as shown on Sheets 21 and 27	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Moat Lane	Between points TRO-G-9 and TRO-G-11 as shown on Sheet 27	No waiting restriction between 07.00 and 19.00 Monday to

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
			Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Loshouse Farm Road and Losh House Lane	Between points TRO-G-13 and TRO-G-15 as shown on Sheet 21	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Henny Back Road	Between points TRO-G-19 and TRO-G-20 as shown on Sheet 28	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Lorkin's Lane	Between points TRO-H-4 and TRO-H-5 as shown on Sheets 28 and 29	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Twinstead Road	Between points TRO-H-5 and TRO-H-6 as shown on Sheet 29	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Oak Road and Catley Cross	Between points TRO-H-9 and TRO-H-10 as shown on Sheet 29	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	A131 (Sudbury Road)	Between points TRO-H-11 and TRO-H-12 as shown on Sheet 30	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
Essex County Council	A131 (Sudbury Road)	Between points TRO-H-15 and TRO-H-16 as shown on Sheet 23	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Old Road	Between points TRO-H-17 and TRO-H-18 as shown on Sheet 23	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Old Road	Between points TRO-H-19 and TRO-H-20 as shown on Sheets 23 and 26	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.
Essex County Council	Park Road	Between points TRO-H-21 and TRO-H-22 as shown on Sheet 26	No waiting restriction between 07.00 and 19.00 Monday to Sunday. Speed limit to be restricted to 30mph.

PART 2

TEMPORARY RESTRICTION OF ACCESS

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
Suffolk County Council	Burstall Hill	Between points TRO-AB-1 and TRO-AB-2 as shown on Sheets 1 and 2	Prohibition of vehicular access.
Suffolk County Council	Burstall Hill	Between points TRO-AB-2 and TRO-AB-3 as shown on Sheet 2	Prohibition of vehicular access.
Suffolk County Council	Ipswich Road, Church Hill and Burstall Hill	Between points TRO-AB-2 and TRO-AB-4 as shown on Sheet 2	Prohibition of vehicular access.
Suffolk County Council	Washbrook Road	Between points TRO-AB-9 and TRO-AB-10 as shown on Sheet 4	Prohibition of vehicular access.
Suffolk County Council	Lower Barn Road	Between points TRO-AB-11 and TRO-AB-12 as shown on Sheet 5	Prohibition of vehicular access.
Suffolk County Council	Mill Lane and Chattisham Lane	Between points TRO-AB-13 and TRO-AB-14 as shown on Sheet 5	Prohibition of vehicular access.
Suffolk County Council	Clay Hill and Duke Street	Between points TRO-AB-19 and TRO-AB-20 as shown on Sheet 7	Prohibition of vehicular access.
Suffolk County Council	Woodlands Road	Between points TRO-AB-22 and TRO-AB-23 as shown on Sheet 8	Prohibition of vehicular access.
Suffolk County Council	Clay Lane and Pond Hall Road	Between points TRO-AB-24 and TRO-AB-27 as shown on Sheets 8 and 9	Prohibition of vehicular access.
Suffolk County Council	Layham Road	Between points TRO-C-3 and TRO-C-5 as shown on Sheet 10	Prohibition of vehicular access.
Suffolk County Council	Overbury Hall Road	Between points TRO-C-7 and TRO-D-1 as shown on Sheet 11	Prohibition of vehicular access.
Suffolk County Council	Rands Road	Between points TRO-D-1 and TRO-D-2 as shown on Sheets 11	Prohibition of vehicular access.
Suffolk County Council	Pope's Green Lane	Between points TRO-D-3 and TRO-D-4 as shown on Sheet 12	Prohibition of vehicular access.
Suffolk County Council	Millwood Road	Between points TRO-D-6 and TRO-D-9 as shown on Sheet 12	Prohibition of vehicular access.
Suffolk County Council	Millwood Road	Between points TRO-D-6 and TRO-D-7 as shown on Sheet 12	Prohibition of vehicular access.

Suffolk County Council	Heath Road	Between points TRO-D-11 and TRO-D-12 as shown on Sheets 12 and 13	Prohibition of vehicular access.
Suffolk County Council	Holt Road	Between points TRO-E-1 and TRO-E-2 as shown on Sheet 13	Prohibition of vehicular access.
Suffolk County Council	Holt Road	Between points TRO-E-3 and TRO-E-4 as shown on Sheet 13	Prohibition of vehicular access.
Suffolk County Council	Whitestreet Green	Between points TRO-E-5 and TRO-E-6 as shown on Sheets 13 and 14	Prohibition of vehicular access.
Suffolk County Council	Brick Kiln Hill	Between points TRO-F-3 and TRO-F-4 as shown on Sheet 15	Prohibition of vehicular access.
Suffolk County Council	Nayland Road	Between points TRO-F-7 and TRO-F-8 as shown on Sheet 16	Prohibition of vehicular access.
Suffolk County Council	Bures Road	Between points TRO-F-10 and TRO-F-11 as shown on Sheet 17	Prohibition of vehicular access.
Suffolk County Council	Wormingford Road	Between points TRO-F-11 and TRO-F-12 as shown on Sheets 17 and 18	Prohibition of vehicular access.
Suffolk County Council	Bures Road	Between points TRO-F-11 and TRO-G-1 as shown on Sheet 1	Prohibition of vehicular access.
Suffolk County Council	Dorking Tye and Upper Road	Between points TRO-G-1 and TRO-G-3 as shown on Sheets 17 and 19	Prohibition of vehicular access.
Essex County Council	Henny Road	Between points TRO-G-6 and TRO-G-7 as shown on Sheet 20	Prohibition of vehicular access.
Essex County Council	Twinstead Road	Between points TRO-G-8 and TRO-G-9 as shown on Sheets 21 and 27	Prohibition of vehicular access.
Essex County Council	Twinstead Road	Between points TRO-G-9 and TRO-G-13 as shown on Sheets 21 and 27	Prohibition of vehicular access.
Essex County Council	Moat Lane	Between points TRO-G-9 and TRO-G-11 as shown on Sheet 27	Prohibition of vehicular access.
Essex County Council	Loshouse Farm Road and Losh House Lane	Between points TRO-G-13 and TRO-G-15 as shown on Sheet 21	Prohibition of vehicular access.
Essex County Council	Lorkin's Lane	Between points TRO-G-13 and TRO-G-14 as shown on Sheets 21 and 27	Prohibition of vehicular access.
Essex County Council	Henny Back Road	Between points TRO-G-19 and TRO-G-20 as shown on Sheet 28	Prohibition of vehicular access.
Essex County Council	Lorkin's Lane	Between points TRO-H-4 and TRO-H-5 as shown on Sheets 28 and 29	Prohibition of vehicular access.

Essex County Council	Twinstead Road	Between points TRO-H-5 and TRO-H-6 as shown on Sheet 29	Prohibition of vehicular access.
Essex County Council	Oak Road and Catley Cross	Between points TRO-H-9 and TRO-H-10 as shown on Sheet 29	Prohibition of vehicular access.
Essex County Council	Old Road	Between points TRO-H-17 and TRO-H-18 as shown on Sheet 23	Prohibition of vehicular access.
Essex County Council	Old Road	Between points TRO-H-19 and TRO-H-20 as shown on Sheets 23 and 26	Prohibition of vehicular access.
Essex County Council	Park Road	Between points TRO-H-21 and TRO-H-22 as shown on Sheet 26	Prohibition of vehicular access.

PART 3

TEMPORARY RESTRICTION OF MOVEMENT

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
Suffolk County Council	A1071 (Ipswich Road) and A1071 (Back Road)	Between points TRO-AB-5 and TRO-AB-6 as shown on Sheets 3 and 6	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
Suffolk County Council	A1071 (Hadleigh Road)	Between points TRO-AB-7 and TRO-AB-8 as shown on Sheet 4	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
Suffolk County Council	Duke Street	Between points TRO-AB-17 and TRO-AB-18 as shown on Sheet 7	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
			arrangements at the time of implementation. To be implemented as required.
Suffolk County Council	Pond Hall Road and Duke Street	Between points TRO-AB-19 and TRO-AB-21 as shown on Sheets 7 and 8	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
Suffolk County Council	Pond Hall Road	Between points TRO-AB-25 and TRO-AB-27 as shown on Sheet 9	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
Suffolk County Council	B1070 (Benton End), B1070 (Pipkin Hill) and B1070 (The Street)	Between points TRO-C-1 and TRO-C-2 as shown on Sheet 10	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
Suffolk County Council	B1068 (Stoke Road)	Between points TRO-F-1 and TRO-F-3 as shown on Sheet 15	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
			be implemented as required.
Suffolk County Council	B1068 (Stoke Road)	Between points TRO-F-2 and TRO-F-3 as shown on Sheet 15	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
Suffolk County Council	A134 (Colchester Road) and A134 (Nayland Road)	Between points TRO-F-5 and TRO-F-6 as shown on Sheets 15 and 16	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
Suffolk County Council	B1508 (Bures Road) and B1508 (St Edmunds Hill)	Between points TRO-G-4 and TRO-G-5 as shown on Sheet 20	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
Essex County Council	A131 (Sudbury Road)	Between points TRO-H-11 and TRO-H-12 as shown on Sheet 30	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
Essex County Council	A131 (Sudbury Road)	Between points TRO-H-15 and TRO-H-16 as shown on Sheet 23	One way movement restriction, to be either northbound or southbound dependant on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.

PART 4

TEMPORARY NO OVERTAKING ORDER

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
Suffolk County Council	A1071 (Ipswich Road) and A1071 (Back Road)	Between points TRO-AB-5 and TRO-AB-6 as shown on Sheets 3 and 6	Prohibition of vehicular overtaking.
Suffolk County Council	A1071 (Thorpe's Hill)	Between points TRO-AB-7 and TRO-AB-8 as shown on Sheet 4	Prohibition of vehicular overtaking.
Suffolk County Council	Duke Street	Between points TRO-AB-17 and TRO-AB-18 as shown on Sheet 7	Prohibition of vehicular overtaking.
Suffolk County Council	Pond Hall Road and Duke Street	Between points TRO-AB-19 and TRO-AB-21 as shown on Sheets 7 and 8	Prohibition of vehicular overtaking.
Suffolk County Council	Pond Hall Road	Between points TRO-AB-25 and TRO-AB-27 as shown on Sheet 9	Prohibition of vehicular overtaking.
Suffolk County Council	B1070 (Benton End), B1070 (Pipkin Hill) and B1070 (The Street)	Between points TRO-C-1 and TRO-C-2 as shown on Sheet 10	Prohibition of vehicular overtaking.
Suffolk County Council	B1068 (Stoke Road)	Between points TRO-F-1 and TRO-F-3 as shown on Sheet 15	Prohibition of vehicular overtaking.
Suffolk County Council	B1068 (Stoke Road)	Between points TRO-F-2 and TRO-F-3 as shown on Sheet 15	Prohibition of vehicular overtaking.
Suffolk County Council	A134 (Colchester	Between points TRO-F-5 and TRO-F-6 as shown on Sheets 15 and 16	Prohibition of vehicular overtaking.

(1) Area	(2) Road	(3) Extent as shown on the Traffic Regulation Order Plans	(4) Note
	Road) and A134 (Nayland Road)		
Suffolk County Council	B1508 (Bures Road) and B1508 (St Edmunds Hill)	Between points TRO-G-4 and TRO-G-5 as shown on Sheet 20	Prohibition of vehicular overtaking.
Essex County Council	A131 (Sudbury Road)	Between points TRO-H-11 and TRO-H-12 as shown on Sheet 30	Prohibition of vehicular overtaking.
Essex County Council	A131 (Sudbury Road)	Between points TRO-H-15 and TRO-H-16 as shown on Sheet 23	Prohibition of vehicular overtaking.

SCHEDULE 13

Article 48

TREES SUBJECT TO TREE PRESERVATION ORDERS

(1) Type of tree	(2) Location as shown on Trees and Hedgerows to be Removed or Managed Plans	(3) Work to be carried out	(4) TPO reference
Babergh District Council			
Multiple Individual TPO – Oak, Ash and Hornbeam	Within the Order limits. On either side of the A1071 adjacent to Hintlesham Park, Hintlesham. As shown on Sheet 3.	Crown lifting/pruning of overhanging branches of seven trees to prevent damage from vehicles using the A1071 during construction.	BT21/T6
Two individual TPO – Oak and Elm	Within 10m of the Order limits. On the northern side of A1071, near Fen Farm, Burstall Bridge. As shown on Sheet 4.	Crown lifting/pruning of overhanging branches of two trees to prevent damage from vehicles using the A1071 during construction.	BT15/T1
Group of trees – Oak, Field Maple and Ash	Within the Order limits. Along minor road near Mill house, Chattisham. As shown on Sheet 5.	Crown lifting/pruning of overhanging branches over an area of 0.15ha of TPO to prevent damage from vehicles using the minor road during construction.	BT13/G1
Individual TPO – Ash	Within the Order limits. Along minor road (Duke Street) and part side garden of Vine Cottage, Duke Street, Hintlesham, Ipswich, Suffolk. As shown on Sheet 7.	Crown lifting/pruning of overhanging branches of one tree to prevent damage from vehicles using the minor road during construction.	BT386/T1
Woodland – Mainly Alder, Oak and Beech	Within the Order limits. The northern boundary of Dollops Wood. As shown on Sheet 13.	Crown lifting/pruning of branches over an area of 0.2ha to prevent damage to trees when lowering and removing conductors.	WS313/W1

(1) Type of tree	(2) Location as shown on Trees and Hedgerows to be Removed or Managed Plans	(3) Work to be carried out	(4) TPO reference
Area TPO – Mixed species	Within the Order limits. The Southern boundary of the TPO area is to the south of Ash Ground at Long Lane, Bures. As shown on Sheet 17.	Crown lifting/pruning of branches and coppicing over an area of 0.3ha to prevent damage to trees when lowering and removing conductors and to facilitate the installation of conductors and maintenance of a safe electrical clearance from the overhead electric line.	WS337/A 1
Area TPO – Mixed species mainly Oak	Within the Order limits. The TPO area is situated along Long Lane, Bures. As shown on Sheet 19.	Crown lifting/pruning of overhanging branches over an area of 0.3ha to prevent damage from vehicles using the minor road during construction.	WS337/A 2
Area TPO – Mixed species	Within 10m of the Order limits. The southern boundary of the TPO area lies along an access track. As shown on Sheet 19.	Crown lifting/pruning of overhanging branches to prevent damage from vehicles using the access track during construction.	WS15/A2
Braintree District Council			
Individual TPO - Yew, Monkey Puzzle, Deodar Cedar	Within 10m of the Order limits. Individual TPOs are located along the east side of Henny Road. As shown on Sheet 20.	Crown lifting/pruning of overhanging branches for sight lines and to prevent damage from vehicles using the minor road during construction.	16/2021 - T1 Draft, 16/2021 - T2 Draft, 16/2021 – T3 Draft.

PROTECTIVE PROVISIONS

PART 1

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the statutory undertakers referred to in this Part of this Schedule (save for Anglian Water services which is protected by Part 3 of this Schedule and Cadent Gas Limited which is protected by Part 5 of this Schedule), the following provisions, unless otherwise agreed in writing between the undertaker and the statutory undertaker concerned, have effect.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the statutory undertaker in question to fulfil its statutory functions in a manner not less efficient than previously; “apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that electricity undertaker for the purposes of electricity supply;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by that gas undertaker for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other water apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(b); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“statutory undertaker” means—

- (e) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (f) a gas transporter within the meaning of Part 1 of the Gas Act 1986(c);
- (g) a water undertaker within the meaning of the Water Industry Act 1991; and
- (h) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the statutory undertaker to whom it belongs or by whom it is maintained.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the statutory undertaker are regulated by the provisions of Part 3 of the 1991 Act.

(a) 1989 c.29
 (b) 1991 c.56
 (c) 1986 c.44

4. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of a statutory undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the statutory undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the statutory undertaker in question written notice of that requirement, together with a plan and section of the work proposed.

(3) If alternative apparatus or any part of such apparatus is to be constructed as a consequence of the removal of apparatus placed on the land referred to in sub-paragraph (2), the statutory undertaker in question, must on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in other land in which the alternative apparatus is to be constructed.

(4) The statutory undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 58 (arbitration), and after the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(5) Regardless of anything in sub-paragraph (4), if the undertaker gives notice in writing to the statutory undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus, that work, instead of being executed by the statutory undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the statutory undertaker.

(6) Nothing in sub-paragraph (4) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

6.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5(2), the undertaker must submit to the statutory undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a statutory undertaker under sub-paragraph (2) must be made within a period of 28 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a statutory undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 4 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the statutory undertaker in question notice as soon as is reasonably practicable

and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

7.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to the statutory undertaker in question the proper and reasonable expenses reasonably incurred by that statutory undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus.

(2) The value of any apparatus removed under the provisions of this Part of the Schedule is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 58 (arbitration) to be necessary,

then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as it if also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a statutory undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier so as to confer on the statutory undertaker in question any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

PART 2

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

8.—(1) For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

(2) In this Part of this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide; “electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and “operator” means the operator of an electronic communications code network.

9. The exercise of the powers of article 42 (statutory undertakers) is subject to Part 10 (undertaker’s works affecting electronic communications apparatus) of the electronic communications code.

10.—(1) Subject to sub-paragraphs (2) to (3), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator) the undertaker must bear and pay the cost reasonably and properly incurred by the operator in making good such damage.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 58 (arbitration).

11. This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

12. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

13. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

14. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

“Anglian Water” means Anglian Water Services Limited (registered company number 02366656);

“apparatus” means:

- (a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;
- (b) any drain or works vested in Anglian Water under the Water Industry Act 1991;
- (c) any sewer which is vested in Anglian Water or is the subject of a notice of intention of Anglian Water to adopt given under section 102(4) of the Water Industry Act 1991 or an agreement to adopt made under section 104 of that Act;
- (d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and
- (e) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus,

and for the purpose of this definition, where words are defined by section 219 of the Water Industry Act 1991, they will be taken to have the same meaning;

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

Apparatus in closed streets

15.—(1) Where any street is temporarily stopped up under article 15 (temporary closure of streets and public rights of way), where Anglian Water has apparatus in the street or accessed by virtue of that street, it has the same powers and rights in respect of that apparatus as it enjoyed immediately before the temporary closure but nothing in this paragraph affects any right of the undertaker or of Anglian Water to require the removal of that apparatus under paragraph 18 or the power of the undertaker to carry out works under paragraph 20(1).

(2) Regardless of the temporary closure or diversion of any highway under the powers conferred by article 15 (temporary closure of streets and public rights of way), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the temporary stopping up or diversion was in that highway subject to provision of reasonable prior notice to the undertaker (except in the case of emergency) and compliance at all times with the undertaker’s reasonable site safety rules and health and safety law.

Protective works

16. The undertaker, in the case of the powers conferred by article 20 (protective works), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

17. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

Removal of apparatus

18.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water’s apparatus is

relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until

- (a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and
- (b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 19.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 58 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 58, and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which will remain the sole responsibility of Anglian Water or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker must, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water's reasonable requests for a reasonable period of time to enable Anglian Water to:

- (a) make network contingency arrangements; or
- (b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

19.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Anglian Water facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 58 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Anglian Water than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the 2016 Regulations or other legislation.

Retained apparatus

20.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 18(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works subject to compliance at all times with the undertaker's reasonable site safety rules and all applicable health and safety laws.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (7) apply as if the removal of the apparatus had been required by the undertaker under paragraph 18(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its reasonable endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus:

- (a) 4 metres where the diameter of the pipe is less than 250 millimetres;
- (b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres; or

- (c) a distance to be agreed on a case by case basis and before the submission of the Plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres.

Expenses and costs

21.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably and properly incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of any new or alternative apparatus that value being calculated after removal by the undertaker (who will provide reasonable evidence of such value).

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 58 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which, apart from this sub-paragraph, would be payable to Anglian Water in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier so as to confer on Anglian Water any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit, the amount being calculated by Anglian Water (who will provide reasonable evidence of such amount) and agreed between the undertaker and Anglian Water or settled by arbitration in accordance with article 58 (arbitration).

22.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in direct consequence of the construction of any such works referred to in paragraphs 16 or 18(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in direct consequence of any such damage or interruption.

(2) Anglian Water must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, penalties and costs to which the provisions of sub-paragraph (1) applies. If requested to do so by the undertaker, Anglian Water will provide an explanation of how any claim has been minimised. The undertaker will not be liable under paragraph 22(1) for claims unreasonably incurred by Anglian Water.

(3) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (4), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(4) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents.

(5) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

23. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 18(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 20, the undertaker must use reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

24. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it must inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

25. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

26. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

PART 4

FOR THE PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED

27. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 41 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

28. In this Part of this Schedule—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

“regulatory consents” means any consent or approval required under:

- (c) the Railways Act 1993;
- (d) the network licence; and/or
- (e) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 4 (maintenance of authorised development) in respect of such works.

29.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

30.—(1) The undertaker must not exercise the powers conferred by—

- (a) article 19 (discharge of water);

- (b) article 21 (authority to survey and investigate the land);
- (c) article 47 (felling or lopping); and
- (d) article 48 (trees subject to Tree Preservation Orders);

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 37 (power to override easements and other rights) or article 42 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph—

- (a) such consent must not be unreasonably withheld but may be given subject to reasonable conditions, but it will not be considered unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion); and
- (b) any such request must not be unreasonably delayed and if, by the end of 28 days beginning with the date on which such request for Network Rail's consent was made, Network Rail has not intimated its refusal together with the grounds of any such refusal of such consent, the undertaker may serve upon Network Rail written notice requiring Network Rail to intimate approval or disapproval within a further period of 14 days beginning with the date upon which Network Rail receives written notice from the undertaker. If by the expiry of the further 14 days Network Rail has not intimated consent or refusal of consent, Network Rail is deemed to have given consent for the exercise of the respective powers.

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

31.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer will be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the

undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

32.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 31(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 31;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

33. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

34. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

35.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be

reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 31(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 36(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

36. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 31(3) or in constructing any protective works under the provisions of paragraph 31(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it may be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

37.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 31(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 31(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 31(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker must test the use of the authorised development in a manner that will first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and
- (d) the undertaker will not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 32.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 41(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 36(a) any modifications to Network Rail's apparatus under this paragraph will be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 58 (Arbitration) to the Institution of Civil Engineers should be read as a reference to the Institution of Engineering and Technology.

38. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

39. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

40. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

41.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 53 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;
- (f) and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision will not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such claims or demands;
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and
- (c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(3) The sums payable by the undertaker under sub-paragraph (1) will, if relevant, include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs will, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

42. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 41) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

43. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

44. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

45. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

46. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State’s consent, under article 7 (consent to transfer benefit of Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

47. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 56 (certification of documents) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

48. In relation to any dispute arising under this part of this Part of this Schedule (except for those disputes referred to in paragraph 37(11)), the provisions of article 58 (Arbitration) will not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

PART 5

FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER

Application

49. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

50. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to or maintained by Cadent for the purposes of Cadent’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 (interpretation) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“Cadent” means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Cadent’s undertaking” means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995);

“commence” has the same meaning as in article 2 (interpretation) of this Order and commencement will be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms commence and commencement include operations for the purposes of archaeological or ecological investigations and investigations of the existing condition of the ground or of structures;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for Cadent’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

“parent company” means a parent company of the undertaker acceptable to Cadent and which will have been approved by Cadent acting reasonably;

“rights” will include rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

“specified works” means any of the authorised works or activities (including maintenance) undertaken in association with the authorised works which:

will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 55(2) or otherwise;

may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 55(2) or otherwise; and/or

include any of the activities that are referred to in CD/SP/SSW/22 (Cadent’s policies for safe working in the vicinity of Cadent’s Assets); and

“undertaker” means the undertaker as defined in article 2 (interpretation) of this Order.

On Street Apparatus

51.—(1) Except for paragraphs 52 (apparatus of Cadent in closed streets), 55 (removal of apparatus) in so far as sub-paragraph (3) applies, 56 (facilities and rights for alternative apparatus) in so far as sub-paragraph (2) below applies, 57 (retained apparatus: protection of Cadent), 58 (expenses) and 59 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Cadent, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraphs 55 and 56 of this Agreement will apply to diversions even where carried out under the 1991 Act, in circumstances where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

(3) Notwithstanding article 11 (street works) or any other powers in the Order generally, s85 of the 1991 Act in relation to cost sharing and the regulations made thereunder will not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

Apparatus of Cadent in stopped up streets

52.—(1) Without prejudice to the generality of any other protection afforded to Cadent elsewhere in the Order, where any street is stopped up under article 15 (temporary closure of streets and public

rights of way), if Cadent has any apparatus in the street or accessed via that street Cadent will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the closure and the undertaker will grant to Cadent, or will procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the closure of any such street or highway but nothing in this paragraph will affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 55.

(2) Notwithstanding the temporary closure or diversion of any highway under the powers of article 15 (temporary closure of streets and public rights of way), Cadent will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary closure or diversion in respect of any apparatus which at the time of the closure or diversion was in that highway

(3) The Protective Provisions in this Part of this Schedule apply and take precedence over article 42 (statutory undertakers) of the Order which will not apply to Cadent.

Protective works to buildings

53.—(1) The undertaker, in the case of the powers conferred by article 20 (protective works), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), will—

- (a) pay compensation to Cadent for any loss sustained by it; and
- (b) indemnify Cadent against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof will be made by Cadent, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

Acquisition of land

54.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of Cadent and/or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and/or other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(4) Any agreement or consent granted by Cadent under paragraph 57 or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves decommissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement and/or other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such decommissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 55 do not apply, the undertaker must:

- (a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

55.—(1) If, in the exercise of the agreement reached in accordance with paragraph 54 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the satisfaction of Cadent and in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account sub-paragraph 56(1) below) the necessary facilities and rights:

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will

not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to Cadent to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

56.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's opinion) then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with article 58 (Arbitration) of this Part of this Schedule and the arbitrator will make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

57.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until Cadent has given written approval of the plan so submitted.

(4) Any approval of Cadent required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and,
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, Cadent may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) and (2) or as relevant sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 55(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with—

- (a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with Cadent's policies for safe working in proximity to gas apparatus "CD/SP/SSW/22 (Cadent's policies for safe working in the vicinity of Cadent's Assets)" and HSE's "HS(-G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 58.

Expenses

58.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand on receipt of an invoice or written breakdown all charges, costs and expenses reasonably anticipated or incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the negotiation or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under sub-paragraph 55(3) if it elects to do so; and/or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Cadent;

- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 57(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 58 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

59.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without

limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and
- (b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (consent to transfer benefit of order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section (3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 59.

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the promoter and considering their representations.

Enactments and agreements

60. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

61.—(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or Cadent requires the removal of apparatus under sub-paragraph 55(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 57, the undertaker will use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent’s undertaking and Cadent will use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent’s consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, Cadent’s consent must not be unreasonably withheld or delayed.

Access

62. If in consequence of the agreement reached in accordance with sub-paragraph 54(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

63. Save for differences or disputes arising under sub-paragraphs 55(2), 55(4), 56(1) and paragraph 57 any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by be referred to and settled by a single arbitrator to be agreed between the parties, or failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institute of Civil Engineers and in settling any difference or dispute, the arbitrator must have regard to the requirements of Cadent for ensuring the safety, economic and efficient operation of Cadent's apparatus.

Notices

64. The plans submitted to Cadent by the undertaker pursuant to sub-paragraph 57(1) must be sent to Cadent Gas Limited Plant Protection by e-mail to plantprotection@cadentgas.com copied by e-mail to landservices@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker.

PUBLIC GENERAL LEGISLATION

Hedgerow Regulations 1997

1. For the purposes of regulation 6(1) of the Hedgerow Regulations 1997^(a), the removal of any hedgerow to which those regulations apply is permitted if it is required for the purposes set out in article 47 (felling or lopping) of this Order.

Local Government (Miscellaneous Provisions) Act 1976

2. Section 42 of the Local Government (Miscellaneous Provisions) Act 1976^(b) (certain future local Acts etc. to be subject to the planning enactments etc. except as otherwise provided) will not apply to the extent that it would make provisions of this Order authorising the authorised development subject to other provisions.

Neighbourhood Planning Act 2017

3. The provisions of the Neighbourhood Planning Act 2017^(c) in so far as they relate to temporary possession of land under articles 25 (temporary use of land by National Grid), 26 (temporary use of land by UKPN) and 27 (temporary use of land for maintaining the authorised development) of this Order will not apply.

Building Act 1984

4. Nothing in Part 1 of the Building Act 1984^(d) with respect to building regulations, and nothing in any building regulations, will apply in relation to a building used, altered or demolished, or intended for use, alteration, or demolition, by the undertaker for the purposes of the authorised development before completion of construction.

(a) S.I. 1997/1160
(b) 1976 c. 57
(c) 2017 c. 20
(d) 1984 c. 55

SCHEDULE 16

Article 55

AMENDMENT OF LOCAL LEGISLATION

Local Enactments

Year	Chapter	Title	Section
1846	liii	Eastern Union and Hadleigh Junction Railway Act	All
1847	xix	Eastern Union and Hadleigh Junction Railway Sale Act	All

SCHEDULE 17

Article 56

CERTIFIED DOCUMENTS

(1) Document Title	(2) Document Reference
Access, Rights of Way and Public Rights of Navigation Plans	2.7
Land Plans	2.3 (C)
Special Category Land Plans	2.4
Traffic Regulation Order Plans	2.6
Trees and Hedgerows to be Removed or Managed Plans	2.9 (B)
Work Plans	2.5
Book of Reference	4.3 (F)
Environmental Statement (together with any supplemental or additional environmental information)	6.1 to 6.4 (inclusive)
Outline Construction Environmental Management Plan	7.5 (E), 7.5.1 (D) and 7.5.2 (F)
Outline Construction Traffic Management Plan	7.6 (D)
Outline Materials and Waste Management Plan	7.7 (B)
Outline Landscape and Ecological Management Plan	7.8 (D), 7.8.1 (C), 7.8.2 (D) and 7.8.3 (C)
Archaeological Framework Strategy	7.9
Outline Written Scheme of Investigation	7.10 (D)
Outline Public Right of Way Management Plan	8.5.8 (B)
Errata List	8.4.3 (C)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent to National Grid Electricity Transmission plc (“National Grid”) for authorised works to the national electricity transmission network between Bramford Substation in Suffolk and Twinstead Tee in Essex. The proposed development is required to reinforce the existing electricity transmission network in East Anglia, and to carry out all associated works.

In order to accommodate these works, this Order also grants development consent to UK Power Networks Holdings Limited and/or its affiliate, Eastern Power Networks plc (“UKPN”), in addition to National Grid, for the reconfiguration of the local electricity distribution network.

The Order also makes provision in connection with the maintenance of the authorised development.

The Order allows National Grid to acquire compulsorily or by agreement, land and rights in land and to use land for this purpose and for UKPN to acquire compulsorily or by agreement, land and rights in land and to use the land in connection with the reconfiguration of the local electricity distribution network.

A copy of the plans and Book of Reference referred to in this Order and certified in accordance with article 56 of this Order may be inspected free of charge during working hours at the offices of National Grid Electricity Transmission plc, 1-3 Strand, London, WC2N 5EH.