




F I V E 
ESTUARIES
OFFSHORE WIND FARM

FIVE ESTUARIES
OFFSHORE WIND FARM
PRELIMINARY ENVIRONMENTAL
INFORMATION REPORT

VOLUME 1, CHAPTER 2: POLICY &
LEGISLATION

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CONTENTS

2	Policy & legislation	7
2.1	Introduction.....	7
2.2	Planning and EIA legislation	7
	The Planning Act 2008	7
	The Infrastructure Planning (Decisions) REgulations 2010	8
	The Development Consent Order.....	8
	Marine and Coastal Access Act 2009.....	9
	Marine licencing	10
	The Environmental Impact Assessment process.....	10
	Habitats Regulations Assessment.....	11
	Wildlife and Countryside Act 1981.....	13
	Countryside and Rights Of Way (CROW) Act 2000	14
	Natural Environment and Rural Communities Act 2006 (Nerc)	14
	The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017	14
	Marine Strategy Framework Directive	14
	The Environment Act 1995.....	15
	The Environment Act 2021	15
	Biodiversity Net Gain.....	15
	Environmental Permitting (England and Wales) Regulations 2016	16
2.3	International conventions.....	16
	The Ramsar Convention	16
	The OSPAR Convention	16
	The Convention on Biological Diversity	16
	The Espoo Convention.....	17
	United Nations Framework Convention on Climate Change	17
2.4	UK energy policy and the role of renewable energy	18
	National Policy Statements	18
	The Climate Change Act 2008	18
	The Energy Act 2013.....	19
	Clean Growth Strategy	20
	The Ten Point Plan for a Green Industrial Revolution	20
	Offshore Transmission Network Review	20
	Net Zero Strategy: Build Back Greener	21
	Energy white paper: powering our net zero future.....	21



British Energy Security Strategy.....	21
2.5 Other Relevant policy	22
National Planning Policy Framework.....	22
Local policy.....	22
UK Marine Policy Statement and marine plans	23
2.6 References	24

TABLES

Table 2.1 – The Six UK Carbon Budgets (CCC, 2020).....	19
--	----

FIGURES

Figure 2.1 – DCO Application Process	9
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DEFINITION OF ACRONYMS

Term	Definition
BEIS	Department for Business Energy and Industrial Strategy
CBD	Convention on Biological Diversity
CCUS	Carbon Capture Usage and Storage
CfD	Contracts for Difference
CRoW	Countryside and Right of Way Act
DCO	Development Consent Order
DECC	Department of Energy and Climate Change
DEFRA	Department for Environment, Food and Rural Affairs
DPD	Development Plan Documents
EIA	Environmental Impact Assessment
EMR	Electricity Market Reform
EPS	European Protected Species
ExA	Examining Authority
GES	Good Environmental Status
HRA	Habitats Regulations Assessment
IPC	Infrastructure Planning Commission
LCCC	Low Carbon Contracts Company
LDFs	Local Development Frameworks
MCAA	Marine Coastal Access Act
MCZs	Marine Conservation Zones
MMO	Marine Management Organisation
MPA	Marine Protected Area
MPS	Marine Policy Statement
MSFD	Marine Strategy Framework Directive
NERC	Natural Environment and Rural Communities
NNRs	National Nature Reserves
NPS	National Policy Statements
NSIPs	Nationally Significant Infrastructure Projects
OEP	Office for Environmental Protection
OSPAR	Oslo Paris Convention



Term	Definition
OTNR	Offshore Transmission Network Review
PEIR	Preliminary Environmental Information Report
PINS	Planning Inspectorate
RIAA	Report to Inform Appropriate Assessment
ROCs	Renewables Obligation Certificates
SACs	Special Areas of Conservation
SoS	Secretary of State
SPAs	Special Protection Areas
SSSIs	Sites of Special Scientific Interest
UN	United Nations
UNECE	United Nations Economic Commission for Europe
UNFCCC	United Nations Framework Conventions on Climate Change
VE	Five Estuaries Offshore Windfarm
WTG	Wind Turbine Generators



2 POLICY & LEGISLATION

2.1 INTRODUCTION

- 2.1.1 This chapter of the Preliminary Environmental Information Report (PEIR) has been prepared by GoBe Consultants Ltd and presents an overview of the international, national, regional, and local planning policy context which is relevant to the development of offshore windfarms and their associated offshore and onshore infrastructure, with specific relevance to the Five Estuaries Offshore Windfarm (hereafter to referred to as VE).
- 2.1.2 VE is a proposed extension to the original Galloper Offshore Windfarm and will be located approximately 30 km off the coast of Suffolk, England. The VE's wind turbine generators (WTGs) will be situated within two array areas to the east of the original Galloper Offshore Windfarm.
- 2.1.3 The legislation and national and local policy relevant to each PEIR topic chapter is also outlined and addressed in each topic chapter.

2.2 PLANNING AND EIA LEGISLATION

THE PLANNING ACT 2008

- 2.2.1 The Planning Act 2008 (as amended)¹ is the primary legislation that established the legal framework for applying for, examining, and determining applications for Nationally Significant Infrastructure Projects (NSIPs) taking into account the guidance in National Policy Statements (NPS) (Section 2.4.1).
- 2.2.2 The Planning Act 2008 introduced three major changes to the planning procedure for large scale infrastructure projects:
- > The establishment of the Infrastructure Planning Commission (IPC). The IPC has since been abolished, which then made the Planning Inspectorate (PINS) the executive agency responsible for the NSIP planning process, with the applications being determined by the relevant Secretary of State (SoS).
 - > Applicants must apply for a Development Consent Order (DCO), which consolidates a number of previously separate consents.
 - > Applications made are in accordance with the policy framework provided in the NPSs, taking into account of representations made during the examination process.
- 2.2.3 The Planning Act 2008 sets out thresholds above which certain types of infrastructure development are nationally significant and therefore require a DCO. For offshore energy developments in England (including offshore wind) the threshold is a generating capacity of over 100 MW. VE will have a generating capacity of over 100 MW and is therefore classed as an NSIP.
- 2.2.4 NSIPs consented with a DCO are not required to seek separately:
- > Planning permission under the Town and Country Planning Act 1990;
 - > Listed building and conservation area consent under the Planning (Listed Buildings and Conservation Areas) Act 1990; or

¹ [Planning Act 2008 \(legislation.gov.uk\)](https://www.legislation.gov.uk)



- > Scheduled monuments consent under the Ancient Monuments and Archaeological Areas Act 1979.

2.2.5 The list above is not exhaustive and is an example of the type of consents that are not separately required.

THE INFRASTRUCTURE PLANNING (DECISIONS) REGULATIONS 2010

2.2.6 These Regulations² are made under the Planning Act 2008 as outlined above in Section 2.2.1 which created a new system to deal with development consent for NSIPs. It means that where development consent is required, there will be no need for certain other consents to be obtained, such as planning permission or consent under the Electricity Act 1989 for example.

THE DEVELOPMENT CONSENT ORDER

2.2.7 The key stages in the DCO application process, from pre-application through to post decision, along with the timescales associated with each key stage, are illustrated in Figure 2.1.

² [The Infrastructure Planning \(Decisions\) Regulations 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

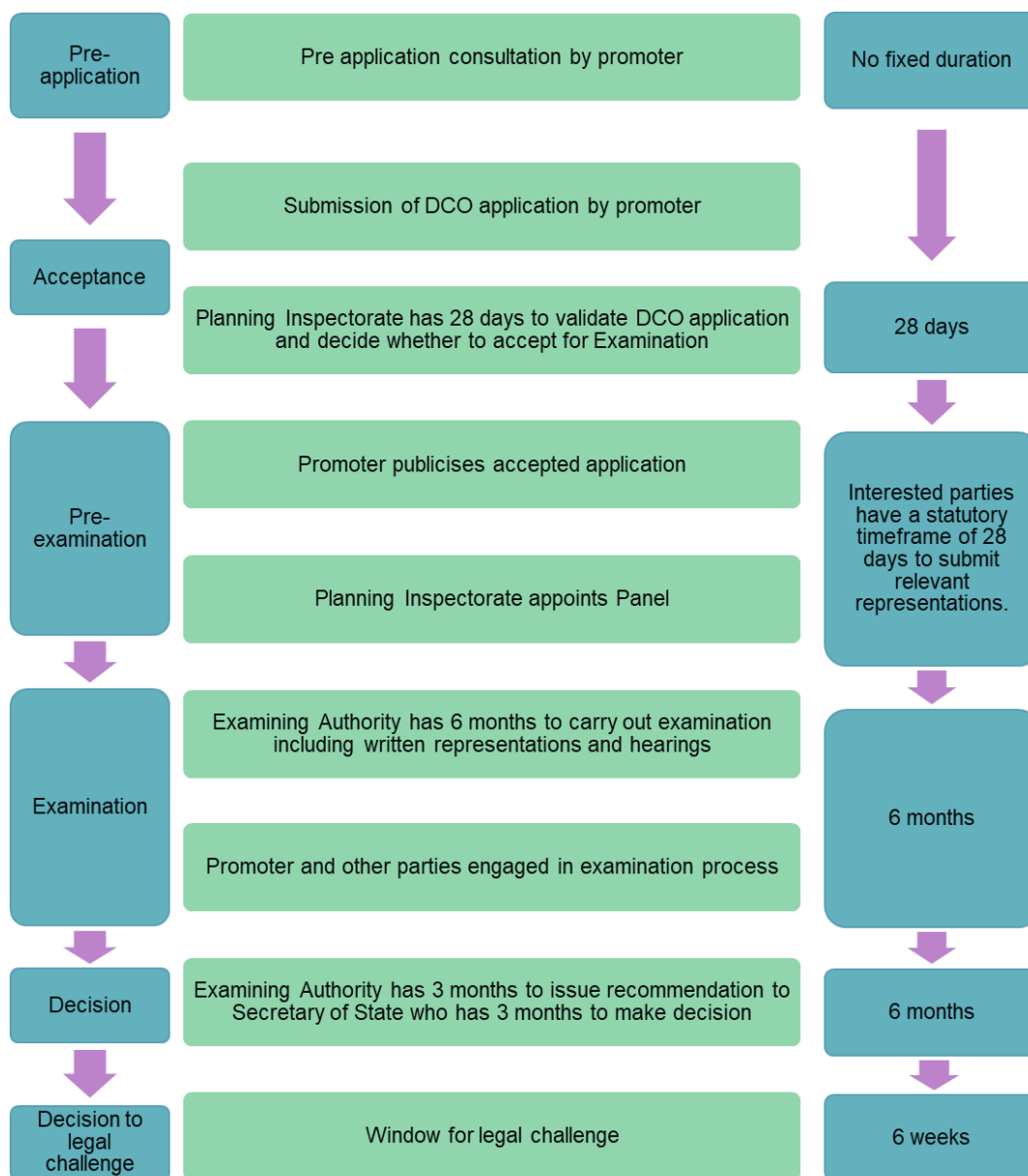


Figure 2.1 – DCO Application Process

MARINE AND COASTAL ACCESS ACT 2009

2.2.8 The Marine and Coastal Access Act³ (MCAA) received Royal Assent on 12 November 2009. It introduced new planning and management systems for overseeing the marine environment, most notably through the requirement to obtain marine licences for works at sea (including the deposition or removal of any substance or object from the sea below Mean High Water). It created a strategic marine planning system that seeks to promote the efficient, sustainable use and protection of the marine environment, guided by the Marine Policy Statement (MPS) and a series of Marine Plans.

³ [Marine and Coastal Access Act 2009 \(legislation.gov.uk\)](http://legislation.gov.uk)



- 2.2.9 The Marine and Coastal Access Act 2009 provides the framework for a marine licencing system, which is administered by the Marine Management Organisation (MMO), a statutory consultee within the DCO application process. The Marine and Coastal Access Act 2009 also amended certain provisions of the Planning Act 2008.
- 2.2.10 The Marine and Coastal Access Act 2009 also enabled the designation of Marine Conservation Zones (MCZs). MCZs are a type of Marine Protected Area (MPA) which seek to protect a range of nationally important marine wildlife, habitats, geology and geomorphology. A MCZ assessment will be undertaken as part of the DCO application, found in Volume 7, Report 8: MCZ Assessment.

MARINE LICENCING

- 2.2.11 Licensable marine activities of relevance to VE include constructing and maintenance works in the sea or on the seabed and the deposition of any substance or object in the sea or on or under the seabed (such as the disposal of dredged material).
- 2.2.12 The VE DCO will include a Deemed Marine License(s), which will include powers to undertake marine works.
- 2.2.13 The potential effects on the marine environment from the application will be assessed in accordance with the UK Marine Policy Statement (MPS), the Marine and Coastal Access Act 2009 and East offshore, the East inshore and the South East Inshore marine plans and policies, see Section 2.5.9. A marine licence is required under the Marine and Coastal Access Act 2009 before carrying out any licensable marine activity. The marine licence for VE will be deemed within the DCO through provisions in Section 149A of the Planning Act 2008.

THE ENVIRONMENTAL IMPACT ASSESSMENT PROCESS

- 2.2.14 EIA is a tool for systematically examining and assessing the impacts of a development on the physical, biological, and human environment. This process allows management and mitigation measures to be identified to ensure the development is sustainable.
- 2.2.15 The legislative framework for EIA was provided by European Council Directive 2014/52/EU⁴ (the 'EIA Directive') which codified the earlier Directives 85/337/EEC, 97/11/EC and 2009/31/EC. The EIA Directive 2014/52/EU was transposed into English law for NSIPs by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) and for works in the marine environment, The Marine Works (Environmental Impact Assessment) Regulations 2007 (for projects requiring marine licence under the MCAA). Note that these were amended by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017.
- 2.2.16 These came into force on 16 May 2017 and are the relevant EIA regulations for VE. Key requirements which are of note in the 2017 EIA Regulations relate to:
- > A requirement to provide a description of the likely significant effects of the development on the environment resulting from impacts on climate change, risks to human health and use of natural resources;

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0052>



- > Ensuring EIA quality by requiring that those who undertake the work are competent experts;
- > More detailed demonstration of the consideration of reasonable alternatives to the proposed project; and
- > Further consideration of how to avoid, prevent, reduce and / or offset significant adverse effects where possible and develop monitoring strategies.

2.2.17 It should be noted that the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018⁵ made under the European Union (Withdrawal) Act 2018 (as amended), made the necessary changes to domestic legislation which governs EIA as a result of the UK leaving the EU, and ensures that the 2017 EIA Regulations continue to apply in substantially the same way as they did before the UK's departure from the EU.

2.2.18 The purpose of the EIA Regulations is to ensure that when an authority giving consent for a particular development makes its decision, it does so in the knowledge of any likely significant effects on the environment. The EIA Regulations set out a procedure that must be followed for certain types of development before they can be granted consent. An EIA provides for the systematic assessment of a project's likely significant environmental effects for consideration by both the public and the relevant determining body before a consent decision is made.

2.2.19 The PEIR for VE has been prepared in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 as relevant to NSIPs, and the Marine Works (Environmental Impact Assessment) Regulations 2007 as relevant to marine licensing in English waters.

HABITATS REGULATIONS ASSESSMENT

2.2.20 European Council Directive 92/43/EEC⁶ on the conservation of natural habitats and of wild fauna and flora ('the Habitats Directive') was intended to protect biodiversity by requiring EU member states to take measures to maintain and restore natural habitats and wild species listed at a Favourable Conservation Status. In England and Wales, the Habitats Directive is implemented under the Conservation of Habitats and Species Regulations 2017⁷ and the Offshore Marine Conservation (Natural Habitats, & c.) Regulations 2017⁸.

2.2.21 The provisions of the European Council Directive 2009/147/EC on the conservation of wild birds (known as 'the Birds Directive') are implemented through the Wildlife and Countryside Act 1981⁹, the Habitats Regulations and the Conservation of Offshore Marine Conservation (Natural Habitats & c.) Regulations 2017, as well as other legislation related to the uses of land and sea.

⁵ <https://www.legislation.gov.uk/ukxi/2018/1232/contents/made>

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0147>

⁷ <https://www.legislation.gov.uk/ukxi/2017/1012/regulation/14/made>

⁸ <https://www.legislation.gov.uk/ukxi/2017/1013/schedule/4>

⁹ <https://www.legislation.gov.uk/ukpga/1981/69/contents>



- 2.2.22 Under these Regulations a network of protected areas (the National Site Network) in the UK has been established. The sites were formerly known as Natura 2000 sites prior to the UK's departure from the EU. The National Site Network includes Special Areas of Conservation (SACs), for habitats and species, and Special Protection Areas (SPAs), for birds. The Habitats Regulations require that, where the possibility of an adverse effect on integrity on a National Site Network site cannot be excluded (either alone or in-combination with another plan or project), a competent authority must undertake an Appropriate Assessment as part of the Habitats Regulations Assessment (HRA) process. The Habitats Regulations state that it is the developer's responsibility to provide sufficient information to the competent authority to enable them to assess whether there are likely to be any adverse effects on integrity and to enable them to carry out the appropriate assessment, where necessary.
- 2.2.23 Regarding the UK's departure from the EU, the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019¹⁰ mean that the HRA process under the Habitats Regulations continues to apply in substantially the same way as it did before the UK's departure from the EU.
- 2.2.24 The HRA is not formally a part of the EIA process. However, the two are intrinsically linked and much of the baseline characterisation information, as well as the impact assessment itself, are common to both processes. During the scoping stage, VE submitted a HRA screening report for consultation with relevant stakeholders. Further assessment will be undertaken in the form of a Report to Inform Appropriate Assessment (RIAA). A draft version will be included with the PEIR and will be further progressed and submitted with the DCO application. The RIAA will provide sufficient information to enable the competent authority, i.e., the SoS, to carry out an Appropriate Assessment should it determine that one is required. If the competent authority determines that adverse effect on integrity is likely to occur, then a derogation on a proposal may take place. There are three legal tests to determine if a proposal qualifies for a derogation, in the following order:
- > There are no feasible alternative solutions that would be less damaging or avoid damage to the site.
 - > The proposal needs to be carried out for imperative reasons of overriding public interest.
 - > The necessary compensatory measures can be secured.
- 2.2.25 In January 2023, BEIS in collaboration with Defra released a policy statement¹¹ highlighting the measures the government intends to take through the Offshore Wind Environmental Improvement Package. Some of these measures will require primary legislation via government amendments to the Energy Bill, currently going through parliament.

¹⁰ <https://www.legislation.gov.uk/ukdsi/2019/9780111176573>

¹¹ [Policy Statement Offshore Wind Environmental Improvement Package Measures \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)



- 2.2.26 Some of these measures will change how compensatory measures will be taken or secured. A more strategic approach is proposed to be taken, where the government intends to agree a list of approved compensatory measures and to consider a broader approach than the current “like for like” requirement. The aim of this is to reduce the time in which compensatory measures can be identified, reducing delays in the granting of consents. Additionally, a Marine Recovery Fund will be established which will allow developers / projects to make payments toward, to deliver measures to compensate for the adverse environmental effects of one or more offshore wind projects. Defra in July 2021, also released best practice guidance¹² for developing compensatory measures in relation to Marine Protected Areas (MPAs), which is intended to assist relevant authorities when considering the specific issue of when and how compensatory measures should be considered for development that may impact on a MPA.
- 2.2.27 The Habitats Regulations also provide protection for certain species of plants and animals, referred to as European Protected Species (EPS), and their breeding sites or resting places. The Habitats Regulations set out the activities that are prohibited, such as deliberate disturbance or creating damage to a breeding site. The Habitats Regulations also provide for licences to be granted for certain operations, such as proposed developments that may affect EPS, subject to:
- > There being no satisfactory alternative; and
 - > The action authorised not being detrimental to the maintenance of the population of the range of species concerned at FCS in their natural range.
- 2.2.28 If disturbance cannot be avoided, then an application for an EPS licence is required to be made to the relevant authority, in a separate process to the DCO and marine licensing regimes.

WILDLIFE AND COUNTRYSIDE ACT 1981

- 2.2.29 The Wildlife and Countryside Act 1981¹³ enables the designation of Sites of Special Scientific Interest (SSSIs) to provide statutory protection of the best examples of flora, fauna, geological and physio-geological features. SSSI legislation applies to areas of the terrestrial and intertidal environment only and does not extend offshore. Natural England has overall responsibility for the management of the SSSI network in England. The Wildlife and Countryside Act also enables Statutory Nature Conservation Bodies to declare sites which are considered to be of national importance as National Nature Reserves (NNRs).
- 2.2.30 The Wildlife and Countryside Act defines a series of offences which are intended to provide protection to wild birds, including their eggs and nests, certain animal, and plant species, and to prohibit the intentional introduction and spread of invasive non-native species.

¹² [Best practice guidance for developing compensatory measures in relation to Marine Protected Areas \(defra.gov.uk\)](https://www.defra.gov.uk)

¹³ [Wildlife and Countryside Act 1981 \(legislation.gov.uk\)](https://www.legislation.gov.uk)



COUNTRYSIDE AND RIGHTS OF WAY (CROW) ACT 2000

- 2.2.31 The Countryside and Rights of Way (CRoW) Act 2000¹⁴ introduced improved provisions for the protection and management of SSSIs. It also implemented the so called “right to roam” on certain upland and uncultivated areas of England and Wales in addition to a staged review of public rights of way conducted under the act.
- 2.2.32 Improved provisions for the protection and management of SSSIs were also introduced by Countryside and Rights of Way (CRoW) Act 2000.

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006 (NERC)

- 2.2.33 Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006¹⁵ requires the relevant SoS to compile a list of habitats and species of principal importance for the conservation of biodiversity in England. Decision makers of public bodies, in the execution of their duties, must have regard for the conservation of biodiversity in England, and the list is intended to guide them.

THE WATER ENVIRONMENT (WATER FRAMEWORK DIRECTIVE) (ENGLAND AND WALES) REGULATIONS 2017

- 2.2.34 The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017¹⁶ transposes the requirements of the Water Framework Directive 2000/60/EC¹⁷ into English and Welsh law, setting out a series of objectives for waterbodies and groundwaters. The Flood and Water (Amendments) (England and Wales) (EU Exit) Regulations 2019¹⁸ and the Environment (Amendment etc.) (EU Exit) Regulations 2019¹⁹ ensures that the water regime continues to operate effectively as it did before the UK’s departure from the EU. Thus, the Water Environment (Water Framework Directive) Regulations 2017 include improving the water environment to achieve good or high status, maintaining existing good or high status, and implementing mitigation to support the water environment at a catchment and waterbody scale. New modifications have to be assessed in line with the legislation and the waterbody objectives.

MARINE STRATEGY FRAMEWORK DIRECTIVE

- 2.2.35 The Marine Strategy Framework Directive (MSFD) (Directive 2008/56/EC) aims to establish a framework within which Member States will take measures to maintain or achieve ‘good environmental status’ (GES) in the marine environment by 2020 and to protect the resource base upon which marine-related economic and social activities depend. It enshrines an ecosystem approach to the management of human activities, which have an impact on the marine environment, within its legislative framework and integrates the concepts of environmental protection and sustainable use.

¹⁴ [Countryside and Rights of Way Act 2000 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

¹⁵ [Natural Environment and Rural Communities Act 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

¹⁶ <https://www.legislation.gov.uk/ukxi/2017/407/contents/made>

¹⁷ <https://www.legislation.gov.uk/eudr/2000/60/contents>

¹⁸ <https://www.legislation.gov.uk/wsi/2019/460/contents>

¹⁹ <https://www.legislation.gov.uk/ukdsi/2019/9780111176276/contents>



2.2.36 THE MSFD is transposed into UK law by the Marine Strategy Regulations (2010)²⁰, which require the production of a “Marine Strategy” for all UK waters. The objective of the UK Marine Strategy reflects the UK’s vision for ‘clean, healthy, safe, productive and biologically diverse oceans and seas.’

THE ENVIRONMENT ACT 1995

2.2.37 The Environment Act 1995²¹ provided for the establishment of a number of government agencies, including the Environment Agency, The Scottish Environment Protection Agency and the National Park Authorities. The Act also brought in requirements for the governments to prepare strategies on air quality, national waste, and hedgerow protection.

THE ENVIRONMENT ACT 2021

2.2.38 The Environment Act²² 2021 operates as the UKs framework of environmental protection and aims to improve air and water quality, biodiversity and waste reduction. Through the Environment Act, the Office for Environmental Protection (OEP) was established. The aim of the OEP is to protect and improve the environment by holding government and other public authorities to account.

BIODIVERSITY NET GAIN

2.2.39 Biodiversity net gain (BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand.

2.2.40 Under the Environment Act 2021, all planning permissions granted in England will have to deliver at least 10% biodiversity net gain from (currently) November 2023. BNG will be measured using the current Defra biodiversity metric and habitats will need to be secured for up to 30 years. Additionally, BNG can be delivered on site, off site or via a new statutory biodiversity credits scheme and any sites will need to be registered on a national register of net gain delivery sites. These options are currently under review by the applicant.

2.2.41 It does not change existing legal protections for important habitats and wildlife species. It maintains the mitigation hierarchy of avoid, then mitigate and compensate if necessary. It is expected to apply to Nationally Significant Infrastructure Projects (NSIPs) from November 2025, but this does not include works below MHWS associated with NSIPs. However, a Defra consultation on marine net gain has just been completed.

²⁰ [The Marine Strategy Regulations 2010 \(legislation.gov.uk\)](#)

²¹ [Environment Act 1995 \(legislation.gov.uk\)](#)

²² [Environment Act 2021 \(legislation.gov.uk\)](#)



ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2016

2.2.42 These regulations seek to ensure that the authorised activities and their discharges do not endanger the environment or human health. In England, Environmental Permits are granted by The Environment Agency and combine the requirements for an integrated waste management approach and hazardous waste management. Environmental Permits cover activities relevant to VE such as water discharges during onshore construction and associated dewatering, and each permit issued by The Environment Agency would typically contain a series of conditions to be complied with.

2.3 INTERNATIONAL CONVENTIONS

THE RAMSAR CONVENTION

2.3.1 Ramsar Sites are designated under the Convention on Wetlands of International Importance (the 'Ramsar Convention'), agreed in Ramsar, Iran in 1971 and ratified by the UK in 1976. The criteria for assessing a site for designation as a Ramsar site include whether or not the wetland supports 20,000 water birds and/or supports 1% of the individuals in a population of one species or subspecies of water bird. UK Government policy affords the same protection to Ramsar sites as sites designated under the National Site Network of SPAs and SACs.

THE OSPAR CONVENTION

2.3.2 The Convention for the Protection of the Marine Environment of the north-east Atlantic was signed at the ministerial meeting of the Oslo and Paris commissions in 1992 (hence the name 'OSPAR'). The OSPAR Convention is an international co-operation to protect the marine environment of the north-east Atlantic. A key part of the convention's biodiversity strategy is to establish a network of MPAs. The UK currently has a number of MPA designations, including SACs, SPAs and MCZs, many of which also meet the OSPAR selection criteria.

THE CONVENTION ON BIOLOGICAL DIVERSITY

2.3.3 The Convention on Biological Diversity (CBD) is a legally binding treaty, which came into force on December 1993 with 168 signatories (including the UK), and has three main objectives:

- > The conservation of biological diversity;
- > The sustainable use of the components of biological diversity; and
- > The fair and equitable sharing of the benefits arising out of the utilisation of genetic resources.

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

2.3.5 A number of major United Nation (UN) and EU initiatives are aimed at making a contribution towards meeting the objectives of the CBD, including the Bern and Bonn Conventions and the establishment of the Natura 2000 site network across Europe.



THE ESPOO CONVENTION

- 2.3.6 The UN Economic Commission for Europe (UNECE) convention held in 1991 in the Finnish city of Espoo (the 'Espoo Convention') sets out the obligations of states to notify and consult each other on all major projects under consideration that have the potential to have significant adverse effects across international boundaries (transboundary effects).
- 2.3.7 The Espoo Convention has been transposed into UK legislation by the EIA Regulations (Section 2.2.14). In addition, PINS Advice Note 12: Transboundary Impacts and Processes sets out the procedures for consultation in association with a DCO application where such a development may have significant transboundary effects.

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

- 2.3.8 The United Nations Framework Conventions on Climate Change (UNFCCC) is a key international agreement which underpins a lot of the UK's legislation relating to climate change and renewable energy. THE UNFCCC commits its parties to limiting and reducing greenhouse gas emissions and is put into operation via the Kyoto Protocol, which was adopted in 1997 by 192 parties. The Kyoto Protocol was ratified by the UK in 2002, came into effect in 2005 and its commitments were transposed into UK law by the Climate Change Act 2008.
- 2.3.9 A number of regular international meetings of the UNFCCC have taken place since 1997, commonly known as COP meetings, resulting in several important and binding agreements.
- 2.3.10 Some of the most important and binding agreements have included the:
- > The Copenhagen Accord (COP15) (2009) – A new political accord was agreed which provided for explicit emission pledges by all major economies, including, for the first time, China and other major developing countries.
 - > The Doha Amendment (COP18) (2012) – This included a commitment by parties to reduce greenhouse gas emissions by at least 18% compared to 1990 levels in the period from 2013 to 2020. Under this second commitment period of the Kyoto Protocol, the EU committed to reduce emissions by 20% compared to 1990 levels by 2020, with the option to increase this to 30%.
 - > The Paris Agreement (COP21) (2015) – The key action from the Paris agreement was to limit global temperatures to below 2 degrees Celsius, whilst pursuing efforts to limit the increase to 1.5 degrees Celsius above the pre-industrial average temperature.
- 2.3.11 COP26 was held in Glasgow in November 2021, key achievements included securing net zero commitments with new 2030 emission targets and strengthened climate commitments.
- 2.3.12 More recently, COP27 was held in Sharm el Sheikh, Egypt, the key achievement here was to establish and operationalise a loss and damage fund. The fund aims to provide financial assistance to nations most vulnerable and impacted by the effects of climate change. Additionally, new decisions were made to strengthen the functioning of initial rules on the Article 6 Rulebook that was produced at COP26.



2.4 UK ENERGY POLICY AND THE ROLE OF RENEWABLE ENERGY

NATIONAL POLICY STATEMENTS

- 2.4.1 The National Policy Statements (NPSs) set out national policy against which proposals for major infrastructure projects will be assessed. Planning decisions will be taken within the clear policy framework set out in the NPSs thus, the decision-making process is transparent. The Examining Authority (ExA) will have regard to NPSs in its examination of applications for development consent, and the relevant SoS must also have regard to them when making decisions.
- 2.4.2 The NPSs of relevance to the proposed development, all designated in July 2011, comprise:
- > EN-1 Overarching NPS for Energy²³ – Provides the primary basis for decisions on applications for nationally significant energy infrastructure. EN-1 sets out national policy for energy infrastructure and has the effect, in combination with the relevant technology specific NPSs, of providing the primary basis for decision making under the Planning Act 2008;
 - > EN-3 Renewable Energy²⁴ – Provides the primary basis for decisions on applications for renewable energy infrastructure, defined as energy from biomass and/ or waste (>50 MW), offshore wind (>100 MW) or onshore wind (>50 MW); and
 - > EN-5 Electricity Networks Infrastructure²⁵ – Provides the primary basis for decisions on applications for electricity networks infrastructure defined as above-ground electricity lines of 132 kV and above, or other infrastructure for electricity networks that is associated with an NSIP.
- 2.4.3 In line with the Energy White Paper, the NPSs are currently undergoing revision following consultation in late 2021. This document and the PEIR refer primarily to the extant NPSs, as these remain the primary policy tests of relevance. The draft NPSs are however referred to when relevant throughout the application and considered in full where differences exist between the different versions, thereby future proofing the PEIR as far as is practicable.

THE CLIMATE CHANGE ACT 2008

- 2.4.4 The Climate Change Act 2008²⁶ commits the UK to a net reduction in greenhouse gas emissions against the 1990 baseline by 2050. This is implemented through a system of carbon budgets, which are set by the Government for a period of five years each that will run until 2032 to restrict the amount of emissions they legally emit within each five year period. More recently, the Climate Change Act 2008 (2050 Target Amendment) Order 2019 amended the Climate Change Act 2008, to enshrine in law a more challenging commitment that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline.

²³ [1938-overarching-nps-for-energy-en1.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/93819/1938-overarching-nps-for-energy-en1.pdf)

²⁴ [1940-nps-renewable-energy-en3.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/93820/1940-nps-renewable-energy-en3.pdf)

²⁵ [1942-national-policy-statement-electricity-networks.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/93821/1942-national-policy-statement-electricity-networks.pdf)

²⁶ <https://www.legislation.gov.uk/ukpga/2008/27/contents>



Table 2.1 – The Six UK Carbon Budgets (CCC, 2020)

Budget	Reduction Below 1990 Levels
1st Carbon Budget (2008 to 2012)	25%
2 nd Carbon Budget (2013 to 2017)	31%
3 rd Carbon Budget (2018 to 2022)	37%
4 th Carbon Budget (2023 to 2027)	51% by 2025
5 th Carbon Budget (2028 to 2032)	57% by 2030
6 th Carbon Budget (2033 to 2037)	78 % by 2035

- 2.4.5 The Climate Change Act 2008 also established the Committee on Climate Change. The Committee on Climate Change advises the UK and devolved administration governments on setting and meeting the carbon budgets, and on preparing for climate change. The carbon budgets set by the Committee on Climate Change provide a legally binding five-year limit for greenhouse gas emissions in the UK. The six Carbon Budgets that have been placed into legislation will run up to 2037 (CCC, 202), see Table 2.1.
- 2.4.6 With regards to renewable energy, in May 2011, the Committee published the Renewable Energy Review, which sets out a detailed vision of the role of renewable energy in meeting longer term emissions targets. The Renewable Energy Review concludes that the development of renewable energy is a potentially significant contributor to delivering decarbonisation of the power sector by 2030 at reasonable cost. It also underlined that firm commitments of support for offshore wind and marine generation through to the 2020s should be made.

THE ENERGY ACT 2013

- 2.4.7 The Energy Act 2013²⁷ received Royal Assent on 18 December 2013. The Energy Act 2013 makes provisions to incentivise investment in low carbon electricity generation, ensure security of supply, and help the UK meet its emissions reduction and renewables targets. In particular, the Energy Act 2013 contains provisions from then Department of Energy and Climate Change (DECC) (now the Department for Business Energy and Industrial Strategy (BEIS)) for Electricity Market Reform (EMR).
- 2.4.8 The EMR set out the framework for replacing Renewables Obligation Certificates (ROCs) with Contracts for Difference (CfD) to provide stable financial incentives to encourage investment in low carbon electricity generation. CfDs are private contracts between a low carbon electricity generator and the UK Government owned Low Carbon Contracts Company (LCCC). Under a CfD, the electricity generating party is paid the difference between the strike price (the price for electricity reflecting the cost of investment in low carbon technology) and the reference price (a measure of the average market price for electricity in the Great Britain market).

²⁷ [Energy Act 2013 \(legislation.gov.uk\)](https://www.legislation.gov.uk)



2.4.9 The aim of CfDs is to give greater certainty and stability of revenues to electricity generators by reducing exposure to volatile wholesale prices, whilst at the same time protecting the consumer from paying for higher generation support costs when electricity prices are high. The first CfD allocation round was held in 2014, with the latest allocation, round 5, to be held in March 2023. In February 2022, a number of changes were made to the allocation rounds, including but not limited to holding allocation rounds annually and measures to strengthen Supply Chain Plans.

CLEAN GROWTH STRATEGY

2.4.10 The Clean Growth Strategy (2017)²⁸ promotes 'clean growth' as growing national income while cutting greenhouse gas emissions. Clean growth forms one of the four 'grand challenges' within the UK's Industry Strategy (2017). The UK has been one of the most successful countries in the developed world in growing its economy while reducing emissions. This success has been aided by the falling costs of many low carbon technologies including solar and offshore wind. The Strategy aims to promote further growth of offshore wind by holding auctions of CfDs, working with the industry to develop a Sector Deal for offshore wind, and to provide further funding for innovation in offshore wind.

2.4.11 In October 2020, the UK Government announced further commitments to progress towards net zero emissions by 2050. These commitments included:

- > Boosting the target for offshore wind to 40 GW by 2030;
- > Creation of a target for 1 GW by 2030 from floating offshore windfarms; and
- > Increasing the capacity of renewable energy in the next round of CfDs.

THE TEN POINT PLAN FOR A GREEN INDUSTRIAL REVOLUTION

2.4.12 This plan²⁹ aims to encourage a green industrial revolution, creating investment in British industries whilst protecting future generations from climate change and the destruction of habitats. Point 1 in the plan is "Advancing Offshore Wind," with an aim to increase offshore wind capacity to 40 GW by 2030 (this has been increased further, see Section 2.4.17), including 1 GW of floating offshore wind.

OFFSHORE TRANSMISSION NETWORK REVIEW

2.4.13 Point 1 of The Ten Point Plan for A Green Industrial Revolution includes initiatives such as the Offshore Transmission Network Review (OTNR), which aims to ensure that the transmission connections for offshore wind generation are delivered in the most appropriate way, considering the increased ambition for offshore wind to achieve net zero and the recent (2022) establishment of the British Energy Security Strategy (BESS).

²⁸ [Clean Growth Strategy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/clean-growth-strategy)

²⁹ [The ten point plan for a green industrial revolution - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/the-ten-point-plan-for-a-green-industrial-revolution)



2.4.14 The OTNR aims to deliver improvements in the way that offshore generation is connected to the onshore transmission network and facilitate a more supportive approach for multi-purpose interconnectors, that combine market-to-market interconnectors with offshore transmission. To achieve the objectives of the OTNR, there are four workstreams operating in parallel: Early Opportunities, Pathway to 2030 (PT2030), Multipurpose Interconnectors (MPIs) and Future Framework.

NET ZERO STRATEGY: BUILD BACK GREENER

2.4.15 The UK Government published its policy paper, Net Zero Strategy: Build Back Greener³⁰ in October 2021 and builds on the approach presented in the Ten Point Plan. The policy paper sets out policies and proposals to deliver commitments on carbon budgets, Nationally Determined Contribution (NDC) and ambition for a decarbonised economy by 2050. The policy paper is pursuant to Section 14 of the Climate Change Act 2008. However, in July 2022 the High Court ruled that this strategy is inadequate in order to meet legally binding carbon budgets and failed to include enough information about policies, breaching legal duties under the Climate Change Act 2008.

ENERGY WHITE PAPER: POWERING OUR NET ZERO FUTURE

2.4.16 Building on the Ten Point Plan and published in December 2020 the Energy White Paper³¹ provides further clarity on the UK governments policies and commitments to achieve net zero. This includes transforming energy (creating more renewable energy capacity, the deployment of Carbon Capture Usage and Storage (CCUS)), supporting a green recovery from COVID-19 and creating a fair deal for consumers with regards to energy usage.

BRITISH ENERGY SECURITY STRATEGY

2.4.17 Published in April 2022 in response to increasing global energy prices the UK government released the British Energy Security Strategy³² to accelerate energy production in the UK and provide greater energy independence. Again, this built upon many of the policies in the Ten Point Plan and the Energy White Paper. Targets associated with offshore wind were increased further, with an ambition to deliver 50 GW by 2030, including up to 5 GW of floating offshore wind. Additionally, there were also policies targeted at increasing energy efficiency in homes and helping consumers with energy bills.

³⁰ [Net Zero Strategy: Build Back Greener - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/net-zero-strategy)

³¹ [Energy white paper: Powering our net zero future - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/energy-white-paper)

³² [British energy security strategy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/british-energy-security-strategy)



2.5 OTHER RELEVANT POLICY

NATIONAL PLANNING POLICY FRAMEWORK

- 2.5.1 The National Planning Policy Framework (NPPF) was originally implemented in 2012 with the intent of making the planning system less complex and more accessible (Ministry of Housing, Communities and Local Government, 2019). The NPPF replaces the suite of Planning Policy Guidance Notes (PPGN) and Planning Policy Statements (PPS) which formerly provided national planning guidance to local planning authorities. A revised NPPF was published in February 2019 and updated in July 2021, setting out the UK Government's planning policies for England and how these are expected to be applied.
- 2.5.2 The NPPF does not contain specific policies for NSIPs (for which particular considerations apply, determined in accordance with the decision-making framework set out in the Planning Act 2008 and relevant NPSs) but is likely to be considered as a relevant matter.
- 2.5.3 The NPPF outlines a few core principles that cover protection and conservation of the natural and built environment, and the promotion of sustainable growth and development.
- 2.5.4 The NPPF is also supported by a collection of guidance, known as the Planning Practice Guidance. This guidance covers a range of policy areas and advises applicants on how to address them in any relevant planning applications.

LOCAL POLICY

- 2.5.5 Local authorities are required to prepare and maintain up to date Local Development Plans which set out their objectives for the use and land development within their jurisdiction, and general policies for implementation.
- 2.5.6 Prior to the Planning and Compulsory Purchase Act 2004, local planning policy was set out in a single document, the Local Plan. Local plans are now being replaced by Local Development Frameworks (LDFs) which comprise a suite of Development Plan Documents (DPD) including a Core Strategy DPD, Site Allocation DPD, Area Action Plans and a Proposals Map. For the majority of local planning authorities these documents are still in development, but some have been formally adopted such as Section 1 and 2 of the Tendring District Local Plan 2013-2033 and Essex County Council's 'Everyone's Essex' plan, which have been considered by the Applicant.
- 2.5.7 The onshore development area falls under the jurisdiction of Tendring District Council and Essex County Council. A Memorandum of Understanding (MoU) has been signed between these two councils to ensure Essex County Council and Tendring District Council's work is collaboratively aligned when dealing with the different stages of the application.
- 2.5.8 The local plans for VE have also been considered in the PEIR. A number of neighbouring local authorities have been consulted and their comments have been considered and incorporated within the PEIR, these include East Suffolk Council and Suffolk County Council.



UK MARINE POLICY STATEMENT AND MARINE PLANS

- 2.5.9 The UK Marine Policy Statement (MPS) was adopted in 2011 pursuant to the MCAA. The MPS is the framework for preparing marine plans and taking decisions affecting the marine environment. It aims to facilitate and support the formulation of marine plans, ensuring that marine resources are used in a sustainable way in line with a number of high-level marine objectives:
- > Promote sustainable economic development;
 - > Enable the UK's move towards a low-carbon economy, in order to mitigate the causes of climate change and ocean acidification and adapt to their effects;
 - > Ensure a sustainable marine environment that promotes healthy, functioning marine ecosystems and protects marine habitats, species and heritage assets; and
 - > Contribute to the societal benefits of the marine area, including the sustainable use of marine resources to address local social and economic issues.
- 2.5.10 Marine plans translate the MPS into detailed policy and guidance for particular areas, intended to inform and guide decisions on marine and coastal development by conserving and enhancing the environment, reducing costs and increasing certainty for developers, and boosting economic and employment benefits.

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