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16 December 2021

Dear Mr Goodchild,

**PLANNING ACT 2008  
APPLICATION FOR A NON-MATERIAL CHANGE TO THE HINKLEY POINT C (NUCLEAR  
GENERATING STATION) ORDER 2013**

1. I am directed by the Secretary of State for Business, Energy and Industrial Strategy (“the Secretary of State”) to advise you that consideration has been given to the application (“the Application”) which was made by NNB Generation Company (HPC) Limited (“the Applicant”) on 28 July 2020 for a change which is not material to the Hinkley Point C (Nuclear Generating Station) Order 2013 (“the Order”) under section 153 of, and Schedule 6 to, the Planning Act 2008 (“the 2008 Act”). This letter is the notification of the Secretary of State’s decision in accordance with regulation 8 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as amended) (“the 2011 Regulations”).
2. The original application for development consent under the Planning Act 2008 was granted development consent on 19 March 2013. Consent was granted for the construction and operation of a European Pressurised Reactor (“EPR”) nuclear power station with a generating capacity of 3260 megawatts (“MW”) and associated development (“the Development”) at Hinkley Point in Somerset. The 2013 Order was subject to correction by The Hinkley Point C (Nuclear Generating Station) (Correction) Order 2013 and subsequently amended by:
  - (a) The Hinkley Point C (Nuclear Generating Station) (Amendment) Order 2015 (“the 2015 Amendment Order”) - The 2015 Amendment made changes to service buildings in respect of limited new buildings and structures, to provide for the removal, repositioning and alteration to the dimensions of some buildings and structures, and other minor changes to facilitate safety and better design;

- (b) The Hinkley Point C (Nuclear Generating Station) (Amendment) Order 2017 (“the 2017 Amendment Order”) - The 2017 Amendment allowed for the consolidation of the two planned temporary offsite accommodation campuses into a single campus (named Bridgwater A), as well as the addition of photovoltaic panels and sports changing facilities to the campus; and
- (c) The Hinkley Point C (Nuclear Generating Station) (Amendment) Order 2018 (“the 2018 Amendment Order”) - The 2018 Amendment allowed for an alteration to the alignment of the sea wall and the erection of additional pipework along the underside of the temporary jetty to enable discharges of water from the Site as well as the redesign of and the change in size and location of a number of permanent buildings and structures.

References to the “2013 Order” hereafter are to the Hinkley Point C (Nuclear Generating Station) Order 2013 as amended by the 2015 Amendment Order, the 2017 Amendment Order, and the 2018 Amendment Order.

3. The Applicant is seeking consent for a change to the 2013 Order to allow amendments to the siting, layout and design of buildings and structures within the permanent development site:
- amendments to the description of the authorised development within Part 1 of Schedule 1 to the 2013 Order and the approved plans within Part 3 of Schedule 1 to the 2013 Order for the purposes of changing the siting, layout and design of buildings and structures within the Order limits;
  - amendments to Schedule 2 to the 2013 Order and other consequential amendments for the purposes of removing references to the permanent helipad which is no longer proposed; and
  - an amendment to Schedule 14 to the 2013 Order for the purpose of changing the procedure and fees payable to the local planning authority, Somerset West and Taunton Council, for the discharge of PW3 (Buildings and Structures) requirements by swapping them from the ‘major detailed requirement’ category into the ‘minor detailed requirement’ category in the 2013 Order (collectively the “Proposed Amendments”).

More specifically the Proposed Amendments are:

- **EDF Site Offices** – this building is no longer required, the facilities that were planned to be housed within it would now be moved into the Operational Service Centre building.
- **Emergency Response Store** – the Applicant is proposing to rename this building to the “Back-Up Emergency Equipment Store” and to move the location so that it is in close proximity to other emergency response buildings. The new location would avoid the building being located on a rock strata which does not provide the highest seismic qualification level required for a safety classified building.
- **Oil and Grease Storage and Oil Ancillary Building** – the location for this building currently authorised in the 2013 Order would conflict with the operation of the Heavy Lift Crane. This is due to the Heavy Lift Crane now being required to remain on site until a later stage of the construction phase. Subsequently, the Oil and Grease Storage and Oil Ancillary Building will be moved to the location previously occupied by the Emergency Response Store. As this building is not a safety classified building its siting requirements are less restrictive than the Emergency Response Store.
- **Auxiliary Administration Building** – this building is being renamed from the Auxiliary Administration Centre to the Auxiliary Administration Building. No changes to the function, layout or appearance are proposed.

- **Equipment Storage for Interim Spent Fuel Store** – this building has been removed from the proposed Site Layout Plan; this is a consequence of the Secretary of State’s determination on the 2018 Amendment Order.
- **Access Control Building for the Interim Spent Fuel Store and the Interim Spent Fuel Store** – these buildings’ function, location and name on the proposed Site Layout Plan remain as shown on the 2015 Amendment Order, in accordance with the Secretary of State’s decision on the 2018 Amendment Order.
- **Emergency Response Centre** – this building has been added to the Site Layout Plan, at a previously unoccupied location, and would provide additional capacity and functionality to the existing approved emergency facilities.
- **Emergency Response Energy Centre** - this building has been added to the Site Layout Plan, at a previously unoccupied location, and would contain the emergency diesel generators and fuel. This equipment was previously located within the Emergency Response Store but has been separated to reduce the associated fire risk.
- **Entry Relay Building** - this building has been removed from the proposed Site Layout Plan.
- **Off-Site Vehicle Search Area** – this building has been removed from the proposed Site Layout Plan and the Applicant has proposed that it be replaced by the Off-Site Delivery Checkpoint which has increased functionality and a larger footprint.
- **Off-Site Delivery Checkpoint** – this building has been added to the proposed Site Layout Plan. It would be located in the area previously occupied by the Off-Site Vehicle Search Area but would have a larger footprint and would combine the functionality of the Entry Relay Building and the Off-Site Vehicle Search Area.
- **Filtering Debris Recovery Pit – Unit 1 and Unit 2** – the Applicant is proposing to increase the footprint and dimensions of both units of the Filtering Debris Recovery Pit to strengthen aspects of the units and to add greater functionality.
- **Helipad** – the Helipad has been removed from the proposed Site Layout Plan, eliminating the small but significant risk of collision with buildings associated with helicopters taking off and landing within the Site.
- **Sewage Treatment Plant** – the Applicant is proposing to increase the footprint of the Sewage Treatment Plant to accommodate additional equipment and capacity.
- **National Grid Compound Main Gas Insulated Switchgear Hall** – the layout of the building has been modified to reflect the design approved by Somerset West and Taunton Council in December 2019 in accordance with requirement PW3 of the 2013 Order.
- **Amendment to Schedule 14 (Procedure for Discharge of Requirements) Paragraph 5 (Interpretation of Schedule 14)**, by removing PW3 requirements from the categorisation of ‘major detailed requirement’ to ‘minor detailed requirement’ and thereby affecting the procedure for discharge and the calculation of fees paid to the local planning authority - Somerset and West Taunton Council who discharge such requirements.

### **Summary of the Secretary of State’s decision**

4. The Secretary of State has decided under paragraph 2(1) of Schedule 6 to the Planning Act 2008 to make non-material changes to the 2013 Order, so as to authorise the changes as detailed in the Application as well as to make his own changes to the 2013 Order – see paragraph 85. This letter is notification of the Secretary of State’s decision in accordance with regulation 8 the 2011 Regulations.

## Consideration of the materiality of the proposed change(s)

5. The Secretary of State has given consideration as to whether the Application is for a material or non-material change. In doing so, he has had regard to paragraph 2(2) of Schedule 6 to the Planning Act 2008 which requires the Secretary of State to consider the effect of the change on the 2013 Order as originally made.
6. There is no statutory definition of what constitutes a 'material' or 'non-material' amendment for the purposes of Schedule 6 to the Planning Act 2008 and Part 1 of the 2011 Regulations.
7. So far as decisions on whether a proposed change is material or non-material, guidance has been produced by the Department for Communities and Local Government (now the Department for Levelling Up, Housing and Communities), the "Planning Act 2008: Guidance on Changes to Development Consent Orders" (December 2015) ("the Guidance")<sup>1</sup>, which makes the following points. First, given the range of infrastructure projects that are consented through the 2008 Act, and the variety of changes that could possibly be proposed for a single project, the Guidance cannot, and does not attempt to, prescribe whether any particular types of change would be material or non-material. Second, there may be certain characteristics that indicate that a change to a consent is more likely to be treated as a material change, namely:
  - a) whether an update would be required to the Environmental Statement ("ES") (from that at the time the original Development Consent Order ("DCO") was made) to take account of likely significant effects on the environment;
  - b) whether there would be a need for a Habitats Regulations Assessment ("HRA"), or a need for a new or additional licence in respect of European Protected Species ("EPSs");
  - c) whether the proposed change would entail compulsory acquisition of any land that was not authorised through the existing DCO; or
  - d) whether the proposed changes have a potential impact on local people and businesses.Third, that although the above characteristics indicate that a change to a consent is more likely to be treated as a material change, these only form a starting point for assessing the materiality of a change. Each case must depend on thorough consideration of its own circumstances.
8. The Secretary of State has considered the change proposed by the Applicant against the four matters given in (a), (b), (c) and (d) above.
  - The Secretary of State notes that the information supplied supports the Applicant's conclusions that there are no new, or materially different, likely significant effects from those assessed in the ES. In light of the analysis supplied by the Applicant and responses to the consultation that have raised no concerns regarding environmental issues, the Secretary of State has, therefore, concluded that no update is required to the ES as a result of the proposed amendment to the 2013 Order.
  - In respect of the HRA, the Secretary of State has considered the nature and impact of the change proposed and is satisfied that there is not likely to be a significant effect on any protected sites within the UK's national site network ("protected sites") either alone

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<sup>1</sup> Department for Communities and Local Government (now the Department for Levelling Up, Housing and Communities) (December 2015). <https://www.gov.uk/government/publications/changes-to-development-consent-orders>

or in combination with any other plans or projects as a result of the proposed change and therefore an Appropriate Assessment is not required. He is also satisfied that the proposed change does not bring about the need for a new or additional licence in respect of EPSs as the amendments sought are not anticipated to give rise to any new or different effects from an ecological perspective than those assessed for the original application.

- In respect of compulsory acquisition, the Secretary of State notes that the proposed changes do not require any additional compulsory purchase of land.
- In respect of impacts on local people and businesses, the Secretary of State notes that no changes are anticipated by the Applicant to the impacts already assessed in the ES.

The Secretary of State therefore concludes that none of the specific indicators referred to in the guidance, or other relevant considerations, suggests that the changes considered in this letter is a material change. The Secretary of State is therefore satisfied that the changes considered in this letter are not material and should be dealt with under the procedures for non-material changes.

### **Consultation and responses**

9. The Applicant publicised its Application in accordance with regulation 6 of the 2011 Regulations on 28 July 2020 publishing notices in the Somerset County Gazette, Bridgwater Mercury, Burnham & Highbridge Weekly and West Somerset Free Press & News, letters were also sent to statutory stakeholders agreed with the Secretary of State in accordance with regulation 7 of the 2011 Regulations in the manner prescribed. The deadline for receipt of representations on the Application was 4 September 2020.
10. The Application was also made publicly available on the Planning Inspectorate's National Infrastructure Planning website on 31 July 2020, such that there was opportunity for anyone not notified to also submit representations to the Planning Inspectorate.
11. Representations were received from: Councillor Leigh Redman, Historic England, Natural England, Somerset West and Taunton Council, Somerset County Council, Klive Parish Council, Stogursey Parish Council, Sedgemoor District Council, West Hinkley Action Group, the Nuclear Decommissioning Authority and one private individual. The Secretary of State provided the Applicant the opportunity to respond to the suite of representations received in relation to the Application by 9 October 2020. The Applicant's response was published on the Planning Inspectorate's National Infrastructure Planning website on the 12 October 2020. Following this, the Secretary of State wrote to Natural England on the 4 November 2020 inviting them to provide further comments. Natural England's response was published on 20 November 2020.
12. On the 28 May 2021, the Secretary of State received a request from the Applicant to pause determination of their non-material change application. The Secretary of State agreed to this request and the application was paused. On 7 June 2021 an amendment to the non-material change application was submitted by the Applicant to the Secretary of State, and statutory consultees who had previously engaged with the non-material change application were contacted and invited to comment, and a covering letter was made publicly available on the Planning Inspectorate's National Infrastructure Planning website; such that there was opportunity for anyone not notified to also submit representations to the Planning Inspectorate. The deadline for receipt of representations was 6 July 2021.
13. The amendment to the non-material change application was to allow additional flexibility in the limit of deviation to locate the Back-Up Emergency Equipment Store up to 15m to the south rather than the previously permitted 5m. Representations were received from:

Historic England, Natural England, Sedgemoor District Council, Somerset County Council and Somerset West and Taunton Council in response to the further amendment. However, no comments or objections were made in any of the representations regarding the change to the limits of deviation.

14. The Secretary of State has considered the representations received in response to both consultations on the proposed changes and does not consider that any further information needs to be provided by the Applicant or that further consultation of those already consulted is necessary. The Secretary of State's responses to the issues raised by consultees are outlined in the following paragraphs.

#### Somerset and West Taunton Council

15. Somerset and West Taunton Council ("SWTC") stated that, if the Secretary of State were to determine that the changes requested by the Applicant were non-material, they would not challenge this. However, they have raised several issues they have with elements of the Application, these issues are outlined in the following sections.

#### *Landscaping commitments*

16. SWTC have requested that the vacant space left by the proposed removal of the following buildings/structures should be landscaped in some way to protect the appearance of the site.
  - (a) EDF Site Offices
  - (b) Entry Relay Building
  - (c) Off-Site Vehicle Search Area
  - (d) Sarens Heavy Lift Crane

In its response, the Applicant stated that once vacant, the landscaping of these areas would be the subject of future applications submitted for approval to SWTC under requirement MS25 of the 2013 Order. The Secretary of State is content that this resolves the issue of landscaping the vacant space left by the above buildings/structures.

#### *Emergency Response Store and Oil & Grease Storage & Oil Ancillary Building*

17. SWTC highlighted that the Emergency Response Store did not appear on the proposed Site Layout Plan (REF: HINK-A1-SL-00-GA-010) and requested that this be rectified. Additionally, SWTC questioned whether the location is suitable for the Oil & Grease Storage & Oil Ancillary Building (which would replace the Emergency Response Store) given that it does not meet the highest seismic qualification level.
18. In its response, the Applicant has explained that the Emergency Response Store has been removed and its functions moved into the proposed Back-up Emergency Equipment Store (which is shown as building 59 on the Site Layout Plan). The Applicant also explained that the Oil & Grease Storage & Oil Ancillary Building does not require the highest seismic qualification level as is not associated with the main nuclear safety functions (these are generally: control of reactivity, removal of decay heat in fuel, confinement of radioactive material, or other related functions). Despite not being associated with the main nuclear safety functions, the Applicant asserted that standard design codes will be applied and the building will comply with regulations related to the storage of hazardous substances. The Secretary of State is content that this response suitably addresses the issues raised by SWTC.
19. SWTC have also raised the issue that the volume of the Oil & Grease Storage & Oil Ancillary Building has approximately doubled in size to the previously approved

parameters. SWTC questioned whether the Secretary of State considers it possible to deal with such a large increase by way of a non-material amendment and have requested that there be a guarantee that the detailed design would be submitted as an application to discharge requirement PW3 of the 2013 Order. Furthermore, SWTC have requested that the land occupied by these buildings be landscaped once the Sarens Heavy Lift Crane has left the site.

20. The Applicant has highlighted that although the Oil & Grease Storage & Oil Ancillary Building has increased in size, it is moving into the area previously occupied by the Emergency Response Store (which has been removed) and the dimensions of the two buildings are similar. Consequently, the effects of a building with these dimensions have been assessed within the original application for the 2013 Order and would not result in any new or materially different effects. The Applicant has also confirmed that an application for this building would be submitted to SWTC prior to commencement of construction under requirement PW3 of the 2013 Order.
21. The Secretary of State has reviewed the information associated with the proposed amendment to the Oil & Grease Storage & Oil Ancillary Building and is content that due to the building having similar dimensions to the Emergency Response Store (which has been removed), that this amendment would not result in any new or materially different effects (or be in breach of any of the other tests for materiality set out in paragraphs 5-8) and as such, he is content that it can be dealt with by way of a non-material change application. The issue raised by SWTC regarding landscaping once the Sarens Heavy Lift Crane has left the site is addressed in paragraph 16 above.

#### *Emergency Response Centre and Emergency Response Energy Centre*

22. SWTC requested clarification on whether the Emergency Response Centre and Emergency Response Energy Centre require the highest seismic qualification level and have asked the Applicant to confirm whether the proposed locations meet this level. The Applicant has confirmed that both buildings do require the highest seismic qualification level and the locations meet this requirement. The Secretary of State is content that this response suitably addresses the issue raised by SWTC.

#### *Filtering Debris Recovery Pit – Unit 1 and Unit 2*

23. SWTC note that although the proposed increase in size is substantial, that due to the pits being predominantly below ground level, and the location of the pits being amongst other buildings, that it is unlikely that the proposed increase in size would result in significant adverse visual amenity impacts beyond those already assessed in the original ES. Subsequently, SWTC do not object to this part of the proposal.

#### *Helipad*

24. While accepting the removal of the Helipad, SWTC have questioned the decision to establish a designated emergency landing site outside of the permanent development site and suggested that it could be disruptive to SWTC considering the Southern Landscape Area. Subsequently, SWTC requested: details of an alternative provision for the Helipad be provided; that control to determine the location of the designated emergency landing site be given to SWTC; and that a guarantee is included in the 2013 Order that the design for the site would be submitted for approval as part of wider landscape restoration plans. SWTC expressed concerns that local residents have not been given the opportunity to comment on the proposed location of the emergency landing site and have also questioned whether increasing the distance between the helicopter landing site and the Proposed Development would affect the ability of the emergency services to respond.

25. The Applicant has clarified that, unlike the previously approved helipad, the emergency landing site would not be a structure but rather a designated area for a helicopter to land in an emergency only. As such, the Secretary of State is content that the concerns raised by SWTC about the location of the helipad are not applicable. SWTC also raised concerns about whether the DCO Requirements relating to the helipad would apply to an alternative helipad location. However, following the amendments made by the Applicant to the DCO (set out in row 2.35 Helipad – DCO drafting) to requirements MS25, MS34 and MS35 of the 2013 Order which apply to all helicopter flights rather than just to the Helipad, the Secretary of State is content that the Requirements are now satisfactory. With regards to the distance to the helicopter landing site, the Applicant has responded that it has been in regular communication with the emergency services and air ambulance, and they have not raised any concerns about the location of the emergency landing site. Additionally, the Applicant has stated that:

*“In the event that the emergency landing site did not provide the best access in the circumstances, then the crews would select an alternative landing site depending on the conditions which they are faced with during the emergency”.*

26. Consequently, the Secretary of State is satisfied that increasing the distance between the helicopter landing site and the Proposed Development would not affect the ability of the emergency services to respond.

#### *Sewage Treatment Plant*

27. Due to the proposed increase in size for the Sewage Treatment Plant, SWTC have requested that the Secretary of State is certain and satisfied about any impact the increase might have on the waters in the Bristol Channel and notes that the channel contains a number of national and international biodiversity designations. SWTC have also questioned that no variation to the Environmental Permit is required as a result of the increase in size of the Sewage Treatment Plant.
28. The Applicant has confirmed that the updated design presented in this application will not result in any additional discharges into the Bristol Channel over and above those set out in the original application for the 2013 Order and that the current design is actually for a reduced discharge level, and as such no variation to the Environmental Permit is required. Consequently, the Secretary of State is satisfied that there would be no additional impact on the Bristol Channel and that no permit variation would be required.

#### *Proposed amendment to Schedule 14, Paragraph 5*

29. The Applicant has requested that the Secretary of State remove requirement PW3 (Buildings and structures) of the 2013 Order from the paragraph 5 list of “*major detailed requirements*”, (the “PW3 Amendment”) effectively making all buildings and structures comprising Work No. 1A(d) to (k) and (o) (PW3) a “*minor detailed requirement*”. The Applicant sets out that the reason for proposing to make the PW3 Amendment is:

*“The detailed design of the buildings and structures comprising Work No. 1A(d) to (k) and (o) is either underway or has been completed. Many of the approved plans and elevations date from designs which are nearly ten years old. Where the design for buildings or structures has changed within the DCO approved parameters, PW3 applications will be submitted for approval. Although the external appearance of these buildings and structures will be reconfigured, the revised designs are consistent visually with the previously approved plans and elevations. However, because of the number of applications required, and that many of the buildings or structures will have a large internal floor space, the fees payable as currently calculated would be disproportionate and unreasonable.”*

30. The Applicant highlights that SWTC have acknowledged that previous PW3 discharge applications it has made to it, have incorporated plans and elevations only, with no accompanying assessment, and that the applications have been discharged without any substantive comments. The Applicant states that the reason for this, is that PW3 only allows changes to be made within predefined parameters set out in the 2013 Order.
31. The Applicant notes that the PW3 Amendment would also alter the processing timescales for requirement discharge under PW3, as set out under paragraph 1 of Schedule 14, however, it considers that as applications under PW3 are relatively minor, that the shorter determination period would not adversely affect the ability of SWTC to perform its functions prescribed in the 2013 Order.
32. SWTC's response to the PW3 Amendment (21 August 2020) states that "[SWTC] cannot accept this and objects to this element of the proposal". SWTC disagree with the Applicants conclusion that the fees payable for PW3 applications are "*disproportionate and unreasonable*" and note that this argument was not put forward by the Applicant at the time of the original DCO examination. They also state that the costs to SWTC would be the same as those assessed and agreed during the examination and have not altered or lessened "*such that it would be appropriate to significantly reduce the fee*". SWTC assert that the reduced fee, if the PW3 Amendment were to be made, would not cover the resources required by SWTC to process the discharge application and point out that although previous PW3 discharge applications have been relatively straightforward, this doesn't necessarily imply that future applications would be similar.
33. SWTC provides an example calculation of the fee for the Oil and Grease Storage and Oil Ancillary Building which would currently be paid for PW3 applications. SWTC calculate that under the existing agreement the fee would be £7,370 and if the PW3 Amendment were to be made, the fee would be £85. SWTC state that:
- "It is accepted that a fee of £7,370 could be perceived as being a little on the high side, but without a 'Material Change' to the costs prescribed by Schedule 14 of the approved DCO, there is no alternative"*.
34. In the Applicant's response to the issues raised by SWTC concerning the PW3 Amendment (9 October 2020), it states that the changes now required pursuant to PW3 would be limited to small changes "*such as amendments to windows, doors and vents which have arisen as a result of the internal layout of buildings being finalised.*". With regards to the loss of fee income raised by SWTC, the Applicant states that the Hinkley Point C DCO Section 106 agreement includes payments to SWTC for staff resources within Schedule 14 and highlights that other funds have been made available to SWTC which it believes would cover the costs incurred by SWTC to process the discharge applications. It also states that SWTC's understanding of PW3 applications is incorrect and emphasises that "*PW3 does not allow the promotion of new buildings or buildings in different locations, it permits the submission of plans detailing changes to the siting, scale and appearance of buildings in accordance with the HPC Site Parameter Plan. As such, buildings can generally move no more than 5m in any direction and can never be larger than the parameters approved within the DCO*". The Applicant reasserts that it is of the opinion that due to the minor nature of changes pursuant to PW3, that it would be possible for SWTC to determine the discharge applications within the shorter (5 week) determination period which SWTC would be obliged to meet if the PW3 Amendment were to be made.

35. The Secretary of State has considered the points raised by both parties on the PW3 Amendment to Paragraph 5 of Schedule 14 to the 2013 Order and notes that the terms within Schedule 14 were agreed between the Applicant and SWTC (then West Somerset Council) during the Examination period in the Statement of Common Ground dated 6 August 2012<sup>2</sup>. The objection from SWTC to this amendment, clearly demonstrates that a new agreement on this matter between the Applicant and SWTC has not been reached. Without an agreement between both parties on any amendments to the fees paid to SWTC, the Secretary of State has decided to reject the PW3 Amendment proposed by the Applicant.
36. The Secretary of State disagrees with SWTC's statement that a material change would be required to alter the costs prescribed within paragraph 3 of Schedule 14 to the 2013 Order and suggests that, following an agreement between the Applicant and SWTC, altering the costs could be achieved by means of a non-material change.

#### *Landscape and visual impact*

37. In SWTC's original consultation response to the non-material change application (21 August 2020), it raised concerns about the potential impacts of light spill from the Proposed Amendments on bats, and it questioned the validity of the viewpoints chosen by the Applicant in the Landscape and Visual Impact Assessment submitted with the non-material change Application. These concerns are covered in detail in the paragraphs below.

#### *Impacts of light spill on bats*

38. SWTC note that requirement MS29 of the 2013 Order allows SWTC to control lighting, however, it states that:

*"if it transpired that any one building would result in light spill above the levels that are permissible for bats, then it would be too late to change the position of that building if the DCO had already been amended"*.

Subsequently, SWTC state that the Applicant has not adequately considered this point and request that the Secretary of State should not accept the current submission as it does not prove that the proposed alterations to buildings will be acceptable in respect of lighting impacts on bat populations known to inhabit the area. SWTC also state that the Secretary of State should not allow lighting to be determined by way of a discharge only.

39. In the Applicant's response to the issues raised by SWTC concerning lighting impacts (9 October 2020), it sets out how the Rochdale Envelope approach<sup>3</sup> was adopted in the 2013 Order, and how the Rochdale Envelope approach has been applied to lighting, using the process of discharging requirements, as is commonly used in the DCO regime. The Applicant also notes that the HPC Operational Lighting Strategy<sup>3</sup> is an approved document within the 2013 Order which includes a list of the sensitive receptors which have been considered when creating the strategy, and the mitigation proposed to ensure that the lighting impacts are acceptable.

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<sup>2</sup> This document is available upon request from the Planning Inspectorate: [HPCNuclear@planninginspectorate.gov.uk](mailto:HPCNuclear@planninginspectorate.gov.uk)

<sup>3</sup> The 'Rochdale Envelope' approach is employed where the nature of the Proposed Development means that some details of the whole project have not been confirmed (for instance the precise dimensions of structures) when the application is submitted, and flexibility is sought to address uncertainty. Such an approach has been used under other consenting regimes (the Town and Country Planning Act 1990 and the Electricity Act 1989) where an application has been made at a time when the details of a project have not been resolved.

40. The Applicant notes SWTC's specific concerns related to bats, however, it points out that Figure 2B.8 in the Operational Lighting Strategy<sup>4</sup> shows that the only Key Bat Corridor close to the operational site is Green Lane to the south, and that none of the proposed new buildings are within the vicinity of Green Lane. The Applicant also highlights that the Operational Lighting Strategy contains mitigation measures which cover Key Bat Corridors and that any changes to the Operational Lighting Strategy would need to be approved by SWTC.
41. The Secretary of State has reviewed the concerns raised by SWTC and the information contained within the Landscape and Visual Impact Assessment submitted with the non-material change application and is content that none of the proposed new buildings are in a location where it would be likely that additional lighting impacts, above those assessed within the ES or Operational Lighting Strategy, could occur. Natural England raised no concerns in relation to this matter. As such, the Secretary of State is content that the Applicant has proved that the Proposed Amendments will be acceptable in respect of lighting impacts on bats. The Secretary of State is also content that the process of allowing lighting to be determined by way of a discharge is a suitable process which would have been considered during the original DCO examination.

#### *Validity of viewpoints and visual effects*

42. In SWTC's original consultation response to the non-material change application (21 August 2020), it contested the Applicant's choice of viewpoints in the Landscape and Visual Impact Assessment submitted with the non-material change application. SWTC state that the Landscape and Visual Impact Assessment should include a viewpoint on the National Coastal Trail, immediately behind the Site, as the Filter Debris Recovery Pits and Sewage Treatment Plant "*will be highly visible*". SWTC also state that the Off-Site Delivery Checkpoint and the layout of the overhead line entry point are likely to be visible from its suggested viewpoint location. SWTC state that it cannot accept the omission of such a viewpoint and have asked the Secretary of State to make a judgement as to whether or not this omission makes the landscape assessment deficient in appropriate information. SWTC have also questioned the Applicant's statement in Table A.2.4, Appendix 2 of the Application Statement that: "*All ground based and low-level development would be largely screened by existing vegetation illustrated in the ES photomontage*" and claim that this is demonstrated by a photograph of Viewpoint 14 submitted by the Applicant to the council as part of a separate requirements discharge.
43. In the Applicant's response to the issues raised by SWTC concerning visual effects (9 October 2020), the Applicant explains the process which it used to select the representative viewpoints, and states that other viewpoints on the National Coastal Trail, including a viewpoint directly in front of the operational station, were not selected, as other locations along the trail would be screened by Hinkley Point A or B buildings, or by earthworks or vegetation, and that walkers on the path directly in front of HPC would see the changes proposed within the non-material change "*as part of the wider HPC development*". Furthermore, the Applicant explains that the Filtering Debris Recovery Pits, Sewage Treatment Plant, Off-Site Delivery Checkpoint and the overhead line entry point are unlikely to cause significant effects from this location as they are either surrounded by buildings with considerably greater dimensions or blocked from view by other buildings. With regards to the issue raised by SWTC concerning whether the viewpoints in Table A.2.4, Appendix 2 of the Application Statement and, in particular Viewpoint 14, would be screened by existing vegetation, the Applicant has responded that it is true that there is little existing vegetation to provide screening and that the screening would be a result of

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<sup>4</sup> This document is available upon request from the Planning Inspectorate: [HPCNuclear@planninginspectorate.gov.uk](mailto:HPCNuclear@planninginspectorate.gov.uk)

proposed planting which is yet to be provided at the Site. The ES assessment indicates that by year 15 the proposed planting would screen most of the development at Viewpoint 14, except for the tallest elements.

44. The Secretary of State has reviewed the points raised by both parties on the validity of the viewpoint chosen for the National Coastal Trail and considers that the selection of viewpoints included in the LVIA is adequate and that the LVIA is not deficient in appropriate information.
45. The Secretary of State has reviewed the information provided by both parties regarding the Filtering Debris Recovery Pits, Sewage Treatment Plant, Off-Site Delivery Checkpoint and the overhead line entry point and, subsequently, the Secretary of State agrees with the Applicant that:

*“Seen in the context of the surrounding buildings which are of considerably greater dimensions, the proposed amendments to the Filtering Debris Recovery Pits and the Sewage Treatment Plant, are unlikely to create any new or materially different significant effects.”*

The Secretary of State also considers that no new or materially different visual effects are likely to occur as a result of the Off-Site Delivery Checkpoint or overhead line entry point due to their relatively small size and screening by other buildings on the HPC Site. With regards to the SWTC’s concern, on whether ground based and low-level development would be screened by existing vegetation, the Secretary of State notes that the majority of the Viewpoints in Table A.2.4, Appendix 2 of the Application Statement, including Viewpoint 14, do not refer to being screened by *“existing vegetation”* and is content with the Applicants response that planting proposed in the ES would be established as early as possible, and would be at least partly established by commencement of the operation period, and by year 15 the planting would screen most of the development.

#### Somerset County Council

46. Somerset County Council (“SCC”) has reviewed the proposed main site changes in accordance with its responsibilities and interests as the County Planning Authority and Local Highway Authority; as such their comments were concerned with the topics of Waste, Minerals, and impacts on Local Highways. SCC acknowledges that the non-material change would not result in changes to traffic levels or any additional highway impacts, other than those already assessed. Additionally, SCC state that it was not clear in the non-material change application whether the pre-approved layby would remain and have requested that the Applicant provide clarification on this point.
47. SCC note that under Part 3 (Approved Plans) of Schedule 1 to the 2013 Order, the currently approved DCO, the Highway Plan Ref. HPC-GEN124-R1-RFC-DRW-000046 Rev 01 still contains the Off-Site Vehicle Search Area which is proposed to be removed as part of the non-material change application and they recommend that this be removed.
48. Additionally, SCC note that the Applicant proposes to re-categorise requirement PW3 (“Buildings and Structures”) as a *“minor detailed requirement”*. Although Somerset County Council appreciate this is primarily a concern for SWTC as the relevant Local Planning Authority, they would like to raise the point that PW3 was originally classified as a *“major”* requirement due to the potential complex issues that may require specialist technical support, given the sensitive location of the site and proximity to nearby local communities affected by the project such as Shurton and Burton.
49. In addition to the above points SCC also states:

- (a) The non-material change application does not affect any Public Rights of Way (“PRoW”) within the site and they appreciate the non-material change application does not affect the commitment to reopening the coastal path;
  - (b) they do not consider that the proposed changes create any new mineral related impacts; and
  - (c) They appreciate that no changes have been made regarding the requirements of the 2013 Order related to waste management.
50. In their response dated (9 October 2020) the Applicant notes that SCC make no specific comments in relation to their highways, minerals or waste remit. It also states that amendments to the highway network can be submitted for approval in accordance with requirement PW7 of the 2013 Order, and do not need to be progressed as part of the non-material change application, it also stated that the highway arrangement shown on the Site Layout Plan was preliminary and subject to further changes in consultation with SCC and, as such, a final decision had not yet been reached on the pre-approved lay-by. With regards to the comment made by SCC on requirement PW3 of the 2013 Order, the Applicant refers SCC to the reply on this issue given to SWTC, full details can be found in paragraph 29-36. The Secretary of State is content that the response given by the Applicant suitably addresses the issues raised by SCC.

#### Councillor Leigh Redman - Somerset County Council

51. Councillor Leigh Redman expressed concern that due to restrictions put in place for COVID-19 there had been no opportunity for public events to take place and requested that the consultation period be extended. He also requested that a report should be produced providing details of the reach of the communications and details of the engagement.
52. In its reply to Councillor Leigh Redman dated 9 October 2020, the Applicant states that due to the COVID-19 pandemic, it carried out a virtual consultation event and endeavoured to publicise the application as far as possible through a variety of consultation methods. As a result of this, the Applicant believes that the application has been sufficiently publicised and an extension to consultation is not necessary. The Secretary of State has reviewed the consultation methods employed by the Applicant and is content that the Application has been suitably publicised and notes that a further 12 months has now passed since the end of the consultation period in which other consultees could have submitted responses. As such, the Secretary of State does not consider that an extension to the consultation period is necessary.

#### Storgursey Parish Council

53. Storgursey Parish Council have no objections to the non-material change, however, they have significant concerns with the number of number of non-material and material change applications which have been, or may be, submitted by the Applicant and suggest that:

*“The cumulative impact of these changes, when looked at as a whole are worrying in that they have the potential to significantly alter the original DCO beyond recognition”.*

The Parish Council provides the following as examples of recent and proposed changes to the 2013 Order:

- **Acoustic Fish Deterrent** - the proposed material change to the operation of the Acoustic Fish Deterrent, currently under consideration by the Environment Agency;
- **Wylds Road/ A38 Bristol Road junction** – the potential improvements to the Wylds Road/ A38 Bristol Road junction in Bridgwater; and

- **Future Material Change, Interim Spent Fuel Storage** - the Applicant's future plans to submit a major material change application, involving significant departures from both the method of spent fuel storage and to the size and position of the Intermediate Level Waste ("ILW") storage building.
54. Storgursey Parish Council have requested that cumulative impact of the above changes should be taken into consideration as they are of the opinion that when taken together the changes are significant.
55. In its reply to Storgursey Parish Council dated 9 October 2020, the Applicant notes that SWTC, Storgursey Parish Council and West Hinkley Action Group have all raised concerns regarding the impact of changes sought, when considered cumulatively with other applications. The Applicant explains the Cumulative Effects Assessment process which is a requirement of the DCO application process. The Applicant sets out the following reasons for not including the examples cited above in its cumulative assessment:
- **Acoustic Fish Deterrent** – the Applicant states that the variation to the permit which allows it to discharge water into the Bristol Channel and the removal of the Acoustic Fish Deterrent relate only to the marine environment and specifically to fish mortality. As such, the current non-material change application has no effect upon the marine environment, there is no pathway for interaction or cumulative effects to occur.
  - **Wylds Road/A38 Bristol Road junction** – the Applicant states that the planned improvements to this junction were consented within the 2013 Order but are yet to be implemented. The Applicant has been in discussions with Somerset County Council (as the highway authority) and Sedgemoor District Council (as the local planning authority) to delay the works until after the peak of construction due to the amount of disruption it would cause. As this element of the project has already been consented, and the impacts of it have already been assessed within the Transport Assessment and Environmental Statement, any changes to the consented design would need to be approved under the relevant consenting regime, and any new or materially different effects would be assessed as part of the consent.
  - **Future Material Change, Interim Spent Fuel Storage** – the Applicant confirms that it is currently considering its position in respect to the type and design of the Interim Spent Fuel Store but highlights that whether or not this proposed change would result in cumulative impacts would be assessed following the submission of the application.
56. The Secretary of State agrees that the adverse impacts of the Acoustic Fish Deterrent would be limited to the marine environment and, as such, are unlikely to interact in any way with the current non-material change application that would result in significant cumulative effects occurring. The Secretary of State also agrees that any adverse effects, and any cumulative effects which could occur as a result of the potential changes to Wylds Road/A38 Bristol Road junction or the Interim Spent Fuel Storage would be assessed during the submission of the relevant applications, and that as no applications have yet been made, a cumulative assessment of these elements does not need to be included with the current non-material change application.

#### West Hinkley Action Group

57. West Hinkley Action Group objected to the non-material change applications due to the long-term implications. They stated that the examination process had been complex and stressful to engage with and that their group were under the impression that once the 2013 Order had been made that it would be adhered to for the life of the development and beyond. Additionally, they stated that although each non-material change may seem insignificant, the cumulative effect of the non-material changes would be considerable, and

that all the variations need to be considered in combination so as not to undermine the DCO process.

58. In its reply to West Hinkley Action Group dated 9 October 2020, the Applicant refers to its response to Storgursey Parish Council which covers the issue of cumulative effects, and is set out in the previous section of this document. The Secretary of State has also provided comments on this topic in the previous section.
59. The Secretary of State notes the objection from the West Hinkley Action Group and its comments on the complexity of engaging with the examination process.

#### Klive Parish Council and Sedgemoor District Council

60. Klive Parish Council and Sedgemoor District Council provided a representation for the non-material change consultation but had no comments on the Application.

#### Natural England

61. Natural England agree with the Applicant's assessment that the proposed changes are unlikely to cause any new environmental effects in addition to those previously identified in the Environmental Statement submitted with the Application.
62. They also agreed that the proposed changes are unlikely to have any impact on the qualifying features of the Severn Estuary suite of protected sites (Special Area of Conservation ("SAC"), Special Protection Area ("SPA") and Ramsar Site) and, consequently, do not need to be investigated in a new Habitats Regulations Assessment. Natural England highlighted that the Applicant had omitted the Severn Estuary SPA from Table 3-2 (Page 45) of the Application Statement.
63. In its reply to Natural England dated 9 October 2020, the Applicant notes that Natural England agrees that the proposed changes are unlikely to result in environmental effects and that no new Habitats Regulations Assessment is required. The Applicant acknowledges the omission of the Severn Estuary SPA, however, they state that there would be no additional impacts on the Severn Estuary SAC/SPA/Ramsar site as a result of the proposed changes over and above what has already been assessed within the original application for the 2013 Order. Officials wrote to Natural England on 4 November 2020, requesting comments on the Applicant's position. Natural England replied, confirming that the Severn Estuary protected sites, including the Severn Estuary SPA are unlikely to be affected by the work proposed in the application. As such, the Secretary of State is content that the Severn Estuary SAC, SPA and Ramsar site are unlikely to be affected by the work proposed in the application.

#### Historic England

64. Historic England reviewed the non-material change application and had no comments to make.

#### Nuclear Decommissioning Authority

65. The Nuclear Decommissioning Authority has no objections to the non-material change application but sought confirmation from the Applicant that the relocation of the helipad would not impact upon decommissioning operations at the adjacent Hinkley Point A site. In its reply to the Nuclear Decommissioning Authority dated 9 October 2020, the Applicant stated that the location of the emergency helicopter landing site is yet to be determined and that it will consult the adjacent facilities, including Hinkley Point A, regarding their needs as part of the consideration of alternative suitable sites.

## Local Resident Response

66. One local resident provided a representation to the non-material change application and objected to the application due to the ongoing issues with the amount of light pollution emitted from the Hinkley Point C site. They requested that during the post-construction stage the Proposed Development implements a sensitive lighting strategy and be subject to monitoring of light emission.
67. In its reply to the resident dated 9 October 2020, the Applicant states that lighting on permanent buildings and structures (during the post-construction stage) would be controlled by requirement MS29 of the 2013 Order<sup>5</sup>. Requirement MS29 states that unless agreed with the local planning authority (SWTC) any lighting installed would need to be in accordance with the approved lighting strategy<sup>6</sup>, and that as the new buildings proposed in the current non-material change application are located further away from the residential receptors and environmental receptors, they are unlikely to result in any additional environmental effects over and above those assessed in the original ES. The Applicant also states that lighting during construction, which is controlled by the construction lighting strategy, is in accordance with the approved construction method statement and points out that in addition to minimising the impact of lighting on sensitive receptors, the safety of the construction workforce is also a key consideration.
68. The Secretary notes the objection from the local resident. However, the Secretary of State agrees with the Applicant that the proposed amendments to buildings within this non-material change application are unlikely to result in any additional environmental effects during operation, above those already assessed within the ES. Additionally, he accepts that the safety of the construction workforce when considering the lighting impacts caused during the construction period is a key objective, alongside minimising impact on sensitive receptors.

## The Applicant's Response to the Consultation Responses

69. The Secretary of State is satisfied that the Applicant's response of 9 October 2020 addressed most of the concerns listed above. The Secretary of State notes that no parties provided any further concerns or raised any objections relating to the changes sought by the Application following the Applicant's response. The responses to the Consultation and the Applicant's response to those responses are publicly available at:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/hinkley-point-c-new-nuclear-power-station/?ipcsection=docs>

## Amendment to the non-material change application – 7 June 2021

70. The Applicant submitted an amendment to the non-material change on the 7 June 2021 the amendment allowed additional flexibility in the limit of deviation to locate the Back-Up Emergency Equipment Store up to 15m to the south rather than the previously permitted 5m. The Secretary of State notes that no objections or comments were received from any consultees on the amendment. The Secretary of State has reviewed the information submitted with the amendment and is content that it would not result in any new or materially different effects above those assessed within the ES.

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<sup>5</sup> The 2013 Order can be found at: [https://www.legislation.gov.uk/ukxi/2013/648/pdfs/ukxi\\_20130648\\_en.pdf](https://www.legislation.gov.uk/ukxi/2013/648/pdfs/ukxi_20130648_en.pdf) and Requirement MS29 can be found on page 93

<sup>6</sup> The approved lighting strategy and the construction lighting strategy can be obtained upon request from the Planning Inspectorate: [HPCNuclear@planninginspectorate.gov.uk](mailto:HPCNuclear@planninginspectorate.gov.uk)

## **Environmental Impact Assessment**

71. The Secretary of State has considered whether the Application would give rise to any new significant effects or materially different effects when compared to the effects set out in the ES for the development authorised by the 2013 Order.
72. The Secretary of State is satisfied that the Application documents provided by the Applicant in support of the changes considered in this letter are sufficient to allow him to make a determination on the Application.
73. The Secretary of State has considered the information provided and the views of consultees. The Secretary of State agrees with the Applicant's conclusions that there will not be any new or materially different likely significant effects when compared to the effects set out in the ES for the Development authorised by the 2013 Order and as such considers that there is no requirement to update the ES.

## Habitats

74. The Secretary of State has considered his obligations as set out in the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations"). The Habitats Regulations require the Secretary of State to consider whether the development would be likely, either alone or in combination with other plans or projects, to have a significant effect on a protected site. If likely significant effects cannot be ruled out, then an Appropriate Assessment must be undertaken by the Secretary of State, pursuant to regulation 63(1) of the Habitats Regulations, to address potential adverse effects on site integrity. The Secretary of State may only agree to the Application if he has ascertained that it will not adversely affect the integrity of a protected site.
75. The Secretary of State has considered the Supporting Statement and other Application documents alongside the response from Natural England, and is satisfied that the changes considered in this letter will not have an adverse effect on the integrity of any protected site alone or in combination with other plans or projects and a Habitats Regulations Assessment is therefore not required.

## **General Considerations**

### Transboundary Impacts

76. Under Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended), the Secretary of State has considered whether the proposed development is likely to have a significant effect on the environment in an European Economic Area ("EEA") State. In the application for the Hinkley Point Power Station Order, the Secretary of State concluded that there would be no likely significant effects on the environment of an EEA State. Subsequent engagement with Espoo Convention States is not complete but has, to date, confirmed this. The Secretary of State has considered whether the changes considered in this letter will have any potential impacts on an EEA State and, as set out above, has concluded that there is no change in the environmental impacts assessed within the existing environmental statement for the Development. Consequently, the Secretary of State has concluded that there would not be likely significant effects on the environment of any EEA state whether the Application is considered of itself or cumulatively with the environmental effects already considered for the Hinkley Point Power Station Order. If the position changes as a result of the engagement with Espoo States then any response will cover the 2013 Order and all subsequent changes, including this one.

77. The Secretary of State has also considered whether there may be potential impacts on European sites in EU Member States, known as transboundary sites, from this Application. Noting that the Secretary of State has reached a conclusion that there will be no Likely Significant Effects on European sites (over and above those already assessed in the Habitats Regulation Assessment for the Hinkley Point Power Station Order Order), the Secretary of State has also concluded that there is no route whereby sites in other EU Member states may be impacted by this Application. The Secretary of State therefore concludes there is no need for transboundary consultation with EEA States.

#### Equality Act 2010

78. The Equality Act 2010 includes a public sector equality duty. This requires a public authority, in the exercise of its functions, to have due regard to the need to (a) eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic (e.g. age; sex and sexual orientation; gender reassignment; disability; marriage and civil partnerships;<sup>7</sup> pregnancy and maternity; religion or belief; and race) and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
79. The Secretary of State has had due regard to the need to achieve the statutory objectives referred to in section 149 of the Equality Act 2010, and is satisfied that there is no evidence that granting the changes considered in this letter will affect adversely the achievement of those objectives.

#### Human Rights Act 1998

80. The Secretary of State has considered the potential for the proposed changes to the Development to infringe upon human rights in relation to the European Convention on Human Rights. The Secretary of State considers that the grant of the changes considered in this letter would not violate any human rights as enacted into UK law by the Human Rights Act 1998.

#### Natural Environment and Rural Communities Act 2006

81. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, has to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent. The Secretary of State is of the view that the Application considers biodiversity sufficiently to accord with this duty.

#### **Secretary of State's conclusions and decision**

82. The Secretary of State has considered the nature of the changes sought through this Application, noting that they would have no additional significant environmental effects, and the benefits of the changes in facilitating the deployment of the development authorised by the 2013 Order. He concludes that the changes considered in this letter are not material and that it would be appropriate and advantageous to authorise the proposed changes as detailed in this letter.
83. The Secretary of State has considered the ongoing need for the development. The Secretary of State notes that the Overarching National Policy Statement for Energy (EN-1)

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<sup>7</sup> In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

and the National Policy Statement for Nuclear Power Generation (EN-6) both set out that for the UK to meet its energy and climate change objectives, there is an urgent need for new electricity generation plants, including new nuclear power.

On 27 June 2019, following advice from the Committee on Climate Change, the UK Government announced a new carbon reduction 'net zero' target for 2050 which resulted in an amendment to the Climate Change Act 2008 (the target for the net UK carbon account for 2050 changed from 80% to 100% below the 1990 baseline). The Secretary of State notes that the energy National Policy Statements continue to form the basis for decision-making under the Planning Act 2008. The Energy White Paper, Powering our Net Zero Future, was published on 14 December 2020. It announced a review of the suite of energy National Policy Statements but confirmed that the current National Policy Statements were not being suspended in the meantime. The relevant energy National Policy Statements therefore remain the basis for the Secretary of State's consideration of the Application. The Secretary of State considers, therefore, that the ongoing need for the development authorised by the 2013 Order is established and that granting the non-material change would not be incompatible with the amendment to the Climate Change Act 2008.

84. For the reasons above, the Secretary of State considers that there is a compelling case for authorising the changes considered in this letter to the 2013 Order. The Secretary of State has therefore decided under paragraph 2(1) of Schedule 6 to the 2008 Act to make a non-material change to the Hinkley Point C (Nuclear Generating Station) Order 2013 so as to authorise the changes considered in this letter.

#### **Modifications to the draft Order proposed by the Applicant**

85. As detailed in paragraphs 29-36, the Secretary of State notes that the terms within Schedule 14 to the 2013 Order were agreed between the Applicant and SWTC (then West Somerset Council) during the Examination period in the Statement of Common Ground dated 6 August 2012 and that a new agreement between the Applicant and SWTC has not been reached. Without an agreement between both parties on any amendments to the fees paid to SWTC to discharge requirements, the Secretary of State has decided to reject the PW3 Amendment proposed by the Applicant. Otherwise, minor drafting improvements and corrections have been made by the Secretary of State to the draft Order proposed by the Applicant. These changes do not materially alter the terms of the draft Order.

#### **Challenge to decision**

86. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

#### **Publicity for decision**

87. The Secretary of State's decision on this Application is being notified as required by regulation 8 of the 2011 Regulations.

Yours sincerely,

Gareth Leigh  
Head of Energy Infrastructure Planning

## LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 (5) of the Planning Act 2008, a decision under paragraph 2(1) of Schedule 6 to the Planning Act 2008 to make a change to an Order granting development consent 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 is published. The Amending Order as made is being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/hinkley-point-c-new-nuclear-power-station/?ipcsection=docs>

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)