

**From:** [REDACTED]  
**To:** [SizewellC](#)  
**Cc:** [REDACTED]  
**Subject:** EN010012 SZC Application - the RSPB (PINs Ref: 20026628) and SWT (PINs Ref: 20026359) Response to PINs Rule 6 Letter  
**Date:** 10 March 2021 17:46:21  
**Attachments:** [EN010012-003148-Rule-6-Letter RSPB & SWT Response 10.3.21.pdf](#)

---

Dear Michelle Gregory,

Please find attached the RSPB and Suffolk Wildlife Trust's joint response to the Rule 6 letter for the Sizewell C Application. We would be grateful if this could be placed before the Examining Authority as our Procedural Deadline A response. We have also completed the online Preliminary Meeting Participation Form referring to this letter for the further details it contains.

Please do not hesitate to contact me should you have any questions or require any further information from us.

Thank you for your assistance

Best Wishes

Rosie

**Rosie Sutherland**  
**Head of Environmental Law and In-house Solicitor**  
**The RSPB**

**UK Headquarters** The Lodge, Sandy, Bedfordshire SG19 2DL  
[rspb.org.uk](https://www.rspb.org.uk)



This email and any attachments may contain material that is confidential, subject to copyright and intended for the addressee only. If you are not the named recipient you must not use, disclose, reproduce, copy or distribute the contents of this communication. If you have received this in error, please contact the sender and then delete this email from your system. The Royal Society for the Protection of Birds (RSPB) is a registered charity in England and Wales no. 207076 and in Scotland no. SC037654.

The RSPB is committed to maintaining your data privacy. We promise to keep your details safe and will never sell them on to third parties. To find out more about how we use your information please read our [online Privacy Policy](#).



**Planning Inspectorate** - [sizewellc@planninginspectorate.gov.uk](mailto:sizewellc@planninginspectorate.gov.uk)  
By email only

RSPB PINs Ref: 20026628  
SWT PINs Ref: 20026359

10<sup>th</sup> March 2021

Dear Madam,

**Re: The Sizewell C Project Development Consent Order Application, PINs Reference: EN010012  
Response to the Examiner's Rule 6 Letter issued on 23<sup>rd</sup> February 2021, Procedural Deadline A**

Thank you for your Rule 6 letter and the detail it contains. As explained in our respective Relevant Representations<sup>1</sup> to save Examination and the Examiners' time, the RSPB and Suffolk Wildlife Trust are presenting a joint case wherever possible. You will also be aware that jointly we have written to the Planning Inspectorate (PINS) initially in May 2020<sup>2</sup> to express our concerns relating to the adequacy of the DCO Application for this Sizewell C project. In this we set out our concerns that critical environmental information was missing or inadequate and therefore the information submitted would not be sufficient to fully and robustly assess all possible impacts of the Application on neighbouring designated conservation sites, habitats and species as well as biodiversity in the surrounding area more generally (many of these concerns are repeated within our Relevant Representations).

We jointly wrote again in December 2020<sup>3</sup> following your initial assessment of the Principal Issues first published on 23<sup>rd</sup> October 2020 after consideration of the Application documents and the Relevant Representations<sup>4</sup> and to flag our concerns about the lack of sufficient information in support of the Applicant's changes to its Application, including the adequacy of the change consultation to inform your further assessment of the Principal Issues, the agenda for the Preliminary Meeting and the Examination timetable more generally.

We also flagged some specific procedural issues following PINs advice notes – specifically:

- AN 8.3<sup>5</sup>, for Interested Parties to be fully informed to influence how the application will be Examined at the Preliminary Meeting;
- PINS Advice Note 16<sup>6</sup>, Section 1.3 – which states that there must be robust good reasons for material changes to be made after an Application has been accepted for Examination;

---

<sup>1</sup> RR-1059 (the RSPB) (the RSPB RR appear to be only included within the members of the public/businesses section – this may be due to our Minsmere Reserve but thought this was worth flagging) and RR-1180 (SWT)

<sup>2</sup> Concerns relating to likely adequacy of Application documentation. Available at

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-Advice-00133-1-RSPB%20SWT%20letter%20to%20PINS%20re%20Szc.pdf>

<sup>3</sup> [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-002691-](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-002691-AS%20RSPB%20and%20Suffolk%20Wildlife%20Trust%20SWT%20letter%20to%20PINS%20December%202020.pdf)

[AS%20RSPB%20and%20Suffolk%20Wildlife%20Trust%20SWT%20letter%20to%20PINS%20December%202020.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-002500-Sizewell%20C%20Initial%20Assessment%20of%20Principal%20Issues.pdf)  
<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-002500-Sizewell%20C%20Initial%20Assessment%20of%20Principal%20Issues.pdf>

<sup>5</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/06/Advice-note-8-3v4.pdf>

<sup>6</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/07/Advice-note-16.pdf>

- PINS Advice note 7<sup>7</sup> section 8 including AN16 Section 4, Figure 3f, AN16 Section 6.4 and AN16 Section 6.5 concerning the information required for consultees/interested parties to understand the likely environmental effects of any Application

In addition, we wished to echo the concerns of the Defra Group<sup>8</sup> about missing information in the pre-application consultations and the challenge of the proposed timelines for consideration of the Sizewell C Application with PINS<sup>9</sup> before submission of the DCO Application.

We refer back to both letters but repeat some of those concerns here in response to the Rule 6 Letter.

## **Rule 6 Letter Responses and Procedural Requirements**

### The Preliminary Meeting Part 1 and its Agenda

We have completed and submitted our joint wish to participate at the Preliminary Meeting through the Participation Form and flagged the agenda items we may wish to comment on. However, we thought it useful to also set those out here:

- Item 4 – Initial Assessment of Principal Issues – please see our comments below
- Item 5 – The Applicant’s proposed changes to the Application – Annex B
- Item 6 – Draft Examination timetable – please see our comments below
- Item 7 – Procedural Decisions taken by ExA (Annex E) –
  - Statements of Common Ground (SoCG) – we are grateful to the Applicant for the discussions held so far and we wish to suggest, due to limited resources and time, that our focus be on agreeing statements of *uncommon ground*. Since part of the reasons for SoCG are to ensure the ExA is fully aware of areas of disagreement so adequate Examination time including issue specific hearings can be scheduled for those areas if felt necessary, we would like to suggest this would be more useful for it.
  - Annex F - We wanted to add in relation to the ExA’s helpful seeking of clarity on the Application documentation that once the Applicant has responded to its latest request, we may wish to provide comments to you to flag, for example, any further clarification needed.

We are also discussing with other Interested Parties any joint points that could be made by one representative to save time during the Meeting.

In addition following the Preliminary Meeting we may wish to make further comments in light of areas discussed but we will ensure they are purely additional to any representations made here and/or orally and purely in response to comments made by other parties and they will be submitted to you by Procedural Deadline B, 7<sup>th</sup> April 2021.

### The Examiners’ Initial Assessment of the Principal Issues - Annex C

We appreciate that further consideration is being given to these Principal Issues but thought it would be helpful to include a few points now (and may wish to cover more during the Preliminary Meeting).

We understand Friends of the Earth and other NGOs are submitting their concerns too on Principal Issues being selected before all relevant issues have been confirmed, especially considering the weight and time which will be given to them as a result of being deemed Principal Issues<sup>10</sup>. Therefore, we would suggest that, following the decision concerning the Change Application, further consideration is given to the

<sup>7</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2017/12/Advice-note-7.pdf>

<sup>8</sup> The Environment Agency, Marine Management Organisation and Natural England

<sup>9</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-Advice-00065-1-200120%20Sizewell%20C%20DEFRA%20group%20meeting%20draft%20note.pdf>

<sup>10</sup> We of course do appreciate that the ExA will have regard to all important and relevant issues as set out on C1.

Issues to enable full consideration of the changed Application before the list of Principal Issues is finalised.

For now we do wish to highlight the following:

**Legislative Requirements** - It is noted that the policy and consenting requirements and documents are not listed due to always being an integral part of any Examination. However, we do think that other legislative and policy requirements do need to be specifically included – namely in relation to environmental impact and appropriate assessments and the EIA and Conservation of Habitats and Species regulations requirements. Whilst there are references to the Environmental Statement and requirements such as consideration of alternatives (and the relevant legislation<sup>11</sup>), there are many other requirements also relevant. As mentioned above we think it is important for parties to have the opportunity to submit legal submissions including on the Principal Issues.

### **Biodiversity and ecology, terrestrial and marine**

Protected species – we note reference is made to both protected sites and “The weight to be given to local interests in relation to Suffolk priority habitats and species” (C3), however what is not clear is whether European Protected Species (of more than regional importance) are included. Such species present and likely to be affected including natterjack toads and all species of bats.

We welcome all protected sites issues being held to be Principal – however for clarity we would suggest they are listed, being clear especially regarding sites that have more than one protected site e.g. underpinning SSSIs and with regard to the relevant Ramsar sites.

Again for clarity and consistency we suggest the following addition to the second bullet point –

- “Appropriate Assessment (HRA), including Imperative Reasons of Overriding Public Importance, compensatory measures, selection of Natura 2000 sites, and alternatives for the Minsmere-Walberswick Special Protection Area (SPA) and Ramsar sites in respect of effects on breeding marsh harrier population during construction. Appropriate assessment in respect of coastal, freshwater and terrestrial habitats, **terrestrial and marine** ornithology, marine mammals and migratory fish.”

We note the reference to marine ornithology under the Marine Ecology heading and suggest this is kept to cover any marine species not part of a protected site.

The Sizewell Marshes SSSI – we appreciate the Sizewell Marshes SSSI crossing being specifically included and note the more general references to possible effects and the “sum of all effects” but do think the actual direct loss (and any indirect loss including matters such as the potential impact of changes in water chemistry on SSSI fen meadow communities) and both the legislative and policy requirements deserve particular attention.

In addition, whilst we note reference is made within “Flood Risk, ground water, surface water” to “...Effects on groundwater and surface water, including Source Protection Zones, water dependent resources and receptors from the construction and operational phases of the proposed development”, due to this having relevance for protected sites and protected species considerations it would be helpful to also include this within the Biodiversity Issues.

**Coastal Processes** - Whilst consideration of potential impacts on coastal processes may be included in several of the proposed Principal Issues headings, they are not referenced explicitly. We have raised

---

<sup>11</sup> We thought it worth flagging that reference is only made to the Water Framework Directive and although our domestic regulations do allow and require reference to that Directive, this is somewhat caveated now that we have left the EU. Therefore we thought it might be more helpful to reference the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 and the Environmental Permitting (England and Wales) Regulations 2016 as amended by their respective EU Exit Regulations.

several concerns regarding coastal processes and do think they too, specifically, should be considered as Principal Issues.

**Cumulative Effects** – for clarity we think this should be renamed – Cumulative AND In-Combination effects - to reflect the various legislative requirements for both consideration of multiple effects from the Application on a particular e.g. protected site and/or protected species and the need to consider potential additional effects from the Sizewell C Application on other applications and the potential additional effects from other applications on this Sizewell C Application.

We also question why this is limited to “major projects” and would suggest this limitation is removed.

**Draft Development Consent Order** – we welcome the inclusion of all other regulatory approvals and environmental permits as well as s.106 agreements and other obligations and agreements. For clarity we wish to check whether this includes consideration of any mitigation/compensation being proposed for landowners and occupiers? As an integral part of the Application we would wish for it to be included within the Examination.

#### The Applicant’s proposed changes to the Application – Annex B

As stated on B3, consideration needs to be given to the materiality of the proposed Changes and how, if accepted, the changes will be examined.

We do welcome the attempt to reduce some potential environmental impacts within the Change Application e.g.

- Wetland birds, such as marsh harrier, waders and ducks – possible benefits from additional wetland habitat creation for flood mitigation; and
- Other wetland wildlife, including otters, water voles, invertebrates and bats – improvements to the Sizewell Marshes SSSI crossing meaning some species could be able to move between habitat areas.

However unfortunately other aspects of the Changes may lead to further ecological concerns and one of our main concerns, as set out above, in our previous letter to you and our response to the Change Consultation<sup>12</sup>, is with the level of information available.

Whilst we appreciate all the work done by the Applicant, its consultants and the consultation itself, to make information available and are grateful for the constructive and helpful discussions held, we continue to be concerned about the Environmental Statement (ES). Currently the ES covers the original Application with addenda having been produced to include recent additional information and details of the Changes made to the Application.

However, although we are not suggesting a whole new ES is produced, this does lead to confusion and at the very least clearer signposting is required to ensure “old” information is not referred to or relied on in e.g. Interested Parties Written Representations (for example, where original documents have been superseded or changes and additional details are present in separate addenda).

In addition, we do believe that information is still missing and certainly limited detail appears to be available regarding e.g. cumulative effects, in light of the Changes. We are trying to ensure we check all relevant chapters, sections and the Addenda but like many other Interested Parties the volume of material at times can be overwhelming, especially with some colleagues having had to juggle home schooling. Therefore a number of points already made in our letter to you 20<sup>th</sup> December 2020, remain.

---

<sup>12</sup> Which starts on page 744 of:

[https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-002943-SZC\\_Bk5\\_5.1Ad\\_Annex\\_A%20Copies%20of%20all%20consultation%20responses\\_Part\\_2\\_of\\_2.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-002943-SZC_Bk5_5.1Ad_Annex_A%20Copies%20of%20all%20consultation%20responses_Part_2_of_2.pdf)

The Examination Timetable – Annex D

We hope the information provided within our Examination Questionnaire (submitted on 18<sup>th</sup> January 2021) was of assistance. And although the Examination Timetable overall looks acceptable, appreciating the requirement for it to be concluded within 6 months, we do have several concerns about the amount of information involved and potential for further additional information to be introduced.

As mentioned above, we understand Friends of the Earth and other NGOs are submitting responses outlining timetabling concerns and ensuring sufficient time is given for the important Written Representations in light of additional reviews now being required due to the changes to the Application made and additional information provided in support (and our points made above). We support and share these concerns.

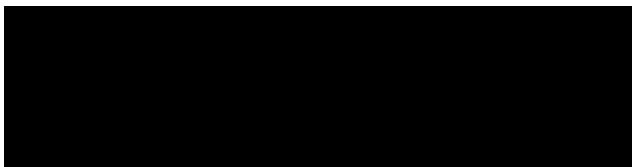
As Interested Parties, we are being put at a serious disadvantage concerning our ability to respond adequately to the Sizewell C Application. This is a highly complex and detailed application. We need to know when precisely the decision on materiality of the Changes will be made and whether they will form part of the Development Consent Order or otherwise and **crucially** be given sufficient time after the making of this decision to prepare for the deadline for submission of Written Representations. For example, we would be extremely concerned if this decision was made at the same time as the Rule 8 letter was sent out meaning the deadline for those Written Representations is set.

We also think it will be important for parties to have the opportunity to submit legal submissions both within their Written Representations but also at the end of the Examination hoping that things will change during its course including on various monitoring, mitigation and compensation plans.

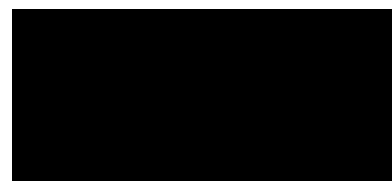
We are grateful for the request (on page B7) for views to be expressed on what the ISH should cover and will be making suggestions within our Written Representations.

Should you wish to discuss any of the issues raised in this letter with us in further detail please do not hesitate to contact us.

Yours faithfully



**Rosie Sutherland**  
**Head of Environmental Law and in house solicitor**  
**The RSPB**



**Ben McFarland**  
**Head of Conservation**  
**Suffolk Wildlife Trust**

Cc Michele Gregory, PINs Case Manager for the Sizewell C Application  
Carly Vince, Chief Planning Officer, EDF Energy/Sizewell C