



The Sizewell C Project

PDB-3 Written summaries of SZC Co.'s oral submissions at Preliminary Meeting Part 1

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- 1 AGENDA ITEM 5: THE APPLICANT'S PROPOSED CHANGES TO THE APPLICATION
- 1.1 Whether the acceptance of the change requests, separately or in combination, would mean that the development now being proposed is not in substance that which was originally applied for
- 1.1.1 SZC Co. distinguished between the question of whether the changes were material (a primary focus of submissions made by many Interested Parties), and the separate question of whether the changes would mean that the development now being proposed is not in substance that which was originally applied for.
- 1.1.2 It was explained that SZC Co.'s change request dated 11 January 2021 [\[AS-105\]](#) had clearly stated that the proposed changes "*taken together, are material*" but that the application "*remains an Application for fundamentally the same project. The changes are not considered to be of such a degree that their effect would constitute a materially different project*". The first part of agenda item 5 was explicitly directed to this latter question.
- 1.1.3 SZC Co. acknowledged that this is a matter of planning judgment for the Examining Authority ("**ExA**") but explained that for the reasons set out in its application for the changes it does not consider the changes are so substantial to reach this high threshold.
- 1.1.4 Recognising that the ExA will have had an opportunity to read and consider what was said in the application for the changes, and in response to the requests made by the ExA in writing for more information on the proposed changes, SZC Co. used its oral submissions to provide an overview of the position.
- 1.1.5 The changes need to be considered in the context of the application as a whole.
- a) This is an application for development consent for a very substantial new nuclear power station Nationally Significant Infrastructure Project ("**NSIP**"), with a range of Associated Development ("**AD**") elements many of which are intended to support the construction of the NSIP.
 - b) The changes do not alter the NSIP itself in any way. That is highly important in this context. Reference was made to the analogous DCLG guidance on applying for changes to made Development Consent Orders ("**DCOs**") (*Planning Act 2008: Guidance on Changes to Development Consent Orders*, December 2015), which deals with essentially the same issue in the context of an application for a

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material change after a DCO has been made. Such an application will be declined if what is proposed is not merely material (and should therefore go through the material change process), but “*should be treated as a new project*” (paragraph 18) and therefore should properly be the subject of a fresh application for a DCO (see Schedule 6, paragraph 3(5A)) to the Planning Act 2008). The examples it offers as a guide (at paragraph 20) all involve significant change to the NSIP itself. In this case the changes relate only to *some* elements of AD.

- c) The vast majority of the AD elements for which consent has been sought in the original application are also either entirely unchanged or not changed to any material extent.
- d) That is illustrated by the fact that none of the description of development in the 13-page application form is affected by the change application.

1.1.6 The vast majority of the changes proposed are rightly regarded as non-material, and most involve no new or different significant environmental effects or additional land.

1.1.7 Where additional land is needed for AD, this is mostly very limited in extent. The very minor scale of the additional land in most cases can be seen from the **Land Plans showing Proposed Land Changes** [AS-290]. Changes to Order Limits for the transport AD are very limited even in context of those individual elements of AD, let alone the project as a whole.

1.1.8 The additional Fen Meadow site requires more in the way of additional land (32ha), but:

- a) this involves very limited actual development in order to convert the land from agricultural use to fen meadow habitat;
- b) the purpose is to help mitigate the effects of the NSIP development, not to change it; and
- c) it is very clearly a small ancillary element in the overall scheme, intended to supplement existing similar habitat creation forming part of the application.

1.1.9 In response to the ExA's question about experience of the approach taken to changes proposed to applications made under the Town and Country Planning Act 1990 after an appeal has been made pursuant to section 78 of that Act, and whether a change that increased rather than decreased the size of the scheme could be permissible, SZC Co. made the following points:

- a) The Planning Act 2008 process includes specific statutory provision for making changes to applications which involve increasing the Order Limits and seeking powers of compulsory acquisition over more land (The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (“**CA Regulations**”)). The need to expand the Order Limits to accommodate a change to an application does not therefore present an obstacle in principle under the separate Planning Act 2008 regime.
- b) That is reflected in the guidance provided by the Planning Inspectorate in *Advice Note 16: Requesting Changes* (“**AN16**”), which sets out a procedure for making material changes to applications pursuant to the Planning Act 2008 which embraces changes involving additional development and additional land. All of that is consistent with the recognition by Government that there are occasions when applicants may need to make a material change to an application after it has been accepted for examination (paragraph 1.2). AN16 provides for a staged process of notification, consultation and consideration of applications for changes which enables issues of procedural fairness etc. to be properly addressed whether the change involves increasing or reducing the scope of the scheme.
- c) In considering the size of the area proposed to be added for the creation of Fen Meadow habitat, it was also important to understand that whilst the additional land was 32ha in size, the actual area of Fen Meadow habitat to be created within it was only 4.9ha. Furthermore, the 32ha of additional land had to be seen in the context of an application where the Order Limits at the main development site alone covered approximately 1,000 ha of land.

1.1.10 Where the proposed changes do result in significant environmental effects, these are mostly beneficial and only three of the proposed changes (1, 2 and 9) result in any material changes to the significance of effects reported in the Environmental Statement (“**ES**”).

- a) There is no change in the predictions of adverse effects on integrity of any European site [[AS-173](#)].
- b) Without exception the changes improve the application and in particular its sustainability. Most are made as a positive response to what has been said and asked for by Interested Parties. By way of example, reference was made to the **Freight Management Strategy** [[AS-280](#)], section 1.3 in relation to the proposed changes to the beach landing facility (“**BLF**”), the addition of a temporary BLF and the proposed increased use of the rail infrastructure, and how this was a

direct response to the relevant representations made by East Suffolk Council (“**ESC**”) and Suffolk County Council (“**SCC**”).

- c) It is also important to understand that although some Interested Parties have referred to the 20% increase in material required on the main development site, that is not a change to the proposed development itself, but a revision of the preliminary estimate of what would be needed to implement it (Part 1 of the change request, paragraph 2.2.14 [[AS-281](#)]). SZC Co. has identified that revised estimate in the submitted documentation because it is relevant for consideration of the appropriate freight management strategy and associated impacts and controls.

1.1.11 Whilst some of the changes are acknowledged to be material, when they are seen in the context of the application as a whole it is plain that they could not be said to mean the development is no longer in substance that which was originally applied for.

1.1.12 The views of the two Councils in this respect are of particular relevance because they have explicitly addressed the issue the ExA has raised and applied their planning judgment to it. Both ESC and SCC say that the development remains in substance that which was originally applied for.

1.1.13 Whilst a number of Interested Parties address the issue of whether some of the changes are material – something SZC Co. has always acknowledged – in the main, the responses are concerned with the second of the ExA's issues, namely how the changed application might be examined. None of the responses to the ExA's Rule 6 letter object to the changes being accepted.

1.2 How a changed application, if accepted, might be examined

1.2.1 SZC Co. agreed with ESC and SCC that if the changes are accepted the changed application should be examined as an integral part of the DCO examination. That had always been its expectation.

1.2.2 There is no difficulty in achieving that in the present case:

- a) AN16 recognises that changes do sometimes need to be made, and in this case SZC Co. has adopted an approach that fully complies with both the letter and the spirit of that advice.
- b) The majority of the changes arise directly from negotiations with Interested Parties. They have been widely welcomed, which reflects

the fact that they enhance the project's sustainability and respond to Interested Party input.

- c) The nature of the proposed changes was identified publicly in the 6 October 2020 submission to the Planning Inspectorate [[AS-004](#) and [AS-005](#)], though a number had been discussed with the most directly affected Interested Parties before then.
- d) Each change was subject to consultation between November and December 2020. In addition, there has continued to be detailed and regular engagement with Interested Parties throughout this time and beyond. For a number of Interested Parties the consultation process is the tip of the iceberg in terms of active engagement in the consideration and development of the proposed changes (see **Consultation Report Addendum** paragraphs 3.1.3 and 3.2.6; Table 3-1; and section 4.2 [[AS-153](#)]). The **Consultation Report Addendum** also explains how the consultation undertaken and the support provided to Interested Parties to aid their participation went beyond what is recommended in AN16 in a number of significant respects (paragraphs 3.2.4, 3.2.5, 3.2.7 and 3.3.5 to 3.3.8).
- e) Even though most of the changes are non-material, all have been subject to the rigorous notification, consultation, assessment and publicity requirements required for material changes.

1.2.3 The CA Regulations provide a fair process for dealing with additional land, and there is no difficulty in complying with the steps required by those regulations within the draft timetable identified by the ExA.

1.2.4 The impact of the changes also needs to be seen in the context of the timing of the application as a whole. There has been an unusually extensive period between submission and commencement of examination. The Planning Inspectorate's letter of 22 January 2021 [[PD-010](#)] explained that the Preliminary Meeting had been moved back to March/April 2021 having regard to submissions made by SZC Co. and various Interested Parties because of "*the need to allow all parties a fair and reasonable period of time prior to the start of the examination to assess both the change request and the further information submitted*". That decision also expressly took account of the impact of the pandemic.

1.2.5 The draft timetable as published allows for a fair procedure which would enable the examination to be completed within the statutory 6 months.

1.2.6 There is also a substantial public interest in ensuring that examinations into NSIPs such as this are dealt with expeditiously.

- 1.2.7 That is underlined in a case such as this where the Government has identified that the need for the development is urgent.

Compliance with the CA Regs

- 1.2.8 The draft examination timetable would need to be supplemented by the steps required to comply with the CA Regulations procedure. SZC Co. suggested incorporating that timetable into the final examination timetable published in the Rule 8 letter on 21 April 2021.
- 1.2.9 SZC Co. offered to supply its suggested dates for those steps at Procedural Deadline B. That has now been done, and SZC Co.'s suggested dates are to be found in Doc Ref. PDB-4.

Compliance with the EIA Regs

- 1.2.10 It was explained that SZC Co. intends to carry out publicity that reflects the requirements of the EIA Regulations so as to mirror the dates required pursuant to the CA Regulations.
- 1.2.11 In response to a question raised by the ExA as to how best to avoid confusion between the two processes, it was explained that SZC Co. intended to place separate notices in relation to each procedure, with each notice making clear to whom representations should be submitted, and when. Responses provided to SZC Co. would be passed to the Planning Inspectorate in the usual way.

Signposting document for the environmental statement requested by RSPB/SWT

- 1.2.12 SZC Co. stated that whilst it does not consider that there is a need for more in the way of signposting than had been supplied with the change request, it would like to do what it reasonably can to assist the RSPB and others in navigating the documents, and therefore proposed to provide a signposting document which would include a fully referenced Table identifying in relation to each ES chapter:
- a) the supplementary information relevant to the chapter;
 - b) the proposed changes relevant to the chapter; and
 - c) the updates to the chapter.
- 1.2.13 This has now been submitted and can be found in Doc Ref. PDB-2.

1.3 Responses to points raised by Interested Parties

- 1.3.1 SZC Co. responded under a number of headings to matters raised by Interested Parties in their responses to the Rule 6 letter and in suggestions in oral submissions to the Preliminary Meeting: Part 1 that more information was necessary to support the proposed changes request.

Beach Landing Facility Modelling

- 1.3.2 The January 2021 submission is complete both in the description of development and the assessment of effects. Whilst the ExA has requested and received additional design information, that information is illustrative. The description of development and the submitted plans in relation to the BLF and the temporary BLF are sufficient and appropriate and enable likely significant effects to be assessed.
- 1.3.3 The effects on coastal processes are fully assessed in **Section 2.15, Chapter 2** of the **ES Addendum** [\[AS-181\]](#). In particular, paragraphs 2.15.9 and 2.15.15 explain that the likely significant effects have been assessed by extrapolating from existing modelling and applying expert judgement, which is a standard and appropriate approach. The assessment concludes that the effects would be negligible or minor and not significant. The assessment is complete.
- 1.3.4 Nevertheless, SZC Co. confirmed to stakeholders that it would undertake further bespoke modelling to validate or otherwise the assessment in the **ES Addendum** [AS-179 – AS-260]. That further modelling has been undertaken and the results were shared with the stakeholders of the Marine Technical Forum in the week prior to the Preliminary Meeting: Part 1. The work confirms the conclusions of the assessment reported in the **ES Addendum** [AS-179 – AS-260].
- 1.3.5 Although the January 2021 submission is considered complete as submitted, SZC Co. is pleased to share the final report with the examination. The Modelling of the Temporary and Permanent Beach Landing Facilities at Sizewell C report is now submitted and can be found at Doc Ref. PDB-1.

Coastal Defences

- 1.3.6 In response to suggestions by Interested Parties that more information was necessary both in relation to design and assessment, it was explained that the January 2021 submission was complete in both respects.

- 1.3.7 In relation to design, the detailed design of the HCDF is reserved by draft Requirement 12B; it is not 'missing' from the January 2021 submission. There are good reasons to reserve the detail of the design, including:
- i. The DCO application is running in parallel with an application for a Nuclear Site Licence. The design of the HCDF and its relationship with the nuclear power station is a matter potentially relevant to both applications – meaning that it cannot be absolutely fixed prematurely;
 - ii. The DCO application deliberately allows some flexibility in the precise disposition of buildings on the main development site, partly as a result of lessons learned at Hinkley Point C – so that it would be inconsistent with that deliberate flexibility to fix one element of the design precisely; and
 - iii. The submitted information provides all the information necessary to assess the likely significant effects of the HCDF (including in Figures 2.2.8 and 2.2.22-24), including:
 - Maximum height during each phase of the life of the HCDF (temporary, permanent and adaptive);
 - Depth of the toe;
 - Composition of the HCDF;
 - Parameters for its location; and
 - Illustrative cross section – including a comparison with the HCDF originally proposed in the submitted DCO application (Figure 2.12).
- 1.3.8 Draft Requirement 12B requires the design of the HCDF and the SCDF to be approved by ESC following consultation with the Marine Management Organisation before commencement of development, whilst the design will also need to adhere to the Design Principles set out in the Design and Access Statement [\[APP-585\]](#).
- 1.3.9 The SCDF is predominantly composed of shingle but, again, the January 2021 submission provides the information necessary to assess its likely significant effects, including its height and locational parameters.
- 1.3.10 In relation to modelling, the likely significant effects on coastal processes are fully assessed in **Section 2.15, Chapter 2** of the **ES Addendum** [\[AS-181\]](#). The modelling is based on the submitted parameters, not on a separate detailed design. In fact, the precise design of the HCDF is not

relevant in this context as it will remain a terrestrial feature, protected by the SCDF.

- 1.3.11 The only area where parties have identified that more information may be required relates to the operation of the SCDF. However, the SCDF will be managed through a **Coastal Processes Monitoring and Mitigation Plan (CPMMP)**, the detail of which is reserved by draft Requirement 7A. Notwithstanding that its detailed management can be and is reserved, SZC Co. provided a draft of the **CPMMP** as **Appendix 2.15A** of the **ES Addendum** [\[AS-237\]](#).
- 1.3.12 That draft is considered complete, with the exception of the trigger point at which monitoring should identify that mitigation (replenishment or maintenance of the SCDF to maintain a continuous shingle beach) is necessary. That is a matter reserved for the final detail of the CPMMP but SZC Co. is aware of the interest in it from the coastal stakeholders and has progressed modelling of it, in readiness for implementation. That modelling is due to report to SZC Co. in two stages: at the end of May / early June 2021 and at the end of June 2021. SZC Co. would be pleased to share those results with the examination if that is helpful.

Other matters raised at the Preliminary Meeting: Part 1

- 1.3.13 **Temporary BLF design.** It was suggested that the BLF had changed again and been extended by 100m. That is a misunderstanding arising from SZC Co.'s letter to the ExA of 10 March 2021 [\[PDA-001\]](#) which explained that a mistake had been identified in the parameter plan for the temporary BLF submitted in January 2021 and the plan had been replaced. There has been no further change to the temporary BLF, which was fully described and assessed in the January 2021 submission.
- 1.3.14 **Network Rail.** Concerns were expressed, not so much about missing information but about confidence in the delivery of necessary rail improvements. Good progress is being made with Network Rail, not least through weekly meetings, which every fortnight include the local authorities. SZC Co. has undertaken the work to demonstrate train path availability on the East Suffolk Line, without impact on passenger services and this work has been quality assured by Network Rail. SZC Co. is working with rail freight operating companies who are confident of train path availability from points of materials origins.
- 1.3.15 The principal rail works necessary for the Project are within the control of SZC Co. and included within the DCO application (the branch line replacement and the green rail route), whilst good progress is being made with the physical interface of the branch line and the ESL at Saxmundham,

where points improvements can improve noise impacts. Agreement has reached an appropriate stage in Network Rail's staged GRIP design process. These matters will be set out in the Statement of Common Ground with Network Rail, which is due at Deadline 1.

- 1.3.16 **Sizewell Link Road.** Proposals to change aspects of the Sizewell link road design are included in the January 2021 submission. The information supporting those changes is considered to be complete.
- 1.3.17 Engagement is continuing with SCC over detailed design, particularly in relation to drainage, but drainage matters are only shown indicatively in the January 2021 submission and details are reserved for later approval through draft Requirement 5.
- 1.3.18 **Borrow pits.** It was surprising to hear concerns about borrow pits in the context of this agenda item because the information submitted with the January 2021 submission is complete. The change proposed is relatively minor – a change to the footprint of a stockpile within the heart of the temporary construction area, with no implications for land ownership and no new or different significant environmental effects. The January 2021 submission is complete.
- 1.3.19 **Hydrology.** Again, concerns were expressed by Interested Parties at the Preliminary Meeting: Part 1 but no changes have been proposed in relation to the issues raised. There appears to be a disagreement about the effects of the Project on local hydrology but no information was identified in the context of additional information necessary to support the proposed changes.
- 1.3.20 **Mitigation details regarding the Sizewell link road.** It was suggested by Interested Parties that no or insufficient information was available about measures proposed to mitigate the impacts of the Sizewell link road and that there had been no engagement or consultation on the subject. At the Preliminary Meeting: Part 1, SZC Co. responded by stating that substantial mitigation proposals were apparent in the submitted documents, with further detail appropriately reserved for later approval. SZC Co. did not recognise the characterisation of engagement between the parties and undertook to set out the position in its submission for Procedural Deadline B (this submission). That information is provided in SZC Co.'s written submissions on matters raised orally at the Preliminary Meeting Part 1 (Doc Ref. PDB-4).
- 1.3.21 **Consultation with parish councils.** At the Preliminary Meeting: Part 1 it was suggested by at least two speakers that SZC Co.'s consultation on the proposed changes had not been sufficient, particularly as no presentation

had been provided to specific parish councils. SZC Co. undertook to provide details at Procedural Deadline B. Those details are set out in SZC Co.'s written submissions on matters raised orally (Doc Ref. PDB-4) and they include confirmation that SZC Co. offered virtual sessions with a wide range of local community contacts including the clerks or chairs of the 152 parish councils / parish meetings in East Suffolk but that only 5 took up the offer. SZC Co. also engaged and funded Planning Aid England to provide a service to local councils and groups to ensure understanding of and engagement with the proposed changes.

1.3.22 Need for transport infrastructure. Again, not so much as a suggestion that there was insufficient information provided but more an assertion on the merits of the Project: it was suggested by Interested Parties that certain transport infrastructure proposed in the DCO application may not be needed in the light of the reduction in HGV movements that would be brought about through the measures in the proposed changes. SZC Co. responded that all of the infrastructure proposed in the application (as proposed to be changed) is considered necessary and that SZC Co. is content for the application to be examined on that basis.

1.3.23 The need for consultation. The other point that was raised collectively in relation to the proposed changes was that they have to be consulted upon. They have, of course, been consulted on well in advance of the examination. It is SZC Co.'s position, therefore, that the application as proposed to be changed is complete and is ready for examination.

2 AGENDA ITEM 8: ANY OTHER MATTERS

2.1.1 The ExA invited SZC Co. to explain the approach that it had adopted to the level of detail with which the proposed development had been defined in the application.

2.1.2 In response, it was explained that the approach adopted for the design and construction of the Sizewell C Project was to set parameters, where necessary, for the extent of development and key aspects of that development. The final design and construction methodology would be limited to those parameters and the limits of deviation set by the DCO.

2.1.3 Reference was made to the case law which established the concept of the 'Rochdale Envelope', whereby projects of this type could be defined by reference to parameters which allowed flexibility in the development of details in due course, provided that the assessment of their effects reflected that flexibility and what could be done within the parameters.

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- 2.1.4 Applications for development consent for NSIPs commonly adopt this approach because of their complexity, the staged process of developing the design in detail, the time over which they needed to be implemented, and the attendant need for flexibility as to the detail of what would be built at this stage of the consenting process.
- 2.1.5 Attention was drawn to the Parameter Plans and to the Requirements in Schedule 2 to the draft DCO, and to the clear and helpful explanation of the Rochdale Envelope approach contained in Planning Inspectorate's *Advice Note 9: Rochdale Envelope*.