

## **SZC ExA Preliminary Meeting Deadline B Submission: Ref EN010012**

*Submission from Regan Scott (Ref No 20026009) for S.A.G.E.*

### **Outstanding and New Issues**

Further to our Relevant Representation and oral questions at the hearing on

(1) the scheduling of RIES – Annex D PM Part 1

(2) the likely role of sustainability criteria on the non-EIA issues under IROPI, arising from Annex C Initial assessment of Principal Issues (para 6, bullet point 2) given that “all issues” will be examined by this principle

and

(3) the associated issue of the handling of the new post Brexit HRA Regulations (SI 2019 No 579, Clause 25 (4))

we also wish to raise new, substantial matters.

#### **1: PA2008 Duties and “Imperative” and “Overarching” issues**

While welcoming the very wide range of issues incorporated in the draft Agenda of PIs we note new approaches suggested in the oral session e.g project “deliverability”, and “drilling down into low carbon”.

We also offer as new the view that the ordering and allocating of time and resources to these PI issues might be more fully in accordance with the wide-ranging provisions and duties of the SoS and ExA in the PA2000 (as amended).

## **2: Climate Change Mitigation and “Good Design”**

Of particular interest here are the very strong duties of the SoS and, by extension, the ExA. These are to pursue climate change mitigation and good design. To quote PA2008 Part 2, Section 10, (1),(2) and (3) (a) and (b) the SoS “must do so with the objective of contributing to the achievement of”.... “mitigating and adapting to climate change” and “achieving good design”. We note the equal drafting status of “good design”. Also, its substantial role in the recent Planning Inspection Report on the Horizon Wylfa project.

## **3: Policy and legislative authorities – “changed circumstances” Ministerial Statement 2017**

In addition to this very strong primary legislation duty, we note the Ministerial Statements (Commons and Lords) 7.12.2017 responding to concern from various quarters – including our own work – on the status of NPS6 and its relationship to NPS1 after the announcements of 015/6 of a Review caused by “changes in policy and law”. The statements, to both Houses, announce “annual updates” of climate and emissions projections ...by 2035”, and, on the status of NPSs, Para 3 *Applicability of EN-6*, that “In respect of matters where there is no relevant change of circumstances, it is likely that significant weight would be given to the policy in EN1 and EN6”. We therefore have looked at “changed circumstances” as an approach to the SZC project and the Examination processes and decisions.

## **4: Policy Changes**

These are overwhelmingly matters of climate change and the NetZero international treaty commitment and the imperative for energy policy. The other key change results from case law about the application of the Habitats Regulations, and the need to change its

administration after Brexit. We look at these after commenting on climate change matters.

The recent multi-faceted reformulation of NetZero targets and energy policy rests on the Prime Minister's £12bn Ten Points on Energy & Climate Change of 11.20, the new Energy White Paper of 12.20, the Climate Change Committee's proposed 6<sup>th</sup> Carbon Budget and the NDC (Nationally Determined Contribution) Letter on Climate Treaty obligations from the Climate Change Committee to the SoS (12.20), and other key developments. These include big scale opportunities post-Brexit of energy supplies from Europe (North Dogger multi-country hub), Sizewell B's proposed 20 year life extension, the three new nuclear projects proposed for North Wales, and new energy industry business models based on local, networked, flexible and open energy production, distribution and consumption systems. And, of course, the new hydrogen economy pathways which are central to the new energy/climate policy mix in the White Paper, alongside CCUS(Carbon Capture Use & Storage).

Finally, we note that principles of need and a mixed fleet of energy production modes has routinely been subject to Treasury criteria and approval. These are the regularly rehearsed principles of "firm" energy security, decarbonisation, and value for money, both a public sector (Treasury) and a macro (Climate Change Committee) consideration. That they are authoritative can be seen in High Court cases like the Drax Gas turbine project.

We therefore suggest that an overarching imperative for all PIs in the Examination should be whether they adequately reflect changed circumstances and prospects, and conform with Government policy narratives.

## **5: Full examination of IROPI principles**

The reliance by the developer on IROPI invites the view that some issues of the many and diverse PIs deserve *a priori* what might be

deemed “substantial” or “significant” weight. They are the “imperative”, “overarching” and “public interest” issues, leaving aside, for the moment, separately, the question of the relevance, practicality and proportionality of protected species and sites compensation (see below). These IROPI terms are natural candidates for full hearings.

## **6: Net Zero as the “Imperative”**

There is no need to rehearse the full range of arguments here, but the imperatives are rooted in a full examination of the life-cycle CO<sub>2</sub>e contribution and debits of the construction, operation and decommissioning and waste storage of the SZC project, in relation to Net Zero and associated timelines.

Here there two key developments: first is the emergence of intermediate time thresholds for decarbonisation, commonly 2035, and secondly an energy sector target of carbon neutrality, excluding bought-in carbon credits, by 2035 (Climate Change Committee (drft) Sixth Carbon Budget) due for acceptance. These might be viewed as the principal SZC project-specific criteria for examining its low carbon and net zero public claims. Other “changed circumstances” will need to be examined: the above mentioned public policy subject of multi-modal hydrogen production, is commonly categorised as involving blue (fossil fueled), green (renewable energy) and pink (nuclear) hydrogen. SZC’s role here and in relation to the Prime Minister’s Ten Points – all domestic energy to be from renewables by 2030) needs to be fully explored and tested against other important established criteria.

## **7: “Good design” and Sustainable Development**

“Good design” as a technical speciality and virtual monopoly of the ONR is not, as commonly perceived, in accord with the provisions of the PA2008. While some responsibilities rest with the Environment Agency, the NPS family is the primary statutory reference. We

therefore respectfully suggest that “good design” has a total project and alternatives scope, and that these are in turn subject to a “sustainability” test. We further observe that “good design” stands with climate change mitigation as over-arching,. We further observe that a tendency to reduce consideration to environmental impact assessment using tick-boxing through the Leopold Matrix system does not do justice to this statutory concept and duty. The interpretation of “good design” as a matter of colour swatch aesthetics (paint shades for nuclear reactor domes) is self-evidently ridiculous. “Good design” may be the applicable principle for examining the proposed development next door to RSPB Minsmere.

At this stage of establishing the Examination timetable and finalising issues, there are a number key PIs which might be considered under the aegis/legend of “good design” to establish coherent weightings.

We welcome the presence of several relevant axial criteria being already listed in the draft PI schedule, and submit observations which we cannot recall being raised at the first Hearing or in Relevant Representations as we have been able to absorb them.

These are that

- “alternatives” as a basic feature of the NPS family should be applied to the whole SZC project, in particular informing the principle of “need” in the draft PI schedule.
- “alternatives” in EIA and HRA impact assessments need to be comprehensively recorded for all likely significant effects, not just for highlighted single issues. Here we note the already cited Natural England contribution about the integrity of protected sites, contrasted with the headlined marsh harrier foraging issue. Alternatives can be misunderstood if limited to single issues.
- “mitigations” require to be assessed by proportionality, practicality (deliverability) and sustainability assessing future

risk on the precautionary principle informed by duration of impact. As noted above, this might be a minimum 10 years, and maybe more than 15 years.

- in-combination and cumulative effects and impacts further raise the matter of whole project alternatives. There is a concern that these might be considered simply on a proximity criterion ( the Scottish Power Renewables cabling project), rather than a systems approach. Baseline impacts limited to the Developer's dual zoning approach are insufficient. Some 12 million tons of materials for construction have no assessed traffic and environmental impact beyond the kilometre circle zones. Materials sourcing by HGVs, rail and sea stops locally as though no impacts further on in the supply chain are of account. That cannot be acceptable for the heavy CO2e contribution of road traffic, which incidentally needs to be in the project's carbon footprint. Recent public advertisement (TV and press|) of the national geographic spread (and putative) benefit of supply chain project contractors is a case in point. If that information can be in the public domain, surely declared zonal limits can be regarded as inadequately designed.
- baselines need to reflect likely "changed circumstances" to meet the Ministerial Policy on NPS status.
- natural environment assessment methodologies: Of many concerns, nature impacts rate highly. Bio-diversity, BNG (bio-diversity net gain) and the impending Net Gain Matrix 2 values and application need to be examined under sustainability criteria. Aldhurst Farm's initial tree planting failed. Bat corridors at Hinkley Point C, likely to be copied at SZC, may not have kept the bats happy with site lighting and noise nearby. Otters on the Sizewell SSSI may not stay around to enjoy a smaller or larger culvert – both consulted on - under the arterial SZC access roadway, especially while it is being built. They may not return

when the culvert is accessible and used alongside a 10 to 5 year construction site.

## **8 HRA Compensation**

Here we note that Natural England have already offered a view on the associated issue of nature protection compensation. We therefore welcome the reference in the draft PI schedule to the Environment Bill, which we understand will embody if not strengthen the sustainable developments of the PA2008. Should the Developer's IROPI application be accepted as suitable for examination, we suggest that the HRA issues be treated as matters of "good design" in accordance with the PA2008 and take account of Ministerial statements about the aims and provisions of this Bill.

## **9 Additional and Supplementary Criteria**

We have noted from case law the relevance of the doctrines/principles of "amenity" and "resilience" playing a substantial role in planning examination and weighting, and suggest, as examples, that

- tourism and natural capital be assessed and informed by "amenity"
- community and social impacts be assessed/informed by the concept of "resilience". The length of the SZC construction period, the likelihood of late completion, and length of recovery period, subject to structural loss, are important issues.
- the traffic and road impacts be assessed by both "amenity" and "resilience" criteria, the latter being not simply a matter of S 106 compensation to Suffolk County Council and its council tax payers. S106 draft agreements, where public examination is to be welcomed as an ExA decision, should be community life-cycle proofed, "amenity" should not be a once-off loss attracting, as proposed in respect of tourism, of a once off compensation fund. There are other examples in the SZC draft DCO where the construction period has been treated as a transitional impact

followed by a rapid return to a Suffolk normal. This approach flies in the face of mainstream notions of conserving and developing natural capital, its social dimension in community amenity and whether a project needs to be assessed as an environmental, social and economic game changer for its host communities. A metric may help to underline our concern: Leiston and its villages' populations will be doubled for a whole generation, to be followed by a massive proportionate reduction and, arguably, a much-changed future. A socio-economic blight is already discernable from the long gestation period of SZC. Alternative available sites (EN6 designated through SEA methodology), maybe relevant for reasons of Grid capacity, are common-sensically better located in isolated positions.

## **10 PI Conclusions**

We suggest that Project design, climate change and sustainability offer themselves as priority issues for timetabling and as organising principles for Issue Specific Hearings and Open Floor hearings, as well as written submission. And further that the examinations be informed by the principles of amenity and resilience.

## **11 DCO implications**

We welcome recognition in the PI schedule that there will examination of the provisions of the draft DCO. We have contributed to the public narrative about the ownership and funding of the SZC project in respect of provision for assigning the licence(s) to a different owner than the EDF subsidiary NNB.

## **12 Role of the SZC Representative at Hearings**

We also wish to ask for clarity about the role of the developer's representative. Noting that this has been of value to date, but exclusively at the request of the Inspectorate, can we ask whether access to the representative might be afforded for interested parties.

Presumably this would be at the discretion of the Inspectorate Panel. It might serve to expediate matters and clarify issues given the limited time-frame of the examination and the constraints of online participation at hearings.

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