



Application by NNB Generation Company (SZC) Limited for an Order Granting Development Consent for The Sizewell C Project

The Examining Authority's written questions and requests for information (ExQ1)

Issued on 21 April 2021

Responses are due by Deadline 2: Wednesday 2 June 2021

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ExQ1	Question to:	Question:
Bio.1 Biodiversity and ecology, terrestrial and marine		
Part 1 - Biodiversity and ecology (terrestrial & marine) - General		
Bio.1.0	The Applicant, Natural England, MMO	<p>Please would the Applicant, NE and the MMO agree and provide a short explanatory document, with plans to bring together information on the terrestrial and marine SSSIs, SACs, SPAs, Ramsar site(s), MCZs and other non-statutory designations they consider are of relevance to this application. (If the parties disagree on which are relevant, the sites should still be included but clearly marked to show which party considers site to be relevant.)</p> <p>The information in Figures 8.2.1 – 8.2.3 of the oLEMP [APP-588] is helpful in this regard and could be used as a starting point. It however only covers the surroundings of the Main Development Site and there are some aspects not clearly labelled (see below).</p> <p>The ExA would like to have all in one place: (i) the spatial extent of each designated area, in relation to the others and the Application Site (if this could be done by transparent overlays capable of being read as hard copies and electronically that could be very helpful), (ii) the reasons for the designation of each site, (iii) a brief explanation for the discontinuities within some of the designations (for example why the Minsmere to Walberswick Heaths and Marshes SAC has five separate adjacent but not adjoining areas).</p> <p>Some areas are designated under more than one provision. For example the Minsmere-Walberswick Heath and Marshes SSSI is also covered by a SAC, and SPA and a Ramsar designation. Are the areas co-extensive (so that the same tests apply across the whole area) or are there parts which are, say, a SAC but not a Ramsar site?</p> <p>The labelling questions are as follows: (a) Fig 8.2.2: (i) is the SSSI covering the area north of the Main Development Site boundary going north to a campsite, northwest towards Potton Halls Fields SSSI and then back south near Middleton and Eastbridge part of the Minsmere-Walberswick Heaths and Marshes SSSI?</p>

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		(ii) where is the northern limit of the Sizewell Marshes SSSI? It appears to touch the area we describe in (i).
Bio.1.1	Natural England	At para 1.7 of its relevant representation [RR-0878] NE states that Pt I of the [RR-0878] sets out its view on <i>"the main issues which [NE] advises should be addressed"</i> by EDF Energy (the Applicant presumably) and the ExA. Please will NE clarify is there are any other issues arising from the change request.
Bio.1.2	Natural England	Please will NE confirm that all the issues set out in Part II of its [RR-0878] are summarised in Part I. Please identify any which are not.
Bio.1.3	EA, The Applicant	At page 4 of its relevant representation [RR-0373] the Environment Agency states that its ability to review (and presumably advise on the new information) <i>"will depend upon the extent to which the applicant can provide information to resolve outstanding issues ahead of the examination period"</i> . Has the Agency now been provided with the necessary information and was it received before the Examination commenced? If this is dealt with in the SoCG please point the ExA to the relevant parts.
Bio.1.4	The Applicant, ESC	<p>In its reply to [PD-009] ([AS-053]) Part G, Q3 the Applicant referred the ExA to the "SANDPITS – TARGETED SURVEYS SEPTEMBER 2019 TECHNICAL NOTE", which was included in ES Volume 2, Annex 14A3, which is a standalone confidential ecology survey report for the sandpits. The survey finishes as follows:</p> <p><i>"The results from these surveys and any required mitigation arising will be delivered via the Construction Code of Practice and any subsequent protected species licensing and dedicated methods statements to be delivered along with the Construction Environmental Management Plan."</i></p> <p>Given that the survey is confidential for reasons of nature conservation, what mechanism is to be used to inform the Undertaker (whose identity may change) and those enforcing the DCO and CCoP of the results and methods. The ExA imagines that there are other documents which are justifiably confidential in the NSIP process for which this is also a relevant question. Please will the Applicant answer for all such documents.</p>
Bio.1.5	The Applicant	Please will the Applicant provide a list and concise explanatory note of the reasonable steps it proposes in the application for the SoS to take in relation to this application, consistent with the proper exercise of the SoS's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of

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		<p>which the site is of special scientific interest (s.28G Wildlife and Countryside Act 1981). The note should specify the relevant flora, fauna or geological or physiographical features, where the steps are described in the application documents, where they are assessed, and how they enable the SofS to meet their duty in s.28G.</p> <p>If the Applicant would prefer to do this in one note covering this and the next two questions that would be acceptable.</p>
Bio.1.6	The Applicant	<p>Please will the Applicant set out in a concise explanatory note the steps which it considers the SoS should take in relation to this application to comply with their duties in s.40 of the Natural Environment and Rural Communities Act 2006 to have regard "<i>so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity</i>". For the avoidance of doubt, this should include the United Nations Environmental Programme Convention on Biological Diversity of 1992.</p>
Bio.1.7	The Applicant	<p>Please will the Applicant set out in a concise explanatory note the steps which it considers the SoS should take in relation to this application to comply with their duties in s.41 of the Natural Environment and Rural Communities Act 2006 (a) to take such steps as appear to the Secretary of State to be reasonably practicable to further the conservation of the living organisms and types of habitat included in any list published under this section, or (b) to promote the taking by others of such steps. The application affects a number of such organisms and habitats. The note should deal with each such organism and habitat, explain briefly the steps and conclusion which show that the duties will have been discharged and refer the ExA to the documents and paragraphs in the ES (and other application material) where the supporting evidence and conclusions are to be found.</p>
Bio.1.8	The Applicant	<p>The Environmental Statement in relation to terrestrial ecology states on a number of occasions that a Shadow HRA Report assessment has been undertaken and also a Water Framework Directive compliance assessment also (together referred to in the question as "Reports").</p> <p>Please will the Applicant confirm that:</p>

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		<p>(i) the information, whether factual, professional, assessments or otherwise in the Reports has been fully and properly taken into account in the terrestrial ecology chapters of the ES and the biodiversity reports</p> <p>(ii) There are no likely significant environmental effects in the Reports which have not been addressed and described in the ES.</p>
Bio.1.9	The Applicant	<p>There are many cases, in every chapter of the ES on terrestrial ecology, where it is stated that primary and tertiary mitigation with the aim of reducing or lowering levels of environmental effects. Inevitably the lists of primary and tertiary mitigation vary from site to site and receptor to receptor.</p> <p>How can the ExA be sure that all the primary and tertiary mitigation listed is secured and will be delivered? Please will the Applicant also explain where and how the descriptions of such mitigation in the chapters is reconciled with the mitigation secured in the DCO and the s.106 agreement.</p>
Bio.1.10	The Applicant	<p>[APP-224] para 14.4.15 (Terrestrial Ecology and Ornithology). The Ecological Clerk of Works. Please will the Applicant explain what authority the ECoW will have over the construction process and programme, their qualifications and the criteria they will use, and where these and the role of the ECoW are secured in the dDCO. This is a question which is relevant for all works where an ECoW is proposed and the Applicant should address it accordingly.</p>
Bio.1.11	The Applicant	<p>In [APP-363] (Northern Park and Ride) – para 7.6.61 asserts that the potential operational inter-relationship effects of noise, lighting, air and water on IEFs are inherently considered. Please will the Applicant explain what they mean by this and how they are inherently considered. This phraseology appears in other terrestrial ecology chapters. Please will the Applicant list each occurrence and answer this question for each of them.</p>
Bio.1.12	The Applicant	<p>[APP-363] Northern Park and Ride – para 7.6.64. This assesses impacts on the bat assemblage as low magnitude, minor adverse, not significant.</p> <p>In para 7.3.28 we read the following sentence:</p>

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ExQ1	Question to:	Question:
		<p><i>"To allow a consistent approach across all disciplines within this ES, the standard levels of significance defined in the CIEEM guidelines are set out in Table 7.9, alongside the equivalent definitions of effect used elsewhere in this ES. Therefore, as a deviation from the standard EIA methodology, minor effects identified within this chapter have been classified as significant at a local level".</i></p> <p>To arrive therefore at the assessment in para 7.6.64 that the impact is "minor" the impact must have been "significant at the local level".</p> <p>The sentence in para 7.3.28 appears across the suite of terrestrial ecological assessments. The following questions are therefore relevant across them all.</p> <p>Applying "minor" to mean "significant at local level", should not the classification in para 7.6.64, as "minor adverse" therefore be "significant" rather than not significant? Or is the formulation at paragraph 7.3.28, and everywhere else where it appears, the wrong way round? As the ExA understands it, the Applicant has used the CIEEM guidelines.</p> <p>Para 7.3.28 and its reiterations elsewhere state that these classify significance running from significant at international level down to significant at local level, followed by "not significant" at the bottom. So if the impact on the bat assemblage is "minor adverse, not significant", does that not mean that "significant at the local level has been classified as minor"?</p> <p>This issue occurs across all the chapters of the ES dealing with terrestrial ecology.</p>
Bio.1.13	The Applicant	[APP-394] (Southern Park and Ride) – para 7.6.46. This asserts that because effects on bats are individually not significant they would not create significant inter-relationship effects. The same conclusion is reached at para 7.6.54 in relation to decommissioning. Are these justifiable conclusions? Cannot plural non-significant effects result in one or more significant inter-relationship (or in combination) effect? If the answer is yes, please will the Applicant explain what the inter-relationship effects would be.

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		This is another question which affects a number of documents in the terrestrial ecology chapters of the ES (e.g. [APP-425] paras 7.6.116 and 7.6.161 – the Two Village Bypass) and it should be addressed for each of the cases where it occurs.
Bio.1.14	The Applicant	[APP-425] (Two village bypass) – Table 7.4 - please will the Applicant explain why there is no Survey Area for the statutory and non-statutory designated sites. This question applies to this table wherever it appears in the terrestrial ecology chapters of the ES and should please be answered for each of them.
Bio.1.15	The Applicant	<p>[APP-425] (Two village bypass) – para 7.6.129 – air quality effects on Foxburrow Wood. The argument seems to be:</p> <p>(a) 95% of all UK woodlands experience nitrogen at above the critical load (para 7.6.127);</p> <p>(b) 50% of the area of 'unmanaged' woodlands and 60% of the area of unmanaged (sic) woodlands exceeds the critical load for acidity (para 7.6.128);</p> <p>(c) Therefore, as the results of air quality receptors near Foxburrow Wood are negligible the air quality impact is negligible and by implication the wood is not in the 95%, 60% or 50% areas.</p> <p>(i) There are two references to unmanaged woodlands in para 7.6.128. Should not one be to managed woodlands? If so, which?</p> <p>(ii) Please will the Applicant summarise the negligible results of air quality receptors and give the cross-references to where that is to be found in the ES, with paragraph numbers.</p> <p>(iii) Has the ExA correctly understood the argument? Should the conclusion at (c) be that a negligible increase when the woodland IS in the 95%/60%/50% categories is unimportant and not significant? If so, is that a valid conclusion or should not further loading be avoided?</p> <p>(iv) The statement at para 7.6.129 is repeated at other terrestrial ecology assessments (e.g. for the SLR, [APP-461] para 7.6.99. Please will the Applicant answer this question in relation to each occasion on which it appears, identifying the relevant paragraph number and the Chapter by subject and using its EL reference.</p>
Bio.1.16	The Applicant	[APP-425] (Two village bypass) – para 7.7.8 – monitoring and bat boxes. This paragraph, which appears in several chapters, states: <i>"If bat boxes have not been occupied by year 5 following installation, consideration would be given to moving them to alternative sites"</i>

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		<p><i>nearby, to be determined by a licensed bat ecologist</i>". It is one of a number of examples where the following questions arise:</p> <ul style="list-style-type: none"> (i) where is this secured? (ii) what are the criteria? (iii) how are disputes settled? (iv) what happens if the boxes are not occupied in their new locations. <p>Please will the Applicant address these questions for each place where these proposals are made in the ES and Application documentation.</p>
Bio.1.17	The Applicant	<p>[APP-461] (Sizewell Link Road) Para 7.5.5 – <i>"Tertiary mitigation relevant to terrestrial ecology and ornithology is detailed In the CoCP (Doc Ref. 8.11)"</i>. This statement appears in a number of chapters.</p> <ul style="list-style-type: none"> (i) Does the CoCP describe the full extent of all tertiary mitigation relevant to terrestrial ecology and ornithology? (ii) What is the position with tertiary mitigation as a result of legislative requirements? (iii) If not all tertiary mitigation is included in the CoCP, please will the Applicant provide a list and details for each terrestrial ecology and ornithology chapter.
Bio.1.18	The Applicant	<p>[APP-461] Sizewell Link Road – para 7.6.41 – great crested newt incidental mortality. This states that <i>"It is not possible to accurately quantify the magnitude of this effect from the available literature; however, it is unlikely that a large proportion of individuals within the existing population would be killed or injured" in the context of great crested newts</i>".</p> <p>The phrase occurs on a number of times in relation to newts throughout the ecological chapters of the ES. Please will the Applicant explain how it can conclude that the effect on a large proportion is "unlikely" if the magnitude is "impossible to accurately quantify".</p>
Bio.1.19	The Applicant	<p>[APP-461] – Sizewell Link Road In para 7.6.83 dealing with the effect of light on bats of light, the ExA is told that some bats avoid lit areas; the prey of some bats – eg moths for barbastelle – may be negatively affected; and that artificial light may attract insects, thus depriving other areas. Then the ExA reads (para 7.6.84) <i>"For these reasons the bat assemblage in this location is likely to have a low sensitivity to increases in light levels"</i>.</p>

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		<p>Please will the Applicant unpack this conclusion which does not seem to follow from the preceding material. Is there other material in the ES which the ExA should consider?</p> <p>There is similar but sometimes slightly different reasoning e.g. in the chapter on the freight management facility. Please will the Applicant address this question in relation to those chapters as well, pointing to each of the relevant paragraphs being referred to.</p>
Bio.1.20	The Applicant, Natural England, SCC, ESC	<p>[APP-523] (Freight Management Facility) – para 7.4.6 – this includes the following statement, common to several chapters: <i>"CWSs support habitat types listed on Section 41 of the NERC Act"</i>. Is this a statement of verified fact for each of the associated sites? Or is it a rule of thumb or practice in choosing sites as CWSs? Given that CWSs are non-statutory it would not appear likely to be a legal rule and therefore may not be true for all CWSs.</p>
Bio.1.21	The Applicant	<p>[APP-555] Rail, para 7.2.5. National legislation and policies. This is a point of general application across the ecology parts of the ES. The Applicant refers to the <i>"UK Biodiversity Action Plan BAP (Ref 7.13) (now superseded by the 'UK Post-2010 Biodiversity Framework' (Ref 7.14))"</i>. Will the Applicant please explain why the former document is referred to if it has been superseded</p>
Bio.1.22	MMO	<p>At section 4.2 of its [RR-0744] the MMO comment extensively on BEEMS TR523 – Coastal Processes Monitoring and Mitigation Plan. Please will the MMO give the examination library and full application document citation for this document.</p>
Bio.1.23	Mrs Susan Eckholdt [RR-0861], The Applicant	<p>In [RR-0861] Mrs Eckholdt states that the <i>"State of Nature"</i> report <i>"shows, in grim detail, that almost one in five plants are classified as being at risk of extinction, along with 15% of fungi and lichens, 40% of vertebrates and 12% of invertebrates"</i>. Are any of the plants, fungi, lichens, vertebrates and invertebrates referred to present in the areas surveyed for the ES? Are they at risk of extinction and is the risk a likely significant effect of the project? If so, to what extent?</p>
Bio.1.24	Neil Mahler [RR-0881], The Applicant	<p>In [RR-0881] Mr Mahler states: <i>"As the County Fungus Recorder for Suffolk I am aware of at least 3 rare species found recently in the area around Sizewell A,B & C. There are:</i></p>

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ExQ1	Question to:	Question:
		<p>1. <i>Mycenastrum corium</i> - Found at Sizewell Belts near Leiston Common - only other UK location for this fungus is a site in Scotland.</p> <p>2. <i>Dendrothele naviculoefibulata</i> - found at Kenton Hills and the only UK site. This is known from 1 other location, a site in France. It was new to science when discovered in 2005.</p> <p>3. <i>Geastrum minimum</i> - a rare earthstar fungus found in sand dunes on the beach below Sizewell B.</p> <p><i>EDF refused me permission to survey for fungi so really, nobody knows what other rare fungi are waiting to be discovered/destroyed in the area due to be affected."</i></p> <p>Please will the Applicant respond to Mr Mahler's RR and explain whether there will be significant effects on these species and where they are addressed in the ES.</p>
Bio.1.25	The Readhead Family [RR-1210], The Applicant	<p>The Readhead Family [RR-1210] state "<i>Claims made by EDF that they will be able to pledge net biodiversity gains on the main development site do not provide detail on what losses they anticipate over the whole development area and how and when they expect to offer a net gain."</i></p> <p>(i) Please will the Applicant respond.</p> <p>(ii) Please will the Readhead Family indicate where the ExA can find the claims in the Applicant's submission to which they refer.</p>
Bio.1.26	Nigel Smith [RR-0904], The Applicant	<p>In [RR-0904] Mr Smith says: "<i>Rejection of marine-led strategy – EDF has not tested any alternatives to the close pile pier it has rejected (described by one engineer as a sixteenth century solution)"</i>. Please will Mr Smith expand and clarify this point. Please will the Applicant explain its position.</p>
Bio.1.27	Andrew McDonald [RR-0060], The Applicant	<p>Mr McDonald states in [RR-0060] "<i>Friends of the Earth estimate that, in addition to direct mortality, there would be a loss of bird life of up to 30% extending to 1 km either side of each new road"</i>. Please will Mr McDonald state where this is to be found and if possible submit a copy of the document. Please will the Applicant comment.</p>

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ExQ1	Question to:	Question:
Bio.1.28	Michael Taylor [RR-0792], The Applicant	Please could Mr Taylor expand and explain the points made in [RR-0792] on the headings (i) Cooling Water Systems and (ii) Ecology. Please use the document numbers from the Examination Library and give the relevant paragraph numbers.
Bio.1.29	Stuart Checkley [RR-0997], The Applicant	In [RR-0944] Mr Checkley draws attention to effects of extracting water for concrete; SSSI crossing; dewatering of 30 m deep trench for foundations; cumulative Minsmere/Sizewell Marshes effects; - and questions whether they have been adequately assessed, or at all, especially in regard to water levels; he also says there is a current insufficiency of marsh harrier hunting grounds. Please will the Applicant comment.
Bio.1.30	The Applicant	Many IPs have raised concern over the absence of design of the HCDF. Please will the Applicant either; (a) table the design, or (b) explain why it is acceptable to proceed on the basis of the descriptions provided in the Application, pointing exactly to the material on which the Applicant relies. If the Applicant chooses (b), please will it also supply plans, sections and elevations on an OS base of what could be constructed.
Bio.1.31	The Applicant	A number of IPs raise issues in relation to the effect if the Two Village Bypass on Foxburrow wood, and emphasise the need to avoid ancient woodland (e.g. [RR-0117] from Mr Brindley). Please will the Applicant comment.
Bio.1.32	The Applicant, Natural England, ESC, SCC	<p>Many IPs raise concerns about the shingle beach, including that it is a County Wildlife Site.</p> <p>Please will the Applicant and NE include in their SoCG the following:</p> <ul style="list-style-type: none">(a) a summary of the Applicant's view of the effects on the shingle beach;(b) a summary of NE's view of the same;(c) a statement of areas of disagreement; and(d) a statement of what measures should in the view of (a) the Applicant and (b) NE be taken to overcome any disagreement. <p>It also supports dune and shingle habitats and an invertebrate assemblage of national importance, impacted by direct habitat loss as a result of land take for the main platform and new coastal defences.</p>

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ExQ1	Question to:	Question:
		<p>Can the Applicant point to evidence regarding the successful recreation of vegetated shingle and stabilised sand dunes across a heavily modified foreshore at Sizewell B, as described in ES paragraph 14.7.188? With 38.83ha of habitat loss from the CWS predicted, what is the total area (in ha) of replacement habitat to be provided?</p> <p>Can NE comment on the sufficiency of the Applicant's proposals to mitigate the impacts of habitat loss/change, as described in ES paragraphs 4.7.185 – 4.7.191?</p> <p>[APP-224] – Suffolk Shingle Beaches CWS. At para 14.7.190 it is said that there would be a permanent irreversible loss of an area of vegetated shingle and sand dune, assessed at para 14.7.191 as a moderate adverse significant effect. Earlier at para 14.7.188 it is explained that the surface will be safeguarded, stored and replaced. How is there a permanent non-reversible loss given that the habitat is to be reinstated – see e.g. the statement at para 14.7.193?</p> <p>If these matters are already addressed in the SoCG between the Applicant and Natural England which was required by the Procedural Directions in the Rule 6 letter, please say so and direct the ExA to the relevant section of that SoCG.</p> <p>Unless these matters are addressed in the SoCG with ESC and SCC (in which case please respond directing the ExA to the relevant parts) please will the Applicant, ESC and SCC each please respond to this question.</p> <p>The ExA imagines that the Applicant's response may well be to refer the ExA to parts of the SoCG with Natural England, but that is not to limit how the Applicant may wish to respond.</p>
Bio.1.33	Dominic Woodfield [RR-0314]	In his [RR-0314] Mr Woodfield raises concerns on ecological issues and biodiversity net gain alongside Friends of the Earth (Suffolk Coastal). Please will Mr Woodfield submit a written representation setting out his objections as fully as possible. If Mr Woodfield would prefer to rely on the submissions by Friends of the Earth (Suffolk Coastal) please say so in reply to this ExQ.

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Bio.1.34	Caroline Price [RR-0178], Natural England, The Applicant	In her [RR-0178] Ms Price draws attention to the Grayling butterfly which she says will be adversely affected by the changes to its habitat, the Sizewell Belts. Please will the Applicant and NE comment.
Bio.1.35	David P N Grant [RR-0287], The Applicant	In his [RR-0287] Mr Grant states: <i>"EDF has conducted 'surveys' (using ARCADIS) - these are of lamentable depth or quality. I have commissioned my own independent surveys of the same issues to demonstrate that EDF's are 'box ticking' at best. Substantial damage to wildlife habitats is inevitable if SLR proceeds on the current basis"</i> . To enable the ExA to consider these points, please can Mr Grant submit his own surveys with a written representation. Please will the Applicant consider and respond either now or after written representations.
Bio.1.36	Dr Annette Abbott [RR-0320], The Applicant	Will the Applicant comment on the relevant representation from Dr Abbott, [RR-0320] particularly what she writes in relation to the loss of 10ha of SSSI, M22 Fenland habitat, rare freshwater plants and insects sensitive to pH changes, detriment to <i>"rare Red listed birds, barbastelle and other bats, rare endangered insects such as white admiral butterfly and Norfolk hawkers and incredibly rare plants"</i>
Bio.1.37	Alde and Ore Association [RR-1206], The Applicant	Please will the Applicant comment on [RR-1206] in particular its concerns in relation to the Orfordness Spit and contention that Great Sizewell Bay is not self-contained.
Bio.1.38	MMO, Natural England, The Applicant	<p>(i) Please state the applicability of ss.125 and 126 of the Marine and Coastal Access Act 2009 and set out any marine conservation zones which are relevant to the Application. (The ExA note that Table 22.1 of APP-317 highlights Orford Inshore MCZ.)</p> <p>(ii) If there are any Marine Conservation Zones or ss.125 or 126 of the Marine and Coastal Access Act 2009 are otherwise engaged by the Application please set out (a) how, (b) the steps taken in relation to them and (c) the steps which the SofS should take. Please will the Applicant in answering draw attention to any provisions of the application documentation which address the question</p> <p>(iii) Please state whether or not any other provisions of the MCA 2009 are relevant and if so, how.</p>

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		(iv) Is the MMO content that there is no separate assessment for the Orford Inshore MCZ?
Bio.1.39	MMO, EA, The Applicant	Please will the MMO and Environment Agency explain what is the split and overlap of their functions in the sea. If the ExA has understood the landward limit of MMO responsibility correctly, this question is directed to the area seaward of Mean High Water Springs.
Bio.1.40	Suffolk Coastal Acting for Resilience [RR-1172], The Applicant	<p>[RR-1172] Please will Suffolk Coastal Acting for Resilience confirm that the examination library reference is [APP-312] for the documents referred to at para 5 of their relevant representation?</p> <p>Please will Suffolk Coastal Acting for Resilience explain why they consider that the seven experts have not signed off the report of their views?</p> <p>Please will the Applicant comment on Suffolk Coastal Acting for Resilience’s comment referred to above.</p>
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<p>Please note. Owing to the length of [APP-171] and the multiple topics and effects it assessed, the ExA asked the Applicant in [PD-005] to identify each of the headings in a way which clarifies both the subject matter and how each section, sub-section, sub-sub-section and so on sits in relation to preceding sections. As the paragraphs already had a number system separate from the headings the ExA suggested a lettering system. The lettered headings version submitted by the Applicant is at [AS-033]. The full list of headings is at electronic pages 372-381 of [AS-033] (hard copy pages 366-375). References to lettered sections in the questions below on [APP-171] are to those sections.</p>		
Bio.1.41	The Applicant	<p>[APP-171] (Vol 1 App 6J) is a helpful document assisting the ExA to check what law and policy has been addressed.</p> <p>(a) [APP-224] Vol 2 Ch 14. Please will the Applicant explain why Table 14.1, which lists the requirements of NPS EN-1 specific to the Main Site omits policies 4.2.1; 4.3; 4.10.2; 5.3.3; 5.3.4 despite their being listed in Table 1.1 of [APP-171] as having been addressed in Ch 14. The ExA wishes to understand the Applicant’s approach.</p>

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ExQ1	Question to:	Question:
		<p>(b) [APP-224] Please will the Applicant explain why Table 14.2, which lists the requirements of NPS EN-6 specific to the Main Site, includes policy 3.9.3 but that was omitted from Table 1.2 of [APP-171]; omits 3.9.4 and 3.9.6 which were listed in Table 1.2 of [APP-171] as having been addressed in Ch 14; includes C.8.52 which was not in [APP-171], omits C.8.53 which was in [APP-171] and includes C.8.63 which was not in [APP-171].</p> <p>(c) Please, for the policies which are not in Tables 14.1 and 14.2, will the Applicant submit equivalent statements to those which are addressed in those tables. Replacement tables may be a convenient way to do this. The Applicant will appreciate that differences between [APP-171] and the actual assessment chapters such as [APP-224] Vol 2 Ch 14 make the consideration of what law and policy has actually been addressed difficult.</p> <p>(d) Please will the Applicant check whether there are differences between Tables 1.1 and 1.2 of [APP-171] and the relevant tables in the chapters for terrestrial ecology on the Associated Sites and submit equivalent statements for any missing policies, as in (c) above.</p>
Bio.1.42	The Applicant	<p>[APP-224], para 14.3.8. The Study area.</p> <p>The project will result in some development outside the order (or "redline") boundary, for example the highway improvements at the A140 / B1078 junction. Please will the Applicant indicate where their effects, ecological and otherwise, have been assessed.</p>
Bio.1.43	The Applicant	<p>[APP-224] para 14.4.5 – tertiary mitigation within the EDF Energy estate.</p> <p>Please will the Applicant provide a plan showing the extent of this estate and confirm that it is all controlled by the Applicant. (The ExA notes that the Applicant is not EDF.)</p> <p>The ExA also notes that in their change consultation response [AS-307] - Section 1, paragraph 1.1.6 Natural England welcome ambition to manage the land within the Sizewell estate for re-wilding and environmental gain post-construction and wider ambition to expand and connect parcels of land beyond the estate. However, the EDF Energy estate appears to extend beyond the Order limits.</p>

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ExQ1	Question to:	Question:
		<p>Please will the Applicant:</p> <p>(a) specify which land they consider is covered by the “ambition” statement, and</p> <p>(b) how they propose this ambition should be secured in the DCO.</p> <p>Please will Natural England do the same.</p>
Bio.1.44	The Applicant	<p>[APP-224] para 14.4.7 – mitigation for the Sizewell B relocation works.</p> <p>Please will the Applicant specify where these are secured in the dDCO.</p>
Bio.1.45	The Applicant	<p>[APP-224] para 14.4.10 bullet 4 – primary mitigation.</p> <p>Where does the ExA find the criteria and methods, programmes and the like for the long term manipulation of the water levels? How are they secured, regulated and (if necessary) adjusted over time? Whose approval is necessary?</p>
Bio.1.46	The Applicant	<p>[APP-224] para 14.4.10 bullet 4 – primary mitigation.</p> <p>Please will the Applicant state where the Eels Regulations Compliance Assessment 2019 referred to is to be found, and if not in the Application documentation, submit a copy.</p>
Bio.1.47	The Applicant	<p>[APP-224] – para 14.4.10 bullet 5 – primary mitigation, the SSSI crossing.</p> <p>Please will the Applicant submit a set of drawings showing the location, plan, elevations, sections and design of the SSSI crossing, together with the context, ecological and landscape. It is appreciated that the design is a work in progress, but the location, plan, elevations and sections of what is proposed should be capable of being fixed now. If this has been done further to the Rule 17 letter of 25 February 2021 [PD-012] there is no need to duplicate the material. Please however submit any material not sent in response to [PD-012] and also state the Examination Library reference(s) for the material which was submitted.</p>
Bio.1.48	The Applicant	<p>[APP-224], para 14.4.11, bullet 1. Marsh harrier foraging habitat.</p> <p>Please will the Applicant set out the following in one document:</p> <p>(a) The significance of the marsh harrier – this should cover policy, legal, ecological and any other relevant aspects</p> <p>(b) How it is affected by the Proposed Development?</p>

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ExQ1	Question to:	Question:
		<p>(c) the areas over which it forages over the Minsmere South Levels and Sizewell Marshes SSSI and any other areas where its foraging, breeding or other activities are likely to be affected by the proposed development</p> <p>(d) where the permanent foraging habitat referred to in this bullet "is being established and enhanced within the northern part of the EDF Energy estate"</p> <p>(e) the need for and role of any other areas for marsh harriers which are proposed (including Westleton)</p> <p>(f) state clearly whether the fen meadow compensation areas at Halesworth and Benhall (and if the change request is accepted also at Pakenham) play any role in relation to the marsh harrier.</p> <p>(g) How the SofS should decide whether the area at Westleton is required and whether its compulsory acquisition is justified. (In this regard the Applicant is also referred to the Secretary of State's decision letter on Hornsea Three, Section 6.)</p> <p>(g) Any uncertainties over the success of replacement foraging (or other) areas for the marsh harrier and the probabilities of success</p> <p>(h) conclusions in relation to the marsh harrier and the relevant policy, legal and ecological aspects.</p> <p>(i) For the avoidance of doubt, this document should cover but not be limited to s.40 of the Natural Environment and Rural Communities Act 2008, s.28G of the Wildlife and Countryside Act 1981, environmental assessment and the Habitats Regulations, EN-1 and EN-6.</p>
Bio.1.49	Natural England	<p>[APP-224], para 14.4.11, bullet 1.</p> <p>Please will Natural England also set out its understanding of the position on points (a), (b) and (c) of the previous ExQ. The ExA would suggest that NE's position on the other points is set out in its comments on the Applicant's responses and dealt with in the SoCG which has been requested between the Applicant and NE on ecological matters.</p>
Bio.1.50	The Applicant	<p>[APP-224], para 14.4.11.</p> <p>Please will the Applicant supply a plan showing the location of the habitats to be created.</p>
Bio.1.51	The Applicant	<p>[APP-224] para 14.4.11.</p>

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ExQ1	Question to:	Question:
		Please will the Applicant summarise the roles played by Aldhurst Farm in mitigation, whether primary, secondary or tertiary.
Bio.1.52	The Applicant	[APP-224] para 14.4.12. Please will the Applicant state where the monitoring and mitigation plan referred to is secured in the dDCO.
The next set of questions address construction effects on plants and habitats, paragraphs 14.7.22 – 14.7.223		
Bio.1.53	The Applicant	[APP-224] para 14.7.24. The ExA notes that changing water quality is scoped out of assessment on plants and habitats in view of the Outline Drainage Strategy. Please will the Applicant indicate where the DCO ensures that the strategy is delivered.
Bio.1.54	The Applicant	[APP-224] para 14.7.31 says marine piling for the BLF "is likely to be using a cantilever method from the HCDF (no effects on coastal geomorphology) or ...". Please will the Applicant explain how the piling could be done from the HCDF. The ExA's understanding is that the HCDF is some way up the beach (see para 14.7.32).
Bio.1.55	The Applicant	[APP-224] para 14.47. Please indicate how the recreation and amenity strategy is secured.
Bio.1.56	The Applicant	[APP-224] para 14.7.53, dealing with hydrological effects of construction on Minsmere. This refers to Figure 14B1-1 in Appendix 14B1 [APP-250] to show the areas that drain into the Minsmere New Cut. The ExA cannot see that Figure; indeed, Appendix 14B1 states that no figures are provided. Please will the Applicant supply the figure in its response as well as indicating where it is to be found in the suite of application documents, using the EL references.
Bio.1.57	The Applicant, Natural England	[APP-224], section C.a.a.c, especially paras 14.7.62; 65 and 67. (a) It appears that avoiding hydrological effects on Minsmere European Site (sic) is dependent on careful monitoring and control measures. Please explain where these are described and how they are secured in the DCO and / or the s.106 agreement. This should include how they are to be funded. Cross-referencing to the Mitigation route map would also be helpful. Is "Minsmere European Site" (e.g in para 14.7.67) intended to

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ExQ1	Question to:	Question:
		<p>refer to all the European designations – SAC, SPA and Ramsar? There are several uses of the phrase in the singular in the Chapter and in questions below.</p> <p>(b) Is NE content with these measures?</p> <p>(c) To what extent is the continued operation of the Minsmere Sluice needed?</p> <p>(d) The ExA notes that some IPs have suggested the lifetime of the sluice is shorter than the lifetime of the Proposed Development. Please will the Applicant and NE comment on that, indicating whether they agree and what action is needed in relation to that, if any, is needed to ensure the Proposed Development does not have any likely significant effect.</p>
Bio.1.58	The Applicant, Natural England	<p>[APP-224], para 14.7.79 – dust deposition and Minsmere European Site.</p> <p>This states that there will be a dust management plan but that “If monitoring indicates exceedance of this threshold, then additional mitigation measures would be adopted”. Should not the measures be specified, or criteria and a dispute resolution mechanism described? Where and how is this addressed in the DCO?</p>
Bio.1.59	The Applicant	<p>[APP-224], para 14.7.83. Emissions from diesel generators.</p> <p>The acronym PEC does not appear in the Glossary [APP-005]. Is it intended to be Predicted Environmental Concentration?</p>
Bio.1.60	The Applicant	<p>[APP-224], para 14.7.89. “However, given that Critical Levels are defined as “concentrations of pollutants in the atmosphere above which <i>direct</i> adverse effects on receptors, such as plants, ecosystems or materials, may occur according to present knowledge ...” (emphasis added).</p> <p>What consideration has been given to indirect effects? If none, please will the Applicant explain.</p>
Bio.1.61	The Applicant	<p>[APP-224] para 14.7.103, acid deposition at Minsmere European Site.</p> <p>The ExA can see that 21% increase for a short time when background deposition already exceeds the Critical Load may not be significant. However, over a longer period at a lesser deposition that 21% may there not be effects. Please will the Applicant clarify where in the ES the evidence is set out on why there will be no LSE during other times – for example during operation.</p>
Bio.1.62	The Applicant	<p>Sizewell Marshes SSSI - [APP-224] para 14.7.126 and [AS-006] para 5.4 – replacement table 14.10.</p>

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ExQ1	Question to:	Question:
		<p>Para 5.4 of [AS-005] (response to [PD-005]) states that temporary land take was underestimated by 0.4ha. However, replacement Table 14.10 indicates a total underestimate of 0.04ha. Will the Applicant please say which is correct and comment on the conclusion in the light of which is the correct figure.</p>
Bio.1.63	The Applicant	<p>[APP-224] para 14.7 131. This states that 0.43ha of wet woodland beneath the pylons will be temporarily lost by coppicing. Where is the 0.43ha in Table 14.10, original and replacement?</p>
Bio.1.64	The Applicant	<p>Please will the Applicant say whether any other parts of Chapter 14 [APP-224] are affected by these changes, for example para 14.8.17. If they are, please will the Applicant supply a comprehensive list of the paragraphs and an explanation of the effect. Are any other application documents or additional submissions affected?</p>
Bio.1.65	The Applicant	<p>[APP-224] para 14.7.134. Recreation of fen meadow habitat. Please will the Applicant explain the results of the further work to maximise the likelihood of successful fen meadow habitat. If successful establishment cannot be guaranteed, what does the Applicant propose? The ExA recognise that habitat proposed in the change request at Pakenham is what appears to be a fallback. If the change request in relation to Pakenham is accepted, what is the likelihood of success there and what is to happen if that also is unsuccessful?</p> <p>How should the SofS decide whether the area at Pakenham is required and whether their compulsory acquisition is justified. (In this regard the Applicant is also referred to the Secretary of State's decision letter on Hornsea Three, Section 6.)</p> <p>The Applicant and NE will be aware that this is fen meadow issue on which NE have stated in their relevant representation [RR-0878] that they have fundamental concerns which it may not be possible to overcome in the form of the proposals at 30 September 2020. The ExA has asked for an SoCG with NE to cover all matters raised by NE. There is clearly a significant difference between NE and the Applicant. The ExA hopes that NE and the Applicant can come to an agreed position. If the position leaves NE's concern in place the ExA expects the different positions to be fully explained and argued in the SoCG. To the extent that they are not, the response to these questions should set them out, but the</p>

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ExQ1	Question to:	Question:
		ExA prefers to see the arguments in one place, rather than in several documents. The setting out of positions and arguments in an SoCG should not stop the parties from continuing to resolve issues and find common ground.
Bio.1.66	The Applicant	[APP-224], para 14.7.138. Trampling effects on Sizewell Marshes SSSI. This states that at least 30% of recreational users would be displaced during construction to alternative sites away from the Sizewell area and refers to ExA to Book 5 Report 5.10 Shadow HRA Report. Please will the Applicant summarise the relevant information to which the ExA is being referred? In addition, please will the Applicant include in that summary the EL numbers and cross-references to paragraph numbers for easy navigation?
Bio.1.67	Natural England	Please will Natural England set out their view on paragraph 14.7.146 of [APP-224] (effect of construction of the SSSI Crossing) and its significance and the replacement approach in the application as changed.
Bio.1.68	The Applicant, Natural England, SCC	[APP-224] – Broadleaved and mixed woodland. Coronation Wood. Para 4.7.194 addresses effects arising from the felling of 7.3 ha of broadleaved woodland including Coronation Wood. Recent reports say that the Coronation Wood has now been felled. Is this the case? How does this affect the assessment of effects?
Bio.1.69	The Applicant	[APP-224] - Broadleaved and mixed woodland – air quality changes – para 14.7.199 – 202. Why has the Applicant focussed on Reckam Pits Wood? Para 14 .7.202 refers to “similar areas of broadleaved and mixed woodland”. Does that cover the whole of the broadleaved and mixed woodland which is assessed?
Bio.1.70	The Applicant	[APP-224] – para 14.7.213 – daily critical levels. This appears to be the first mention of Daily Critical Levels. Please will the Applicant clarify the relationship between Daily and Annual and why Daily appears not to have not been relevant in earlier assessments in this chapter.
Bio.1.71	The Applicant, Natural England, SWT	[APP-224] – Deptford Pink. At para 14.7.220 it is concluded: “As the translocation is not guaranteed to be successful the impact of the population loss of Deptford Pink would constitute a moderate adverse

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ExQ1	Question to:	Question:
		effect, which is considered to be significant". What steps can be taken to improve the success of the translocation process? What is the success rate likely to be? Does NE agree with the assessment of the significance in this paragraph?
Bio.1.72	The Applicant	[APP-224] – Construction, Inter-relationship effects, paras 14.7.222 – 223. Please explain the level of significance of inter-relationship effects and how the manipulation of water levels referred to in para 14.7.223 is secured in the DCO / s.106 and the tests and criteria for intervention.
Bio.1.73	Natural England, ESC, SCC, SWT	[APP-224] paras 14.7.222 – 223. Do you agree with the list of inter-relationship effects, mitigation and proposals in these paragraphs? Will there be significant effects arising from inter-relationships if the mitigation and proposals are implemented? What is ESC's view as the authority which will be enforcing the mitigation proposals?
The next set of questions addresses operational effects on plants and habitats, paragraphs 14.7.224 – 14.7.269		
Bio.1.74	Natural England, ESC, SWT, RSPB	[APP-224] – para 14.7.227, hydrology and the effect of the SSSI Crossing. (a) Please will NE set out their view on what is said in this paragraph. Cross-referencing to NE's [RR-0878] and WR would be helpful, and to the SoCG. (b) Please will ESC SWT and the RSPB also comment.
Bio.1.75	The Applicant	[APP-224] para 14.7.233 – effects of coastal processes on Minsmere European Site. Please will the Applicant unpack and explain this paragraph in a short note. How does the exposure of the HCDF disrupt longshore sediment transport so as to affect Minsmere? How does natural shoreline regression erode Minsmere? If the exposure of the HCDF affects the shoreline regression at Minsmere (which appears to be the case from the statement that " <i>shoreline regression would eventually expose the HCDF and that during the later stages of station operation this may disrupt longshore sediment transport. Additional mitigation measures (beach management practices) are likely to be required</i> ", why should there not be continued mitigation of the Minsmere shoreline? What are the beach management practices referred to as mitigation? How does natural regression and the effects of exposing the HCDF interact? Please explain what are the proposed mitigation measures referred to and how there will be no significant adverse effects.
Bio.1.76	The Applicant	[APP-224] – para 14.7.236. The Applicant refers the annual mean and daily mean. Is this intended to be the same measure as the annual Critical Level and daily Critical level referred to in the preceding

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ExQ1	Question to:	Question:
		<p>paragraphs? If not, please will the Applicant explain further and deal with the annual and daily Critical Levels. This is also relevant where this approach is taken elsewhere in [APP-224] such as at para 14.7.245, 253, 259. Please will the Applicant address this issue for those paragraphs and generally in [APP-224].</p>
Bio.1.77	The Applicant	<p>[APP-224] – para 14.7.272. Please will the Applicant explain how it will choose between the three opportunities at para 14.7.271 and explain where the detail of those proposals is set out. In relation to the wet woodland strategy proposed in para 14.7.272, it seems to the ExA at this stage that this is likely to need to be secured by a requirement, which is likely to have to incorporate goals, criteria and tests (and is likely to be complex). Please will the Applicant and Natural England, address this in the SoCG for Deadline 2.</p> <p>The ExA notes that the Mitigation Route Map [APP-616] MDS TE42 states that the Applicant “will develop further its wet woodland strategy in discussion with Natural England and other ecological stakeholders”. Please will the Applicant and Natural England indicate progress on that, here or in the SoCG?</p>
The next set of questions address mitigation and monitoring for plants and habitats, paragraphs 14.7.270 - 280		
Bio.1.78	The Applicant, ESC, SCC, Natural England	<p>[APP-224] para 14.7.274, para 14.7.280. Is there a threshold for requiring local mitigation measures?</p> <p>Who are the "local land managers"? What happens if they do not agree to the measures? Where is this secured? The ExA would like to understand the way in which the monitoring and any measures needed, depending on the results of the monitoring, are to be secured in the DCO / s.106, how the work is to be regulated, what are the current criteria and how they are kept under review if appropriate.</p> <p>The ExA would be grateful if ESC and SCC in particular would explain how they see enforcement working. NE should also give their view.</p>
The next set of questions address Tables 14.12 and 14.13 – summary of effects, construction and operation respectively		

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ExQ1	Question to:	Question:
Bio.1.79	Natural England, SCC, ESC	Receptor – Sizewell Marshes SSSI – effect assessed as moderate adverse, significant (see also para 14.7.169), but with mitigation listed in table 14.12, stated to be minor adverse, not significant. Do NE, SCC and ESC agree?
Bio.1.80	Natural England, SCC, ESC	Receptor - Sizewell levels and Associated Areas CWS and Southern Minsmere Levels CWS-direct land take habitat loss; moderate adverse, significant. No further mitigation is proposed. What is the view of NE, SCC and ESC?
Bio.1.81	Natural England, SCC, ESC	Receptor – Suffolk Shingle, see also para 14.7.191, stockpiling and replacement of sand and shingle substrates. Moderate adverse effect, no further mitigation proposed. What is the view of NE, SCC and ESC?
The next set of questions addresses invertebrates, section 14.8.		
Bio.1.82	The Applicant, Natural England	[APP-224] para 14.8.4. The invertebrate assemblages referred to in this para are described as “similar” to those of national importance described in the previous para. Is the ExA correct to deduce the para 14.8.4 assemblages are NOT of national importance. In view of para 14.8.5 which draws attention to assemblages of county importance, is the ExA right to assume the 14.8.4 assemblages are also not of County importance?
Bio.1.83	The Applicant	[APP-224]- para 14.8.25. Please will the Applicant clarify what it is proposing? Is there to be more wet woodland habitat at Aldhurst Farm or is an area of wet woodland to be created at Benhall?
Bio.1.84	The Applicant, Natural England	[APP-224]-para 14.8.39. This states there is only a minor not significant effect but then that the effects of clearance and nocturnal lighting cannot be eliminated. Please will the Applicant explain the significance of the effect with the clearance and lighting. It is currently not clear. Can NE shed any light on this? Please will the Applicant also state which row(s) of Table 14.16 address this and what mitigation is put in place, if any.
Bio.1.85	The Applicant	[APP-224] – para 14.8.44. Please will the Applicant state where the recreated fen meadow referred to in this para is

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ExQ1	Question to:	Question:
Bio.1.86	The Applicant, Natural England	<p>to be located. In relation to para 14.8.46, please state which rows of Table 14.16 deal with the residual effects</p> <p>[APP-224] – para 14.8.44 and elsewhere (e.g. para 14.8.50) which address some of the effects on invertebrate assemblies in Compartment 3 and the fen meadow strategy. This is Appendix 14C4, [APP-258]. Fen meadow recreation and a fen meadow strategy are important components of the Sizewell C project.</p> <p>Whilst [APP-258] examines potential sites and makes recommendations, the ExA notes that for one of the selected sites included in the Application, it says there would be water management difficulties and that the site is “less preferable” (Site 11, part of the Benhall proposal) and that in all cases the site recommendations are “subject to the results of further studies and detailed conceptualisation”. In the case of Pakenham (Site 54 and part of the change request) “there are significant issues relating to groundwater supply and to the poor condition of surface peats”.</p> <p>The ExA is also having difficulty seeing where in the document [APP-258] a strategy is set out. It appears rather to be a site selection report.</p> <p>Please will the Applicant say what further studies and conceptualisations have been carried out, where they may be found if they have been carried out, and what is the strategy. Please will the Applicant also submit a summary which should include , with hyperlinks to relevant documents in the Examination Library. If the summary could be limited to 2,000 words that would be helpful.</p> <p>Please will Natural England give their view on the fen meadow strategy, its role within the Application both for invertebrates and as a whole, and on document [APP-238]. At for example paras 14.8.44 and 45 of [APP-224] the Applicant concludes that for Compartment 3 the loss of habitat including fen meadow is minor adverse and not significant as a result of the inclusion of a fen meadow strategy said to be set out at [APP-238]. There is a similar conclusion for Compartment 12 (where the land take is much less).</p>

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ExQ1	Question to:	Question:
		Please will both the Applicant and Natural England give relevant examples of successful recreation of fen meadow habitats, comment on them explaining how they are relevant any difficulties found in the process, and how they were overcome (or not).
Bio.1.87	The Applicant, Natural England	<p>[APP-224] – para 14.8.58. This is one of a number of paragraphs which, after acknowledging a “a time-lag between the loss of existing high-quality habitat from this compartment and newly created acid grassland habitats reaching optimum condition” to perform their function states that “this residual impact is discussed further in Table 14.16”. However turning to Table 14.16, it reiterates the words above in inverted commas and then proposes a mitigation plan for larvae of Norfolk Hawker and other macro-invertebrates which “will be developed”.</p> <p>Please will the Applicant and Natural England both explain and comment on the discussion, the likelihood of developing a plan which is appropriate and successful, the deadline for its development and how it is to be secured in the DCO. How should the SofS take the proposal into account in arriving at their decision? Please deal with all applications of the discussion and occurrences of the time lag.</p>
Bio.1.88	Natural England, The Applicant	<p>[APP-224]-paras 14.8.54 and 55, Compartments 4 and 4a. The footprint of power station would more or less cover Compartment 4, possibly 4a as well (the compartment plans at [APP-231] do not show the footprint). Please will NE give their view on how the SofS should take into account the loss of assemblages of high conservation value and other assemblages of national importance referred to. The Applicant may also wish to comment.</p>
Bio.1.89	Natural England, SCC	<p>[APP-224] para 14.8.67. Please would NE and SCC give their view on the effect on invertebrate assemblages in Compartment 5.</p>
Bio.1.90	The Applicant, Natural England, SCC	<p>[APP-224]- paras 14.8.70 – discussion in Table 14.16. The residual effects of lighting on Compartment 5 – the shingle beach - are said to be discussed in Table 14.16. However the ExA reads only six words stating that no additional mitigation is required and that the effect remains minor adverse not significant. This is similar at para 14.8.31 in relation to Compartment 1, 14.8.39 re Compartment 2, 14.8.90</p>

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ExQ1	Question to:	Question:
		re Compartment 13 and elsewhere. Please will the Applicant explain why the ExA is referred to this? Nothing additional is proposed. It appears that there is nothing to be done, which does not necessarily rule out the grant of a DCO. Please will NE and SCC state what they consider is required, if anything and whether that is a pre-condition for a DCO.
Bio.1.91	The Applicant	[APP-224] para 14.8.73. This refers to Table 0.16. Presumably that is a misprint for Table 14.16 but please confirm or give the Examination Library reference to the correct document.
Bio.1.92	The Applicant	[APP-224] para 14.8.98 – Mitigation during construction (section D.a.a). This states that there will be significant moderate adverse effects on not only Compartment 1 but also 2 and 4a through loss of habitat. However section C.a.b dealing with Compt 2 states the effect is minor adverse, not significant. And section C.a.d dealing with Compt 4a also concludes minor adverse, not significant. Which is it to be? See also Tables 14.16 and 14.17. Please will the Applicant state what adjustments need to be made to sections C.a.b; C.a.d; D.a.a and to Tables 14.16 and 14.17. Please will the Applicant also review the whole of [APP-224] for other inconsistencies in assessment conclusions and either confirm there are none, or list and correct them. Matters such as these go to reliability.
Bio.1.93	The Applicant, Natural England	[APP-224] paras 14.8.102 and 103, monitoring during operation. What is to happen if the assemblages do not become established to the appropriate extent? Where is that secured? Please will NE state whether they are content with the proposals.
The next set of questions addresses fish, section 14.9.		
Bio.1.94	The Applicant	[APP-224] para 14.9.8 is part of the explanation for scoping out impacts on fish. It states that fish passes will be in line with the Eels Regulations “as demonstrated in the Eels Regulations Screening Report. There is no document number for that report and the only eels specific document in the examination library is Appx 220 – Eels Regulations Compliance Assessment [APP-332]. Are they one and the same document? If so please

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ExQ1	Question to:	Question:
		will the Applicant point the ExA to the relevant parts and paragraphs. If not, please clarify.
The next set of questions addresses amphibians, section 14.10.		
Bio.1.95	The Applicant	<p>[APP-224] – para 14.10.32, re natterjack toads. This refers the reader to a “natterjack toad mitigation strategy (Appendix 14C7A of this volume) as well as a draft Natural England European Protected Species licence (Appendix 14C7B of this volume)”. These are listed in the Examination Library as [APP-262] and [APP-263] respectively.</p> <p>Those however appear to be two identical set of Figures relating to natterjack toads but which are not a strategy nor a draft licence. Please will the Applicant clarify and point the ExA to where the documents referred to in para 14.1.32 may be found in the Application documents. Para 14.10.42 also refers to the strategy and licence. The Applicant will appreciate that the SofS requires the ExA to report on whether there is an impediment to such licenses being granted subsequently by Natural England.</p>
Bio.1.96	The Applicant, Natural England	<p>[APP-224] – para 14.10.37. Botanical modelling. Is NE satisfied with the modelling proposed, for both flood risk and vegetation changes? Please will the Applicant indicate where this is secured.</p>
Bio.1.97	The Applicant, Natural England	<p>[APP-224] – para 14.10.44 – natterjack toad monitoring programme. Where is this secured? For how long will monitoring continue? Is NE content the period is appropriate?</p>
The next set of questions addresses reptiles, section 14.11.		
Bio.1.98	The Applicant, Natural England	<p>[APP-224] – para 14.11.23. This paragraph and e.g. 14.11.34 refer to a Reptile Mitigation Strategy at Appendix 14C2, which is [APP-255], a set of figures.</p> <p>Please will the Applicant explain the strategy and how it is secured. Please will NE comment whether they are satisfied with [APP-255] as a suitable strategy.</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
Bio.1.99	The Applicant, Natural England	<p>[APP-224] – para 14.11.30.</p> <p>Given that in the baseline the adder is described as “most under threat in the UK particularly from habitat loss and isolation of populations” (para 14.11.8) and that all four species (adder, grass snake, lizard and slow worm) are protected under Sch 5 WCA 1981 and s.41 NERC Act 2008 (para 14.11.9), and that the site and its Zoi constitutes a “Key Reptile Site” (para 14.11.10), and also the statement at para 14.11.28 that for adders “Inbreeding can make them genetically vulnerable to environmental change and disease so linking habitats is crucial to their conservation” the ExA notes the conclusion at para 14.11.30 that “Overall, it is difficult to accurately quantify the magnitude of this impact given the temporary impact on dispersal to the north from the construction site is off-set by increased connectivity to the south and south-west from the habitat creation. <i>Habitat fragmentation is considered to have a low impact on the reptile assemblage, resulting in a minor adverse effect, which is considered to be not significant</i>” (emphasis added).</p> <p>Please can the Applicant explain. Please will Natural England also comment and state their view of the significance and importance of any issues, such as Sch 5 WCA and s.41 NERC Act 2006. Will the gene pool in the to be created reptile habitat to the south of the site (para 14.11.29, summary of primary mitigation) be different?</p>
Bio.1.100	The Applicant, Natural England	<p>[APP-224] para 14.11.47.</p> <p>This refers to enhancement and states that due to the primary mitigation in general, no additional enhancement is proposed. Bearing in mind ss.40 and 41(3) of NERC Act 2006 and s.28G W&C Act 1981 please will the Applicant and NE both comment on the appropriateness of no additional enhancement.</p>
Bio.1.101	The Applicant	<p>[APP-224] – para 14.11.49.</p> <p>Please explain where the monitoring is secured, actions to be taken, triggers and criteria for action.</p>
The next set of questions addresses ornithology, section 14.12.		

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
Bio.1.102	The Applicant	[APP-224] – para 14.12.3 refers to Annex A14A2.1. The ExA cannot find such an annex. Is this a misprint for Annex 14A2.1 [APP-228]? The ExA is proceeding on the assumption that it is.
Bio.1.103	The Applicant, Natural England	[APP-224] – Table 14.24. The penultimate row refers to: Zone of Physical Change – a 2 km area around site. Displacement Zone – an 8 km area around site. Buffer Zone – an 8 km area around settlements within the Displacement Zone. Please will the Applicant confirm that the Zones have <i>radii</i> of 2, 8 and 8 kms. Or are they zones of 2, 8 and 8 square kms? In either case, where are they shown? Please will NE comment on which is appropriate in their view.
Bio.1.104	The Applicant	(a) [APP-224] para 14.12 .17 clarifying inter-relationship with the HRA assessment refers to asterisks in table 14.24 against species. Species and asterisks are shown not in table 14.24 but in 14.25. Please confirm that the reference should be to 14.25, or if not please explain where. This is also relevant to para 14.12.169 where there are similar references to asterisks, this time in 14.25 so presumably correctly. (b) Please also clarify the references to Tables 23 and 25 in the paragraph. Which should they be? (c) What is the purpose of identifying the species which have also been assessed through HRA?
Bio.1.105	The Applicant	Table 14.26, Marsh harrier. The summaries of both the HRA and the EIA conclusions say the compensatory habitats <i>have</i> (past tense) been established. The ExA's understanding is that there is one habitat established – Aldhurst Farm – and that compensatory habitats are <i>proposed</i> . Please will the Applicant clarify.

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
Bio.1.106	The Applicant	[APP-224] para 14.12.23 – last sentence. Should “e.g.” be “i.e.” or is this drawing attention to the existence of marsh harrier foraging areas outside the Minsmere South Levels and Sizewell Marshes? The same point arises in para 14.12.24.
Bio.1.107	The Applicant	[APP-224] para 14.12.24. Is the 1.2ha of wet reedbed habitat creation planned within the north of “the site” the additional marsh harrier foraging proposed within Aldhurst Farm? This point occurs elsewhere, for example at para 14.12.33.
Bio.1.108	The Applicant, Natural England	[APP-224] paras 14.12.25 and 14.12.39; also paragraph 14.12.166. Marsh harrier. (a) Notwithstanding the provision of habitat referred to in para 14.12.24, and the conclusion of no significant effect in para 14.12.25 the Applicant proposes further marsh harrier foraging habitat at Westleton. What is the effect on the assessment of effect at para 14.12.25 and why has it been omitted? Please will NE also comment. (b) When we get to para 14.12.39 and the discussion of wintering marsh harrier, additional marsh harrier habitat is described, but evidently not the habitat at Westleton. Please will the Applicant clarify what is being referred to and why it is not referred to at para 14.12.25. (c) Please will the Applicant set out a short statement of the totality of new marsh harrier habitats already created, or to be created with cross-references to the paragraphs of Chapter 14 [APP-224] where they are referred to and a conclusion as to their function and result in mitigating effects. This should deal with conclusions not only under EIA but also under HRA. (d) When we get to inter-relationship effects from construction at paragraph 14.12.166 the report states: “ <i>The main interrelationship effect identified is that some of the habitat creation that has already been undertaken or is in the process of being undertaken may be compromised initially by noise disturbance during the first two phases of the construction programme. This may prevent usage by breeding and foraging bird species temporarily for the first two to three years of construction</i> ”. Whilst this is concluded to be a minor adverse not significant effect, please will the Applicant spell out the reasoning in relation to the marsh harrier.
Bio.1.109	The Applicant	[APP-224] para 14.12.79 – noise etc effects on the bittern.

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
		<p>This paragraph, unlike others on different birds, does not conclude in the effect of noise and visual disturbance. Please will the Applicant explain and state the conclusion.</p>
<p>Bio.1.110</p>	<p>The Applicant, Natural England</p>	<p>[APP-224] para 14.12.91.</p> <p>(a) marsh harrier - effects of noise and visual disturbance are stated to “conceivably affect the overall breeding productivity”. Please will the Applicant explain whether this is a significant effect; if so, how significant; and any mitigation (primary, secondary or tertiary) which is proposed.</p> <p>(b) The ExA notes para 14.12.100 where measures to alleviate a significant moderate adverse effect on breeding marsh harrier are described, leading to the conclusion that there is a minor adverse non-significant effect. Is the ExA correct to conclude this is the statement and mitigation in question?</p> <p>(c) In that paragraph it is noted that NE confirmed in August 2015 that the mitigation was “likely to be acceptable “in principle”” subject to it providing appropriate prey abundance. Is Natural England now able to remove the caveat of “in principle” and is it satisfied the prey will be adequately abundant?</p> <p>(d) The paragraph refers the reader to “e.g. see Figure 14B2.1 and Ornithology Synthesis Report Appendix B2” which is [APP-251]. The ExA cannot find any document with “Figures 14B” in its title (unlike [APP-249] which includes “Figures 14A”).</p> <p>However, the Ornithology Synthesis Report Appendix B2 has an integral set of appendices which include Appendix 14B2.1 in which (notwithstanding that the contents section of Appendix 14B2 states that there are no Figures provided) Figures - including a Figure 14B2.1 – can be found. It shows a “harrier habitat improvement area”. Please can the Applicant confirm that (a) that is the Figure 14B2.1 being referred to at para 14.12.100 and (b) that it is an area for the marsh harrier (as opposed to the hen harrier).</p>
<p>Bio.1.111</p>	<p>The Applicant</p>	<p>[APP-224] para 14.12.111 – effects on the red-throated diver in the Outer Thames Estuary SPA.</p>

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
		This records that "underwater noise disturbance during construction (and as assumed for decommissioning) and the extent of their effects on the fish prey of red-throated divers are detailed as for the Minsmere-Walberswick SPA above". However, no effects for red-throated diver are recorded in the section on the Minsmere-Walberswick SPA. Please will the Applicant clarify the effects.
Bio.1.112	The Applicant	[APP-224] para 14.12.169 concludes " <i>Table 14.26 then provides a summary of the HRA conclusions for all IEFs identified in Table 14.30, potential disturbance/ displacement impacts during operation are considered to be of low magnitude which would result in a minor positive effect, which is considered to be not significant</i> ". Please will the Applicant concisely explain how it reaches this conclusion. The effects at Table 14.26 are all negative.
Bio.1.113	The Applicant	[APP-224] – para 14.12.177 – operational effects of disturbance /displacement on "other IEFs". Whilst the previous para gives a conclusion for these effects on European sites, the ExA cannot see a conclusion in relation to these "other IEFs". Please could the Applicant state what it is.
The next set of questions address bats on the Main Site, section 14.13 of [APP-224]		
Bio.1.114	The Applicant	Bat habitat creation – para 14.13.41. This refers the reader to Appendix 14C1A for the location of the mitigation for the barbastelle. For clarity, is this to be found on Figure 14C1A.12 (of the 14 drawings at [APP-253])?
Bio.1.115	The Applicant	Noise levels, Barbastelle – para 14.13.88 – adopting 65dB as the level for foraging impacts. Is this at 8 kHz? If not, please will the Applicant explain.
Bio.1.116	The Applicant	Noise levels and roosts, barbastelle – Table 14.40 and para 14.13.95. The table uses 60dB as the threshold, but para 14.13.95 uses 65dB. Which is correct please and will the Applicant explain why.
Bio.1.117	The Applicant	Table 13.33, para 14.12.104. Please confirm that GRR is Green Rail Route – or otherwise.

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
Bio.1.118	The Applicant	Para 14.13.117 – “barbastelle is more commonly considered to be a light-adverse species” – “light-averse” presumably?
Bio.1.119	The Applicant	<p>Para 14.13.121.</p> <p>(a) predicting the impacts from lighting with proposed mitigation. It is stated that this cannot be done accurately and that monitoring is proposed. Will the Applicant please comment on the appropriateness of this in the light of the case law in <i>R v Cornwall County Council ex parte Hardy</i> (2001) Env LR 473 and subsequent cases including <i>R (on the application of PPG11 Ltd) v Dorset County Council</i> [2003] EWHC 1311, <i>R v Rochdale Metropolitan Council (ex parte Milne)</i> [2001] Env LR 22. The ExA would find it helpful if the Applicant would also comment on the remarks of the Examining Authority on this subject in the recommendation report on the Northampton Gateway NSIP - TR050006 - (largely at paras 11.4.20 and following).</p> <p>(b) Para 14.13.140 concludes, despite this uncertainty, that “Overall, once mitigation is applied, the impact of lighting on the barbastelle population would have a minor adverse effect which is considered to be not significant”. How is this conclusion justified in the light of para 14.12.121?</p> <p>(c) There is a similar point at paras 14.13.223 – 225</p> <p>(d) The point occurs again at para 14.14.69 in relation to water voles, which states that a monitoring programme “would be required for water vole to determine any long-term impact on the water vole populations, to assess the effectiveness of the mitigation and to inform any changes that may be required to the management of habitats”.</p> <p>(e) When dealing with (c) and (d) the Applicant should please address the questions asked at (a) and (b) to the specific factual circumstances and differences in (c) and (d).</p>
Bio.1.120	The Applicant	Natterer’s bat, disturbance from noise – para 14.13.172.

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		The Applicant states that <i>"Impacts from these works are discussed in the ES chapter relating to this component of the works (ES (Doc Ref. Book 6) Volume 9 Chapter 6.10: Noise and Vibration)"</i> . Please will the Applicant submit a concise note summarising the case made there, with cross-references to the appropriate paragraphs. The ExA draws to the Applicant's attention that Vol 9 relates to Rail and that Chapter 6 [APP-551] is entitled Landscape and Visual.
Bio.1.121	The Applicant	<p>Leisler's bat and Nathusius' pipistrelle.</p> <p>Para 14.13.248, mitigation at Aldhurst Fm and Sizewell Gap. Should the references to Natterer's Bat be to Leisler's bat and Nathusius' pipistrelle?</p> <p>Para 14.13.440 has a similar issue – Natterer should read Daubenton the ExA presume, but please confirm.</p>
Bio.1.122	The Applicant	Para 14.13.287 refers to roosts already created and to be created. Please explain how and where the provision and maintenance is secured.
Bio.1.123	The Applicant	<p>Para 14.13.467.</p> <p>In [[APP-224] this para is headed "Inter-relationship effects". However, in [AS-033] which is revision 2, the version with lettered headings, the equivalent paragraph is 14.13.472. Five additional paragraphs appear to have been inserted or there is a numbering jump. Please will the Applicant explain what has happened and identify the additional paragraphs or where the jump occurs as the case may be.</p>
Bio.1.124	The Applicant	Para 14.13.470 on inter-relationship effects contains the following somewhat Delphic assessment: <i>"However, it is possible to state that when increased levels of task-specific lighting do correlate with higher noise levels, these events are likely to be of short duration relative to the construction period and are unlikely to be more significant than either impact pathway in isolation"</i> . Please will the Applicant state unequivocally its view on the likelihood and significance of the impact.
Bio.1.125	The Applicant	Bats, operation, monitoring. Para 14.13.515 explains that <i>"If bat boxes have not been occupied within three years of installation, consideration would be given to moving them to alternative sites nearby, to be determined by a</i>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		<p><i>licensed bat ecologist”.</i></p> <p>Please explain where this is secured, the objectivity of the assessment and the enforcement of the result of the “consideration”.</p>
Part 3 -Biodiversity and ecology (terrestrial) - Northern Park and Ride		
Bio.1.126	The Applicant	<p>[APP-363] – para 7.4.20 states that the four common species of reptile recorded as potentially within the site are on the list referred to in s.41 of the NERC Act. What steps should the SofS take to further their conservation under s.41(3)(a)? This question applies to all other living organisms and habitat types to which the s.41(3) duty applies and which are identified as such by this chapter of the ES (such a number of species of bat in para 7.4.29).</p>
Bio.1.127	The Applicant	<p>[APP-363] paras 7.6.70 and 7.6.77.</p> <p>These assert that the reinstatement of the land to agricultural use will restore connectivity of newt habitats. However, the construction period is about 9-12 years – see para 7.6.13. Will be any newts present after such a long construction period, or if so, in what state? Please will the Applicant summarise the position and point the ExA to the relevant parts of the ES which address it.</p>
Part 4- Biodiversity and ecology (terrestrial) – Southern Park and Ride		
Bio.1.128	The Applicant	<p>[APP-394] (the ES Chapter for the Southern Park and Ride) Table 7.1.</p> <p>This refers to the Northern Park and Ride at Darsham. It seems obvious that the reference should be to the Southern Park and Ride at Wickham Market. Please will the Applicant check and confirm whether wherever Northern Park and Ride appears in this document it should read Southern Park and Ride, and Darsham should read Wickham Market. Please specifically list any exceptions.</p>
Bio.1.129	The Applicant	<p>[APP-394] – Table 7.3, second row, what is the missing word in the second line which currently reads “proposed sites appear to be -based. Local wildlife”?</p>
Bio.1.130	The Applicant	<p>[APP-394] – Table 7.4.</p> <p>Please confirm that the only reason for no Survey Area in relation to statutory and non-statutory designated sites within 5 / 2 kms is that there are none (or otherwise if that is</p>

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
		not the case). At least one non-statutorily designated site however is within 430 metres (see Table 7.10 first row).
Bio.1.131	The Applicant	[APP-394] – para 7.4.23 states that a number of bat species recorded as potentially within the site are on the list referred to in s.41 of the NERC Act. What steps should the SofS take to further their conservation under s.41(3)(a)? This question applies to all other living organisms and habitat types to which the s.41(3) duty applies and which are identified as such by this chapter of the ES.
Bio.1.132	The Applicant	In the changed scheme, the updated ES [AS-183] at para 4.2.7 says the bund will be doubled in length. At para 4.6.2 the assessment states that the assessment of effects does not change. Please will the Applicant explain and justify this. Will not a doubling of the length of a three metre high bund affect habitats?
Part 5- Biodiversity and ecology (terrestrial) - Two Village Bypass		
Bio.1.133	The Applicant	[APP-425] – Table 7.3 – consultation responses, RSPB, 23 Sept 2019. Please will the Applicant set out a specific response to each of the points raised by the RSPB.
Bio.1.134	The Applicant, Natural England	[APP-425] – para 7.4.7 – baseline description. Is it correct to say that Foxburrow Wood CWS is a site of international importance under CIEEM / high importance under EIA-specific methodology? Please explain why, if it is.
Bio.1.135	The Applicant, Natural England	[APP-425] – para 7.4.45 – this states: " <i>... numerous recent water vole field signs, including burrows, droppings, latrines and feeding signs were found along the River Alde and a connected ditch to the north of the River Alde within the site, indicative of a low population within this length of the River Alde ...</i> ". Please will the Applicant explain how this is indicative of "low population". NE may also wish to comment or help.
Bio.1.136	The Applicant	[APP-425] – paras 7.6.8 and 7.6.24. (a) Please will the Applicant list the paragraphs of the CoCP which provide protection against changes in water quality to the River Alde and the Alde-Orr Estuary SPA, SAC, Ramsar and SSSI.

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		(b) Where are the additional measures such as equipment and materials storage restrictions found and secured?
Bio.1.137	The Applicant	[APP-425] – para 7.6.10. Foxburrow Wood. This paragraph states that the wood has been scoped out. At Table 7.10 it was scoped in. Please would the Applicant explain.
Bio.1.138	The Applicant	[APP-425] – para 7.6.18 – hedgerows, habitat loss and fragmentation. A number of RRs have made the point that the replacements for hedgerows to be lost are along the roadside, and thus of a different type. Please will the Applicant comment on this and whether it affects the assessment as not significant.
Bio.1.139	The Applicant	[APP-425] – para 7.6.30. Please will the Applicant clarify; is the embankment referred to here the structure supporting the road? In other words, is the road a causeway at this point?
Bio.1.140	The Applicant	[APP-425] – para 7.6.33 – floodplain grassland, habitat loss and fragmentation. Whilst this para addresses habitat loss it does not appear to address fragmentation. Please will the Applicant explain where that assessment is to be found (and briefly summarise it)?
Bio.1.141	The Applicant	[APP-425] – para 7.6.43. Please will the Applicant explain how construction impacts on the River Alde invertebrates habitat will be avoided due to the construction of the bridge.
Bio.1.142	The Applicant, SCC, Natural England	[APP-425] – paras 7.6.131 & 132 – lowland mixed deciduous woodland fragmentation. These paragraphs suggest fragmentation is offset by more planting. Does not the location of the planting play an equal or greater role? Please comment and state where the new planting is located and any change in the assessment of effects, referring to Figures in the ES (and of course their EL numbers).
Bio.1.143	The Applicant	[APP-425] – para 7.6.141. Please will the Applicant spell out what is being said here and give the paragraph references to where the information may be found.
Bio.1.144	The Applicant, Natural England, SCC	[APP-425] – para 7.6.154 – habitat loss and fragmentation, bats. Road crossing points for bats are mentioned. It has been widely reported that the bat hop-overs (which are often said to resemble 11kv transmission lines) on the A11 near

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		Thetford are ineffective. Please will the Applicant point the ExA to where in the ES the measures are described and any evidence in the ES of their demonstrable success elsewhere. Is the "not significant" assessment justified?
Bio.1.145	The Applicant	<p>[APP-425] – para 7.7.8 – monitoring and bat boxes.</p> <p>This paragraph states: "<i>If bat boxes have not been occupied by year 5 following installation, consideration would be given to moving them to alternative sites nearby, to be determined by a licensed bat ecologist</i>". It is one of a number of examples where the following questions arise:</p> <ul style="list-style-type: none">(i) where is this secured?(ii) what are the criteria?(iii) how are disputes settled?(iv) what happens if the boxes are not occupied in their new locations. <p>Please will the Applicant address these questions for each place where these proposals are made in the ES and Application documentation.</p>
Bio.1.146	The Applicant	<p>[AS-184] section 5.2 describes the need for a new temporary contractor compound and its indicative location. A constraint on its location is the worst-case flood scenario (para 5.2.9).</p> <p>Please will the Applicant:</p> <ul style="list-style-type: none">(a) Explain the mechanism in the DCO for determining the location of the compound and the haul route (which is to avoid existing trees on the eastern margin of the field to house the compound - para 5.2.10), and(b) identify which are the relevant provisions of the DCO for this determination. <p>This change is apparently not assessed in the terrestrial ecology section (5.6) of [AS-184] – see para 5.6.5, nor in the cumulative assessment [AS-189]. Please will the Applicant clarify why this is the case.</p>
Bio.1.147	The Applicant	[AS-184] Similarly, at section 5.2 b)i)c), paras 5.2.27 and following, additional floodplain mitigation is described.

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		<p>Bearing in mind the statement at para 5.2.29 that the original ES stated that there was no significant effect on floodplain grasslands, and the tests for requirements in a DCO please will the Applicant indicate how the changes are incorporated and secured in the DCO.</p> <p>Please will Natural England, ESC and SCC explain the justification for their incorporation bearing in mind the same matters.</p>
Bio.1.148	The Applicant	<p>At [AS-184] section d)i), para 5.6.8 it is said that various protective measures for retained trees "would be" taken. Please will the Applicant (a) clarify where these are secured (b) indicate what the powers of the supervising trained arboriculturalist for example in the cases of clashes with the contractual timetable in construction contracts. Which will prevail?</p>
Bio.1.149	The Applicant, Natural England, SCC and ESC and Highways England	<p>[AS-263] (Two village by-pass oLEMP "TVB oLEMP") para 1.1.6 – this says the oLEMP and LEMP will be "managed by SZC Co for a total of five years or until adoption by the Highways Authority". Presumably the ExA should read Undertaker for SZC Co but please will the Applicant confirm. Please specify from when the five years commences. Is the proposed period the longer of five years or date of adoption? If not, please will the Applicant explain why it is acceptable to cease management prior to adoption. Is the reference to adoption to be construed as adoption of the bypass? What is to occur in the (presumably highly unlikely but, under a normal s.38 agreement, possible) refusal to adopt.</p> <p>Please will Natural England, SCC, Highways England and ESC also comment.</p>
Bio.1.150	The Applicant	<p>[AS-263] – TVB OLEMP – para 4 .1.2 states that where possible Foxburrow Wood, Pond Wood and Nuttery Belt would be retained.</p> <p>Please will the Applicant clarify whether the Application and DCO (a) propose or (b) permit the removal of those features.</p>
Bio.1.151	The Applicant	<p>[AS-263] – TVB OLEMP -Table 6.1. This identifies various actions which include "thresholds identified for section 41 of the NERC Act / Suffolk Biodiversity Action Plan". The ExA cannot see any reference to threshold setting in s.41 of the NERC Act. Please can the Applicant clarify what is being proposed.</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
Bio.1.152	The Applicant	<p>[AS-263] – TVB OLEMP.</p> <p>Tables 5.1 and 5.2 set out outline management proposals, listing various operations and actions. Various words and phrases of intent are used to specify what is to be done. For example they include: “shall monitor” (Line W1); “would use (line WC1); “should develop” (line WC2); “should not be used” (Line BW3); “tree guards will be used” (Line ST1); “are to be monitored” (line H1).</p> <p>“Would”, “should” and “will” are expressions of hope rather than imperatives which must be followed. They are words which convey a sense of uncertainty. “Are to be” may only be an expression of current intent. “Shall” has been regarded as an imperative but current Parliamentary (and statutory instrument) drafting favours “must”.</p> <p>The ExA appreciates that the oLEMP is not a statutory document (though they also observe that it is incorporated by reference into the DCO) and that the standards of Parliamentary drafting may not normally be imported, in much the same way as the approach to committee reports and Inspectors’ reports.</p> <p>However, please will the Applicant confirm that these words are intended to be interpreted as imperatives to be met and observed.</p>
Part 6 - Biodiversity and ecology (terrestrial) - Sizewell Link Road		
Bio.1.153	The Applicant	<p>[APP-445] (Volume 6 Sizewell Link Road Chapter 1 Introduction Figures 1.1 - 1.4) – Figure 1.4.</p> <p>Where, in this figure, is the SPA?</p> <p>The key has a marking, namely diagonal downward L>R ochre hatching but there is no such hatching on the figure. No other figures in this document have this in the key.</p>
Bio.1.154	The Applicant	<p>[APP-461] – para 7.5.4 third bullet, fourth tirt.</p> <p>Should the reference be to the East Suffolk Line?</p>

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
		<p>Ninth bullet – reads: <i>"Crossing points (bat hop-overs) to facilitate the passage of bats across the road alignment have been incorporated in the design where foraging or commuting routes have been identified"</i>.</p> <p>What is the evidence for the success of these facilities? It has been widely reported that the bat hop-overs (which resemble 11kv transmission lines) on the A11 near Thetford are ineffective. See e.g. https://www.bbc.com/news/uk-england-34605886</p> <p>What measures are to be used on the SLR and what evidence is there of success elsewhere?</p> <p>Please will the Applicant comment and explain why the measures proposed are likely to be successful. Is a "not significant" effect assessment justified?</p>
Bio.1.155	The Applicant	<p>[APP-461] Para 7.5.10 – this, in relation to tertiary mitigation, states: <i>"Where feasible, works would be undertaken outside of all tree and hedgerow root protection zones"</i>. How is this a legal requirement? It is evidently not in the CoCP. In these circumstances, how is it (a) tertiary mitigation and (b) secured?</p>
Bio.1.156	The Applicant	<p>[APP-461] – para 7.6.11 says that <i>"Overall, given the primary mitigation measures, habitat loss would result in a temporary, reversible, minor adverse effect, which is considered to be not significant"</i>. However it is said earlier (para 7.6.8) that 67% of the woodland within the site will be lost permanently.</p> <p>(a) Please will the Applicant state where the new tree planting of 13 ha of woodland is secured and whether the 13 ha is entirely to offset the loss of 0.41ha and 0.17 ha</p> <p>(b) Notwithstanding that 67% is only 0.41 ha, is the conclusion at para 7.6.11 tenable? Please will the Applicant explain how it reaches the conclusion that the loss of 67% of the lowland mixed deciduous woodland is not significant and specifically consider and state whether this affects the conclusion at para 7.6.11, and in what way.</p>
Bio.1.157	The Applicant	<p>[APP-461] – paras 7.6.12 – 16. Hedgerows, habitat loss and fragmentation.</p> <p>A number of RRs have made the point that the replacements for hedgerows to be lost are along the roadside, and thus of a different type. Please will the Applicant comment on this and whether it affects the assessment as not significant.</p>

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
Bio.1.158	The Applicant	<p>[APP-461] – para 7.6.56.</p> <p>This states: <i>“Primary mitigation measures such as close-boarded fencing adjacent to woodlands during construction would help mitigate the noise impact to habitats which could be used by breeding birds”</i>. Please will the Applicant explain where this is to be found and secured as Primary mitigation.</p>
Bio.1.159	The Applicant	<p>[APP-461] – para 7.6.100.</p> <p>Please see the question on the Two village bypass [APP-425] – para 7.6.129.</p>
Bio.1.160	The Applicant	<p>[APP-461] In para 7.6.101 it is said that <i>“Given the primary mitigation detailed within section 5.5 of Chapter 5 of this volume, the overall impact of air quality on lowland mixed deciduous woodland would be a minor adverse effect, which is considered to be not significant.”</i></p> <p>Section 5.5 of Ch 5 (Air Quality reads as follows: <i>“Primary mitigation for the proposed development includes:</i></p> <ul style="list-style-type: none"> • <i>The proposed alignment of the Sizewell link road would offer road users an alternative route for the B1122, reducing traffic flows within Middleton Moor, Middleton and Theberton during both the peak construction of the Sizewell C Project and upon completion of the power station.</i> • <i>The site boundary has been designed to avoid sensitive receptors and increase distance of construction works and the proposed development where reasonably practicable.”</i> <p>Please will the Applicant explain which of these two elements of primary mitigation it is referring to and how that leads to the conclusion that the impact on lowland mixed deciduous is minor adverse? Given that 95% of the area of woodlands in the UK is already above the nitrogen critical load and 50% of unmanaged woodlands are above the critical load for acidity (see paras 7.6.99 and 100), is it really insignificant to inflict further load, or to inflict that load on woodland not currently affected?</p>
Bio.1.161	The Applicant	<p>[APP-461] Para 7.6.104.</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		It is said that there will be 17,619m of hedgerow planting. Please confirm this is not all new and includes the 3,730 of unaffected hedgerow referred to at para 7.6.111.
Bio.1.162	The Applicant	[APP-461] – para 7.6.128. The sentence containing the conclusion on inter-relationship effects is incomplete. Please could the Applicant supply the missing words.
Bio.1.163	The Applicant	[AS-185] section 6.2 describes the need for new temporary contractor compounds and their “likely” location (see paras 6.2.4; 6.2.5 and 6.2.6). (i) Please will the Applicant (a) explain the mechanism in the DCO for determining the location of the compounds (b) identify which are the relevant provisions of the DCO for this determination. (ii) This change is apparently not assessed in the terrestrial ecology section of [AS-185] – see para 6.2.11 and following, nor in the cumulative assessment [AS-189]. Please will the Applicant clarify why this is the case.
Bio.1.164	The Applicant, Natural England, SCC and ESC	[AS-264] (Sizewell Link Road oLEMP “SLR oLEMP”) para 1.1.6 – this says the oLEMP and LEMP will be “managed by SZC Co for a total of five years or until adoption by the Highways Authority”. Presumably the ExA should read Undertaker for SZC Co but please will the Applicant confirm. Please specify from when the five years commences. Is the proposed period the longer of five years or date of adoption? If not, please will the Applicant explain why it is acceptable to cease management prior to adoption. Is the reference to adoption to be construed as adoption of the bypass? What is to occur in the (presumably highly unlikely but, under a normal s.38 agreement, possible) refusal to adopt. Please will Natural England, SCC and ESC also comment.
Bio.1.165	The Applicant	[AS-264] SLR oLEMP. Tables 5.1, 5.2 and in this case also 5.3. Please see the comment and question on the corresponding tables in the Two-village bypass oLEMP, [AS-263].
Part 7 -Biodiversity and ecology (terrestrial) - Yoxford Roundabout		

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
Bio.1.166	The Applicant	<p>[APP-494] para 7.4.65 – air quality and dust deposition. Please will the Applicant explain this paragraph. It appears to compare deposition of nitrogen with concentrations in the air. How does that give a conclusion on both deposition and concentration? The same point arises at para 7.4.89.</p>
Bio.1.167	The Applicant	<p>[APP-494] para 7.4.80 – effects of water quality changes. This paragraph promises that drainage “would minimise” surface water run-off petrol / oil interceptors “where considered necessary”, “limit[ed] diffuse pollution” and therefore “very low risk of water quality impacts”.</p> <p>Minimise" however is not the same as prevent. How is it decided "Where [it is] considered necessary? "Limit[ed] diffuse pollution" -- what would the limit be and how would it be enforced? And without knowing the limit how can it be concluded "therefore there would be very low risk of water quality impacts to" the Minsmere to Walberswick Heaths and Marshes SPA, SAC, Ramsar Site, and SSSI?</p> <p>Please will the Applicant address these questions.</p> <p>Similar points arise in relation to paragraphs 7.4.84 and 95 (water quality changes local hydrology and hydrogeology). Please will the Applicant address those as well – mutatis mutandis.</p>
Part 8 - Biodiversity and ecology (terrestrial) - Freight Management Facility (“FMF”)		
Bio.1.168	The Applicant	<p>[APP-511] Description – para 2.4.11 states <i>“It is anticipated that a temporary construction access point would be provided to the site off the A12 until construction of the site access road is completed. All vehicles accessing the construction site would be required to park within the site boundary to avoid congestion in the surrounding areas”</i>. The site does not adjoin the A12 at any point. Please will the Applicant explain this statement.</p>
Bio.1.169	The Applicant	<p>[APP-523] – Table 7.3. Commenting on Natural England’s reference to s.41 NERC Act the Applicant says <i>“the site does not support deciduous woodland”</i>. However, will the Applicant please say whether it supports any other s.41 habitats or organisms.</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
Bio.1.170	The Applicant	[APP-523] – Table 7.4. Please will the Applicant explain why there is no Survey Area for the statutory and non-statutory designated sites.
Bio.1.171	The Applicant	[APP-523] – para 7.5.6. This appears to state that all tertiary mitigation for the FMF is contained in the CoCP. Is that in fact the case?
Bio.1.172	The Applicant, SCC, ESC	[APP-523] – para 7.5.7. Are the geo-cellular water storage structures properly described as Tertiary Mitigation? The ExA would like to receive submissions from the Applicant and the two host authorities on this and whether it matters. The Applicant sets considerable store on good design and providing Primary and Tertiary mitigation, and thus not needing to provide (and draw attention to) Secondary Mitigation. Tertiary Mitigation is the steps which are required regardless of EIA, due to legal requirements or standard sectoral best practices.
Bio.1.173	The Applicant	[APP-523] – para 7.5.10. This describes tree protection but in terms of hope (“should”) rather than requirement (“will”). In context however the ExA reads the paragraph as containing binding promises which the Applicant intends will be secured in the DCO or s.106 agreement. Please will the Applicant state where in those documents the promises are made good.
Bio.1.174	The Applicant	[APP-523] – para 7.6.3 – operational effects, lighting. This states that “A Central Management System has been proposed for the lighting which would be capable of dimming of parts of the site independently ...”. Where is this secured?
Bio.1.175	The Applicant	[APP-523] – para 7.6.4 – this states: “ <i>Primary embedded mitigation (for example, use of light fittings chosen to limit stray light, and landscape bunds, see section 7.5 of this Chapter) would reduce the spillage of light ...</i> ” (i) Where is this secured?

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		(ii) This might be thought to be a level of considerable detail for embedded mitigation. Please will the Applicant explain the scheme for securing embedded mitigation as a whole and how it reaches as far as this and similar details.
Bio.1.176	The Applicant	[APP-461] – para 7.4.14. Please will the Applicant clarify what is meant in this paragraph. It may just be a question of typographical issues, but it does not currently appear to make sense. (Part of the paragraph reads as follows “ <i>There are also a number of seven ditches within the site. Ten of these...</i> ”)
Part 9 - Biodiversity and ecology (terrestrial) - Rail		
Bio.1.177	The Applicant	[APP-555] Table 7.5, ZOI study area and survey areas. Footnote 2 reads “ <i>The survey area was where access was granted. Please note that access was granted for the rail extension route but not for the branch line upgrades.</i> ” Please explain how this has affected the ES of rail in relation to terrestrial ecology and ornithology. Similarly at para 7.3.39 no access was granted to Bratts Black House level crossing site, leaving only desk-study information.
Bio.1.178	The Applicant	[APP-555] Para 7.4.17. The reader is referred to Figure 7.3 on Appx 7A of Vol 7 [APP-557] for the location of ponds. There are no ponds on Fig 7.3. Should the reference be to Fig 7.4?
Bio.1.179	The Applicant	[APP-555] para 7.4.20 – Amphibians. Whilst a conclusion on the importance of toads is reached there is no statement in relation to the great crested newts. Where does the ExA find this and what is the conclusion on them?
Bio.1.180	The Applicant	[APP-555] para 7.4.47. What conclusion was reached regarding the importance of chicory and Gold of pleasure? Where is this stated?
Bio.1.181	The Applicant	[APP-555] para 7.6.14. Effects on great crested newts - severance, distance and connectivity leading to a conclusion that GCN are “unlikely to be greatly impacted by this severance”. (i) Please will the Applicant unpack this paragraph. The reasoning is not clear to the ExA.

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
		(ii) Surely the test is "likely significant impact / effect" rather than likelihood of "great impact". Please will the Applicant comment and explain. This question (ii) applies to other paragraphs as well such as 7.6.15. Please respond so as to cover all the cases.
Bio.1.182	The Applicant	[APP-555] para 7.6.19. This, dealing with habitat loss and GCN concludes that effects on GCN of the rail extension route would be temporary and reversible, minor adverse not significant. Notwithstanding that this is in the construction section, is this a valid conclusion in relation to the newts where the project and habitat loss lasts for 10-12 years?
Bio.1.183	The Applicant	[APP-555] para 7.6.85. This, dealing with removal and reinstatement, incidental mortality – opens by saying that "not possible to accurately quantify the magnitude of this impact". It ends stating "removal of hibernacula could lead to the loss of a number of individuals from a number of breeding ponds, thereby <i>having a potential low magnitude</i> of effect on this meta-population". The following paragraph concludes that the low magnitude impact is a minor adverse non-significant effect. How does the Applicant conclude that the impact is low magnitude when it is "not possible to accurately quantify the magnitude"? Please will the Applicant comment and respond, and explain whether the conclusion of non-significant minor effect is valid, and if so, how.
Bio.1.184	The Applicant	The terrestrial ecology section of [APP-188] – Rail - (section 9.5) appears to address only additional information. Presumably this is because the change to rail movements does not lead to any different effects on terrestrial ecology and ornithology. Please can the Applicant confirm this (or otherwise).
Bio.1.185	The Applicant	[APP-555] – para 7.7.7 – monitoring during operation. How is this monitoring secured?
<p>The following questions are all addressed to Natural England, and in some cases to other parties. They address all or more than one of the Main Site and Associated Sites</p>		
Bio.1.186	Natural England, The Applicant	[RR-0878] para 2.3 and Advice Note 11, Annex C, Wildlife Licensing. Please will Natural England clarify whether it has issued any Letters of No Impediment (LONI). If it has, which letters are yet to be issued? Which applications has the Applicant made?

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		<p>The Applicant has referred to protected species licensing in [APP-153].</p> <p>It would be helpful if it would add to that document (in all of tables 1.1-1.8) so as to summarise which Relevant Protected Species Licences will need to be sought for each site.</p> <p>If possible, please can this be addressed as a discrete item in the SoCG between Natural England and the Applicant.</p>
Bio.1.187	Natural England, The Applicant, ESC, SCC	Advice Note 11, Annex C, Wildlife Licensing – do any strategic approaches such as district licensing apply in this case? If so, what are they and what steps have been taken? If so, please will Natural England outline the process, legal basis and how it differs from the normal process.
Bio.1.188	Natural England	<p>[RR-0878] Part I, section 2.5.</p> <p>(i) In relation to the matters Natural England has listed in the table in this section, do they all require a separate consent from Natural England under the SSSI legislation if the DCO is granted?</p> <p>(ii) For example, water abstraction by the owner of an SSSI would if it were an operation listed in the notification of the SSSI, require a licence under 2.28E Wildlife and Countryside Act 1981. Can the same be said for increases in oxides of nitrogen or “impacts on prey species” or impacts from recreational pressure?</p> <p>(iii) If only some of the matters require a separate consent, please say which.</p> <p>(iv) Please state which matters requiring a consent, if any, are the subject of an issued LONI.</p> <p>(v) Is the purpose of section 2.5 to list the matters which Natural England considers are relevant to the SofS’s duty under s.28G of the Wildlife and Countryside Act 1981.</p>
Bio.1.189	Natural England, The Applicant	<p>[RR-0878] Part II, item 27, Marsh Harrier compensation site.</p> <p>Please will Natural England clarify (a) where the compensation site they describe as being part of the Application is located and (b) whether it is wetland or dry. This section does not make it clear. From the ExA’s unaccompanied site inspection to the Westleton site it appeared to be dry.</p>
Bio.1.190	Natural England, The Applicant	Brexit.

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
		<p>Please will Natural England and the Applicant jointly set out what they consider to be the legal effect of the UK's withdrawal from the EU (including the end of the transition period) on the Conservation of Habitats and Species Regulations 2017, the Conservation of Offshore Marine Habitats and Species Regulations 2017 and all other international obligations and policies referred to in the ES, so far as relevant to the Application, so that the ExA is adequately briefed on the position after 31 December 2020.</p> <p>(At the time of writing this question, the versions of the Habitats Regs and the Marine Habitats Regs on the legislation.gov.uk website carry the note "There may be changes and effects to this Legislation not yet recorded or applied to the text".)</p> <p>The UK government has published the following updated guidance on Habitats Regulations Assessment.</p> <p>https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site</p> <p>https://www.gov.uk/guidance/duty-to-protect-conserve-and-restore-european-sites</p> <p>https://www.gov.uk/government/publications/habitats-regulations-assessment-derogationnotice</p> <p>Could the applicant explain via legal submission or other supplementary material to their HRA Reports, any implications of this guidance to the case for the development consent order and duties of the SofS</p> <p>If there are differences of opinion between Natural England and the Applicant,12 please flag and explain them. This document should be kept up to date and a final version submitted at the final deadline.</p>
Part 10 - Biodiversity and ecology (marine) - General		

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
<p>Please note. Owing to the length of [APP-317] and the multiple topics and effects it assessed, the ExA asked the Applicant in [PD-005] to identify each of the headings in a way which clarifies both the subject matter and how each section, sub-section, sub-sub-section and so on sits in relation to preceding sections. As the paragraphs already had a number system separate from the headings the ExA suggested a lettering system. The lettered headings version submitted by the Applicant is at [AS-035]. The full list of headings is at electronic pages 694-724 of [AS-035] (hard copy pages 679-709). References to lettered sections in the questions below on [APP-317] are to those sections.</p>		
Bio.1.191	EA, The Applicant	<p>At para 7.0 of [RR-0373] the Agency ask for various reports and papers and that they should be submitted to the examination. Has the Agency now received them and have they been submitted to the examination? If submitted, please will the Applicant list the titles, and EL references. If they have not been submitted or if the Applicant does not propose to do so, please will the Applicant explain the reason?</p> <p>See also para 9.3 of [RR-0373] in relation to a report on the twaite shad and cucumber smelt; this question applies also to that issue.</p>
Bio.1.192	MMO, Natural England, The Applicant	<p>The ExA draws attention to the Inspectorate’s Advice Note 11, Annex B, page 6.</p> <p>(a) Is s.150 PA2008 engaged for matters in the jurisdiction of the MMO? Presumably it is at least in relation to the deemed marine licence? In relation to what others is it engaged?</p> <p>(b) Has the Applicant sought and obtained a waiver under s.150 of the PA2008 and the Infrastructure Planning (Interested Parties and Prescribed Provisions) Regulations 2015?</p> <p>(c) Does the Conservation of Seals Act 1970 apply and if so how?</p>
Bio.1.193	The Applicant, MMO, Natural England	<p>[APP-317] Table 22.1 In relation to the Minsmere – Walberswick SPA and Ramsar Site the Applicant writes “Likely significant effects on designated bird species are assessed as part of the Shadow HRA (Doc Ref. 5.10)” and the reader is referred there for assessment.</p> <p>This approach is taken for the assessment of effects under the EIA Regs in relation to other sites, for example the Alde-Ore Estuary SPA and Ramsar Site, the Outer Thames Estuary SPA.</p> <p>Doc Ref 5.10 is a very large report made up of multiple documents and citations are not to specific paragraphs / sections which would aid the reader.</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		<p>Is the MMO satisfied with this approach? As the approach also affects terrestrial European sites, the ExA directs this question to Natural England as well.</p> <p>Please will the Applicant explain how it considers the findings of a habitats regulations assessment should be used in the ES? For example, is it the Applicant's view that if there is no likely significant effect (LSE) found in the Shadow HRA, then there is no LSE in terms of the ES? The tests are different as the Applicant will be aware. If there is an LSE under the HRA but there is no adverse effect on integrity of the European site where does that sit in terms of the ES?</p> <p>Please will the Applicant succinctly summarise the findings of the assessment in terms applicable to the ES, giving cross-references to the HRA and Examination Library references.</p>
Bio.1.194	The Applicant	<p>Plate 22.1.</p> <p>There is an entry for CDO – presumably the combined drainage outfall – but it is made up of tunnels which do not include the CDO itself. Presumably the DCO timeframe is one of the lines. Please confirm (or otherwise) and specify which.</p>
Bio.1.195	The Applicant	<p>Para 22.3.75, Assumptions of the assessments.</p> <p>Please will the Applicant explain how these assumptions are reflected by limits in the DCO. For some it is straightforward, such as the depth of tunnels. How is the assistance of tugs assured?</p>
Bio.1.196	The Applicant	<p>[APP-317] – para 22.4.51, baseline subtidal communities and habitats.</p> <p>This paragraph says two habitats have been identified. Coralline Crag is one. What is the other?</p>
Bio.1.197	The Applicant	<p>[APP-317] - para 22.5.19.</p> <p>Please explain what is meant by "seismic qualification", its purpose and necessity and how it is secured through the DCO.</p>
Bio.1.198	MMO, The Applicant	<p>A number of points in the MMO's [RR-0743] are comments rather than clearly stated disagreements. Please will the SoCG between the Applicant and MMO address each of</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		these, whether or not the comment is accepted, and state what action is taken as a result, and any implications for the ES or other application documentation.
Bio.1.199	MMO	Para 5.4.1.2. Please set out drafting the MMO seeks for a requirement on LVSE and FRR design, monitoring and operation, with an explanation and reasoning.
Bio.1.200	MMO	[RR-0743] Paras 5.4.1.6 – 5.4.1.17. (a) The ExA concludes from these paragraphs that the MMO is content with the method used by the Applicant and is not requiring the Applicant, ExA or SofS to use the extended method. Please confirm (or otherwise) that the ExA has correctly understood. (b) However, para 5.4.1.6 says: “ <i>although once these analyses are completed, decision-making will still require a judgement to be made taking account of the model outputs, analogue evidence from Sizewell B monitoring, proportionality and an appropriate level of precaution</i> ”. Please will the MMO set out the decision process, with steps, documents and other factors to be taken into account, which it is here recommending to the SofS. (c) Does this issue arise elsewhere in [RR-0743]? For example at para 5.8.8? If so please answer (a) and (b) for those instances also.
Bio.1.201	MMO	[RR-0743] Para 5.5.1. This alerts the ExA to an additional source of baseline information on harbour and grey seal distributions” and gives a website. Please will the MMO explain what information in that document it wishes the ExA to take into account and explain why and with what conclusion.
Bio.1.202	MMO	[RR-0743] Para 5.6.2. The MMO draws attention to Council Regulation (EU) 2019/124 which it says has been superseded. Please say what is the new regulation and explain how it makes a difference to Appendix 22f and the ES conclusions on fisheries and marine ecology.
Bio.1.203	MMO	[RR-0743] Para 5.8.4. Please will the MMO spell out the significance of the point it is making at this paragraph. Is there an underestimate? To what extent? With what consequence? This issue could usefully be addressed in the SoCG. Please cross-refer to the consideration given in the SoCG.

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
Bio.1.204	MMO	[RR-0743] Para 5.13.1. Does the MMO consider that this information on commercial fishing vessels changes the conclusions of the either in this point or generally? Does it dispute those conclusions? If so how and with what result?
Bio.1.205	Applicant	[AS-281] – Proposed changes. At para 2.2.62 the need for the new BLF to be anchored to the sea bed with piles is highlighted. Please will the Applicant say what are the maintenance implications in relation to ecology and point the ExA to where those are assessed.
Part 11 - Biodiversity and ecology (marine) - Plankton		
Bio.1.206	The Applicant	[APP-317], paras 22.6.6 – 22.6.10. This is one of a number of references in the Marine Ecology and Fisheries chapter [APP-317] to tides. Please can the Applicant submit a short explanation about tides so far as relevant to this chapter and the tidal effects which are being referred to. For example: excursion; trajectory of the tide; tidal volume; rectilinear; north – south orientation; tide velocities; offshore wave climate; fetch; water exchange, exchange rates. If this information is already in the application documentation, please indicate where.
Bio.1.207	The Applicant, EA, MMO	[APP-317] para 22.2.21. This references the WFD Compliance Assessment (Doc Ref 814). Please will the Environment Agency state whether it has any relevant concerns about water quality (not only under WFD) for plankton.
Bio.1.208	The Applicant, EA, MMO	[APP-317] para 22.6.31 – “This chapter considers only the holoplankton component of the zooplankton community”. Please will the Applicant explain why it takes this approach and why it is valid and proper. Please will the EA and MMO state if they accept this approach and if they have any relevant concerns.
Bio.1.209	The Applicant, EA, MMO	[APP-317] paras 22.6.262 – 273, Table 22.32 and Plate 22.4 (Section D.d.f). The temperature plume.

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
		<p>The ExA is asking this question not only for its relevance to plankton but also to the rest of this chapter of the ES.</p> <p>(i) It would be helpful is the Applicant could please list the other occasions in this chapter on which this data is used.</p> <p>(ii) the absolute water temperature exceeds 28° over an area of 0.11 ha at the surface (98th percentile), with Sizewell B & C operating – Table 22.32. Please will the MMO and Environment Agency comment in the significance of this.</p> <p>(iii) Please will the MMO and Environment Agency also comment and explain the relevance of the 23°-28° range</p> <p>(iv) Plate 22.4. The title refers to plume temperature above 2° and to Julian Days. Please will the Applicant say if the title should be to thermal uplift – derived presumably from Table 22.32. Please also say why Julian Days are used. Are not Julian days the continuous count of days since the beginning of the Julian Period? Please explain what is intended.</p>
Bio.1.210	The Applicant, EA, MMO	<p>[APP-317] Table 22.32.</p> <p>Please will the Applicant explain what is meant by this table.</p> <p>All the figures are for the 98th percentile. A percentile is a score below which a given percentage of scores in its frequency distribution fall. What then is meant by a score which is below a range (such as between 23° and equal to or less than 28°C)? And what is meant by the areas in that context? What is meant by a percentile which is that 98% of the scores are below over 28°C?</p> <p>Is the table meant to show that for example 89.6 ha of the surface of the sea will be between 23° and 28° C when Sizewell B & C are both operating.</p> <p>In relation to thermal uplift, are there any uplifts in the Poor category (which is presumably exceeding 4°).</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		There are other tables where this approach is used, for example Table 22.52 in section D.d.d – Operational; Temperature changes; cooling water discharges. Please will the Applicant cover them as well in its explanation. Please will the Environment Agency and MMO also comment and assist the ExA.
Bio.1.211	The Applicant	[APP-317] para 22.6.304. Please explain what is meant by HABs. The ExA cannot find it in the glossary or defined in this chapter.
Bio.1.212	The Applicant	[APP-317] section D.d.i, Cooling water discharges: Nutrients, para 22.6.359. The effects on phytoplankton are described. Where does the ExA find the effects on zooplankton?
Bio.1.213	The Applicant	[APP-317] Section D.e.c.a – Fish recovery and return, plankton and un-ionised ammonia, para 22.6.378. This concludes that “Un-ionised ammonia discharges from the CDO are predicted to have minor adverse effects on plankton communities. Effects are insignificant.” Why is the CDO mentioned? Presumably the reference should be to the FRR, but please confirm.
Bio.1.214	The Applicant	[APP-317] Section D.f.b – entrainment and thermal and operational nutrient discharges in combination, para 22.6.384. This refers only to effects on phytoplankton. Where does the ExA find effects on zooplankton?
Part 12- Biodiversity and ecology (marine) - Benthic Ecology		
Bio.1.215	The Applicant, MMO	[APP-317] baseline, benthic invertebrate taxa, section B.a.a, para 2.7.16. This notes that the lagoon sand shrimp is protected under Sch 5 of the Wildlife and Countryside Act 1981. Is there any relevant defence to damaging or killing it?
Bio.1.216	The Applicant, MMO	[APP-317] baseline, benthic invertebrate taxa, section B.a.a, para 2.7.16. This notes that Sabellaria spinulosa is listed under s.41 NERC Act 2006. What steps is the SofS required to take in relation to it to fulfil the obligations in s.41?

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		Please answer this question also in relation to benthic habitats Section B.a.b para 22.7.22, the construction of the cooling water intakes (section C.d) and Sabellaria spinulosa in general.
Bio.1.217	The Applicant, MMO	[APP-317] baseline, offshore sabellaria spinosa reefs, section B.a.c, Table 22.37, radionuclides. The reader is referred to Chapter 25 of the ES. Please will the Applicant summarise the relevant parts and give the paragraph numbers for cross references?
Bio.1.218	The Applicant, MMO	[APP-317] Construction discharges of un-ionised ammonia, section C.c.f, para 22.7.151. Please will the Applicant explain why the magnitude of the impact is assessed as low "as discharges could occur throughout the construction phase". That duration suggests the opposite. The ExA also notes the criteria in table 1.3 of appendix 6R [APP-170] where the Applicant says: "Medium - Medium-term temporary impacts, one to 12 years". "Low - Short-term temporary, less than a year". Please will MMO also comment.
Bio.1.219	The Applicant	[APP-317], section C.d.b - para 22.7.200 – precautionary assessment of 6m depth of sediment. Is the Applicant assuming 6m of soft sediment at the Coralline Crag, which given the statement that they have no or minimal surficial soft sediment would seem counter-intuitive and very precautionary? Does the surface area of soft sediment impacted change with the answer to this question?
Bio.1.220	The Applicant MMO	[APP-317] section C.d, paras 22.7.204 and 22.7.211. At para 22.7.204 the ES states that less than 5% of the Coralline Crag would be impacted. At para 22.7.211 the figure of 6% "of the reef area" is given. Is this because the reef in para 22.7.211 is the Sabellaria spinulosa, which is only part of the Coralline Crag? If not, please explain further.
Bio.1.221	The Applicant	[APP-317] section C.d, para 22.7.205 – medium duration pressures from intake installation.

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
		Presumably this is also the case for the outfalls, but please confirm this is the case and that its omission is simply from the text and not from the assessment thus far.
Bio.1.222	The Applicant	[APP-317]], section C.d para 22.7.212 "Sabellaria spinulosa larvae are reported ... at abundances of approximately 2,500 ind.m ³ in July". Please explain ind.m ³ .
Bio.1.223	The Applicant, MMO	[APP-317], section C.d.b.b, para 22.7.214 reads "Monitoring of the S. spinulosa reef extent on the offshore Coralline Crag is recommended during both pre- and post-construction of cooling water infrastructure (22.12c)." This monitoring is again referenced at the consideration of inter-relationship effects, para 22.7.310 and in the operational phase (e.g. para 22.7.380). Please will the Applicant explain how this will be secured and what action will be taken, depending on the results of the monitoring. What will be the thresholds and tests for action? Please will the MMO give its view on this proposal.
Bio.1.224	The Applicant	[APP-317] section C.d.d.b – Sabellaria spinulosa reef sensitivity to changes in suspended sediments, paras 22.7.224 and 225. In para [APP-224] we read "... the sensitivity of S. spinulosa reef to changes in SSC associated with dredging and dredge disposal for CWS installation <i>is precautionarily considered the same as the sensitivity of this receptor to changes in SSC due to navigational dredging</i> for access to the BLF" (emphasis added). However the conclusion in 225 reads "As impact magnitude is medium and S. spinulosa reef <i>is not sensitive</i> to this ... changes in suspended sediments are predicted to have a minor beneficial effect. ..." (emphasis added). Where is the assessment of effect on the basis of the precautionary level of sensitivity in para 22.7.224? The same point arises in relation to paras 22.7.233 and 234 on Sabellaria

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		spinulosa sensitivity to sedimentation rate changes, section C.d.e.b and elsewhere (e.g. 22.7.242 and 243).
Bio.1.225	The Applicant	<p>[APP-317] section C.d.f.b – para 22.7.241 – “reefs within the 50m buffer could recover within years of the impact”.</p> <p>Please say how many years; 2, 10 ...? Please also indicate a likelihood (would) rather than a possibility (could). The same point on the number of years arises at para 22.7.308, inter-relationship effects.</p>
Bio.1.226	The Applicant	<p>[APP-317] section C.d.h.b Sabellaria spinulosa reef sensitivity to physical loss of habitat, para 22.7.265. The pressure is the installation of the headworks plus scour protection.</p> <p>Please will the Applicant clarify the statement that approx. 0.1ha of suitable Sabellaria spinulosa habitat is lost in the light of the statement at para 22.7.254 that the two outfalls (N&S presumably) have a combined footprint of 2,420m² (0.242ha) and a total scour area including the headwork of 4,078m² (0.408ha). Is it not 0.204ha of habitat which is lost?</p> <p>If an adjustment is needed, please explain any change to para 22.7.265 and adjust the assessment conclusion at para 22.7.268.</p> <p>Is any adjustment needed to the conclusions on inter-relationship effects at para 22.7.306 and following, section C.f.a?</p>
Bio.1.227	The Applicant	<p>[APP-317] Section C.d.i Spread of non-indigenous species: presence of structure.</p> <p>Please will the Applicant explain why Sabellaria spinulosa is not referred to and assessed.</p>
Bio.1.228	The Applicant	<p>[APP-317] Section C.e.d – FRR, Physical loss / change to another seabed type: presence of structure, and Section C.e.e Spread of non-indigenous species: presence of structure</p> <p>Why is there no reference to Sabellaria spinulosa?</p> <p>The ExA notes that there are a number of sections in the Ch 22 dealing with effects on benthic ecology where effect on benthic invertebrates is assessed but there is no mention</p>

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
		of Sabellaria spinulosa. Rather than list them all, the ExA would be grateful if the Applicant could explain the reason.
Bio.1.229	The Applicant	[APP-317] section D.d, Cooling water system, Table 2.50, entrainment: "The effects of entrainment on larvae recruitment (parimarily [sic] for S. pinulosa [sic]) is assessed". Presumably to S. spinulosa?
Bio.1.230	The Applicant	[APP-317] section D.d.a.a. Benthic invertebrate sensitivity to entrainment, para 22.7.368. dealing with natural mortality. What is meant by 0.06/d and of what is 37.2% average annual mortality?
Bio.1.231	The Applicant	[APP-317] section D.d.d, Table 22.52. "Water Framework Directive thermal standards and areas of exceedance ...". Why does this table not cover the combined operation Sizewell B and C as Table 22.32? Please will the Applicant also address the same questions the ExA raised in relation to Table 22.32.
Bio.1.232	The Applicant	[APP-317] Section D.d.d, para 22.7.394 and 397: these refer to Table 22.32. Should the reference be Table 22.52?
Part 13- Biodiversity and ecology (marine) - Fish		
Bio.1.233	The Applicant	[APP-317] section B.a.f.c – Spawning and nursery grounds, Table 22.61. Please explain the significance of the colours in this table. For example, Dover Sole and Dab have the same socio-economic description, but sole are highlit whereas Dab are not.
Bio.1.234	The Applicant, MMO	[APP-317] Section C.b.f.e – Eggs and larvae sensitivity to underwater noise from navigational dredging, para 22.8.169. Please will the Applicant clarify whether this para is summarising Popper or is some other conclusion. Is the MMO satisfied with this approach?
Bio.1.235	The Applicant	[APP-317] Section C.b.f.f, Assessments of effects of localised displacement: underwater noise from navigational dredging, para 22.8.179.

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		<p>The reader is referred to the shadow HRA for assessment of implications for bird and cetacean feeding.</p> <p>This is one of a number of places where the Applicant cross refers to the shadow HRA. Other examples include para 22.8.485, implications for bird and cetacean foraging, Section C.f.g.c and para 22.8.710 on indirect effects of localised displacement of prey species on designated birds and marine mammals.</p> <p>The tests in the Conservation and Habitats Regulations are different from the EIA regulations. Please will the Applicant summarise the relevant parts of the shadow HRA and make the necessary adaptations to make them applicable to the ES. This should please be done for each occasion on which the ES refers to the HRA for assessment. The Applicant is referred to the earlier question in the Biodiversity and ecology (marine) general section about the use the shadow HRA for environmental assessment.</p>
Bio.1.236	The Applicant	<p>[APP-317] Section C.b.f.f, Assessments of effects of localised displacement: underwater noise from navigational dredging, para 22.8.179.</p> <p>Displacement is largely, it appears, across the ecology chapters of the ES, relevant to feed for prey species. Please confirm that the ExA has correctly understood this, or clarify as necessary.</p>
Bio.1.237	The Applicant, MMO	<p>[APP-317], Section C.b.g Underwater noise: impact piling, para 22.8.187.</p> <p>This states: <i>"With the uncertainty and limited scientific evidence currently available, it is not considered appropriate to quantitatively assess the effects of vibration to fish receptors; therefore, the pressure has been scoped out."</i> This is then compared with offshore wind farms which it is said have much larger scale hammer piling.</p> <p>Will the Applicant please say if this scoping out was agreed with the MMO. Please will the MMO say if it is content with this approach.</p>
Bio.1.238	The Applicant	<p>[APP-317] Section C.c.i.h, para 22.8.375.</p> <p>Please will the Applicant state where to find Section 22.8.c)v. It is not in the index to [APP-317] which does not go to that level and a word search is impractical.</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
Bio.1.239	The Applicant, MMO	<p>[APP-317] Section C.e, Cooling water infrastructure, para 22.8.408 and following. Please will the Applicant explain why the effects of flushing during commissioning are not considered in this section.</p> <p>MMO may wish to comment.</p>
Bio.1.240	The Applicant	<p>[APP-317] Section D.c.b, para 22.8.525.</p> <p>At para 22.8.520 the assessment states "<i>Therefore, only Dover sole and seabass egg entrainment mortality prediction are subject to change</i>".</p> <p>(i) Please will the Applicant state plaice and herring are under consideration here.</p> <p>(ii) Where are the effects on dover sole and seabass eggs set out?</p>
Bio.1.241	The Applicant	<p>[APP-317] Section D.c.c Cooling Water Abstraction: Impingement (para 22.8.528). Please will the Applicant clarify what is meant by "impingement". Is it fish which are trapped on the screens and die, or those and other fish which hit the screens and survive, perhaps injured. The ExA notes the definition of impingement in the glossary: "Term used to refer to the fish and other marine species becoming trapped on cooling water filtrations screens".</p> <p>The ExA notes that at para 22.8.531 attention is drawn to the fact that chlorination is applied after the screens so that "impinged fish would not be exposed to chlorine". Chlorination (and hydrazine) cannot be of relevance to dead fish so the inclusive approach (i.e. fish which hit the screens and are returned, whether living or dead) seems to be what is intended.</p> <p>To what extent is the distinction relevant to the assessment?</p>
Bio.1.242	The Applicant, MMO	<p>[APP-317] Section D.c.c.c Assessment of impingement losses, Table 22.111 – pre-mitigation table.</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		<p>(i) Please will the Applicant explain why eels are not in red, given that they are 1.89%SSB? Why is Twaité shad 84.6% of landings shaded red when it is only 0.05% of SSB? Why are horse mackerel and mackerel in red. They are 0.00%.</p> <p>(ii) In relation to Twaité shad, why is % of landings used when SSB is available?</p> <p>(iii) Why is the percentage of mean landings used for Allis shad when there is no figure for mean landings? In addition for this species, Allis Shad, the figure for %age of SSB is 0.018%.</p> <p>(iv) Please will the Applicant explain, and confirm the other figures in this table are correct, or amend if necessary. If amendments are made, please re-issue the table with changes clearly shown and consequential changes elsewhere in the ES set out.</p> <p>(v) Please will the MMO also comment on all of the above.</p>
Bio.1.243	The Applicant, MMO	<p>[APP-317] Section D.c.c.c Assessment of impingement losses, Table 22.112 – full mitigation table</p> <p>The ExA notes that this table does not include "Species where the impingement weight exceed 1% of the relevant stock comparator are shaded in red", as for Table 22.111.</p> <p>(i) Should that approach be adopted for Table 22.112. If so, please re-issue the table with changes clearly shown and consequential changes elsewhere in the ES set out. Please will the Applicant clarify.</p> <p>(ii) Why does this table show landings when SSB are available?</p> <p>(iii) Twaité shad – 32.4% of landings are impinged. That appears to be a very large percentage. Please will the applicant explain why it is so much higher than the other species. Also how is it calculated? Mean landings are 1 tonne. EAV weight of impinged fish is 0.43 tonnes. So should the figure be 43%? Either way, please will the Applicant comment on its significance. But is the relevant figure the percentage of SSB, namely 0.02%.</p> <p>(v) Please will the MMO also comment on all of the above.</p>
Bio.1.244	The Applicant, MMO	[APP-317] Section D.c.c.c Assessment of impingement losses, Table 22.113.

ExQ1: 21 April 2021

Responses due by Deadline 2: 2 June 2021

ExQ1	Question to:	Question:
		<p>Please will the Applicant explain why it has drawn seabass and thin-lipped grey mullet into this table. The figures for seabass seem simply to be 10% of those in Table 22.112. The figures for grey mullet are the same as in the table. The ExA notes the reference to Appendix 22I. Please will the Applicant summarise the point being made on this by that Appendix and give the paragraph and page numbers which are relevant.</p> <p>Please will the MMO also comment.</p>
Bio.1.245	The Applicant, MMO	<p>[APP-317] Section D.c.c.c Assessment of impingement losses, Table 22.114. Comparison of the effectiveness of different embedded mitigation measures.</p> <p>In the column LVSE mitigation, % effectiveness, the figure is always 61.7%. Why is this?</p>
Bio.1.246	The Applicant	<p>[APP-317] section D.c.d, Cooling water abstraction: Entrapment, para 22.8.648.</p> <p>[APP-005] defines Entrapment as "The inadvertent entry into the cooling water system of marine organisms caused by the ingress of water".</p> <p>Please will the Applicant explain what phenomenon is being contemplated here. It appears to be a combination of impingement and entrainment. But see the glossary definitions of these. Impingement is becoming trapped on the screen. Entrainment is going through the whole cooling water system.</p>
Bio.1.247	The Applicant, MMO	<p>[APP-317] section D.c.i.a, Demersal fish and elasmobranch eggs /cases and larvae: sensitivity to bromoform chlorination by-product. Par 22.8.765 "<i>This median lethal concentration is substantially (10,000-fold) greater than the target 5µg/l EQS for the Proposed development, which is exceeded over a very limited area (52ha at the surface and 0.67ha at the seabed).</i>"</p> <p>Is the Applicant saying that the target EQS is too low? Is that a proper conclusion? By how much is the excess over the 52 ha area?</p>
Bio.1.248	The Applicant, MMO	<p>[APP-317] Section D.e.a Commissioning discharges of hydrazine on fish discharged from the FRR, para 22.8.842.</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		<p><i>"The duration of the exceedance is short, with concentrations exceeding the acute PNEC for no longer than 3.25 hours at a time."</i></p> <p>What is the time gap between such concentrations? What would be the minimum acceptable gap?</p>
Bio.1.249	The Applicant, MMO	<p>[APP-317] Section D.e.b Interaction between thermal discharges and chlorine toxicity, para 22.8.845.</p> <p>This para closes with the following: <i>"Therefore, no further consideration is made of the possible synergistic effects for seabed plumes"</i>. Why is this? Please will the Applicant unpack this. 25.8 ha at the seabed will be >23°C (though below 28°) with both stations operating, which is said to be a "limited" area. With respect all areas are limited. And EQS for the TRO plume will be exceeded.</p>
Bio.1.250	The Applicant, MMO	<p>[APP-317] Section D.e.c, Assessments of effects on fish receptors: thermal discharges and chlorine toxicity, para 22.8.849 concludes that <i>"The inter-relationship of the TRO and thermal plumes is not predicted to increase the significance of effects concluded for the pressures alone"</i>.</p> <p>How does the evidence point to this?</p>
Bio.1.251	The Applicant, MMO	<p>[APP-317] Section D.e.f Assessments of effects at the sea-area or regional stock/population level: hydrazine and temperature changes, para 22.8.852. This states: <i>"The inter-relationship of the hydrazine and thermal plumes is not predicted to increase the significance of effects concluded for the pressures alone. This conclusion applies to all fish receptors assessed"</i>.</p> <p>Please will the Applicant explain how it reaches this conclusion. The ExA notes that in the previous paragraph it is recorded that "Considering the decay of hydrazine, increases in water temperature were found to enhance the toxicity of the compound for fish taxa".</p> <p>Does the assessment of no significant effect in the last sentence of para 22.8.853 to change as a result and if not please explain why.</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		Can the MMO throw any light on this?
Bio.1.252	The Applicant, MMO	<p>[APP-317] Section D.e.g, Assessments of effects of localised displacement: hydrazine and temperature changes, para 22.8.853.</p> <p>This simply states that <i>"It is unlikely that this inter-relationship would increase the significance of the effects of localised displacement"</i>. Please will the Applicant explain why.</p> <p>Can the MMO throw any light on this?</p>
Bio.1.253	The Applicant, MMO	<p>[APP-317] section D.e.k, Assessments of effects at the sea-area or regional stock/population level: primary and secondary entrainment. Para 22.8.860</p> <p>Please will the Applicant explain its conclusion that secondary entrainment does not increase significance "due to the fact that even if 100% mortality of entrained ichthyoplankton was assumed, the volume of cooling water is sufficiently low compared to tidal exchange to dampen any effects".</p> <p>Can the MMO assist?</p>
Part 14- Biodiversity and ecology (marine) - Marine Mammals		
Bio.1.254	The Applicant, MMO	<p>[APP-317] section C.f – UXO detonations, paras 22.9.197-22.9.202.</p> <p>(i) The MMO has expressed considerable concern about this aspect – see [RR-0743] paras 3.1.1 – 3.1.4. Please will the Applicant set out its response and will the MMO state their current understanding of the position. If this is already set out in their SoCG, and nothing has changed since then it will be adequate to state a short conclusion and to refer the ExA to the relevant paragraphs of the SoCG.</p> <p>(ii) How is the dedicated marine mammal mitigation protocol to be prepared in consultation with statutory stakeholders secured (para 22.9.201)?</p> <p>(iii) What are the mitigation measures for seals referred to at para 22.9.202 and how are they secured?</p>
Bio.1.255	The Applicant	[APP-317] section D.b.b – Cooling water infrastructure, para 22.9.248 and following.

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		At para 22.9.251 we read: <i>"During Winter when harbour porpoises are more numerous, the average plume area exceeding 2°C at the surface is between 745ha and 2,605ha while 3°C exceedance is between 429ha and 834ha"</i> . The ExA does not see these figures in the preceding Table 22.142. Please will the Applicant explain their derivation. If changes need to be made, please explain any consequential amendments.
Bio.1.256	The Applicant, MMO	<p>[APP-317] section D.b.b.a – Sensitivity to temperature changes, para 22.9.257. This comments on potential habitat loss in the Southern North Sea SAC. There are other instances e.g. relating to chlorinated discharges (section D.b.c.c, para 22.9.272)</p> <p>Please will the Applicant indicate where this is assessed in the shadow HRA and with what conclusion?</p> <p>Please cover all the instances of habitat loss for marine mammals, not just those mentioned specifically in this question.</p>
Part 15- Biodiversity and ecology (marine) - Indirect Effects and Food Webs		
Bio.1.257	The Applicant	<p>[APP-317] section A, para 22.10.1. This cross-refers to the Shadow HRA.</p> <p>(i) Is the Applicant using the shadow HRA material to inform the EIA?</p> <p>(ii) Please will the Applicant explain if or how the information in the HRA is used in the ES in relation to indirect effects and food webs</p> <p>(iii) If the HRA material is being imported by reference, please summarise the relevant parts of the Shadow HRA and apply them in EIA terms to the indirect effects and food webs subject.</p> <p>(iv) Do the conclusions affect the conclusion on Indirect effects and food webs of minor beneficial not significant effects?</p>
Part 16- Biodiversity and ecology (marine) - Mitigation		
Bio.1.258	The Applicant	[APP-317] Mitigation and monitoring, Section B.d.a, para 22.12.14 – "A marine licence condition is proposed within the Draft Development Consent Order (Doc Ref. 3.1) to secure this" being a marine mammal mitigation plan.

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		Please indicate which condition is referred to. Similarly with the mitigation referred to at paras 22.12.15 and 22.12.16; 22.12.22;
Bio.1.259	The Applicant	[APP-317] Although the Fisheries section of [APP-317] concludes that there are no significant effects, Section B.e para 22.12 20 says that where construction activities and operational maintenance may restrict activities of local fishers (both commercial and recreational it would appear) additional mitigation may be arranged, secured by a marine licence condition. Please will the Applicant explain how this will work legally and practically. For example, how are cases identified, likewise appropriate mitigation and dispute resolution.
Part 17- Biodiversity Net Gain – unless stated otherwise, references are to the Applicant’s Biodiversity Metric Calculations document [APP-266]		
Bio.1.260	The Applicant, Natural England, ESC	Please will the Applicant set out its understanding of the Government’s current policy on biodiversity net gain. Please will Natural England and ESC do the same. In ESC’s case, please will it include its own policy as well. In all cases, please provide the necessary references and internet addresses.
Bio.1.261	The Applicant	Executive summary – Use of Defra / Natural England Biodiversity Metric 2.0. Please will the Applicant confirm this is the current metric
Bio.1.262	The Applicant	Executive summary. Off-site associated developments assessed in separate reports. Please give the Examination Library references for these. Where are the reports and their conclusions integrated?
Bio.1.263	The Applicant	Executive summary. Please provide a plan showing Studio Fields Complex, St James Covert, Great mount walk or point the ExA to a plan in the Application documents where they are shown
Bio.1.264	The Applicant	Executive summary. The achievement of the scores is reliant on creation and management plans. Please specify where these are secured in the DCO and which they are of the plans submitted.

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
Bio.1.265	The Applicant	Executive summary – “It is recommended that post planning, additional surveys are undertaken”. Where is this secured in the DCO?
Bio.1.266	The Applicant	Executive summary. Please explain why the metric cannot assess loss of part of the Sizewell Marshes SSSI.
Bio.1.267	The Applicant, Natural England	Para 2.9 – Areas within the sea are excluded. Please explain why. Is that a valid approach?
Bio.1.268	The Applicant	Para 2.10 – recommendation to conduct “ground-truthing surveys”. (i) Where is that secured; (ii) what happens if they show the net biodiversity calculation is wrong?
Bio.1.269	The Applicant	Para 2.10 “ <i>Should a target be set for percentage net gain of biodiversity units, it is recommended that ...</i> ”. Has such a target been set, is it in the DCO and if so, where? Is the remainder of this assumption met?
Bio.1.270	The Applicant	Para 5.1 and Table 13. (i) Please clarify which are the “interventions” referred to a being changed. (ii) Have not some of the changes already been made, for example the Aldhurst Farm areas? (iii) If so, is it valid to take them into account?
Bio.1.271	The Applicant, Natural England	Para 7 – areas excluded. It is stated that the SSSI habitat is not addressed by the metric as it is of greater value than non-designated areas. It is also stated that 1.6 ha of fen meadow will be lost and 1.7 ha created. Is not Natural England’s requirement for a far greater area, presumably because of difficulties in creating fen wetland and to guard against potential failures? Should the extra be taken into account in the net biodiversity calculation?
Bio.1.272	The Applicant	Conclusion – para 10. Post-planning additional surveys are recommended to inform detailed design, habitat creation and management plans. Where is this secured in the DCO?

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
HRA.1	Habitats Regulations Assessment	
HRA.1.0	Natural England	DEFRA/Natural England guidance entitled 'HRAs: protecting a European site' was published on 24 Feb 2021. Does Natural England consider that there is anything in this new guidance that would alter the approach that the Applicant has taken to their Shadow HRA Report [APP-145] (including addendum [AS-178]) and specifically in their derogations case or compensation measures plans? If so, please provide reference to specific parts of the guidance that require further attention.
HRA.1.1	The Applicant	Since the submission of the Shadow HRA Report [APP-145] the Habitats Regulations 2017 have been amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 ("the 2019 Regulations"). These Regulations came into force on Implementation Period Completion Day, 31 December 2020. Notwithstanding footnote 5 of [APP-145], could the Applicant identify any changes that may be necessary to their HRA assessment in light of the 2019 Regulations.
HRA.1.2	Environment Agency	The ExA notes the comments of the Environment Agency in their Relevant Representation [RR-0373] regarding further European sites designated for their allis shad, twaite shad and river lamprey qualifying features, which were absent from the Applicant's Shadow HRA Report [APP-145]. The Applicant in its Shadow HRA Addendum Report [AS-173] has provided additional information on these three species, including screening for additional European sites. Could the Environment Agency comment on whether this information addresses the points raised in the RR with regards to these qualifying features and European sites. If the Environment Agency has outstanding concerns on these matters, please could they expand.
HRA.1.3	Natural England	Could Natural England confirm whether it is content that the Applicant has identified all relevant European sites and qualifying features in their Shadow HRA Report [APP-145] and Shadow HRA Addendum Report [AS-178].
HRA.1.4	The Applicant	The ExA notes the submission of document 8.4 Planning Statement Appendix 8.4K Site Water Supply Strategy [APP-601]. Could the Applicant identify where water abstraction and demand has been considered in the Shadow HRA Report (and Shadow HRA Addendum Report, as appropriate) and confirm whether there would be a likely significant effect on any European sites as a result of the proposed water demand/abstraction for the Proposed Development.

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
HRA.1.5	The Applicant	Please will the Applicant confirm whether any aspects of the Proposed Development are likely to impede the existing management practices on European sites, such that this would lead to a likely significant effect on any European sites.
HRA.1.6	The Applicant	Noting the recent publication of DEFRA/NE guidance on HRA: Protecting a European site in February 2021 and that the Shadow HRA Report: Compensatory Measures [APP-152] has been produced only with reference to the site requirements specified in paragraph A.7.5 of EN-6. In light of the above and notwithstanding the Applicant's position as to the 'effect' of NPS EN-6 as set out in section 3 of the Planning Statement [APP-590], could the Applicant provide comment on any implications of this new guidance with regard to the proposed compensatory measures set out in [APP-152]?
HRA.1.7	The Applicant	The ExA notes the Shadow HRA Report: Compensatory Measures [APP-152] contains limited information on the existing agricultural/arable land that has been taken out of production, where management measures are stated to have already commenced. With reference to paragraph 2.4.1 of [APP-152], could the Applicant describe the management measures that have been undertaken to date, their current status and identify these areas on an amended version of the figure in Appendix A to APP-152, which the ExA understands is to present the proposed compensatory measures in a visual form.
HRA.1.8	The Applicant	<p>The Shadow HRA Report: Compensatory Measures [APP-152] contains limited information on the specifics of the proposed habitat management measures at Section 3.4 (c). There are also limited cross-references to other submission documents that may be being relied upon for the HRA compensatory measure package. Could the Applicant confirm where any further detailed information on the proposed management measures for the delivery of HRA compensatory measures are to be found in the application documents and/or additional submissions.</p> <p>The ExA notes ES Chapter 14 Terrestrial Ecology and Ornithology Appendix 14C5 Marsh Harrier Mitigation Area Feasibility Report [APP-259]; however, this report dates from April 2019 and does not include information relating to the change to the water resource storage area and the subsequent inclusion of wetland habitats as part of the HRA compensation proposals for marsh harrier. Could the Applicant confirm where information on the proposed management measures, including the proposed wetland habitats, is to be found or provide this information.</p>

ExQ1: 21 April 2021**Responses due by Deadline 2: 2 June 2021**

ExQ1	Question to:	Question:
		<p>Furthermore, Appendix A (figure) to [APP-152] has a note that states it is to be revised in final design to include the enhanced compensatory habitat comprising wet woodland area and temporary water storage area. Could the Applicant provide an updated figure to show the proposed compensatory measures area, including the proposed wetland habitats, and the relationship of the area to the Order Limits. It would appear to the ExA that part of the land shown on the figure in Appendix A of [APP-152] lies outside of the order limits as shown on Sheet 1 of the Works Plans [AS-285].</p> <p>The broad category of 'marsh harrier habitat' in the mitigation route map addendum [AS-276] refers to securing mechanisms of the Section 106 (Implementation Plan), Requirement 14 (MDS: Landscape works), and DCO Article 3 (Scheme design). Could the Applicant confirm which of these mechanisms (if any) relate to the HRA compensatory measures proposals.</p>
HRA.1.9	Natural England	<p>Particularly in light of 'Change 5' as summarised in Table 2.1 of the Shadow HRA Addendum Report [AS-178], could Natural England comment on the Applicant's proposed compensatory measures package as originally set out in Shadow HRA Report: Compensatory Measures [APP-152], with reference to the legislative tests and relevant guidance. Should Natural England have any outstanding concerns with regards to the proposed compensatory measures please could these be stated.</p>