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To the Applicant and All Interested
Parties

Your Ref:

Our Ref: EN010012

Date: 21 April 2021

Dear Sir/ Madam

Planning Act 2008 – Section 89(3)

The Infrastructure Planning (Compulsory Acquisition) Regulations 2010

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

Notification of Procedural Decisions in respect of fifteen proposed changes to the application (Changes 1-15) including Compulsory Acquisition Request in respect of additional land (the Proposed Provision) submitted by the Applicant to the Planning Inspectorate by letter dated 11 January 2021 [AS-105]

Procedural Decisions

The Examining Authority (ExA) has decided to accept the fifteen changes to the application put forward by the Applicant. The ExA considers that the proposed changes represent material changes to the original application dated 27 May 2020. However, they are not so material, when considered either separately or together, as to constitute a new application and the development now being proposed is in substance that which was originally applied for.

Since Changes 11, 12 and 13 include 'additional land', the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regs) are engaged, In accordance with Regulation 6 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010, the ExA has decided, on behalf of the Secretary of State, to accept the proposed provision as part of the application. In reaching this decision, the ExA is satisfied that it complies with the requirements of Regulation 5 of the CA Regs.

The Applicant is therefore reminded of its duties under Regulations 7, 8 and 9 of the CA Regs to provide notice of the proposed provision as required with details of how representations can be made in respect of the proposed changes.

The Applicant is requested to provide the following:

1. A consolidated Mitigation Route Map to comprise the information provided by the Mitigation Route Map [APP-616] and the Mitigation Route Map Addendum [AS-276], to be provided by Deadline 1 on 12 May 2021; and
2. A consolidated Transport Assessment (TA) to comprise the Transport Assessment (TA) [AS-017] and the Transport Assessment Addendum [AS-266], to be provided by Deadline 2 2 June 2021

The consolidated Mitigation Route Map should be provided by **Deadline 1** on 12 May 2021 and the consolidated TA should be provided by **Deadline 2** on 2 June 2021 of the Examination Timetable.

These Procedural Decisions are made under section 89(3) of the Planning Act 2008 (PA 2008). The background to, and the ExA's reasoning for, these decisions is set out below.

Background

The Applicant's letter submitted to the Planning Inspectorate on 6 October 2020 [AS-004] gave notice of its intention to propose changes to the application and to submit additional information (comprising further details of some of its proposals, additional technical information, and to address minor errata in plans and documents and omissions). That letter enclosed a Notification Report [AS-005] which identified the nature of the changes proposed.

The ExA responded by letter dated 23 October 2020 [PD-006] drawing attention to the requirements of the Planning Inspectorate's 'Advice Note Sixteen: How to request a change that may be material' (AN16), and the need for appropriate and proportionate non-statutory consultation to be carried out before the submission of the Change Request. The ExA also requested submission of some of the additional information at the earliest opportunity.

The Applicant's subsequent letter to the Planning Inspectorate dated 16 November 2020 [AS-006] explained that non-statutory public consultation on the proposed changes would start on 18 November 2020 and would close on 18 December 2020. It also provided details of the additional information documents included with that letter. The ExA confirmed the acceptance of these additional information documents in its letters of 24 November 2020 [PD-008] and 22 December 2020 [PD-009]. In relation to the timing of the Preliminary Meeting (PM) and the start of the Examination, it indicated that the PM should not be held until after Steps 1 to 4 in Figure 1 of AN16 had been taken. That would enable all Interested Parties (IPs) to be fully informed before the PM and to facilitate a focused discussion about how a changed application, if accepted, might be examined.

The formal Change Request was submitted to the Planning Inspectorate by letter dated 11 January 2021 [AS-105]. The Applicant requested the ExA to accept for examination each of fifteen proposed changes to the application for the Proposed Development for which development consent is sought. These changes are set out in Table 1 of the Applicant's letter of 11 January 2021 [AS-105] which also contains a

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summary of whether the proposed changes are assessed to give rise to new or different significant environmental effects. The Change Request confirms that all fifteen proposed changes have been the subject of public consultation and details are set out in the Consultation Report Addendum [AS-153]. It indicates that Changes 11, 12 and 13 involve an extension to the Order Limits and would engage the requirements of the CA Regs.

The Consultation Report Addendum [AS-153] explains that the non-statutory consultation on the fifteen proposed changes involved:

- The publication of notices in the local press;
- the erection and maintenance of site notices;
- the deposit of documents for public inspection at two libraries; and
- promotion through the project website and social media.

In addition, the Applicant mailed 194 letters to "*Prescribed parties; those with an interest in the relevant land; and other interested parties*". The Consultation Report confirms that the Applicant has had regard to whether or not there may be persons who may be affected by the proposed changes but who are not yet participating in the Examination of the application.

The Applicant relies upon the Consultation Report Addendum in support of its request for the ExA to accept all the proposed changes as part of the application to be examined. The Applicant's post-consultation position in relation to each of the changes sought, in summary, is that the changes remain as set out in the formal proposed Change Request. The Applicant's written submissions on matters raised orally at the PM Part 1 [PDB-013] explains further how it took account of the results of the non-statutory consultation and engagement on each of the proposed changes in determining the nature of the formal Change Request including the adjustments made to the initial proposals.

The ExA's letter dated 22 January 2021 [PD-010], draws attention to AN16, paragraph 2.1, and the Applicant's overview of its proposed changes at Table 1 of its letter dated 11 January 2021 [AS-105]. In relation to the timing of the PM, and the start of the Examination, the ExA explained that careful consideration had been given to those timings in the light of the Additional Submissions from the Applicant [AS-104], Environment Agency (EA) [AS-093], Natural England (NE) [AS-094], Suffolk County Council (SCC) [AS-099], Together Against Sizewell C (TASC) [AS-101] and others. In particular, the ExA had regard to the need to allow all parties a fair and reasonable period of time prior to the start of the Examination to assess both the Change Request and the information submitted by the Applicant. For those reasons, the ExA decided that the PM should not be held until March/April 2021.

The ExA's Procedural Decision dated 25 February 2021 [PD-012] sought additional information from the Applicant about the proposed Change Numbers 2 and 6. This was provided by the Applicant on 10 March 2021 [PDA-001 to PDA-006].

The ExA's Rule 6 letter dated 23 January 2021, Annex B, [PD-011] provided more information regarding the Change Request and the matters to be discussed at the PM on that topic. It explained that certain changes include 'additional land' which is proposed to be the subject of Compulsory Acquisition and which was not identified in the original Book of Reference (BoR). The ExA therefore proposed to invite those potential Affected Persons to the PM as 'Other Persons', to enable them to take part, should they wish to do so, in the discussion about the materiality of the proposed

changes and how a changed application, if accepted, might be examined. Likewise, the ExA proposed to invite certain potential Statutory Parties, not originally consulted, as 'Other Persons' so that they might also contribute on that topic, if desired.

Prior to the PM, a number of IPs made written submissions in relation to the Applicant's proposed changes at Procedural Deadline A (PDA) and the Report of responses to the Preliminary Meeting Participation Form provides a summary of 115 PDA submissions made by IPs on that topic. At PDA, local councils, statutory consultees, and other IPs indicated that they were awaiting additional information from the Applicant in relation to the changes to the Beach Landing Facilities and coastal defences. This included the EA [PDA-009], NE [PDA-013], Marine Management Organisation (MMO) [PDA-011], East Suffolk Council (ESC) [PDA-008] and SCC [PDA-014].

SCC [PDA-014] notes that the Change Request explains that the amount of material required for the Sizewell C construction is now assumed to be increased by 20% compared to the original application. It considers that there would be a material change in transport terms, even if the proposals within the change application were not accepted, and time would need to be allowed in programming the Examination for this to be considered. In response, the Applicant [PDB-012], does not accept that the 20% increase in material required on the main development site represents a change to the Proposed Development itself, but a revision of the preliminary estimate of what would be needed to implement it (Part 1 of the Change Request, paragraph 2.2.14) [AS-281].

At the PM Part 1, the ExA requested the Applicant to provide some of the additional modelling information sought by various IPs by Procedural Deadline B (PDB). The Applicant's 'Modelling of the Temporary and Permanent Beach Landing Facilities at Sizewell C Report' [PDB-010] was subsequently submitted at PDB. The MMO, EA and NE made written submissions at PDB in relation to the need for, and the time required, to review the Applicant's additional modelling information once received [PDB-023], [PDB-020], [PDB-027].

At the PM Part 2, the Applicant clarified that in relation to the Soft Coastal Defence Feature (SCDF), further modelling was being carried out to establish the trigger point at which monitoring should identify that mitigation is necessary. That modelling is due in two stages, namely, at the end of April and at the end of June 2021 and the results would be submitted to the Examination. In addition, details of the design of the Hard Coastal Defence Feature (HCDF) would be available in April 2021 and would also be submitted to the Examination at the next available deadline.

The Applicant's Change Request was discussed at the PM Parts 1 and 2. There were some 32 oral submissions made in relation to the Change Request at the PM Part 1 with two responses on behalf of the Applicant. The points made at the PM Parts 1 and 2 and at PDA and PDB include the following:

- The changes are substantial and material, because they will lead to new or different likely significant environmental effects compared to the original application. For example, the Beach Landing Facility (BLF) will have different environmental impacts.
- The BLF, the extension of the landscape bund at the Southern park and ride, the new bridge, bridleway link, the changes to the public rights of way, and the extension of Order Limits make what is proposed material.

- There is a lack of sufficient information to accurately assess the new proposal for the BLF in terms of geomorphological impact, which therefore must be considered as a very material change.
- Modelling work from the Applicant for the coastal defences and the BLF is awaited and reliance should not be placed upon the 'Rochdale envelope' approach to excuse its absence.
- No current design or specification has been provided for the original HCDF and SCDF, nor have the design details for this updated structure been provided, so this cannot be assessed. This item must be considered as a material change.
- The new proposals would lead to different and substantive environmental effects through major changes to the delivery of the project.
- The proposed changes represent a material change, not because the final product that is two new EPR reactors will be that much different from the original application, but because the method of achieving that end result will change significantly. The way the construction project is conducted, and its impact will be fundamentally altered.
- The changes and the effects of the new proposals compared to the original application should be subject to statutory consultation, after which the Applicant should submit a new DCO application.
- There is little evidence submitted on the changes to the SSSI crossing into the site, which will potentially have hydrological and other environmental effects.
- The change proposed to the HCDF raises the risk of catastrophic failure and is a material change that needs to be presented in full detail so that such risks can be assessed.
- The changes proposed would have a substantially different impact on local communities.
- Time is needed before the Examination begins to look at the new documentation and to take and seek advice and to enable everyone affected to be included.
- The standard of consultation carried out in November and December was very poor and only contained outline proposals without detail to back them up.
- Failure to provide full and sufficient details in relation to certain aspects of the proposed amendments, such as, but not only, in relation to the additional balancing ponds.
- There has not been sufficient consultation on the proposed changes. There is a need in the interests of fairness to re-consult.
- There would be new people subject to Compulsory Acquisition. The process should stop, and new IPs or new Relevant Representations be invited.
- The proposed changes have land-take implications but little or no detail has been provided in support.

- The funding implications of the proposed changes.
- This is a 'highly complex project' so it would be grossly unfair for IPs to be expected to work out which bits of the development are affected by the changes and which parts are not.

The Applicant's response to these objections at the PM Parts 1 and 2 and at PDA and PDB includes the following points:

- While some of the changes are acknowledged to be material, in the context of the application as a whole, they could not be said to mean the development is no longer in substance that which was originally applied for.
- The changes need to be considered in the context of the application as a whole. This is an application for development consent for a Nationally Significant Infrastructure Project (NSIP), with a range of Associated Development (AD) elements, many of which are intended to support the construction of the NSIP. The changes do not alter that in any way.
- The analogous guidance on making changes to made DCOs is also relevant. In this case, the changes relate only to some elements of the AD, the vast majority of the AD elements are also either entirely unchanged or not changed to any material extent.
- The vast majority of the changes proposed are non-material and most involve no new or different significant environmental effects or additional land. Where additional land is needed for AD, it is mostly very limited in extent.
- The proposed changes are in the most part beneficial, and only three of the proposed Changes 1, 2 and 9 would result in any material changes to the significance of effects reported in the ES. There is no change in the predictions of adverse effects on the integrity of any European site.
- The 'Modelling of the Temporary and Permanent Beach Landing Facilities at Sizewell C Report' [PDB-010] provides further modelling on the BLFs proposed in the Change Request. It confirms no significant adverse effect.
- The proposed change details of the HCDF and the SCDF within parameters are more than sufficient to understand them and more than sufficient to assess their implications. Nevertheless, details of the proposed design for the HCDF and modelling for the SCDF would be submitted to the Examination.
- There is very specific guidance and procedures dealing with the making of changes for DCOs. That allows for and provides a procedure for the widening of Order limits in order to include additional land. There is no 'in principle' difficulty with increasing the Order Limits, provided that it is possible to complete the process set out in the CA Regs.
- For Change 11, the additional Fen Meadow land does require 32 ha of additional land, but it is very clearly a small ancillary element in the overall scheme. Further information in relation to the Additional Land sought to be acquired including the Fen Meadow Pakenham site is provided at [PDB-012-013].

- There is only a relatively small change in relation to borrow pits proposed in the Change Request and that is a change to the footprint of the borrow pit within the heart of the temporary construction area. It has no additional land effects and it does not have any significant environmental effects [PDB-012 & 013].
- The mitigation information and the principles committed to in the application are substantial and more than sufficient. The Applicant does not agree that there has been no engagement and no consultation about the mitigation.
- Further details in relation to landowner engagement is provided at PDB [PDB-012 & 013].
- The Applicant has volunteered to consult on the additional information as if it was further information as defined under the EIA Regulations¹ with the proposed dates, effectively mirroring those for the consultation taking place pursuant to the CA Regs. That would allow a fair opportunity for parties to consider and respond to any additional information [PDB-012 & 013].
- At PDB, the Applicant submitted an Environmental Statement Signposting Document [PDB-011]. This identifies the environmental information submitted to the ExA since submission of the original Environmental Statement in May 2020 and explains how that information supplements or changes the ES on a chapter by chapter basis.

The Examining Authority's reasoning

In making this decision, the ExA has taken account of the guidance in paragraphs 109 to 115 of DCLG Guidance² for the examination of applications for development consent and AN16³. Paragraph 113 of the DCLG Guidance makes specific reference to the principles of fairness and reasonableness set out in the *Wheatcroft*⁴ case. Paragraph 2.1 of AN16 indicates that the test to apply is whether the development now being proposed is not in substance that which was originally applied for. If so, then it would constitute a different project for which a new application would be required. That determination is a question of planning judgment which may be based on criteria including, for example, whether the change would generate any new or different likely significant environmental effect(s). Similarly, whether (and if so the extent to which) a change request involves an extension to the Order land, particularly where this would require additional Compulsory Acquisition powers.

Paragraph 109 of the DCLG Guidance accepts that applicants may need to change a proposal after an application has been accepted for examination and gives examples of reasons why such an application might be made. However, that list is neither exhaustive, nor is it intended to preclude other circumstances that might lead to changes. The formal Change Request explains that during the Pre-Examination period the Applicant has continued to engage extensively with stakeholders; has continued

¹ The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

² The Department for Communities and Local Government Planning Act 2008: Guidance for the examination of applications for development consent, available at:

<https://www.gov.uk/government/publications/planning-act-2008-examination-of-applicationsfor-development-consent>

³ Available at:

<https://infrastructure.planninginspectorate.gov.uk/wpcontent/uploads/2015/07/Advice-note-16.pdf>

⁴ Bernard Wheatcroft Ltd v Secretary of State for the Environment (1982) 43 P & CR 222

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its programme of collecting environmental data and has continued to develop detailed plans for the construction of the Sizewell C Project. In response to that work and engagement, the Applicant has identified a limited number of changes that it considers should be made to the application.

The materiality of the Applicant's proposed changes to the application

The Applicant acknowledges, and the ExA takes the view, that the proposed Changes 1 to 15 taken together are properly regarded as material changes to the original proposal. However, a distinction must be made between the question of whether the changes are material, and the separate question of whether the changes would mean that the development now being proposed is not in substance that which was originally applied for.

In considering that specific question, the subject-matter of this application for development consent is a very substantial new nuclear power station together with a range of AD elements, many of which are intended to support the construction of that NSIP. That position would not alter as a result of the proposed changes. In this case the changes relate only to some elements of the AD. As the Applicant points out, none of the description of development in the 13-page application form [APP-006] is affected by the change application.

Both SCC [PDA-014] and ESC [PDA-008] in their PDA submissions confirm that they consider acceptance of the Change Request would not mean that the development now proposed is not in substance that which was originally applied for. ESC agrees with the Applicant's assessment of which changes are to be considered material, but does not conclude that the substance of the proposal is different to the original proposal as a result of the proposed changes. The PDB submission of ESC [PDB-019] confirms its view that the project, incorporating the amendments proposed by the Applicant, would remain in substance that which was originally applied for.

In relation to the environmental effects of the proposed changes, the Applicant has undertaken environmental and other relevant assessments of the proposed changes. Table 1 of its letter of 11 January 2021 [AS-105] contains a summary of whether the proposed changes are assessed to give rise to new or different significant environmental effects. This indicates that most would involve no new or different significant environmental effects.

The environmental effects of the majority of the proposed changes are assessed as being beneficial with no change to the original prediction in relation to 'adverse effects on integrity' for any designated European site. Change 1⁵ is assessed as introducing new significant beneficial effects. Change 2⁶ is assessed as resulting in some localised landscape and visual effects but no change in significance except a new significant adverse localised effect for receptor group 20 from the south. An increased adverse effect on recreational water users is identified but no change in significance. There would be minor adverse (not significant) effects on coastal geomorphology and minor adverse marine ecology effects but these would not be significant. Change 9⁷ is assessed as resulting in a change in flood risk during the construction phase from significant to not significant. There would be a change from minor beneficial (not

⁵ Potential to increase freight train movements to facilitate bulk material imports by rail.

⁶ Enhancement of the permanent beach landing facility and construction of a temporary beach landing facility

⁷ Change to the sea defence

significant) to major beneficial (significant) for coastal erosion. Change 11⁸ is assessed as resulting in new minor adverse effects on surface water and archaeology during construction but no significant effects. Change 12⁹ would result in some localised adverse effects from increased land take but no new or significant effects.

As regards the responses from the statutory consultees, the EA in its letter dated 8 January 2021 [AS-093] makes reference to AN16, section 4, Figure 3f., and indicates that it broadly agrees that the Applicant's changes consultation identified the likely significant environmental effects and the work necessary to assess these.

The letter from NE dated 12 January 2021 [AS-094], readily accepts that these material changes are within the substance of what was originally applied for. NE's subsequent submission to PDA [PDA-013] indicates that it has not yet been able to come to a complete view on the assessment of significance of these proposed changes. It sought the submission of additional evidence, assessments, and strategies and for sufficient time to be given for it to review and advise on the implications these changes (if accepted) may have on designated sites.

The MMO in its letter dated 27 January 2021 [AS-304], stresses that there is no objection to the proposed changes to the project, but raises concerns about substantial workloads with short timescales, which might affect its ability to provide robust advice to the ExA. The MMO's PDA submission [PDA-011] states that, although it is unclear as to the scale of the materiality of the changes at this stage, they could be considered within the bounds of the initial proposal, with the largest change within the MMO's remit being the addition of a temporary BLF. As such, the MMO is of the opinion that the proposed changes could be considered alongside the current proposal.

Therefore, although the statutory consultees seek additional environmental information in relation to the Change Request, their main concerns relate to having the necessary time to review and consider this appropriately. In the light of the Applicant's environmental and other relevant assessments of the proposed changes, the ExA does not consider that the Change Request should be rejected on the grounds of the adequacy of the environmental assessment which accompanied it. That assessment indicates that the likely environmental effects of the proposed changes are such that they would not render the development now being proposed not in substance that which was originally applied for.

On the question of the extent of the proposed extension to the Order land, Changes 11, 12 and 13 involve such extensions, as indicated on the Land Plans showing the Proposed Land Changes [AS-290]. However, although additional land is now sought for the AD compared to the original application, this is mostly very limited in extent. The PA 2008 process includes specific statutory provision by way of the CA Regs for making changes to applications which involve increasing the Order Limits and seeking powers of Compulsory Acquisition over more land. Likewise, AN16 sets out a procedure for making material changes to applications pursuant to the PA 2008 which embraces changes involving AD and additional land. In principle, therefore, there is no impediment to the expansion of the Order Limits to accommodate a change to an NSIP application, provided the application still meets the test set out above.

⁸ Provision of additional fen meadow habitat at Pakenham as mitigation for fen meadow loss

⁹ Extensions and reductions of the Order Limits for works on the Two Village Bypass, Sizewell Link Road and Yoxford roundabout as well as minor changes to the public rights of way proposals

The additional Fen Meadow site at Pakenham (Change 11) requires some 32ha of additional land. However, the actual area of Fen Meadow habitat to be created within it would be about 4.9ha. The 32ha of additional land for that site must be considered in the context of the total area of land included within the Order Limits for the original application or indeed even within the main development site alone. In addition, the Fen Meadow proposal would involve very limited actual development in order to convert the land from agricultural use to Fen Meadow habitat. When considered against that background, it evidently comprises a small ancillary element in the overall scheme. Whilst the Order Limits would be extended as a result of these changes, the changed application would remain in substance the project that was originally applied for, despite the addition of that land.

The ExA has taken into account the explanation for seeking the changes provided by the Applicant, the significance of the changes in the context of the original application as a whole, and the information submitted regarding the likely environmental impacts. Whilst the ExA acknowledges the concerns expressed by certain IPs regarding the level of the information provided to support the changes, the significance of the changes and specific impacts upon their interests, the extent of these perceived impacts must be considered against the implications of the Proposed Development as a whole. In the main, the responses and points raised by IPs are either concerned with whether the changes are material, which is not in dispute, or how the changed application, if accepted, might be examined.

Having regard to the nature and scope of the proposed changes, the ExA concludes that they represent material changes to the application, but it does not believe that their acceptance would result in a materially different project being considered. In the light of AN16, the ExA has also considered whether the combined impact of a series of incremental non-material changes collectively would result in a material change to the original application but it does not find that to be the case in the context of the Proposed Development as a whole. What is proposed by way of the changes can therefore still be considered under the existing application, provided that issues of fairness can be satisfactorily addressed. The concerns raised by the EA, MMO, NE and other IPs about the volume of new and additional information that was identified; and the time that would be required for them to review this information once it has all been received will be considered below.

Whether the changes can be fairly accepted and examined

Paragraph 2.5 of AN16 refers to the case of *Holborn Studios* and the need for consultation. The ExA recognises that in accepting the proposed changes it needs to act reasonably, in accordance with the principles of natural justice and those arising from the *Wheatcroft* and *Holborn Studios* cases. It must be satisfied that anyone affected by the changes should have a fair opportunity to make their views known and to have those views properly taken into account. The key aim is therefore fairness both to the developer in not requiring unnecessary new applications, but also to the public, in particular by ensuring there has been adequate opportunity to make representations on the amended proposal.

In the interests of fairness, the Applicant has undertaken consultation on the proposed material changes on a non-statutory basis. The Consultation Report Addendum and supporting appendices [AS-153 to AS-156] has been prepared to demonstrate that the Applicant has carried out proportionate non-statutory consultation on the

proposed changes to the original application and has taken into account the feedback from that consultation.

The consultation sought to engage all persons identified in the PA 2008 under section 42(1)(a) to (d) whether or not they would be affected by the proposed changes, including any section 42 persons not originally consulted on the application but who may now be affected by the proposed changes including West Suffolk Council. Although AN16 only refers to consultation with those persons identified in section 42(1)(a) to (d), the Applicant also consulted the local community and the general public about the proposed changes. It confirms that all affected landowners have been consulted regarding the proposed changes. At PDB, the Applicant explained in more detail how it took account of the results of consultation and engagement in determining the nature of the proposed changes to the application submitted in January 2021 [PDB-013].

The ExA has given serious consideration to the complaints made by IPs in relation to the adequacy of the non-statutory consultation and the level of detail provided with the Change Request. However, the ExA finds the non-statutory consultation carried out prior to the submission of the Change Request to be satisfactory in nature and scope. It complies with the ExA's advice set out in its letter dated 23 October 2020 on the need, scale, and nature of the consultation to be carried out prior to the submission of the formal Change Request [PD-006]. The ExA concludes that, in the interests of fairness, appropriate and proportionate non-statutory consultation was carried out before the Change Request was submitted. In addition, at the PM Part 1, the Applicant confirmed that, in the event that the changes were accepted by the ExA, it would consult on the additional information as if it was further information, as defined under the EIA Regulations.

Changes 11, 12 and 13 involve an extension to the Order Limits. They would result in Compulsory Acquisition implications, in the event that agreement is not reached with all additional Affected Persons, and would engage the requirements of the CA Regs. At the PM Part 1, the Applicant confirmed that, in the event of the changes being accepted, it would comply with the requirements of the CA Regs in relation to the additional land that was not within the Order Limits of the original application.

There was concern expressed orally at the PM Part 1, and in writing at PDB, that owners/occupiers of any additional land sought by the changes would not have an opportunity to provide an input before acceptance of those changes. However, those persons were invited by the ExA's Rule 6 letter to the PM as 'Other Persons.' In any event, if the proposed changes are accepted by the ExA, the additional Affected Persons will be notified in accordance with the requirements of Regulations 7 and 8 of the CA Regs and invited to make representations in respect of the proposed changes and have the opportunity to engage fully in the Examination as IPs.

The ExA notes the concerns raised by the statutory consultees in relation to the additional modelling required to complete their assessments. In that respect, the Applicant submitted the 'Modelling of the Temporary and Permanent Beach Landing Facilities at Sizewell C Report' at PDB [PDB-010]. The Applicant also agreed to submit details of the HCDF and additional information and modelling in relation to the SCDF to the Examination. The anticipated submission dates for that additional information can be incorporated within the Examination Timetable and Issue Specific Hearings in relation to those matters programmed accordingly. The ExA considers that this would

enable informed input from statutory consultees and other IPs on these matters during the Examination.

Given that the Examination is at an early stage, the change submission can be examined as an integral part of the Examination and not as an addendum to the original proposal which represents the preference of most IPs. The ExA is satisfied that all aspects and implications of the changed application can be fairly accommodated and scrutinised during the Examination period.

As regards the complaint that it would be unfair and difficult for IPs to follow, understand and distinguish between those parts of this 'highly complex project' that are affected by the changes and those which parts are not, the Applicant has provided a signposting document to assist the RSPB and other IPs in navigating the documents [PDB-011]. This includes a fully referenced Table identifying in relation to each ES Chapter: the supplementary information relevant to the Chapter; the proposed changes relevant to the Chapter; and the updates to the Chapter.

To assist further in the navigation of the documentation, the ExA requests the Applicant to provide a consolidated Mitigation Route Map to comprise the information provided by the Mitigation Route Map [APP-616] and the Mitigation Route Map Addendum [AS-276]. The Applicant is also requested to provide a consolidated Transport Assessment (TA) to comprise the Transport Assessment (TA) [AS-017] and the Transport Assessment Addendum [AS-266]. The ExA does not consider the provision of these consolidated documents would place a disproportionate burden upon the Applicant.

The ExA is satisfied that the non-statutory consultation which has taken place; the proposed non-statutory consultation on the 'other information' and compliance with the CA Regs will enable everyone who would have wished to comment upon the changes, and the impacts associated with them, an opportunity to do so. This will ensure that there is no prejudice to any person. In reaching this conclusion, the ExA has borne in mind that the proposed changes have been submitted during the Pre-Examination period prior to the start of the Examination.

Given the nature of the changes proposed, the reasons for those changes being put forward, the consultation process, and the opportunities that will be provided during the Examination for comments on the implications of the changes, the ExA does not consider that their acceptance at this early stage of the Examination would be unfair. Having taken into account the submissions made by IPs and others including those made orally at the PM Parts 1 and 2 and in writing at PDA and PDB, the ExA is satisfied that the Changes 1 to 15 (inclusive) can fairly be accepted into the Examination as part of the original application.

Conclusions

The ExA has the benefit of the Applicant's Change Request and supporting information [AS-105 to AS-281], including the Consultation Report Addendum and Appendices [AS-153 to AS-156], the Applicant's responses to the ExA's Procedural Decisions dated 22 January 2021 [AS-282 to AS-297] and 25 February 2021 [PDA-001 to PDA-006], the written submissions made at PDA and PDB and the oral submissions made at the PM Parts 1 and 2. There is therefore sufficient information before the ExA to enable these Procedural Decisions to be made.

The ExA considers that the acceptance of the Changes 1 to 15 (inclusive) would represent material changes to the original application. However, the ExA does not consider, in the context of the whole application, that the materiality of the changes applied for, whether considered on their own or cumulatively, are of such a degree that the Proposed Development would not in substance be that which was originally applied for. It would not require a new application.

In the interests of fairness, the Applicant has undertaken non-statutory consultation and proposes to carry out further non-statutory consultation on the 'other information' submitted in support. There will be opportunities within the Examination Timetable for those with an interest in the Proposed Development to make their views known and for those views to be taken into account as part of the Examination process. The ExA believes that there will be sufficient time during the course of the Examination for the merits of proposed changes to be appropriately considered by all. The ExA concludes that the *Wheatcroft* and *Holborn Studios* tests have been met and that although Changes 1 to 15 (inclusive) represent a material change to the original application they can fairly be considered within its scope.

The proposed Changes 11, 12 and 13, have also led to inclusion of 'additional land' which was not identified in the BoR submitted with the original application. The ExA is satisfied that the requirements of the CA Regs in relation to the Additional Land can be met during the Examination period. The ExA considers that the compulsory acquisition request in respect of Additional Land pursuant to Regulation 6 should also be accepted. The Applicant is required to notify the relevant additional Affected Persons of the ExA's decision in accordance with the CA Regs and to invite them to make representations about the changes.

Yours faithfully

Wendy McKay

Wendy McKay

Lead Member of the Examining Authority, on behalf of the Panel

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