



The Sizewell C Project Case Team
National Infrastructure Planning
sizewellc@planninginspectorate.gov.uk
(By email only)

12 May 2021

Planning Inspectorate Reference: EN010012
Our Identification Number: 20025459

Dear Sir or Madam,

Planning Act 2008 – Application by NNB Generation Company (SZC) Limited for an Order Granting Development Consent for The Sizewell C Project

Deadline 1 Submission

On 24 June 2020, the Marine Management Organisation (the “MMO”) received notice under section 55 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by NNB Generation Company (SZC) Limited (the “Applicant”), for determination of a Development Consent Order for the construction, maintenance and operation of the proposed Sizewell C Nuclear Power Station (the “DCO Application”).

Since then, the Applicant submitted a request to make fifteen changes to the original DCO Application, and these changes were accepted by the Examining Authority (“ExA”) on 21 April 2021.

The MMO received a Rule 8 letter on 21 April 2021. In response to this letter, the MMO submits the following which can be viewed in Annex 1:

- 1. Comments on Relevant Representations (“RRs”)**
- 2. Summary of MMO’s Relevant Representation**
- 3. Notification of wish to be considered as an Interested Party by the ExA**
- 4. Notification of wish to make oral representations at an Issue Specific Hearing (“ISH”)**
- 5. Notification of wish to have future correspondence received electronically**

This written response is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of



authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours faithfully,



Ellen Mackenzie
Marine Licensing Case Officer

■ [Redacted]
■ [Redacted] [@marinemanagement.org.uk](mailto:[Redacted]@marinemanagement.org.uk)

Annex 1

1. Comments on Relevant Representations (“RRs”)

Maritime and Coastguard Agency (“MCA”) [Examination Library Reference RR-0747]

- 1.1 The MMO supports MCA’s comment that they should be consulted on the establishment of any infrastructure or works in or over the marine environment, and any Harbour Orders providing statutory powers for the ongoing safe operation of the facility. In relation to the elements of the project within the marine environment the MCA’s input will be crucial to ensure safety of navigation and search and rescue in the UK marine environment, and MCA may request certain conditions to be placed within the deemed Marine Licence to manage this.
- 1.2 We note that MCA state they will be invited to comment on any marine licence application related to the works. While this is correct for any works that are licensable under the Marine and Coastal Access Act 2009 and are not contained within this DCO Application, the MMO would like to stress that the marine works applied for within this DCO Application will be assessed via the examination process which is led by PINS under the Planning Act 2008, and MCA should feed in to this process rather than wait to be invited to comment by the MMO. MMO will be contacting MCA to discuss the DCO Application, and we will likely support any requests relating to the deemed Marine Licence, however we would like to clarify that the Marine Licence Application procedure is different to the DCO Application procedure, in which a deemed Marine Licence is granted.

Natural England [Examination Library Reference RR-0878]

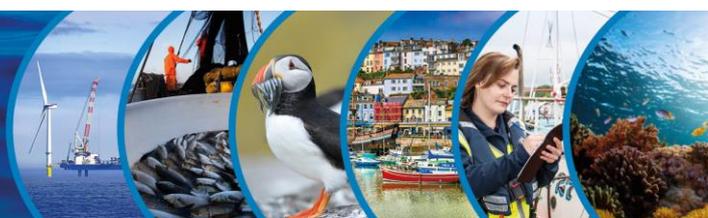
- 1.3 The MMO supports, and defers, to Natural England’s expert opinion as Statutory Nature Conservation Body (SNCB) regarding the impacts to international designated sites and the Habitats Regulations Assessment (HRA) for the project.

Historic England [Examination Library Reference RR-0473]

- 1.4 The MMO has reviewed Historic England’s Relevant Representation and understands that they will comment further within their Written Representation submitted at Deadline 2. The MMO look forward to reviewing this and will provide comment where necessary in future.

Environment Agency [Examination Library Reference RR-0373]

- 1.5 The MMO has reviewed the Environment Agency’s Relevant Representation and noted their comments. The MMO will maintain a watching brief on future Environment Agency submissions and will again provide comment in future where necessary.

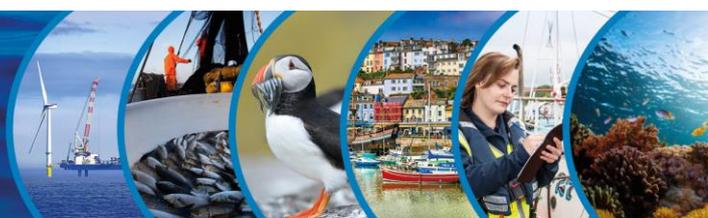


2. Summary of MMO's Relevant Representation [Examination Library Reference RR-0744]

2.1 See below a summary of the MMO's Relevant Representation, dated 30 September 2020, not exceeding 1500 words. Please note that the Relevant Representation was submitted before the fifteen changes to the DCO Application were made, so MMO may have further comments to make regarding the changes within our remit. Additionally, some of the issues below have now been resolved and the details of this will be contained in the Statement of Common Ground and our Written Representation submitted at Deadline 2 ("D2").

Development Consent Order (DCO)/Deemed Marine Licence (DML) matters [Examination Library Reference APP-058]

- 2.2 The DCO includes an arbitration process outlined in Part 7, Article 82. The MMO believes the described process shifts the responsibility of decision making from the regulator to an independent arbitrator, which would be contrary to the intent of Parliament set out in the Marine and Coastal Access Act 2009 ("MCAA") and would usurp the role of the MMO as a regulator. The MMO requested that this provision should be removed from the DCO.
- 2.3 The DCO includes an appeals process outlined in Schedule 23, Article 3, which proposes changes to the Marine Licensing (Licence Application Appeals) Regulations 2011 ("Appeal Regulations"). The MMO believes the appeals process proposed is unnecessary because an appeals procedure is already available to the Applicant in the form of an escalated internal procedure and judicial review ("JR"). The existing procedure allows the Applicant to appeal in the event that the MMO either fails to make a determination within an appropriate time period or makes a decision to refuse to approve the documentation. The new appeals process proposed would provide this specific Applicant with a new and enhanced appeals process which is not available to other marine licence holders. The MMO believes this goes against the intentions of parliament under the Appeal Regulations.
- 2.4 The DML conditions include timeframes for submission of documents by the Applicant. Some of the timeframes for submission of documents prior to works commencing are too short to allow MMO sufficient time to review the submissions and resolve any issues. We advised that a 6-month period (prior to the commencement of activities) would be more appropriate.
- 2.5 The DCO and DML include Unexploded Ordnance ("UXO") clearance works. The MMO stated a preference for UXO activities to be addressed under a separate licencing regime outside of the DCO process.
- 2.6 The DCO contains Harbour Powers that would normally be created by a Harbour Order. The MMO advised that the Department for Transport should be consulted as they are responsible for Port Policy and other areas which harbour legislation relates to, for example they are the Secretary of State which confirms harbour byelaws. We also advised that the Ministry of Justice should be consulted to discuss whether a Justice Impact Test will be required for the new offences within this DCO. Other bodies



which the MMO advised should be consulted in relation to the harbour powers include the UK Major Ports Group, Chamber of Shipping and the British Ports Association. Additionally, as non-compliance with a byelaw or direction could be an offence, the MMO advised that the Applicant should notify local users to the byelaws and general directions during the lifetime of the harbour authority, so these users can be properly informed.

- 2.7 The MMO also requested a number of clarifications and further information in relation to the provisions stated in the Harbour Powers section of the DCO.
- 2.8 The DML contains conditions relating to coastal defence features that will be positioned landward of current Mean High Water Springs (“MHWS”). As this is outside of the MMO’s jurisdiction, the conditions in the DML relating to these works will not be enforceable by the MMO. The MMO advised that these conditions are secured elsewhere in the DCO so that they can be enforced by East Suffolk Council.
- 2.9 On numerous occasions, the volumes and figures for scour protection, dredging and disposal volumes, and the parameters of the works were not included in the DML, nor did these values match between the DML and the Environmental Statement (“ES”) project description. The MMO requested that this be addressed to allow for accurate consideration of the potential impacts. All works within the DML should be able to be cross-referenced with the project description and ‘Worst-Case Scenario’ in the Environmental Impact Assessment (“EIA”), and the maximum areas and volumes must be stated on the DML. Additionally, the MMO stated that all mitigation outlined within the final EIA should be able to be cross-referenced and should be linked with a DML condition.
- 2.10 The MMO advised the applicant of areas of disagreement with regards to definitions within the DCO/DML, in particular the definition of ‘commence’ and ‘maintain’.
- 2.11 The MMO advised the applicant to make a number of amendments to the wording of the DML conditions to ensure that they were clear, detailed, and enforceable.

Coastal Processes Monitoring and Mitigation Plan (“CPMMP”)

- 2.12 The MMO reviewed the first draft of the CPMMP in August 2020 and provided comments on this version within our Relevant Representation [RR-0744]. However, MMO understands that this document was not circulated to the ExA. As such this document does not have a reference within the Examination Library, however a subsequent version of the CPMMP was submitted to PINS and has the Examination Library Reference [AS-237].
- 2.13 The MMO advised that the CPMMP should also be included as a DCO requirement because some of the monitoring relates to the hard and soft coastal defence features which are situated landward of MHWS and within East Suffolk Council’s jurisdiction for enforcement purposes.
- 2.14 The MMO advised that the CPMMP only presents a broad monitoring strategy, whereas a more detailed monitoring plan should be agreed for each project element



and method.

- 2.15 The CPMMP states that the overall bathymetry of the banks will be surveyed once every 5 years, however MMO advised that at least during the early years of the construction programme this should be surveyed more frequently to alert the project to any unexpected changes which can occur in the dynamic marine environment.
- 2.16 The MMO requested a number of clarifications and some further information on matters such as scour protection, the monitoring survey area, monitoring methods, and the baseline data that will be used to monitor changes against.

Summary of issues raised in the Environmental Statement (ES)

- 2.17 The MMO raised concerns relating to the following chapters in the ES and their associated appendices:
- Chapter 20 - Coastal Geomorphology and Hydrodynamics [Examination Library References APP-311 and APP-312]
 - Chapter 21 - Marine Water Quality and Sediments [Examination Library References APP-314 and APP-315]
 - Chapter 22 - Marine Ecology and Fisheries [Examination Library References APP-317 - APP-333]
 - Chapter 24 - Marine Navigation [Examination Library Reference APP-337]
- 2.18 In general, further clarification of statements made in the ES and/or further evidence to support the predictions made in the ES were required. In particular, relating to the dredging at the Beach Landing Facility, the coastal geomorphology and thermal plume assessments, the risk on coastal processes from a change in wave climate over the lifetime of the project, the beneficial effect of the low velocity side-entry (“LVSE”) design for reducing fish impingement in the absence of an acoustic fish deterrent (“AFD”) system, and the design of the fish recovery and return (“FRR”) system and fish survival rates.
- 2.19 MMO advised that the impact assessments in the ES did not include all of the relevant impact pathways such as the potential effects of underwater noise and vibration due to dredging activities and impact piling.
- 2.20 MMO also advised that the Applicant should produce a detailed Comprehensive Impingement Monitoring Programme (“CIMP”) which includes monitoring of the survival of fish through the FRR and enables monitoring of long-term changes in impingement as a result of climate change. MMO advised this should be secured with a DML condition.
- 2.21 Furthermore, a Southern North Sea Special Area of Conservation (“SAC”) Site Integrity Plan (“SIP”) will need to be submitted to, and approved by, the MMO before the commencement of any construction activities, demonstrating that there will be no significant effects on the Southern North Sea SAC. This should also be secured with a DML condition.



Shadow Habitats Regulations Assessment [Examination Library References APP-145 – APP-152]

- 2.22 The MMO broadly agreed with the conclusions of the Shadow Appropriate Assessment (“AA”). However, we advised that some uncertainty remains, particularly concerning the significance of effects from thermal plumes and loss of prey resource for little tern and common tern. The uncertainties relating to changes in prey resource stem from uncertainties concerning estimation of the impact of entrapment on local fish populations, uncertainties concerning the effectiveness of LVSE design in reducing impingement of fish, and the choice of method for determining Equivalent Adult Values. Our view on these uncertainties are detailed in our comments on the Marine Ecology and Fisheries ES chapter in our Relevant Representation [Examination Library Reference RR-0744].
- 2.23 Additionally, MMO advised that the assessment misses some primary habitat and supporting habitat impact pathways that should be considered.

3. Notification of wish to be considered as an Interested Party by the ExA

- 3.1 The MMO wishes to be considered as an Interested Party by the ExA.

4. Notification of wish to make oral representations at an Issue Specific Hearing (ISH)

- 4.1 The MMO wishes to make oral representations at the ISH that discuss topics within our remit. At this stage we do not know which topics will be discussed at each ISH and as such we cannot confirm the dates at present. We note that the ExA will notify all Interested Parties of any hearings scheduled as part of the Examination at least 21 days in advance of them taking place, and so MMO will notify the ExA at this stage if we wish to make oral representations.

5. Notification of wish to have future correspondence received electronically

- 5.1 The MMO wishes to receive future correspondence electronically. Please can any email correspondence be sent to the following:

- Lindsey Mullan, Marine Licensing Senior Case Manager - lindsey.mullan@marinemanagement.org.uk
- Luella Williamson, Marine Licensing Case Manager - Luella.Williamson@marinemanagement.org.uk
- Ellen Mackenzie, Marine Licensing Case Officer – Ellen.Mackenzie@marinemanagement.org.uk

