



The Planning Act 2008

Sizewell C (SZC)

Planning Inspectorate Reference: *EN010012*

Deadline 2 – 2 June 2021

East Suffolk Council's (20026200) Response to Examining Authority's First Round of
Written Questions

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Examining Authority First Written Questions			
ExQs 1	Question to:	Question:	East Suffolk Council's (ESC) Response
G.1 General and Cross-topic Questions			
G.1.0	The Applicant	As drafted the DCO has no limitation on the depth to which works could be undertaken. Please explain how this aligns with the assessment carried out within the ES. In order to reflect the assessment within the ES does the DCO not require a maximum depth of excavation – with a potential for a limit of deviation? If this is not considered to be necessary, please explain how the ES has assessed the potential effects of unlimited excavation.	ESC shares the ExA's concerns in relation to the apparent lack of limits of deviation in the draft DCO [APP-059]. As currently drafted, Article 4 allows for unlimited vertical limits of deviation, except for works 4C, 11 and 12 for which there are some restrictions. This is troubling as it appears to potentially allow works of any vertical limits of deviation, potentially without this having been environmentally assessed. ESC would welcome an explanation from the Applicant about how, if there are to be restrictions, these are to operate, and if there are not any restrictions, how the extent of excavations has been environmentally assessed.
G.1.12	The Applicant, SCC, ESC	Policy approach The Planning Statement, paragraph, 3.9.2, states that it is appropriate to treat EN-1 and EN-6 as providing the primary policies relevant to the determination of the application. Likewise, section 3(10)(b), paragraph 3.10.2, refers to EN-1 (paragraph 4.1.6) as stating that other matters which the decision-maker may consider both important and relevant to its decision making include	The Planning Statement [APP-590], paragraph 1.7.6 quotes the 2017 Ministerial Statement which states: <i>“Government is confident that both EN-1 and EN-6 incorporate information, assessments and statements which will continue to be important and relevant for projects which will deploy after 2025, including statements concerning the need for nuclear power – as well as environmental and other assessments that continue to be relevant for those projects. As such, in deciding whether or not to grant development consent to such a project, the Secretary of State would be required, under section 105(2)(c) of the Act, to have regard to the</i>

		<p>development plan documents or other documents in the local development framework. However, it goes on to say that in the event of a conflict between the NPS and local policy, the NPS prevails for the purposes of decision making given the national significance of the infrastructure: (i) Does that correctly reflect the position where both the NPS and the development plan fall within the scope of s105(2)(c)? (ii) Alternatively, in such a case, do NPS policies not “sit alongside” other national and local planning policies? (iii) How should the weight to be attributed to those matters and the question of primacy be assessed by the decision-maker in each case?</p>	<p><i>content of EN-1 and EN-6, unless they have been suspended or revoked. In respect of matters where there is no relevant change of circumstances it is likely that significant weight would be given to the policy in EN-1 and EN-6” (emphasis added).</i></p> <p>Section 105 of the 2008 Planning Act:</p> <p>(1) This section applies in relation to an application for an order granting development consent if section 104 does not apply in relation to the application.</p> <p>(2) In deciding the application, the Secretary of State must have regard to—</p> <p>(a) any local impact report (within the meaning given by section 60(3)) submitted to the Secretary of State before the deadline specified in a notice under section 60(2),</p> <p>(b) any matters prescribed in relation to development of the description to which the application relates, and</p> <p>(c) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.</p> <p>In response to (i), ESC considers that it is for the SoS to determine which matters are important and relevant to the making of their decision. To aid this process, within the Local Impact Report (LIR)[REP1-045], ESC has highlighted NPS, Development Plan and any other local policies which it considers to be important and relevant to the Secretary of State’s decision.</p> <p>(ii) ESC considers that the development plan “sits alongside” the NPSs in this instance. Both are important and relevant to the Secretary of</p>
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		<p>State’s decision. Development Plan policies of relevance have been highlighted in the LIR submitted at Deadline 1.</p> <p>(iii) S105 of the Planning Act does not prescribe weight to be attributed to important and relevant considerations or seek to prioritise one policy over another.</p> <p>The 2017 Written Ministerial Statement refers to the assessment of the need for new electricity generation carried out to support EN-1 remaining valuable and continuing to be relevant. It states that new nuclear power generation remains key to meeting 2050 obligations in line with the 2017 Clean Growth Strategy.</p> <p>The Written Ministerial Statement states that the Government continues to give its strong support in principle to projects at those sites listed in EN-6 and that <i>‘Government is confident that both EN-1 and EN-6 incorporate information, assessments and statements which will continue to be important and relevant for projects which will deploy after 2025’</i>.</p> <p>The Statement explicitly states that the SoS would be required under section 105(2)(C) of the Act <i>‘to have regard to the content of EN-1 and EN-6, unless they have been suspended or revoked.’</i></p> <p>Development plans are discouraged from including policies that replicate policies to be found elsewhere. Specific planning policies relating to new nuclear proposals are not within the East Suffolk Council – Suffolk Coastal Local Plan. ESC therefore considers that it is essential for EN-6 to be given significant weight in the determination of this application.</p>
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G.1.13	The Applicant, SCC, ESC	<p>Policy approach</p> <p>The Applicant's Planning Statement, paragraph 3.10.13, sets out a number of regional or other policy documents which are relevant to the Sizewell C Project and have been considered within the ES technical assessments. The Applicant indicates that this is not a complete list. Are there any other policy documents that should be drawn to the ExA's attention to at this stage?</p>	<p>ESC, working with SCC, has included a comprehensive list of policy documents that it considers the ExA should take into account as part of the LIR submitted at Deadline 1 [REP1-045].</p>
G.1.14	SCC, ESC	<p>Policy approach</p> <p>If not already provided, please submit complete copies of all relevant development plan and emerging policies and indicate in LIRs whether the status of any of those plans has changed.</p>	<p>ESC, working with SCC, has included as annex and appendices, the relevant policy documents that it considers the ExA should take into account as part of the LIR [REP1-045] submitted at Deadline 1.</p>
G.1.15	The Applicant, SCC, ESC	<p>Policy Approach</p> <p>The ESC Local Plan was adopted towards the end of 2020, please advise on the current position in respect of the policies that should now be considered and whether this change affects the assessment of policies set out by the Applicant.</p>	<p>The Applicant considered the East Suffolk Council - Suffolk Coastal Local Plan 2020 as emerging policy in their submitted Planning Statement [APP-590]. Since that Statement was drafted the Local Plan was adopted by ESC in September 2020. Policies within the adopted Local Plan are referred to throughout the submitted LIR [REP1-045] and the document is included as an Appendix to the LIR (LIR Appendix 1: 2) [REP1-062]. Policies referred to as emerging in the Applicant's Planning Statement were not significantly amended in the adopted version of the Local Plan. ESC considers that the Applicant's assessment of the Local Plan is acceptable.</p>
G.1.16	The Applicant, ESC	<p>Policy approach</p> <p>The Applicant's Planning Statement section 3.10(b), paragraph 3.10.8, states that where the strategies of the Local Plan relate to generic issues such as the protection of the environment, the relevant policy tests are those set out in the NPS. Likewise, paragraph</p>	<p>Policy SP13 referred to at paragraph 3.10.8 of the Planning Statement is from the now replaced Suffolk Coastal Local Plan 2013 and is not emerging policy [APP-590].</p> <p>Policy SCLP3.4 relating to Proposals for Major Energy Infrastructure Proposals is now adopted policy and does set out matters against which the Council considers major infrastructure proposals should be</p>

		<p>3.10.11 states that for Policy SP13 of the emerging local plan, which sets out a series of matters against which the Council believes that major infrastructure proposals should be considered, the NPSs would prevail in the event of any conflict with local and national policy: (i) Does that reflect the correct position and is the primacy of the NPSs agreed between ESC and the Applicant? (ii) If not, please identify and explain any areas of disagreement?</p>	<p>considered. ESC agrees that these matters are included within the NPSs. Both the Local Plan and NPSs have a role in this process but ESC considers that the NPS, in particular EN-6, has been written solely for nuclear power station proposals whereas SCLP3.4 refers to all major energy infrastructure. ESC therefore agrees that one should look first to the NPSs which should prevail in the event of any conflict with the Local Plan.</p> <p>(ii) There is no disagreement between ESC and the Applicant. The Applicant’s Planning Statement Update has been shared with ESC and there is no disagreement about the position which the Applicant sets out on these issues.</p>
G.1.24	The Applicant, Relevant local planning authorities	<p>Benefits - Economic</p> <p>The Planning Statement, paragraph 7.2.18, states that home-based jobs generated by the project would equate to around 1% of all employment in Suffolk. This is regarded by the Applicant as a significant increase in employment and a major beneficial change to employment in the area: (i) What reliance can be placed upon the estimate that around 2,000 home-based workers would be employed on the main development site at peak? (ii) What weight can be placed upon such relatively temporary employment benefits in the overall balancing exercise?</p>	<p>i) In seeking to understand the home based workforce and the figures that have been presented by the Applicant, we have considered the experience from the build of Sizewell B, as considered in the longitudinal research study led by John Glasson of Oxford Brookes University (summarised in an article in “Impact Assessment and Project Appraisal”, vol 23, September 2005, pages 215–226 [See SCC Appendix to SE.1.5]). This study identified a ‘substantial boost to local employment especially in the civil engineering phase of construction’.</p> <p>We can also look to Hinkley Point C and the Oxford Brookes Study commissioned by the New Nuclear Local Authorities Group (para 3.2.3) which independently confirms that local employment percentages are above those predicted for the first years of construction (LIR Appendix 2:1 [REP1-045]).</p> <p>Both of these studies confirm that this level of home-based recruitment can be reached. However, both studies confirm that these levels of home-based recruitment were underpinned by effective employment and training measures.</p>

		<p>Therefore, we are confident that with a robust and sufficiently funded employment, skills and education strategy the conservative estimate of 2,000 home based workers will be met and further home-based employment maximised. This strategy will need to be deployed in advance of commencement of construction.</p> <p>However, in the context of Sizewell B approximately 60% of local recruitment was into semi-skilled/unskilled and clerical jobs. The employment, skills and education strategy for this project needs to ensure there are a range of measures to increase local employment levels in higher skilled roles, identified as legacy roles, in the region and therefore valuable in the long term.</p> <p>ii) As set out in para 25.1 – 25.12 LIR [REP1-045] and in answers to SE1.28, SE1.29 and SE1.31 ESC’s approach to the employment opportunities is to view the opportunities as a catalyst for long term employment in roles that have an increasing and enduring demand in the region as identified in the report “Technical Skills Legacy for Norfolk & Suffolk” by Pye Tait Consulting (see Appendix submitted by SCC)</p> <p>ESC expects the Applicant to proactively support this ambition through the Employment, Skills and Education Strategy and through an agreed Governance structure. ESC will work with the Applicant to deliver a Workforce Delivery Strategy (WDS) and Annual Workforce Delivery Implementation Plans (AIP), which would secure a flexible, dynamic process enabling reaction to any impacts picked up through monitoring, such as workforce churn, and take account of the changing skills and employment landscape, legacy opportunities and the economic cycle we are in.</p>
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G.1.27	The Applicant, Relevant local planning authorities	<p>Benefits – Tourism</p> <p>The Planning Statement, section 7.2 (e), explains the provision of the proposed Tourism Fund and what that is anticipated to achieve: (i) Please explain further why the provision of such a fund could be relied upon to mitigate the potential for adverse impacts on tourism as anticipated by the ES distinguishing between construction and operational impacts? (ii) Please list the locations of particular concern and explain how the provision of a Tourism Fund would specifically assist those particular aspects of the tourist economy most likely to suffer an adverse impact?</p>	<p>(i) ESC considers most adverse tourism impacts will occur during the construction phase. The 2019 survey [APP-268] shows that potential visitors will be dissuaded from coming to the area during construction. With reference to these expected negative perceptions, it is considered that the Fund could fund a variety of interventions to mitigate this – effective marketing and promotion of the area, creation of new and improved visitor experiences, infrastructure, effective monitoring of the impact on the visitor economy during construction etc. For the years immediately after the completion of construction, ESC has concerns that there could be a “boom and bust” effect for the local economy (referred to in the LIR [REP1-045] paragraph 26.12); therefore, the proposed tourism fund should include provision to mitigate the impacts at this post-construction period. Impacts further into operation are considered to be less important but could still have a negative impact on existing business viability as people continue to use alternative tourism locations elsewhere.</p> <p>(ii) The development is located within the AONB which is a significant tourist attraction in its own right with a reputation for quiet, peace and natural tranquillity built up over many years. The proposed construction of Sizewell C in and adjacent to this highly sensitive area will have significant negative impacts on people’s willingness to visit during construction. The construction phase will have significant impacts on the experience of the AONB and as a result will negatively impact the associated reputation of the whole of the Suffolk coast as a high-quality recreational destination. The tourism fund is designed to mitigate these negative impacts in a number of ways including effective marketing of the area and other tourism hotspots nearby and providing new visitor experiences to attract a new generation of visitors to the area. Key fund areas should include:-</p> <ol style="list-style-type: none"> 1. Visitor Experience Development
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			<ol style="list-style-type: none"> 2. Infrastructure Asset Investment 3. Destination Marketing and Promotion 4. Tourism Business Support Grants 5. Tourism Support Resources 6. Research Visitor/Business Surveys
G.1.42	The Applicant	In [AS148] Table 2 refers to how Article 3 and 4(1)(a) set vertical limits to control the parameters of development. (i) Please explain how this would be achieved for each of the associated development sites where there are no parameters plans and are not specifically covered by these articles except for Work No. 4C, Work No. 11 and Work No. 12. (ii) Is it not fairer to say that there are no vertical limits of deviation in these locations as parameter plans have not been provided and as the DCO is currently drafted? As this document is intended to be a signposting document to aid the public's understanding of the DCO, is this a fair representation to them?	ESC shares the ExA's concerns in relation to the absence of limits of deviation and refers the ExA to its response to question G.1.0.
G.1.43	The Applicant	In [APP 451] SLR, Noise and Vibration para 4.6.40 the ES seeks to explain that a parameters approach has been adopted, and this is duplicated in para 4.6.37 of [APP 415] (TVB Noise and Vibration) . Both Chapters appear to rely on a limitation of vertical deviation of 1m. Please show where this is set out and secured in the DCO.	As the local authority who would deal with any noise complaints, ESC is eager to ensure that noise and vibration has been correctly assessed in the ES and that this translates into appropriate control measures in the draft DCO. It would welcome an explanation from the Applicant as to how this is to be achieved.
G.1.45	The Applicant, All relevant local	Code of Construction Practice The CoCP [AS 273] sub heading m) indicates SZC Co. would hope to lead on complaints. Please explain how this would be undertaken	Paragraph 3.1.45 – 3.1.49 of the CoCP [AS-273] does reference SZC Co. as taking responsibility for all enquiries and complaints.

	<p>authorities, EA</p>	<p>to respect privacy and comply with the GDPR as well as enforcing authorities' responsibilities to investigate complaints.</p>	<p>However, ESC, as a statutory investigating authority for planning and noise complaints is not able to hand this responsibility to the Applicant. Statutory complaints will therefore continue to be investigated by ESC in consultation with the Applicant where appropriate.</p> <p>Minor complaints or queries that are considered by ESC to be better dealt with by the Applicant, will be referred to the Applicant following a process to be agreed. At 3.1.47 [AS-273] the Applicant acknowledges that ESC may also respond where it has overall responsibility.</p> <p>ESC, upon taking a call that is considered better dealt with by the Applicant would re-direct the caller to the Applicant thus avoiding any compromise of our own published privacy and GDPR requirements.</p> <p>If a caller is making a complaint that ESC has a duty to investigate under our statutory responsibilities, then we will do so in accordance with our existing privacy and GDPR requirements.</p> <p>Although article 10 of the draft DCO proposes some limitations on the scope of statutory nuisance proceedings (see also the response to DCO.1.28 below)the duty remains placed upon ESC under S.79 of the Environmental Protection Act 1990 to investigate complaints of statutory nuisance received. ESC will still be responsible for enforcing the DCO and associated documents to ensure that agreed criteria are being complied with and this will rely partially on involvement in the complaints process. It is likely that we would require notification of complaints and regular updates on investigation and actions taken on complaints received directly by Sizewell C, we would also liaise with Sizewell C about complaints received directly by us in our role as the regulatory authority in respect of the DCO and relevant legislation. ESC would disagree that SZC Co would "lead" on complaints although their role in investigating and resolving them is critical. On a project of this</p>
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			<p>scale and scope we would be envisage that there would be a collaborative approach in dealing with complaints to efficiently resolve matters arising but ultimately, we are the regulating authority for many matters including the DCO itself. In terms of reconciling any information sharing with Sizewell C this would have to be compliant with the GDPR and would not occur if it were otherwise.</p>
G.1.53	ESC, SCC, EA, Natural England	<p>Code of Construction Practice (CoCP) The CoCP would be an important part of the mitigation strategy for dealing with and controlling potentially adverse effects from the various construction activities. Do you consider that as drafted it is sufficiently robust and precise and consequently enforceable?</p>	<p>Noise and Vibration: In terms of noise and vibration we do not currently consider the draft CoCP [AS-273] to be sufficiently robust and precise and consequently enforceable. We are however in continuing discussion with the Applicant in respect of matters of concern.</p> <p>Ecology: As drafted the CoCP does not currently capture all of the appropriate ecological mitigation measures, for example relating to the most recently submitted mitigation strategies for bats and otters. Please see the LIR [REP1-045] for more detailed comments on this. The current draft CoCP does not fully capture the ecological mitigation strategies necessary for some of the Associated Developments, including the Two Village Bypass, please see our LIR for comments in relation to this.</p> <p>Given the importance of the CoCP as the mechanism for securing delivery of many of the necessary construction ecological mitigation measures, it is essential that they are correctly captured within the document.</p> <p>Air Quality: There are matters within the CoCP that are still under discussion and as such the document is still evolving and further discussion will be required around mitigation measures.</p> <p>In terms of air quality, we do not currently consider the CoCP to be sufficiently robust, precise and consequently enforceable. We are</p>

			however in continuing discussion with the Applicant in respect of matters of concern.
AG.1 Agriculture and Soils			
AG.1.0	ESC, Natural England	<p>Approach</p> <p>Are you satisfied with the overall assessment approach and findings in respect of Agriculture and Soils?</p>	<p>ESC does not have technical expertise in this area. Further detail is provided in Section 9 of the LIR [REP1-045]. However, the main issues relate to the loss of agricultural land, disruption to agricultural activities, and contaminated land process and procedures. National Policy Statement (NPS) EN-1 states in Section 5.10 that Applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5) except where this would be inconsistent with other sustainability considerations. This advice is echoed in the National Planning Policy Framework (NPPF) 2019, footnote 53, which states <i>‘Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality’</i>. Section 9 of the LIR highlights areas where mitigation of likely impacts (i.e., the permanent loss of agricultural land) has not been proposed by the Applicant but which ESC considers to be necessary.</p>
AG.1.4	ESC, Natural England	<p>Impact Assessment</p> <p>The temporary compounds associated with the Saxmundham to Leiston branch line rail improvement works have not been included in the agriculture and soils assessment [APP563].</p> <p>Please confirm if you are satisfied with this approach?</p>	<p>ESC recommends that all potential impacts, including those relating to the proposed temporary compounds, should be fully assessed as part of this DCO Application.</p> <p>The Applicant acknowledges in Section 10.3.10 of ES Volume 9, Chapter 10 Soils and Agriculture assessment [APP-563] that <i>‘the screening exercise has also considered the potential for the proposed rail improvement works on the Saxmundham to Leiston branch line to result in environmental effects which could be significant’</i> however have concluded that <i>‘as these works would be limited to the renewal of the track using new ballast, flat bottom continuously welded rail and concrete sleepers and would take place within the existing railway</i></p>

			<p><i>corridor, with the exception of the temporary compounds, the works are unlikely to impact on agricultural land or operations’.</i></p> <p>It is noted from Table 10.1 within [APP-563] that each temporary compound would have an approximate footprint of 0.5Ha and would be located on adjacent land. ESC is therefore not satisfied with the approach taken by the Applicant on this matter. The temporary compounds are not located within the existing railway corridor and potential impacts should therefore have been assessed.</p> <p>Further justification should be provided by the Applicant if their position not to include these structures in the assessment is maintained.</p>
AG.1.10	ESC, Natural England	<p>Outline Soil Management Plan Are you satisfied with the approach and content of the outline Soil Management Plan [APP278]? Please provide specific comment regarding whether soils would be suitable for the required end use and the proposed soil restoration methods?</p>	<p>ES Volume 2 Main Development Site Chapter 17 Soils and Agriculture – Appendix 17C sets out the Outline Soil Management Plan [APP-278]. This assessment applies a method to control, record and audit activities relating to soil conditions and soil quality for future reuse. It also includes requirements and standards for any imported topsoil and subsoil.</p> <p>ESC does not have qualified experts in this area of specialism, however, it considers that the Soil Management Plan appears to have followed industry guidance and best practice in its approach. The assessment makes reference to the following industry best practice guidance documents:</p> <ul style="list-style-type: none"> • Defra Construction Code of Practice for the sustainable use of soils on construction sites; • MAFF Good Practice Guide for Soil Handling; • BS 3882:2015 – Specification for topsoil; • BS 8601:2013 – Specification for subsoil and requirements for use;

			<p>ESC notes that detailed Soil Resources Plans (SRP) will be produced for each part of the Sizewell C Project prior to any soil stripping works commencing, forming part of the ongoing soils assessment.</p> <p><u>Soil suitability for end use / proposed soil restoration methods</u> – ESC acknowledges that prior to restoration activities taking place, topsoil will have been stored in stockpiles for extended periods. The Soil Management Plan puts measures in place to confirm the continuing suitability of stockpiled soils for restoration, including visual inspection and assessments to be carried out before re-use. If any soil is found to be plastic or display excessive anaerobic conditions, then the materials will be reconditioned and it will be the responsibility of the contractor to assess soil conditions in each stockpile and to recommend appropriate pre-treatment prior to soil placement - should it be required.</p> <p>ESC consider that this obligation is critical to the success of the soil restoration process and should be made clear to contractors in the early stages of construction. Contractor accountability is an important factor in this process.</p>
AG.1.21	ESC, Natural England	<p>Code of Construction Practice</p> <p>The below issues may increase effects on soils and agricultural land required for reinstatement of land, landscape planting areas, land outside the site boundary and soils required for reinstatement of land required temporarily: (i) ground contamination, soil erosion and silt-laden runoff; (ii) hydrological or hydrogeological changes; and (iii) noise and dust.</p> <p>Are you satisfied with the measures detailed within the CoCP [AS-273] to manage/reduce the risk of the above occurring?</p>	<p>(i) ESC is satisfied that the CoCP [AS-273] provides sufficient mitigation measures as detailed below:</p> <p>Ground contamination - the Applicant proposes that a watching brief is maintained by trained personnel during the construction works, with mitigation measures being implemented as required. In addition, the wheels of all vehicles will be inspected and made free of contamination before arriving at site and when leaving. Section 9 of the LIR [REP1-045] sets out details of a Land Contamination Management Plan which will be provided and adhered to as part of the required mitigation. ESC is satisfied by this provided there is provision for the Land Contamination Management Plan to be included in the CoCP.</p>

			<p>Soil erosion – the Applicant proposes a range of measures including coverings and hydroseeding of landscape bunds and temporary stockpiles to reduce soil erosion. ESC is satisfied by this.</p> <p>Silt-laden runoff – the Applicant is proposing the implementation of industry standard measures and good working practice to control silt-laden runoff from the stockpiles, landscape bunds or working areas adjacent to surface watercourses (or leaching into underlying groundwater). Settlement and infiltration lagoons are also proposed for each borrow pit during excavation. Ditches, swales and bunds will also be constructed where required to prevent untreated surface water run-off from leaving the site. ESC is satisfied by this.</p> <p>(ii) ESC is satisfied that the CoCP provides sufficient mitigation.</p> <p>(iii) ESC is satisfied that the CoCP provides sufficient mitigation measures to minimise impacts from general earthworks, for example diggers, dozers, and stockpiling. See further comments under AQ.1.1 through to AQ.1.78.</p>
AG.1.29	The Applicant, ESC, Natural England	<p>Best and Most Versatile land Paragraph 17.6.6 of [APP-277] confirms that an area of 14.4ha has not been surveyed. Please can the Applicant detail why the area was unable to be surveyed.</p> <p>Do ESC and NE agree with the assumption that the un-surveyed area is unlikely to be Best and Most Versatile land?</p>	ESC will defer to Natural England on this matter. However, ESC consider that this area of land should have been surveyed given the presence of best and most versatile land elsewhere within the development area. The Applicant states that the land adjacent to the un-surveyed land has been mapped in detail as Grade 4. However, 14.4Ha of un-surveyed land represents a considerable area and it should not be assumed that this land would not be best and most versatile until sufficient evidence is presented by the Applicant.
AG.1.36	ESC, Natural England	<p>Materials Management Strategy Are you satisfied with the approach and content of the Material Management</p>	ES Volume 3 Appendix 2.2.C [AS-202] provides details of the Materials Management Strategy update. The original Materials Management Strategy document demonstrated how the Applicant intends to manage excavated materials generated by the proposed development.

		Strategy regarding soils and agriculture [AS-202]?	<p>However, the document was based on assumptions, using early contractor input and material volume estimates. The updated document submitted Appendix 2.2.C presents more detailed analysis and updates to the imported material assumptions.</p> <p>ESC reviewed the updated document and is satisfied by the approach taken and findings presented.</p>
AQ.1 Air Quality			
AQ.1.1	ESC, EA, Natural England	<p>Air quality receptors Are you satisfied that all potential sensitive receptors have been taken into account in the Air Quality Assessment (AQA), and with the Applicant's identification of worst-case locations for air quality?</p>	<p>ESC has highlighted four construction or operation activities with regard to potential air quality impacts:</p> <ol style="list-style-type: none"> 1. Impacts from preparation and construction of Sizewell C. Dust nuisance and particulates generated during the construction phase including earthworks, construction and demolition. Additionally, emissions from non-road mobile machinery (NRMM) associated with construction such as generators and bulldozers. 2. Emissions from transport associated with the construction and operation phases of the development. 3. Emissions from permanent back-up emergency diesel generators (EDG) on site. 4. Emissions from electricity and heating plant associated with workers accommodation. <p>ES report Volume 2 Main Development Site, Chapter 12 Air quality, Appendices 12A-12F [APP-213 and APP-214] identifies sensitive receptors and worst-case assessment locations as follows:</p> <ol style="list-style-type: none"> 1. Appendix 12A, Table 1.10 shows ecological and human health receptors for dust nuisance and particulates. Ecological and human health receptors for NRMM impacts such as dozers using haul roads are identified within Annex 12A.5. 2. Appendix 12B, Table 1.7 identifies human health receptors and Table 1.8 shows ecological receptors included in the assessment of transport emissions.

			<p>3. Appendix 12C, Table 4-1 shows human health receptors and Table 4-2 shows ecological receptors included in the EDG assessment.</p> <p>4. Appendix 12F, Table 12F.1 shows human health receptors and Table 12F.4 shows ecological receptors considered within the assessment.</p> <p>In general, ESC considers that all potential sensitive receptor locations have been satisfactorily represented with worst-case locations. However, details regarding non-road mobile machinery such as generators have not been finalised yet so there are uncertainties whether worst-case impacts have been identified.</p> <p>This issue is being pursued with the Applicant, as highlighted in the LIR [REP1-045]. Generators and non-road mobile machinery may be regulated by the Environment Agency, although this has not yet been confirmed. Regardless of permitting status, a request has been put forward that NRMM meets the highest emission standards to minimise impacts.</p> <p>Further details on the permitting status of NRMM can be found within 19.21(iii) and paragraph 19.3 of the LIR [REP1-045].</p>
AQ.1.2	ESC, EA	<p>PM 2.5</p> <p>(i) Are you satisfied that potential impacts of PM2.5 concentrations have been fully taken into account in the ES and appropriately assessed as a fraction of PM10 particulate concentrations? (ii) Do you consider using PM10 as a surrogate for PM2.5 an acceptable methodology?</p>	<p>i) Yes, based upon the latest scheme design available PM_{2.5}, has been adequately assessed.</p> <p>ii) PM₁₀ can be a suitable surrogate for PM_{2.5} in some circumstances, for example, where identical emission factors are specified for PM₁₀ and PM_{2.5}. This is often the case for combustion sources.</p> <p>The application of surrogate or direct PM_{2.5} concentrations is discussed further within the four areas of assessment identified within AQ.1.1. Direct or surrogate assessment of PM_{2.5} has been evidenced within the following areas:</p>

			<ol style="list-style-type: none"> 1. PM₁₀ impacts from construction activities have been presented within Appendix A, Annex 12A.3 [APP-213]. These have not been interpreted as a surrogate for PM_{2.5}. ESC raised clarifications regarding the ES, these were discussed with the Applicant and ESC's final position shared on 20/10/2020. Agreement was reached between the Applicant and ESC that dispersion modelling of construction dust and particulates is subject to high levels of uncertainty. Consequently, it was recommended that focus should be placed on taking account of the coastal location and an adequate standard of dust mitigation instead, in accordance with the relevant industry guidance produced by the Institute for Air Quality Management. As a result, the question of PM₁₀ as a surrogate for PM_{2.5} does not arise in relation to construction dust. 2. Section 1.3 of Appendix 12B [APP-213] details modelled or estimated PM_{2.5} concentrations from transport for the construction and operation phases. PM_{2.5} has been directly assessed and PM₁₀ has not been used as a surrogate. 3. Within Appendix C, Table 5-7 [APP-214] PM_{2.5} impacts associated with the operation of the EDG have been assessed. PM_{2.5} has been directly assessed and PM₁₀ has not been used as a surrogate. <p>Combustion of natural gas in a CHP engine has insignificant PM_{2.5} emissions. This is acceptable for natural gas-powered CHP.</p>
AQ.1.3	ESC	<p>Dust emissions</p> <p>Do you agree with the findings of the ES that the only potential source of significant air pollution would arise from construction dust?</p>	<p>This is not agreed.</p> <p>Construction phase</p> <p>ESC agrees that potentially significant sources of air pollution will occur during the construction phase, but it has not yet been demonstrated that construction dust is the only potentially significant source of air pollution.</p>

			<p>ESC considers that it will be possible to limit the impacts of construction dust through mitigation so that they are insignificant. This was identified by the Applicant within Volume 2, Chapter 12, Table 12.21 [APP-212], where residual risk after mitigation is low to negligible. The proposed mitigation is appropriate but may not be sufficient to achieve a negligible impact. Discussions between ESC and the Applicant are ongoing to finalise construction dust mitigation to ensure impacts are negligible (see Paragraphs 19.25 to 19.29 in the LIR [REP1-045]).</p> <p>ESC is in discussion with the Applicant regarding the minimisation and management of emissions from NRMM during construction. To minimise the impacts of NRMM, a request for the highest available emission standard and a cap on more polluting plant has been made within paragraph 19.3 of the LIR.</p> <p>ESC considers that there is a risk of potentially significant impacts on air quality within the Stratford St Andrew Air Quality Management Area (AQMA). ESC and the Applicant have held constructive discussions on this matter, and it is likely that this issue will be resolved following further discussion with the Applicant (see LIR section 19.30).</p> <p>Operational phase</p> <p>The proposed development will require the use of emergency diesel generators (EDGs). It is expected that EDGs will be addressed appropriately through the environmental permitting regime. In the event that this does not occur, ESC may seek further controls on EDGs through the DCO process (LIR Table 19).</p>
AQ.1.7	ESC	<p>Dust emissions</p> <p>Are you confident the baseline monitoring locations chosen for assessing the significance of dust emissions arising from the main development site would</p>	<p>No, baseline dust monitoring locations presented within Appendix 12E, Plate 1.2 [APP-214] do not necessarily represent worst-case receptor locations. Construction dust assessment figures in Appendix 12A, figures 12A.1, 12A.4 and 12A.5 [APP-213] do not show dust deposition monitoring representative of Minsmere SPA/SAC, Sizewell Marshes</p>

		<p>satisfactorily provide sufficient information such that appropriate standards can be monitored managed and mitigated to safeguard health and amenity for local receptors?</p>	<p>SSSI, or human health receptors such as LE47 for main development site activities and trackout. In figure 12A.2, which is representative of activities associated with the main crag stockpile, site 5 is representative of worst-case ecological receptors. However, LE25 which is the worst-case human health receptor does not have a dust deposition monitoring location. For figure 12A.3, which represents lime spreading, worst-case monitoring has not been captured at human health receptor LE25, whereas the closest ecological site Minsmere is well represented with site 7. Please note that for matters relating to Statutory designated nature conservation sites we defer to Natural England for more detailed advice.</p> <p>At this stage, it may not be possible to be prescriptive about the specific locations where baseline and construction phase monitoring should be carried out. This is because exact construction details may not be known e.g., confirmation of which haul routes will be hard-surfaced. ESC recommends that a requirement for a minimum number of monitoring locations, and a minimum time period for monitoring during construction activities should be specified, to be agreed at the CoCP/Dust Management Plan/CEMP stage. This should include a requirement for the Applicant and contractors to propose and agree specific locations with ESC as part of the CoCP/Dust Management Plan/CEMP.</p> <p>The Applicant has made a commitment to monitor and take corrective actions during construction works (Table 1.1 of Appendix 12A) [APP-213]. As such the Applicant's current baseline dust monitoring is not critical for control of dust impacts. It is expected that dust deposition and particulate monitoring locations will be agreed at the CEMP stage.</p> <p>There are not considered to be satisfactory mechanisms within the CoCP to ensure that corrective actions will be taken if dust deposition and particulate concentrations thresholds are exceeded. ESC requests</p>
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			<p>that this be included within the CoCP. Further to this, paragraph 2.3.8 of the CoCP only requires the Applicant to approve contractors' construction environmental management plans (CEMP) [AS-273]. This should be amended to also require approval by ESC.</p> <p>ESC has made other requests in paragraphs 19.25 through to 19.29 of the LIR [REP1-045] to strengthen mitigation requirements.</p>
AQ.1.11	The Applicant, ESC	<p>Dust Monitoring</p> <p>(i) A High Risk of dust spoiling and medium risk to human health is identified from activities undertaken on Site E yet no dust monitoring stations are identified in close proximity – please explain why this is the case? (ii) How will sensitive receptors be safeguarded; and (iii) the work monitored; and (iv) standards enforced?</p>	<p>i) The unmitigated dust risk from zone E is identified as requiring high risk mitigation within Appendix 12A, paragraph 1.3.21 [APP-213]. The Applicant then concludes that, with mitigation in place, no significant adverse effects would be experienced (Appendix 12A paragraph 1.4.2). ESC agrees with the Applicant that residual impacts at Site E would not be high risk.</p> <p>ii) & iii) Nevertheless, to ensure that receptors are safeguarded, the ESC has requested monitoring during works and that corrective actions are taken within the CoCP. ESC is in discussion with the Applicant to strengthen receptor safeguarding. The Applicant's DCO contains the No.2 requirement for construction works to be undertaken in accordance with the CoCP [AS-143]. It is understood that the Applicant will require contractors to develop a CEMP which will be enforced by the Applicant reviewing that this meets the CoCP requirements. ESC needs to be involved in the review and approval process of CEMPs.</p> <p>At this stage, it may not be possible to be prescriptive about the specific locations where baseline and construction phase monitoring should be carried out. This is because exact construction details may not be known e.g., confirmation of which haul routes will be hard-surfaced. ESC recommends that a requirement for a minimum number of monitoring locations, and a minimum time period for monitoring during construction activities should be specified. This should include a requirement for the Applicant and contractors to propose and agree</p>

			<p>specific locations with ESC as part of the CoCP/Dust Management Plan/CEMP.</p> <p>As per AQ.1.12, it is recommended that CoCP is updated to strengthen mechanisms for corrective actions and agreement of CEMPs with ESC. ESC has made further requests in paragraphs 19.25 through to 19.29 of the LIR [REP1-045] to strengthen mitigation requirements.</p> <p>iv) Standards will be enforced through the Applicant and ESC monitoring work against the requirements of the CoCP/DMP/CEMP; and responding to complaints.</p>
AQ.1.12	The Applicant, ESC	<p>Dust Monitoring</p> <p>(i) As no monitoring has been carried out to understand base levels of dust particles in the vicinity of construction site C – what confidence do you have that the effects of the construction activities on this site would remain at acceptable levels? (ii) How can this be demonstrated when the base line is an important part of the initial consideration?</p>	<p>i) Measurement of baseline and operational phase dust levels is not critical to the assessment and mitigation of construction phase dust impacts. Dust mitigation measures will be designed in accordance with the current industry standard guidance produced by the Institute of Air Quality Management, adapted to take account of the specific features of this development. These mitigation measures will be specified in the CoCP/Dust/CEMP Management Plan.</p> <p>ii) Construction phase dust monitoring will be carried out to ensure that any failures of dust control are identified and rectified.</p> <p>It is expected that the Applicant’s monitoring and corrective actions procedure outlined within the CoCP/Dust Management Plan will be adopted by contractors in their CEMPs. This will identify locations for baseline and operational phase monitoring and should have a reporting procedure in place for any dust nuisance complaints made by the general public to ensure acceptable levels of dust deposition.</p> <p>Whilst it is useful to have a baseline to understand what existing levels of dust deposition are prior to construction activities, this is not a critical part of the dust management process. If high levels of dust are measured, or if a dust nuisance complaint is made, the Applicant’s</p>

			<p>CoCP/Dust Management Plan/CEMP should specify that corrective actions will be taken.</p> <p>As per AQ.1.11, it is recommended that CoCP is updated to strengthen mechanisms for corrective actions and agreement of CEMPs with ESC.</p>
AQ.1.13	The Applicant, ESC, PHE	<p>Temporary Accommodation</p> <p>(i) In light of the close proximity of the accommodation campus to both the active working site but also the stockpiles of materials, what safeguards are in place to ensure appropriate levels are monitored and maintained for the future occupiers of the campus.</p>	<p>ESC considers that control of dust at the accommodation campus will be achieved through specification of appropriate mitigation in accordance with the relevant IAQM guidance. It may be appropriate for operational phase monitoring to be carried out at this location: this can be specified through the CoCP/Dust Management Plan and contractor CEMPs and agreed with ESC.</p>
AQ.1.14	The Applicant, ESC, EA, PHE	<p>Air Quality Assessment</p> <p>Please respond to each of the concerns expressed by Laurence Moss [RR 673] and in light of them whether there are any outstanding concerns in this regard.</p>	<p>[RR-0673] outlines areas of the air quality assessment to be critiqued but does not provide further detail. The outlined areas have been quoted below:</p> <p><i>The focus of my submission will be about Air Pollution – Particulate matter PM 2.5, PM 10, Nox, CO, VOC’s – which will result from the construction of the aforementioned development</i></p> <ol style="list-style-type: none"> 1. <i>I will outline the significance of these emissions and their detrimental effects on the health of construction workers and residents in the vicinity of Leiston / Sizewell. There would also be detrimental effects on the flora and fauna surrounding Sizewell. Should CV19 still be an issue in the spring, I shall cite evidence linking such emissions with the transfer/spread of the virus. I shall specify vulnerable groups who will suffer from these emissions.</i> 2. <i>I will describe the origins of these micro-particles, from vehicle and plant exhausts, and tyre wear, resulting from Lorries and Delivery vehicles and building workers cars.</i> 3. <i>I will describe the geographical extent of these particles, and the timescale that they will be present in our area, along Trunk roads and A roads through our villages.</i>

			<p>4. <i>I will argue that EDF have failed to take the emissions seriously – if at all – in their ‘modelling’ exercises, and have only considered such emissions once the plant is being tested or operated – i.e. after construction.</i></p> <p>5. <i>I will argue that the suggested mitigation of small particles is inadequate as they only consider larger particles that can be dealt with by washing/dust suppression. This is even seen in previous EDF practice; the Hinkley project only describes mitigation for particles larger than PM10.</i></p> <p>6. <i>I will outline existing legislation that sets standards for the maximum recommended, and therefore legal, exposure to the emissions of these micro-particles – from WHO, EU and UK.</i></p> <p>7. <i>I will refer to research on the increasing knowledge of the dangerous health effects of this pollution</i></p> <p>8. <i>There is little mitigation for such small particles, but I will outline some strategies which I believe EDF should make. I will point to the woeful lack of air quality monitoring points in the vicinity of the construction, and routes for vehicles to and from the site.’</i></p> <p>These bullet points are addressed by ESC in corresponding number points below:</p> <ol style="list-style-type: none"> 1. ESC expects the Applicant to assess air quality impacts against existing air quality legislation and planning policies. ESC can confirm that the Applicant has done this. Subject to resolution of the points outlined in the LIR [REP1-045], ESC considers that emissions to air from the proposed development would not have significant adverse effects on the health of ESC residents, the health of the construction or operational phase workforce in relation to the potential effects of ambient air quality (ESC does not make any comments in relation to occupational health and safety), or on the natural environment (please note that we defer to Natural England on designated sites). Early research into the interactions between air quality and Covid-19
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			<p>has been published, but links remain complex and incompletely understood. Such interactions as have been observed relate to exposure to high levels of air pollution which do not occur in the ESC area at present and are not forecast to occur in the future. In any case, contemporary academic research is not normally considered in air quality assessments – instead, it is considered, and appropriate measures adopted, in legislation, policy and/or relevant guidance. To the extent that interactions are understood, ESC does not consider that there is a strong case for requiring further steps to control potential synergistic effects relating to Covid-19.</p> <ol style="list-style-type: none"> 2. ESC considers that sources of particulate matter are adequately described in the ES, except as outlined in the LIR. 3. ESC considers that the geographical distribution of particulate matter is adequately described in the ES, except as outlined in the LIR. 4. ESC considers that emissions to air during both construction and operation have been assessed and are adequately described in the ES, except as outlined in the LIR. 5. The Applicant has adopted best practice guidance and gone beyond this to assess construction dust and particulate impacts to identify appropriate mitigation. Except as noted in the LIR, this is considered acceptable by ESC. The LIR recommends strengthening mitigation measures where appropriate. Dust mitigation measures proposed by the Applicant will also reduce PM_{2.5} emissions from the construction. 6. ESC considers that the Applicant has considered an appropriate range of standards and other guidance when carrying out its assessment, particularly in view of the limited duration of potential construction phase impacts in contrast to operational phase impacts.
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			<p>7. ESC agrees that there is a growing body of evidence linking adverse effects on health to exposure to low levels of PM_{2.5}. ESC does not consider that there is a strong case to require consideration of a wider range of air quality standards and guidelines other than those already addressed in the ES.</p> <p>Monitoring at construction sites will be determined as part of the ongoing development of the CoCP/CEMP. In relation to construction traffic, ESC has concentrated on working with the Applicant to reduce the air quality impact of construction traffic. Removing the source of pollution in this way means that a widespread monitoring campaign is not considered by ESC to be a priority, or an effective way of managing the air quality impacts of the proposed development.</p>
AQ.1.16	The Applicant, ESC, SCC	<p>Air Quality [RR 804 and RR 820] both express concern that the increased emissions from increased traffic along the A12 could have a disproportionate effect on the health of students at Farlingaye High School. Please respond to this concern.</p>	<p>[RR-0804] has a brief comment on air quality '<i>Transport - roads would inevitably be even busier causing excess road pollution, how does this affect students at Farlingaye High School amongst others.</i>'</p> <p>[RR-0820] comment is as follows '<i>3. Impact on Communities It seems People always come last in the pecking order when planning developments of this size but it should be noted that large housing developments are abutting the length of the A12 from the access to the proposed site to the A12/A14 Seven Hills junction. Some of these properties are less than 50m from the A12 carriageway and the occupants are already suffering noise, air and light pollution which was not in existence when the properties built. The continual pollution caused by an additional 300+ heavy goods vehicles a day for many years will be intolerable for the occupants.</i>'</p> <p>The Applicant has demonstrated within their air quality assessment that background, or existing air pollutant concentrations (NO₂, PM₁₀ and PM_{2.5}) are low enough that impacts from additional traffic will not be significant across the majority of the ESC area, including Farlingaye High School. The only exception to this is in the Stratford St Andrew Air</p>

			Quality Management Area (AQMA). The LIR [REP1-045], paragraph 19.30 sets out further controls requested on HGV emission standards to ensure acceptable impacts. The expected improvements in emissions controls from HGVs travelling to and from the proposed development will also have a small benefit at Farlingaye High School compared to the impacts that would result without such emission controls.
AQ.1.17	ESC, EA	<p>Air Quality</p> <p>Do you agree that paragraph 5.2.9 of EN-1 does not apply as the Applicant suggests in the Planning Statement as “there would be no substantial changes in air quality levels”?</p>	<p>No, this is not agreed. Paragraph 5.2.9 of EN-1 states ‘<i>However air quality considerations will also be important where substantial changes in air quality levels are expected, even if this does not lead to any breaches of national air quality limits.</i>’</p> <p>Within the Stratford St Andrew Air Quality Management Area, increases in pollutant concentrations are of greater concern because of the high baseline levels of air pollution in this area, and the potential for in-combination impacts with the nearby East Anglia One North and East Anglia Two developments. As per the LIR [REP1-045], paragraph 19.30, recommendations have been put forward to strengthen HGV emission controls to minimise these risks. As such, these substantial increases led to ‘<i>air quality considerations</i>’.</p> <p>Similar concerns lie behind the other concerns highlighted in the LIR paragraphs 19.2 to 19.4 (limits on emissions from NRMM; minimisation of use and emissions from diesel generator plant; dust controls). In these cases, substantial changes in air quality levels could be expected, and require appropriate assessment and control.</p>
AQ.1.18	ESC, EA, PHE	<p>Air Quality Receptors</p> <p>Are you satisfied that all potential sensitive receptors have been taken into account in the Air Quality Assessment and with the Applicant’s identification of worst case locations for Air Quality?</p>	Please see response to AQ.1.1.

AQ.1.19	ESC	<p>Approach</p> <p>(i) Is the Council satisfied with the overall approach of the Applicant to dealing with Air Quality? (ii) Do the Council have any specific criticisms it would like to make?</p>	<p>(i) ESC is satisfied with the overall approach. The Applicant has been in regular contact with ESC in pre-application and since submission. Many of ESC's concerns with regard to potential air quality impacts and how they should be assessed have been addressed. ESC and the Applicant have discussed and recorded approximately 86 separate comments after reviewing the air quality environmental statement, the majority of which have been addressed.</p> <p>(ii) ESC has a relatively small number of outstanding criticisms. The outstanding points are presented within the LIR Section 19 [REP1-045].</p>
AQ.1.21	ESC, The Applicant	<p>Additional Information</p> <p>Additional information was requested by ESC as referred to in ESC RR at paras 1.84 and 1.87: (i) Has this information been provided to the Examination? (ii) If so where can it be found?</p>	<p>This information has been provided to ESC by the Applicant via exchange of spreadsheet records. These were technical clarifications between air quality specialists. (i) This information has not been provided to the Examination because of the technical nature of discussions. It was considered unlikely that this would assist the ExA. However, ESC would be able to provide a summary of these clarifications if helpful.</p>
AQ.1.22	ESC, SCC	<p>Air Quality</p> <p>Can the relevant public health authorities confirm that they consider the effects on air quality from the additional traffic along the A12 have been adequately assessed and confirm that they would not result in significant adverse effects along this transport corridor as suggested by RRs 804, 820 amongst others.</p>	<p>ESC does not have public health responsibilities. However, regarding Local Air Quality management, we have the following comments :</p> <p>Yes, as set out in response to AQ.1.16:</p> <p>The Applicant has demonstrated within their air quality assessment that background, or existing air pollutant concentrations (NO₂, PM₁₀ and PM_{2.5}) are low enough that impacts from additional traffic will not be significant across the majority of the ESC area. The only exception to this is in the Stratford St Andrew Air Quality Management Area (AQMA). The LIR [REP1-045], paragraph 19.30 sets out further controls requested on HGV emission standards to ensure acceptable impacts. The expected improvements in emissions controls from HGVs travelling to and from the proposed development will also have a small benefit in other areas close to the A12 and throughout the ESC area when compared to no emission control.</p>
AQ.1.23	ESC	<p>Air Quality</p>	<p>i) Yes</p>

		<p>(i) Are you concerned that the scheme may result in the failure to comply to any statutory air quality limit? (ii) If this is the case please provide details of the concerns, the limits that apply and the area(s) this would cover. (iii) If answering the above in the affirmative do you consider additional mitigation could be offered that might resolve these issues, what would this entail and how could it be delivered?</p>	<p>ii) ESC has had long-standing concerns regarding a breach of the statutory annual mean air quality objective for nitrogen dioxide of 40 µg/m³ (The Air Quality Standards Regulations 2010 SI 2021 No. 1001 Schedule 2) within the Stratford St Andrew AQMA.</p> <p>iii) These concerns are being addressed through discussions between ESC and the Applicant regarding enhancement of HGV euro standard controls. The Applicant has shared draft plans with ESC on managing HGV emissions and the anticipated controls expected to achieve acceptable impacts are detailed within paragraph 19.30 of the LIR [REP1-045].</p> <p>There remain concerns regarding the potential impact of Emergency Diesel Generators upon habitats. This does not concern an exceedance of a statutory air quality limit but does relate to potential impacts on protected sites. ESC defers to Natural England on this matter.</p>
AQ.1.34	ESC, SCC, PHE, EA	<p>Dust Soiling</p> <p>(i) Are you satisfied with the suggested mitigation to control the levels of dust arising from the development? (ii) If not what additional mitigation would you wish to see supplementing the Dust Management Plan, Outline Dust Management Plan or Code of Construction Practice?</p>	<p>(i) ESC is broadly in agreement with the approach to mitigation proposed by the Applicant but has made some further requests for controls in relation to dust mitigation. (ii) Additional controls requested by ESC are set out in paragraphs 19.25 to 19.29 of the LIR [REP1-045].</p>
AQ.1.35	ESC, SCC, PHE, EA, Natural England	<p>Dust Soiling</p> <p>(i) Are you satisfied with the suggested monitoring of dust emissions from the development? (ii) If not what additional mitigation would you wish to see and how do you consider this should be secured?</p>	<p>ESC interprets this comment as referring to <u>monitoring</u>, rather than <u>mitigation</u> of dust. Dust mitigation is addressed in AQ.1.34.</p> <p>(i) ESC is generally satisfied with the dust deposition monitoring proposed within the CoCP. A flexible approach will be needed as the construction programme develops.</p> <p>(ii) Changes to CoCP wording are recommended as per AQ.1.11 [AS-273]. This should strengthen mechanisms for corrective actions following monitored exceedances and approval of CEMPs by ESC.</p>

AQ.1.40	The Applicant, ESC, SCC	<p>Mitigation</p> <p>(i) The Applicant suggests in paragraph 14.7.79 [APP-224] that if exceeded of dust levels occurs additional mitigation would be adopted – please explain what this might entail – particularly in light of the commitment within the CoCP to best practice? (ii) How would this additional mitigation be secured? (iii) In the event the threshold of 0.5g/m²/day had been exceeded – what would the consequence be? E.g. would work need to cease until the threshold level had fallen below the agreed level? Please explain the practicalities of what would occur on the ground and how this would be monitored, and the agreed level reached.</p>	<p>ESC considers that this is principally a comment for consideration by the Applicant.</p> <p>It is envisaged by ESC that any additional mitigation will be secured through the CoCP and be implemented into each contractor’s CEMP. As per AQ.1.11, the CoCP does not currently have satisfactory wording regarding this matter for corrective actions such as mitigation to be included within a contractor’s CEMP [AS-273]. As such ESC recommends that the CoCP is updated to explicitly state the monitoring exceedance thresholds and that corrective actions should be taken to ensure impacts are brought well below exceedance thresholds.</p> <p>ESC expects the details of corrective actions to be defined by the contractors in the CEMP, once construction details are better understood. As such, ESC requests that CEMPs are agreed with the Council in advance of construction works commencing to ensure that corrective actions are satisfactory.</p> <p>ESC anticipates that mitigation measures may include measures such as temporarily halting of dust-generating activities during periods of adverse meteorological conditions, increasing the intensity of interventions such as water spraying, or extending the zones within which specific measures such as road surfacing are implemented. Any such measures would generally be proposed by the Applicant or its agents for consideration and agreement by ESC.</p>
AQ.1.41	The Applicant, ESC	<p>Dust Emissions (Rail)</p> <p>(i) ESC in the [RR-0342] at paragraph 2.207 – please clarify if you are seeking screens/fences in relation to general earthworks across the main development site and associated development sites. (ii) Have further discussions progressed</p>	<p>i) The request for screens/fences identified in paragraph 2.207 is targeted to the green rail route [RR-0342]. A similar request was also made for the northern park and ride (RR paragraph 2.168). This may still be pertinent when it comes to development of the CEMP.</p> <p>(ii) During a meeting with the Applicant, it was clarified that there are insufficient receptors for this to be a high-risk location. No further information is sought by ESC in relation to this point.</p>

		identifying the areas of concern? Please advise the ExA where these are and whether an agreed approach to protecting these receptors has now been reached?	As mentioned previously, a request for the CEMPs to be approved by the Council is proposed by ESC. This will enable the need for screens and fences in this location to be reviewed and agreed once construction details are finalised.
AQ.1.42	The Applicant, ESC, PHE	Human Health (particulate matter) Paragraph 12.6.11 of [APP-212] suggests that there could be a risk to human health if long term dust generating activities increase the baseline level within a receptor area. Do you consider the mitigation identified would be sufficient to avoid adverse effects to human health?	Construction mitigation is considered satisfactory to mitigate human health impacts associated with construction dust activities. However, as per paragraphs 19.25 through to 19.29 of the LIR [REP1-045] some recommendations have been made to strengthen mitigation. As mentioned within ESC's response to AQ.1.40, wording alterations to CoCP dust monitoring and agreement of CEMP with ESC should be included. Any increase in exposure to PM _{2.5} would have an additional effect on human health, as there is no threshold for these effects. However, smaller increments in PM _{2.5} have progressively smaller effects on health. Provided the controls on dust requested in the LIR are implemented, ESC considers that the controls on particulate matter due to dust generating activities would be sufficient to avoid significant adverse effects on human health.
AQ.1.43	The Applicant, Natural England, ESC	Ammonia Deposition It has been suggested that the ES fails to deal with ammonia deposition [RR-908] as would appear to be advocated by the Institute of Air Quality Management's 2020 Guidance and would also need to be carried out to comply with Natural England Guidance. Please respond to these specific concerns.	[RR-0908] objects on three grounds a) ' <i>only a limited number of receptor locations used for modelling</i> ', b) ' <i>no assessment of ammonia deposition</i> ' c) ' <i>proportions of the site immediately adjacent the road</i> '. This conflicts with Natural England guidance. Promoter should quantify or model the geographical extent of effects to enable consideration of potential ecological effects'. a) The receptor locations used for habitats are considered reasonable representations of worst-case impacts by ESC. Consequently, it is not considered necessary for additional receptor locations to be included. b) Accounting for ammonia emissions could potentially highlight increased impacts at designated habitat sites due to various

			<p>emissions sources, but any increase in impacts would be very low and is not expected to indicate any new issues. Furthermore, in view of the uncertainties in placement of NRMM, a request for the highest emission standards for NRMM has been made by ESC in LIR [REP1-045] paragraph 19.31. This will tend to offset any impacts from ammonia emissions from NRMM. ESC will also carefully consider any further response from the Applicant on this question.</p> <p>Reviewing impacts at the section of habitat closest to the roadside is considered satisfactory to capture worst-case impacts from road traffic.</p>
AQ.1.45	The Applicant, ESC	<p>Stratford St Andrew AQMA Please advise on the latest position in respect of the assessment of air quality in the Stratford St Andrew AQMA and whether the assessment is now considered robust indicating whether there remain concerns on the assessment undertaken or whether the additional sensitivity testing has now resolved any concerns in this area.</p>	<p>Mitigation proposed by the Applicant sufficiently minimises the likelihood of significant impacts. Provided this is satisfactorily secured in the CoCP or other documents, this is considered robust and ESC would not have further concerns regarding this issue. Refer to paragraph 19.1 of the LIR [REP1-045] for further details.</p>
AQ.1.46	The Applicant, ESC, SCC	<p>Stratford St Andrew AQMA In paragraph 2.153 of the Council RR concern was expressed in respect of the speed of traffic continuing to exceed the speed limit and accelerating such that there remained concerns about the level of NOx. Does this concern remain?</p>	<p>The impacts of speeding upon NO_x emissions is still a concern for ESC. However, this does not apply specifically to traffic associated with the Applicant and ESC will continue to monitor and review air quality within Stratford St Andrew. ESC no longer seeks to pursue this during Examination due to the Applicant's commitment to Euro VI targets that has tipped the balance so that emissions are not likely to cause an exceedance of the objectives.</p>
AQ.1.47	The Applicant, ESC	<p>Stratford St Andrew and Woodbridge AQMA (i) In light of the proposed development do you agree that both AQMAs would remain within legal limits assuming the worst-case</p>	<p>(i) The management and mitigation of HGVs and associated emissions to air is still under discussion between ESC and the Applicant. It is difficult to accurately forecast air quality trends within the AQMAs in the light of wider issues such as the effect of Covid-19 epidemic and lockdowns on traffic movements and vehicle fleets. However, it seems</p>

		<p>scenarios for traffic movements? (ii) Is there an agreed management and monitoring approach through the lifetime of the project? (iii) How will traffic from other projects be taken into account to ensure that air quality standards will be maintained? (iv) In the event there is congestion on the A12 what would be in place to monitor this, and ensure air quality remained within acceptable levels within Woodbridge and Stratford St Andrew AQMAs but also would not adversely affect other areas? (iv) What would be in place to secure appropriate mitigation?</p>	<p>likely on balance that both AQMAs will remain within legal limits, particularly with the Applicant’s commitment to Euro VI targets. Provided appropriate mitigation of HGV emissions is satisfactorily secured in the CoCP or other documents, ESC considers that the impacts of the proposed development within both AQMAs would remain acceptable. The worst case has been assumed to be the early years traffic scenario before the Two Village bypass is completed. However, as a precautionary measure the number of HGVs passing through the AQMA should be capped until such time as the Two Village bypass is open for use.</p> <p>(ii) The pre-submission details shared by the Applicant with ESC suggest an acceptable mitigation strategy.</p> <p>(iii) ESC has taken into account the potential for in-combination impacts with other projects, specifically the East Anglia One North and East Anglia Two windfarm developments and secured similar mitigation of HGV emissions from this development.</p> <p>(iv) The relevant air quality standard is for annual mean concentrations, and short-term impacts such as congestion would not be expected to significantly affect this conclusion. In the longer term, ESC understands that the proposed development is not forecast to result in a significant increase in congestion on the A12 that could affect the AQMAs. Air quality monitoring in the AQMAs will continue and can be used to trigger the need for additional mitigation to be agreed with the Applicant, if this is required.</p> <p>(v) Mitigation will be secured through an appropriate management plan, under development between the Applicant and ESC.</p>
AQ.1.51	ESC, EA, Natural England	<p>Haul Routes</p> <p>(i) The Applicant has indicated that haul routes would be hard surfaced ‘where practicable’ – do you consider this approach to be adequate to safeguard sensitive</p>	<p>i) Hard surfacing “where practicable” is not considered to be fully satisfactory. ESC considers that the approach should be to provide hard surfacing where appropriate, in consultation with ESC if necessary within the CoCP (LIR 19.26 [REP1-0045]).</p>

		receptors? (ii) Are there specific locations you consider that a more robust approach should be required, or should a more robust approach be provided across the main development site and associated development sites?	ii) In other locations, alternative forms of mitigation (e.g. limit on vehicle speeds) would be sufficient. Rather than identifying specific locations ESC has suggested a methodology for hard surfacing site selection (paragraph 19.26 of the LIR [REP1-045]).
AQ.1.60	Natural England, ESC, EA	Back Up Generators [APP 212] Paragraph 12.6.65 indicates that the NOx level would be 428% of the critical level at Sizewell Marshes SSSI and that daily exceedances would also occur at other sensitive ecological receptors: (i) Do you agree that the short term exposure is less important? (ii) Is the level at 428%, albeit likely to be for a short period, tolerable such that any sensitive receptor exposed to these levels of NOx would be expected to recover?	(i) ESC has not made any comment on the relevant significance of the short-term and long-term air quality critical levels for NOx. Nevertheless, ESC considers that this is not justification for screening out short-term (24hr NOx) impacts. (ii) It is not clear whether these daily mean NOx contributions were subject to ecological assessment to determine if significant impacts could occur as a result of the forecast exposure levels. ESC has raised this as a concern with the Applicant, but would expect that authoritative advice would be provided by Natural England.
AQ.1.61	Natural England, ESC, EA	Back Up Generators [APP 212] Paragraph 12.8.3 indicates that there could be significant adverse effects from NO2 concentrations, and this could exceed air quality strategy objectives: (i) Please comment on this assessment and whether you regard this as reasonable in light of the likelihood of these circumstances occurring as being 'once in the lifetime of a fleet of nuclear sites'. (ii) Even in accepting this is an unlikely scenario would it lead to an exceedance of any statutory limits?	(i) ESC agreed with the Applicant's analysis of exceedance probability within Appendix 12C, page 50 [APP-213] . This demonstrated that the probability of an exceedance is acceptably low. (ii) ESC notes that 18 exceedances per year of the 1 hour mean air quality strategy objective for nitrogen dioxide are permitted, and therefore this scenario is not considered to comprise an exceedance of a statutory limit.
AQ.1.67	The Applicant, SCC	Mitigation In the Air Quality Chapter [APP-212] you refer to primary mitigation as 'minimising' freight movements on roads in light of the	ESC considers that the ExA is referring to the 3 rd bullet point of 12.5.3 [APP-212] (i). If this is the text referenced, then ESC agrees with the ExA's comments. Freight movements could be reduced, if not minimised, by committing to the January 2021 freight management

		other delivery methods envisaged via rail and sea. (i) Is it really fair to say these movements would be minimised when to date neither the rail nor sea alternatives are confirmed, or to what degree they could operate?	strategy, which envisages greater transportation of material by sea and rail.
AQ.1.69	ESC, SCC	<p>Mitigation</p> <p>The Outline Dust Management Plan [APP-213] would be an essential part of the mitigation required to control construction activities on site. Do you consider it sufficiently precise that it would be enforceable?</p>	<p>The Outline Dust Management Plan is in the ES Annex 12A.1 [APP-213]. ESC expects that as an outline plan, further details would be provided as the construction programme is developed and refined, and contractors are appointed.</p> <p>The Outline DMP refers to actions being taken “where possible” or “where practicable.” ESC expects that such comments should always be interpreted in the light of the relevant dust management guidance produced by the Institute for Air Quality Management, with a presumption that the measures identified from this guidance should always be adopted and, where appropriate, enhanced in the light of the specific features of this proposed development (e.g. scale and coastal setting of construction activities; see response to AQ.1.12).</p> <p>ESC considers that the Outline DMP is not fully enforceable at present, as would be expected at this stage. ESC will continue to discuss the Outline DMP with the Applicant and will seek to obtain firmer commitments to certain measures to render them fully enforceable. It is expected that with a requirement for the CEMP to be approved by ESC, the necessary specifics for enforceability can be introduced at this stage. Examples of DMP items for further clarification are provided below:</p> <ul style="list-style-type: none"> • G1.4, seeking confirmation of which activities would be halted during adverse weather conditions • G2.2, two construction activities are listed as “significant dust generating activities.” Confirmation is sought regarding the significance status for all construction activities.

			<ul style="list-style-type: none"> • G2.4, seeking confirmation of which plant is considered to have “significant dust raising potential” • G4.1, seeking further details of how surface stripping would be managed in the light of likely variations in wind direction • G5.2, seeking confirmation of when scabbling would be required, the extent of this activity, and any further controls to be applied • G7.1, to update in the light of more recent commitments made in relation to HGVs conforming to Euro VI emission standard • G7.4, seeking clarification of when vehicle idling could be considered necessary and unnecessary • G7.5, seeking confirmation of the permitting status of stationary generators, and the arrangements that would apply if the stationary generators were not found to require a permit • M5.3, seeking clarification of how operations would be managed in the light of daily weather conditions. Would this be based on measured or forecast conditions, and what steps would be taken if adverse conditions were identified? • M5.4, seeking clarification of how the results of monitoring would be used to inform dust controls. What action would be taken in the event of an exceedance of a threshold, and what ongoing monitoring would be carried out to confirm that the problem had been addressed? Would site activities be halted pending agreement of steps to be taken? How would the appropriate authorities be involved in the process?
AQ.1.72	The Applicant, ESC, SCC	<p>Code of Construction Practice</p> <p>The CoCP contains general phrases such as ‘where possible’ and ‘will seek to ensure’. In such circumstances how would the local authorities be able to enforce compliance?</p>	<p>ESC considers it acceptable to have some conditional wording for controls on construction operations at this point, in view of uncertainties in the construction programme – these should become more developed as the Implementation Plan evolves. ESC considers that it is most important to establish principles for dust control at this stage, with the details to be completed in the light of these principles. ESC will continue to work with the Applicant to refine and improve the CoCP and associated documents.</p>

			For some key sources of pollution such as HGV traffic, ESC is in discussion with the Applicant to eliminate caveats such as “where possible.” The use of ambiguous phrasing is not helpful and can lead to problems with enforceability.
AQ.1.76	The Applicant, ESC (part ii), SCC (part ii)	<p>Mitigation The revised Mitigation Route Map</p> <p>[AS 276] has added for the Main Development Site “Use of contractor vehicles as far as practicable that meet the Euro VI emissions standards and Euro V standards (98/69/EC) as a minimum, unless otherwise agreed with the local authority. • Use of non-road mobile machines as far as practicable and available that meet the Stage IV engine standards of the NRMM Emission Standards Directive to minimise NOx and particulate emissions on site.” (i) This wording is not consistent across the main development site and other associated sites – is there a reason for this? (ii) Do the Councils consider that as reworded this is sufficiently robust?</p>	(ii) No, ESC do not consider this to be robust and have suggested amendments to the wording of HGV and NRMM engine standards within paragraphs 19.30 and 19.31 of the LIR [REP1-045] , respectively.
AQ.1.78	The Applicant, ESC, SCC	<p>CoCP</p> <p>Table 4.2 refers to regular inspection and monitoring and this terminology is used in several places. Regular could ostensibly be once a year, While it is assumed this is not the intention is there a more precise term that could be used to ensure maintenance and monitoring is undertaken expeditiously?</p>	ESC understands that Table 4.2 acts as a framework for contractors to base their CEMPs upon [AS-273] . It will be the CEMPs that should contain more detail on the monitoring frequency. Currently there is no commitment within the CoCP for CEMPs to be approved by the local authority. As per previous responses such as AQ.1.40, CoCP wording should be amended to require approval of the CEMP by ESC. This will provide a check on more detailed dust monitoring plans in the CEMP. ESC note the ExA’s concerns and will work with the Applicant to develop an improved level of detail within the CoCP, DMP and CEMPs. For example, see response to AQ.1.72.

Al.1 Alternatives NO QUESTIONS FOR THE COUNCIL

AR.1 Amenity and Recreation

AR.1.0	The Applicant, ESC, SCC	<p>Alde Valley Academy Leiston</p> <p>The off-site sports facilities are regarded as an important mitigation in assisting the assimilation of the workforce into the area. As currently set out the facility would not appear to have a time frame for delivery, or in light of the ESC [RR-0342] resolved potential drainage concerns: (i) Please advise on the latest position in respect of the progress of the S106, surface water management issue identified, and what the timeframe for delivery of this facility would be. (ii) In order to achieve the necessary mitigation what timeframe for delivery would be required?</p>	<p>(i) ESC’s expectation is that the off-site sports facilities will need to be open in advance of or at the same time as the accommodation campus. However, construction of the off-site sports facilities will need to be timed so as to not adversely impact on sensitive time periods at Alde Valley School e.g., examination time. Latest progress on the S106 is included in Schedule 10 [REP1-007] and we are progressing discussions further with the Applicant with regard to this element and ESC’s role in design and build of the off-site facilities. Surface water drainage concerns will need to be addressed in the detailed design of the facilities; ESC is hopeful that this can be achieved but need to ensure it is secured through appropriate signing off of detailed design drawings incorporating an appropriate surface water drainage scheme. This could be secured via existing proposals for surface water drainage or through an alternative mechanism.</p> <p>(ii) the delivery of the off-site sports facilities will complement offerings to the workers at the campus, as such ESC would be keen for there to be a cap on number of workers permitted on site prior to the campus being available and for the off-site sports facilities to be operational prior to or at the same time as the campus opens.</p>
AR.1.1	The Applicant, ESC, SCC, Leiston and Sizewell PC.	<p>Alde Valley Academy Leiston</p> <p>(i) In the event that the sports pitches and supporting facilities are not in place in a timely manner would the effect on the local community be regarded as significant in your view? (ii) What time frame of delivery needs to be stipulated to avoid such effects?</p>	<p>(i) The effect on the local community is likely to be significant as there are limited facilities in Leiston currently.</p> <p>(ii) ESC considers that the off-site sports facilities should be available prior to or at the same time as the campus opening. ESC would be reluctant for the campus to be made available prior to off-site sports provision.</p>
AR.1.5	The Applicant, ESC, SCC	<p>Consultation Group [APP-267] paragraph 15.3.12 appears to indicate that the consultation group included a single commercial fisherman: (i) Is this correct? (ii)</p>	<p>(iii) ESC understands that there was limited attendance at consultation events run by the Applicant from commercial fishermen. It is ESC’s understanding that there is only one commercial fisherman operating from Sizewell beach. This specific consultation group was aimed at</p>

		Were they representing the wider industry or a representative organisation? (iii) Are the Councils satisfied that the makeup of the group was representative of all interests?	coastal and offshore recreational receptors. ESC is therefore satisfied that the makeup of the group was representative of those specific interests.
AR.1.8	The Applicant, AONB Partnership, ESC, SCC	<p>AONB</p> <p>The AONB Partnership set out detailed concern [RR-1170] with regard to the assessment of and significance of effects on the AONB and its statutory purposes: (i) Can the Applicant please respond in full to these concerns in respect of recreation and amenity? (ii) Can the Applicant also set out the effects on the AONB and its value as a recreational and amenity area through each of the construction, operational and decommissioning phases. (iii) Do the Councils and AONB Partnership consider the ES has fully recognised the benefits of the AONB as a recreational and amenity area and provided for appropriate mitigation?</p>	<p>(iii) ESC is a committed and active member of the AONB Partnership. ESC considers that the ES does not fully recognise the benefits of the AONB as a recreational and amenity area and therefore the mitigating measures proposed are not adequate.</p> <p>The LIR [REP1-045] identifies the impacts arising from the project from a tourism perspective and references studies undertaken that demonstrate the potential adverse impacts on the location with particular reference to its importance as a recreation and amenity area.</p> <p>ESC agrees with many of the findings in the Summary of Effects for construction phase (table 15.11) and operational phase (table 15.12) in 6.3 Volume 2 Main Development Site Chapter 15 Amenity and Recreation [APP-267] that identifies a series of significant residual effects. To address these residual effects, a mitigation and compensation package is required. This is being discussed with the Applicant and is expected to take the form of a Natural Environment Fund to be secured through the section 106 agreement. The magnitude and form of this fund is still under discussion and therefore ESC cannot say this time that appropriate mitigation is provided.</p>
AR.1.9	SCC, ESC	<p>AONB PROW</p> <p>Do the Councils agree with the views as expressed by the AONB Partnership [RR-</p>	Please refer to section 17.40 of the LIR [REP1-045] that references the Applicant's change submission which seeks to keep the England Coast Path open and available on the coast during construction and use of

		1170] that the loss of the open access adversely affects the purpose of the AONB and that the limitation of the PROW in the area particularly the coastal path have not been sufficiently mitigated?	<p>the enhanced permanent BLF and temporary BLF and construction of the sea defences. In particular 17.50 addresses impacts on the Coast Path during closures (if required for safety reasons) and 17.51 the impact on users following the diversion.</p> <p>The proposal does include diversions to existing PROWs in the vicinity and users of diversions and paths remaining will be adversely impacted visually and by construction sound.</p> <p>A package of suggested PROW mitigation, requirements and obligations is included in the LIR 17.119 - 17.133.</p>
AR.1.10	SCC, ESC	<p>Accommodation Campus Are the Councils concerned in respect of the location of the proposed accommodation campus and the potential effect it could have on the tranquillity of the AONB or residents of Eastbridge?</p>	<p>The accommodation campus as proposed will be sited adjacent to but not in the AONB. However, it is sited in the setting of the AONB. The campus is proposed to be self-contained, it will have secure boundaries. The campus will sit adjacent to the main construction site and will have elements including stockpiles and borrow pits in-between the campus and Eastbridge. The layout plan for the campus demonstrates a significant landscaped margin and security fencing around the campus location which will reduce its impact further, and maintain a physical separation from the Eastbridge Road.</p> <p>ESC considers the accommodation campus is unlikely to cause disturbance to the tranquillity of the AONB or disturbance to the residents of Eastbridge. The campus is adjacent the AONB and the main development site and construction area which is within the AONB. Noise and disturbance from the main development site and construction area is likely to exceed any noise or disturbance arising from the campus.</p>
AR.1.11	SCC, ESC	<p>Coastal Path Do the Councils consider that the assessment of effect on the National Coastal Path and</p>	<p>ESC considers the Coastal Path to be an important feature of the coastline which should be protected by the development. However, we acknowledge, and agree, that where essential for safety reasons the</p>

		<p>the mitigation during: Construction; Operation; and Decommissioning are adequate to safeguard the amenity and recreational value they provide? For assistance, paragraph 15.5.11 to 15.5.20 [APP-267] sets out the potential implications for the Suffolk Coast Path, Sandlings Walk and the future route of the England Coast Path. Diversions are explained and shown in The Access and Rights of Way Strategy, Appendix 15I [APP-270]</p>	<p>Path will need to close for short periods. The proposed diversion is long, and ESC would prefer use of this to be kept to a minimum. From a tourist perspective the Coastal Path is important alongside the Suffolk Coastal Path and Sandlings Walks that are promoted in the area.</p> <p>The Applicant has made adjustments in their Change submission and is committing to keeping the beach and Coastal Path open for the majority of the construction and operation. ESC supports this aspiration and requests that closures are kept to a minimum and where essential, advance warning is given and appropriate signage used to advise visitors of the closure and need to use diversions - which are to be well signed in a manner to be agreed with ESC.</p> <p>SCC as responsible authority for Public Rights of Way will give a technical response regarding the PRow.</p>
AR.1.12	The Applicant, ESC, SCC, National Trust, RSPB	<p>Displacement of Tourists/Visitors</p> <p>The National Trust [RR-877] and RSPB [RR-1059] indicate that they do not consider the displacement of tourists and visitors from the current pattern of visiting has been undertaken in a way which could be regarded as precautionary, it could therefore underestimate the effects on both the National Trust land at Dunwich, and the RSPB Minsmere site but also elsewhere: (i) Please respond to this concern. (ii) The National Trust and RSPB are seeking a commitment to mitigation, monitoring of activity and potential compensation – please advise on any progress that has been made in this regard.</p>	<p>ESC has not been directly involved in discussions with RSPB and National Trust and the Applicant regarding mitigation for perceived impacts on RSPB Minsmere and Dunwich Heath National Trust.</p> <p>In paragraph 17.131 of the LIR [REP1-045] ESC references potential displacement impacts and state that we welcome the precautionary approach taken by the Applicant. ESC welcome proposals for resilience funding for RSPB and NT both of who may experience an increase in construction tourists throughout the construction phase of the development.</p>

AR.1.16	The Applicant, ESC	<p>Aldhurst Farm</p> <p>(i) Please explain how the Aldhurst Farm compensatory land is intended to be managed going forward so that the ecological benefits it is intended to bring can be safeguarded.</p> <p>(ii) In the event that public access is to be provided to the area beyond just the PROW whether this leads to a conflict with conservation of any species on the site and how this would be monitored and managed.</p>	<p>(i) The creation of Aldhurst Farm was consented by Suffolk Coastal District Council (now East Suffolk Council) in 2015 under planning permission reference DC/14/4224/FUL. The application included an Ecology and Landscape Management Plan which set out the management and monitoring proposals for the site. The implementation of these measures was secured by condition 20 of planning permission DC/14/4224/FUL. Where variation of the approved management measures is identified as being required ESC would expect this to be documented through the DCO application, and if necessary, via a Town and Country Planning Act application to vary condition 20.</p> <p>(ii) ESC understands that public access to the southern, dry, fields at Aldhurst Farm has always been intended. Condition 25 of planning permission DC/14/4224/FUL secured the production and implementation of a plan detailing these access measures. The details to discharge this condition were approved in 2019 under reference DC/19/3727/DRC. As it forms part of the approved scheme, ESC does not consider that public access to the southern part of Aldhurst Farm would significantly compromise its use as ecological mitigation and compensation land.</p> <p>The DCO application now proposes public access across part of the northern field (along the eastern and northern boundary of the field) along a newly created route which diverts part of Bridleway 19. The northern field is also proposed to be used as a reptile receptor site; therefore, the bridleway route must be appropriately fenced to ensure that there is no public access into the remainder of this area. ESC consider that this is essential to avoid its use as ecological mitigation land being compromised.</p>
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AR.1.18	ESC, SCC, English Heritage	Leiston Abbey The Applicant concludes that the effects of construction and operation on Leiston Abbey in amenity and recreation terms would [APP-267 para 15.6.98] be significant. (i) Is this conclusion agreed?	ESC agrees with this conclusion.
AR.1.19	ESC, SCC	Community Impact Report (CIR) The CIR indicates that there would be a significant adverse effect on the amenity of pedestrians and cyclists using the B1122 during the early years of construction (Table 2.2 of [APP-156]). Could this be mitigated to reduce this effect, if so how could this mitigation be secured?	ESC is working with SCC and the Applicant to explore opportunities for enhancing the B1122 for pedestrian and cyclists. However, this is very difficult to achieve in the early years of construction prior to the Sizewell Link Road becoming available. At that point there is still a complication with the northern stretch of the road from Middleton Road to Yoxford roundabout which will still have to accommodate HGVs and there is limited highway to incorporate cyclist or pedestrian improvements. ESC aspires to promote links from the coast at Sizewell to Darsham railway station (adjacent the Northern Park and Ride), this requires footpath and cyclist improvements. Working together the aspiration is to achieve appropriate mitigation for cyclists and pedestrians on the B1122 in the early years and post-early years but this is a work in progress currently.
AR.1.20	ESC, SCC	Recreational Receptors Do the Councils agree that the only recreational receptors significantly affected by the works on the main development site during construction would be as set out in para 15.3.55 of [APP-267] or are there other areas of concern that should be identified	ESC agrees with regards to receptors significantly affected but would prefer to have cyclists and horse-riders included in the definition of receptor. There may be receptors at other locations close to associated development sites that may be less significantly affected but the Applicant has correctly highlighted those which would be significantly affected.
AR.1.21	The Applicant, Relevant local	Methodology (i) In light of the complexity of the assessment and the time period over which the construction would last would it be reasonable to assume that the significance of	(iv) ESC has been involved with the Applicant in their assessment and has agreed the methodology used to date. ESC does not have resident expert in this subject and is led by the Applicant and colleagues at SCC who may be able to provide further detail.

	authorities (iv only)	effect could be greater than that which has been concluded? (ii) What degree of confidence is there in the assessment? (iii) As there is not an agreed methodology for assessing such affects and it is reliant upon professional judgement – has an independent review been undertaken of the findings? (iv) Do the Councils agree with the methodology and the significance of effect found by the Applicant with regard to impacts upon recreation and amenity?	With regards to significance of effect, ESC agrees that there will be impacts on recreational receptors and that these will vary in significance levels. Any mitigation proposed will not fully address these effects and therefore the Applicant is expected to provide a PROW Fund, resilience Funds for privately owned but impacted sites such as RSPB Minsmere and Dunwich Heath National Trust and contribute an element in relation to this aspect to the Natural Environment Fund.
AR.1.22	The Applicant, SCC, ESC	<p>Southern Park and Ride</p> <p>As part of the proposal to improve access to the Southern Park and Ride it is suggested [RR-762] that this may require traffic regulation orders to remove on street parking along the B1078. (i) Is this correct? (ii) If so, how many parking spaces would be removed? (iii) Where is it anticipated the residents using these spaces would park in the event that this is undertaken? (iv) What assessment has been undertaken to ensure no one with protected characteristics would be adversely affected by such a proposal?</p>	<p>ESC is invited to and attends meetings held by the Applicant with Wickham Market Parish Council, chaired by SCC Highways. Specific responses to the questions asked should come from the Applicant and SCC.</p> <p>SCC as local highway authority would be the responsible authority for updating traffic regulation orders. ESC would need to be involved if resident parking zones were to be introduced but we are not aware of any such proposals for Wickham Market. ESC is keen to ensure residents are fully aware of proposals and have the opportunity to comment through the proposed public consultation programme by Wickham Market Parish Council. ESC expects any resident with protected characteristics identified through the public consultation exercise to be supported and not disadvantaged or adversely affected by proposals in Wickham Market.</p>
AR.1.23	The Applicant, ESC, SCC	<p>Southern Park and Ride</p> <p>A number of RRs including [RR-521, RR-588, RR-762 and RR-898] indicate that the location of the P&R would adversely affect Wickham Market during construction and subsequent operation as a consequence of the additional traffic. (i) Please advise how</p>	<p>For matters relating to additional traffic ESC defers to SCC as local highway authority.</p> <p>The siting of the Park and Ride at Wickham Market – in the parish of Hacheston, evolved through pre-app consultation process to ensure that it did not adversely impact on an area of high archaeological importance.</p>

		the effects on the character and amenity of the town and its residents have been considered in selecting the location for the P&R and (ii) what mitigation if any would be secured to ensure that the effects are kept below a significant level?	The siting and design, although not complete, has continued to evolve including introduction of a landscape bund in the Change submission following requests from Wickham Market Parish Council. Additional mitigation is being discussed with the Applicant, the Parish Council, and SCC.
AR.1.24	The Applicant, SCC, ESC	Sizewell Link Road A number of residents including [RR-749] have expressed concern that the closure of Pretty Road would result in significant problems of severance, causing significant difficulties for accessing services in Saxmundham. Please respond to this concern	ESC understands that this concern has been raised and severance of communities is an issue. However, the Applicant is proposing amendments to the submission to address these concerns and therefore we defer to the Applicant to answer this question fully.
AR.1.27	ESC, SCC	Public Sector Equality Duty A number of RRs including [RR-681, 0790, 993] have been received identifying people with protected characteristics who indicate they would be disadvantaged by the proposed development. (i) Do the Councils consider adequate regard has been made to people with protected characteristics in identifying impacts and subsequently setting out appropriate mitigation? (ii) If in answering the above in the negative, what additional work should be undertaken to improve the assessment? (iii) What additional mitigation might be available?	ESC notes that the responsibility to be satisfied that the Public Sector Equality Duty has been met rests with the Secretary of State. However, in context of these questions, ESC's comments are as follows: (i) The Applicant submitted an Equality Statement [APP-158] as part of their submission and to identify where equalities impacts may be relevant in the decision-making process. There may be some instances where ESC is concerned that impacts to persons of protected characteristics has not been identified and therefore specific mitigation proposed such as with regard to severance of roads in locations resulting in elderly, infirm, young, disabled as an example struggling to cross a road. Direct mitigation is rarely proposed but could be secured in some instances. (ii) It may be that, working with the Applicant, ESC can identify further areas where mitigation could be proposed to address concerns arising from possible failure to address potential impacts. ESC also notes and agrees with proposals for Public Services Resilience Funding for the Council that could be used to address some of these impacts by ESC. (iii) Additional mitigation is difficult to identify at this point but an appropriately resourced Public Services Resilience Fund should suffice.

AR.1.28	ESC, SCC	<p>Parking Provision</p> <p>Do the Councils consider that the parking details set out in paras 3.4.143, 155, 178, 204 [APP-184] proposed is sufficiently clear and robust to avoid potential problems of fly parking such that this would avoid the need for additional provision/mitigation/monitoring of parking and be regarded as appropriate?</p>	<p>The potential for fly parking is raised in the LIR [REP1-045] at 31.14 in the event that the on-site car park is delayed. There is further reference to the potential for fly parking in other areas including close to the park and ride sites. It is imperative that appropriate levels of car parking be provided across the construction including at the main development site, the LEEIE, and at associated development sites to avoid the issue of fly parking arising which was an occurrence at Hinkley Point C. Fly-parking has impacts on ESC from an enforcement perspective and ESC from a highway perspective and we are seeking through an appropriately enforceable Implementation Plan to avoid the risk of fly-parking at Sizewell C.</p> <p>See also, response at TT1.36.</p>
AR.1.29	The Applicant, ESC, SCC	<p>Leiston</p> <p>Leiston cum Sizewell Town Council [RR-679] express a variety of concerns about the broader impacts upon the town of the proposed development beyond those considered in the ES assessment. Please respond to these concerns and advise what progress has been made in any joint working in particular on the broader cultural issues identified, town centre improvements sought, and enhanced cycle provision.</p>	<p>The LIR [REP1-045] has a Leiston specific section beginning at 36.8 which references (36.13) the ongoing work being undertaken between the Applicant, the Town Council, SCC and ESC with regards to mitigating for construction and operational traffic in Leiston, in particular through the centre of the town.</p> <p>The proposal includes provision for cycling and public transport access and a costed formal package is being worked up.</p> <p>There are wider issues outside of highway improvements highlighted in the LIR (paragraph 36.14) and in submissions made by Leiston-cum-Sizewell Town Council, including opportunities for improvements to existing community facilities in the town and cultural offerings. Some of these could potentially be supported through community fund proposals by ring-fencing elements of the wider fund to the Town Council as the primary hosting authority for the construction and operation.</p>

AR.1.30	The Applicant, ESC, SCC	Leiston The Town Council [RR-679] indicate they intend to stop vehicular traffic along Valley Road. Please respond to this proposal and what implication if any it might have for the development in the area.	Please refer to section 16.5 of the LIR [REP1-045] for reference to this proposal and how ESC is supporting this request alongside SCC as Highways Authority with responsibility for PROW.
AR.1.31	The Applicant, ESC, SCC	Leiston Please respond to the Town Council concerns [RR-679] about improvements required for cyclists safety at the Kenton Hills /Lovers Lane junction, and the need to provide appropriate surfacing for walkers along the beach during construction activities.	ESC defers to the Applicant and SCC to answer with regards to cyclist safety as this is a highway consideration. Diversions on the beach during construction and operation of the sea defences and beach landing facilities will require appropriate surfacing and this is expected to be undertaken by the Applicant. See also response to AR.1.36.
AR.1.33	The Applicant, ESC, SCC	Leiston The Town Council express concern [RR-679] that the mitigation for impacts from a large influx of predominantly male workers has not been fully addressed, with the only specific mitigation proposed the sports facilities at the Academy. The concerns in respect of the potential community impacts are much broader than just the effects on sports provision. Please respond to these concerns and explain how the ES has considered the broader community effects of a large influx of workers and what mitigation would be secured to address these community effects	Please see section 28 of the LIR [REP1-045] where we discuss in detail potential impacts arising from an influx of workers to Leiston and mitigation required to address this.
AR.1.36	ESC, SCC, The Applicant (part (iii) only)	Beach Landing Facility (BLF) Coastal Path (i) The BLF would affect the use of the coastal path, [APP-267, APP-270, AS-181] do you consider the mitigation proposed adequate during construction and operation of the	This is predominantly a PROW issue and ESC defers to SCC and agrees with their response to this question.

		proposed development? (ii) Would the route under the BLF or which is proposed to cross the BLF access road require to be surfaced in any way to ensure access for all? (iii) What surface would each of the two alternatives along the beach be?	
BIO.1 Biodiversity and ecology, terrestrial and marine			
Part 1 Biodiversity and ecology (terrestrial & marine) - General			
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: <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</p>	Documents which are confidential for nature conservation reasons generally relate to species which, if their detailed locations were made public, would be at risk from persecution. Although not made public, ESC, as Local Planning Authority, would expect to be provided with the relevant details by the Applicant as part of its statutory function. This is the case, for example, with Town and Country Planning Act planning applications which have the same constraints. This situation arose with EDF Energy Nuclear Generating Company's applications to relocate facilities with regards to badger reports. (DC/19/1637/FUL and DC/20/4646/FUL). On both occasions the reports were with-held from publication and only given in an unredacted form to Natural England, ESC and Suffolk Wildlife Trust. It is therefore acceptable to ESC for such documents to have restricted access.

		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.	
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>	<p>County Wildlife Sites (CWS) are the Suffolk equivalent of locally designated sites as recognised in paragraph 174 of the NPPF. They are designated by a panel which includes representatives from SCC, Suffolk Biodiversity Information Service (SBIS), Suffolk Wildlife Trust and Natural England. Details are collated and held by SBIS and made available to all Suffolk LPAs and as part of data searches to ecological consultants and other third parties.</p> <p>CWSs are designated using a set of criteria that follow Natural England guidelines. The primary selection criteria includes that the site must be of “substantive nature conservation value” and the detailed selection criteria includes the habitats listed under Section 41 of the NERC Act (previously referred to as Biodiversity Action Plan (BAP) habitats). Therefore, whilst the whole extent of a CWS may not be of a Priority habitat type, nevertheless the bulk of the site will be (with the rare exception of sites which are designated specifically for a particular rare species).</p> <p>Further detailed information on the CWS selection criteria is available here: https://www.suffolkbis.org.uk/suffolk-sites/cws</p>

<p>BIO.1.32</p>	<p>The Applicant, Natural England, ESC, SCC</p>	<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> <p>(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> <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>	<p>Part of the Suffolk Shingle Beaches CWS lies on the eastern side of the proposed Sizewell C platform, with the CWS extending south in front of the Sizewell A and Sizewell B stations. ESC’s understanding is that in the proposed plans part of the CWS would be permanently lost due to the construction of the Sizewell C hard coastal defence feature (HCDF) – the loss referred to as permanent irreversible in [APP-224] paragraph 14.7.190, and part would be temporarily lost during construction and then reinstated with stored material over part of the HCDF post construction (referenced in [APP-224] paragraph 14.7.188). The intention being that this reinstatement would then allow shingle flora to re-establish.</p> <p>Whilst this mitigation may in theory be possible initially, sea level rise and coastal change is predicted to result in exposure of the hard defence in the operational lifetime of the power station, with its presence meaning that there is no opportunity for any natural rollback of the CWS habitats. Despite this no additional measures are proposed to address this impact. Survey work has indicated that the vegetated shingle habitat is of national importance and ESC therefore considers that appropriate long-term mitigation/compensation measures must be secured.</p> <p>ESC also notes that the change to the original submission in relation to coastal defences moves the hard coastal defence feature closer to the sea, with the requirement for recharge of the soft coastal defence then likely to be required earlier in the operational phase. Dependent on the frequency of such recharge activity it is possible that vegetated shingle flora will never adequately re-establish on the reconstructed CWS area and therefore permanent loss of this part of the CWS will occur even earlier in the operational life of the power station. ESC consider that this will result in a permanent impact of at least Moderate Adverse, Significant level which is not mitigated or</p>
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			compensated for as part of the development proposals, ESC do not consider that this is acceptable.
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Part 2 Biodiversity and ecology (terrestrial) - Main Development Site

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.

The next set of questions address construction effects on plants and habitats, paragraphs 14.7.22 – 14.7.223

BIO.1.68	The Applicant, Natural England, SCC	<p>[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?</p>	<p>Coronation Wood was lawfully felled in late 2020/early 2021 as part of works for the Sizewell B relocated facilities development approved under planning permission reference DC/19/1637/FUL – the Wood was lawfully felled under this consent. A subsequent planning consent for a slightly revised Sizewell B relocated facilities scheme was approved under reference DC/20/4646/FUL, although this did not change the assessment of impact or secured mitigation measures in relation to Coronation Wood. These measures included replacement planting which has been undertaken on Pill Box Field (to the south of the Sizewell complex). The assessment of effects resulting from the loss of Coronation Wood included within the DCO application relates to that provided as part of the planning applications. As the DCO uses the Rochdale Envelope approach and considers the worst-case impacts, ESC does not consider the fact that the felling has already been undertaken (as part of the implementation of a lawful planning consent) materially changes the outcome of the assessment presented within the DCO application.</p>
BIO.1.73	Natural England, ESC, SCC, SWT	<p>[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</p>	<p>ESC agrees that there is the potential for the inter-relationship effects identified in [APP-224] paragraph 14.7.222 to occur. ESC also considers that there may be the potential for inter-relationship effects to occur for particular Important Ecological Features (IEFs) (for example for bats, effects arising from roost habitat loss and connectivity</p>

		mitigation and proposals are implemented? What is ESC's view as the authority which will be enforcing the mitigation proposals?	<p>fragmentation from habitat loss and noise/light disturbance), however these may be better considered as part of the overall assessment on each individual IEF rather than in these paragraphs.</p> <p>As the potential inter-relationship impact identified in the ES relates to Sizewell Marshes SSSI we primarily defer comment on this matter to Natural England. However, it is ESC's understanding that if the mitigation measures proposed for both individual identified impacts (hydrological change and air quality change) are successful then a significant inter-relationship impact is unlikely to occur. Measures are proposed to monitor this and if necessary additional mitigation measures, along the lines of those described in [APP-224] paragraph 14.7.223, could be implemented. Any additional mitigation measures related to the SSSI must be agreed with Natural England (and any other relevant stakeholders) prior to implementation.</p> <p>Also, whilst ESC will be the authority responsible for enforcing implementation of the mitigation proposals, as these measures relate to mitigating impact on a SSSI, ESC consider that Natural England, as the statutory nature conservation organisation, will also have a key role to play in this process.</p>
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.	(b): ESC remains concerned about the potential for hydrological changes to occur during the operational life of the power station, however ESC does not have specialist expertise on hydrological modelling and therefore defers detailed comments on this matter to Natural England and the Environment Agency.
The next set of questions address mitigation and monitoring for plants and habitats, paragraphs 14.7.270 - 280			
BIO.1.78	The Applicant,	[APP-224] para 14.7.274, para 14.7.280.	ESC considers that it is unlikely that there is a single threshold for requiring the implementation of further local mitigation measures as it

	ESC, SCC, Natural England	<p>Is there a threshold for requiring local mitigation measures? 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>	<p>will be dependent on exactly what impact is occurring and which habitat or species is being affected.</p> <p>ESC understand that local land managers include the RSPB and the National Trust who own and/or manage a large part of the relevant designated sites. ESC also understand that both of these organisations are engaged in the examination in relation to this matter.</p> <p>In relation to securing the required monitoring and mitigation measures, it is ESC's understanding that the S106 will secure the necessary measures and their funding (as part of the Minsmere and Sandlings (north) Mitigation Measures; the Minsmere and Sandlings (north) Contingency Fund; the Minsmere and Sandlings (north) Recreational Monitoring Plan; the European Sites Mitigation Measures; the European Sites Access Contingency Fund and the European Sites Recreational Monitoring Plan). The implementation of these mitigation and monitoring measures will be overseen by the Ecology Working Group and the Environmental Review Group, both of these groups include representatives from ESC, SCC and NE. Whilst ESC are content with the principle of the mechanisms described for delivering this particular mitigation and monitoring, ESC have not yet seen the details for the mitigation and monitoring plans or the contingency funds. ESC therefore reserves the right to make further comments on this topic once this information is available.</p>
The next set of questions address Tables 14.12 and 14.13 – summary of effects, construction and operation respectively			
BIO.1.79	Natural England, SCC, ESC	<p>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?</p>	<p>ESC has significant concerns about the conclusions presented in the application in relation to impacts on Sizewell Marshes SSSI, particularly with regard to the proposed habitat creation compensation measures. Details of these concerns are set out in paragraphs 8.31 to 8.36 of the LIR [REP1-045].</p>

BIO.1.80	Natural England, SCC, ESC	<p>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?</p>	<p>ESC is disappointed that no further mitigation or compensation measures are proposed to address the significant impact identified on the Sizewell Levels and Associated Areas CWS and Southern Minsmere Levels CWS. Whilst it is acknowledged that habitat creation across the wider Sizewell Estate post-construction is proposed which will result in an overall increase in the amount of semi-natural habitats available on the estate, this is not currently secured through requirements or obligations across the whole estate (only within the application red line boundary). Therefore, there appears to be a lack of certainty that this wider habitat creation can be adequately secured.</p> <p>In addition to this, these new habitats will not be available until later into the operational phase of the power station and therefore there will be a net loss of CWS habitats in the construction and early operation phases (while newly created habitats establish). Additional offsite measures (potentially through the Natural Environment Fund identified in the draft S106) are required to address this impact.</p>
BIO.1.81	Natural England, SCC, ESC	<p>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?</p>	<p>The ES identifies that the long-term presence of the power station sea defences will result in a Moderate Adverse, Significant impact on the Suffolk Shingle Beaches CWS, part of which is immediately in front of the development site. Sea level rise and coastal change is predicted to result in exposure of the hard defence in the operational lifetime of the power station with its presence meaning that there is no opportunity for any natural rollback of the CWS habitats. Despite this no additional compensation or offsetting measures are proposed to address this impact. Survey work has indicated that the vegetated shingle habitat is of national importance and therefore ESC is of the opinion that appropriate long-term mitigation/compensation measures must be provided.</p> <p>ESC also notes that the change to the submission in relation to coastal defences moves the hard coastal defence feature closer to the sea,</p>

			with the requirement for earlier recharge of the soft coastal defence then likely to be required. Dependent on the frequency of such recharge activity it is possible that vegetated shingle flora will never adequately re-establish on the reconstructed CWS area and therefore permanent loss of this part of the CWS will occur even earlier in the operational life of the power station. This will result in a permanent impact of at least Moderate Adverse, Significant level which is not mitigated or compensated for as part of the development proposals, we do not consider that this is acceptable.
The next set of questions addresses invertebrates, section 14.8.			
BIO.1.89	Natural England, SCC	[APP-224] para 14.8.67. Please would NE and SCC give their view on the effect on invertebrate assemblages in Compartment 5.	Whilst ESC defers to Natural England’s expertise in relation to the assessment of impacts on invertebrates, ESC is concerned that the impacts arising from the direct loss of habitats in Compartment 5 have not been fully mitigated. [APP-224] paragraphs 14.8.66 and Table 14.16 refer to reinstatement of coastal habitats following the construction of the HCDF, however as set out in our answers to questions BIO.1.32 and BIO.1.81 ESC has significant concerns about the likely success and longevity of these habitats and therefore their ability to support the invertebrate assemblage currently present in Compartment 5.
BIO.1.90	The Applicant, Natural England, SCC	[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 re Compartment 13 and elsewhere.	Whilst ESC defers to Natural England’s expertise in relation to the assessment of impacts on invertebrates, ESC’s understanding is that the Applicant’s assessment has concluded that even with the implementation of all reasonable, available mitigation measures, incidental mortality of species through nocturnal lighting cannot be reduced to negligible but that the residual effect is considered to be Minor Adverse, Not Significant. Other than controls over the type, location and timing of use of lighting (all of which can be implemented through the relevant Lighting Management Plan), ESC are not aware of

		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.	any other direct mitigation measures which could be implemented to reduce the residual impact further.
The next set of questions addresses fish, section 14.9. NONE			
The next set of questions addresses amphibians, section 14.10. NONE			
The next set of questions addresses reptiles, section 14.11.			
The next set of questions addresses ornithology, section 14.12.			
The next set of questions address bats on the Main Site, section 14.13 of [APP-224] NONE			
Part 3	Biodiversity and ecology (terrestrial) - Northern Park and Ride NONE		
Part 4	Biodiversity and ecology (terrestrial) – Southern Park and Ride NONE		
Part 5	Biodiversity and ecology (terrestrial) - Two Village Bypass		
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.	ESC does not consider that Foxburrow Wood CWS is of ‘International’ importance under the CIEEM guidelines. As a CWS we considered it to be of ‘County’ level importance for the purposes of EIA. The reference to ‘International’ level importance in paragraph 7.4.7 [APP-425] appears to relate to the other sites referenced which are of ‘International’ importance (other than the SSSI which is of ‘National’ importance).

<p>BIO.1.142</p>	<p>The Applicant, SCC, Natural England</p>	<p>[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).</p>	<p>The ExA are correct in identifying that new planting will only address fragmentation impacts if it is located in the correct location(s). Whilst to a degree the new planting proposed (as shown in Figures 2.1 to 2.4 in Volume 5 Two Village Bypass Chapter 2 Description of Two Village Bypass Figures 2.1 - 2.6 [APP-413]) will help reduce fragmentation related impacts, we do not consider that it will directly replace the connectivity which will be lost. As shown on the drawings, the planting will largely follow the new road corridor and will therefore mostly be perpendicular to the existing woodland and hedgerow that will be lost. Therefore, whilst the total amount of planting is greater than that proposed to be lost, it will not necessarily provide the same connectivity as is currently present in the landscape (e.g., between Foxburrow Wood CWS and Pond Wood CWS and at Whin Covert). Such loss of connectivity would be potentially particularly significant for bats (see also ESC’s answer to BIO.1.144) and other non-flying terrestrial protected and/or UK Priority mammal species such as badger and hedgehog.</p>
<p>BIO.1.144</p>	<p>The Applicant, Natural England, SCC</p>	<p>[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 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?</p>	<p>ESC’s understanding is that the proposed ‘bat hop overs’ would take the form of allowing canopy vegetation to close over the road rather than being physical structures. This is described in paragraph 7.6.154 of [APP-425]. ESC does not consider that relying on vegetation growth in this way as mitigation for the loss of connectivity for bats is acceptable (particularly given the time it would take for trees to grow to such a size) and it does not seem practical (or safe) from a highway perspective either. It therefore seems unlikely to be sufficient to maintain the required landscape connectivity and justify the “Not Significant” ES conclusion.</p> <p>As recognised by the ExA, the available evidence on the use of bat gantries (which are often structures with strung wires across the carriageway) suggests that they are unlikely to be a successful</p>

			<p>mitigation measure (details on studies supporting this conclusion are available here: https://www.conservationevidence.com/actions/978 (accessed 07/05/2021)). ESC considers that better connectivity for bats across the carriageway would be achieved by construction of the proposed footbridge as a 'green bridge' which would include vegetation planting both on the bridge itself and connected to existing vegetation corridors at each end (including linking to Foxburrow Wood CWS). Whilst ESC acknowledges that the published evidence of the use of green bridges by bats is limited (details available here: https://www.conservationevidence.com/actions/979 (accessed 07/05/2021)), nevertheless ESC considers it to be much more likely to be successful mitigation than bat gantry type structures.</p>
BIO.1.147	The Applicant	<p>[AS-184] Similarly, at section 5.2 b)i)c), paras 5.2.27 and following, additional floodplain mitigation is described.</p> <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>	<p>As set out in paragraph 8.119 of the LIR [REP1-045], ESC welcomes that the impact of the loss of this habitat is now fully acknowledged in the ES. Flood plain grazing marsh is a UK Priority habitat under Section 41 of the Natural Environment and Rural Communities (NERC) Act (2006) and therefore impacts on it must be appropriately addressed following the mitigation hierarchy. However, we remain concerned that whilst the mitigation proposed could result in a qualitative improvement in the remaining flood plain grazing marsh habitat, there will still be a net loss of area of this habitat type. As set out in LIR paragraph 8.111, we are also concerned that whilst it is proposed to secure this qualitative improvement through a Landscape and Ecology Management Plan (LEMP), no such document has yet been submitted into the Examination and therefore interested parties are not able to comment on it in more detail.</p>
BIO.1.149	The Applicant, Natural England, SCC	<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</p>	<p>Whilst ESC defers to SCC, as highway authority, on the point of adoption, ESC is concerned that as presented there may either be a gap between management by the undertaker ceasing and management by the highway authority commencing, or that there may</p>

	and ESC and Highways England	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, Highways England and ESC also comment.	be areas within the scheme which it is not appropriate or possible for the highway authority to adopt. Given that achieving appropriate levels of ecological mitigation in part relies on long term beneficial management of the landscape planting this matter must be addressed as part of the examination.
Part 6 Biodiversity and ecology (terrestrial) - Sizewell Link Road			
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	Whilst ESC defers to SCC, as local highway authority, on the point of adoption, ESC is concerned that as presented there may either be a gap between management by the undertaker ceasing and management by the highway authority commencing, or that there may be areas within the scheme which it is not appropriate or possible for the highway authority to adopt. Given that achieving appropriate levels of ecological mitigation in part relies on long term beneficial management of the landscape planting this matter must be addressed as part of the examination.

		but, under a normal s.38 agreement, possible) refusal to adopt. Please will Natural England, SCC and ESC also comment.	
Part 7 Biodiversity and ecology (terrestrial) - Yoxford Roundabout NONE			
Part 8 Biodiversity and ecology (terrestrial) - Freight Management Facility ("FMF")			
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.	ESC defers matters related to drainage design to SCC as the Lead Local Flood Authority. However, ESC's understanding is that the water storage structures described are intended to intercept surface water runoff and prevent any potential pollution incident (from a fuel spill etc.) from reaching more ecologically sensitive areas. Should such an event occur, and damage be done there could be the potential for a breach of relevant legislation and therefore this could explain why the measures have been listed as Tertiary Mitigation. ESC also note that similar measures are listed under Primary Mitigation (paragraph 7.5.4) in the same chapter [APP-523] . ESC therefore defers to the Applicant to explain the rationale behind the content of these sections.
Part 9 Biodiversity and ecology (terrestrial) - Rail NONE			
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			
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.	Whilst ESC defers matters on wildlife licensing to Natural England as the statutory nature conservation organisation and licensing authority, our understanding is that strategic approaches such as District Level Licensing for great crested newts cannot be used for NSIPs and therefore bespoke licences will be required for this project.

Part 10 Biodiversity and ecology (marine) - General 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. NONE			
Part 11 Biodiversity and ecology (marine) - Plankton NONE			
Part 12 Biodiversity and ecology (marine) - Benthic Ecology NONE			
Part 13 Biodiversity and ecology (marine) - Fish NONE			
Part 14 Biodiversity and ecology (marine) - Marine Mammals NONE			
Part 15 Biodiversity and ecology (marine) - Indirect Effects and Food Webs NONE			
Part 16 Biodiversity and ecology (marine) - Mitigation NONE			
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.	ESC’s understanding is that the Government’s current position is that mandatory Biodiversity Net Gain (as it is intended in the forthcoming Environment Bill (https://bills.parliament.uk/bills/2593)) does not apply to NSIPs (Net Gain – Summary of responses and government response (DEFRA, July 2019) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819823/net-gain-consult-sum-resp.pdf). However, Section 5.3.4 of National Policy Statement EN1 states that developments should conserve and enhance biodiversity and ESC would therefore expect to see this adequately addressed in the application.

			<p>In relation to Biodiversity Net Gain, the East Suffolk Council Suffolk Coastal Local Plan policy (SCLP10.1) (https://www.eastsuffolk.gov.uk/assets/Planning/Planning-Policy-and-Local-Plans/Suffolk-Coastal-Local-Plan/Adopted-Suffolk-Coastal-Local-Plan/East-Suffolk-Council-Suffolk-Coastal-Local-Plan.pdf) states in paragraph three that <i>“New development should provide environmental net gains in terms of both green infrastructure and biodiversity. Proposals should demonstrate how the development would contribute towards new green infrastructure opportunities or enhance the existing green infrastructure network as part of the development. New development must also secure ecological enhancements as part of its design and implementation, and should provide a biodiversity net gain that is proportionate to the scale and nature of the proposal.”</i></p> <p>The Applicant has presented a Biodiversity Net Gain assessment for the development as part of the application, and ESC understand that this is being updated to reflect accepted scheme changes. Whilst ESC considers that the use of the metric (currently DEFRA Metric v2.0) designed to measure Biodiversity Net Gain is a sensible approach to providing some quantification of the amount of ecological loss/gain delivered by the project, the deficiencies of the metric must also be accounted for when determining whether genuine gain is being delivered. In particular, as acknowledged in the Applicant’s Biodiversity Net Gain report, the metric calculations cannot account for impacts on designated nature conservation sites (on which the ES identifies direct impacts) and nor can it account for impacts on species or more subtle ecological impacts such as fragmentation of connectivity caused by habitat removal during construction (even if these habitats are eventually replaced). Given that there is the potential for the project to have unmitigated residual biodiversity impacts, ESC considers that the conclusions presented in the Applicant’s Biodiversity Net Gain report</p>
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			must be used as only part of the consideration of the overall ecological impact of the project.
HRA.1 Habitats Regulations Assessment NO COUNCIL QUESTIONS			
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</p>	<p>ESC is eager to ensure that the compensatory measures set out in the Shadow HRA Report: Compensatory Measures, and in any other documents, are appropriately secured through the provisions of the draft DCO.</p> <p>As such, ESC would welcome confirmation from the Applicant that such provisions are secured in the draft DCO, alongside an explanation of the mechanism by which they are secured. This is not currently clear to ESC.</p>

		<p>management measures, including the proposed wetland habitats, is to be found or provide this information.</p> <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 [AS276] 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>	
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CC.1 Climate change and resilience NO COUNCIL QUESTIONS

CG.1 Coastal Geomorphology

<p>CG.1.2</p>	<p>The Applicant, EA, Natural England, ESC</p>	<p>Impacts on coastal processes The EA [RR-0373] in relation to the residual uncertainty associated with predicting future changes to the geomorphology of the greater Sizewell Bay, as well as to key driving processes such as sea level rise and wave climate, considers this to be mitigated by SZC’s commitment to continued engagement with the Marine Technical Forum of regulators as part of the Monitoring and Mitigation Plan (MMP):</p> <p>(i) Please confirm that the MMP and proposed means of enforcement would provide sufficient security in that respect, particularly in relation to the agreement and funding of specialists to closely monitor the evolution of the coastline and agree and implement the most appropriate measures to manage any unforeseen impacts.</p>	<p>(i) ESC do not regard engagement with the MTF to be mitigation in itself.</p> <p>ESC considers the CPMMP process has potential to provide sufficient security to ESC in relation to effective management of the impacts of the development including detection of and responses to future changes to the geomorphology of the greater Sizewell Bay. ESC is generally content with progress made with plan development. ESC is sceptical about the long-term sustainability of the SCDF, in particular if reliant on maintenance only – i.e. demanding secondary mitigation. A concern is that the Applicant/Cefas insist that the HCDF will not become exposed because it will always be protected by the managed SCDF. This assumption could, by implication, limit the scope of monitoring and mitigation that might otherwise be planned for. Enforcement of obligations linked to the management of the impacts caused by the development will be by DCO Requirement and Marine Licence condition.</p> <p>Discussions are underway with the Applicant on the detailed content of both the Coastal Processes MMP and DCO Requirements. These are not yet agreed.</p> <p>Please refer to the SoCG for an up-to-date position summary.</p> <p>(ii) A HCDF detailed engineering report is due for submission at Deadline 2 (2nd June). ESC will comment as soon as practicable once the submission has been reviewed.</p> <p>ESC has agreed with the Applicant that there will be a DCO requirement (provisionally 12B) under which ESC will review and</p>
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		<p>(ii) Please indicate when it is anticipated that the detailed design process for the Hard Coastal Defence Feature (HCDF) will take place and how that process would be appropriately appraised and approved?</p> <p>(iii) Are there any draft DCO changes that would be required to exercise sufficient control over that process?</p>	<p>approve the HCDF design in consultation with other MTF partners. The wording of the Requirement is not yet agreed.</p> <p>(iii) Yes. ESC and the Applicant are in negotiation over DCO Requirement amendments on a number of issues, including the Coastal Processes MMP process and the approval of design of structures, that have potential to affect coastal processes including the HCDF. Wording in Requirement 7A in the latest published DCO [AS-297] is not agreed by ESC.</p>
CG.1.3	The Applicant, ESC	<p>Impacts on coastal processes The East Suffolk Council [RR-0342] indicates that the draft MMP prepared by SZC Co. is currently under consultation with key stakeholders in parallel with the DCO process. There are several points of contention between ESC and SZC Co. In relation to the identified points of contention between ESC and SZC:</p> <p>(i) Is it agreed that a precautionary principle should be applied to assumptions on potential future critical requirements including Impact Assessments, incomplete designs, and the extent of the area to be monitored?</p> <p>(ii) If not, why not?</p>	<p>(i) and (ii) It is ESC's view that a precautionary principle must be applied by the Applicant and that the Applicant's approach to date has not demonstrated this to ESC's full satisfaction. The Applicant will not accept the possibility that the HCDF toe could be exposed in a prolonged freak weather event. Whilst ESC agrees this is unlikely, there needs to be a plan in place should it occur.</p> <p>The Applicant's position is that their assessment and application of potential worst-case scenarios in the May 2020 ES is sufficiently robust [APP-311].</p> <p>ESC considers that the Applicant has used a thorough and comprehensive evidenced based approach in forecasting future shoreline change conditions and the potential impacts that may arise from the development assessed within those constraints. However, in the view of ESC, the time scale involved, to 2140 at least, goes beyond the range within which those techniques can be relied upon to identify outcomes that are potentially worst case. ESC considers that more extreme potential coastal change scenarios are possible and should be considered at the design stage. ESC considers that Climate Change</p>

		<p>(iii) If so, please suggest how this should be secured through the DCO, including any amended drafting for the draft DCO or other associated documentation?</p> <p>(iv) Please comment further on the project plan and budget and the assumptions to be made as regards the period that the MMP will remain active explaining any points of difference.</p> <p>(v) Please specify the means, in the event of a transfer by SZC Co. of its interest in the site to a new owner, whereby it is suggested that the new owner would be bound by covenant or other legal mechanism to adopt responsibility including costs for maintaining the MMP process setting out any drafting changes to the DCO documentation that would be required to achieve that.</p> <p>(vi) Please comment further on the proposal for an independent body to monitor the MMP, and to direct SZC Co. mitigation and compensation requirements.</p> <p>(vii) Please provide an update on the Council's consultation with MMO as regards the delivery of the MMP.</p>	<p>impacts may alter significantly and therefore Climate Change response policy will evolve over the development life. The future risk of the development being required to manage what is currently beyond reasonable prediction must be considered.</p> <p>Examples of potential significant future impacts are that (1) the SCDF may become unsustainable during the station life leading to the HCDF becoming exposed and (2) the HCDF foundations may be undermined requiring adaption (seaward advance of 18m) before 2140.</p> <p>The Applicant should consider an approach consistent with that applied in other recent major coastal management projects in England which have been required to take a long-term view (i.e., Thames Estuary 2100 Plan). These have taken the adaptation pathways approach to managing existing defences and considered how they will 'adapt' their approach as time progresses and things change. In contrast, the Applicant is proposing to build a coastal defence in a location known to be dynamic and prone to the effects of sea-level rise and climate change, however, have only put forward a single mitigating action should the current coastal change and erosion forecast worsen. There is no 'range' of options proposed should an unforeseen acceleration in coastal change occur, compounding the likely impacts generated through moving the defence seaward.</p> <p>(iii) ESC and the Applicant's positions are not yet aligned on this matter but may become so. The Applicant's reports covering HCDF and SCDF design and resilience that are currently (12/5/21) under draft, may lead to common ground on this. ESC could have protection in this matter by virtue of the proposed Requirements drafted by ESC giving ESC power to approve: the HCDF and SCDF design, ongoing maintenance actions on a 5-year cycle and actions specified in the Coastal Processes MMP. These proposed Requirements are not yet agreed by the Applicant.</p>
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			<p>ESC requires the Coastal Processes MMP to remain active whilst the HCDF exists unless / until a future study that recommends cessation of monitoring and mitigation, potentially with other compensation measures, is agreed by ESC plus other MTF members, or their successors.</p> <p>(iv)ESC defer to the Applicant to respond.</p> <p>(vi)It is not clear to ESC who has suggested an independent body, ESC is not aware of the proposal in question. The subject would require further discussion within the ESC group, with the Applicant and ultimately through MTF. The aim of ESC is for elected community representatives to be involved in the decision-making process to continue the principle established by the Suffolk Coast Forum – https://www.coasteast.org.uk/wider-work</p> <p>ESC’s current thinking is that where ESC is the Approval and Enforcement Authority for actions – typically in the management of structures (H and SCDF), and mitigation, above MHWS – ESC would seek to ratify decisions with the Community body after consultation with the MTF. ESC intends to consult with other MTF members on the design and application of this process. This has not yet happened. An independent body may unacceptably attempt to take some of that due process away from ESC which would not be acceptable.</p> <p>(vii)ESC considers it preferable for one organisation to lead on management and approval of the Coastal Processes MMP and would prefer for that to be ESC – in consultation with other MTF members.</p> <p>It is agreed with MMO that ESC and MMO would act as the Approval and Enforcement body for works landward and seaward of the MHWS line respectively.</p>
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CG.1.4	The Applicant, SCC, EA	<p>Impacts on coastal processes Suffolk County Council [RR-1174] identifies as an area of key concern:</p> <p><i>“xii) A comprehensive coastal change Monitoring and Mitigation Plan (MMP), with an allocated mitigation/compensation budget, that allows determining if and to what extent an observed coastal change in the Sizewell C zone of influence is attributable to the development, and appropriate and required mitigation measures; and</i></p> <p><i>xiii) Provision for the cost of full removal of the hard sea defence as part of the decommissioning process unless and until a future study changes this position”.</i></p> <p>(i) Please indicate the progress of agreeing the MMP; any associated funding for mitigation/compensation and the removal cost for the hard sea defence; (ii) Please identify any outstanding areas of dispute in relation to the MMP, funding and the removal of the hard sea defence; (iii) Has the means whereby the MMP, funding and other costs would be secured been agreed?</p> <p>If not, please identify any matters which remain in dispute?</p>	<p>(i) Please refer to our response at CG.1.2. ESC considers that the Applicant has committed to funding mitigation identified as required by the Coastal Processes MMP. ESC has proposed a Requirement that states <i>‘Sizewell C Co. shall actively manage and fully fund the CPMMP process until decommissioning and removal of marine works including the Hard Coastal Defence Feature unless otherwise agreed by the MTF’.</i></p> <p>ESC considers that the Applicant has accepted ESC’s objective that the default position for forward planning and budget setting is that the HCDF will be removed as part of decommissioning unless a future report / environmental statement concludes it can remain, possibly with compensation, is agreed by the MTF. ESC has proposed a draft Requirement to this effect. It has not yet been accepted by the Applicant.</p> <p>(ii) The Coastal Processes MMP is a work in progress. Further detail is required from the Applicant to complete it. Notable current points of difference include:</p> <ul style="list-style-type: none"> • The extent of baseline monitoring scope. ESC requires inclusion of Thorpeness village and coverage of the Coralline crag outcrop. • The design of mitigation beyond the HCDF frontage. ESC requires clarity on how the Applicant will identify how a natural ‘without Sizewell C’ shoreline would develop to compare with a ‘with Sizewell C’ scenario which ESC considers is key to the design of mitigation. • Governance. • Dispute resolution. • Change control. <p>(Some of the above will require consultation within the MTF group).</p> <p>Funding.</p>
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			<p>ESC considers that as of May 2020 all Coastal Processes MMP actions were obligations in the DML. Now that parts of those Coastal Processes MMP actions are outside the DML remit, ESC considers that funding obligations must be restated in Requirements. The draft ESC Requirement is explicit in this regard. It is not yet agreed with the Applicant.</p> <p>HCDF removal. This is subject to confirmation of the Applicant’s agreement to commit to removal as default unless changed by a future EIA. The Applicant has proposed text be added to future revisions of the Coastal Processes MMP to cover both ongoing funding and continuation of actions to cessation or HCDF removal. ESC has proposed a draft Requirement that specifies HCDF removal as a default action unless a future study (Decommission EIA) recommends retention is approved by the MTF. This has not yet been agreed by the Applicant.</p> <p>CPMMP ESC has drafted a Requirement explicitly stating that the Applicant will fund the Coastal Processes MMP process. This has not yet been accepted by the Applicant.</p>
CG.1.6	The Applicant, SCC, EA	<p>Impacts on coastal processes Suffolk County Council [RR-1174] notes that the draft DCO proposes not to remove the Sizewell C coastal defence after decommissioning, unless required by the Pre-Decommissioning Environmental Impact Assessment.</p>	The Applicant should respond to this question.

		<p>The Council does not consider this acceptable, and expects the Funded Decommissioning Programme to make provision for the cost of full removal of the hard sea defence as part of the decommissioning process, when safe to do so, unless and until a future study, informed by monitoring and other data, changes this position.</p> <p>Why has the removal not been included in the Funded Decommissioning Programme if there is potential for this to be necessary?</p>	
CG.1.7	The Applicant, ESC	<p>Impacts on coastal processes The MMO [RR-0744] advises that any coastal monitoring plan should also be included as a requirement. This is because for any works landward of MHWS, East Suffolk Council will be the enforcement body; any monitoring that relates to the SCDF and HCDF will be of relevance to the Council.</p> <p>Please comment on this matter and, if agreed, set out any drafting changes required for the draft DCO to accommodate this.</p>	<p>ESC agrees with the MMO and has drafted a Requirement to cover ESC's objectives. In the latest draft DCO that ESC has seen the Applicant has included alternative text in requirement 7A that allows for the Coastal Processes MMP to be implemented as approved [AS-143].</p>
CG.1.8	The Applicant, MMO, ESC	<p>Impacts on coastal processes The MMO [RR-0744] advises that monitoring options to address the uncertainties in the scale of predicted impact and hence the level of monitoring</p>	<p>ESC considers that the MMO comments are reasonable. ESC has submitted comments on the Coastal Processes MMP to the Applicant post submission of our RR and received responses.</p> <p>The Coastal Processes MMP is a work in progress and, we understand, from discussions with the Applicant, is not going to be finalised within</p>

		<p>should be included in the MMP in particular for the monitoring of the BLF. It also advises that more detailed monitoring plans must be agreed for each project element and method. The MMO makes a number of other detailed criticisms of the MMP. Please comment on the criticisms made and provide an update as to the progress of agreeing the draft MMP.</p>	<p>the DCO Examination period, therefore not all concerns raised by consultees through the process to date are / will be fully resolved. ESC presumes the intention is for these to be resolved through discussion within the MTF group in parallel with or after the Examination period.</p> <p>ESC will work to a timetable to advance further consideration of the Coastal Processes MMP during the Examination if that is required by the ExA but ESC do not consider it essential to be completed in that time period as it can be covered by Requirement.</p> <p>ESC notes that MMO, under DML, and ESC, under a Requirement, must approve the Coastal Processes MMP before work can start therefore both MMO and ESC have powers to shape the Coastal Processes MMP to their satisfaction post DCO [AS-143]. Each regulator would approve the elements of the Coastal Processes MMP that are within their respective remits.</p>
CG.1.9	MMO, ESC	<p>Impacts on coastal processes The draft Coastal Processes Monitoring and Mitigation Plan [AS-237] provides information on the mitigation proposed.</p> <p>Please indicate whether that mitigation is considered to be satisfactory and, if not, suggest any changes considered to be necessary.</p>	<p>The principles for monitoring and mitigation as outlined in the draft January 21 Coastal Processes MMP, are accepted as satisfactory with more detailed content subject to further development.</p> <p>The January works design changes, in particular the seaward advance of part of the HCDF during construction and the potential advance of the remainder as Adaption later in the operational life, have led to new concerns being raised on the design and sustainability of the SCDF.</p> <p>These concerns are in the process of being addressed by the Applicant. ESC's view of the Coastal Processes MMP content will be updated upon receipt of the new assessment information to be provided by the Applicant. We will submit further consideration to the ExA once our assessment of additional information is complete.</p>

CA.1. Compulsory acquisition NO COUNCIL QUESTIONS			
CA.1.3	The Applicant	<p>The scope and purpose of the Compulsory Acquisition Powers sought</p> <p>The SoR [APP-062], paragraph 5.5.8, states that Article 25 would authorise SZC Co. to enter onto any land within the Order Limits or which may be affected by the authorised development (whether or not that land is within the Order Limits) to undertake various survey and investigative works, including trial holes. Article 25(2) provides for a 14 day notice period to be given to the owner/occupier of the land. Please provide justification for a 14 day notice period and consider whether this is unreasonably short and should be extended to 28 days?</p>	ESC considers that a notice period of 28 days is more appropriate and would urge the Applicant to make this change.
CI.1 Community Issues			
CI.1.0	The Applicant ESC	<p>Accommodation Strategy Within the Accommodation Strategy [APP 613] para 5.4.10 – reference is made to the layout being shared with ESC.</p> <p>(i) Please provide a copy of the layout and indicate the facilities that are to be included.</p> <p>(ii) Please provide an update of the latest position on the delivery, operation and management of the site and how these components would be secured through the DCO</p>	The Applicant will provide a response to (i) and (ii).
CI.1.1	The Applicant	Land East of Eastlands Industrial Estate (LEEIE)	The Applicant should answer with regards to the strategy. From an ESC perspective we expect there to be promotion of alternatives to

	Leiston Town Council ESC SCC	Please provide an update on the strategy that has been developed for the movement of workers from the main development site to and from the LEEIE and between the LEEIE and Leiston Town.	motorised vehicles such as pedestrian and cycling opportunities to move between the main development site, the LEEIE and the town centre. In addition, it is expected that the Applicant will provide motorised transport – hopefully electric or hydrogen powered between the campus / main development site / LEEIE / Leiston town centre and Leiston Leisure Centre.
CI.1.8	ESC, SCC	Accommodation Strategy Are there any concerns regarding the effect of demand for temporary worker accommodation and any effect this may have on the private rented sector and or holiday accommodation?	Please see Chapter 29 of the LIR [REP1-045] for ESC’s assessment of the effect of demand for temporary worker accommodation and any effect this may have on the private rented sector and / or holiday accommodation.
CI.1.9	The Applicant, ESC	Accommodation Strategy Licensing or planning restrictions may exist for caravanning and camping sites regarding occupancy. (i) Are there similar restrictions for example planning conditions for other property within the tourism stock such as holiday cottages? (ii) If there are, how would this effect the availability of such accommodation and has this been factored in? (iii) Would ESC support the temporary removal/suspension of such conditions or licence restrictions to enable this stock to be used for worker accommodation during the construction period?	(I) There will be some restrictions on some tourism stock such as holiday cottages that limits the time they may be rented to one person for, or requiring a break period but this would need to be checked on planning consents across the District. (ii) The Applicant is aware and has factored in that not all accommodation will be available to workers throughout the year. (iii) This has been discussed with the Applicant, and the support we could offer is discussed further at 29.36 of the LIR [REP1-045].
CI.1.11	The Applicant, ESC, SCC	Leiston The Town Council express concern that the mitigation for impacts from a large influx of predominantly male workers has not been fully addressed, with the only specific	A number of these concerns will be addressed through the Community Safety theme of the Section 106 agreement which covers: (a) community safety initiatives with the aim of reducing crime and disorder and anti-social behaviour; (b) safeguarding initiatives;

		<p>mitigation proposed the sports facilities at the Academy.</p> <p>The concerns in respect of the potential community impacts are much broader than just the effects on sports provision. Please respond to these concerns and explain how the ES has considered the broader community effects of a large influx of largely male workers and what mitigation would be secured to address these community effects.</p>	<ul style="list-style-type: none"> (c) initiatives that promote community cohesion and wellbeing; (d) community health/wellbeing (including mental and sexual health) services and initiatives; (e) initiatives with the aim of protecting vulnerable people against violence (e.g. gang violence), domestic abuse, and exploitation (e.g. trafficking, prostitution and modern slavery); (f) initiatives with the aim of raising awareness of and promoting the safe use of drugs and alcohol; and (g) initiatives with the aim of promoting road safety, <p>There will also be the opportunity for specific projects led by the voluntary sector and community organisations to be funded through the Community Fund.</p> <p>Through the S.106 mitigation measures, ESC also recognises the impact and issues that will be created through an influx of 5,900 NHB workers into East Suffolk and surrounding areas, with a particular impact on the Leiston community, where the local population will increase by 48% during the peak construction period, which will radically change the demographic of this town particularly and other towns and surrounding areas across East Suffolk. The East Suffolk CSP is proposing a number of mitigating measures to address the risk effects of the projected influx of NHB workers and provide support to the workers and local community to diffuse the potential tension in the area including – bolstering local Voluntary Community Social Enterprise groups to provide activities and support. Re-introducing successful schemes including pubwatch, Nightsafe and Town pastor schemes and bolstering existing schemes to promote responsible drinking, reduce risks and fears experienced by communities and to support vulnerable people in terms of the night-time economy. Training will be provided to local communities including publicans in conflict management.</p>
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			<p>Raising awareness provides necessary information in relation to the likely risks and effects and mitigating actions and measures to enable communities to stay safe. Provision of information packs and support to arriving workers to enable them to settle within the local community. Provision community events and activities to facilitate community cohesion and alleviate any potential tension between the Sizewell C workers and the local community.</p> <p>It is essential that the CSP mitigation measures and support to be provided through the CSP is secured through the s.106 support to recruit the Community Liaisons officers to work on behalf of the CSP to work closely with local communities to encourage reporting of impacts and issues, provide support and make referrals to local agencies to take the necessary action to promote community cohesion across local communities through a range of planned and proposed measures and actions. Regular monitoring of issues and impacts and working with local communities will ensure the appropriate reporting of issues and the appropriate action and address through the CSP and relevant partner or agency. Further detail in Chapter 28 of the LIR [REP1-045].</p>
CU.1 Cumulative impact			
CU.1.3	The Applicant, ESC, SCC	<p>Cumulative effects with other plans, projects and programmes ES Volume 10 Project-wide, Cumulative and Transboundary Effects, Chapter 4, Table 4.16 [APP-578], identifies those effects that have been found to be greater in-combination with the non-Sizewell C schemes than for the proposed development alone. For transport, this includes the A12 at Little Glemham and Marlesford. (i) Please explain further how the proposed mitigation would operate in practice and how this would satisfactorily overcome the anticipated cumulative</p>	<p>This question is highway related so ESC defers to SCC as local highway authority to respond.</p> <p>ESC would like it noted that any mitigation measures proposed such as additional crossing facilities would need to be assessed from a noise and air quality perspective to ensure one adverse effect is not replaced by another.</p>

		<p>moderate adverse effect on fear and intimidation; (ii) Please indicate whether there are any other steps which could be taken in mitigation of this adverse effect?</p>	
CU.1.12	The Applicant, ESC, SCC	<p>Cumulative effects with other plans, projects and programmes ES Volume 10 Project-wide, Cumulative and Transboundary Effects, Chapter 4 Assessment of Cumulative Effects with Other Plans, Projects and Programmes [APP-578], paragraph 4.4.54, indicates that it is possible that the significant adverse effect on fear and intimidation would not arise. The construction programmes for East Anglia ONE North and East Anglia TWO and the Sizewell C Project will be monitored through the transport review group throughout the construction phase of the Sizewell C Project and should there be a potential for the worst case traffic flows to arise concurrently, additional mitigation measures would need to be secured through the transport contingency fund, which is to be secured via the Section 106 Agreement. (i) Please explain further how the effect on fear and intimidation could be satisfactorily managed through the transport review group and transport contingency fund? (ii) Although the contingency fund is referred to in the Mitigation Route Map, Plate 1.1 [APP-616], it does not appear to be mentioned in the main mitigation route map</p>	<p>This question is highway related so ESC defers to SCC as local highway authority to respond.</p>

		tables. Please explain why not? (iii) Please outline the additional mitigation measures anticipated and explain how this would achieve the desired objective?	
CU.1.18	The Applicant, ESC	<p>Cumulative effects with other plans, projects and programmes</p> <p>ESC [RR-0342] accepts that the primary issues arising in the cumulative assessment are predominantly managed with the proposed transport strategy. However, one element that continues to raise concern is the A12 west of Woodbridge and the A12/A1094 junction to Aldeburgh pre: Two Village Bypass construction. (i) The Council is requested to explain further its stated intention to work with the Highway Authority to understand how capacity here can be increased and indicate the prospects of that objective being achieved? (ii) Please provide further explanation as to the anticipated timetable for the provision of the Two Village bypass and the scope for the Friday Street roundabout element of the Two Village Bypass to be brought online as soon as possible during the Sizewell C construction.</p>	<p>(i) ESC works closely with SCC as local highway authority and in particular with regards to SCC's Major Road Network consultation that it recently undertook consulting on improvements to the A12 between the A14 junction at 'Seven Hills' and the A1152 at Woods Lane. The outcome of that consultation and the next stages will be revealed by SCC in due course. ESC would welcome the enhancements to the A12 proposed in the MRN bid as these would address some known highway constraints that need to be addressed in order to enable the delivery of planned growth in the Local Plans. ESC's clear focus is to prioritise the Two Village Bypass in order to address impacts the proposal is likely to have on the Stratford St Andrew AQMA.</p> <p>(ii) ESC would prefer to see the provision of the Friday Street element of the Two Village Bypass prioritised in the Applicant's Implementation Plan and we will continue to work with SCC as local highway authority and the Applicant to achieve this in an appropriate timetable.</p>
CU.1.19	The Applicant, ESC	<p>Cumulative effects with other plans, projects and programmes</p> <p>ESC [RR-0342] in relation to amenity and recreation notes that during the early years of construction there may be impacts in some areas should other NSIPs be under</p>	<p>(i) - (iii) Chapter 17 of the LIR [REP1-045] builds upon the [RR-0342] submission. 17.119 - 17.133 details the mitigation considered necessary by ESC to address effects on the local PRoW network. The Applicant is proposing a Public Rights of Way Fund to minimise negative impacts and ESC will continue to work with SCC (responsible authority for PRoW) to ensure the Fund is of an appropriate size and suitably flexible.</p>

		<p>construction simultaneously. The majority of these impacts will be on receptor groups using public footpaths. The majority are considered to be not significant, but receptors at Aldringham Common and The Walks are likely to experience significant effects. (i) Please indicate whether it is considered that any further mitigation other than that already proposed is necessary for receptors in these locations. (ii) If not, why not? (iii) If so, what additional mitigation is sought and how could that be secured through the draft DCO?</p>	
CU.1.42	The Applicant, ESC	<p>Cumulative effects with other plans etc [APP-578] Para 4.8.33 – bats – this conclusion of no significant effect relies on an explicit assumption. How likely is that assumption to hold good?</p>	<p>The assumption of a Minor Adverse, Not Significant cumulative impact made in paragraph 4.8.33 [APP-578] relies on the success of a number of bat mitigation measures which ESC are concerned are either inadequate or do not currently have sufficient certainty of success (please see the LIR [REP1-045] ‘bats’ section for our further comments on these). The ES for the Main Development Site is also predicting a Moderate Adverse, Significant construction phase impact on the barbastelle bat population from the project alone as a result of fragmentation effects, despite the proposed mitigation measures. Given these uncertainties we are concerned that cumulative impacts on some bat Important Ecological Features (IEF), particularly in association with the Main Development Site (bat species are divided into a number of separate IEFs for the Main Development Site), during this construction phase may be greater than presented in paragraph 4.8.33.</p>
DCO.1 Draft Development Consent Order (DCO)			
DCO.1.0	The Applicant	<p>Art 2. Definition of “commence” and the exclusions from it. The EM para 3.6. states that “the Environmental Statement does</p>	<p>ESC is concerned that the definition of “commence” and pre-commencement activities is quite wide and that such activities</p>

		<p>not indicate that these works would be likely to have significant environmental effects". Could this be expressed positively as "The ES indicates that these works are not likely to have significant effects"? Is there a statement in the ES that the excluded works are not likely to have significant effects.</p>	<p>excluded from the definition of commence may in fact have significant environmental effects and yet can be carried out without mitigation in place. It therefore proposes the following amendments to the draft DCO [AS-143]:</p> <p><u>Amendment to the requirements:</u></p> <p>Definition of "pre-commencement activities" to be inserted: "Pre-commencement activities" means any and all of those activities excluded from the definition of "commence".</p> <p>New requirement to be inserted: "Pre-commencement activities</p> <p>(1) No part of the pre-commencement activities may take place until environmental surveying for those activities has been completed to the satisfaction of the local planning authority.</p> <p>(2) Should the local planning authority deem it necessary for subsequent monitoring to be carried out in relation to any pre-commencement activity, no such activities are to be carried out until details of such monitoring has been agreed.</p> <p>(3) Pre-commencement activities must be carried out in accordance with any monitoring requirements of the local planning authority."</p>
DCO.1.2	The Applicant, ESC, SCC	<p>Art 2. Definition of "commence" and the exclusions from it.</p> <p>(i) Are the exclusions justified for all of the Proposed Development?</p> <p>(ii) Might it be appropriate to exclude later phases and to limit the exclusions to the earliest phases of the Proposed Development? In both (i) and (ii) please explain concisely why.</p>	<p>(i) and (ii)</p> <p>ESC is of the view that the exclusions from the definition of commence are unjustified and that they allow for various activities to take place that may have environmental effects, but without mitigation. In particular, ESC is concerned that site preparation and clearance works are being included – if these are outwith environmental surveys and monitoring then this could cause problems.</p>

			<p>ESC suggests that the following amendments are made to the requirements in order to deal with this concern:</p> <p><u>Amendments to the requirements:</u></p> <p>Definition of “pre-commencement activities” to be inserted:</p> <p>“Pre-commencement activities” means any and all of those activities excluded from the definition of “commence”.</p> <p>New requirement to be inserted:</p> <p><u>Pre-commencement activities</u></p> <ol style="list-style-type: none"> 1. No part of the pre-commencement activities may take place until environmental surveying for those activities has been completed to the satisfaction of the local planning authority. 2. Should the local planning authority deem it necessary for subsequent monitoring to be carried out in relation to any pre-commencement activity, no such activities are to be carried out until details of such monitoring has been agreed. <p>Pre-commencement activities must be carried out in accordance with any monitoring requirements of the local planning authority.</p>
DCO.1.1	The Applicant	Art 2. Definition of “commence” and the exclusions from it. Given that e.g. the Sizewell B Relocation Works will involve decontamination, is this exception from the definition of “commence” appropriate?	ESC does not consider it appropriate for this to be excluded from the definition of “commence”.
DCO.1.3	The Applicant, ESC, SCC	Art 2 definition of “harbour” and the harbour provisions in general in the DCO. This refers to a harbour “to be constructed” by the undertaker. However, the harbour does not appear to comprise	ESC’s understanding is that the Applicant is not intending to undertake any works in order to construct a harbour. The “construction” of the harbour is intended to designate a particular area as a harbour so that the Applicant is able to maintain some level of control, including the usage, over the area.

		any construction (Works 2A – 2L are water intakes, outfalls and tunnels). Are there legal powers to designate a harbour, harbour authority and related matters without physical construction works to create the harbour?	ESC considers that the harbour is outside its jurisdiction, and that the Marine Management Organisation (MMO) will be the responsible authority for the area designated as harbour. In terms of the effect of such a designation, ESC therefore defers to the MMO.
DCO.1.4	The Applicant, ESC, SCC	<p>Art 2 definitions of “harbour” and “Order limits”.</p> <p>The harbour limits described in Art 51 and shown on the Works Plans (e.g.Key Plan 3) extend beyond the Order Limits. The ExA notes that the dDCO gives powers to do other things outside the Order limits. Please will the Applicant explain:</p> <p>(i) what is the rationale for where the line of the Order limits is drawn; and</p> <p>(ii) whether it is permissible and how for the order to apply outside the Order limits?</p> <p>(iii) confirm that the ES assesses the extent of any proposed works if they are outside the RLB.</p>	<p>i) ESC’s understanding is that the Order Limits shown on the Works Plans identify the area within which the works forming part of the authorised development may be carried out; in contrast, the harbour limits, as described in Article 51, shows the area falling within the jurisdiction of the Applicant as harbour authority [AS-284].</p> <p>(ii) The order limits are the limits of development; it is permitted to have other powers that extend beyond that as long as they do not involve development (e.g. rights of way, harbour jurisdiction).</p> <p>(iii) ESC would expect the ES to assess the extent of all of the development due to be authorised by the draft DCO whether or not within the order limits, and asks the Applicant to confirm this as a matter of urgency.</p>
DCO.1.6	The Applicant, ESC, SCC	<p>Art 2 – definition of “local planning authority”.</p> <p>This defines the phrase to mean East Suffolk Council and its successors in title. Successors in title is a phrase more normally used in relation to land interests (title) than statutory functions. Please will the Applicant and Host Authorities consider whether the phrase “successors to its functions as local planning authority as defined in the Town and Country Planning Act 1990” would be more appropriate? The</p>	<p>ESC considers that by defining, “local planning authority” as “East Suffolk Council”, the Applicant is ensuring clarity for all those affected by the development consent order. ESC does not consider that there is any need to specifically reference a ‘successor’ or any legislation pertaining to the same as that is something that will automatically take place should any changes in structure or reallocation of functions occur.</p> <p>ESC notes that such an approach is precedented, for example, in both the A303 Sparkford to Ilchester Dualling and the A303 Stonehenge development consent orders.</p>

		<p>ExA consider this is probably what is intended given that the functions of the local planning authority specified in the DCO are largely of a development control nature.</p> <p>However, might it not be simpler simply to adopt the definition in the TCPA 1990 (s.1 is the relevant section, combined with s.336). That way, any local government reorganisation or reallocation of planning functions will be taken through to the operation of the DCO automatically rather than relying on an interpretation of who is meant by the Secretary of State as the successor to the “title” or functions of ESC, which are wider than planning. The ExA is aware of the Inspectorate’s guidance note’s preference for naming authorities. If the intention of the definition is to ensure that the planning matters allocated to the local planning authority by the DCO are allocated to the district council rather than to the county (which is normally limited to minerals and waste planning) then the use of the TCPA definition could be refined to exclude the county council.</p>	
DCO.1.7	The Applicant, ESC, SCC	<p>Art 2 – definition of “maintain” and Art 6 – power to maintain.</p> <p>The definition includes “alter, remove or reconstruct”. On its face, that would include decommissioning and the construction of a new power station. The ExA doubts this is what is intended and</p>	<p>(i) ESC agrees with the ExA that the words ‘remove’ and ‘reconstruct’ ought to be removed from the definition of ‘maintain’.</p> <p>(ii) Although ESC is comfortable that this is not the Applicant’s intention, it agrees with the ExA that the current definition is too wide and that, on the face of it, it could allow the Applicant to carry out decommissioning works and the construction of a new power station.</p>

		<p>notes that there is intended to be a limit by reference to new or materially different environmental effects. However, lesser reconstructions may pass that test but nonetheless be development which ought to be regulated by planning control?</p> <p>(i) Might the following definition be adequate: “maintain” includes inspect, repair, adjust, alter, clear, refurbish or improve, and any derivative of “maintain” is to be construed accordingly”, with the addition of the prohibition relating to maintenance causing environmental effects?</p> <p>(ii) If the Host Authorities consider that the current definition is too wide, would they please give examples of development it permits but which the Host Authority considers should be subject to planning control? Would they please also consider whether the ExA’s suggestion above would deal with their concern and give reasons?</p> <p>(iii) If the Applicant disagrees with the ExA’s suggestion, please will it, in answering the question, explain clearly the intent of the breadth of the definition and reflect on whether it ought to be reduced?</p> <p>(iv) See also the ExA’s questions on Sch 2 para 1 (tailpieces in the context of EIA). Taking that also into account, how does the Applicant expect that the prohibition relating to maintenance causing environmental effects would work in</p>	<p>The definition suggested by the ExA under point (i) is considered sufficient by ESC to address this concern.</p> <p>(iii) N/A – for the Applicant.</p> <p>(iv) ESC would expect the Applicant to approach it should there be an instance in which any works or any operation was different to how it had been planned within the DCO application documents. ESC would then expect to be consulted on whether something had any new or materially different environmental effects to those identified in the environmental information.</p>
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		<p>practice and be enforced? How would the local planning know in advance of an item of maintenance that materially new / different effects would be caused by the maintenance? What action would they be able to take? Or is the intention and practice simply going to be that maintenance which breaches the prohibition would be without approval, a breach of the DCO and therefore a criminal offence?</p> <p>Please will the Host Authorities also consider question (iv) and respond?</p>	
DCO.1.9	The Applicant, the Host Authorities, MMO	<p>Art 2, definition of “mean high water springs”.</p> <p>Does the time period need to be specified?</p>	ESC considers that this is a well understood term and that no time period needs to be specified.
DCO.1.11	The Applicant	<p>Art 2 – order land. Please will the Applicant confirm that the Land Plans and the Book of Reference refer to the same land, neither more nor less? If there are differences, please explain what they are, including by reference to a plan.</p>	ESC agrees with the ExA that it is not currently clear whether the Land Plans and the Book of Reference refer to the same land exactly. In addition, ESC is also concerned that the Works Plans may refer to a slightly different area of land. ESC would welcome an explanation from the Applicant as to whether or not these three documents all refer to the same land and, if not, why that is the case.
DCO.1.13	ESC	<p>Definition of Sizewell B relocated facilities permission.</p> <p>Please will ESC confirm that this is the correct description, date and reference number?</p>	ESC can confirm that this is the correct description, date and reference number for the permission granted in 2019. However, there has since been a further permission granted. This permission has the reference number DC/20/4646/FUL and was granted on 18 February 2021. Both permissions need to be referenced appropriately within the draft DCO.
DCO.1.17	The Applicant, Host Authorities, EA	<p>Art 2 – definition of watercourse.</p> <p>This is as follows: “includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and</p>	ESC considers that this is a question for the Applicant and for the Environment Agency, as responsible authority, to address.

		<p>passages through which water flows except a public sewer or drain: and”</p> <p>(i) It appears to include private storm water drains, private foul drains and private sewers. Whether this appropriate will depend amongst other factors on the use made of the word “watercourse” in the rest of the DCO. Are the Applicant and Host Authorities satisfied that the definition is appropriate in all those circumstances? If not, please explain why and suggest any amendments to the drafting.</p> <p>(ii) Please will the Applicant consider whether the word “and” is correct at the end of the definition and make any necessary change in the next version of the DCO?</p>	
DCO.1.18	The Applicant, Host Authorities	<p>Art 2(5) – references to statutory bodies. This reads as follows: “References to any statutory body includes that body’s successor bodies from time to time that have jurisdiction over the authorised development”. Why are bodies who do not have jurisdiction over the development excluded from the reference. Are all the references in the DCO to statutory bodies only to such bodies with jurisdiction over the development?</p>	<p>ESC does not consider the words, “that have jurisdiction over the authorised development” to be necessary. It also notes, that there are many other development consent orders where such wording is not used, for example: A303 Amesbury, A19 Testo’s, Drax.</p>
DCO.1.21	The Applicant	<p>Art 4(1) – vertical limits of deviation.</p> <p>This permits unfettered vertical deviations, subject to the Requirements and provisions in Art 11 relating to streets. Art 4(2) limits</p>	<p>ESC shares the ExA’s concerns in relation to the clarity over the seeming lack of limits of deviation [AS-143] and refers the ExA to its response to question G.1.0.</p>

		<p>vertical deviation to 1 metre for Work 4C (Saxmundham – Leiston branch line) and Works 11 and 12 (Two village bypass and the Sizewell Link Road).</p> <p>The ExA see that the Requirements contain some references to Parameter Plans. But to take requirement 11 as an example, it is not immediately clear that Work Nos. 1A (a) to (e) are subject to the Parameter Plans (though any variations from the Approved Plans and the design principles in Ch 5 of the Main Development Site Design and Access Statement must accord with the Main Development Site Operational Siting and Height Parameters and two of the three Main Development Site, Operational Parameter Plans). (to be found at SZC Book 2, 2.5, [APP-018]).</p> <p>Similarly, a somewhat close reading of the Requirements is necessary to see which Parameter Plans have been applied to which Work, whether they are applied to the right Works, to ascertain whether the whole of the Proposed Development is limited by the Parameters Plans and whether or not all the Parameters Plans have been applied.</p>	
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		<p>As the ExA reads the Requirements and the rest of the DCO there appears to be no general overriding rule that the development must not exceed the limits in the Parameter Plans. A clear straightforward limitation in the DCO preventing the Proposed Development from exceeding the Parameter Plans (which the ExA assumes describe the limits of what was assessed on normal Rochdale principles) would be helpful.</p> <ul style="list-style-type: none"> (i) Please will the Applicant insert such a provision in the next draft of the DCO or alternatively explain why it would be inappropriate? (ii) Please will the Applicant also provide a reconciliation of the Parameter Plans in the DCO with the project assessed in the ES? <p>Please will the Applicant specify and explain the power for Art 4 – it is not referred to in the EM?</p>	
DCO.1.22	The Applicant, the Host Authorities	<p>Sizewell B relocated facilities permission Art 5(1)(b). Is limiting the exception to prior breaches appropriate? For example, are there any ongoing restoration or maintenance conditions in the Sizewell B relocated facilities permission which should continue to be enforceable?</p>	<p>ESC has reviewed this Article and the related Schedule 8 [AS-143] carefully and is comfortable that this limitation is appropriate.</p>

DCO.1.23	The Applicant, the Host Authorities	<p>Art 5(3). Is this inserted simply for the avoidance of doubt or is there a specific concern that Art 5 restricts any other powers in the DCO?</p>	<p>ESC is of the view that this has been inserted simply for the avoidance of doubt, but it would welcome the Applicant's confirmation of this [APP-143].</p>
DCO.1.24	The host authorities	<p>Art 5(5). Will the Host Authorities indicate if they are content with Art 5(5) and the list of conditions and corresponding requirements deemed to be satisfied set out in Sch 8</p>	<p>Whilst ESC understands the Applicant's approach in Schedule 8, it is concerned that certain conditions in Permissions 1 and 2 are not appropriately reflected in the Requirement which is drafted as corresponding to the conditions [APP-143]. ESC has the following particular concerns:</p> <p><u>Schedule 8, Part 1, row 3, and Part 2, row 3:</u> There appears to be no equivalent of conditions 7, 9, 10, 12, 13 or 17 in the CoCP (or other control documents or in the Requirements themselves). ESC would welcome an explanation from the Applicant as to how it considers that the provisions in these conditions are replicated in Requirement 2.</p> <p>In relation to conditions 7 and 10 in particular, ESC considers that this would be best addressed through a new separate requirement in Schedule 2 of the draft DCO.</p> <p>In addition, there also appears to be no equivalent of conditions 18 and 19 in relation to emergency plans. Although ESC notes that there is now a new Requirement 5A in draft DCO v.3.1, this requirement does not reflect the conditions.</p> <p><u>Schedule 8, Part 1, row 4, and Part 2, row 4:</u></p>

			<p>Requirement 14, or the OLEMP sitting under it, does not appear to specify any maintenance period whereas condition 12 refers explicitly to a 5 year maintenance period.</p> <p><u>Schedule 8, Part 1, row 5:</u> Condition 26 appears to be covered by Requirement 7 rather than Requirement 5.</p> <p><u>Schedule 8, Part 2, row 6:</u> Not all of condition 21 is covered by Requirement 3. In particular, the following isn't: "None of the buildings hereby approved shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programmes set out in the Written Scheme of Investigation approved under Condition [20] and the provision made for analysis, publication and dissemination of results and archive deposition."</p>
DCO.1.25	The Applicant, the Host Authorities	Art 5(6). What happens if the undertaker and the local planning authority do not agree?	ESC anticipates that in such a circumstance Article 82, Arbitration, would come into operation [AS-143]. However, ESC would welcome confirmation from the Applicant that this is the intention.
DCO.1.26.	The Applicant, the Host Authorities	Art 9(6). The EM states (para 4.25) "As the undertaker will be entering into a section 106 agreement with local planning authorities, this provision is necessary to ensure that the transferee complies with all obligations etc. that have been imposed on the undertaker, as well as ensuring that the undertaker is released from liability upon	<p>i) Having the benefit of the DCO is not an interest in land for the purposes of s106(1) and therefore s106(3) will not apply as the obligations are not provided as planning obligations pursuant to s106 (1) TCPA in the absence of a proprietary interest in the development site. Questions therefore arise regarding the legitimacy of providing mitigation through an alternative means to a s106 agreement.</p>

		<p>transfer (given that it would no longer be involved in the authorised development). This approach is standard under section 106 agreements”.</p> <p>(i) Whilst confirmation that planning obligations are to bind the transferee / lessee is welcome, why would the planning obligations under s.106 TCPA not bind the transferee under s.106(3)? Or is this paragraph addressing transfer / lease of the benefit of the DCO without transfer / lease of land?</p> <p>(ii) Should transfer / lease of benefit without transfer / lease of land be permitted?</p> <p>(iii) If so, is it proper to allow the transferor to escape from its obligations in the s.106 agreement? (iv) Is it appropriate in the case of any transfer or lease on this project to allow the original covenantor to escape from its obligations under s.106?</p>	<p>ii) If the person with the proprietary interest in the land signs the s106 agreement than no issue with this provided the transferee covenants directly with the Councils to perform the “planning obligations”, as such obligation would run with the land (assuming such obligations fall within s106(1)(a) – (d)).</p> <p>Where the signatory has no proprietary interest in land, any agreement could not be entered into pursuant to s106 and any such agreement would not automatically run with the land. In such circumstances other powers will need to be considered. However, such alternative powers/provisions should only be considered where there is a legitimate reason why the landowner cannot sign a s106 agreement.</p> <p>Section 111 of the Local Government Act 1972 is an incidental power and cannot be used unilaterally, other LPA Powers would need to be used in conjunction with s111. In these circumstances, the agreement would have to include provisions that ensure that the signatory is not released from any of the obligations in the agreement until such time as the new transferee had provided mirror covenants to the relevant LPAs.</p> <p>iii) Yes, provided that the transferor’s liability only ends once the transferee is on the hook for the “planning obligations” and only if the transferor parts with all of its interest in the DCO as set out in the paragraph above.</p> <p>iv) Yes, once the new transferee has provided mirror covenants to the LPAs as set out above or if the owner of the land entered into the s106 agreement, the s106</p>
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			agreement can provide that the owner is released (save for antecedent breaches) upon disposal of its proprietary interest.
DCO.1.27	The Applicant, the Host Authorities	<p>Art. 9</p> <p>(i) 9(1) Is it appropriate to transfer the CA powers in this DCO? The Applicant is required to demonstrate adequate resources to pay compensation. A transferee may not be have the same resources and the article does not expressly require that they are shown to exist.</p> <p>(ii) 9(1)(b) Should the CA powers be lettable? What would be the lessee’s title to land compulsorily acquired and to whom would such land be transferred on CA? Does CA by a lessee raise any difficulties?</p> <p>(iii) 9(1) and (2) What would be the criteria for the SoS to decide whether or not to consent?</p> <p>(iv) Art 9(4). Is it appropriate for decisions of the Secretary of State on what is largely a regulatory issue to be subject to arbitration?</p> <p>(v) Art 9(6)(a). It is clear that the alienation provisions of Art 9 allow alienation of part of the land or part of the benefits. It would appear that Art 9(6)(a) attempts to limit the burdens transferred to those “imposed by virtue of the provisions to which the benefit relates”. However, it is unusual for burdens to be divided up across the land or</p>	<p>(i) and (ii) The transfer of the benefit of the Order, including the transfer of any compulsory acquisition powers, is subject to obtaining the written consent of the Secretary of State, save for two very specific entities identified in Article 9(7) [AS-143]. ESC is of the view that the Secretary of State, before consenting to any such transfer, would ensure that the transferee or lessee would have adequate resources to pay compensation.</p> <p>(iii) ESC considers that this is a matter for the Secretary of State to consider.</p> <p>(iv) ESC considers that the Secretary of State’s decision on matters under Article 9 should be final and that it is not a decision that should be subject to arbitration.</p> <p>(v), (vi), (vii), (viii) – ESC considers that these are considerations for the Applicant to respond on.</p>

		<p>benefits. And burdens may be imposed on the whole development or project. Please will the Applicant amend the article so as to ensure that burdens, whether they relate to the whole benefit of the order or only the benefit transferred, bind the transferee or lessee as the case may be?</p> <p>(vi) Art 9(6). Para (b) – how can “benefits” be enforced “against” the undertaker (original or otherwise). What is the Applicant’s intention by this provision?</p> <p>(vii) Art 9(6). If the intent is to release the transferring undertaker from liability, is it really appropriate to release the undertaker where only a lease is created? The lessor undertaker should surely remain liable and take whatever indemnities are appropriate from the lessee. What would the position be at the end of the lease, whether it runs its full term (and the term is not known at this point in time) or is terminated for breach?</p> <p>(viii) Art 9(6)(c). It is good to make it clear that development consent obligations are intended to bind the transferee / lessee. Please will the Applicant state whether there are any concerns that they would not do so? Is this paragraph seeking to cut down the provisions of s.106 TCPA 1990 which make obligations bind persons deriving title?</p> <p>What would be the position if Art 9(8) is not complied with? Please will the</p>	
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		Applicant amend the article so as to make it clear that in such a case the transfer or lease would be invalid?	
DCO.1.28	The host authorities	Art 10(1). This provides a defence to statutory nuisances relating to dust (and other effluvia), light and noise. Are the Host Authorities satisfied that the controls on these nuisances in the DCO justify the inclusion of this defence?	ESC has concerns over the drafting of this Article. In particular, as the local authority who would deal with any noise complaints, ESC considers that it ought to have some control over this potential issue and therefore suggests the insertion of the following words in Article 10(1)(b) [AS-143] after the word “cannot”: “, to the reasonable satisfaction of the local planning authority,” so that Article 10(1)(b) reads: “... no order may be made, and no fine may be imposed ... if the defendant shows that the nuisance ...(b) is a consequence of the use of the authorised development and that it cannot, to the reasonable satisfaction of the local planning authority, reasonably be avoided.”
DCO.1.50	The Applicant, host authorities	Art 79. This allows felling and other tree surgery to any tree or shrub “near any part of the [Proposed] Development”. How far is near? Could a maximum distance be added?	ESC is concerned that this Article [AS-143] is currently drafted to include a power that is far too wide and which is unjustified. ESC considers that it would be sufficient for the Applicant to have the power to fell trees etc. solely within the Order Limits. It therefore proposes that this Article be amended so that it reads: “The undertaker may fell or lop any tree or shrub within the Order limits, or cut back its roots or branches to the extent that they are within the Order limits, if it reasonably believes it to be necessary to do so...”
DCO.1.54	The Applicant, The Host Authorities, parties to which the deemed consent	Art 83 and Sch 23 – procedure for approvals, consents and appeals. (i) The ExA invites comments in general on Sch 23 from the Host Authorities who will be the recipients of most applications and appeals to which Sch 23 will apply.	(i) ESC has a number of comments to raise in relation to Schedule 23 [AS-143] , as follows: 1(2)(b) is considered unnecessary as, as far as ESC is aware, there is never a situation in which a body does not have to consult further. If

	<p>provisions in the Articles of the dDCO apply</p>	<p>(ii) Parties to which the deemed consent provisions in the Articles of the dDCO apply are also invited to comment on Sch 23, and their attention is drawn to the EM para 9.25 and following.</p> <p>(iii) In para 1(2) of Sch 23, there are two different time periods for discharge of requirements depending on whether consultation is necessary. The shorter period, 5 weeks, is shorter than the period specified in the model Sch at Appendix 1 of the Inspectorate’s Advice Note 15. Whilst the ExA note the Applicant’s more generous 8 week period in consultation cases, what is the justification for taking a week off the standard period?</p> <p>(iv) Fees. The ExA notes that there is no drafting at present and that the Applicant hopes to cover these with a performance or s.106 agreement. Until such time as that is concluded satisfactorily, the ExA would prefer to see drafting on fees in the dDCO. Please will the Applicant insert in the next draft of the dDCO the wording to be found at Sch 2 Part 2 para 3 of the Northampton Gateway DCO as made, (2019/1358). The ExA is not, by requiring this, expressing any view as to the desirability or fairness of those provisions.</p> <p>Please will the Applicant explain why para 3(11) of Sch 23 which reads: “the appointed person must have regard to Communities and Local Government</p>	<p>the Applicant considers that this is necessary, ESC would welcome an explanation of when such a situation would arise.</p> <p>2(1): ESC considers it important that it is explicitly set out within this Schedule that it is not confined to being able to ask for further information just once and would invite the Applicant to make an appropriate change to 2(1) in response to this concern.</p> <p>2(2): 7 working days is considered too short a period, and shorter than the proposed period in Advice Note 15 which advises 10 business days. ESC considers that 10 working days would be more appropriate.</p> <p>2(3): 3 working days is considered too short a period, in particular as this does not even cover a full working week when the relevant person may be on leave or not working; ESC considers that 10 working days would be more appropriate.</p> <p>3(2)(d) and (e): 10 working days is considered too short a period, and shorter than the proposed period in Advice Note 15 which advises 20 business days. ESC considers that 20 working days would be more appropriate.</p> <p>(ii) ESC has commented under (i) above.</p> <p>(iii) ESC has provided a comment on this under (i) above.</p> <p>(iv) ESC agrees that reference to fees ought to be made within Schedule 23 and considers that it would be appropriate for Schedule 23 to cross refer to the section 106 agreement to the extent that it relates to staffing costs for the discharge of requirements. ESC would welcome the Applicant providing some wording in this regard.</p>
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		<p>Circular 03/2009 or any circular or guidance which may from time to time replace it” refers to Circular 03/2009 rather than “the Planning Practice Guidance published by the Department for Communities and Local Government on 6th March 2014 or any circular or guidance which may from time to time replace it” which is the wording in Appendix 1 of AN15?</p>	
DCO.1.56	<p>The Applicant (I) – (v) The Applicant and the Host Authorities (vi)</p>	<p>Sch 1. (i) Please will the Applicant supply a list of which parts of the Proposed Development (“authorised development” as defined in the dDCO) are associated development? (ii) Please will the Applicant clarify how it is lawful to include the temporary accommodation campus (Work No 3) given that PA2008 s.115(2)(b) says that associated development may not consist of or include the construction of one or more dwellings. (iii) The ExA notes that Doc 7.2 states at para 2.2.1: “Whilst the Sizewell C Project does not meet the thresholds defined in the Planning Act 2008 for highway and railway NSIPS, the equivalent information is included on the relevant plans in Book 2 Plans: Main Development Site Plans (Doc Ref. 2.5)”. (iv) Please will the Applicant clarify how it is that Works 4A, 4B, 4C and 4D (individually or together in whatever combination) which include the construction of a 4.5 km</p>	<p>vi) ESC does not consider that any of Works 4A, 4B, 4C or 4D [AS-143], either individually or together in any combination, would constitute a separate NSIP or NSIPs. However, should the ExA conclude that they do, then ESC would expect that each extra NSIP within the overall application be treated in the same way as any individual NSIP of that type would be, in terms of application of the relevant NPS, inclusion of relevant consultees etc.</p>

		<p>railway line which at first sight are within s.14(1)(k) and s.25(1) are not a separate NSIP or NSIPs. In doing so please address each of the tests in PA2008 s.25.</p> <p>(v) Please will the Applicant also clarify in the same way how it is that Works 11A and 11B do not constitute an NSIP or NSIPs? In doing so please address each of the tests in PA2008 s.22.</p> <p>(vi) Please will the Applicant and Host Authorities comment on whether, in the event that they do constitute a separate NSIP or NSIPs, the result is that the criteria and policies for such NSIPs should be applied and whether there are any other consequences for the Examination and the SoS's decision?</p>	
DCO.1.61	The Applicant, ESC, MMO, Natural England	<p>Sch 1 Part 1. Work No 2.</p> <p>The routes of the tunnels are not shown. Please will the Applicant explain why. Please also confirm that whether shown or not, they will not extend outside the Order Limits or the limits to the Works comprised in Work No. 2 shown on the Works Plans. Work numbers 2B and 2D shown on the works plans indicate the separation between the cooling water intakes for units 1 and 2.</p> <p>Can the Applicant explain the separation distances between them, which presumably accounts for tunnelling for unit 1 (work no. 2A) being 200m shorter than</p>	<p>ESC agrees with the ExA that it is not clear if, or where, the routes of the tunnels are shown on the plans submitted as part of the application. Furthermore, ESC agrees that the limits of deviation for the bored tunnels appear to be unlimited within the harbour area and ESC is concerned with this approach [AS-143]. In particular, ESC's concern relates to the adequacy of environmental assessment carried out and reported in the ES. ESC would welcome the Applicant's explanation as to how the environmental impact assessment has been carried out and what assumptions about tunnel locations have been made in coming to conclusions on the likely significant effects of these works.</p>

		<p>the corresponding water intake for unit 2 (work no. 2C)?</p> <p>Whilst the intake locations are set out on the works plans, the limits of deviation for the bored tunnels themselves are unlimited within the harbour area as shown on the works plans. This also applies to work no. 2E, 2G, 2I and 2K, which extend between work no 1A and terminate at work 2F, 2H, 2J and 2L respectively Can the Applicant confirm what assumptions have been made regarding their alignment within the ES and HRA, and why more defined limits of deviation cannot be set out on the works plans.</p> <p>ESC, MMO and Natural England may also wish to comment on this.</p>	
DCO.1.69	The Applicant, ESC	<p>Sch 1 Part 2, Other Associated Development.</p> <p>The Works in Sch 1 Part 2 may be carried out during both the construction period and the operational period which is some 60 years. They apply also to maintenance. Many of them are works which would normally require planning consent. For example para (b) would allow new drainage systems; (c) allows stacks and chimneys; (i) allows new amenity buildings; (i) also allows “associated structures and plant; and (i) also allows associated post-operation phase work” without stating with what they are to be associated (the post-operation phase is presumably some 60-70</p>	<p>(i) and (ii): ESC is of the view that the principle of including such works is justifiable, but this list does appear more extensive than usual and contrasts with the precision with which the numbered works are specified in words and shown on the works plans [AS-143]. Some of the works listed here are of an equivalent nature to the numbered works (e.g. (c) and (n)) and should be their own numbered work; and others would only apply to specific works rather than any of them (e.g. (g) and (l)) and should be included in the descriptions of those works only. ESC would further wish to be satisfied that:</p> <ul style="list-style-type: none"> - the Applicant has assessed the likely significant effects of these appropriately in the ES; and - that any works are limited to being within the Order Limits. <p>ESC would welcome the Applicant’s confirmation on these points as well as clarification and/or confirmation on points (iii), (iv) and (v).</p>

		<p>years hence and includes the decommissioning phase); (k) allows extensive alterations to highways; (n) includes habitat creation; (o) includes works for the protection of land or structures; and (p) allows “such other works as may be necessary or expedient” for construction, operation and maintenance (with a reference to environmental effects).</p> <p>(i) Is it justifiable to have such extensive powers in relation to the operation and maintenance of the Proposed Development?</p> <p>(ii) Is the location of the works limited to the Order Limits?</p> <p>(iii) What will be the constraints in the DCO if made on the development they permit?</p> <p>(iv) The EM para 10.4 says they are “minor works”. Where is such a limit set out in the dDCO?</p> <p>(v) Please will the Applicant supply a reconciliation of the works described in Sch 1 Pt 2 with the development assessed in the ES?</p>	
DCO.1.73	The Applicant, ESC	<p>Schedule 2 para 1(3).</p> <p>This paragraph is relevant to approvals of details or documents under a requirement “<i>where compliance with a document contains the wording “unless otherwise agreed” by the discharging authority</i>”. The approval is not to be given unless the changes or deviations have been</p>	<p>(i) ESC considers that with this provision the Applicant is appropriately trying to limit the amount of changes that can be made to the authorised development once consented, however ESC agrees that the wording is perhaps not as clear as it could be. The provision is intended to mean that any approvals given can only be given to activities within the scope of the environmental assessment [AS-143]. ESC suggests the following wording would be more appropriate:</p>

	<p>demonstrated to the discharging authority not to give rise to <i>“any materially new or materially different environmental effects to those assessed in the environmental information”</i>.</p> <p>Environmental assessment is a process which assesses not effects but projects to see what significant effects the project is likely to have.</p> <p>(i) Why is comparison with assessed effects relevant? Those effects will include things found to have various degrees of significance, which may then have been mitigated by for example secondary or tertiary mitigation.</p> <p>(ii) Should the assessment instead be against the position at the time of seeking the “unless otherwise agreed” - the baseline may have changed by then. If there is to be a comparison with the current assessment, what is the appropriate documentation against which the comparison should be made and how is it to be identified and accessed?</p> <p>(iii) How is the decision on effects to be taken? Could the “subsequent application” approach in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017/572 be applied by the DCO to the approvals addressed by para 1(3) of Sch 2 and provide a suitable procedure? The ExA notes that the subsequent approvals process incorporates</p>	<p>“(3) Where an approval of details or other document is required under the terms of any requirement or where compliance with a document contains the wording “unless otherwise agreed” by the discharging authority, such approval of details or of any other document (including any subsequent amendments or revisions) or agreement by the discharging authority is not to be given except in relation to changes or deviations where it has been demonstrated to the satisfaction of the discharging authority that giving such approval would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement.”</p> <p>(ii) It is not considered appropriate for the authorised development to be subject to an ongoing assessment which compares any potential new effects to a changing baseline. The future changing baseline is taken into account in the ES: the ES assesses the likely significant effects of the authorised development and predicts the expected changes to the baseline in the cumulative effects section.</p> <p>(iii) ESC would welcome an approach to subsequent approvals similar to that set out in the Northampton Gateway Strategic Railfreight Interchange DCO, as made. In particular, Article 44 of that DCO gives clarity to the process for subsequent approval under the Requirements. It makes it abundantly clear what can and cannot be given approval, and it references an appropriate procedure within Schedule 2 ‘Requirements’ for applying for and obtaining such approval.</p> <p>ESC notes that Schedule 23 of the draft DCO appears to be an attempt on behalf of the Applicant to set out a similar procedure, but ESC would welcome the Applicant reviewing this procedure in light of the</p>
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		<p>a screening process so as to weed out matters not needing EIA.</p> <p>Similar issues were raised and addressed during the examination of the Northampton Gateway Strategic Railfreight Interchange NSIP (TR050006). The DCO as made adopted the subsequent applications approach – see Art 44(1)(b) though not in Arts 4 and 6. The Applicant and ESC may wish to consult the ExA recommendation report in that case (paras 11.4.1 – 11.4.19), the recommended DCO and the DCO as made.</p> <p>This ExA (for Sizewell C) is aware that in Northampton Gateway the SoS did not adopt the recommended wording of the ExA. He reverted to the comparison with identified effects (see e.g. Arts 4, 6 and 44(1)(a) of the order as made, which are 4, 6 and 45 of the recommended order). This ExA would welcome submissions on this and on which approach is to be adopted.</p>	<p>approach and the procedure in the Northampton Gateway Strategic Railfreight Interchange DCO.</p>
DCO.1.74	The Applicant, ESC	<p>Sch 2 Art 1(4).</p> <p>This exempts external projections such as plant rooms and telecommunications infrastructure from the Parameter Plans. Such items can be sizeable.</p> <p>(i) Please will the Applicant explain what constraints and regulation will exist on their design, size and location in the DCO or s.106 agreement?</p> <p>(ii) How have they been environmentally assessed?</p>	<p>(i) and (ii) – for the Applicant.</p> <p>(iii) ESC considers that two further points of clarification are needed in relation to such external projections.</p> <p>Firstly, there ought to be a constraint made explicitly clear that any such projections are only to be permitted if they do not give rise to any new or materially different environmental effects to those assessed in the environmental information; and</p>

		<p>(iii) Please will ESC also consider this and indicate what constraints or regulation they consider is in the DCO or s.106 and indicate whether they are content with that, or propose different controls?</p>	<p>Secondly, but related to the first, ESC would welcome an explanation from the Applicant about how an adequate assessment of the likely significant visual effects of such projections has been made given that such projections appear to as yet be unknown.</p> <p>In relation to the first point above, ESC considers that 1(4) [AS-143] should be amended to read:</p> <p>“Where any requirement identifies a parameter for a building or structure, that parameter identifies the envelope for that building or structure and does not include any external projections including telecommunications infrastructure (including aerials and satellites), access structures and safety measures (including ladders and handrails), mechanical plant, utilities infrastructure (including solar panels), minor architectural features (including gutters and lighting), external surface level areas, and associated compounds and storage areas, to the extent that any of these do not give rise to any materially new or materially difference environmental effects to those assessed in the environmental information.</p>
DCO.1.75	The Applicant, ESC	<p>Art 1(5). Is not the default meaning for the phrase “commencement of development” rather counterintuitive? Please will the Applicant consider reverting to the position that the phrase means commencement of any part of the Proposed Development? This would be consistent with the definition of “commence” in Art 2 of the dDCO. Please will ESC also consider and comment?</p>	<p>ESC agrees with the ExA that this seems to be an inconsistent approach and would welcome an appropriate change to be made to 1(5) of Schedule 2 [AS-143] so that it states:</p> <p>“Unless otherwise provided in this Order, where a requirement relates to a specific site or Work and it specifies “commencement of development”, it refers to the commencement of development of the authorised development.”</p> <p>ESC would then expect to see, in line with the wording preceded in other DCOs, that certain requirements then refer more specifically to commencement of development for certain works.</p>

DCO.1.76	The Applicant, ESC	R2 and (in Revision 1) R3 both refer to “removal and reinstatement” of the authorised development. Whilst this is so as to regulate such matters, what is “removal and reinstatement” this intended to cover?	ESC cannot confirm, and will leave it up to the Applicant to do so, but it considers that this particular reference to “removal and reinstatement” may be in relation to Requirement 16 [AS-143] which deals with the removal of certain things specifically in relation to Work No.3.
DCO.1.77	The Applicant, ESC	R2 introduces the obligation to comply with the Code of Construction Practice (CoCP). What happens on the current wording in the event of inconsistency between the CoCP and the DCO? Is it necessary to state anything on that? It should also be borne in mind that the ES relies on the CoCP in its conclusions on significance of effects.	<p>The CoCP is a certified document listed in Schedule 22 of the draft DCO [AS-273] and AS-143. If appropriately drafted, reviewed and considered alongside the text of the main body of the draft DCO, there should therefore be no inconsistencies. As the DCO itself obliges compliance with the CoCP there is no ‘hierarchy’ where one would take precedence over the other. However, ESC acknowledges that such an inconsistency could arise and would therefore welcome some further wording in Requirement 2 to deal with this scenario. ESC suggests the following wording:</p> <p>“To the extent that there are no inconsistencies between the Articles of the DCO and the CoCP, the construction and removal and reinstatement of the authorised development must be carried out in general accordance with the Code of Construction Practice, unless otherwise agreed by the local planning authority.”</p> <p>ESC also notes that, in contrast to many other DCOs, the Sizewell C draft DCO does not include a register of environmental actions and commitments, compliance with which is usually sought through a requirement. ESC would ask the ExA to consider whether such a register and corresponding requirement would be useful so that it is clear on the face of the order that all of the mitigation and commitments set out in the ES must be complied with.</p>
DCO.1.78	The Applicant, ESC	R4.	(i) For the Applicant to respond on.

		<p>(i) Please will the Applicant collate where the ES sets out the need and content of ecological monitoring which is referred to in this requirement? Please will it also explain how R4 complies with the need for EIA prior to decision in the light of R v. Cornwall CC ex p Hardy Env L R 25; [2001] JPL 786?</p> <p>(ii) Why is the terrestrial ecology monitoring plan confined to the works listed on R4? Should it not be required for all the Works?</p>	<p>(ii) ESC agrees with the ExA that a terrestrial ecology monitoring plan should cover all of the Works forming part of the authorised development as any of them may have impacts on terrestrial ecology, and, as the approving body under this requirement, ESC would expect this to be the case [AS-143].</p>
DCO.1.79	ESC	<p>R6, site clearance. Please will ESC say whether or not they consider the drawings referred to in this requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents?</p>	<p>(a) Yes. Please note ESC has checked the Rev 01 plans submitted in May 2020 [APP-020] and the Rev 02 plans submitted in January 2021 [AS-120]</p>
DCO.1.80	The Applicant, ESC	<p>R7. (i) How is the proper implementation of the water levels management plan to be enforced? (ii) R7 concerns the Water Monitoring and Response Strategy but in 7(3) it is called the Site Water Mitigation and Response Strategy, which would appear to be incorrect Please will the Applicant consider, respond and amend as necessary.</p>	<p>(i) As the approving body under this Requirement [AS-143], ESC would ensure that any such plan, as approved, would include monitoring powers and appropriate sanctions within it should any breaches occur. In addition, breaching this Requirement by not complying with any such plan would also be a criminal offence.</p> <p>(ii) For the Applicant to respond on.</p>
DCO.1.81	ESC	<p>R8, temporary buildings. Please will ESC say whether or not they consider the drawings referred to in this requirement to be (a) adequate and (b) the</p>	<p>(a) Yes, ESC considers the plans to be accurate insofar as they relate to the main development site Work Plan No.1. (b) Yes.</p>

		full suite relating to this aspect in the Application documents? Is the chapter no. correct?	
DCO.1.82	The Applicant, ESC	R10. What obligation is there to operate the regulation of vehicular access specified in this requirement?	ESC agrees with the ExA that there ought to be an obligation imposed under this Requirement and suggests that adding a sub-paragraph (2) with the following wording would achieve this [AS-143] : “(2) The scheme of security measures must be implemented in accordance with the approved scheme.”
DCO.1.83	The Applicant, ESC	R11. (i) Should not the reference be to “Sizewell B relocation works” rather than “Sizewell B relocated facilities”? (ii) Please will ESC say whether or not they consider the drawings referred to in this requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Is the chapter no. correct?	(i) ESC agrees with the ExA that the reference should be to Sizewell B relocation works [AS-143] . (ii) (a) Yes, ESC considers this adequate. (ii) (b) Yes, ESC considers this to be the full suite. The correct chapter and Schedule is referenced.
DCO.1.84	ESC	R12. Please will ESC say whether or not they consider the drawings referred to in this requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Is the chapter no. correct?	(a) Yes. (b) Yes, ESC considers the correct chapter is referenced. [AS-143] . However, ESC would like the Applicant to add reference to Chapter 7 of the Main Development Site Design and Access Statement.
DCO.1.85	ESC	R13. Please will ESC say whether or not they consider the drawings referred to in this requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Is the chapter no. correct?	(a) Yes. (b) Yes, ESC considers this to be the full suite. The correct chapter is referenced [AS-143] .

DCO.1.86	ESC	R14. Please will ESC say whether or not they consider the drawings referred to in this requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Are the chapter no.s correct?	(a) Yes. (b) Yes, ESC considers this to be the full suite. The correct chapters are referenced [AS-143].
DCO.1.87	The Applicant, ESC	(i) It seems to the ExA that the implementation of the landscape and ecology works could be avoided simply by failing to submit the landscape scheme. Should not the prohibition on commencing the landscape works be changed to a prohibition on commencing the authorised development? (ii) Is this the Requirement referred to at para 7.1.2 of the oLEMP [APP-588]?	(i) ESC agrees with the ExA and considers that this is the case of a minor oversight from the Applicant. (ii) ESC does not consider that this is the corresponding Requirement but would welcome the Applicant’s confirmation of this [AS-143].
DCO.1.88	The Applicant, ESC	R14. (i) Please will the Applicant explain what obligation there is to maintain the landscape and ecological works arrived at via R14(1)(i) – (vii)? Should there not be an obligation to comply not only by carrying out the landscape works but also to maintain them in accordance with the landscape and ecology management plan? (ii) Should not the words “and ecology” be inserted between “landscape” and “works” in R14(2)?	(i) and (ii) R14(2) [AS-143] sets out the obligation that, “all landscape works within the limits of Work No.1A must be carried out in accordance with the approved landscape scheme referred to in paragraph (1)...” The works listed at (1)(i) – (vii), including the landscape and ecology management plan, form part of the overall scheme which R14(2) ensures compliance with. ESC does not therefore consider there to be a need to specifically mention the landscape and ecology management plan in R14(2).
DCO.1.89	ESC	R15. Please will ESC say whether or not they consider the documents referred to in this	(a) Yes, section 1.4 of the Lighting Management Plan is adequate. (b) Yes, ESC considers this to be the full suite.

		requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Are the section no.s correct?	Section 1.4 of the Lighting Plan is the correct section number for operational lighting controls [AS-143].
DCO.1.90	ESC	R17. Please will ESC say whether or not they consider the documents referred to in this requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Are the parts referred to correct?	(a) and (b) The table referenced as A.1 of the Main Development Site Design and Access Statement should be either Table 5.1 Over-arching design principles or Table 5.3 Detailed built development principles. The remainder is accurate.
DCO.1.91	The Applicant, ESC	R18. Please will ESC say whether or not they consider the documents referred to in this requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Are the parts referred to correct? Please will the Applicant list the “relevant sections” of the Associated Development Design Principles and set them out in this requirement in the next version of the dDCO?	(a) Yes. (b) Yes, ESC considers this to be the full suite. The parts referred to are correct.
DCO.1.92	ESC	R19. Please will ESC say whether or not they consider the documents referred to in this requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Are the parts referred to correct?	(a) Yes. (b) Yes. However, Work no. 4 (rail infrastructure) [AS-143] does include other works on the branch line not covered by the Site Clearance Plan listed in R19.
DCO.1.93	The Applicant, ESC	R19. Please will ESC say whether or not they consider the documents referred to in this	(a) As DCO.1.92.

		<p>requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Are the parts referred to correct?</p> <p>Please will the Applicant list the “relevant sections” of the Associated Development Design Principles and the relevant plans / details in Sch 6 and set them out in this requirement in the next version of the dDCO?</p>	
DCO.1.94	ESC	<p>R20.</p> <p>Please will ESC say whether or not they consider the documents referred to in this requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Are the parts referred to correct?</p>	<p>(a) Yes.</p> <p>(b) Yes, ESC considers this to be the full suite. The work numbers referred to are correct.</p>
DCO.1.95	ESC	<p>R21.</p> <p>Please will ESC say whether or not they consider the documents referred to in this requirement to be the correct documents?</p>	<p>In the current version of the dDCO [AS-143] this requirement refers to Work No 1D (g) (outage car park), whereas the reference should be to Work No. 1D (e) (outage car parking spaces). 1D (h) (related highway works), should be Work No. 1D (I) (outage car park access roads). Work No. 13 is not divided into (a) and (b) so R21 needs revision.</p>
DCO.1.96	ESC	<p>R22.</p> <p>Please will ESC say whether or not they consider the documents referred to in this requirement to be (a) adequate and (b) the full suite relating to this aspect in the Application documents? Are the parts referred to correct?</p> <p>Please will the Applicant list the “relevant sections” of the Associated Development Design Principles and the relevant plans / details in Sch 7 and set them out in this</p>	<p>(a) Yes.</p> <p>(b)ESC does not consider these to be correct:</p> <p>Reference should be made to:</p> <ul style="list-style-type: none"> ○ 11 A – C (Two Village Bypass), 12 A – D (Sizewell Link Road) ○ 13 (f) is currently correct but will be wrong if revisions are made to R21 as per answer to DCO.1.95 above ○ 14 A - B (Yoxford roundabout).

		requirement in the next version of the dDCO?	
DCO.1.97	The Applicant, ESC	R24. How will ESC be able to know that and verify that the SZC construction works have finished?	ESC would welcome the Applicant's view on this point and reserves its right to comment until such time as it has seen the Applicant's response.
DCO.1.122	The Applicant, ESC	Sch 23 – procedure for approvals, consents and appeals. Will the Applicant and ESC please provide a SoCG stating: (i)The names of the discharging authorities and all other persons whose approval, consent or appeal procedure is to be subject to Sch 23 (ii)The functions of those persons subject to Sch 23 (iii) what differences there are between the procedure for approvals, consents and appeals and the procedure set out in Appendix 1 of AN15, accompanied by a trackchanges version showing the differences (iv) what parts of Sch 23 are not agreed between the Applicant and ESC (v) The case of the Applicant and ESC in relation to any parts not agreed The reason and purpose of any difference from Appendix 1 of AN15 whether or not the provision is agreed	A SoCG is being evolved with the Applicant and a version will be submitted by the Applicant at Deadline 2. If the issues requested by the ExA are not within that version, ESC will liaise with the Applicant to ensure that it is in a future version.
DCO.1.125	The Applicant, ESC	Sch 24, para 3. Will the Applicant please explain what is the effect of this paragraph which relates	Although in theory all development is potentially CIL liable unless it is referenced as not liable / zero rated in the CIL charging schedule. ESC is satisfied that development proposals, including the temporary campus

		to Community Infrastructure Levy? Will ESC give its understanding and indicate if it accepts this provision?	accommodation, at Sizewell C are not CIL liable. Our CIL charging review which is expected to be adopted early next year will confirm that the Sizewell campus and any development at Sizewell is zero rated for CIL.
DCO.1.126	The Applicant, ESC	Sch 24, para 5. Please will the Applicant explain the effect of para 5(2)? Surely the question of whether or not the Applicant is a person interested in the Order land is one to be determined on the facts, and not deemed. Please will the Applicant explain why it is not a person interested in the land if that is the case? The s.106 agreement must bind the land and all persons deriving title from the original covenantor. The Applicant and Host Authorities should note the questions below on s.106 agreements.	For the purposes of s106 TCPA, an interest is a <u>proprietary interest</u> in land. This should be the starting point and it is within the Council's discretion whether a particular landowner is to be party. With appropriately worded grampian obligations the s106 can restrict development on the land bound by the s106 agreement in the event that any "offsite" obligations are not performed and so if necessary the land bound by the s106 could be limited appropriately.
DCO.1.128	The Applicant, ESC	At para 2.316 of [RR-0342] ESC state that they "would prefer a Natural Environment Fund that encompasses all areas of concern including impact on the AONB. A Natural Environment Fund would be able to address issues and provide mitigation outside of the AONB boundary should it be required which is preferable to the more restrictive boundary of the AONB". Please will ESC and the Applicant comment on what areas of concern are appropriate and whether and how this would meet the legal tests for valid planning obligations. Are the policy tests also met?	The s106 agreement does provide for a Natural Environment Improvement Fund to be applied towards; <ul style="list-style-type: none"> i. mitigation of the landscape and visual effects of the Project within the East Suffolk Natural Environment Improvement Area (an area which will be defined by reference to a plan); and ii. to delivering the objectives of the Suffolk Coast and Heath AONB Management Plan to support measures to mitigate the landscape and visual effects of the Project within the Suffolk Coast and Heaths AONB and Suffolk Heritage Coast Natural Environment Improvement Area (both to be defined by reference to a plan).

			In principle this type of mitigation can be provided for by a s106 agreement.
DCO – the questions which follow relate to the Third Draft DCO [AS-143] and focus on the changes between the original – [APP-059] and the third draft. The previous questions in this section on the DCO should be answered in the light of the changes and take changes into account. They should explain how changes affect the answer.			
DCO.1.141	The Applicant, ESC	Art 2 “Sizewell B relocated facilities permission 2”. Please will the Applicant and ESC report on the current position with the application for the Sizewell B relocated facilities permission 2, and the anticipated forward programme that is reasonably expected within the timeframes of the examination?	Permission 2 is DC/20/4646/FUL and was issued on 18 February 2021 following the signing of a section 106 agreement (See Annex B, LIR [REP1-047]). A discharge of condition application is currently being considered by ESC (DC/21/1915/DRC). The Applicant will advise on the forward programme.
DCO.1.143	ESC, The Applicant	Art 10. Please will ESC comment on the appropriateness of adding the Main Development Site Design and Access Statement and the Associated Development Design Principles to the defences to statutory nuisance in this Article. In particular, are they sufficiently precise documents for this purpose?	The main development site design and access statement and the associated design principles document are not particularly precise and therefore ESC does not consider they should be included in this Article due to not being precise enough. However, the Applicant may be able to provide further reasoning as to their inclusion that may change our opinion in this regard, and we would welcome such an explanation.
DCO.1.156	The Applicant, SCC, ESC	In a number of Reqs, terms such as “local planning authority” have been changed to the name of a council (such as in that case East Suffolk Council). Examples are R 2, 3, 4 and 5. Given that local government reorganisation occurs from time to time and that functions may move from one authority to another, is it not better to refer to the function (such	In the case where there are multiple authorities discharging requirements etc., for purposes of clarity, ESC considers that it is more appropriate for the Requirements to explicitly state the name of each discharging authority.

		as highway authority) rather than use the current name of the body?	
DCO.1.158	The Applicant, SCC	R 6A – is “general” accord with the Public Rights of Way Strategy appropriate? Why not “in accordance”?	The phrase, “in general accordance” is a potentially very wide scope which ESC does not consider is justified. This wording is used in a number of requirements [AS-143], not just 6A, and ESC therefore suggests that a general provision be inserted at the start of Schedule 2 - a new 1(2)(c) – that will ensure that all such uses of the term, “in general accordance” are covered in the same way. The following wording is suggested: “Where any requirement provides that the authorised development or any part of it is to be carried out in ‘general accordance’ with details, or a scheme, plan or other document that is listed in Schedule 22 and certified under Article 80 of this DCO, this means that the undertaker will carry out such work(s) in a way that is consistent with the information set out in those details, schemes, plans or other document and in a manner that does not give rise to any materially new or materially different environmental effects to those assessed in the environmental information.”
DCO.1.159	The Applicant, ESC, Natural England	R 14A. The ES refers to financial contribution should the fen meadow recreation not succeed. Please will the Applicant point the ExA to where that is to be found.	ESC considers that this is question for the Applicant to respond to.
DCO.1.169	ESC, SCC, the Applicant	Sch 23, unless dealt with in the SoCGs on Sch 23 required above, will ESC and SCC please comment on the changes to Sch 23 between the original dDCO and Revision 3 [AS-143]. If such matters are dealt with in those SoCGs please will ESC, SCC and the Applicant state as much in their reply to this ExQ.	The following changes to Schedule 23 have been made between revisions 1 and 3 of the draft DCO [AS-143]: <ul style="list-style-type: none"> – Insertion of a new 1(3): <i>“In the case of requirements in respect of which the discharging authority has a duty under Schedule 2 of this Order to consult with any other body, the discharging authority must have regard to comments received from any of those bodies.”</i> ESC has no concern with this change.

			<ul style="list-style-type: none"> – Insertion of a new 1(4): <i>“In the case of requirements in respect of which East Suffolk Council is the discharging authority under Schedule 2 of this Order, East Suffolk Council must consult with Suffolk County Council. In the case of requirements in respect of which Suffolk County Council is the discharging authority under Schedule 2 of this Order, Suffolk County Council must consult with East Suffolk Council.”</i> ESC has no concern with this change. – Insertion of extra wording at 2(4): wording in square brackets and underlined is new: <i>“If the discharging authority does not give notification as specified in sub-paragraph (2) or (3), <u>or otherwise fails to request any further information within the timescales provided for in this paragraph</u> it will be deemed to have sufficient information to consider the application and will not thereafter be entitled to request further information without the prior agreement of the undertaker.”</i> ESC would not have any concern with this change if the timescales set out in Schedule 23 were appropriately lengthened, and in this regard directs the ExA to its response to Question DCO.1.54. In addition, as mentioned in its response to question DCO.1.54, ESC also considers it important for Schedule 23 to explicitly make clear that ESC (and others) could ask for further information more than once if it felt it was necessary to do so in order to be able to make an informed decision on any given matter. – Insertion of wording at 3(2) setting out that the SoS must appoint a person to determine the appeal etc. within 28 days (rather than just, <i>“as soon as is practicable”</i>) ESC has no concern with this change.
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			<ul style="list-style-type: none"> – Insertion of a new 3(12): <i>“The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) will not affect or invalidate the effect of the appointed person’s determination.”</i> ESC has no concern with this change. – Insertion of extra wording to 3(8), which now appears to be 3(10) due to a formatting numbering error: a claim for judicial review of the appointed person’s decision must now be brought <i>“within 6 weeks of the date of the appointed person’s decision beginning with the date of that decision”</i>. Previously there was no set timescale. ESC considers that six weeks for challenging a decision of the appointed person is reasonable given the importance of the timescale of the Applicant carrying out the authorised development. <p>A few other minor inconsequential changes. ESC has no concern with these changes.</p>
FR.1 Flood risk, groundwater, surface water			
FR.1.9	ESC, ES IDB, EA, SCC	Water Monitoring and Response Strategy [AS-236] Provide comment of the coverage and suitability of the proposed strategy and the process to secure any required mitigation	<p>ESC has no specific responsibility with regards to groundwater and defers detailed response to the question of monitoring to other bodies including the Environment Agency and the East Suffolk Internal Drainage Board.</p> <p>ESC will be involved in approving the monitoring plan which would be done in consultation with the Environment Agency and East Suffolk Internal Drainage Board, we welcome this Plan providing a single point of reference for ESC and other statutory bodies and demonstrate compliance with the monitoring requirements secured by other permits and licences. Mitigation proposals are centred around adapting control structures dependent on what the monitoring demonstrates, the mitigation is therefore embedded to the project.</p>

			Provided there is the appropriate forum for discussion potential measures required, this is acceptable to ESC.
FR.1.48	The Applicant, relevant authorities	<p>Flood Risk Emergency Plan (FREP) Appendix F [AS-170]</p> <p>The Suffolk resilience Forum comments in Appendix A of the FREP:</p> <p>(i) Do they relate to this version of the FREP?</p> <p>(ii) If not, have they been consulted on this version; and</p> <p>(iii) Provide any additional comments they may have made.</p>	This question is for the Applicant to answer.
FR.1.64	EA and other relevant authorities	<p>Appendix 19F – Monitoring and Response Strategy [APP-309]</p> <p>Provide comment on the Monitoring and Response strategy set out in this document.</p>	ESC defers to the Environment Agency and East Suffolk Internal Drainage Board to provide detailed commentary on the suitability of the current monitoring regime the Applicant has in place across the Sizewell estate.
FR.1.74	EA, SCC, ESC, ES IDB	<p>Outline Drainage Strategy (ODS) [APP-181]</p> <p>Provide any comments you have on the coverage and content of the ODS at this stage.</p>	<p>The ODS referred to is for the Main Development Site [APP-181] only and ESC supports its provision as an outline document to be adhered to in detailed submissions under Schedule 2 of the draft DCO requirement for surface and foul water drainage to be submitted to ESC for approval following consultation with the Environment Agency, Natural England, East Suffolk Internal Drainage Board and SCC in their role as Lead Local Flood Authority.</p> <p>ESC agrees that the proposals must be based on sustainable drainage principles and must be constructed and maintained in accordance with approved details. One such principle is that the strategy is designed to mimic existing run-off patterns where possible, and the sustainable drainage hierarchy is to be followed.</p>

			ESC acknowledges that there are gaps in proposals so far and we defer to the Environment Agency, East Suffolk Internal Drainage Board and SCC as Lead Local Flood Authority to expand upon the detail further.
HW.1 Health and wellbeing			
HW.1.0	ESC, SCC, CCG, Sizewell Health Working Group	<p>Methodology</p> <p>(i) Do you agree that the methodology and scope for assessment of effects from the proposed development as set out in [APP 346] is appropriate and has properly assessed the potential health and wellbeing impacts of the proposed development on the local community? (ii) Do the Councils agree with the methodology in determining the degree of intimidation from traffic and in particular from HGVs? (iii) Do you consider the findings of this part of the ES have been adequately justified?</p>	<p>(i) Although ESC has been a member of the Sizewell C Health working Group, we do not have a public health responsibility. It is our understanding that the methodology [APP-346] has been agreed with that Group, but we leave to others to expand further. However, the focus has been on the impacts arising from bringing a workforce and their families into the locality rather than health impacts the construction and development may have on existing residents. However, the assessment does consider aspects of the proposal with the potential to influence health such as change in air quality which is an area of ESC's responsibility along with noise exposure. Cross-referencing between documents is a challenge that could have been avoided by having a comprehensive assessment in one chapter.</p> <p>(ii) ESC defers to SCC as local highway authority to determine if the methodology for determining the degree of intimidation from traffic is acceptable.</p> <p>(iii) Elements of the findings in this part of the ES have been adequately justified but it cannot be said that they all have, given identified gaps including wider health and wellbeing impacts of the increase of traffic, influx of workers etc. on mental health as a result of stress and anxiety. Community safety concerns of the project and their impact on health and wellbeing of existing residents are not considered. See section 30 of the LIR [REP1-045] for further detail.</p>
HW.1.2	The Applicant, SCC, ESC part ii) only	<p>Severance</p> <p>Concern has been expressed by a number of RRs including (RR-0758, RR-1008) with regard to the degree of severance that could occur for their local community</p>	<p>Part ii) only</p> <p>ESC considers that severance will be an issue for residents on the A12, B1122 (particularly early years), Two Village Bypass and the Sizewell Link Road. Severance as an issue is being looked at in some areas but</p>

		<p>either through physical barriers – e.g. Sizewell Link Road, or through volume of additional traffic.</p> <p>(i) Please advise how you consider the proposal minimises these affects for each community and how the scheme has taken into account consideration for more vulnerable groups.</p> <p>(ii) Do the Councils consider the assessment of severance has justified the approach taken, or do you consider there are more adverse effects than have been reported?</p> <p>(iii) In answering please comment on the suitability of the methodology used and be specific in respect of the locations where there remain concerns should this be the case.</p>	<p>further work may be necessary to manage this. The existing provision for crossing roads will need to be considered alongside PRowS that exist. There is potential for further crossing points to have a detrimental impact on the free flow of traffic in the location creating localised issues of noise (brakes screeching), pollution (from exhausts), and delays.</p> <p>The question of whether there are more adverse effects than have been reported relates primarily to highway traffic impacts, ESC defers to SCC for that assessment.</p>
HW.1.3	Relevant local authorities, CCG	<p>Severance</p> <p>Do the Councils and CCG agree the assessment of severance as set out in [APP-198] reasonably reflects the degree of effects of severance on the local communities concerned such that the ExA can be confident that the proposed development would not have any indirect health impacts or adversely affect access to key public services as sought by the NPS EN-1.</p>	See answer at HW.1.2. above, currently this matter is continuing to be discussed with the Applicant with the aim to resolve outstanding concerns.
HW.1.4	The Applicant, SCC, ESC	<p>On Street Parking B1078</p> <p>Concern has been expressed [RR-0762] that the removal of on street parking in this locality would have an adverse effect</p>	Provision of disabled parking has been a matter of discussion with Wickham Market Parish Council as part of the Applicant’s discussions for alterations to Wickham Market town centre to mitigate for the southern park and ride. No final agreement has been reached

		particularly on the disabled and elderly, please respond to this concern and whether this has been considered as part of any equalities assessment.	regarding what, if any, provision will be made. Formal restrictions to provide disabled bays would be included within a traffic regulation order. Alternatively, informal (but unenforceable) disabled bays can be provided without legislation. In either case the bays would be available to any road user with the necessary dispensation, not just residents. This has not, to ESC's knowledge, been considered as part of any equalities assessment.
HW.1.9	SCC, ESC	<p>Equality Statement</p> <p>The Applicant considers that with mitigation significant adverse transport effects on schools, nurseries, places of worship, GP surgeries and community facilities would not be significantly adverse. Paragraph 1.6.39 [APP 158]</p> <p>(i) Do you agree that the mitigation identified would overcome any significant adverse effects?</p> <p>(ii) Do you consider the mitigation is adequately secured?</p>	(i) and (ii) ESC defers to SCC as local highway authority to answer this question as it relates to transport effects.
HW. 1.10	The Applicant, SCC, ESC, CCG	<p>Equality Statement</p> <p>The Applicant advises that the Public Services Contingency Fund which would be secured through the S106 would be an appropriate response to the concerns identified in respect of the difficulties associated with recruiting and retaining staff. Paragraph 1.6.49 [APP 158]</p> <p>(i) Please provide an update on the progress of the S106</p> <p>(ii) Do the Councils and CCG regard this as an appropriate method of mitigation?</p>	<p>(i) ESC continues to progress section 106 discussions with the Applicant.</p> <p>(ii) With specific reference to difficulties associated with recruiting and retaining staff, ESC defers to SCC to respond in detail as this is a challenge they will face alongside other public services that is not specific to ESC.</p>

HW.1.17	ESC, SCC, CCG, Suffolk Safeguarding Partnership	<p>Vulnerable Groups In light of the concerns expressed [RR-1179, RR-500, RR-1140, RR-0342, RR-1174] in respect of the age demographic in the locality and the potential effects on the older population, do you consider the assessment on health and wellbeing and the equality assessment is adequate?</p>	<p>ESC considers that table 1.1 in [APP-158] accurately reflects the disproportionate effect of the construction impacts on the elderly.</p> <p>ESC would like it noted that the “Study on the impacts of the early-stage construction of the Hinkley Point C (HPC) Nuclear Power Station” (Oxford Brookes University 2019, commissioned by the ESC, SCC and other new nuclear local authorities) (LIR Appendix 2: 1 [REP1-089]) questions whether the wellbeing of the communities local to HPC is being adequately monitored, referring particularly to the possible impacts on older residents, and whether the Community Impacts Mitigation fund effectively responds to project impacts on local wellbeing (page 35).</p> <p>ESC considers that in defining mitigation and compensation measures, it should be carefully considered how the disproportionate effect of the impacts on the elderly can be reflected/addressed, e.g., in the scope of the community fund, and in embedded mitigation measures.</p>
HW.1.22	The Applicant, ESC	<p>Ozone Please respond the concern raised in [RR-392] over the potential effects from the proposed development on the release/creation of ozone.</p>	<p>[RR-0392] states the Applicant has given insufficient attention to PM2.5 particulates of ozone pollution omitted without explanation, and notes ozone pollution levels have consistently exceeded government objectives in this region, levels which will increase as a result of Sizewell C traffic and congestion. Please see our detailed response at AQ.1.2.</p>
HW.1.23	ESC, SCC, CCG, East of England Ambulance Service, PHE	<p>Effects on Mental and Physical Health A number of RRs including [RR-376, 546, 853, 291, 241] express concerns over the direct or indirect effects on health that the construction could have on an individual’s health. (i) Please respond to the concerns and advise whether you consider the assessment properly addresses the</p>	<p>(i) Is partially answered in our response at HW.1.0. Please also see the LIR [REP1-045] at sections 27: Public Services, 28 Community Impacts and 30 Quality of Life and Wellbeing.</p> <p>(ii) Further detail is required in relation to the Public Services Contingency Fund and Funding proposed to support the health services and emergency services.</p>

		<p>potential effects of the proposed development.</p> <p>(ii) Additionally, is there confidence that the mitigation proposed adequately addresses any concerns and that this is appropriately secured?</p>	
HW.1.24	ESC, SCC	<p>Sizewell Link Road</p> <p>In paragraph 2.126 of the ESC [RR-0342] adverse effects on 19 receptor groups are identified for residential receptors.</p> <p>(i) Are the mitigation measures proposed considered within the ES sufficient?</p> <p>(ii) Is the method of securing the mitigation appropriate and enforceable?</p>	<p>(i) Mitigation measures proposed within the ES [APP-451] are not sufficient and further work is being carried out with the Applicant to expand upon these further. In particular, the level at which a noise mitigation strategy will apply to receptor groups. This will require embedded mitigation as part of design development of the Sizewell Link Road and the potential for additional mitigating measures to be offered to the effected receptor groups.</p> <p>(ii) the noise mitigation strategy is proposed to be secured through the section 106 which is acceptable to ESC. We expect to continue to be involved in its evolution as an appropriate noise mitigation strategy with the right levels of monitoring and mitigation included.</p>
HW.1.25	ESC, SCC, CCG, Sizewell Health Working Group	<p>Methodology</p> <p>(i) Is it agreed that the methodology and scope for assessment of effects from the proposed development is appropriate and has properly assessed the potential health and wellbeing impacts of the proposed development on the local community?</p> <p>(ii) Do you consider the findings of this part of the ES have been adequately justified?</p>	<p>Please see response at HW.1.0.</p>
HW.1.28	The Applicant, Network Rail, Suffolk Constabulary, East of England	<p>Change Request No. 2</p> <p>In the event the number of trains were to be increased, please explain what implications this may have for the operation of level crossings on the branch line and the main Ipswich to Lowestoft line</p>	<p>Leiston Branch Line</p> <p>The most significant level crossing on the branch line is on Station Road, Leiston which is hand operated. Any significant delays would require emergency vehicles to divert via King George Avenue and</p>

	<p>Ambulance Service, Suffolk Fire and Rescue, SCC, ESC</p>	<p>and the effect on severance of communities or impacts on emergency services.</p>	<p>Lovers Lane. However, ESC understands that this level crossing would only be used while the LEEIE sidings are in operation (early years only). The temporary “Green Rail route” level crossing on Abbey Road will impact on traffic, including emergency vehicles using the B1122. While the location will not affect access to Lovers Lane and Sizewell B, it would be a constraint on access to the north of there.</p> <p>The temporary “Green Rail route” level crossing on Buckleswood Road west of Leiston will have some localised impact on local movement although this is a minor road with low volumes of traffic.</p> <p>It is understood that the level crossing on King George Avenue will not be used as no trains access the sidings to the south.</p> <p>In terms of importance, the level crossing at Buckleswood Lane, just north of the B1119 Saxmundham Road is of next importance as this is a locally important north south link. This crossing would be affected both by trains using the “Green Rail route” and LEEIE sidings.</p> <p>The remainder of the level crossings are on minor roads and generally used by small numbers of local residents and landowners.</p> <p>A number of rights of way also cross the branch line although barriers are not generally present, and these are not used by emergency service vehicles.</p> <p>An increase in the number trains would have greatest impact on the B1122 Abbey Road and Buckleswood Lane (not Road) Level Crossings. The scale of the impact will depend on the timing of train movement as the majority of road movements at these locations is in the daytime. If additional trains result in long delays, particularly for those locations with manually operated barriers, alternative routes are limited and mostly on minor roads which could significantly increase journey or emergency service response times.</p> <p>Of greatest importance for a small number of residents and the emergency services is that a number of properties (Cottage Farm, Red</p>
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		<p>Cottage Farm and Westhouse Farm) where the sole vehicular access is by private road or minor public highways via a level crossing.</p> <p>East Suffolk Line</p> <p>An increase in the number of trains would have some impact, and this is considered to be greatest if these trains were operated at daytime primarily as they would have a significant impact on timetabling of the passenger service. However, the alternative, which is night-time operation of trains on the East Suffolk Line has potentially significant adverse impacts arising with regards to noise impacts on receptors living close to the railway line. This is discussed further at NV.1.18, 1.19, 1.26, 1.27, 1.28 and 1.29.</p> <p>Issues of delivering five Trains Per Day</p> <p>Network Rail are currently working with the Applicant to understand the level of impact that the operation of the freight trains will have on the branch line and East Suffolk Line. Eight level crossings are required to be upgraded on the Saxmundham to Leiston Line and 21 level crossing on the East Suffolk Line will require mitigation to operate four trains per day. Although paragraph 3.4.38 of Volume 9 Chapter 3 [APP-544] states that is possible to run five trains per day on the East Suffolk Line, Network Rail has indicated that the requirement to operate four trains per day (albeit all at night) at speeds of 20mph or 10mph would present challenges for some Level Crossings. Operation during the day would present unacceptable circumstances at Melton Road Level Crossings and cause issues at Woodbridge and at Darsham level crossings. No further indication is provided about the likely affect across the rest of the rail network.</p> <p>There is not enough capacity at night to run a fifth train, so the operation of two freight trains during the day would be required. This</p>
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			would disrupt the running of two passenger trains between Lowestoft and Ipswich. ESC would like to see the delivery of a passing loop between Woodbridge and Saxmundham to create the additional capacity required for daytime running of freight trains. Any increase of trains is likely to affect waiting times and risk at level crossings such as Melton, Woodbridge, Darsham, Middleton, Haywards, Ferry Lane and at Westerfield, Bloss and Brick Kiln. For some footpath crossings, if they cannot be mitigated with Miniature Stop Lights, then closure and route diversion would be considered. Discussions are ongoing on this between the Applicant and Network Rail and progress is expected, but this remains a key concern.
HE.1 Historic Environment (terrestrial and marine)			
HE.1.2	ESC, SCCAS, Historic England	Overarching Written Scheme of Investigation (WSI) Please provide a critique of the Overarching WSI contained within Appendix 2.11.A of [AS-210]. Are you satisfied that the content and level of detail would allow you to discharge your responsibilities?	ESC defers to SCC Archaeological Service and Historic England on this matter.
MDS			
HE.1.5	ESC, SCCAS, Historic England	Evaluation Trenching At paragraph 16.3.31 [APP-272], the Applicant confirms several limitations in respect of the assessment. One such limitation is that it has not been possible to undertake evaluation trenching on some areas of the site, however most of the site has been subject to a magnetometry survey. Are you satisfied with this approach?	ESC defers to SCC Archaeological Service and Historic England on this matter.

HE.1.7	ESC, SCCAS, Historic England	<p>Summary of Survey Status Table 16.5 [APP-272] confirms where geophysical surveys and/or evaluation trenching has not been undertaken. In such areas, the Applicant has confirmed that a programme of further work will be set out in a site-specific Written Scheme of Investigation. Do you see any significant limitations with this approach?</p>	ESC defers to SCC Archaeological Service and Historic England on this matter.
HE.1.12	ESC, SCCAS, Historic England, English Heritage	<p>Direct Effects on Heritage Assets – Construction Paragraph 16.6.55 [APP-272] notes that groundworks associated with the construction of the accommodation campus, roundabout and site entrance of the MDS has the possibility of potentially harming buried archaeological remains associated with the Leiston Abbey assets (LB 121573, LB 1215754, LB 1216380 and LB 1268290). Please comment as to whether such assets comprise relatively minor and peripheral elements of the monastic landholding? Would harm to such designated assets discernibly affect the informative potential of them?</p>	ESC defers to SCC Archaeological Service and Historic England on this matter.
HE.1.13	ESC, SCCAS, Historic England	<p>Peat Strategy Please confirm whether the content of the Peat Strategy contained within Appendix 16G [APP-275] is satisfactory? If required, please provide suggested amendments or additions.</p>	ESC defers to SCC Archaeological Service and Historic England on this matter.

HE.1.17	ESC	<p>Abbey Cottage (LB 1216395)</p> <p>In respect of significance of effect on the setting of Abbey Cottage, paragraph 16.6.82 [APP-272] concludes changes would be significant during construction. Due to the decommissioning of the proposed accommodation campus, main site entrance hub and various storage areas, no effect is anticipated during operation.</p> <p>Please provide further detail in respect of paragraph 2.16 [RR-0342] as to where the contradiction occurs and what mitigation is required.</p>	<p>The impact on Abbey Cottage is discussed in detail in the LIR [REP1-045], section 12 paragraphs 12.31-12.32.</p> <p>It is ESC's view that the setting to Abbey Cottage will be permanently changed by the construction of the roundabout and altered access road in very close proximity to it. ESC judges that the intensification and enlargement of transport infrastructure such as new roads and roundabouts does have an adverse impact on the rural setting of heritage assets such as Abbey Cottage. What was a simple arrangement of a through road and a lane with established tree-edged edges with hedgerows, becomes an engineered feature of urban character which will provide the main entrance road to the Sizewell C estate (that is, all of it). Eastbridge Road as it passes the cottage will no longer be a through road; and the roundabout and engineering along the B1122 will reduce the legibility of the historic character of this road. Whilst the physical relationship with these roads will be maintained, the ability to appreciate the agricultural setting of the cottage on approach will be affected. This would result in a degree of loss to the historic interest of Abbey Cottage. The Applicant's assessment states that the effects of the roundabout and diverted access road would not persist in the operational phase. We cannot agree with the conclusion that there would be no impact on heritage significance and no effects arising during operation. There will be an adverse impact leading to a harmful effect on the significance of the designated heritage asset at Abbey Cottage from the development of the roundabout within its immediate setting. This would be a major adverse effect that would be significant.</p> <p>With respect to required mitigation, this could include minimising the extent of associated signage to the remodelled junction; reinstatement of hedgerow and new tree planting to the new boundary alignments; and avoiding an overtly urban engineered junction design in terms of</p>
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			materials choices including kerbing, planting, highway boundary fencing, road lining and lighting (if proposed).
HE.1.18	ESC	<p>Sizewell B Relocated Facilities – Pillbox Field (Change 3)</p> <p>Noting comments made in [AS-307] in respect of Pillbox Field (Option 1), are you satisfied with the following:</p> <p>i) The proposed location of the landscaping scheme in regard of the location of archaeologically sensitive areas; and</p> <p>ii) The production of a management plan within a site specific WSI to outline how remains are to be preserved in-situ during and after proposed landscaping works.</p> <p>If further measures are considered necessary, please detail.</p>	ESC defers to SCC Archaeological Service.
HE.1.19	ESC, SCCAS, Historic England, National Trust	<p>Enhancement of the Permanent Beach Landing Facility (BLF) (Change 2)</p> <p>Due to the proposed enhancement of the permanent BLF, it is stated that increased visibility of construction plant is likely from the Coastguard Cottages, Leiston Abbey first site and from the edges of the Aldeburgh and Southwold Conservation Areas. Are you satisfied that, as detailed in [AS-181], such an increase in visibility would not alter the level of significance of effect on the above assets?</p>	Yes, ESC is satisfied that an increased visibility of construction plant in relation to the enhancement of the permanent BLF would not alter the level of significance of effect on the cited heritage assets.
HE.1.20	ESC, SCCAS, Historic	<p>Temporary Beach Landing Facility (BLF) (Change 2)</p>	Yes, ESC is satisfied that the construction of the temporary BLF would result in limited visibility when seen in the wider context of the construction of the Main Development Site.

	England, National Trust	Are you satisfied that the construction of the temporary BLF would be seen within the wider context of construction related activity and visibility would be relatively limited? Do you concur that as a consequence of such limited visibility the level of significance of the effects on Coastguard Cottages, Leiston Abbey first site and from the edges of the Aldeburgh and Southwold Conservation Areas would not change to that detailed in the initial assessment findings in [APP-272]?	ESC accepts that there would be no change in the level of significance of the effects on the cited heritage assets that are Coastguard Cottages and the Aldeburgh and Southwold Conservation Areas. The area of construction proposed for the temporary BLF will appear relatively minor in scale in relation to the overall MDS and does not contribute to the significance of the aforementioned Conservation Areas.
HE.1.23	ESC, SCCAS, Historic England, English Heritage	Mitigation Alongside of the proposed site-specific WSI and Peat Strategy, is any further mitigation necessary in relation terrestrial heritage effects at the MDS? If necessary, how do you consider such measures should be secured?	ESC does not consider that further mitigation is considered necessary in relation to non-archaeological terrestrial heritage effects at the Main Development Site.
Sizewell Link Road			
HE.1.26	ESC, SCCAS, Historic England	Historic Landscape Character - Important Hedgerows Paragraph 9.4.21 [APP-467] confirms that it is likely that most surviving hedgerows within the site would be considered important under the Hedgerow Regulations. Are you satisfied that these hedgerows are best considered of low heritage significance?	The site route of the Sizewell Link Road mainly falls within the Suffolk Historic Landscape Character Assessment Sub Type 1.1 Pre 18 th century enclosure (random fields) which is characterised by fields of an irregular pattern i.e., without a dominant axis. Many are of medieval origin or earlier, and display species rich boundary hedges. Where such field patterns are seen, they are regarded as some of our earliest farming landscapes. Although of some notable antiquity, such landscapes are not exceptionally rare, so ESC considers that the hedgerows in this case are of moderate to low heritage significance. The ES [APP-467] states that, apart from where the road route severs hedge lines, field boundary hedgerows will be retained and protected during the duration of the development, and indeed planted up and

			enhanced where possible. It is accepted that inevitably a road route will cut through the existing pattern of the landscape, but for the most part, the wider fabric of the landscape remains intact and legible and so in that respect the harm to the heritage significance of the hedgerows is minor, even if ESC would suggest that the overall heritage significance is moderate to minor.
HE.1.29	ESC, SCCAS, Historic England	<p>Primary Mitigation - Theberton Hall</p> <p>Would the proposed woodland planting to the west of the SLR, described at paragraph 9.5.5 [APP-467], in the vicinity of Dovehouse Farmhouse adequately compensate for the loss of woodland in the belt west of Theberton Hall?</p> <p>In addition, would the proposed woodland planting east of the SLR successfully minimise views from Theberton Hall Estate and help integrate the proposed Pretty Road overbridge into the surrounding landscape?</p>	<p>The proposed woodland planting will compensate for the partial loss and severance of Plumtreehill Covert to the west of Theberton Hall in terms of area. It will still provide a westerly view of a belt of woodland from Theberton Hall over time, albeit in an imposed location. However, this will only indirectly compensate for the further erosion of the historic landscape character and remnant parkland (of which the Covert is a part) to Theberton Hall caused by the route of the Sizewell Link Road (SLR), see paragraph 12.60 of the LIR [REP1-045]. The harm arising will be residual and permanent proposed woodland planting east of the SLR in blocks and belts is typical of the local landscape. It will change the setting to Theberton Hall but still provide woodland in a view from it. However, the planting will be a feature imposed on the landscape rather than arising from it in accordance with the existing historic pattern of hedgerows, fields and woodland.</p> <p>It is difficult to understand in what way an overbridge can be 'integrated' into its landscape surroundings. The overbridge, itself, will be semi-remote from Theberton Hall and screened from it and its entrance off Pretty by the proposed tree planting. Much will depend upon the design of the overbridge itself to ensure that it somehow retains the charming rustic character of the countryside lane, if that is possible.</p>
HE.1.31	ESC, SCCAS, Historic England	<p>Historic Landscape Character - Construction</p>	ESC can accept that the construction of the Sizewell Link Road would not eliminate the overall landscape pattern, but it will affect the ability to understand it by being a dominant element in what was otherwise

		Are you satisfied that although the construction of the SLR would bisect several fields and truncate historic boundaries it would not eliminate the overall landscape pattern or ability to understand it (paragraph 9.6.67 [APP-467])?	an undeveloped landscape. Erosion of the historic landscape character in the area of the SLR's development will adversely affect the ability to understand it.
HE.1.32	ESC	Historic Road Pattern – Yoxford to Leiston Please provide additional detail regarding the conclusion that the effects of the interruption and realignment of the historic road pattern from Yoxford to Leiston would be moderate adverse and significant (Paragraph 2.105 [RR-0342]).	The existing route between Yoxford and Leiston is historic and established and provides an appreciation of the historical growth and development of Middleton and Theberton as villages along it. Construction of the link road is intended to divert traffic onto it and away from the section of the B1122 that runs through these villages, such that the importance of this thoroughfare will be downgraded. The main route from Yoxford to Leiston and vice versa will no longer be along the historic route that connected to them, and this represents an interruption of a continuous and historical arrangement, although not one that is prevented from being used. Please note that ESC's conclusion in the LIR [REP1-045] about moderate adverse effects that are significant was in relation to the entirety of impacts on heritage assets arising from the proposed SLR route and not from the interruption and realignment of the Yoxford-Leiston road alone.
HE.1.33	The Applicant and ESC	Moat Farmhouse (LB 1228246) To the Applicant - Please respond to the statement made by ESC in respect of Moat Farmhouse in [RR-0342] that the assessment findings cannot be supported as the land to the north is one of the earliest farming landscapes in Suffolk. Noting this, please consider whether a	Moat Farm is discussed in further detail in the LIR [REP1-045], Section 12, paragraph 12.65. Given that the Applicant's assessment identifies land to the north of Moat Farm as one of the earliest farming landscapes in Suffolk, ESC consider that the historic landscape has more than 'low heritage significance'.

		<p>review of the finding of no significant adverse effects is required? To the ESC - Please provide further detail in support of your concerns regarding the assessment of Moat Farmhouse. If additional mitigation is considered necessary, please provide detail.</p>	<p>The proposed link road would cross this pre-18th century landscape in the area around Moat Farm and Anneson's Corner without regard to field boundaries and the field pattern and would involve the removal of sections of historic hedgerows. This would have an impact on the legibility of the form and therefore the age and character of these fields. This would arise from the construction and route of the new road which will ignore and disrupt the irregular pattern of pre-18th century enclosure in that area affected by the development, to its detriment.</p>
HE.1.34	ESC, SCCAS, Historic England	<p>Mitigation Alongside of the proposed site-specific WSI, is any further mitigation considered necessary in relation terrestrial heritage effects at the SLR? If necessary, how do you consider such measures should be secured?</p>	<p>ESC does not consider that further mitigation is necessary in relation to non-archaeological terrestrial heritage effects at the Sizewell Link Road.</p>
HE.1.35	ESC, SCCAS, Historic England	<p>Outline Landscape and Ecological Management Plan (oLEMP) Would the proposed landscape measures within the oLEMP [AS-264] minimise impacts on cultural heritage resources? If not, please detail why.</p>	<p>Generally, yes, as far as these measures can achieve that – mainly due to the extent of broadleaved woodland and hedgerow planting that is proposed intermittently along the route.</p>
Freight Management Facility			
HE.1.37	ESC, SCCAS, Historic England	<p>Historic Landscape Character - Construction Please comment on the effectiveness of the proposed planting at the eastern, northern and western borders of the FMF in ensuring that any change to existing landscape would be kept internal to the field (paragraph 9.6.15 [APP-528]).</p>	<p>ESC accepts that the proposed planting to the eastern, northern and western boundaries of the FMF will contain the fundamental landscape change arising from the construction of the FMF within the site boundaries i.e., internalising it. The planting (subject to final approved details) will be expected to reflect prevailing local landscape character such that when viewed from surrounding viewpoints, will appear as an integrated element of the local landscape fabric, and this containing the effects of landscape change within the site.</p>

HE.1.38	ESC, SCCAS, Historic England	<p>Historic Landscape Character - Operation Would the retention of existing boundary vegetation, the 10m buffer zone around the north, east and west site boundaries and the addition of three landscape bunds be effective in adding a visual screen and close the operational facility off from the rest of the agricultural landscape (paragraph 9.6.25 [APP-528])?</p>	<p>ESC considers that the existing boundary vegetation, the 10m buffer zone around the north, east, and west site boundaries, and the addition of three landscape bunds be substantially effective in adding a visual screen to the freight management development site and will largely close the operational facility off from the rest of the agricultural landscape. The main exception to this conclusion is likely to be the lighting infrastructure and lighting effects at night, which would appear as an incongruous element in association with the farmed landscape, but arguably less so when seen with the A14 dual carriageway as the backdrop.</p>
HE.1.39	ESC, SCCAS, Historic England	<p>Effect on Setting of Heritage Effects - Operation In respect of assets located to the south west of Redhouse Farm (SM 1011344), would the provision of additional planting in existing hedgerows and the landscape bund on the eastern boundary be sufficient in order to reduce any sense of intrusion experienced during operation (paragraph 9.6.20 [APP-528])?</p>	<p>These assets are Scheduled bowl barrows and a ring ditch. ESC defers to SCC Archaeological Service and Historic England on this matter.</p>
HE.1.40	ESC, SCCAS, Historic England	<p>Secondary Mitigation Measures Would the proposed secondary mitigation measures detailed in paragraph 9.7.4 [APP-528] reduce the low magnitude of adverse impact on the bowl barrow south west of Redhouse Farm (SM 1011344) to a residual minor adverse effect that would be not significant?</p>	<p>ESC defers to SCC Archaeological Service and Historic England on this matter.</p>

HE.1.41	ESC, SCCAS, Historic England	Mitigation Alongside of the proposed site-specific WSI, is any further mitigation considered necessary in relation terrestrial heritage effects at the FMF? If necessary, how do you consider such measures should be secured?	In the LIR [REP1-045], ESC did not identify any impacts on non-archaeological terrestrial heritage within our remit arising from the FMF. Therefore, no further mitigation is required necessary from our consideration.
Southern Park and Ride			
HE.1.42	ESC, SCCAS, Historic England	Landscaping Scheme Would the proposed landscaping scheme, as detailed on the illustrative masterplan [AS-196], minimise the impact on setting of historic assets and the historic landscape character?	In the LIR [REP1-045], ESC did not identify any significant operational effects on heritage assets including Wickham Market and Marlesford Conservation areas. Landscaping proposals shown on the illustrative masterplan including perimeter landscape bunds, buffer zones, and enhanced hedgerow will, generally, minimise the impact on the setting of heritage assets and the historic landscape character as far as is possible for these kinds of features for the duration of the SPR.
HE.1.43	ESC, SCCAS, Historic England	Historic Landscape Character - Important Hedgerows Hedgerows on the site boundary to the east and in a small enclosure in the south-west [AS-196] are considered important under the Hedgerow Regulations. Are you satisfied that these hedgerows are best considered of low heritage significance?	The site of the Southern Park and Ride falls within the Suffolk Historic Landscape Character Assessment Sub Type 1.1 Pre 18 th century enclosure (random fields) which is characterised by fields of an irregular pattern i.e., without a dominant axis. Many are of medieval origin or earlier, and display species rich boundary hedges. Where such field patterns are seen, they are regarded as some of our earliest farming landscapes. Although of some notable antiquity, such landscapes are not exceptionally rare, so ESC considers that the hedgerows in this case are of moderate to low heritage significance. The ES states that boundary hedgerows will be retained and protected during the duration of the development, and indeed planted up and enhanced where possible. With the clearance of the site post-construction phase, the hedgerows can resume their role in historic landscape characterisation.

HE.1.44	ESC, SCCAS, Historic England	Mitigation Alongside of the proposed site-specific WSI, is any further mitigation considered necessary in relation terrestrial heritage effects at the SPR? If necessary, how do you consider such measures should be secured?	ESC does not consider that further mitigation is considered necessary in relation to non-archaeological terrestrial heritage effects at the SPR.
Marine Historic Environment			
HE.1.46	ESC, SCCAS, Historic England	Enhancement of the Permanent BLF and Construction of Temporary BLF (Change 2) Are you satisfied that the proposed changes in respect of BLFs would not alter the assessment conclusion detailed in [APP-334]? If not, please provide detail.	ESC has no remit for the marine historic environment.
Two Village Bypass			
HE.1.48	ESC, SCCAS, Historic England	Outline Landscape and Ecological Management Plan (oLEMP) Would the proposed landscape measures within the oLEMP [AS-263] minimise impacts on cultural heritage resources? If not, please detail why.	It is ESC's view that the proposed landscape measures within the oLEMP [APP-588] would be inadequate to minimise the impact of the proposed new roundabout adjacent Parkgate Farm on the wider setting of and intervisibility between St Mary's parish church (Farnham). Views from the church into its surrounding landscape are tree dominated and we suggest that woodland planting is included to the immediate east of the roundabout to reinstate such a character. This would take the place of a view from the church of the roundabout, the proposed hedgerow around which will offer very limited screening. The red line area suggests that there is sufficient space to provide for this woodland planting. With respect to Farnham Hall, it is difficult to see what further landscape measures can be taken that will minimise impacts arising from the imposition of the route of the TVB, the cutting, the disrupted footpath route, the footbridge and the loss of the visual connection

			between the Hall and Foxburrow Wood, all of which will adversely impact the Hall's setting and, therefore, its significance.
HE.1.50	ESC, SCCAS, Historic England	Mitigation Alongside of the proposed site-specific WSI, is any further mitigation considered necessary in relation terrestrial heritage effects at the TVB? If necessary, how do you consider such measures should be secured?	ESC does not consider that further mitigation is considered necessary in relation to non-archaeological terrestrial heritage effects at the Two Village Bypass.
Northern Park and Ride			
HE.1.51	ESC, SCCAS, Historic England	Oak Hall (LB 1030664) – Operational Effect on Setting Considering the assessment findings and the representative viewpoint provided at Figure 6.14 [APP-362] do you concur that during operation of the NPR there would be no change to heritage significance?	In the LIR [REP1-045], ESC stated that from a heritage and conservation perspective there are no significant operational effects on the Grade II listed Oak Hall (see paragraph 12.91). ESC accepts that the artificial bunds of 3 metres height will mitigate some of the visual and acoustic impact of the northern park and ride on the extended setting of the Grade II listed Oak Hall, into which the project site will fall. The application site contributes modestly to the significance of Oak Hall by forming a small part of its rural setting and embracing agricultural landscape. There will be an adverse impact arising from the development of the new access, bunding, hard surfacing, lighting, and noise from increased traffic movements on this area of the Hall's setting which is currently an arable field. The position of the Hall so close to the busy A12 onto which it faces means that transport movement and vehicle noise are already present factors arising from its setting which will be somewhat intensified by the park and ride, but which will not be new. ESC judge that this adverse impact on the Hall's setting will give rise to a small level of less than substantial harm to the Hall's significance. The harm that ESC identify will be transient, in that the park and ride facility will not be permanent but, nonetheless, harm will persist for its medium-term duration. ESC does not, therefore, concur that there would be no change to heritage significance during operation of the Northern Park and Ride.

HE.1.52	ESC, SCCAS, Historic England	<p>Old Hall (LB 1198815) – Operational Effect on Setting</p> <p>Due to the existing landscaping and buildings located to the north and west of Old Hall, do you concur that there would be no change to either the non-designated parkland or setting of the building?</p>	<p>In the LIR [REP1-045], ESC stated that from a heritage and conservation perspective there are no significant operational effects on the Grade II listed Old Hall (see paragraph 12.92). ESC agrees that, due to intervening topography and existing mature trees to the west and north-west, there will be no change to the setting of Old Hall.</p> <p>The associated former parkland to the Old Hall did not extend to the west side of the turnpike road (London Road/A12) and did not, therefore, include, the application site. The parkland, itself, has lost its original designed qualities such that it is not included on our local list of Historic Parks and Gardens (SPG6). ESC agrees that there will be no change to the remnant parkland.</p>
HE.1.53	ESC, SCCAS, Historic England	<p>Mitigation</p> <p>Alongside of the proposed site-specific WSI, is any further mitigation considered necessary in relation terrestrial heritage effects at the NPR? If necessary, how do you consider such measures should be secured?</p>	<p>ESC does not consider that further mitigation is considered necessary in relation to non-archaeological terrestrial heritage effects at the NPR.</p>
Rail			
HE.1.57	ESC, SCCAS, Historic England, English Heritage, Pro Corda Trust/Leiston Abbey	<p>Mitigation</p> <p>Alongside of the proposed site-specific WSI and Heritage s106 agreement to provide for enhancements to the visitor experience for the two Leiston Abbey sites, is any further mitigation considered necessary in relation terrestrial heritage effects? If necessary, how do you consider such measures should be secured?</p>	<p>The attenuation of noise arising from the Green Rail Route is provided by the proposed 3-metre-high bunds which, themselves, will have a visual impact. There is clearly a balance between visual and noise impacts arising that affect the identified tranquil rural land which forms an important part of Leiston Abbey's setting. Reducing further the perceptible noise levels from the rail extension when in operation may require increased physical measures and concomitant impacts that are undesirable. On this basis, therefore, ESC does not suggest any further mitigation in relation to terrestrial heritage effects upon which ESC commented in the LIR [REP1-045].</p>
Voxford Roundabout and other highway improvements			

HE.1.58	ESC, SCCAS, Historic England	<p>Mitigation</p> <p>Alongside of the proposed site-specific WSI, is any further mitigation considered necessary in relation terrestrial heritage effects at the YROHI? If necessary, how do you consider such measures should be secured?</p>	<p>ESC stated in our LIR [REP1-045] that the designed mitigation for Yoxford roundabout should address localised adverse impacts in terms of embanking, hedging and field edges. Suggested mitigation for the proposed Yoxford roundabout could include: minimising the extent of associated signage to the remodelled junction; reinstatement of hedgerow and tree planting to the new boundary alignments; and avoiding an overtly urban engineered junction design in terms of materials choices including kerbing, planting, road lining, highway boundary fencing and lighting – all to acknowledge that the majority of this new highways feature will be within the Yoxford Conservation Area which should be either preserved or enhanced</p> <p>These measures should be secured through detailed design of the Yoxford roundabout.</p>
LI.1 Landscape impact, visual effects and design			
LI.1.1	The Applicant, ESC, SCC, Historic England, Natural England, Suffolk Coast & Heaths AONB Partnership, Parish and Town Councils, Together Against Sizewell C, Stop Sizewell C	<p>Design Approach</p> <p>It is imperative that the proposal represents a good quality sustainable design which can be effectively integrated into the landscape. As such, please comment on whether the following measures would ensure this would be achieved in the detailed design, construction and operation phases:</p> <p>i) A ‘design champion’. Such a role would advise on the quality of sustainable design and the spatial integration of the both the Main Development Site and Associated Development Sites</p> <p>ii) A ‘design review panel’ to provide a ‘critical friend’ role. Such a role would</p>	<p>ESC can comment from direct and recent experience of a NSIP project at the Third Crossing in Lowestoft (PINS reference TR010023), promoted successfully by SCC.</p> <p>i) For the Third Crossing project, advice to appoint a design champion was made by Design Council CABE. One was appointed by the project promoter to objectively critique the quality of detailed design as it was being produced. This champion was an architect but was not the designer of the scheme. Such a role was invaluable in providing interested parties not involved in project implementation that agreed sustainable design principles would not be lost, watered down or misinterpreted as detailed design, design changes, budgeting and (significant) contractor input evolved. Such a champion for this project would need to have the confidence of interested parties and would need to have access and influence over design</p>

		<p>provide comment on the development of sustainable design proposals</p> <p>iii) The production of an approved 'design code' or 'design approach document' which would establish the approach to delivering the detailed design specifications to ensure good quality sustainable design (as approved in the Hinkley Point C Connector Project (EN020001)).</p> <p>Please advise on how such measures could be secured. In addition, please comment as to whether any other measures or approaches are considered necessary?</p>	<p>quality at a strategic level. Such a champion would need also to exhibit experience and understanding of this type and scale of project. The champion would need to be accountable to the design review panel (ii) to ensure that the design code (iii) was being adhered to. There is also a question of what the champion's discipline would be, as sustainable design includes architectural, landscape and ecological aspects amongst others, often cross-cutting.</p> <p>ii) A design review panel is an excellent suggestion and would include the design champion, who could report to it, for example. Such a panel was established for the Third Crossing project and met on a 3-monthly basis to receive feedback directly from the project manager, project designer and the design champion. The panel's remit included the production of what is suggested here at (iii) which ensured that it was actively useful beyond providing a 'critical friend' role. Membership of that panel was narrow, and it may be that a wider membership for this project would be more appropriate and include a balance between expert and lay opinion. The panel was serviced by the project promoter to ensure that it was well organised, with agendas and minutes provided.</p> <p>iii) A design approach document or code is an excellent suggestion. For the Third Crossing project, a 'Design Guidance Manual' was developed by the design review panel and formed part of the DCO submission, such that it became an embedded and approved design quality control document. In the case here, such a code would be derived from and complement the DAS.</p> <p>For all these suggestions, a willing Applicant is essential to manage, fund and be responsive to the implementation of all the above (and below).</p>
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			<p>There is also a question of the continuing involvement of the Design Council. Only two high-level reviews have been undertaken over the extended design genesis of this project (2014 and 2019, both included in the DAS). It remains unclear, for example, how the current proposals responded to the most recent review, as there is no ongoing involvement with the Design Council that we are aware of. We strongly recommend, therefore, that a mechanism is established whereby the nationally eminent expertise and capacity of the Design Council is embedded in continuing phases of the project, where detailed design issues are being considered for the landscape masterplan, operational service centre and workers' accommodation.</p> <p>Perhaps the Design Council can provide the Design Champion. It could also provide the design review panel, although other local representation would still be required.</p> <p>This would need to be secured through the Section 106 if a Design Champion is to be appointed and a Design Review Panel enabled and funded by the Applicant.</p>
LI.1.2	ESC, SCC, Historic England, Natural England, Suffolk Coast & Heaths AONB Partnership, Parish and Town Councils, Together	<p>AONB – Adverse Effects</p> <p>Has sufficient weight has been given to the statutory purpose and need for protection of the landscape, character and special qualities of the Suffolk Coast and Heaths AONB both within and outside its boundary, in accordance with paragraphs 5.9.9 and 5.9.12 of NPS EN-1? Please qualify your answer. If not, please identify what additional measures are required?</p>	<p>Early in the consultation stage it was realised that this issue needed to be addressed, and in response, the Applicant commissioned its landscape consultants (LDA) to draw up a document that described all the special qualities of the AONB that justified its designation as a protected landscape of the highest level of designation. The preparation of the document followed a rigorous criteria-based approach that built on the existing Natural England process for the designation of protected landscapes. The final approved version was published in November 2015. That Special Qualities document went on to be adopted by Suffolk Coast and Heaths AONB and is now universally applicable to all planning and AONB management processes. It has been submitted to the ExA as Appendix 1:19 [REP1-</p>

	Against Sizewell C, Stop Sizewell C		079] of the LIR. The DCO must comply with this document to demonstrate significant weight has been given to the special qualities of the AONB.
LI.1.3	The Applicant, ESC, SCC, Natural England	<p>AONB and Heritage Coast In their RR [RR-1170], the Suffolk Coast and Heaths AONB Partnership state that the linking of the AONB designation to the Heritage Coast in various places throughout the ES is misleading. The AONB Partnership requests that each of the designations should be treated separately and the impacts on the purposes of each of the designations should be undertaken in recognition of each of their defined purposes. Please provide a response to this statement.</p> <p>To ESC, SCC and Natural England – Are you satisfied with the approach adopted by the Applicant in respect of the two designations? If not, please provide detail.</p>	Other than the fact that one (Heritage Coast) is defined and the other (AONB) is statutorily designated, there is still a good deal of cross over on the reasons for defining/designating so to that end, ESC are satisfied that the adopted approach by the Applicant is acceptable.
LI.1.4	ESC, SCC, Natural England and AONB Partnership	<p>Baseline Photographs and Visualisations Are you satisfied with the presentation of baseline photographs and visualisations prepared for the Proposed Development, including the Associated Development Sites?</p>	ESC is satisfied with the submitted baseline photographs and visualisations for both main site and associated development sites.
LI.1.5	ESC, SCC, Natural England and AONB Partnership	<p>Night-Time Assessment of Lighting No specific guidance exists on which to base a night-time assessment of lighting on landscape and visual receptors. Are you satisfied with the approach adopted by the Applicant?</p>	ESC considers that the night-time assessment of lighting is well considered and usefully based on recommended LVIA methodologies which gives it wider consistency across other landscape impact assessments.

Main development site			
LI.1.15	ESC, SCC, Natural England, AONB Partnership	<p>Outline Landscape and Ecological Management Plan (oLEMP)</p> <p>The overarching objective of the oLEMP [APP-588] is to create a large area of Dry Sandlings Grassland bordered by native woodland and scattered trees/scrub. Alongside of the proposed increase in biodiversity value, the oLEMP considers that the new habitats would enhance the landscape character of the Estate Sandlands LCT. Are you satisfied, once established, that the LCT would be enhanced?</p>	Yes. The LCT description refers to extensive areas of heathland or acid grassland as being a key characteristic. The replacement of existing agricultural farmland with acid grassland plus scrub and appropriate woodland will be a substantial and significantly positive enhancement of the LCT.
LI.1.16	ESC, SCC, Natural England, AONB Partnership	<p>Pillbox Field - Planting</p> <p>Would the one hectare of new woodland and woodland edge planting proposed within Pillbox Field provide adequate replacement planting for the loss of Coronation Wood? In addition, would the planting successfully provide enhanced visual screening of the power station infrastructure from Sizewell Gap and Sandy Lane?</p>	In the long term the proposed 1 Ha of new planting in Pillbox Field is regarded as adequate replacement planting for the loss of Coronation Wood. Coronation Wood was a largely coniferous plantation, planted to mark the coronation of George V in the early 1900s and many of the trees were coming to the end of their useful sustainable life. A number of the examples of mature Pinus nigra were showing signs of red band needle blight which leads to progressive defoliation of the tree and thus tree death. Given the coastal location, such trees would be prone to wind throw thus exposing the inner areas of the wood to progressive further windthrow. The new planting has been specified to have notably greater habitat diversity than the Wood, and to be notably more in accord with prevailing landscape character than the Wood was. Its elevated position will allow it to make a notably useful contribution to screening of power station infrastructure as viewed from Sizewell Gap and Sandy Lane.
LI.1.27	ESC	<p>Operational Effects – AONB</p> <p>At paragraph 1.54 of [RR-0342], the findings in respect of operation effects on the AONB and Heritage Coast are stated as</p>	This comment arises from concerns that ESC has, that the ES conclusion that, because the identified major adverse landscape and visual effects would occur over localised sections of the designations, as far as the whole extent of the designations is concerned, the effects

		being a ‘highly dubious and unsatisfactory conclusion’. Please expand upon the reasoning behind this conclusion.	are assessed as not significant. This seems to be a conclusion of only academic note in terms of percentage of affected areas, given the key issues on the recognised major effects on coastal aspects of the designations in the locality of the main development site. ESC raised this point to ensure that the significant localised effects on these designations are not obscured by the less relevant reference to the designations as a whole. See paragraph 6.27 of the LIR [REP1-045] .
LI.1.35	ESC, SCC, AONB Partnership, Natural England	Ancillary and Plant Buildings The ancillary and plant buildings are likely to be clad with profiled sheet metal. It is proposed that they would have a consistent façade treatment which is likely to comprise a darker, visually recessive colour. Are you satisfied that the use of a darker finish would allow the ancillary and plant buildings to appear grounded within the wider operational platform?	ESC takes this question to mean are we satisfied that the use of a darker finish would allow the ancillary and plant buildings to be visually cohesive with the wider operational platform. Our answer is yes. The plinth storeys to the turbine halls and OSC building – the principal buildings - will be finished in a dark coloured glass fibre reinforced concrete. In this way, the thematic use of a darker, visually recessive colour treatment across the wider operational platform will ensure that the ancillary and plant buildings will form an architecturally cohesive group with other key structures – at least in respect of colour choice. ESC is satisfied that this approach works as far as minimising potential landscape and visual impacts are concerned.
LI.1.40	ESC, SCC, AONB Partnership, Natural England	Accommodation Campus – Massing Model and Photomontage/Wireframe Visualisations Following the Procedural Decision letter in December 2020 [PD-0009] the Applicant has supplied an annotated 3D massing model and photomontage/wireframe visualisations from three viewpoints in respect of the accommodation campus. Please review the additional information and provide any comment considered necessary.	ESC has reviewed the described additional information and have noted its content but have no additional comment to make from previously submitted comment in respect of these areas. See Chapter 6 of the LIR [REP1-045] .

LI.1.41	ESC, SCC, AONB Partnership, Natural England	<p>Accommodation Campus – Key Design Principles</p> <p>Alongside of the relevant parameter plans, the Key Design Principles listed at Table A.1 [APP-587] provides the detail for the delivery of the proposed accommodation campus. Are you satisfied that Table A.1, as drafted, is sufficiently robust and precise?</p>	<p>For some Design Principles, ESC is not satisfied that the contents of Table A.1 are sufficiently robust, precise – or even comprehensive.</p> <p>Design Principles 1, 2, 4, 9 and 10 could be made more robust and precise by expanding along the lines of the following:</p> <ul style="list-style-type: none"> • The design shall minimise impacts on neighbouring amenity; • The design shall demonstrate sustainability in its choice of materials, methods of construction, servicing, deconstruction, removal and site remediation post-occupation; • The design shall result in a positive user experience in respect of the quality of the built environment, open spaces, on-site uses and internal connectivity; • The design shall include multi-functional green infrastructure which encourages the health and well-being of workers; and • The design shall bring a coherent architectural narrative to all the distinct elements of the campus: accommodation blocks, reception, recreation building and decked car park. <p>Specifically, for Design Principle no.6 ESC suggests it should either define a value for the level of lighting in that location or reference the DCO submission document which does.</p> <p>In respect of potential landscape and visual impacts, the design principles contained in Table 1 are satisfactory, although ESC note that it contains no reference to the Green Streets concept that is described elsewhere (A27.2) in the Design and Access Statement. ESC would prefer to have seen this commitment to provision of green space for recreation and wellbeing as a key design principle. ESC would welcome early conversation on design detailing and materials, particularly given this building’s location adjacent the AONB boundary.</p>
LI.1.42	ESC, SCC, AONB	<p>Accommodation Campus – AONB</p>	<p>The proposed accommodation campus is located on land that is outside the AONB but immediately adjacent to its western boundary in</p>

	Partnership, Natural England	In respect of the location of the proposed accommodation campus, please provide a detailed response regarding potential effects on the statutory purpose of the AONB.	this area. In this respect it is considered to be in the setting of the AONB. Whilst the inclusion of the accommodation campus will have no direct impact on the actual fabric of the landscape of the AONB, it has the potential to have an impact on those experiencing the adjacent AONB landscape, and other effects also have the potential to have an indirect impact on the special qualities of the AONB. These include visual impacts arising from the new buildings, and from lighting associated with the campus. For those using the adjacent Bridleway, they are likely to have a compromised experience of the rural landscape compared to what they might otherwise have expected to experience without the presence of the campus. In the immediate vicinity of the campus, and predominantly for users of the Bridleway, there will be a degree of comprising of the experience of the natural beauty of the AONB. The extent of likely effects will be influenced by the final design of the buildings and especially by proposed planting along the eastern boundary of the campus site. Current indications are that buffer planting along this boundary will usefully contribute to mitigating these effects on the AONB land.
LI.1.47	ESC, SCC, AONB Partnership, Natural England	SSSI Crossing – Assessment (Change 6) Would the changes made to the embankment slopes on the SSSI crossing [AS-181] better integrate the crossing into the landscape from coastal viewpoints? Are you satisfied that because of the change, the level of significance of effects during the operational phase would remain as stated in [APP-216]?	The changes to the slope profiles will potentially increase the likelihood of more successful tree and scrub establishment, and the less abrupt change in slope profile would seem to point to more successful landscape integration. These are relatively subtle changes and as far as views from coastal viewpoints are concerned, and therefore the level of significance of effects from these viewpoints, ESC considers that they should remain as stated in [APP-216] .
LI.1.58	ESC, SCC, MMO, Natural England and AONB Partnership	Temporary Beach Landing Facility – Assessment (Change 2) Are you satisfied with the findings of effects relating to the temporary BLF detailed in section 2.8 [AS-181] as compared to the judgements in [APP-216]?	Whilst it is noted that the described changes to the Temporary BLF would introduce some new built elements into the field of view of the described viewpoints, these changes are not so great that they will change the previously described significance of effects which is established by the fundamental introduction of the structures into the views in the first place.

LI.1.68	ESC, SCC, Natural England, AONB Partnership	<p>Mitigation</p> <p>What, if any, further mitigation is considered necessary in relation to the MDS? If necessary, how do you consider such measures should be secured?</p>	ESC considers that no specific further mitigation measures in respect of landscape and the MDS are necessary. It is considered that the emphasis should be on delivering those proposed to the highest quality through the discharge of requirements process.
Freight Management Facility			
LI.1.73	The Applicant, ESC, SCC	<p>Representative Viewpoint 3: Footpath E-169/017/0</p> <p>In respect of Figure 6.7 [APP-522] construction and removal/reinstatement effects would be of medium scale and adverse. During operation, fencing, parking areas, lighting columns, site buildings, shelters, the screen and search canopy and vehicle movements would be visible. It is accepted that such views would be seen in conjunction with traffic movement along the A14. Despite the FMF remaining a prominent feature, it is stated that once planting begins to mature effects would be reduced to small scale.</p> <p>(i) Is the reduction in scale of effect solely due to the increased height of the planting?</p> <p>(ii) Whilst accepting that the lower elements of the development would be screened, several structures and buildings would remain visible above the landscaping. The Applicant is therefore requested to review the assessment made in respect of Figure 6.7 and provide comment.</p>	ESC is satisfied that effects would reduce from medium scale to small scale as the proposed planting matures at this viewpoint, although it should be noted that on the prevailing light sandy soils found in this location, very positive measures will be needed to ensure successful early establishment of such planting.

		Are the Councils satisfied that effects would reduce from medium scale to small scale as the proposed planting matures at this viewpoint?	
LI.1.76	ESC, SCC	Lighting Are you satisfied that the effects of the operational night-time lighting from the FMF would be not significant for the LCTs and identified Visual Receptor Groups [APP-520]? In answering please be specific in respect of location if any concern exists.	Given the close association of the FMF with the A14, which is a notably busy road given that it carries all Port road based freight traffic, ESC considers that it is unlikely that night-time lighting will have a significant impact on the associated LCTs.
LI.1.79	ESC, SCC	Landscaping Would the retention of the existing boundary vegetation, the implementation of a 10m buffer zone and three landscape bunds be effective in adding a visual screen and therefore contain the FMF from the adjoining agricultural landscape [APP-520]? In answering please be specific in respect of location if any concern exists.	Noting that additional screen planting around all boundaries is also proposed, ESC is satisfied that the described landscape mitigation measures are likely to be effective in providing visual screening to the site, subject to approval of final details submitted through the discharge of requirements stage.
LI.1.80	ESC, SCC, Natural England	Mitigation What, if any, further mitigation is considered necessary in relation to the FMF? If necessary, how do you consider such measures should be secured?	A lighting strategy that causes the least amount of light spill possible will need to be sought through the discharge of requirements stage.
Sizewell Link Road			
LI.1.83	ESC, SCC, Natural England	Outline Landscape and Ecological Management Plan (oLEMP) In respect of the proposed oLEMP [AS-264], please comment on the following:	(I) ESC considers that, subject to final details submitted through the discharge of requirements stage, the proposed measures and subsequent monitoring are likely to provide correctly implemented post construction habitats, together with the appropriate management

		<p>(i) Would the proposed measures and monitoring within the oLEMP ensure post-construction habitats would be created correctly and provide adequate management to allow the successful establishment and integration within the surrounding landscape?</p> <p>(ii) Would the proposed new habitats contribute to the enhancement of the landscape character of this section of the Ancient Estate Claylands and Rolling Estate Claylands LCT?</p> <p>(iii) Would the new habitats help to minimise any visual impact of the SLR in views from the surrounding landscape and ensure the long-term sustainability and resilience of the landscape?</p>	<p>to ensure their successful establishment and integration into the surrounding landscape.</p> <p>(ii) ESC considers that the proposed new habitats reflect the prevailing local landscape character and would contribute to its enhancement.</p> <p>(iii) Yes, ESC accepts that the described tree and hedge planting would generally be successful in minimising the visual impact of the SLR in views from the surrounding landscape, and would integrate with the surrounding landscape to contribute to its resilience and long-term sustainability.</p>
LI.1.88	ESC, SCC	<p>Lighting In respect of night-time lighting effects, Receptor Group 1 would experience a significant effect [APP-458]. As such effects would be permanent are any mitigation measures necessary?</p>	ESC suggests that at discharge of requirements stage, lighting options of primarily the least amount of upward, but also lateral light spill are proposed and agreed. Planting options to address lateral light spill should also be considered.
LI.1.89	ESC, SCC, Natural England	<p>Lighting and Special Landscape Area (SLA) Are you satisfied that effects from the proposed lighting around the A12 roundabout is unlikely to be experienced within the SLA (Appendix 6B, paragraph 1.4.31 [APP-458])? If not, please provide detail.</p>	Special Landscape Areas (SLAs) are no longer used as a landscape designation by ESC, and therefore ESC cannot provide a meaningful response to this question.
LI.1.90	ESC	<p>Layout Please can you expand on the statement made at paragraph 2.102 [RR-0342] in</p>	ESC can advise that these comments were raised in respect of impact in relation to Listed Buildings and this matter is more fully addressed in the HE section of questions.

		respect of potential adverse impacts on settings and views from existing properties due to layout issues. Where necessary please provide annotated plans to show specific locations.	
LI.1.98	ESC, SCC, Natural England	Mitigation What, if any, further mitigation is considered necessary in relation to the SLR? If necessary, how do you consider such measures should be secured?	ESC: none at this stage.
Two Village Bypass			
LI.1.99	ESC, SCC, Natural England	Outline Landscape and Ecological Management Plan (oLEMP) In respect of the proposed oLEMP [AS-263], please provide comment on the following: (i) Would the proposed measures and monitoring within the oLEMP ensure post-construction habitats would be created correctly and provide adequate management to allow the successful establishment and integration within the surrounding landscape? (ii) Would the proposed new habitats contribute to the enhancement of the landscape character of this section of the Rolling Estate Claylands, Rolling Estate Sandlands and Valley Meadowlands LCT? (iii) Would the new habitats help to minimise any visual impact of the TVBP in views from the surrounding landscape and ensure the long-term sustainability and resilience of the landscape?	(i) Yes, as far as can be understood at this stage and subject to agreement of further details to be considered and agreed at discharge of requirements stage. (ii) Yes, ESC considers that the proposed new habitats associated with the Two Village Bypass would contribute to the character of the respective landscape character types through which it passes. (iii) Yes, the described woodland areas, tree belts and hedges would all contribute to minimising the visual impact of the TVBP in the landscape and would help to ensure its long-term persistence in the landscape in a sustainable and resilient fashion. That said, ESC considers that there is one particular visual impact issue with regards to the southern Two Village Bypass roundabout and its presence in the visual connection between Parkgate Farm and Farnham Parish Church, that still requires further consideration and mitigation/compensation. (see HE section of questions).

LI.1.106	ESC, SCC, Natural England	Mitigation What, if any, further mitigation over and above that detailed in Section 6.5 [APP-421] is considered necessary in relation to the TVBP? If necessary, how do you consider such measures should be secured?	No further mitigation is considered necessary at this stage in respect of landscape mitigation for the Two Village Bypass.
Northern Park and Ride			
LI.1.111	ESC, SCC, Natural England	Mitigation What, if any, further mitigation is considered necessary in relation to the NPR? If necessary, how do you consider such measures should be secured?	Screening mounds and new planting have been described in the ES. Full details of this can be agreed at discharge of requirements stage, as necessary, together with lighting strategies. It is anticipated that as much new planting as possible can be left as legacy planting after completion of the project and therefore its nature and location will need to be well suited to the prevailing local landscape character.
Southern Park and Ride			
LI.1.120	ESC, SCC, Natural England	Mitigation What, if any, further mitigation is considered necessary in relation to the SPR? If necessary, how do you consider such measures should be secured?	Screening mounds and new planting have been described in the ES. Full details of this can be agreed at discharge of requirements stage, as necessary, together with lighting strategies. It is anticipated that as much new planting as possible can be left as legacy planting after completion of the project and therefore its nature and location will need to be well suited to the prevailing local landscape character.
Rail			
LI.1.125	ESC, SCC, Natural England	Mitigation What, if any, further mitigation is considered necessary in relation to the Rail proposals? If necessary, how do you consider such measures should be secured?	ESC considers that no further mitigation is required in respect of landscape effects. Given the temporary nature of the rail route, it is arguably more important that landscape restoration measures are fully provided, the details of which can be secured in detail through the discharge of requirements process.
Yoxford roundabout and other highway improvements			
LI.1.127	ESC, SCC, Natural England	Mitigation What, if any, further mitigation is considered necessary in relation to the Yoxford Roundabout and other highway	ESC considers that further mitigation in respect of anticipated landscape impacts resulting from the introduction of the Yoxford roundabout other than that currently indicated is unlikely to be

		improvements? If necessary, how do you consider such measures should be secured?	required. Full details of indicated landscape mitigation provision can be discussed and agreed at discharge of requirements stage, as necessary.
MA.1 Marine water quality and sediment NO COUNCIL QUESTIONS			
MN.1 Marine Navigation NO COUNCIL QUESTIONS			
NV.1 Noise and Vibration			
NV.1.0	The Applicant, ESC (ii) only	<p>Methodology</p> <p>The Council in their [RR-0342] raise concern that relying simply on a fixed sound level could underestimate the impact on a receptor.</p> <p>(i) How do you respond to this concern? (ii) What additional information do you (ESC) seek to improve the assessment of effect?</p>	(ii) Further technical assessment of the information submitted in support of the DCO application since the Relevant Representation and engagement of specialist acoustic consultants has provided confidence that impacts have been assessed qualitatively as well as quantitatively, where appropriate, particularly in the consideration of context.
NV.1.1	ESC	<p>Methodology</p> <p>In paragraph 1.9 of the RR it is indicated that using a noise level such as LOAEL or SOAEL may not be of sufficient sensitivity.</p> <p>(i) How does the Council wish this concern to be addressed?</p> <p>(ii) Would this be a specific assessment for each receptor or noise generating activity or would a broad approach be considered appropriate?</p> <p>(iii) What parameters is the Council looking to define such that ongoing monitoring could be undertaken to ensure that any obligations/requirements are achieved? In responding to the above please support the answer with reference to relevant guidance or precedents.</p>	The LOAEL and SOAEL should be set according to local context, i.e. the existing noise environment and the nature and duration of the works. They should not be set based on what is achievable; ESC recognises that it will not always be possible to avoid significant adverse effects with a project of this scale and duration, which is why it is important to set LOAEL and SOAEL (and other significance thresholds) at levels which represent likely impacts, not practical constraints, so that likely effects can be accurately and realistically assessed.

NV.1.2	ESC	<p>Rochdale Envelope In light of the comments you make in paragraph 1.11 of your RR can ESC explain what justification is required to acknowledge that the Proposed Development is not abusing the flexibility of the Rochdale Envelope in line with case law?</p>	<p>In terms of noise from the operational power station, the Council acknowledge that the assessment is informed by relatively detailed designs based on Hinkley Point C, in line with extensive experience of building power stations in France. This is a reasonable basis for assessment and ESC is satisfied that the assessment is likely to be based on representative predictions of operational noise.</p> <p>In terms of construction noise and vibration, ESC accepts that the assessment is based on initial construction proposals and that there will be modifications to the proposals once main and sub-contractors are appointed. ESC expect that the noise and vibration impact of construction proposals will be reviewed as more information is known, and that the final Code of Construction Practice (which should be submitted to ESC for approval) will include final proposals for mitigation, based on such a review.</p>
NV.1.3	ESC	<p>DCO Requirement Is the Council seeking a requirement within the DCO to ensure there is a commitment to ongoing monitoring and provision of mitigation if appropriate as set out in [RR-0342]? Please provide a draft of such a requirement if this is what is being sought.</p>	<p>The Council expect that there will be a commitment to ongoing monitoring and provision of mitigation in the final Code of Construction Practice. This could be secured by DCO requirement.</p>
NV.1.4	ESC	<p>Underestimate of Effects Paragraph 1.14- 1.19 of [RR-0342] suggests that that the ESC have concerns about the noise assessment and whether effects could have been underestimated. Are there particular areas that this concern refers to? Please clarify the position.</p>	<p>There are multiple receptors around the Main Development Site where significant adverse construction noise effects have not been identified. ESC expects the levels predicted in some cases to result in significant adverse effects considering the location and duration of the works, which is why ESC considers there to be justification for lower SOAEL values.</p>

			In addition, while paragraphs 1.14 – 1.19 of [RR-0342] relate specifically to construction noise, ESC has concerns in relation to noise from the operational power station at night, where we consider there is justification for absolute noise levels to be assessed against more onerous criteria than they have been.
NV.1.5	ESC	<p>Tranquillity</p> <p>A tranquillity assessment has been undertaken [APP-270] [Volume 2, Chapter 15, APPENDIX 15E] (i) Does this not achieve what you are asking for? (ii) What additional work would you expect to be carried out?</p>	<p>(i) ESC acknowledges that an appropriate assessment of noise impacts on tranquillity at amenity and recreation receptors has been completed, in that the inputs (noise levels and observation scores) and outputs (tranquillity scores and conclusions) presented in Chapter 15 the ES are in line with ESC’s expectations. The assessment in Chapter 15 necessarily balances various impacts on these receptors, not just noise.</p> <p>(ii) However, ESC considers that significant adverse noise effects on tranquil areas should also be given adequate consideration in isolation, given the rural character of the area.</p>
NV.1.6	The Applicant, ESC (part iii) only)	<p>LOAEL and SOAEL</p> <p>(i) Please explain why the noise from new road schemes differentiates the measurement from free field during the day to facade level during the night? [Table 11.13 APP-202]</p> <p>(ii) The Day period overlaps with the night period 23:00 – 24:00 – in the event noise is generated during this period – which level would apply as a trigger? [Table 11.13 APP202]</p> <p>(iii) Are the Council content that this approach would give them appropriate methods of monitoring and enforcement?</p> <p>(iv) In light of the range of SOAEL levels for construction work set out in Table 11.11 [APP-202] and the different levels road</p>	<p>Part iii)</p> <p>It is the responsibility regarding road traffic noise for SCC as local highway authority to determine what monitoring and enforcement is appropriate.</p>

		<p>traffic noise in Table 11.13, please explain which level would apply where a receptor was subject to both noise sources and how this could be monitored and enforced.</p> <p>(v) Where a receptor is subject to noise from construction, road and rail traffic which SOAEL and LOAEL levels would apply?</p>	
NV.1.7	ESC	<p>Setting of LOAEL and SOAEL</p> <p>(i) What LOAEL/SOAEL levels would you consider appropriate for the assessment of night time noise arising from the different elements of the proposed development?</p> <p>(ii) On what would this be based?</p>	<p>Construction noise LOAEL and SOAEL values are currently under discussion between ESC and the Applicant, alongside construction noise thresholds in the Code of Construction Practice and Construction Noise Mitigation Scheme.</p> <p>Operational noise LOAEL and SOAEL values also current under discussion. However, ESC do not consider that the WHO Night Noise Guidelines are an appropriate basis for setting night-time absolute noise limits for an operational power station, and that absolute noise criteria (should they be applicable) should be derived from BS 4142:2014+A1:2019 and consider the character of the sound.</p>
NV.1.18	The Applicant, ESC, SCC	<p>Rail SOAEL and LOAEL</p> <p>The SOAEL and LOAEL is based at least in part on the assessment for HS2, and the justification of a higher rating appears to be based on the quantum and speed of rail traffic associated with HS2 as opposed to here.</p> <p>(i) Do the Councils agree this is a reasonable position to take in setting the SOAEL and LOAEL for rail noise?</p>	<p>Notwithstanding the obvious differences between a new high-speed rail line and rail traffic serving the construction of a power station, the technical basis for the adopted LOAEL and SOAEL is accepted.</p> <p>However, the overarching policy aims of NPS EN-1 require that all efforts are taken to mitigate adverse effects above LOAEL and to avoid significant adverse effects above SOAEL. As such, adequate consideration of mitigation is critical to the correct use of these parameters. ESC does not currently consider that the Applicant has adequately explored and exhausted all mitigation options to “mitigate</p>

		(ii) In the event the Councils do not agree, what method would be considered would provide a reasonable approach in the circumstances of this case?	and minimise” adverse impacts, or that the Rail Noise Mitigation Scheme and the Noise Mitigation Scheme provide adequate protection for residents. Specifically, we consider that the Noise Mitigation Scheme should be triggered at a level below SOAEL, which simply represents a threshold to be avoided. Discussions are ongoing on this between the Applicant and ESC and progress is expected, but this remains a key concern.
NV.1.19	The Applicant, ESC, SCC, PHE	Rail SOAEL and LOAEL As currently assessed, the LOAEL would be exceeded at receptors within 42m of the line with trains travelling at 10mph and within 50m of the line for trains travelling at 20mph. In light of the need to protect human health from noise, and length of construction period should not the potential for noise mitigation be made available to all receptors where the LOAEL would be exceeded?	Ideally, setting the threshold for noise insulation mitigation at LOAEL would represent the most robust possible means of protecting amenity. However, there is no clear basis for this, and ESC recognise that other forms of mitigation exist that could negate the need for improved noise insulation, which should be a last resort. However, ESC considers that eligibility for noise insulation should be triggered at a level below SOAEL, which simply represents a threshold to be avoided. Discussions are ongoing on this between the Applicant and ESC and progress is expected, but this remains a key concern.
NV.1.26	The Applicant, Network Rail, ESC, SCC	Rail Noise In order to minimise disturbance to receptors in close proximity to the rail line, particularly at night, would a period excluding train operations be reasonable and or enforceable?	Ideally, from a noise impact perspective, ESC would prefer there to be no freight train movements at night because this is a new source and there is clearly much greater potential for disturbance at night. However, ESC understands that the Applicant has engaged with Network Rail extensively on this point and that there is insufficient capacity during the day to accommodate the freight paths. Running all trains during the daytime would clearly negate any potential night-time impacts, but the Applicant has stated that this would not be practicable within the constraints on the line. We also understand that the timetable for the night rail, particularly at peak use, is relatively restricted however if a period where movements were excluded in the most sensitive part of the night could be

			<p>accommodated and this did not unreasonably increase impact from movements in the more condensed periods before and after it would be worth considering but would require assessment first.</p> <p>In terms of enforceability, it should be a relatively simple matter as other than survey and maintenance trains we understand the only night rail traffic is as a result of the Sizewell C project, if trains were moving within any exclusion period then it would be easier to determine the source.</p>
NV.1.27	ESC, SCC	<p>Rail Noise In the Additional information supplied by the Applicant in [AS 257] an assessment of sleep disturbance has been set out. Do the Councils agree the methodology of assessment and the subsequent justification for the setting of the LOAEL and SOAEL in this respect?</p>	<p>Notwithstanding the obvious differences between a new high-speed rail line and rail traffic serving the construction of a power station, the technical basis for the adopted LOAEL and SOAEL is accepted.</p> <p>However, the overarching policy aims of NPS EN-1 require that all efforts are taken to mitigate adverse effects above LOAEL and to avoid significant adverse effects above SOAEL. As such, adequate consideration of mitigation is critical to the correct use of these parameters. ESC does not currently consider the Applicant has adequately explored and exhausted all mitigation options to “mitigate and minimise” adverse impacts, or that the Rail Noise Mitigation Scheme provides adequate protection for residents. Specifically, we consider that the scheme should be triggered at a level below SOAEL, which simply represents a threshold to be avoided. Discussions are ongoing on this between the Applicant and ESC and progress is expected, but this remains a key concern.</p>
NV.1.28	ESC, SCC,PHE	<p>Rail Noise It would appear that the ES recognises a significant harm to between 100 and 110</p>	<p>The overarching policy aims of NPS EN-1 require that all efforts be taken to mitigate adverse effects above LOAEL and to avoid significant adverse effects above SOAEL. As such, adequate consideration of</p>

		<p>properties. Would this accord with NPS EN1 Policy to avoid harm to human health, or the aims of the Noise Policy Statement for England? Do the Councils or PHE consider the approach justified in seeking to set a SOAEL at a higher level than the significant level identified through the ES assessment?</p>	<p>mitigation is critical to the correct use of these parameters. ESC does not consider the Applicant has adequately explored and exhausted all mitigation options to “mitigate and minimise” adverse impacts, or that the Rail Noise Mitigation Scheme provides adequate protection for local residents. Specifically, we consider that the scheme should be triggered at a level below SOAEL, which simply represents a threshold to be avoided. Discussions are ongoing on this between the Applicant and ESC and progress is expected, but this remains a key concern.</p>
NV.1.29	ESC	<p>Rail Noise The Applicant concludes [APP 545] that up to 460 properties would be subject to noise above the L_{Amax} based LOAEL. Do you agree that the secondary mitigation offered would minimise the adverse effects on health and quality of life?</p>	<p>ESC understands that the Noise Mitigation Scheme is now referred to as “Secondary” mitigation, where it was previously referred to as “Other” mitigation in the original assessment (ES Vol 9 Ch 4).</p> <p>ESC does not currently consider that the Applicant has adequately explored and exhausted all mitigation options to “mitigate and minimise” adverse effects on health and quality of life (between LOAEL and SOAEL). Primary mitigation proposals are currently limited to track engineering (material upgrades and improvements) and operational restrictions, and other mitigation options exist which have not been considered and could effectively “mitigate and minimise”.</p> <p>NPS EN-1 clearly states that “it may be appropriate for the Planning Inspectorate to consider requiring noise mitigation through improved sound insulation to dwellings” but only in situations “when all other forms of noise mitigation have been exhausted”. This is an important distinction because it suggests that offering improved sound insulation to eligible properties should be the last resort in terms of mitigation.</p> <p>The Planning Practice Guidance for noise (PPG) also reflects this position, stating that there are four broad types of noise mitigation:</p>

			<ol style="list-style-type: none"> 1. Engineering (reducing noise at source) 2. Layout (using distance and good design to reduce impacts) 3. Planning conditions/obligations (e.g. restricted activities) 4. Mitigation through noise insulation (for dwellings). <p>Clearly, there is both potential and a policy-based intention for all forms of mitigation to be considered to “mitigate and minimise” adverse effects on health and quality of life. ESC has discussed this with the Applicant, who is currently carrying out an exercise to explore other options for mitigation, including trackside screening. This process could satisfy ESC’s concerns, but this is ongoing.</p>
NV.1.49	The Applicant, ESC, SCC	<p>Two Village Bypass</p> <p>In light of the recognised significant adverse effects that would arise from the use of the two village bypass during operation, can this be regarded as sustainable development?</p>	ESC defers to SCC as local highway authority to respond to this question as operational noise from new road schemes is under the responsibility of the local highway authority.
NV.1.54	ESC	<p>Yoxford Roundabout</p> <p>Are the Council satisfied with the findings in respect of this part of the scheme and that the mitigation proposed to avoid the SOAEL being exceeded at Sunnypatch, The Old Barn, Rookery Cottages and Hopton Yard would achieve appropriate levels of mitigation to avoid harm to health and comply with the requirements of the NPS EN1 and NPSE.</p>	ESC defers to SCC as local highway authority to respond to this question as operational noise from new road schemes is under the responsibility of the local highway authority.
NV.1.55	ESC	<p>Yoxford Roundabout</p> <p>Delivery of screening and final working methodology is yet to be finalised. Are the</p>	ESC defers to SCC as local highway authority to respond to this question as operational noise from new road schemes is under the responsibility of the local highway authority.

		Council satisfied that the method of mitigation is appropriately secured?	
NV.1.59	The Applicant, ESC	<p>Night Time Noise</p> <p>(i) On the basis that a value of 40dB Lnight represents a level where adverse effects begin to occur in locations with a low background noise level at night on what basis has a level of 60dB been assessed to represent only a low impact?</p> <p>(ii) How has this figure been arrived at? (iii) Can this be reasonably argued to avoid adverse health effects when the WHO guidance recognises that adverse health effects are identified at night when levels exceed 40dB Lnight-outside.</p>	<p>The question is unclear to ESC because it appears to be based on comparing a night-time LOAEL value with a daytime SOAEL value. We are unsure that the 60dB quoted is correctly quoted, we are assuming that it was intended to read 60dBLmax. If this assumption is correct, we can respond at a later deadline.</p> <p>However, ESC does not agree that “a value of 40dB Lnight represents a level where adverse effects begin to occur in locations with a low background noise level at night” and consider that night-time absolute noise levels from the operational power station should be assessed using an alternative criterion which considers the character of the sound. This criterion should be set in accordance with BS 4142:2014+A1:2019.</p>
NV.1.60	ESC	<p>Health Effects of Noise</p> <p>(i) Do the Council agree that the method of assessment and standard against which effects should be measured is appropriate and would ensure adverse health effects are minimised?</p> <p>(ii) In the RR at para 1.8 you indicate that the SOAEL and LOAEL levels are not fully supported by either national guidance or best practice. In which circumstances/ locations do you consider the levels set are not appropriate? Please explain your reasoning.</p>	<p>i) ESC is unable to fully answer question i) until the discussions we are currently having with the Applicant relating to LOAEL and SOAEL have been progressed further.</p> <p>ii) Construction noise LOAEL and SOAEL values are currently under discussion between ESC and The Applicant, alongside construction noise thresholds in the Code of Construction Practice and Construction Noise Mitigation Scheme.</p> <p>Operational noise LOAEL and SOAEL values are also currently under discussion. However, ESC does not consider that the WHO Night Noise Guidelines are an appropriate basis for assessing potential significant adverse effects from an operational power station, and that absolute noise criteria (should they be applicable) should be derived from BS 4142:2014+A1:2019 (and the accompanying guidance note issued by</p>

			the Association of Noise Consultants in March 2020) and consider potentially distinctive characteristics of the sound. While the WHO Night Noise Guidelines address noise-related effects on health, the guidelines are largely built on research of health effects from transportation noise, with fewer distinguishing characteristics. The WHO Night Noise Guidelines also do not consider the local context.
NV.1.61	ESC	<p>Operational Noise</p> <p>(i) Please clarify the ongoing concerns about the assessment of operational noise and the source data.</p> <p>(ii) What further evidence do you seek?</p>	<p>The Applicant has provided additional information regarding inputs and source data during recent discussions and ESC welcomes this.</p> <p>Following these discussions, ESC’s main concerns regarding operational noise relate to the assessment criteria; the adopted LOAEL and SOAEL for absolute operational noise levels at night, particularly.</p>
NV.1.63	The Applicant, ESC (Part iii) and iv) only)	<p>Noise Mitigation Scheme (NMS)</p> <p>Please explain how this scheme [APP-210] would operate to protect living standards for residents such that they were not significantly affected.</p> <p>(i) How would the mitigation offered protect gardens?</p> <p>(ii) How would the noise environment within properties be protected to an acceptable degree when windows were open?</p> <p>(iii) Do the Council consider the mitigation scheme as drafted sufficiently clear and enforceable such that receptors would be adequately protected?</p>	<p>(iii) ESC does not consider the mitigation scheme as currently drafted to provide adequate protection to receptors.</p> <p>Discussions are ongoing with the Applicant in relation to the thresholds for eligibility (particularly for Main Development Site construction, and night-time rail noise), consideration of building construction(s) (particularly in relation to listed and/or protected buildings), and a process to ensure eligibility is assessed based on a refreshed noise assessment once the proposals are more developed.</p> <p>(iv) ESC has no particular preference with how this would be better secured, although there are practical reasons why securing through S106 would be more efficient in terms of coordination/programme.</p>

		(iv) Do the Council consider this would be better secured through the DCO or S106?	
NV.1.67	ESC	<p>Rail Noise Mitigation Strategy</p> <p>The Applicant proposes a Rail Noise Mitigation Strategy [AS-258] in consultation with Network Rail and the rail freight operator. Are you satisfied this gives sufficient control over noise to safeguard health and quality of life?</p>	<p>The assessment of noise and vibration from rail assumes that all the engineering and operational mitigation measures set out in the Rail Noise Mitigation Strategy [AS-258] are adopted in full. It is therefore ESC's view that all of these measures would need to be in place for the predictions/assessment outcomes to remain representative. The Council has raised this with the Applicant who is in ongoing discussions with Network Rail to discuss how this can be secured.</p> <p>Aside from this, ESC considers that a consolidated approach to mitigation is required to mitigate and minimise adverse effects on health and quality of life. NPS EN-1 states that all forms of mitigation should be considered to "mitigate and minimise" adverse effects on health and quality of life. The Council has discussed this with the Applicant, who is currently carrying out an exercise to explore other options for mitigation, including trackside screening. This process could satisfy ESCs concerns, but this is ongoing.</p>
NV.1.68	The Applicant, ESC, PHE	<p>Rail Noise</p> <p>In the event that having the SOAEL at a higher level than the significant adverse effect level identified from the ES Assessment was not considered to be justified, do the 100-110 properties identified as being potentially subject to such noise levels need to be subject to noise mitigation for the scheme to avoid adverse health effects and be compliant with NPSE and NPS EN1 policy?</p>	<p>Yes, ESC consider that properties exposed to rail noise levels above the EIA threshold for significant adverse effects (70 dB L_{AFmax}) should be eligible to apply for enhanced sound insulation under the Noise Mitigation Scheme, rather than at the higher SOAEL value, which is just the level to be avoided.</p>
NV.1.74	The Applicant, ESC (Part iii) only)	<p>Mitigation Assessment</p> <p>[APP 545] para 4.7.5</p>	<p>ESC is unable to answer this question at this time. We would need sight of the Applicant's responses to parts (i) and (ii) in order to respond to part (iii).</p>

		<p>(i) How will the assessment be made where a balance needs to be struck between acoustic benefit and visual harm?</p> <p>(ii) Who would be the decision maker? (iii) Do you agree this is an appropriate method of assessing this planning balance?</p>	
NV.1.75	The Applicant, ESC (part iv)	<p>Precedents from previous DCO and legal cases</p> <p>Reference is made to two previous projects (Thames Tideway Tunnel and Heathrow) in order to justify setting a SOAEL at a different level from the level that might be regarded as having a significant adverse effect.</p> <p>(i) Please explain how the two cases referred to are similar to this DCO such that this approach could reasonably be justified in this case.</p> <p>(ii) Please provide copies of the decisions and point out from each the explanation and justification provided in those cases.</p> <p>(iii) The Cranford Case would not appear to be a NSIP Case but a S78 appeal against the specific requirements of the ‘Cranford Agreement’. Please explain how you consider those circumstances comparable to the current scheme.</p> <p>(iv) Do the Council agree that setting the SOAEL at a different level from that regarded as significant in the ES is justified?</p>	<p>(iv) We recognise the basis for this approach in some cases, but ESC does not see it as our role to decide whether it is justified in this case.</p> <p>However, regardless of whether the EIA significance threshold and SOAEL are aligned, this does not detract from the overarching policy requirement to “mitigate and minimise” adverse effects and avoid significant adverse effects. In this case, considering the scale and duration of the development, if the two thresholds are not aligned then ESC consider that the threshold for eligibility for the noise mitigation scheme should be the lower of the two values, to ensure that the overarching policy requirements will be met.</p>
NV.1.78	ESC	<p>Working Hours</p> <p>Can the Council please explain more fully what is meant by ‘in particular the usual</p>	<p>ESC consider that this refers to paragraph 2.266 of the RR, which addressed potential cumulative effects with other local construction projects. Permitted construction working hours for these other</p>

		permitted working hours for construction' as referenced in paragraph 2.267 of the RR	schemes in the area would typically be restricted to daytime hours only by ESC (0800-1800hrs Monday to Friday, 0800-1300hrs Saturday).
NV.1.80	The Applicant, ESC	<p>Residential Amenity</p> <p>In the respective chapters of the ES there are various locations which recognise that noise levels would exceed the SOAEL or be above the LOAEL. In each location the internal environment of residential receptors has been sought to be protected by mitigation when the appropriate threshold is exceeded.</p> <p>(i) In the locations where the SOAEL is exceeded in a residential garden how can this be said to meet the aims of the Noise Policy Statement for England in avoiding significant adverse impacts on health and quality of life from environmental ...noise?</p> <p>(ii) In light of the length of the construction period for the main development site what noise level would be regarded as appropriate and what mitigation is offered to protect residential gardens to ensure this level is not breached?</p>	<p>(i) If the SOAEL is exceeded in a residential garden, then this would not meet the aim of the NPSE in avoiding significant adverse effects on health and quality of life from noise.</p> <p>(ii) The LOAEL and SOAEL values that are adopted should ideally represent a balance of potential internal and external effects, although this is not possible in all cases. In any case, this reinforces the statement in NPS EN-1 that "it may be appropriate for the Planning Inspectorate to consider requiring noise mitigation through improved sound insulation to dwellings" but only in situations "when all other forms of noise mitigation have been exhausted". ESC considers that all possible forms of mitigation should be exhausted to reduce noise levels before they reach a receptor, so that adverse effects on external amenity are mitigated, not just on internal health/amenity. The SOAEL values for construction noise are based on those suggested in Table E2/Annex E4 of BS 5228-1+A1:2014 as thresholds for construction noise mitigation and are therefore based on assessing and mitigating internal impacts only. There is guidance in Annex E5 of BS 5228 which specifically relates to long-term construction projects involving "large scale and long-term earth moving activities" and provides recommended noise limits for this. ESC consider that this approach is more directly suitable than an approach based on noise insulation thresholds, and that it would provide the necessary balance between external and internal noise effects. The 55 dB $L_{Aeq,1h}$ absolute noise limit recommended in that annex is also broadly aligned with WHO thresholds for ambient noise in external amenity areas from the Guidelines for Community Noise, 1999 (50-55 dB $L_{Aeq,T}$).</p>

			Alternatively, the ABC Method, per Table E1/Annex E3 of BS 5228 also provides suitable (albeit less onerous) criteria for assessing the impact of external construction noise.
NV.1.81	ESC, SCC, Natural England, MMO	Conveyor on BLF The Applicant has introduced reference to a conveyor system for the BLF. Do you consider the assessment of this in respect of noise is adequate?	This was the subject of recent discussions between the Applicant and ESC. The Applicant has provided additional information which clarifies how the BLF was assessed. ESC is now satisfied that noise associated with construction and use of the BLF were adequately assessed.
NV.1.92	The Applicant, ESC (Part ii) and iii))	Rail Noise Assessment In light of the comments from Saxmundham Town Council, (i) please advise on whether additional properties at Beech Road, Holly Way and Oak Close have been assessed in terms of any noise affects. (ii) Are there any other recently built or planned developments along the rail route which the ExA should be aware of? (iii) Has a list of such agreed developments been provided to the Applicant?	(ii) The Applicant has been advised by ESC of planned developments in the leading time to their cumulative assessment. This has included developments in the vicinity of the main development site and along major freight routes. That was last given to the Applicant in 2019 as they finalised their ES for submission in 2020. New developments since then, where practicable, the ESC case officer has advised the planning applicant that they should be aware of the Applicant's proposals. (iii) There has been no list provided since late 2019.
NV.1.93	The Applicant, ESC (Part ii) only)	Night-time Rail Noise Campsea Ashe Parish Council, Woodbridge Town Council and ESC all express concern that the assessment of effects from the night-time rail operation as proposed has not been adequately assessed or those effects on residents properly mitigated. (i) Please respond to the concerns and set out how the assessment has been undertaken and how the mitigation offered would work in practice.	(ii) ESC does not agree with their concerns on the assessment methodology, ESC considers the effects have been adequately assessed (in terms of methodology/criteria). ESC does agree that those identified effects would not be properly mitigated, based on current proposals. The Applicant has provided a draft Rail Noise Mitigation Strategy and a Noise Mitigation Scheme, we are not currently satisfied with these and are discussing further with the Applicant.

		(ii) Do the Council agree with these concerns?	
NV.1.97	ESC	Code of Construction Practice (CoCP) Table 3.2 of the CoCP sets a series of noise thresholds for the works at the main development site. (i) Do you consider these thresholds appropriate? (ii) Are you content with the monitoring as proposed to oversee that these levels are achieved?	(I) ESC does not consider these thresholds appropriate, simply because more appropriate thresholds are available in BS 5228. Considering the specific nature and duration of the works, the guidance in Annex E5 of BS 5228, which specifically relates to long-term construction projects involving “large scale and long-term earth moving activities” and provides recommended noise limits for this, seems a more appropriate basis for setting construction noise thresholds than the thresholds currently set out in Table 3.2 of the Code of Construction Practice (CoCP), which are aligned with the EIA significance thresholds. ESC is also unclear from Section 3.2 of the CoCP what actions would be taken to ensure these thresholds are not breached. (ii) The basic principles of what is proposed in terms of monitoring (Section 3.3.7 of the CoCP) seem appropriate. However, it is not currently clear what the aims of this would be and what actions would be taken in the event of construction noise thresholds being exceeded.
NV.1.98	The Applicant, ESC, SCC	CoCP Advance Notice of works is specified as a method of mitigation for receptors. (i) What period of advance notice is expected to be provided? (ii) Has this been agreed and or secured as a commitment?	(I) Section 3.1.20 of the CoCP states that there would be a 1-week notice period for “noisy and disruptive” works. ESC consider that 1 week should be the minimum notice period and that the required notice period should depend on the location, extent, and duration of the works. It is also unclear how “noisy and disruptive” works are defined. However, the Council recognises that the CoCP will be expanded and refined going forward and that this will provide an opportunity to discuss proposals for advanced notice in relation to specific receptors. (ii) ESC would welcome a commitment from the Applicant to do this.

R.1 Radiological Considerations			
R.1.16	ONR, Emergency Services, ESC, SCC	Emergency Plans Are you satisfied with the Emergency Plans that are set out and how they correlate with the existing nuclear sites at Sizewell A and B?	The original Vision agreed with the Applicant and referenced in the LIR [REP1-045] refers to ‘a secure and safe project with robust emergency planning provisions’, ESC is a member of the Joint Emergency Planning Unit hosted by SCC which provides local authority input to the Suffolk Resilience Forum. Suffolk Resilience Forum are the responsible authority with regards to Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPP19). See 22.22 of the LIR for further detail on what needs to take place to update on-site and off-site emergency response plans and 22.23 which request a new requirement to cover provisions for emergency planning which are not currently included in the draft DCO.
R.1.22	ESC, ONR	Semi Urban Criterion (i) Has additional residential development been undertaken within the area which influences the assessment of the semi urban criterion since the sustainability assessment was undertaken? (ii) Are there any future planned developments that might influence this assessment?	(i) There has not been any significant residential development in the vicinity of the proposed power station site that would influence or change the assessment of the semi-urban criterion of the locality. (ii) No.
R.1.29	ONR, ESC, EA, The Applicant	Public Health PHE have indicated a series of shortcomings in their RR with regard to both radiological and air quality issues – please respond to each of the points that they have raised in so far as it relates to your responsibilities and explain whether you consider these issues could be overcome. In the event you consider the issues can be resolved please explain how the matters would be resolved and under	Air quality – refer to detailed response re: particulate matters and dust deposition, along with general air quality comments at AQ.1.2, AQ.1.3, AQ.1.7, AQ.1.11, and AQ.1.22.

		which regime appropriate mitigation would be secured and operation monitored.	
SE.1 SOCIO-ECONOMIC			
SE.1.0	All relevant local authorities	<p>Assessment of Socio-Economic Effects The NPS at paragraph 5.12.3 sets out what an assessment of socio-economic affects should cover. Are there any shortcomings within the assessment that require further assessment or clarification?</p>	<p>NPS 5.12 8 states that ‘The IPC should consider any relevant positive provisions the developer has made or is proposing to make to mitigate impacts (for example through planning obligations) and any legacy benefits that may arise as well as any options for phasing development in relation to the socio-economic impacts.’</p> <p>5.12.3 states this assessment should consider all relevant socio-economic impacts, which may include:</p> <ul style="list-style-type: none"> ● the creation of jobs and training opportunities; ● the provision of additional local services and improvements to local infrastructure, including the provision of educational and visitor facilities; ● effects on tourism; ● the impact of a changing influx of workers during the different construction, operation and decommissioning phases of the energy infrastructure. This could change the local population dynamics and could alter the demand for services and facilities in the settlements nearest to the construction work (including community facilities and physical infrastructure such as energy, water, transport and waste). There could also be effects on social cohesion depending on how populations and service provision change as a result of the development; and ● cumulative effects – if development consent were to be granted to for a number of projects within a region and these were developed in a similar timeframe, there could be some short-term negative effects, for example a potential shortage of construction workers to meet the needs of other industries and major projects within the region.

		<p>LIR [REP1-045] 23.7 and 23.8 states 'The Applicant and its contracted supply chain partners must work transparently and collaboratively with the Councils, and its partners across Suffolk and Norfolk, to ensure that the region capitalises on the opportunity presented by Sizewell C and that the value in and to local communities is maximised.... Adequate financial mitigation is required to deliver the economic benefit to the local area....'</p> <p>These information gaps have persisted through to the final consultation stages, in the material provided for at Stages 3 and 4. The outstanding information requested by the ESC and SCCs at Stage 3 or Stage 4 but still outstanding at the time of submission include:</p> <ul style="list-style-type: none"> • Evidence of the impact of and resulting mitigation proposals for the increase of workforce number to 8,500. <p>It therefore is imperative that the Applicant provides the missing information identified above and has an additional focus on positive provisions and legacy benefits.</p> <p>A Statement of Economic Intent has been developed by ESC, SCC, and New Anglia LEP which represents the agreed vision of partners working together with the Applicant. The highlighted areas of focus are Business Support, Supply Chain, Inward Investment, Visitor Economy, Education, Skills and Employment, Community, Infrastructure and Environment.</p> <p>Some of the issues addressed by the Statement of Economic Intent are being addressed via current Section 106 proposals. Partners are working together to seek the best possible outcomes from S.106 and</p>
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			<p>other commitments made by the Applicant. Some key issues have already been agreed.</p> <p>However, there are gaps and to manage Economic Development matters with single focus and careful coordination across all the partners a comprehensive Economic Development programme must be created. This programme is required to avoid duplication, inefficiency, and gaps and to coordinate work to maximise opportunities and create legacy benefits.</p> <p>The gaps exist between current provision and issues under negotiation. These gaps include development of specialist functions to create focus on key issues and provision of specialist support services to ensure that businesses receive the help they need.</p> <p>Expert functions should be created across each of New Anglia LEP, SCC, and East Suffolk Council. These functions should be focussed on inward investment (1), business support (2) and economic development programme management (1).</p> <p>Specialist services should be focussed on investor attraction and development (New Anglia LEP), and business support (New Anglia LEP and ESC).</p>
SE.1.5	Applicant and relevant local authorities	<p>Economic Benefits</p> <p>The Economic Statement suggests [APP-610] there would be substantial economic benefits arising from the development. Please explain whether the experiences that arose from the development of the current and former nuclear power stations resulted in positive benefits. A number of</p>	<p>As the development of Sizewell C is located in East Suffolk, ESC is ultimately responsible for, and interested in, every aspect of economic development. This creates considerable responsibility and workload, and will require very careful oversight, management, and control. Establishment of the economic development programme is therefore critical for this project in this location.</p>

		<p>RRs indicate that there has not been a long term benefit to ExQ1: 21 April 2021 Responses due by Deadline 2: 2 June 2021 Page 3 of 40 ExQ1 Question to: Question: the local area (RR-002, RR-008) how do you anticipate that this scheme could ensure a positive legacy in economic terms for the local area?</p>	<p>The scheme can help to create a positive legacy in economic terms for the local area by ensuring that:</p> <ul style="list-style-type: none"> • The Applicant open and maintain a local office presence in Leiston to support planning, construction and operation of Sizewell C. • Supply chain development is maximised to both enable local firms to become involved and to attract new entrants. • Local firms and new entrants receive the support they need to get established as supply chain participants, to find and develop land/premises needed, to successfully recruit the workforce they seek and that they receive support to help them engage locally, encourage/enable them to recruit locally, and to ensure they stay local. • Education and skills provision is available, accessible, and relevant to young people and to the local workforce to enable them to train for Sizewell C relevant roles and so creates a multi-generational shift in employment prospects. • Businesses associated with and involved in with Sizewell C are encouraged/enabled/required to recruit locally where possible, so a multi-generational shift in employment prospects results. • Leiston is cited as a base for activities and initiatives which create lasting benefit for its people, businesses and community. • Support is provided for ‘bounce back’ activity which backfills, supports gaps/risks/impacts created by Sizewell C development, such support to include local business support.
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			<ul style="list-style-type: none"> • Plans are made to avoid both a ‘false dawn’ of economic hope and a ‘boom and bust’ scenario, both requiring careful management of expectations amongst local communities. • Support is given to New Anglia LEP, SCC, and ESC who are keen to see an economic development programme that delivers opportunity now and throughout the lifetime of the Sizewell C project and beyond via lasting legacy. This programme recognises that the Economic Capacity and the Economic Health of the Region are intrinsically linked and need to be effectively coordinated. The interaction between the Economic Capacity and the Economic Health of the Region involves both Business Attraction and Business Support. • Support is provided to encourage and assist ESC, SCC, and New Anglia LEP to deliver their agreed Statement of Economic Intent which represents the agreed vision of partners working together with the Applicant. The highlighted areas of focus are: Business Support, Supply Chain, Inward Investment, Visitor Economy, Education, Skills and Employment, Community, Infrastructure and Environment. • Financial support is made available to ESC, SCC, and New Anglia LEP so they can manage Economic Development matters with single focus and careful coordination across all of the partners via a comprehensive Economic Development programme. This programme is required to avoid duplication, inefficiency and gaps and also to coordinate work to maximise opportunities and create legacy benefits. • The programme should include development of specialist functions to create focus on key issues and provision of specialist support services to ensure that businesses receive the help they need.
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			<ul style="list-style-type: none"> • Expert functions should be created across each of New Anglia LEP, SCC, and ESC. These functions should be focussed on inward investment (1), business support (2) and economic development programme management (1). • Specialist services should be focussed on investor attraction and development (New Anglia LEP), and business support (New Anglia LEP and ESC).
SE.1.6	Applicant and relevant local authorities	<p>Sizewell Link Road</p> <p>The link road as proposed would sever Petty Road which [RR-0014] considers an important link between Saxmundham and Theberton providing access for the village community to the services in Saxmundham. Please explain how these concerns have been addressed.</p>	<p>There are six businesses in the vicinity of Pretty Road, Theberton which will be severed, which rely on the movement of large farm equipment to conduct their business activities. An advisable solution would be a transport contingency fund to be available in case of thresholds of congestion and disruption being met, which businesses owners could draw down on with support from the NALEP, to adjust their business practices in line with the changing local environment.</p> <p>ESC defers to the Applicant as to how they are going to address this issue - we have seen some suggestions, and anticipate SCC responding in detail as Highway Authority.</p>
SE.1.16	Applicant and relevant local authorities	<p>Potential Effects on Tourism</p> <p>Essex CC [AoC-003] indicated a desire to see a broader assessment of the impacts on tourism and the relationship to Bradwell B, please respond to this particular concern and whether the assessment of effects on the tourism sector are considered robust and conservative.</p>	<p>Independent Research commissioned by The Suffolk Coast DMO (Destination Management Organisation) in partnership with the National Coastal Tourism Academy and Suffolk Coast and Heaths AONB has shown that the potential harm to the visitor economy because of the impact of energy projects could range between £26 million to £43 million a year. This is considered to be the most accurate estimate available along with associated economic impact estimation work rather than taking a conservative approach. The Applicant's own Visitor Survey [APP-268] did not reach financial conclusions on the economic impact of the project, the net loss of visitors reported, mirrored The Suffolk Coast DMO's report to within 1%.</p>

			ESC considers it is for the Applicant to respond regarding the relationship to Bradwell B as this is not a relationship ESC has sought to analyse.
SE.1.24	The Applicant, ESC, SCC, NALEP	<p>Employment Skills and Education Strategy</p> <p>(i) The Asset Skills Enhancement and Capability Fund is proposed to be governed by a several stakeholders. Is there agreement as to who they should be?</p> <p>(ii) Who would make the final decision?</p>	<p>i) The Applicant has proposed governance arrangements, these are not agreed and are subject to further consideration and engagement.</p> <p>ii) ESC is satisfied that the final decision for allocating funding from the Asset Skills Enhancement and Capability Fund would sit with the Applicant. However, any funding decision must be made following consideration of what is the project need, is it covered by local/national offer already or a requirement for intervention/investment the Regional Skills Coordination Function would work through an agreed framework to identify and deliver potential solutions with partners that:</p> <ul style="list-style-type: none"> • will react to any impact monitoring feedback; • achieve the objectives of the Annual Workforce Delivery Implementation Plan; • enhance the local skills system; • deliver regional inclusive growth; and • achieve the objectives of the relevant Workforce Delivery Strategy. <p>If a skills intervention is identified as a project only need this will need to be delivered through a standard commercial agreement and would sit outside of the Asset Skills Enhancement Fund and its governance.</p>
SE.1.27	The Applicant (Suffolk Chamber of Commerce, ESC, SCC,	<p>Supply Chain Strategy</p> <p>[APP-610] in paragraph 7.3.6 refers the reader to Appendix B [APP-611]. The section on Supply Chain (1.7) does not however explain how this strategy will be delivered.</p>	<p>(iii) only.</p> <p>The Supply Chain work being undertaken by the Chamber of Commerce needs to be developed further and in partnership with ESC and our partners including SCC and New Anglia LEP. Although we are pleased to see plans for Supply Chain Development and are supportive of the work underway and planned, we expect this to be further</p>

	NALEP (iii) only)	<p>(i) Please provide precise details on this strategy and the delivery and monitoring mechanism.</p> <p>(ii) Please set out the details of governance arrangements and progress of the S106 so this strategy can be more fully understood.</p> <p>(iii) Do the respective parties agree that the S106 would deliver an appropriate supply chain strategy?</p>	<p>developed. Please also refer to Section 24 of the LIR [REP1-045]. We anticipate this being developed further to look like this:</p> <ol style="list-style-type: none"> 1. The Supply Chain initiative will be operated/managed via transparent partnership, with clear line of sight on current activity, future plans, and emerging data shared between the Applicant, the Chamber of Commerce plus ESC, SCC, and New Anglia LEP on a regular basis. 2. A broader group of stakeholder groups can be invited to support the work of the Supply Chain initiative. This can be achieved by engaging across the East of England with all relevant/accessible business representative organisations (CBI, FSB, IOD etc), professional bodies (Law Society, ICAEW etc) and professional firms (lawyers, accountants, banks etc). Such engagement will help to cascade relevant messaging to a broader audience, encourage multipliers to initiate dialogue with their contacts to stimulate interest in supply chain opportunities, attract supply chain participants and attract new inward investors. <p>None of this is intended to cut across the Applicant/Chamber contract or the work underway/planned, but it is intended to reinforce it, complement it, and help all parties.</p>
SE.1.28	The Applicant, Relevant local authorities	<p>Labour Market</p> <p>Considering the number of construction workers envisaged to be required please advise on the implications this may have for the labour market both locally and regionally.</p>	<p>As set out in Section 23 of the LIR [REP1-045] (paragraph 25.14), ESC is concerned that the project will create high levels of labour market churn, where skilled labour prematurely leaves their current local employment to work on the project. When this happens in high levels negative displacement will occur causing a reduction in economic activity.</p>

			<p>Effective monitoring to understand demand will be crucial to ensure that the Education, Skills and Employment measures delivers high demand skilled people to the employment market at the right time to ensure that high churn levels don't manifest as displacement.</p> <p>Monitoring is also equally important as, it is accepted, we are working from a best practice model that contains many assumptions, exasperated, by the long-time frame for the project. Therefore, it is imperative that we have a flexible dynamic approach that can react to local conditions, project demand and regional/national strategy.</p>
SE.1.29	Relevant local authorities	<p>Labour Market</p> <p>(i) Following on from the previous question do you consider the assessment of effects on the local labour market has robustly assessed likely impacts? Are there any concerns that you would wish to identify in this respect?</p> <p>(ii) The effects on the labour market for the area would be different during operation from that experienced during construction. Are you content with the assessment in this regard and the potential mitigation offered?</p>	<p>i) ESC is content that the assessment of effects on the labour market have been undertaken following all guidelines and best practice advice. However, given a project of this magnitude and time scale has many variables to consider with many being out of the direct influence of the Applicant and local authorities, ESC is concerned with the validity of any conclusions drawn from this assessment in the long term.</p> <p>Therefore, ESC is pursuing a flexible dynamic approach that places monitoring at its very centre. Through this approach ESC can maximise the positive impact of the project by pro-actively planning for legacy employment opportunities, whilst also using independent monitoring to ensure we are reacting to negative trends and flexing mitigation measures to minimise any negative impact.</p> <p>Suffolk has natural geographic advantages that mean it will play a huge part in achieving the UK's ambition to reach Net Zero. The cumulative opportunity and negative impacts of the developments that will deliver Net Zero are not fully understood for the region and hence are another reason for adopting a flexible and dynamic approach.</p>

			<p>ii) As set out in the LIR [REP1-045] (section 23 and 25), ESC welcomes the opportunity for local people to achieve employment at the operational station in high value high skilled employment.</p> <p>The assessment as carried out by the Applicant states all the operational workers will be Home Based (HB). We consider this to be a misleading statement and a change to the definition of HB as used when considering the construction workforce.</p> <p>All operational employees must live within a certain distance of the station and therefore by definition will become HB. However, the definition of a HB worker is a person residing within the daily commute zone before the commencement of the project. ESC is seeking clarification on the definition of HB in both the context of construction and operational workforces and to work with the Applicant on maximising local employment in operational roles recognising the specialism and skill needed for these roles will need a long lead in time and therefore need to be timed appropriately.</p>
SE.1.31	Applicant, all relevant local authorities	<p>Labour Market</p> <p>(i) What is being undertaken to maximise the number of local people that could aspire to and achieve higher paid skilled employment on the project?</p> <p>(ii) How could this be secured through the DCO?</p>	<p>i) The project will generate a significant demand for labour, in a range of employment sectors, skill levels, and in both construction and non-construction-related activities, alongside long-term operational jobs once the power station is built providing positive local and regional benefit through the creation of more jobs, opportunities for upskilling and increased competency within the local supply chain.</p> <p>To maximise these positive catalytic benefits, mitigate possible negative effects, such as vacancies becoming harder to fill and ensure that minimum local employment targets are reached. The proportion of conservatively estimated Home Based (HB) workers, as presented in the ES, must be used by the Applicant as a minimum floor that the project must achieve. This will ensure that all relevant mitigation</p>

		<p>(accommodation demand, community safety, public services etc.) secured against the worst-case impact of non-home based (NHB) workers is credible and held to account whilst also supporting the Applicant to further maximise the positive impact of HB recruitment.</p> <p>The Applicant has set out a range of measures within the Employment, Skills and Education (ESE) Strategy, the following measures are central to this strategy:</p> <ul style="list-style-type: none"> • Sizewell C Employment Outreach Fund – funding to support the delivery of initiatives in areas of social deprivation and working with those furthest from the labour market to bridge the gap to becoming ‘work ready’ and increase the pool of available local labour. • Asset Skills Enhancement and Capability Fund – capital and revenue fund ensuring that local training provision is available that meets the joint needs of the region and the project, delivering skilled people at the right time. • Skills/Student Bursary – bursary scheme that aims to remove barriers ensuring education and skills development is accessible to all. • Sizewell C Jobs Service – funded service that will grow, build and maintain a talent pool of local employment, driving local employment within the project and also to support local employers. • Education Inspiration – enrichment and enhancement of current inspiration offer and its content. Upskilling and equipping inspiration leads throughout education, outreach and the Voluntary, Community and Social Enterprise sector. • Apprenticeship Strategy – a critical part of the Applicant’s workforce delivery strategy providing key entry and progression opportunities for all, ensuring all contractors maximise opportunities for local people and providers.
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		<p>Whilst the broad scope and implementation of all key measures of the ESE Strategy has been established, ESC remains unable to fully support until we have agreed details required around governance, monitoring and levels of commitment.</p> <p>We have a flexible and dynamic process that will allow us to react to any impacts picked up through monitoring, such as workforce churn, take account of the changing skills and employment landscape as well as the economic cycle we are in we propose that we work with the Applicant to deliver a Workforce Delivery Strategy (WDS) and Annual Workforce Delivery Implementation Plans (AIP).</p> <p>The WDS will be co-written by the Applicant and its contractors and will set out the overall strategic approach for developing the Sizewell C project workforce requirements combined with the identified regional priorities and legacy drivers for each main phase of the project. The AIP produced locally by the regional skills coordination function will draw on the relevant WDS, local LMI, project monitoring, and local strategy to ensure an agile approach that reacts to local conditions.</p> <p>We have always advocated that the Applicant should set clear, ambitious and SMART (Specific, Measurable, Attainable, Relevant/Realistic, Timely) employment targets (e.g., LIR [REP1-045] para 25.24) and ensure the project delivers a range of employment opportunities, at different levels, in different roles, promoting legacy for local people. The AIP will translate these objectives, the objectives of the WDS and monitoring feedback into implementation activity. It will be the conduit between strategic intent, monitoring, labour market information and the distribution of funds and measures outcomes.</p>
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			ii) It is anticipated that the majority of the measures set out above would be secured through S106.
SE.1.33	Applicant, all relevant local authorities	<p>Home Based Workers ESC suggest they are seeking 36% of workers to be homebased[para 1.157 RR-0342].</p> <p>(i) Please explain why this figure is being sought, and upon what evidence this is based.</p> <p>(ii) Should this figure be regarded as a minimum for the whole project, or particular phases?</p> <p>(iii) How should this be secured?</p> <p>(iv) In the event the figure were to be lower for either the whole project, or particular phases what would the implications be?</p>	<p>i) This percentage figure was arrived at from Stage 3 consultation where it was predicted by the Applicant 2,000 Home Based (HB) workers would make up the estimated peak workforce of 5,600. The Applicant arrived at this figure as described in Volume 2 Appendix 9A Technical Note 1 Workforce Profile of the DCO documentation [APP-196]. These HB assumptions have not changed with the introduction of a higher peak workforce with the assumption that the extra workers will all be Non Home Based.</p> <p>ii) The predicted HB recruitment numbers should be viewed as a minimum level of HB recruitment with all measures in place to encourage maximisation of further HB employment thereafter. This will ensure that all relevant mitigation (accommodation demand, community safety, public services etc.) secured against the worst-case impact of non-home based (NHB) workers is credible and held to account whilst also supporting the Applicant to further maximise the positive impact of HB recruitment.</p> <p>Although there is a higher propensity for HB jobs to be those that are lower skilled, ESC expects the Applicant to positively mitigate against this and that all the measures proposed ensure that we achieve higher HB recruitment in identified legacy roles and skill sets that will benefit the region long after the project has completed.</p> <p>iii) It is difficult to secure this as it is an aspirational figure and difficult to require a contractor to meet. However, by securing other measures with the Applicant aimed at boosting the skills base in the locality and promoting improvements through the Workforce Delivery Strategy this would help work towards securing a minimum 36% home-based</p>

			<p>workforce. The LIR [REP1-045] at 25.22 asks for a commitment from the Applicant and all supply chain businesses to the recruitment of local workers.</p> <p>iv) If the Applicant is unable to reach the predicted levels of HB recruitment, then the worst-case scenario as presented and mitigation agreed against will not be true and any negative impact of NHB workers will be further exasperated as well as the project not being the catalyst for positive employment, skills and education growth as predicted.</p>
SE.1.34	Applicant, all relevant local authorities	<p>Operational Roles</p> <p>Has a strategy been prepared to support local people becoming permanent members of staff during the operational phase of the development?</p>	<p>The Applicant has not presented a strategy for maximising local employment during operation of the station. The Draft Section 106 Agreement Para 2.1.2 [REP1-007] does set out that the Applicant will produce a Workforce Delivery Strategy for the Operational Phase which is welcomed. However, there is no provision for funding in any of the suggested measures (paragraphs 2.4.3 and 2.5.3 for example) and rather confusingly refers to three different Workforce Delivery Strategies than those explained in paragraph 2.1.2.</p>
SE.1.39	The Applicant, SCC, ESC, New Anglia LEP	<p>Cumulative Effects</p> <p>(i) Please explain how any effect on the labour market might be managed when considered in conjunction with other potential major construction projects. In providing a response please set out the list of projects that are being considered and whether this list has been agreed with the relevant local authorities. Suffolk CC [RR-1174] at paragraph 156 provides a list, but it not clear whether this is agreed. Please support the response with the most up to date position of the prospective delivery times of these projects where known.</p>	<p>Paragraph 25.15 of the LIR [REP1-045] sets out ESC’s concern about the unprecedented level of development in the area and its potential impacts and demand on the labour force. It is of real importance that the skills strategies of all the local energy projects – Sizewell C, offshore wind farm projects including East Anglia One North and East Anglia Two, Vattenfall and others – are not developed in isolation but are considered against the wider demand for similarly skilled workers in the region. This includes a consideration of the labour demands of other significant infrastructure projects, such as the third crossing in Lowestoft, and their common competency requirements. This will ensure that we develop skillsets in our local workforce that have long-term applications across our economy.</p>

		(ii) Please consider the different demands on the different phases of the project and how this might affect the labour market and supply chain.	The Technical Skills Legacy for Norfolk & Suffolk report by Pye Tait Consulting (Technical Skills Legacy Suffolk Growth), commissioned by Suffolk Growth Programme Board and Norfolk County Council identifies the key skillsets that will have an enduring legacy regionally and ensure the county maximises local employment opportunities associated with the significant investment forecast in major infrastructure projects.
SE.1.42	The Applicant, ESC, SCC	Freight Management Strategy A number of RRs including [RR-0040] expressed concern that the original application would cause economic harm by severing communities and reducing the quality of the environment which is an important contributory factor to the tourism sector. Would an increase in rail and seaborne freight provide an economic benefit by reducing such severance?	An increase in rail and sea freight would be of benefit to local communities and the economy, by reducing congestion on the roads, especially at peak times for tourism and the agriculture-based businesses in the locality. However, the benefit is difficult to quantify until construction begins, as throughout a project of this size and scale, unexpected and unplanned loads may need to travel by road that are not suitable for rail or sea – and this will have a negative effect on communities and tourism. Until plans are clearer as to exactly what will travel by rail and sea, it will remain impossible to say whether there will be any economic benefit or whether tourism will be less affected. Even small changes and congestion will affect perceptions of tourism, as messages about it are uncontrolled and people will decide not to visit based on their own experiences of congestion.
TT.1 Traffic and Transport			
TT.1.23	The Applicant, SCC	Construction Traffic Management Plan (CTMP) [APP-608], Traffic Incident Management Plan (TIMP) [APP-607], Construction Worker Travel Plan (CWTP)[APP-609] – Transport Review Group The Transport Review Group membership, structure, roles and responsibilities is explained in the CTMP, the CWMP and the TIMP. The group consists of six members three appointed by SZC and three from other stakeholders. Notwithstanding	ESC is proposed as one of the attendees from other stakeholders and we highlight that Highways England as one of the ‘other stakeholders’ may abstain from votes on roads that do not fall to their control creating an imbalance in the group. ESC suggests that SCC as local highway authority has greater representation on the group to avoid imbalance.

		information in the draft Section 106 [PDB-004], explain how the decisions will be made in this group if there is not a majority vote?	
TT.1.36	The Applicant, SCC	Fly Parking Fly parking if uncontrolled will potentially lead to several problems not least of which is modelled traffic flows being underestimated on some routes. Paragraph 13.3.2 of the TA Addendum [AS-266] states further work is ongoing about the management of fly parking. Explain how fly parking on the local highway network will be controlled, monitored, and enforced during the construction period.	ESC is more concerned with fly parking arising that is not on the local highway network therefore resulting in planning enforcement being required that is the responsibility of ESC. This is covered in further detail in the LIR [REP1-045] .
TT.1.69	SCC, ESC, Leiston Town Council	Transport Assessment Addendum [AS-266] - Leiston Public Realm Improvements Paragraph 12.6.6 are SCC and Leiston Town Council satisfied with the scope and extent of these works as mitigation for the predicted transport effects in Leiston?	ESC is content with the proposals that have been developed with the Applicant, SCC and Leiston-cum-Sizewell Town Council. A public consultation event is proposed to be carried out shortly on the proposals. ESC support the majority of the proposals that are being worked up but are resistant to any proposals to provide additional public access to the northern end of the Aldhurst Farm habitat creation area.
TT.1.85	SCC, ESC, Wickham Market Parish Council	Transport Assessment Addendum [AS-266] – Road Traffic Collision Forecasts Paragraph 10.3.8 states that “In Wickham Market, between Border Cot Lane and the River Deben bridge, proposals have been developed in consultation with Suffolk County	ESC defers to SCC as local highway authority to comment with regards to speed limits.

		<p>Council, East Suffolk Council and Wickham Market Parish Council. They include footway widening around the Border Cot Lane / High Street junction, kerb build-outs and parking rationalisation over this length. There would be no change to the existing 30 mph speed limit.”</p> <p>Paragraph 10.3.10 in the first bullet point sets out that B1078 safety measures would hope to reduce vehicle speeds. Given there is a section of the B1078 that passes through a residential section of Wickham Market could you explain whether a reduction of the speed limit to 20mph was considered here?</p>	
TT.1.119	SCC,ESC	<p>ES CHAPTER 10 [APP-198] – TRANSPORT</p> <p>Do the Council’s agree with the Applicant’s assessment of the early years environmental traffic effects along the B1122 in the early years of construction? If so please explain the details of any concerns you have about the assessment.</p>	<p>ESC disagrees with the Applicant’s statement that: “There are no pedestrian footways provided on the majority of classified roads within the eastern part of the study area as there is negligible pedestrian demand for these sections of road. Footways are provided along sections of road where there may be pedestrian demand from the surrounding villages (i.e. on B1122 and A1094 at Aldeburgh, B1121 and B1119 at Saxmundham, A1120 at Yoxford and B1069 and B1119 at Leiston).”</p> <p>It is not accurate to represent there being little demand particularly on the B1122, ESC is working hard to promote a cycling strategy in East Suffolk and one of the links it is hoped can</p>

			<p>be achieved through this development is pedestrian and cyclist improvements to the B1122.</p> <p>In addition, the Applicant references Link no. 66 (B1122 west of B1125) 363% increase (major adverse) but this is not considered significant (negligible pedestrian demand and limited or no footway provision as a result of this). ESC cannot agree with this assessment.</p> <p>SCC as local highway authority will be able to provide further commentary. The joint LIR [REP1-045] provides detail of mitigating measures sought by ESC in relation to the B1122. The Applicant has proven themselves open to discussing such measures further.</p>
TT.1.122	SCC, ESC	<p>ES ADDENDUM [AS-181] – Severance 2023 Early Years</p> <p>Table 2.10 Link 11 B1125 Westleton, this changes from minor adverse to major adverse, but significance is dismissed due to absolute traffic volumes. Given this represents a 61% rise in traffic volumes in the representative hour do the Councils agree with this assessment?</p>	<p>ESC does not agree with this assessment. Severance in Westleton is likely to be impacted by Sizewell C traffic. Reference to the maximum flow being between 7am-8am when the playground is “unlikely” to be used is difficult to accept. Children and parents still need to be able to move around between the hours of 7am – 8am and 1 vehicle every 10 seconds will result in a severance problem.</p> <p>We defer to SCC as local highway authority to provide a fuller response.</p>
W.1 Waste (conventional) and material resource NO QUESTIONS FOR COUNCIL			

SA.1. Section 106 Agreements	
Question to:	Question:
SA.1.0	<p>All the questions below are addressed to the Applicant. In addition, many are addressed to East Suffolk Council (ESC), Suffolk County Council (SCC) and West Suffolk Council (WSC). One question is also addressed to Natural England.</p> <p>If ESC, SCC or WSC wish to respond or comment on questions not addressed to them, they are free to do so.</p> <p>Please will the Applicant, ESC, SCC and WSC note the following which is important on terminology and in relation to the law.</p> <p>In this questionnaire the ExA uses the term planning obligation by reference to the tests for a planning obligation in s.106(1).</p> <p>Planning obligations are entered into using a s.106 agreement. Consequently, planning obligations are <u>contained</u> in a s.106 agreement, and a s.106 agreement is <u>not</u> a planning obligation.</p> <p>It is possible for a planning agreement to be made not only under s.106 but under other powers.</p> <p>A s.106 agreement may include promises not made under s.106, which are therefore not planning obligations. Such promises may be enforceable as a matter of contract law, or as a result of the agreement also being made under other powers. However, those promises will not run with the land (except in the highly unusual event of them being restrictive covenants). They will not be enforceable under s.106.</p>

SA.1. Section 106 Agreements		
	Question to:	Question:
		<p>The ExA uses the term Sizewell Special Arrangements to refer to the arrangements under a modified s.106 TCPA 1990 suggested by the Applicant in the draft 106EM [PDB-009].</p> <p>Abbreviations and terms defined in the ExQ1, Introduction and Navigation Document [PD-016] are used in this questionnaire. In addition: WSC is used as an abbreviation for West Suffolk Council and draft s.106EM for the draft s.106 Explanatory Memorandum, currently document [PDB-009].</p> <p>The ExA does not consider that the term development consent obligation adds anything as s.106(14) TCPA 1990 simply states that it means a planning obligation entered into in connection with an application for a DCO. Accordingly, it follows from s.106(14) that the s.106 agreement is not a development consent obligation and that only promises which are planning obligations can be development consent obligations.</p> <p>Please will the Applicant, ESC, SCC and WSC adopt the same approach to terminology in the interests of avoiding confusion between what are planning obligations and what is a s.106 agreement.</p>
SA.1.1	Applicant ESC, SCC, WSC	<p>The ExA reminds the Applicant, ESC, SCC, WSC and other IPs that s.106 TCPA 1990 makes promises which would not normally bind the land run with that land, provided the criteria in s.106(1) are met, and gives the planning authorities the power to enter the land so as to enforce the obligations which require operations to be carried out, by carrying out the obligations at the cost of the person against whom the obligation is enforceable. See section 106(3) and (12).</p>

SA.1. Section 106 Agreements	
Question to:	Question:
	Please will the Applicant, ESC and SCC say whether they accept that and whether they consider there are any other legal purposes for s.106.
Response	<p>ESC:</p> <ul style="list-style-type: none"> • ESC agrees with the ExA’s statement in respect of s.106 where it is not modified using the Sizewell Special Arrangements (to the extent those arrangements fall within the scope of section 120 of the Planning Act 2008). However, it is understood that Regulations which may provide for the charging of land under s.106(12) have yet to be made. • s.106(5) also clarifies that a restriction or requirement imposed under a planning obligation is enforceable by injunction. • s.106(7) provides a mechanism requiring prior notification to be given of an intention to use the powers in s.106(6) to enter land to enforce obligations which require operations to be carried out in, on, under or over the land to which a planning obligation requests. • Although not the focus of the ExA’s question, SCC also notes that s.106A(1) of the TCPA 1990 sets out the only two ways in which a planning obligation may be modified or discharged • Obligations secured pursuant to section 106(1) (a)-(d) allow for other enforcement procedures, in the form of injunction, specific performance,

SA.1. Section 106 Agreements		
Question to:	Question:	
		payment of sum/debt, damages etc. and can also require a Bond to be paid to secure the obligations
SA.1.2	Applicant	Please will the Applicant submit a plan showing the land within the Order Limits which it (a) owns, and (b) otherwise controls, for example by contract or option, showing which is which and which is freehold and which is leasehold.
	Response	
SA.1.3	Applicant	Please will the Applicant show which of that land it can bind by a s.106 planning obligation whether or not the Applicant currently proposes to bind such land in that way. If there is land it cannot bind, please state why.
	Response	<p>The fundamental point to be made is that only where a signatory to the s106 agreement has a proprietary interest in the land will the obligations automatically run with the land (and only then, if such obligations fall within s106(1)(a) – (d)). The generally accepted position is that an interest for the purposes of s106(1) must be a proprietary interest (<i>Southampton City Council v Halyard Ltd [2009] 1 P. & C.R. 5</i>) and as such ESC would as standard require such persons to be party to the s106 agreement.</p> <p>Having the benefit of the DCO is not an interest in land for the purposes of s106(1) and therefore s106(3) will not apply as the obligations are not provided as planning obligations pursuant to s106 (1) TCPA in the absence of a proprietary interest in the development site. Questions therefore arise regarding the legitimacy of providing mitigation through an alternative means to a s106 agreement.</p> <p>Where the signatory has no proprietary interest in land, any agreement could not be entered into pursuant to s106 and any such agreement would not automatically run with the land. In such circumstances other powers will need to be considered,</p>

SA.1. Section 106 Agreements		
	Question to:	Question:
		<p>such as s1 of the Localism Act 2001 in conjunction with s111 of the Local Government Act 1972 (s111 is an ancillary power that must be used with a primary power), provided that the signatory is not released upon disposal of its interest until the transferee has entered into mirror covenants with the councils . However, such alternative powers/provisions should only be considered where there is a legitimate reason why the landowner cannot sign a s106 agreement.</p> <p>We are concerned that DCO article 9(6) is no guarantee that ESC and SCC will be able to enforce the s106 agreement against a successor in the benefit of the DCO. As such ESC would require provisions in the s106 agreement so that if SZC Co. were to transfer all or part of its interest in the DCO, the transferee of the interest in the DCO would be required to enter into a deed of covenant with ESC, and SCC to ensure the obligations in the s106 agreement remain enforceable by the Councils. This deed of covenant would be required prior to SZC Co being released from liability under the s106 agreement. A completed deed of covenant should be a pre-condition of the transfer of the benefit of the DCO.</p>
SA.1.4	Applicant	The Applicant states in the draft s.106EM (para 2.2) that it does not own all of the land within the main development site. It is not unusual for an applicant for planning permission or a DCO not to own the whole application site. In such circumstances the landowner usually enters into the s.106 agreement. Please will the Applicant explain why that cannot be done in this case.
	Response	See SA.1.3 above
SA.1.5	Applicant	If the consent of third parties to bind the land is also necessary, please identify the land so affected and explain the nature of the consent (e.g. that of a mortgagee).
	Response	

SA.1. Section 106 Agreements		
	Question to:	Question:
SA.1.6	Applicant ESC, SCC, WSC	Has title to any land yet been deduced to ESC, SCC or ESC? What are the current conclusions of ESC, SCC and WSC on their title investigations?
	Response	No title has been provided by the Applicant. Ownership needs to be established to ascertain who is to be party to the s106 agreement, see SA1.3 above
SA.1.7	Applicant ESC, SCC, WSC	What consents would the Applicant need to obtain in order to enter into the modified s.106 arrangements it describes in its draft s.106EM [PDB-009]? What consideration and conclusions have been given or reached by ESC, WSC and SCC on this issue?
	Response	We are unsure what consents are referred to here. Please can this question be clarified.
SA.1.8	Applicant ESC, SCC, WSC	How will the Sizewell Special Arrangements be enforced in the event of a breach, whether by the Applicant or a subsequent Undertaker?
	Response	ESC does not have a specific enforcement policy with regards to breach of Section 106. We would rely on Section 106(5) of the Town & Country Planning Act 1990 which provides that “[a] restriction or requirement imposed under a planning obligation is enforceable by injunction”. Pursuant to s106(3), a s106 obligation is enforceable by the local planning authority that is identified in the obligation. It is enforceable against the person entering into the obligation and any person deriving title from them, unless the s106 obligation itself provides that a person shall not be bound in respect of any period during which they no longer have an interest in the land. We may choose to apply to the County Court for an injunction preventing being proceeded with or we could take formal proceedings (debt recovery action) with

SA.1. Section 106 Agreements		
	Question to:	Question:
		the aim of securing an order from the Court requiring the developer to take specific positive action to meet the requirements of a Section 106 Agreement.
SA.1.9	Applicant, ESC, SCC, WSC	<p>What will be the enforcement position under the Sizewell Special Arrangements in the event that the Applicant or a subsequent Undertaker becomes insolvent?</p> <p>Please include what will happen if the Applicant becomes insolvent and the SoS were to make the DCO without knowing that.</p>
	Response	<p>With those with a proprietary interest in the site party to the s106 Agreement, insolvency is not an issue as the obligations would run with the land and SCC and ESC would be able to exercise powers of entry under s106(6) as required.</p> <p>Additionally, a deed of covenant signed by the transferee of an interest in the DCO would ensure enforceability against any person acquiring the benefit of the DCO if SZC Co went insolvent</p>
SA.1.10	Applicant	Please will the Applicant supply copies of the Thames Tideway Tunnel and Aquind s.106 agreements as executed and their DCOs. Please point the ExA to the relevant parts and any corresponding provisions in the DCO (or final draft DCO in the case of Aquind).
	Response	
<i>Arrangements requiring third party involvement</i>		
SA.1.11	Applicant, ESC, SCC, WSC	There are many proposals in the schedules which require the participation and involvement of third parties. Take for example the Economic Review Group in Sch 7 para 2.9. It is to have seven members. Whilst three are drawn from persons who are parties to the s.106 agreement, three are not. They are to be nominated by the New Anglia LEP, the Tier 1 Contractors and the Suffolk Chamber of Commerce. There is no requirement on those three parties to nominate members though

SA.1. Section 106 Agreements	
Question to:	Question:
	<p>presumably an obligation on the Councils to do so could be incorporated in the Sizewell Special Arrangements and with careful drafting a planning obligation to secure participation by the Applicant could be imposed.</p> <p>(i) What is to happen if the third parties fail to nominate, or later do not contribute to the group?</p> <p>(ii) The group is given various tasks by para 2.9.3 such as meeting quarterly. What is to happen if the Group fails to do so? What enforcement is envisaged?</p> <p>(iii) The group is not quorate unless five members are present. It cannot therefore function without the participation of the third party members. How are they to be compelled to participate?</p> <p>(iv) Can the group fulfil the functions and address the issues for which it is required if the third parties do not participate as envisaged?</p> <p>Other examples of these types of issues include:</p> <ul style="list-style-type: none"> • the Community Safety Working Group (Sch 4 para 5) which needs the participation of Suffolk Constabulary, Suffolk Fire and Rescue Service and East of England Ambulance Service Trust; • the Health Working Group (Sch 6 para 4) which needs the participation of Public Health Suffolk and the Ipswich and East Suffolk Clinical Commissioning Group; • the Environment Review Group (Sch 11 para 9.2) requires participation of the Environment Agency and Natural England; • the Natural Environment Awards Panel (Sch 11, para 12.2) requires participation of Natural England and the Area of Outstanding Natural Beauty Partnership;

SA.1. Section 106 Agreements	
Question to:	Question:
	<ul style="list-style-type: none"> • Sch 14, para 1.1 - Suffolk Community Foundation (a registered charity) to appoint a Community Fund Project Officer; • the Tourism Working Group (Sch 15, para 12.2) requires The Suffolk Coast Ltd, Visit Suffolk, Suffolk Coast and Heaths AONB Partnership (is this the same as the Area of Outstanding Natural Beauty Partnership referred to at para 12.2 of Sch 15) and the New Anglia Local Enterprise Partnership to appoint representatives; • Sch 16, para 1.1 envisages Marlesford and Little Glemham Parish Councils (sic) and Wickham Market Parish Council to participate in working groups; and • Sch 16, para 3.1.3 also requires third party involvement - Highways England to nominate a representative to the Transport Review Group. <p>(v) Please will the Applicant explain in relation to all of these how the promises it makes and the involvement of the third parties is secured and delivered</p>
Response	<p>ESC:</p> <p>Further detailed discussions are required with the Applicant to agree the governance arrangements. It is suggested that terms of reference for each group are agreed and included in the Deed.</p> <p>(i) If third parties fail to nominate then SCC/ESC would nominate suitable alternative representatives to sit on the groups. Similarly, if nominated representatives don't turn up and/or fail to contribute to the groups then SCC/ESC would nominate suitable alternative representatives.</p> <p>(ii) The Applicant, SCC and ESC will be parties to the s106 agreement, so are legally bound by the terms. Enforcement could be secured in various ways e.g., trigger payment of contributions by the Applicant.</p> <p>(iii) SCC/ESC nominate suitable alternative representatives.</p>

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Question to:		Question:
		It is for the Applicant to ensure that the working group functions as required by the s106 agreement or face enforcement action and in the event of a breach SZC Co could be obliged to pay a lump sum to be administered by ESC/SCC in its sole discretion for the purposes set out in the s106 agreement
<i>Allocating tasks / functions to bodies which are not legal persons</i>		
SA.1.12	Applicant, ESC, SCC, WSC	<p>By Sch 7 para 2.2.1 and 2.5.5 respectively the Regional Skills Coordination Function is to submit a draft Annual Workforce Delivery Implementation Plan and to allocate funds. The "Regional Skills Coordination Function" does not appear to be a legal entity. What happens if the task is not performed?</p> <p>Similarly, at Sch 17 the Governance schedule, various groups are required to do various things. For example the Delivery Steering Group is to consider reports submitted to it, monitor Groups, assist them, identify risks, and facilitate communication. This group is made up of representatives of ESC, SCC and SZC Co. Where is the obligation on those bodies to nominate and perform? Presumably this can easily be rectified by a covenant from each of them in the s.106 to do so.</p> <p>The same goes for the Oversight Partnership (to be established by ESC and SCC). But what obligations will there be on the members of that Partnership?</p> <p>There are also to be a Planning Group and a Social Review Group – see Sch 17 and the visual representation of the governance structure on p.100 (electronic page 103) of the draft s.106.</p>

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Question to:	Question:	
		<p>Please will the Applicant explain in relation to all cases where tasks are allocated to bodies which are not legal persons how the delivery of the tasks is secured and delivered</p> <p>Again, ESC, SCC and WSC may also wish to respond.</p>
	Response	ESC: The Applicant would be required to provide a Deed of Covenant in favour of the councils from the relevant groups(in substantially the form annexed to the s106 agreement) prior to commencement of development
<i>Giving tasks to individuals</i>		
SA.1.13	Applicant, ESC, SCC, WSC	<p>Accommodation Co-ordinator(s). Their tasks are set out at Sch 3 para 1.1. But there is no mechanism for enforcing performance by the Accommodation Co-ordinator(s). They are not parties to the agreement. The Accommodation Co-ordinator(s) are appointed by SZC. Would a solution be to give the tasks to SZC who can then find an employee or contractor to discharge their promise? If not, how are any failures to deliver the tasks set out at para 1.1 enforced?</p> <p>There are similar issues at for example Sch 11 para 12.5 (Natural Environment Improvement Project Officer to attend meetings of the Natural Environment Awards Panel); Sch 15 paras 1.1 and 4.1 (Tourism Programme Manager to prepare Annual Tourism Fund Implementation Plan and other duties set out in (a) to (d) of the definition in para 1.1); Sch 16, paras 3.5 and 4 (Transport Co-ordinator will carry out the eight functions listed at para 3.5 of Sch 16. Other functions are added, e.g. to attend the Community Safety Working Group at para 4.1 and other</p>

SA.1. Section 106 Agreements	
Question to:	Question:
	<p>groups at para 4, with responsibility for making the meetings of those groups happen. There are other functions allocated to the Transport Co-ordinator in other schedules. The Transport Co-ordinator is a SZC Co appointee. Why not simply put the obligation straight on to SZC Co?)</p> <p>Please will the Applicant explain in relation to all cases where tasks are allocated to individuals how the delivery of the tasks is secured and delivered.</p> <p>Again, ESC, SCC and WSC may also wish to respond.</p>
Response	<p>ESC:</p> <p>The Applicant would be required to provide a Deed of Covenant in favour of the councils from third parties (in substantially the form annexed to the s106 agreement) prior to commencement of development</p> <p>It is considered that where tasks are placed on individuals in the s.106 that there should be an obligation on the Applicant to procure that such a person performs against these obligations. In addition, consideration should also be given to a mechanism requiring an alternative arrangement (e.g. the Applicant stepping in to perform) if that individual does not perform.</p>
<i>The s.111 agreement</i>	

SA.1. Section 106 Agreements		
	Question to:	Question:
SA.1.14	Applicant, ESC, SCC, WSC	<p>Definition of Development Consent Obligation.</p> <p>(i) This terms the s.106 agreement as a Development Consent Obligation. As the Applicant, ESC, SCC and WSC will realise from the opening remarks above, this is a misnomer. Please, for clarity, could a different term be found? Please carry this through to other occasions when the phrase is used to describe the agreement whether in the s.111 agreement or the s.106 agreement.</p> <p>(ii) The s.106 agreement is to be in the Certified Form "subject only to such minor changes to references etc. as are necessary to reflect the Development Consent Order as granted". This creates uncertainty notwithstanding the short timescale for execution by the Applicant and dispute resolution procedure.</p> <p>In a normal situation where an applicant is prepared to enter into a s.106 agreement in connection with a DCO application the s.106 would be executed before the end of the Examination. Is this provision for minor changes therefore justified in this case?</p>
	Response	<p>(i) The term "Deed of Development Consent Obligations" should be used.</p> <p>(ii) ESC anticipates that there should be no need for changes to be made (as the final form should be annexed to the s.111) but if they are required they should only be as agreed first in writing with SCC and ESC e.g. <i>"subject only to minor changes to references as may be necessary to reflect the Development Consent"</i></p> <p>(iii) Section 111 is not a "stand alone" power, and it can only be exercised for purposes which are "ancillary" to the discharge of some other function. ESC does not agree that a s111 agreement can be lawfully relied upon without reference to the statutory function to which it is ancillary.</p>

SA.1. Section 106 Agreements		
	Question to:	Question:
SA.1.15	Applicant	<p>Definition of Implementation. Please will the Applicant explain how the exception for the Relocated Facilities Works is intended to operate and the result it is intended to achieve. How does this interact with the definition of Commencement in the s.111 agreement and the s.106 agreement?</p> <p>In recital F might it be better to say that by virtue of Art [x] the Undertaker will be prohibited from Commencing the Project?</p>
	Response	
SA.1.16	Applicant, ESC, SCC, WSC	<p>Interpretation – are there any EIA issues as a result of the deemed approval provisions in Cl 1.2.7. The Applicant ESC, SCC and WSC are reminded of the litigation in Wells v. Secretary of State [2005] All E.R. (EC) 323 and other cases in relation to multi-stage consents and deemed approvals under the review of mineral planning permissions.</p>
	Response	<p>ESC would also draw the ExA’s attention to paragraph 6 of Schedule 1 in the s.106. ESC is not content with the proposed deemed approval provisions in Clause 1.2.7 (or paragraph 6 of Schedule 1 in the s.106). It is understood that the Applicant intends to discuss these further with SCC and ESC. Matters for approval under the s.106 are expected to be relevant to delivering mitigation set out in the EIA and automatic approval of schemes may undermine SCC’s ability to control this. There may be some approvals which would not have such an effect but this will need to be considered when the Applicant has provided further detail about the substantive provisions.</p> <p>Substantive schemes will not be approved under the s.111 and it is not considered necessary to include Clause 1.2.7 in the s.111 as a result. The Applicant still would</p>

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Question to:	Question:	
		have the benefit of Clause 9.2 relating to not unreasonably withholding or delaying approvals (to the extent any are required under the s.111).
SA.1.17	Applicant, ESC, SCC, WSC	Conditionality – Cl 2 - when is it envisaged that the s.111 agreement will be dated?
	Response	ESC: Before the close of the examination (6 October 2021).
SA.1.18	Applicant ESC, SCC, WSC	<p>Execution of the s.111 agreement – Cl 4</p> <p>(i) There does not appear to be any obligation by ESC, SCC or WSC actually to execute the s.111 agreement. Is this intentional? The obligation in Cl 4.1 is only on ESC and then it is an obligation to coordinate. It is also difficult to see how ESC can compel SCC and WSC to execute.</p> <p>(ii) Please comment on whether such an obligation would be a fetter on their discretion and therefore unlawful.</p> <p>(iii) Please comment on whether in the event for example of a change of control by any of ESC, SCC or WSC any of them could lawfully decline to enter into the s.106 agreement.</p> <p>(iv) Does not Cl 8 suggest that Cl 4, if it does require ESC, SCC and WSC to enter into the s.106 agreement, is indeed a fetter on their discretion?</p> <p>(v) Is it envisaged that Cl 1.2.7 applies to the execution by ESC, SCC and WSC?</p>
	Response	<p>ESC:</p> <p>i) ESC would have agreed to the form of the s.106 to be entered into under these provisions</p> <p>ii) it is not considered that such an arrangements entered into under s.111 should be considered a fetter on discretion. ESC would not enter into the s.111 unless it was content with the form of s.106 to be appended to this</p>

SA.1. Section 106 Agreements		
Question to:	Question:	
		<p>and had authority to do so from the relevant committee. ESC has delegated authority to sign necessary legal agreements and so it would take weeks rather than months to arrange for execution. It is not considered that a change in the control of any of the Councils would affect the legal obligations that the Councils would have entered into under this document.</p> <p>iii) see (i)</p> <p>iv) ESC does not consider that cl1.2.7 applies. The s106 is in an agreed form, not to be agreed.</p>
SA.1.19	Applicant ESC, SCC, WSC	<p>Jurisdiction – Cl 11. This states that English law applies and that the courts of England and Wales shall have exclusive jurisdiction. Will this not make enforcement in foreign jurisdictions difficult if not impossible? For that reason, was it not normal to give the courts of England and Wales non-exclusive jurisdiction?</p>
	Response	<p>It is not anticipated at this stage that enforcement in foreign jurisdictions would be necessary but ESC would be content with a non-exclusive jurisdiction clause. However, ESC in the event of a claim against ESC, ESC would not expect to agree to a clause which included the possibility of such a claim being brought in a jurisdiction outside of England and Wales and therefore ESC request the Applicant considers whether an asymmetrical jurisdiction clause reflecting this may be appropriate.</p>
<i>The s.106 agreement</i>		
SA.1.20	Applicant, ESC, SCC, WSC	<p>“Councils”, Cl 1.1 – should this not include WSC? There are a number of other places where the inclusion of WSC as a party suggests consequential amendments</p>

SA.1. Section 106 Agreements		
	Question to:	Question:
		are necessary, for example CI 1.2 – successors to ESC and SCC are referred to but not successors to WSC.
	Response	ESC understands the SCC is agreeable to taking on WSC’s enforcement duties and so WSC can be removed from the s106 agreement.
SA.1.21	Applicant ESC, SCC, WSC	“Qualifying Interest”, CI 1.1 – this appears to include SZC’s land ownership, whatever it is. That would be the norm for a s.106 agreement, is consistent with CI 2.2 and the ExA has not seen any reason why that should not be the case, notwithstanding the other provisions of the Sizewell Special Arrangements, if it is decided to go down the s.106 route. Please will the Applicant insert the necessary provision to comply with s.106(9)(c)?
	Response	<p>The generally accepted position is that an interest for the purposes of s106(1) must be a proprietary interest (Southampton City Council v Halyard Ltd [2009] 1 P. & C.R. 5) and as such ESC would as standard require such persons to be party to the s106.</p> <p>Having the benefit of the DCO is not an interest in land for the purposes of s106(1) and therefore s106(3) will not apply as the obligations are not provided as planning obligations pursuant to s106 (1) TCPA in the absence of a proprietary interest in the development site. Questions therefore arise regarding the legitimacy of providing mitigation through an alternative means to a s106 agreement.</p>
SA.1.22	Applicant, ESC, SCC, WSC	<p>CI 1.2.16 - restriction on commencing certain activities prior to payments. The ExA is grateful for the Applicant’s confirmation that this is intended to be a restriction under s.106(1)(a) (and its comment on the inevitability of the passage of time).</p> <p>Given that it is a s.106(1)(a) restriction might it not be better in a different part of the agreement, such as CI 4, rather than in the definitions and interpretation clause?</p>

SA.1. Section 106 Agreements		
	Question to:	Question:
	Response	ESC are happy with 1.2.16 where it is.
SA.1.23	Applicant, ESC, SCC, WSC	Clause 2.2 Should the non-planning obligations also be stated to be enforceable?
	Response	Non planning obligations are not enforceable pursuant to s106(3) but as a matter of contract but will be enforceable under other powers recited in the agreement such as S1 of the Localism Act 2011 and s111 of the Local Government Act 1972
SA.1.24	Applicant, ESC, SCC	<p>Cl 2.3 "... the provisions of the Second Relocated Facilities Section 106 Agreement shall apply (save as modified by the Development Consent Order) as if ... "</p> <p>(i) Please will the Applicant enlarge on what is said in the draft 106EM about what this clause is seeking to achieve, and explain what the clause delivers and how?</p> <p>(ii) Please direct the ExA to the parts of the Second Relocated Facilities Section 106 Agreement which limit it to the works permitted by the Second Sizewell B relocated facilities permission.</p> <p>(iii) Is this a variation of the Second Relocated Facilities Section 106 Agreement which ought to be dealt with under s.106A TCPA 1990?</p>
	Response	
SA.1.25	Applicant, ESC, SCC, WSC	Cl 3.1.1 – drafting point; is not the effect with the words in square brackets ["with the exception of this clause 3 and clauses [●] and clause 4 insofar as it relates to obligations in the Schedules that must be complied with ... etc] circular? How can there be a requirement to comply if that requirement is in a part of the agreement which is conditional? It may be better to put this in the opening of Cl 3.1.
	Response	ESC is happy with the current wording, clause 3 takes effect from the date of the s106 agreement.

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	Question to:	Question:
SA.1.26	Applicant, ESC, SCC, WSC	<p>CI 3, conditionality, legal proceedings and redetermination. The drafting for any agreement dealing with this often presents difficulties. Please will ESC, SCC, WSC all consider it carefully and ensure that however it is drafted, if a DCO is in place and implemented following the exhaustion of however many rounds of challenge and redetermination take place, brought by whomsoever, the development is bound by the s.106 agreement. The ExA would be grateful for the express confirmation of ESC, SCC and WSC prior to the conclusion of the examination that they are satisfied that this has been achieved in any s.106 agreement which is presented, whether under the Sizewell Special Arrangements or otherwise.</p> <p>The ExA is sure that the Applicant is fully aware that it is in its interest also to ensure this and the ExA expects that it has access to suitable precedents.</p> <p>In relation to CI 3.2.3 and 3.3 the ExA draws attention to the words "subject to any variations to its terms necessitated through the redetermination process". How would that work? Can the s.106 agreement be automatically amended? Is it necessary to use s.106A? If the Applicant is concerned that changes may be necessary is it not protected by not Commencing the Project until the variation has been agreed?</p> <p>Does Clause 3.4.1 cover the situation where there is a right of appeal against the refusal of permission to appeal?</p>
	Response	<p>ESC:</p> <p>Any variations necessitated through the redetermination process should be dealt with under s106A, unless otherwise agreed by ESC.</p>

SA.1. Section 106 Agreements		
	Question to:	Question:
		<p>ESC are happy that 3.4.1 (A) & (B) covers the scenario where there is a right to request a permission hearing and it is not used and where a hearing is requested and permission is refused</p> <p>SCC has previously raised with the Applicant whether the ability to reopen a final determination of any appeal under CPR 52.30 should be referred to or expressly excluded and would welcome the Applicant’s further views on that</p>
SA.1.27	Applicant	CI 4.1 – please will the Applicant explain how the development consent obligations can bind the Sites when the Applicant owns only part of them?
	Response	<p>ESC:</p> <p>Clarification is required from the Applicant regarding is current and proposed ownership of the Sites</p>
SA.1.28	Applicant	<p>CI 5.1 – release. The ExA notes also para 2.8 of the draft 106EM which states that the release operates only on transfer of the whole benefit to another party pursuant to Art 9 of the DCO, and the response to Observation 17 set out at the Appendix to the draft 106EM. Those contemplate transfer to only one party. Art 9 on the other hand allows transfer of parts to different parties. Clause 5.1 is ambiguous on this. What is proposed? The ExA notes that the Applicant is not released until all the benefit of the DCO has been transferred, which is the correct position under s.106(4).</p> <p>The ExA notes in passing that in Art 9 of the DCO the word “undertaker” is used to describe both the transferor / lessor undertaker and the transferee / lessee</p>

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Question to:	Question:	
		undertaker. Thus under Art 9(6)(b) a transferred benefit of the DCO is not enforceable against the transferor because they are the undertaker nor against the transferee because they too are the undertaker by virtue of Art 9(5). Please will the Applicant tidy up Art 9?
	Response	ESC would require the clause 5.1 to be amended to provide of a deed of covenant discussed in SA1.3
SA.1.29	Applicant, ESC, SCC, WSC	<p>CI 8.2. The Applicant states in the Appendix to the draft 106EM, addressing Observation 19, that the dispute resolution procedure from CI 9.2 (now 8.2) onwards is permissive and therefore not compulsory. However, CI 8.2 does not appear to the ExA to be permissive. It allows any party to a dispute to serve notice referring the matter to binding expert determination. There is no option for the other parties to decline and, importantly, there does not appear to be the possibility thereafter to apply to the court for an injunction or other remedies. The expert's decision is final and binding – CI 8.6.</p> <p>How in these circumstances can the process be said to be permissive and how can the host authorities obtain injunctions pending the expert's determination?</p> <p>As the Applicant states that "SZC Co. does not consider that compliance with this Clause 9.1 would interfere with the Council's ability to enforce the obligations in the s106 Agreement by injunction or a claim for payment, nor has this been raised in negotiations with the Councils" should that not be made clear in the drafting.</p>
	Response	<p>ESC:</p> <p>Notwithstanding clause 18 which confirms that nothing in the s106 agreement shall fetter the Council's statutory rights, powers or duties, ESC would require the Dispute provision to be amended to address the ExA's comment regarding clause 8.6.</p>

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	Question to:	Question:
SA.1.30	Applicant, ESC, SCC, WSC	CI 9.2 and other instances of a requirement for reasonability or deemed approval (such as para 6 of Sch 1). Are there any EIA issues as a result of a requirement for reasonability the deemed approval provisions in CI 9.2? The Applicant ESC, SCC and WSC are reminded of the litigation in Wells v. Secretary of State and other cases in relation to deemed approvals under the review of mineral planning permissions.
	Response	ESC is content with clause 9.2 given that it relates to the delivery of notices subject to the deemed approval provisions in Schedule 1 para 6 being deleted
SA.1.31	Applicant, ESC, SCC	CI 12.3, notice of disposal of the Pakenham site. Why is such notice only to be given to WSC? Is it not of significance to ESC and SCC in whose areas the fen meadow to be lost is situated?
	Response	ESC agrees that notice should also be served on ESC and SCC (and indeed that WSC may not be a party to the s.106 where it is agreed that SCC will enforce these obligations).
SA.1.32	Applicant, ESC, SCC, WSC	Clauses 12.2 and 12.3. What is the purpose of these clauses?
	Response	ESC: i) these clauses are useful for the Councils to remain aware of the ownership of land within the Order Limits but notes the current approach of the Sizewell Special Arrangements with regard to binding land and awaits the Applicant's response to SA.1.27. ii) What is the Applicant's interest in the Pakenham Site or the "Sites"?

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	Question to:	Question:
SA.1.33	Applicant, ESC, SCC, WSC	CI 12.4 – variation of trigger points. The proviso begins to address the EIA issue inherent in tailpieces; the ExA’s questions in relation to that in the ExQs (DCO.1.73) apply here also.
	Response	<p>ESC: We refer to ESC’s response to question DCO.1.73.</p> <p>(i) ESC considers that with this provision the Applicant is appropriately trying to limit the amount of changes that can be made to the authorised development once consented, however ESC agrees that the wording is perhaps not as clear as it could be. The provision is intended to mean that any approvals given can only be given to activities within the scope of the environmental assessment. ESC suggests the following wording would be more appropriate:</p> <p>“(3) Where an approval of details or other document is required under the terms of any requirement or where compliance with a document contains the wording “unless otherwise agreed” by the discharging authority, such approval of details or of any other document (including any subsequent amendments or revisions) or agreement by the discharging authority is not to be given except in relation to changes or deviations where it has been demonstrated to the satisfaction of the discharging authority that giving such approval would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement.”</p> <p>(ii) It is not considered appropriate for the authorised development to be subject to an ongoing assessment which compares any potential new effects to a changing baseline. The future changing baseline is taken into account in the ES: the ES assesses the likely significant effects of the authorised development and predicts the expected changes to the baseline in the cumulative effects section.</p>

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	Question to:	Question:
		<p>(iii) ESC would welcome an approach to subsequent approvals similar to that set out in the Northampton Gateway Strategic Railfreight Interchange DCO, as made. In particular, Article 44 of that DCO gives clarity to the process for subsequent approval under the Requirements. It makes it abundantly clear what can and cannot be given approval, and it references an appropriate procedure within Schedule 2 'Requirements' for applying for and obtaining such approval.</p> <p>ESC notes that Schedule 23 of the draft DCO appears to be an attempt on behalf of the Applicant to set out a similar procedure, but ESC would welcome the Applicant reviewing this procedure in light of the approach and the procedure in the Northampton Gateway Strategic Railfreight Interchange DCO.</p>
SA.1.34	Applicant, ESC, SCC, WSC	<p>CI.14 – NPS policy tests for development obligations.</p> <p>CI 14 only applies to obligations which are development consent obligations. However, the Applicant acknowledges that there are obligations in the s.106 agreement which are not development consent obligations. Although para 4.1.9 of EN-1 is expressed to apply only to development consent obligations, please will the Applicant consider whether the non-development consent obligations it has included in the s.106 comply with the policy and modify CI 14 as necessary.</p> <p>Please will the Host Authorities state if there are any parts of the agreement, whether or not they are development consent obligations, which they consider are not policy compliant.</p> <p>Notwithstanding this declaration, the Applicant should address each of the obligations against the policy tests in the Certificate of Compliance, Execution and Enforceability which the ExA has requested in Observation 27. The declaration alone cannot make something which does not comply with the NPS policy tests compliant</p>

SA.1. Section 106 Agreements		
Question to:	Question:	
	Response	<p>ESC:</p> <p>The detailed schedules of the section 106 agreement are still evolving, ESC is confident that they will meet the policy tests but the process of considering policy compliance of each individual element has not yet been carried out.</p>
SA.1.35	Applicant, ESC, SCC, WSC	<p>CI 15. The ExA notes the changes made in response to Observation 22. However, in the event that the third party persists in refusing to enter the deed of covenant, the mitigation – payment of money to that third party for a particular purpose – will not be delivered and alternative mitigation is to be devised under CI 15.3.3 thereby raising a tailpiece-like issue. Please will the Applicant and the host authorities continue to work to address this issue satisfactorily.</p> <p>The ExA notes that the deed of covenant provides for the return of unspent contributions. Whilst the ExA is familiar with such provisions, if the money is not spent at the appropriate time the mitigation it secures will be lost. As the mitigation will be required, should there not be an obligation on the recipient to spend it on the mitigation?</p>
	Response	<p>ESC requires the Deed of Covenant be amended so that monies that have been allocated or committed but not spent do not have to be returned.</p>
SA.1.36	Applicant, ESC, SCC, WSC	<p>CI 17. This new clause is a large carve out for potential breaches of data protection law.</p> <p>It also relieves the parties of any responsibility to do anything required by the s.106 agreement if that would be contrary to “any other applicable legal requirements” of whatever nature.</p>

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	Question to:	Question:
		The ExA questions the appropriateness of this clause. Its presence removes the incentive on the parties and their legal advisors to draft so as to ensure the obligations can be performed without infringing other laws.
	Response	ESC: SCC has raised this point with the Applicant previously
SA.1.37	Applicant, ESC, SCC, WSC	CI 21 – jurisdiction. Please see the ExA’s comments on the equivalent clause in the s.111 agreement. This point also applies to the jurisdiction clause in the deed of covenant (CI 9.2).
	Response	ESC: See previous response to 1.19
SA.1.38	Applicant, ESC, SCC, WSC	Sch 1, para 4.1 – return of unspent contributions. Whilst the ExA is familiar with such provisions, if the money is not spent at the appropriate time the mitigation it secures will be lost. As the mitigation will be required, should there not be an obligation on the relevant host authority to spend it on the mitigation?
	Response	ESC requires that Sch1 para 4.1 be amended so that monies allocated or committed within a reasonable time are not returned. If such monies cannot be spent, allocated or committed within a reasonable timeframe then it is reasonable to assume that mitigation is not required. ESC would be happy to increase the 5 year timeframe to 10 years to allow for more time for mitigation to be provided.
<i>General questions on the schedules:</i>		
SA.1.39	Applicant, ESC, SCC, WSC	Sch 4 generally. Please will the Applicant explain how the payments and provisions in this schedule are justified in both policy and legal terms. The ExA would appreciate it if the response would consider also the cases of Hall v. Shoreham UDC [1964] 1 WLR 240 and R v. Hillingdon ex p Royco [1974] Q.B. 720 and how

SA.1. Section 106 Agreements	
Question to:	Question:
	they apply, or not. This question also applies to Schedules 5, 6, 7, 8, 10, 11, 12, 13, 14, 15.
Response	<p><i>Hall v Shoreham</i> dealt with a planning condition requiring the provision of a public road and held that such a condition would be invalid if its effect was to destroy private proprietary rights in this way as it would require dedication as a highway without compensation.</p> <p><i>R v. Hillingdon ex p Royco</i> held that a condition that is imposed solely or primarily to serve a non-planning purpose is invalid. This involved conditions requiring that dwellings should first be occupied by persons on the local authority’s housing waiting list, and occupation limited for ten years to tenants having statutory security of tenure, held to have been imposed for the purpose or relieving the authority of the burden of their statutory duty as housing authority, and not for planning purposes</p> <p>These cases relate to planning conditions. The tests in relation to s106 agreements <u>that must be passed before such obligations are taken into account in NPS EN-1</u>, being "relevant to planning, necessary to make the proposed development acceptable in planning terms, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development, and reasonable in all other respects."</p> <p>ESC and SCC are continuing discussions with the Applicant as to the legal and policy justifications for the provisions in these schedules.</p>
<i>Specific questions on the Schedules and remainder of the s.106 agreement</i>	

SA.1. Section 106 Agreements		
	Question to:	Question:
SA.1.40	Applicant, ESC, SCC, WSC	<p>Sch 1, para 5.1. – this imposes an obligation on the host authorities to register the deed as a local land charge.</p> <p>A development consent obligation is a local land charge – see s.106(11). The local authority will normally register it. But in addition, a local land charge binds persons acquiring the land, whether or not the charge is registered (s.10, Local Land Charges Act 1975).</p> <p>Please will the Applicant and Host Authorities reflect on the implications of this and respond.</p>
	Response	<p>ESC:</p> <p>To bind all of the land, the s106 agreement must signed by persons with a the proprietary interest in all of site and be registered as a local land charge</p>
SA.1.41	Applicant, ESC, SCC, WSC	Sch 1 para 6 – please see the ExA’s earlier question on this paragraph and Cl 9.2
	Response	ESC requires the deemed approval provisions in Sch1 para 6 to be deleted.
SA.1.42	Applicant, ESC, SCC, WSC	Sch 2 – The ExA notes from the footnote 7 that Sch 2 is subject to further consideration and engagement with the Councils. The ExA would prefer to comment on a more settled draft
	Response	ESC: Agreed- Work in Progress
SA.1.43	Applicant	Sch 3, para 2.1 – ambit of the Housing Fund. By whom is the promise at para 2.1 given?
	Response	
SA.1.44	Applicant, ESC, SCC, WSC	<p>Sch 3 – the Housing Fund – this seems to be a fund held by SZC Co and from which payments are made to ESC under e.g. paras 2.6.2, 2.7.2 and 2.7.1</p> <p>(i) Please explain how payment is enforced.</p>

SA.1. Section 106 Agreements		
Question to:	Question:	
		<p>(ii) Please explain how the fund is held pending payments and what would happen on insolvency.</p> <p>(iii) The same questions arise in relation to other funds, e.g. the Emergency Services Contribution in Sch 4. Please will the Applicant address these issues in relation to each and every fund.</p>
	Response	<p>ESC does not have a specific enforcement policy with regards to breach of Section 106. We would rely on Section 106(5) of the Town & Country Planning Act 1990 which provides that "[a] restriction or requirement imposed under a planning obligation is enforceable by injunction". Pursuant to s106(3), a s106 obligation is enforceable by the local planning authority that is identified in the obligation. It is enforceable against the person entering into the obligation and any person deriving title from them, unless the s106 obligation itself provides that a person shall not be bound in respect of any period during which they no longer have an interest in the land.</p> <p>We may choose to apply to the County Court for an injunction preventing being proceeded with or we could take formal proceedings (debt recovery action) with the aim of securing an order from the Court requiring the developer to take specific positive action to meet the requirements of a Section 106 Agreement.</p>
SA.1.45	Applicant, ESC, SCC, WSC	<p>Sch 3 – para 3.1 – this is an obligation to use reasonable endeavours to deliver the Accommodation Campus in accordance with the Implementation Plan?</p> <p>(i) Is reasonable endeavours an adequate obligation?</p> <p>(ii) In the event of failure, the relevant host authority would normally have a right of entry to do the work and recharge the person responsible. (a) Is the Accommodation Campus on land owned or controlled by the Applicant? (b) How does the Applicant propose that the obligation to deliver the Accommodation Campus is enforced?</p>
	Response	<p>ESC requires the Accommodation Campus to be provided unless otherwise agreed with the Council in writing, use of reasonable endeavours is not acceptable.</p>

SA.1. Section 106 Agreements		
Question to:	Question:	
		With the proprietary interest in the Accommodation Campus bound by the s106 agreement, ESC would be able to rely on powers of entry
SA.1.46	Applicant	Sch 3 para 6.1. How is this promise to establish the Accommodation Working Group enforced? It does not appear to be a promise within s.106(1).
	Response	ESC agrees with SCC's comment
SA.1.47	Applicant	Sch 3 para 6.2. Monitoring of accommodation matters. How is this obligation to survey and to produce a report to be enforced?
	Response	<p>ESC does not have a specific enforcement policy with regards to breach of Section 106. We would rely on Section 106(5) of the Town & Country Planning Act 1990 which provides that "[a] restriction or requirement imposed under a planning obligation is enforceable by injunction". Pursuant to s106(3), a s106 obligation is enforceable by the local planning authority that is identified in the obligation. It is enforceable against the person entering into the obligation and any person deriving title from them, unless the s106 obligation itself provides that a person shall not be bound in respect of any period during which they no longer have an interest in the land.</p> <p>We may choose to apply to the County Court for an injunction preventing being proceeded with or we could take formal proceedings (debt recovery action) with the aim of securing an order from the Court requiring the developer to take specific positive action to meet the requirements of a Section 106 Agreement.</p>
SA.1.48	Applicant	Sch 4 – para 2 and definitions. Where is the actual role and content of the On Site Security and On Site Fire and Rescue set out? How will it be known if it has been delivered and is performing?
	Response	ESC: the role and content needs to either be set now and annexed as a specification or be subject to approval (before commencement) in accordance with some parameters to be defined in the s.106.

SA.1. Section 106 Agreements		
	Question to:	Question:
SA.1.49	Applicant	<p>Sch 5. This schedule requires “third sector support for specific issues which the County Council considers (acting reasonably) are required as a result of potential effects arising from the Project and the Sizewell C Construction Workforce. There are other instances of community benefits across the s.106 agreement.</p> <p>Please will the Applicant consider and explain how are they consistent with R (oao Wright) v. Forest of Dean [2016] EWHC 1349 (Admin) affirmed in the Court of Appeal ([2017] EWCA Civ 2102 and upheld in the Supreme Court at [2019] UKSC 53 and any subsequent relevant caselaw?</p>
	Response	ESC: We await the Applicant’s response
SA.1.50	Applicant	<p>Sch 7, para 2.1 – this contains the phrase “On or before Commencement SZC Co shall ...”. Is this intended to be a restriction in development contemplated by s.106(1)(a)? If so, should it not be expressed as a restriction? The phrase appears elsewhere in the s.106. Please will the Applicant address the question for all of them.</p>
	Response	ESC agrees with the ExA and would prefer wording such as “ <i>Not to Commence or allow Commencement unless and until...</i> ”.
SA.1.51	Applicant, ESC, SCC, WSC	<p>Sch 7, para 3.2.1 - businesses based in a particular area, such as East of England. Please will the Applicant explain the test. For example, is a business with a registered office in Dublin and 95% of its workforce working in Lowestoft based in the East of England? Or the same scenario but only 10% of its workforce? Is an online business with a registered office at an accountant's office in Ipswich and 10,000 operatives, some salaried, some on zero-hours contracts and some on fixed term contracts, spread across Europe, Asia and Africa, based in the East of England?</p>
	Response	ESC: the most important metric is how much expenditure remains in the county, regardless of where the company is headquartered and we expect the applicant to

SA.1. Section 106 Agreements		
	Question to:	Question:
		be challenging their supply chain to demonstrate this and to monitor and report the outputs regularly through the Supply Chain Working Group.
SA.1.52	Applicant, ESC, SCC, WSC	<p>Sch 9, para 2. Para 2.1 – this is an obligation to use reasonable endeavours to deliver the Key Environmental Mitigation.</p> <p>(i) Is reasonable endeavours an acceptable standard and if so, how?</p> <p>(ii) Please will the Applicant supply the Implementation Plan referred to.</p> <p>(iii) The ExA notes this includes the Fen Meadow Works which have a ten year timescale.</p> <p>Para 2.4. This provides for review of the Implementation Programme in the event of delays. Given that the mitigation is necessary, please will the Applicant say how changes to timescale are appropriate?</p>
	Response	ESC requires provision of the Key Environmental Mitigation to be an absolute obligation unless otherwise agreed with the ESC
SA.1.53	Applicant, ESC, SCC, WSC	<p>Sch 10, leisure etc.</p> <p>(i) Is the proviso in para 2.1.1 appropriate if the Leiston Sports Facilities are necessary?</p> <p>(ii) Design of the facilities is in the hands of ESC. Given that the design will presumably have to be approved under the DCO there appears to be a dual role. Whilst being mindful of the complexities of the General Regulations (SI 1992/1492) is there a need for separation in this case and if so how should it be achieved without complexity? Is this what para 2.2 is designed to achieve?</p> <p>(iii) What is the test for the “appropriate timescale” for delivery?</p> <p>(iv) Para 2.3.2 is a restriction on occupation of the sports facilities prior to ESC submitting a management plan to SZC Co for approval. Given that the facilities are necessary, how does this restriction incentivise the Applicant?</p>

SA.1. Section 106 Agreements	
Question to:	Question:
	<p>(v) Para 2.3.4 then provides a further restriction on occupation whilst the Applicant decides whether or not to approve the management plan. Is this an appropriate control? If it is, what is the dispute resolution procedure?</p> <p>(vi) Para 2.4.2 this states the destination of part of the Annual Maintenance Payment. What is the destination of the rest?</p>
Response	<p>ESC requires the proviso to be deleted and monies paid the Council prior to Commencement</p> <p>Seemingly, the only reference to what is presumably Leiston Sport Facilities in the draft DCO is through Work No. 5 which is: "Landscape works including open space, sports facilities and associated structures and plant." The Requirements do not refer to Work No.5 at all (or generally to the totality of the works) and it therefore seems that there is no control under the DCO for the design of these works to be approved by ESC. Please can the Applicant to explain this as the s.106 agreement does refer to this control as being under Requirement 12 but it doesn't appear to be.</p> <p>ESC requires 2.3.4 be deleted so Applicant is provided with management plan but cannot hold up occupation</p> <p>Percentages awaited but provided % in 2.4.2 and 2.4.3 equals 100% then all money is allocated</p>

SA.1. Section 106 Agreements		
	Question to:	Question:
SA.1.54	Applicant, ESC, SCC, WSC	<p>Sch 11 – Natural Environment.</p> <p>(i) Please will the Applicant supply the plan of the East Suffolk Natural Environment Improvement Area?</p> <p>(ii) "M22 fen meadow habitat". Would it be helpful to make the Rodwell document an examination document and have it certified in the DCO?</p> <p>(iii) Natural Environment Improvement Officer – this is defined as someone employed by SCHAONB. That is an area and a designation, not a person. Please will the Applicant provide the correct organisation and incorporate it in the next draft of the s.106 agreement. Please check other places where SCHAONB is used.</p> <p>(iv) The Natural Environment Improvement Fund. Please will the Applicant direct the ExA to where this is explained in the ES?</p> <p>(v) The East Suffolk Natural Environment Improvement Fund. Is this different from the Natural Environment Improvement Fund? Looking at para 2.5, is there a possibility that what is envisaged is a purpose trust? If so, what action is needed? The Applicant may wish to consider this also in the context of para 5 – review and long term management of the fund.</p>
	Response	ESC awaits the Applicant's response
SA.1.55	Applicant, ESC, SCC, WSC, Natural England	<p>Sch 11, para 8.</p> <p>(i) The Fen Meadow Contingency Fund. It appears that the fallback, if fen meadow is not successfully re-created, is the payment of money.</p> <p>(ii) How does this not disincentivise creation of replacement fen meadow? What other steps, incentives and sanctions are there to ensure that proper efforts are employed and implemented so that the Contingency Fund Payments do not have to be made?</p> <p>(iii) If the fen meadow is not successfully recreated by the Applicant is it realistic to suppose that others will have any greater success?</p>

SA.1. Section 106 Agreements		
Question to:	Question:	
	Response	Enforceability requires the approval of a suitably detailed implementation programme at para 2.2 of Schedule 9 to ensure delivery and enforceability
SA.1.56	Applicant	Sch 13. Resilience funds for the National Trust, Pro-Corda and RSPB. No purposes for these payments are specified as yet. When is it expected they will be set out? Earlier questions in relation to Wright v. Forest of Dean are repeated here.
	Response	
SA.1.57	Applicant	Sch 14 – the Sizewell C Community Fund (i) Please will the Applicant explain whether the intention is that the fund is taken into account as an important and relevant matter and if so address the issues in Wright v. Forest of Dean and Resilient Energy and subsequent case law. (ii) Please will the Applicant set out how it intends the funds shall be held from time to time, and the relevance, functions and reasons for the various legal mechanisms. For example, where is the Fund actually held, what is the purpose of the Deed of Transfer? If para 2.8 is triggered because SZC Co in its absolute discretion no longer wishes it to be administered by Suffolk Community Foundation, in whose hands is the fund at this stage? If held by SCF, how do SZC get it back? If it is held by SZC, how much is it? (iii) Para 2.5. Must all 10 of the criteria be met for every application?
	Response	
SA.1.58	Applicant	Sch 15 – Transport. At para 2.1 this schedule requires implementation of various travel plans. Whilst the ExA is aware that it is common for s.106 agreements to address travel plans it is difficult to see that they are actually within the terms of s.106(1) TCPA 1990. The ExA has noted that the draft s.106EM asserts that compliance is not necessary owing to the modifications in the Sizewell Special Arrangements. However, the

SA.1. Section 106 Agreements		
Question to:	Question:	
		<p>Sizewell Special Arrangements and the draft s.106 agreement propose that the Applicant enters into it by virtue not only of its status as undertaker (if the DCO is granted) but also as landowner of at least some land and the current drafting for the modification of s.106 set out in the Sizewell Special Arrangements and the DCO do not remove the necessity for the promises to fall within s.106(1) in order (a) to be “development consent obligations” as defined in the draft s.106 agreement [PBD0-004] and (b) to run with such land as is bound</p> <p>How therefore is delivery of and compliance with the travel plans ensured?</p>
	Response	
SA.1.59	Applicant	<p>Sch 15 – Transport</p> <p>(i) Para 3.3 – the transport review group. Para 3.3.5 contemplates a tied vote. Is the chair not to have a casting vote? Does this apply to all the other groups and committees created by the s.106 agreement and if so what is the resolution process in those cases?</p> <p>(ii) How is paragraph 3.5.2 (duty to promote objectives and benefits of the Transport Management Plans) and following (paras 3.5.3 – 3.5.8) enforced? Failure to perform is unlikely to sound in damages. Would an injunction be issued (leaving aside for the moment the fact that that person given the duties is not a person bound by the s.106 agreement).</p> <p>(iii) the ExA’s questions above in relation to third party involvement, the allocation of functions to persons who are not a party to the agreement and to groups, SA1.10 -1.12) are also relevant here.</p> <p>(iv) Paragraphs 4.4 and 4.9 (and potentially a paragraph in the section on Marlesford and Little Glemham – 4.13 – 4.17) have considerable discretion over the schemes to be implemented. Please will the Applicant explain how this meets the policy and legal tests?</p>

SA.1. Section 106 Agreements		
Question to:	Question:	
		<p>(v) Para 5.2 – SZC Co to check road condition “regularly”? Please will the Applicant state how regularly? For example is it to be weekly, monthly or some other interval?</p> <p>(vi) How is para 6.1 and 6.2 a planning obligation?</p>
	Response	
SA.1.60	Applicant, ESC, SCC, WSC	<p>Sch 17 – Governance.</p> <p>(i) Definitions – para 1. Please will the Applicant explain where ESC and SCC covenant to form the Oversight Partnership.</p> <p>(ii) Para 2.1 – this may just be a drafting point, but the opening words read as though the covenant is not made until some point “on or before the Commencement Date”. Is that the intention or is it that the covenant is made on execution to establish the Delivery Steering Group on or before the Commencement Date?</p> <p>(iii) Para 2.5.1 – what happens if the DSG fails to do these things? How is it enforced? Similarly the obligations on the Oversight Partnership in para 3 and all the other groups contemplated by Sch 17.</p> <p>(iv) Para 5.1.3 quorum; in the phrase “at least one of whom is a member representing each of East Suffolk Council, Suffolk County Council and SZC Co ...”, should “each of” be replaced by “any of”? The ExA is unclear what is meant by the current wording. A similar formulation is to be found elsewhere in the schedules.</p> <p>(vi) the visual representation of the governance structure. The Community Fund, Main Site Forum and Associated Development Fora are shown but not linked to anything. The sub-bodies below the Transport Review Group and Planning Group appear to be incomplete. What are the relationships between the Executive Level</p>

SA.1. Section 106 Agreements		
Question to:	Question:	
		<p>Steering Groups and Oversight Partnerships in boxes at the head of the figure and the other groups? Please explain the colour code.</p> <p>(vii) Footnote 42. "Executive Level Steering Group is already in existence and is not constituted in this Deed. It is shown in Figure 1 for informational purposes only." Is not some provision to ensure it continues to exist necessary?</p>
	Response	<p>(i) . The Community Fund, Main Site Forum and Associated Development Fora sit outside of the main structure illustrated. The Community Fund will be constituted and run under agreement with Suffolk Community Foundation – that is not proposed to be part of the Section 106 agreement. The Main Site Forum and Associated Development Fora are proposed by the Applicant to be the conduit for the communities directly affected by either the main development site or any associated development site to have direct access to the Applicant during the construction phase. Therefore, these groups should be secured through the Section 106 agreement but do not need to be linked to any of the other groups illustrated.</p> <p>(ii) Similar terms for Executive Level Steering Group as there are for Oversight Partnership could be included</p>
SA.1.61	Applicant	List of plans and annexes. The ExA notes that many of these have yet to be provided. Please will the Applicant supply them or give a timetable for when they will be submitted to the Examination.
	Response	
<i>The following questions relate to the draft s.106EM</i>		
SA.1.62	Applicant	The ExA thanks the Applicant for providing the draft s.106EM. In relation to the legal underpinnings, the ExA is seeking a guide, much like an EM for a DCO, of the purpose, policy compliance and legal powers for each clause, schedule and

SA.1. Section 106 Agreements		
	Question to:	Question:
		paragraph. Especially given not only the limitations of s.106 TCPA 1990 but also the approach in the Sizewell Special Arrangements, the ExA would be particularly assisted by this, however the eventual s.106 agreement turns out. Please will the Applicant include the s.111 agreement in the draft s.106EM.
	Response	
SA.1.63	Applicant	Para 2.8. The current drafting of Art 9 of the DCO only makes planning obligations apply to a transferee. So, as things stand, it is necessary for the promises in the s.106 to meet the s.106(1) tests.
	Response	Please see the comments regarding a deed of covenant being required by any transferee of the benefit of the DCO at SA1.3
SA.1.64	Applicant, ESC, SCC, WSC	At para 4.8 the draft s.106EM states: "While it may be possible, in principle, for elements of the s106 Agreement as drafted to be pulled out into requirements, we consider that in most, if not all, cases there is considerable practical advantage and merit in placing the commitments to plans etc together with the governance arrangements for approvals or amendments, and procedures for resolution of disagreements, which relate to them and which it would not be appropriate to draft into the DCO." Please will the Applicant explain further why it is advantageous to deal with these matters in the s.106 agreement rather than in the DCO.
	Response	
SA.1.65	Applicant	Response to Observation 6. The Observation was an open question. The ExA is aware of cases where only part of an application site is bound by a s.106 agreement and this can be made to work in some circumstances. They may turn out to be appropriate in this case.

SA.1. Section 106 Agreements		
Question to:	Question:	
	Response	ESC would deal with a request to only bind part of the site on a case by case basis. Where only part of a Site is bound, then it is appropriate to include restrictions on that part of the Site until obligations to be carried out on or in relation to the unbound part of the Site have been discharged, e.g, "Not to commence until....."
SA.1.66	Applicant	Please will the Applicant say whether its response to Observation 25 on the effect of the Oxfordshire case (the ExA is grateful for the correction to the citation) has considered all other instances in the draft s.106 (e.g. Sch 3 para 2.3) where payments for administration, expenses and related costs are to be paid to any of ESC, SCC and WSC?
	Response	
SA.1.67	Applicant, ESC, SCC, WSC	<p>Observation 27 and title investigation by the Host Authorities. The ExA notes that the SZC Co's solicitors are willing to provide the confirmation document sought by the ExA. The ExA looks forward to the submission of the draft at the earliest possible opportunity.</p> <p>In relation to title investigation, the ExA notes that the Applicant is discouraging the Host Authorities from carrying out title investigation. As the Applicant observes, the Sizewell Special Arrangements are a new approach. It is evidently evolving. In addition the final position on the s.106 agreement is not yet settled. The ExA will be asking the Host Authorities for their confirmation that they are satisfied with all of the provisions of any s.106 agreement, including its enforceability throughout the construction and operation of the Project, should the DCO be made. Therefore to allow and to carry out title investigation would seem prudent.</p>
	Response	Deed of covenant and land charge would assist with ensuring enforceability.

SA.1. Section 106 Agreements		
	Question to:	Question:
SA.1.68	Applicant	<p>Please will the Applicant state how a future undertaker would know of the existence of this extensive s.106 agreement. Such an undertaker might only be a transferee of part of the benefit of the DCO and not acquire any land.</p> <p>How would a lender or an investor who is not an undertaker know of the existence of the s.106 agreement?</p>
	Response	Please see comments at SA1.3. Any transferee of the benefit of the DCO would be required to enter into a Deed of Covenant. The s106 agreement and DCO should be worded appropriately.
SA.1.69	Applicant, ESC, SCC, WSC	The ExA draws attention to s.106(6) which, where there is a breach of a requirement in a development consent obligation, gives the authority by whom it is enforceable the right to enter the land to carry out the operations. The host authorities, on the scheme in the Sizewell Special Arrangements, are the enforcing authorities of a s.106 agreement which is expressly stated to bind the Sites, i.e. the Order lands (see clause 4.1). Will they be able to exercise this power in relation to all the Sites?
	Response	<p>ESC have general enforcement powers to enter onto land in the event of a breach of planning. SZC can only give the Council express permission for ESC to enter onto its own land.</p> <p>Given the above, ESC would expect all persons with a proprietary interest in the Sites to be party to the agreement.</p>
SA.1.70	Applicant, ESC, SCC, WSC	Would execution of the s.106 agreement in escrow, with the making of a DCO pursuant to the Application being the escrow condition, be an appropriate alternative to the proposed s.111 route, or are there obstacles to that route? If so, please explain what they are.

SA.1. Section 106 Agreements	
Question to:	Question:
Response	<p>If the owners of the site are party to the s106 agreement, it would be preferable to complete the s106 agreement prior to the end of the Examination (such s106 agreement would be conditional upon the DCO being Granted.</p> <p>As per our response to SA1.3 above, where the signatory has no proprietary interest in land, any agreement could not be entered into pursuant to s106 In such circumstances other powers will need to be considered such as an agreement pursuant to s1 of the Localism Act 2011 and s111 of the Local Government Act 1972, provided that the signatory is not released upon disposal of its interest until the transferee has entered into mirror covenants with the councils</p> <p>Such alternative powers/provisions should only be considered where there is a legitimate reason why the landowner cannot sign a s106 agreement</p>

SA.1. Section 106 Agreements		
	Question to:	Question:
SA.1.71	Applicant, ESC, SCC, WSC	<p>The ExA makes the following further observations:</p> <ol style="list-style-type: none"> 1. This s.106 agreement is expressed to bind all the Sites (see Cl 4.1 and Cl 2.1 where it is said to do this by virtue of the Applicant’s Qualifying Interest, which is its status as undertaker if the DCO is made and its status as a person with an actual interest in parts of the Sites. The status as undertaker would deem the Applicant to be interested in the whole Order land – see the new article for the DCO set out at para 2.6.1 of the draft 106EM. 2. The Sizewell Special Arrangements and s.106 agreement seek to create development consent obligations which are free floating and which do not bind the land. 3. The ExA has drawn attention to s.106(6) which, where there is a breach of a requirement in a development consent obligation, gives the authority by whom it is enforceable the right to enter the land to carry out the operations. The host authorities, on the scheme in the Sizewell Special Arrangements, are the enforcing authorities. It is not clear that they would be able to exercise this power in relation to the s.106 agreement for Sizewell. 4. The Applicant proposes that it enters into the s.106 both as undertaker with a deemed land interest and also as a landowner – see the definition of Qualifying Interest and clauses 4.1 and 4.2. Thus any promises which are development consent obligations because they fall within s.106(1) will run with the Applicant’s title, whatever it is. 5. The development consent obligations in the s.106 agreement bind the Sites, that is to say the Order land. That is clearly stated at clause 4.1. 6. The s.106 agreement refers to development consent obligations and planning obligations. By Clause 2 they are expressly made to run with the Applicant’s land.

SA.1. Section 106 Agreements	
Question to:	Question:
	<p>7. The Applicant might propose further modifications to s.106, changing the extent of s.106(6) and changing s.106(11) so that its floating development consent obligation is not a local land charge.</p> <p>8. The Applicant states its intention for the s.106 agreement at para 4.3 of the draft s.106EM "... we do not intend the s106 Agreement to bind successors in title. It should be binding only upon SZC Co as the 'undertaker', being the only party who may lawfully implement the development authorised by the DCO, and anyone to whom the benefit of the DCO is transferred under article 9 of the DCO" (para 4.3).</p> <p>9. The ExA would summarise the aim as being to make the s.106 agreement run with the DCO rather than run with the land. To achieve this, major modifications are to be effected to s.106 TCPA 1990. But if the provisions were incorporated into the DCO they would run with it anyway.</p> <p>10. Given that the legal purpose of s.106 is to make promises run with the land it seems strange to choose that power but then to modify it so as to remove its legal purpose. The ExA does not understand the Applicant's apparent aversion to using the DCO.</p> <p>11. Of course there may still be a need for s.106 agreement if there are things which are needed which cannot be done in a DCO, in which case please will the Applicant explain which they are. That is something which could be looked at if it arises and conventional means of securing development consent obligations when only part of the land is controlled by an applicant could be explored.</p>
Response	