

THE SIZEWELL C PROJECT

(EN010012)

DEADLINE 2

APPLICANT'S REVISED DRAFT OF DCO SUBMITTED BY THE HEVENINGHAM HALL ESTATE (THE HHE)

(INTERESTED PARTY NUMBER: 20026675)

The Sizewell C (Nuclear Generating Station) Order 20[]

Proposed Amendments to the DCO

The Heveningham Hall Estate (**HHE**) requests the following amendments and additions to the Draft DCO. These relate to Associated Development, namely the Northern Park and Ride (**NPR**) and the Yoxford Roundabout (**YR**). Parts of the HHE, including the Grade I listed Cockfield Hall are proximate to the NPR and YR.

In this document the original text of the draft DCO is shown as "black text", proposed deletions are shown struck through in "~~red text~~" and proposed insertions are shown as underlined "blue text".

Schedule 1 Part 1

Work No. 9

The location of the below works is shown on sheet no. 15 of the Works Plans.

- (a) A temporary park and ride facility, to include—
 - (iii) soft landscape works, including the provision of ecological habitat; hard landscape works, including hardstanding, and vehicle, motorcycle and bicycle parking areas;
 - (vii) perimeter and internal fencing, signage, secured entrance gates, barriers and ecological fencing; ~~and~~
 - (viii) demolition / removal of ~~any temporary~~ all structures, ~~and all hard~~ landscape works and any temporary soft landscape works; and
 - (ix) restoration works.

Reason for amendments:

Work No 9 relates to the NPR. The Associated Development Design Principles do not make clear what works are proposed for "demolition / removal" as part of the "restoration works". There is no "Design Principle" for the restoration works. Requirement 24 refers to "Work No. 9 ... must be demolished" and the land "restored to a condition suitable for agricultural use". Requirement 24 therefore suggests that everything planted or erected at the NPR is to be "demolished". However, the NPR Removal and Reinstatement Plan, Drawing No. SZC-SZ0701-XX-000-DRW-100162 Rev 01 (for approval) includes a note that "enhanced hedgerows" on Willow Marsh Lane and the southern boundary are "to be retained" as well as "retained and enhanced trees and shrubs", and "retained

and enhanced other vegetation". The HHE agrees that some of the soft landscaping works e.g. *"supplementary hedgerows will be planted along the eastern and northern site boundaries to infill existing gaps"*¹ should not be demolished / removed. A distinction therefore needs to be drawn in the definition of "Work No. 9" between the hard landscaping works, all of which are understood to be removed, and temporary soft landscaping works that are to be removed, with the remainder of soft landscaping works to be retained. HHE do not understand that are any structures to be retained.

The Promoter is requested to clearly identify the soft landscaping works that are to be removed, and those that are to be retained, and confirm that there are no structures to be retained as part of the NPR's restoration.

"Restoration works" have been moved into separate sub-paragraph (ix) otherwise sub-paragraph (viii) lacks clarity as it would read "demolition / removal ... of restoration works", suggesting that once the restoration works have been completed at the NPR that these are to be removed.

Schedule 2

REQUIREMENT 2: Project wide: Code of Construction Practice

The construction and removal and reinstatement of the authorised development must be carried out in ~~general~~ accordance with the Code of Construction Practice, unless changes are otherwise agreed by the local planning authority provided that any such changes must—

(a) be in accordance with the principles set out in the code of construction practice; and

(b) be necessary or desirable to reflect a change or update in legislation, guidance or good practice, or confined to a specific location of the authorised development.;~~and~~

(c) not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement.

Reason for amendments:

The inclusion of the word "general" provides too much flexibility for the Promoter. They should carry out works "in accordance" with the CoCP so that there is confidence that the environmental mitigation included in the CoCP is delivered. If changes are made to the CoCP for sound operational reasons then it is important that the principles in and protection provided by the CoCP is delivered.

There is precedent for a similar Requirement to Requirement 2 as amended, see for example Requirement 5 of The Southampton to London Pipeline Development Consent Order 2020.

REQUIREMENT 4: Project wide: Terrestrial ecology monitoring plan

(1) No development must commence in respect of Work Nos. 1A (main development site), 3 (accommodation campus), 4 (rail), 9 (northern park and ride), ~~and~~ 10 (southern park and ride) and 14 (yoxford roundabout) until a terrestrial ecology monitoring plan for that work reflecting the monitoring included in the Environmental Statement has been submitted to and approved by the local planning authority. (2) The terrestrial ecological monitoring plan must include an implementation timetable and must be carried out as approved.

Reason for amendments:

Immediately adjacent to the boundary of the YR works there are ecologically important features, including Roadside Nature Reserve 197 and the River Yox. RNR 197 includes a legally protected species, namely the Sandy Stilt Puffball fungus, included in Schedule 8 of the Wildlife and Countryside Act 1981.

¹ Associated Development Design Principles, page 6, NPR (Darsham) Table 3.1, Landscape Design Principles, Para 6

River Yox
RNR 197



REQUIREMENT 20: Associated Development Sites: ~~Buildings and Structures~~ Detailed Design Approval

(1) Work No. 9 (northern park and ride), Work No. 10 (southern park and ride) and Work No. 13 (freight management facility) must not be commenced until the detailed design of that Associated Development has been submitted to and approved by the local planning authority. The submission shall be in accordance with the relevant plans set out in Schedule 6 (Parameter Plans) and Schedule 7 (Approved Plans), and shall include a statement of compliance demonstrating how the relevant sections of the Associated Development Design Principles have been incorporated into the relevant building, structure or works for that Associated Development ~~work has been submitted to and approved by the local planning authority.~~ The details submitted for each Associated Development must include details of the following where these are relevant to that component—

(a) stockpiles (during construction and site restoration only), embankments and bunds including locations, maximum heights of 4 metres for stockpiles and 3 metres for bunds, profiles, fencing, seeding, covering and planting proposals;

(b) hard landscaping, cycle tracks, footpaths including location, surfacing, and details of bypass separators, oil filters and petrol interceptors for car-park run-off;

(c) surface and foul drainage including SuDS measures; package treatment plant type, location, filters, and management and maintenance proposals;

(d) bicycle, motorcycle and vehicle parking confirming number of spaces provided consistent with the maximum number referred to in the Transport Assessment (including any Addenda) for the relevant Associated Development including (i) the location and quantum of electrical charging points, (ii) cycle shelters, (iii) the location of accessible spaces, (iv) and pick-up only spaces;

(e) built development siting, scale, appearance and layout (including external materials and finishes, sustainable energy measures, sprinkler systems, and accessibility measures), the heights of buildings shall not exceed 4 metres;

(f) location and quantum of bin stores;

(g) site levels and finished floor levels;

(h) estate roads including bus lanes and pedestrian only routes;

(i) screening measures for built development;

(j) external lighting scheme including: (i) location, (ii) heights, (iii) lux levels, (iv) types of fittings and shields to limit light spill, (v) details of central management system, and controls such as sensors and timing devices; (vi) the scheme shall demonstrate how impacts on ecology (particularly nocturnal species) and light pollution has been minimised; (vii) demonstration that the light levels are the minimum required for security and safety purposes; (viii) the setting of a threshold for light levels, including how this will be monitored and how this will be used to inform a requirement for change on ecological grounds; (ix) demonstration that the artificial light emissions are consistent with the assessed effects of artificial lighting in the environmental statement, (x) temporary lighting during construction;

(k) means of enclosure including boundary and security fencing, entrance barriers, acoustic fencing, ecological fencing, and temporary fencing during construction;

(l) CCTV and other security measures including a security booth and barrier at the site entrance, and a security building;

(m) entrances and exit points to/from the public highway including roundabout and junction designs;

(n) gas mitigation measures;

(o) any temporary site notices or advertisements;

(p) mechanical services plant including details of acoustic housing and noise emissions;

(q) sustainability measures including energy, recycling, and on site generation;

(r) location of litter bins;

(s) services including gas, electricity, water and telecommunications; and

(t) canopies and screen and search facilities.

(2) Work No. 9 (northern park and ride), Work No. 10 (southern park and ride) and Work No. 13 (freight management facility) must be carried out in accordance with (i) the relevant plans set out in Schedule 6 (Parameter Plans) and Schedule 7 (Approved Plans), and (ii) in general accordance with the relevant sections of the Associated Development Design Principles, and (iii) details approved pursuant to paragraph (1) above, save to the extent that alternative plans or details relating to ~~siting, scale or appearance~~ the matters set out at paragraph 1 above are submitted to and approved by the local planning authority.

(3) Any alternative plans or details referred to in paragraph (2), must include and conform with the requirements set out in paragraph (1) above. ~~must be in accordance with the relevant plans set out in Schedule 6 (Parameter Plans), and in general accordance with the relevant sections of the Associated Development Design Principles.~~

Reason for amendments:

The Associated Development Design Principles are inadequate on their own to control the Associated Development; the local planning authority needs to ensure that the detailed design adequately mitigates the Associated Developments in accordance with the conclusions of the environmental statement and minimises environmental harm.

The Promoter's Explanatory Memorandum states:

"The requirements closely relate to the mitigation set out in the Environmental Statement and ensure that the mitigation relied upon for conclusions of the Environmental Impact Assessment is secured."

The Associated Development Design Principles do not provide a sufficient level of certainty that this will be the case and provide too much flexibility for the Promoter to "value engineer" the design. For example, in relation to the NPR, pages 5 and 6, Table 3.1:

- Under Building Design Principles, para 5 it states "Buildings will be screened as far as possible". Screened with what? Corrugated sheet metal would "screen" the buildings but would be neither appropriate nor mitigate visual harm. Is the screening proposed a planted screen, such as a green wall, or is it another built structure? It is not clear.
- Under Building Design Principles, there is no indication as to what the internal layout and facilities provided within the buildings will be. The health and welfare of workers would require sufficient bathroom facilities, and there is a need to ensure that other areas of the site are not being used as "ad hoc" bathroom facilities causing ecological harm due to inadequate provision. There is also a need to ensure that the buildings are accessible to all, and to ensure that there are no facilities that would unnecessarily encourage dwell time e.g. a bar /restaurant to the detriment of neighbouring residential amenity.
- Under Landscape Design Principles, paras 6 and 7 it states that "supplementary" and "new" hedgerows are to be planted. General design principle No. 6, Table 2.1, page 3 advises that the species used will be "native species", but there is no further information. There are many plants that are "native species" to the UK, but not all would be appropriate in a hedgerow, and provide "ecological mitigation and visual screening"². The Landscape Masterplan provides no further detail.

It is therefore important that the LPA approve the detail of these Associated Developments. This needs to comply with the Associated Development Design Principles and details provided in other application documents such as Mitigations Route Map, but also go into a further level of detail, as would be normal at a detailed design stage, where a development has only been designed in outline, and a "design code" document has to be compiled with. The list of details required to be submitted at (a) through to (t) are taken directly from the Associated Development Design Principles document, as would be usual for developments of this scale and duration.

It is inappropriate for works to be carried out in "general accordance" with approved documents. Works should be carried out "in accordance" with the approved document, so that there is confidence that the environmental mitigation included in the approved document is delivered.

There is precedent for a similar Requirement to Requirement 20 as amended, see for example Requirement 8 of The Northampton Gateway Rail Freight Interchange Order 2019, Requirement 5 of The West Burton C (Gas Fired Generating Station) Order 2020, and Requirement 5 of The Immingham Open Cycle Gas Turbine Order 2020.

² Associated Development Design Principles, page 6, NPR, Landscape design principles, para 7

REQUIREMENT 22: Highway works

(1) Prior to the commencement of highway works relating to Work Nos. 9(b) (highway works related to northern park and ride), 10(b) (highway works related to southern park and ride), 11 (two village bypass), 12 (sizewell link road), 13(b) (highway works related to freight management facility), 14, 15, 16 and 17 (yoxford roundabout and other highway improvements) the full detailed design of the highway works in accordance with (i) Schedule 6 (Parameter Plans), (ii) the relevant plans set out in Schedule 7 (Approved Plans), (iii) the relevant sections of the Associated Development Design Principles, and (iv) (in respect of Work No. 11 and Work No. 12) within the vertical limits of deviation specified in article 4 of this Order, shall be submitted to and approved by the local planning authority (following consultation with Suffolk County Council or any successor authority). Where the highway works include lighting, details to be submitted shall include:

(a) location;

(b) heights;

(c) lux levels;

(d) types of fittings and shields to limit light spill;

(e) details of controls such as sensors and timing devices;

(f) demonstration of how impacts on ecology (particularly nocturnal species) and light pollution has been minimised;

(g) demonstration that the light levels are the minimum required for highway safety purposes;

(h) demonstration that the artificial light emissions are consistent with the assessed effects of artificial lighting in the environmental statement; and

(i) temporary lighting during construction.

~~(12)~~ Work Nos. 9(b) (highway works related to northern park and ride), 10(b) (highway works related to southern park and ride), 11 (two village bypass), 12 (sizewell link road), 13(b) (highway works related to freight management facility), 14, 15, 16 and 17 (yoxford roundabout and other highway improvements) must be carried out in accordance with the details approved pursuant to paragraph 1 above, ~~relevant plans set out in Schedule 7 (Approved Plans) and in general accordance with the relevant sections of the Associated Development Design Principles~~, save to the extent alternative plans or details are submitted to and approved by the local planning authority (following consultation with Suffolk County Council or any successor authority).

~~(23)~~ Any revised plans or details referred to in paragraph ~~(12)~~, must include and conform with the requirements set out in paragraph (1) above, ~~be in general accordance with the relevant sections of the Associated Development Design Principles and (in respect of Work No. 11 and Work No. 12) within the vertical limits of deviation specified in article 4 of this Order.~~

~~(34)~~ No changes to existing finished ground levels or surface water drainage are permitted in respect of Work Nos. 9(b), 10(b), 11, 12, 13(b), 14, 15, 16 and 17, unless shown on the relevant plans set out in Schedule 7 (Approved Plans) or approved by the local planning authority pursuant to paragraphs ~~(12)~~ and ~~(23)~~ above.

Reason for amendments:

The plans “for approval” submitted to date that show works within the publicly maintainable highway, have only been designed to an AiP / general arrangement level of detail. It is therefore suggested that a Requirement is phrased to require approval of the detailed design.

REQUIREMENT 23: Associated developments: Landscape planting

If any tree or shrub is removed, dies or becomes seriously damaged or diseased within ~~five~~ ten years of planting as part of Work No. 9, 10, 11, 12 ~~or 13~~, or 14 it must be replaced with suitable replacement plants or trees to the specification referred to in the approved landscaping scheme (Requirement [26] and Associated Developments Design Principles during the next available planting season.

Reason for amendments:

The construction period is 12 years, and the landscaping, particularly in relation to the Associated Development, that is only required for the construction phase is essential for mitigating the impact of these developments, by providing visual screening, ecological mitigation, and noise attenuation. If there is only a requirement to replace failed landscaping for up to 5 years then for over half of the construction period Associated Development could be without the required level of mitigation in place.

In relation to Work No.14 this has been included because the landscaping at YR provides an important function in mitigating the impact of the works on neighbouring residential amenity, and protecting ecology, and if it were to fail during the construction period (when the YR would be most intensively used) then it ought to be replaced.

REQUIREMENT 24: Associated development sites: Removal and reinstatement

(1) Six months prior to the completion of the SZC construction works, there shall be submitted to the local planning authority for approval a reinstatement scheme in respect of Work No. 9 (northern park and ride), Work No. 10(a) (southern park and ride), Work No. 13(a) (freight management facility), Work No. 4B (green rail route), and Work No. 4D (rail spur). The reinstatement scheme must include the following:

(a) details of soft landscaping to be retained;

(b) details of any other parts of the authorised works to be retained including the reason for the retention;

(c) in respect of the parts of the Associated Development sites that are agricultural land, the scheme shall include the register of land condition³, detailing soil, topography, drainage, boundary treatments, and agricultural land grade prior to the commencement of the authorised works on the relevant Associated Development site;

(d) proposals for returning the parts of the Associated Development sites that are agricultural land to at least the condition and grade that is recorded in the register of land condition for that Associated Development site;

(e) details of land form and contours;

(f) proposals for landscaping, planting, seeding or turfing;

(g) proposals for boundary treatments;

(h) proposals for site drainage;

(i) details relating to the capping or removal of services for water, gas, electricity, and telecommunications;

(j) details of the physical condition of the replaced soil profile to at least 1.2m below final ground level;

(k) (i) a Preliminary Risk Assessment which identifies potential contaminants associated with the authorised works, a conceptual site model indicating potential sources, pathways and receptors; (ii) a Ground Investigation Scheme, based on (i) above, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site; (iii) the results of the Ground Investigation in (ii) above and an associated risk assessment including appropriate interpretation and

³ Referred to at page 43 of the CoCP, Table 9.1.

an updated conceptual site model; (iv) a remediation and verification strategy including an options appraisal reflecting (iii) above, which shall provide details of the data that shall be collected in order to demonstrate that the works set out in the remediation and verification strategy are complete and identifying requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action [if any];

(l) programme for demolition, remediation, and restoration to a condition suitable for agricultural use (consistent with paragraph 1(d) above);

(m) details of any imported topsoil / inert fill;

(n) in respect of the parts of the Associated Development sites that are highway / roads / tracks, the scheme shall include proposals for returning the relevant parts of the Associated Development sites to the condition and layout prior to the commencement of the authorised works on the relevant Associated Development site (unless improvements to the condition and layout are agreed by the local planning authority); and

(o) If any tree or shrub is removed, dies or becomes seriously damaged or diseased within five years of planting as part of a reinstatement scheme then it must be replaced with suitable replacement plants or trees to the specification referred to in the reinstatement scheme during the next available planting season.

(2) Within 12 months of the completion of the SZC construction works, Work No. 9 (northern park and ride including highway works), Work No. 10(a) (southern park and ride), Work No. 13(a) (freight management facility), Work No. 4B (green rail route), and Work No. 4D (rail spur) must be demolished / removed in accordance with the details approved under paragraph (1) above.

(23) All materials resulting from the demolition of the above Works must be removed from the relevant site, and the land restored to a condition suitable for agricultural use (consistent with the details approved pursuant to paragraph 1(d) above), or restored to the highway / roads / tracks (consistent with the details approved pursuant to paragraph 1(n) above);

(4) Within 1 month of completion of the reinstatement scheme, a verification report demonstrating completion of the works set out in the reinstatement scheme approved pursuant to paragraph (1) above, including specifically completion of the works set out in the approved remediation and verification strategy (consistent with the details approved pursuant to paragraph 1(k) above) shall be submitted to the local planning authority for approval. The report shall include results of sampling and monitoring carried out in accordance with the approved remediation and verification strategy to demonstrate that the site remediation criteria have been met.

Reason for amendments:

There is a vast difference between returning the land to a condition where it is suitable to grow crops (as is the case at present with the NPR) and returning it to a condition suitable for e.g. a facility where caged hens are kept. It is necessary to provide clarity on what condition the land is to be restored to.

It is necessary to understand clearly what works are to be demolished and what works are to remain. The landscape masterplan for the NPR suggests that certain landscaping is to be retained, whereas this Requirement suggests that the totality of the works are to be demolished.

Whilst the CoCP controls how reinstatement works are to be carried out, it does not detail what reinstatement works will be required in connection with each Associated Development site, and what condition the Associated Development sites will be left in post reinstatement. Given that there is divergence between the different documents, it is necessary for clarity to be provided and for the LPA to be satisfied that reinstatement measures are appropriate and complete.

The amendments at (k) ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological

systems, and to ensure that the reinstatement works can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

There is precedent for a similar Requirement, see for example Requirement 8 of The Northampton Gateway Rail Freight Interchange Order 2019, Requirement 24 of The West Burton C (Gas Fired Generating Station) Order 2020.

PROPOSED NEW REQUIREMENT [26] : Provision of Landscaping

(1) Work No. 9 (northern park and ride), Work No. 10 (southern park and ride), Work No. 13 (freight management facility) and Work No. 14 (yoxford roundabout) must not be commenced until a landscaping scheme for that component has been submitted to and approved by the local planning authority. The landscaping scheme for each Associated Development must include details of all proposed soft landscaping works, including—

(a) location; number; species; size/maturity of specimens to achieve as a minimum screen planting of 800mm high at the end of year 1 and 4.8 m high at the end of year 10; hedgerows of 450mm high at the end of year 1 and 3 m high at the end of year 10; layout; method of trees' support; plant protection measures; and planting density of any proposed planting;

(b) details of buffer zone planting;

(c) details of enhancement proposals in relation to retained landscaping;

(d) in relation to the Northern Park and Ride proposals for native tree and shrub/hedgerow planting to provide continuous cover on the western boundary of the Northern Park and Ride site of not less than 3 metres depth;

(e) cultivation, importation of materials and other operations to ensure plant establishment;

(f) details of existing trees to be retained, with measures for their protection during the construction period in accordance with British Standard 5837:2012, "Trees in relation to Design, Demolition and Construction Recommendations", and to include a schedule of remedial tree works to be carried out in accordance with British Standard 3998:2010, "Tree Work Recommendations", prior to construction commencing;

(g) details of ecological mitigation;

(h) implementation timetable; and

(i) maintenance and management proposals.

(2) Work No. 9 (northern park and ride), Work No. 10 (southern park and ride), Work No. 13 (freight management facility) and Work No. 14 (yoxford roundabout) must be carried out in accordance with the landscaping scheme approved pursuant to paragraph (1) above to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice, save to the extent that an alternative scheme (or details forming part of a scheme) is submitted to and approved by the local planning authority.

(3) Any alternative scheme or details referred to in paragraph (2), must include and conform with the requirements set out in paragraph (1) above.

Reason for amendments:

Soft landscaping is a key component of the environmental mitigation proposed, and it is therefore important that there is sufficient certainty about what will be delivered, when it will be delivered, and that it will be appropriately managed and maintained. The landscaping at the YR, and some of the landscaping at the NPR is to be permanently retained.

There is precedent for a similar Requirement, see for example Requirement 10 of The Northampton Gateway Rail Freight Interchange Order 2019, Requirement 5 of The A1 Birtley to Coal House Development Consent Order 2021, and Requirement 5 of The A38 Derby Junctions Development Consent Order 2021.

REQUIREMENT [27] : management, maintenance and operational plan

(1) Work No. 9 (northern park and ride), Work No. 10 (southern park and ride) and Work No. 13 (freight management facility) must not be commenced until a plan detailing the management, maintenance and operation of that Associated Development has been submitted to and approved by the local planning authority. The submission shall be in accordance with (i) the relevant plans set out in Schedule 6 (Parameter Plans) and (Schedule 7 (Approved Plans), (ii) the relevant sections of the Associated Development Design Principles for that Associated Development. The details submitted for each Associated Development must include the following—

- (a) proposals for the maintenance of the external appearance of the built development;
- (b) proposals for maintenance of the grounds including cleaning and litter picking / litter control;
- (c) management of anti-social behaviour;
- (d) no playing of recorded or live music;
- (e) measures to discourage dwell time by users of the Associated Development;
- (f) measures to control external noise including vehicle alarms;
- (g) no engine idling;
- (h) no tannoy or PA systems;
- (i) no catering facilities beyond vending machines and water stations, or any other welfare facilities beyond toilet facilities and waiting rooms;
- (j) no showers;
- (k) no catering vans, or mobile catering;
- (l) no sale of goods (save for vending machines) or services;
- (m) security access control measures;
- (n) no public access;
- (o) no parking or storage of camper vans / caravans / motorhomes or boats, and no sleeping in vehicles;
- (p) hours of operation during construction and operation of the Associated Development with non-operational hours consistent with the environmental statement for the relevant Associated Development⁴;
- (q) maximum daily vehicle movements during construction and operation consistent with the environmental statement for the relevant Associated Development, including monitoring proposals to ensure maximum numbers are not exceeded;
- (r) 24/7 security presence with manned and monitored CCTV and assisted recognition technology for personnel and vehicles;
- (s) parking permit scheme proposals for issue of permits, recording, controlling and monitoring;
- (t) pedestrian access measures;
- (u) no vehicle maintenance (save for emergencies);
- (v) no generators (except for use in emergencies);
- (w) cold weather measures for vehicular and pedestrian areas; and
- (x) no materials storage (save during construction and site restoration, and save in respect of earth bunding removed during construction and to be re-used during restoration).

(2) Work No. 9 (northern park and ride), Work No. 10 (southern park and ride) and Work No. 13 (freight management facility) must be managed, maintained, and operated in accordance with the plan

⁴ The construction hours for the NPR are at para 2.4.3, Vol 3, Chapter 2 of the ES, and the operational hours of the NPR are at para 2.5.3, Vol 3, Chapter 2 of the ES.

approved pursuant to paragraph (1) above, save to the extent that an alternative plan (or details forming part of a plan) is submitted to and approved by the local planning authority.

(3) Any alternative plan or details referred to in paragraph (2), must include and conform with the requirements set out in paragraph (1) above.

Reason for amendments:

The Requirement is for a management, maintenance and operational plan. This is vitally important, the NPR, SPR, and FMF need to be well run and well managed. There is no commitment in any of the application documents to such a plan. It is only if such a plan is in place that is capable of being enforced that the environmental effects of the Associated Developments will be effectively mitigated as well as these can be, and avoid unnecessary harm to neighbouring residential amenity, heritage, landscape, and ecology.

There is precedent for a similar Requirement, see for example Requirement 10 of The Wheelabrator Kemsley K3 Generating Station Order 2021.

REQUIREMENT [28] : Yoxford roundabout

(1) Six months prior to the completion of the SZC construction works, there shall be submitted to the local planning authority for approval (following consultation with Suffolk County Council or any successor authority) a scheme in respect of Work No. 14 (yoxford roundabout) for its operational phase configuration. The scheme must include the following:

- (a) the removal of the abnormal indivisible loads route;
- (b) a reduction in the diameter of the roundabout⁵; the size of roundabout required in the operational phase shall be based on assessed operational need and modelling;
- (c) a landscaping scheme for the land no longer required for the roundabout, but which will remain highway land;
- (d) an operational phase lighting scheme demonstrating that the light levels are the minimum required for highway safety purposes;
- (e) an assessment of ecological effects and ecological protection during the works;
- (f) an assessment of heritage effects;
- (g) habitat creation and enhancement measures; and
- (h) a programme for the completion of the works.

(2) The operational phase configuration of Work No. 14 (yoxford roundabout), must be carried out in accordance with (i) the scheme approved pursuant to paragraph (1) above, save to the extent that an alternative scheme is submitted to and approved by the local planning authority (following consultation with Suffolk County Council or any successor authority), and (ii) the Code of Construction Practice.

(3) Any alternative scheme referred to in paragraph (2), must include and conform with the requirements set out in paragraph (1) above.

Reason for amendments:

The HHE have submitted evidence demonstrating that the YR is over-sized / over-engineered even for the construction phase. The YR has a significant detrimental visual impact on the significance of the Grade I listed Cockfield Hall and the collection of listed buildings around it that together have significant group value (the **Cockfield Hall Complex**).

⁵ The principle should be that in the rare case that a large load is required to pass through the YR in the operational phase, that the landscaped areas could be used, and any damage occasioned to the landscaping repaired thereafter.

Given that the requirement for the over-sized YR in the operational phase must be significantly less than in the construction phase, if the size of the YR can be justified in the construction phase on general public benefit arguments, it is much less clear that there is justification for the detrimental visual impact on the Cockfield Hall Complex in the operational phase, when the need for such a large roundabout (55m Inscribed Circle Diameter) must be very limited.

It is the HHE's submission that the on-going visual harm to the significance of the Cockfield Hall Complex from the YR cannot be justified in the operational phase, and that the impacts on the Cockfield Hall Complex must be appropriately mitigated by a reduction in the size of the YR and the landscaping of the YR site.

This approach would give effect to the duty in Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010.

REQUIREMENT [29] : Protected species

(1) No part of the authorised development is to commence until, for that part, final pre-construction survey work has been carried out to confirm whether European or nationally protected species are present on any of the land affected or likely to be affected by any part of the relevant works, or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Following pre-construction survey work or at any time when carrying out the authorised development, where—

(a) a protected species is shown to be present, or where there is a reasonable likelihood of it being present this shall be reported immediately to the Ecological Clerk of Works;

(b) application of the relevant assessment methods used in the environmental statement show that a significant effect is likely to occur which was not previously identified in the environmental statement; and

(c) that effect is not addressed by any prior approved scheme of protection and mitigation established in accordance with this paragraph, the relevant parts of the relevant works must cease until a scheme of protection and mitigation measures has been submitted to and approved in writing by the Secretary of State.

(3) The undertaker must consult with Natural England on the scheme referred to in subparagraph (2) prior to submission to the Secretary of State for approval, except where a suitably qualified and experienced ecologist, holding where relevant and appropriate a licence relating to the species in question, determines that the relevant works do not require a protected species licence.

(4) The relevant works under sub-paragraph (2) must be carried out in accordance with the approved scheme, unless otherwise agreed by the Secretary of State after consultation with Natural England, and under any necessary licences. Construction in the area specified in the approved scheme must not commence or recommence (as the case may be) until any necessary licences are obtained to enable mitigation measures to be implemented.

Reason for amendments:

The HHE has raised concerns about the adequacy of ecological assessment work undertaken as part of the environmental statement. Survey data is out of date and some species, such as reptiles, have not been surveyed at all in connection with the NPR and YR. There is considerable scope for the baseline to have changed. This Requirement has been drafted to address the possibility of previously unidentified protected species being discovered prior to and during the carrying out of the authorised works and to ensure that suitable mitigation measures are implemented.

An “Ecological Clerk of Works” is referred to in the CoCP.

There is precedent for a similar Requirement, see for example Requirement 13 of The Southampton to London Pipeline Development Consent Order 2020, Requirement 7 of The A1 Birtley to Coal House Development Consent Order 2021, and Requirement 10 of The A38 Derby Junctions Development Consent Order 2021.

REQUIREMENT [30] : Environmental Statement Compliance

- (1) The authorised works shall be carried out in accordance with the mitigation measures set out in the Environmental Statement and Mitigations Route Map unless otherwise provided for in any of the Requirements or any agreement entered into pursuant to section 106 of the Town and Country Planning Act 1990 and unless otherwise agreed by the local planning authority.
- (2) The undertaker shall prepare a table of all mitigation measures relating to the authorised works which demonstrates compliance. The mitigation measures table shall be submitted to the local planning authority at no less than 3 monthly intervals from the commencement of the authorised works to the completion of the authorised works including completion of all reinstatement works (Requirement 24) and the Yoxford Roundabout operational configuration works (Requirement [28]).

Reason for amendments:

To ensure that the authorised works are carried out in accordance with the principles of mitigation set out in the Environmental Statement ~~and Mitigations Route Map~~ in order to minimise the environmental effects of the authorised works. It gives the LPA the required visibility and confidence that the mitigation measures are being adhered to, and makes it simpler for breaches to be identified and enforcement action taken in the event of non-compliance. The Promoter’s Explanatory Memorandum states at paragraph 10.6:

“It is important that the securing mechanisms for the mitigation are clear and understandable to a multitude of parties who will be responsible for compliance.”

This Requirement ensures that that objective is met.

The Promoter’s Explanatory Memorandum states at paragraph 10.12:

“Mitigation measures for the project are contained within specific control documents, which are then secured by requirement, or Section 106 Agreement. The control documents include the mitigation measures that the undertaker will be committed to. This approach has sought to provide a clear and logical set of control measures that the teams and contractors who are implementing them can implement, along with providing a clear and enforceable set of controls that the discharging authority and stakeholders can apply during the course of construction.”

Whilst this might be the intention, it is far from clear that between the Requirements and s.106 agreement that these secure compliance with all of the “control documents”. In any event, the “control documents” do not cover all of the mitigation measures referred to and relied upon in the environmental statement. Paragraph 10.14 of the Explanatory Memorandum lists the “control documents”, these include:

- Construction method statement: the CMS is not referred to at all in the draft s.106 agreement; and in the Requirements (see Requirement 8) compliance is only required with the CMS in very limited circumstances, namely temporary works carried out in connection with Work No.1.
- Outline Landscape and Ecology Management Plan: the OLEMP is not referred to at all in the s.106; and in the Requirements (see Requirement 14) there is a requirement to prepare a management plan in “general accordance” with the OLEMP only.