

Wendy McKay

Our Ref: 20026727

Lead member of the Panel of Examining Inspectors
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN
sizewellc@planninginspectorate.gov.uk
cc. michele.gregory@planninginspectorate.gov.uk

Your Ref: EN010012

Date: 24 June 2021

By email only

Dear Ms McKay

Planning Act 2008 – Section 88 and the Infrastructure Planning (Examination Procedure) Rules 2010 – Deadline 3: Comments on Applicant's first revised draft DCO

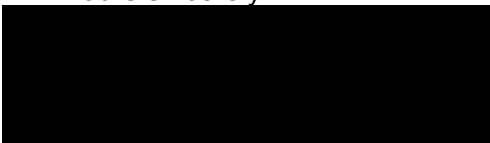
Application by NNB Generation Company (SZC) Limited for an Order Granting Development Consent for the Sizewell C Project

For Deadline 3 (24th June) the Examining Authority (ExA) have requested comments on Draft Development Consent Order (Draft DCO) submitted at NNBGenCo (SzC) Ltd Deadline 2.

Our comments (Appendix A) highlight a number of minor amendments are required to Deemed Marine Licence (DML) conditions and DCO requirements to ensure the Environment Agency is consulted in the discharge of additional information being submitted to the discharging authority. There is a substantial amount of information still to be submitted, and as a result of this, we are not able advise the ExA whether any additional DCO Requirements or DML Conditions are required.

We have highlighted throughout our Written Representation where we consider further information is required to give assurances that proposed conditions or requirements can be met. In addition there are instances where mitigation or compensation measures may need to be secured via additional legal agreements.

Yours sincerely



Simon Barlow
Project Manager
Sizewell C Nuclear New Build
Environment Agency



 @environment-agency.gov.uk

OFFICIAL

Appendix A: Environment Agency comments on Draft Development Consent Order

Section	Wording	Comments
Schedule 2, Article 3 - Requirements		
Requirement 2: Project Wide Code of Construction Practice	Project wide: Code of Construction Practice The construction of the authorised development and the removal and reinstatement of the temporary works must be carried out in general accordance with the Code of Construction Practice, unless otherwise approved by East Suffolk Council.	The Code of Construction Practice (CoCP) secures key environmental mitigation measures. On this basis, we request the requirement is amended so the Environment Agency is a consultee on any future revision of the CoCP.
Requirement 4, Project wide: Terrestrial ecology monitoring plan and mitigation plan	Project wide: Terrestrial ecology monitoring and mitigation plan The construction, operation and removal and reinstatement of authorised development must be carried out in accordance with the Terrestrial Ecology Monitoring and Mitigation Plan unless otherwise approved by East Suffolk Council following consultation with Natural England.	The Terrestrial Ecology Monitoring and Mitigation Plan (TEMMP) secures key environmental mitigation measures and monitoring, including Water Framework Directive. On this basis, we request the requirement is amended so the Environment Agency is a consultee on any future revision of the TEMMP.
Requirement 5A, Project wide: Emergency Planning	Project wide: Emergency planning (1) No part of the authorised development may be commenced until a construction emergency plan has been developed and a copy provided to Suffolk County Council in its capacity as fire and rescue authority. (2) The construction emergency plan must include: a. Details of the undertaker's construction site emergency arrangement for the SZC construction works; and b. Details of the undertaker's arrangements for interfacing with Sizewell B in an emergency.	The construction emergency planning may include flood risk and pollution prevention measures. On this basis, we request the requirement is amended so the Environment Agency is a consultee in discharging this requirement.

<p>Requirement 12B,</p> <p>Main development site: Coastal Defences Marine Infrastructure</p>	<p>Main development site: Coastal Defences Marine Infrastructure</p> <p>(1) Construction of Work No. 1A(m) (permanent beach landing facility), Work No.1A(n) (soft coastal defence feature), Work No. 1A(o) (hard coastal defence feature), Work No. 1A and Work No. 1A(bb) (temporary beach landing facility) must not commence until :</p> <p>(a) details of the layout, scale and external appearance of that work in respect of land landward of the mean high water springs have been submitted to and approved by East Suffolk Council, in consultation with the Marine Management Organisation. ; and</p> <p>(b) details of the layout, scale and external appearance of that work in respect of land seaward of the mean high water springs have been submitted to and approved by the Marine Management Organisation, in consultation with East Suffolk Council.</p> <p>(2) The details referred to in paragraph (1) must :</p> <p>i) be in general accordance with the design principles set out in Chapter 5 of the Main Development Site Design and Access Statement and ;</p> <p>ii) be in accordance with the Main Development Site Operational Parameter Plan – Operational Platform (SZC-SZC100-XX-100-DRW-100043).; and</p> <p>iii) include a monitoring and adaptive sea defence plan that sets out the periodic monitoring proposals for the sea defence features and the trigger point for when the crest height of the sea defence would need to be increased to 16.9m (AOD).</p> <p>(3) Work No. 1A(m) (permanent beach landing facility), Work No. 1A(n) (soft coastal defence feature), Work No. 1A(o) (hard coastal defence</p>	<p>This requirement secures a number of a measures including monitoring, adaptive sea defence plan and when trigger point is reached to raise the sea defence.</p> <p>On this basis, we request the requirement is amended so the Environment Agency is a consultee in discharging this requirement.</p>
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	feature), Work No. 1A and Work No 1A(bb) (temporary beach landing facility) must be carried out in accordance with the approved details.	
Requirement 12C, Main development site: SSSI Crossing	<p>Main development site: SSSI Crossing</p> <p>(1) Construction of the permanent element of Work No. 1A(l) (SSSI Crossing) must not commence until details of the layout, scale and external appearance have been submitted to and approved by East Suffolk Council, following consultation with the Environment Agency and Natural England.</p> <p>(2) The layout of the deck of Work No. 1A(l) (SSSI Crossing) must have a crest no lower than 7.5m (AOD) and the details referred to in paragraph (1) must:</p> <p>(i) be in general accordance with the following details:</p> <p>(a) Operational SSSI Crossing Typical Plans and Sections (Jan 2021) - Rule 17 Request for Further Information (Drawing Ref: SZC-SZ0100-XX-000-DRW-100205 (Rev: 01));</p> <p>(b) Construction SSSI Crossing Typical Plans and Sections (May 2020) - Rule 17 Request for Further Information (SZC-SZ0100-XX-000-DRW-100206 (Rev: 01));</p> <p>(c) Construction SSSI Crossing Typical Plans and Sections (Jan 2021) - Rule 17 Request for Further Information (SZC-SZ0100-XX-000-DRW-100207 (Rev: 01));</p> <p>(ii) include a flood risk monitoring and adaptive defence plan that sets out the periodic monitoring proposals for the SSSI Crossing and the trigger point for when the crest height of the SSSI Crossing would need to be increased to 10.5m (AOD).</p>	<p>It is unclear within this and other requirement where the detail the non-permanent elements of SSSI crossing - is secured.</p> <p>We suggest further clarity is provided.</p>

	(3) Work No. 1A(l) (SSSI Crossing) must be carried out in accordance with the approved details.	
Requirement 22A, Associated developments: Landscape works	<p>Associated developments: Landscape works</p> <p>(1) Work No. 11 (two village bypass) must be carried out in general accordance with the Two Village Bypass Ecology Management Plan for the earlier of, five years after the completion of Work No. 11 or until an agreement relating to this Work has been entered into by Suffolk County Council and the undertaker under Article 21.</p> <p>(2) Work No. 12 (Sizewell link road) must be carried out in general accordance with the Sizewell Link Road Ecology Management Plan for the earlier of 5 years after the completion of Work No. 12 or until an agreement relating to this Work has been entered into by Suffolk County Council and the undertaker under Article 21.</p>	<p>This requirement secures key environmental mitigation and monitoring measures.</p> <p>On this basis, we request the requirement is amended so the Environment Agency is a consultee any future revision of these management plans.</p>
Schedule 20 — Deemed Marine Licence under Part 4 (Marine Licensing) of the Marine and Coastal Access Act 2009 (pg 170)		
Condition 40: Beach Landing Facilities	<p>40.—(1) Work No. 1A(m) and Work No. 1A(bb) shall not commence until the following activity details have, after consultation by the undertaker with ESC, been approved by the MMO. The details must include:</p> <ul style="list-style-type: none"> (a) start and end dates for the installation (b) installation methodology and detailed method statement, (c) any proposed mitigation, (d) navigational lighting to be used on plant, (e) vessels to be used; and (f) links to the coastal processes monitoring and mitigation plan. <p>(2) Should impact piling be required, the impact piling must not commence until: (a) the expected location, start and end dates of impact pile driving have been submitted to the Marine Noise Registry and the MMO has been notified;</p>	<p>The proposed condition links to Coastal Change Management Plan. On this basis, we request the condition is amended to include the Environment Agency as consultee of the detailed information.</p>

	<p>(b) a Marine Mammal Mitigation Protocol has been submitted to and approved by the MMO; and</p> <p>(c) a Site Integrity Plan has been submitted to and approved by the MMO.</p> <p>(3) The undertaker must submit the exact locations and start and end dates of impact pile driving to the Marine Noise Registry on every 6 month anniversary of the start of that impact pile driving as necessary and in any event within 12 weeks of completion of the impact pile driving. The undertaker must notify the MMO of these submissions.</p> <p>(4) The construction of Work No. 1A(m) and Work No. 1A(bb) shall be carried out in accordance with the details approved by the MMO.</p> <p>(5) Unless a shorter period is agreed with the MMO in writing, the undertaker must use reasonable endeavours to submit the activity details to the MMO at least 6 months prior to the proposed commencement of the relevant Work No.</p> <p>(6) The determination date is 6 months from submission of the activity details to the MMO.</p>	
Condition 41: Soft Coastal Defence Feature (sCDF)	<p>41.—(1) Work No. 1A(n) shall not commence until the following activity details have, after consultation by the undertaker with ESC, been approved by the MMO. The details must include:</p> <p>(a) start and end dates for the installation;</p> <p>(b) installation methodology and detailed method statement;</p> <p>(c) any proposed mitigation;</p> <p>(d) vehicles and plant to be used;</p> <p>(e) links to the coastal processes monitoring and mitigation plan.</p>	The proposed condition links to Coastal Change Management Plan. On this basis, we request the condition is amended to include the Environment Agency as consultee of the detailed information.

	<p>(2) The construction of Work No. 1A(n) shall be carried out in accordance with the details approved by the MMO</p> <p>(3) Unless a shorter period is agreed with the MMO in writing, the undertaker must use reasonable endeavours to submit the activity details to the MMO at least 6 months prior to the proposed commencement of Work No. 1(A)(n).</p> <p>(4) The determination date is 6 months from submission of the activity details to the MMO.</p>	
Condition 50 – Fish Monitoring	<p>50.—(1) No water abstraction shall commence until a monitoring plan has, after consultation by the undertaker with NE and the EA, been submitted to and approved by the MMO in consultation with Natural England and the Environment Agency. The plan will set out:</p> <p>(a) the monitoring arrangements for assessing the efficacy of the intake head and the fish recovery and return system during the commissioning of Unit 1 and Unit 2;</p> <p>(b) the undertaker's duty to consider future additional adaptive measures arising from (a) that may be required during operation of Unit 1 and Unit 2;and</p> <p>(c) the monitoring methodology, frequency of monitoring and format of monitoring reports.;</p> <p>and</p> <p>(d) an explanation of the undertakers' confidence that the proposed mitigation will be effective.</p> <p>(2) The Unless a shorter period is agreed with the MMO in writing, the undertaker must use reasonable endeavours to submit the monitoring</p>	<p>As highlighted in our Written Representation, we consider there is a high degree of uncertainty on the potential impacts to fish from the proposed cooling water system. It is important that best practice in monitoring, mitigation and compensation are followed. The Environment Agency has concerns whether the requirements of Deemed Marine Licence Condition 50 – Monitoring Plan, can be met.</p> <p>In particular, there is uncertainty as to what monitoring can be undertaken and whether any adaptive measures can be undertaken on site or through optimisation of the cooling water system.</p> <p>Should offsite mitigation or compensation be required then securing mechanisms (such as a S106 TCPA 1990 agreement) that fall outside of the powers of this condition in the DML may be required. The Environment Agency</p>

	<p>plan at least 6 months prior to the proposed commencement of water abstraction.</p> <p>(3) The determination date is 6 months from submission of the monitoring plan to the MMO.</p>	<p>understand that NNBGenCo (SzC) Ltd are preparing further information to provide confidence as to what monitoring can be provided. In addition, The Environment Agency understand that NNBGenCo (SzC) Ltd are preparing further proposals to identify appropriate secure securing mechanisms to provide mitigation/compensation for marine ecology impacts.</p>
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