



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

The Sizewell C Project

Natural England's Comments on Revision 4.0 of Draft DCO/DML

Planning Inspectorate Reference: EN010012

23rd July 2021

1. Summary

Natural England note that the Applicant is planning to submit revisions to their draft DCO/DML documents at Deadline 5. This document provides comments to the following documents submitted by the Applicant at Deadline 2.

- [REP2-013] - 3.1 Draft Development Consent Order (Draft DCO) Tracked Changes Version – Revision 4 against Revision 3 - Revision 4.0
- [REP2-014] - 3.1 Fourth Draft Development Consent Order Addendum - Proposed Changes to the Draft Development Consent Order (DCO) - Revision 1.0
- [REP2-015] - 3.1 Draft Development Consent Order (Draft DCO) Clean Version – Revision 4 - Revision 4.0

2. Detailed Comments

| Point | Document Section | Natural England's Comment | Risk |
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| 1 | Part 1.2 | <p>While the definition has been updated to note that any removal of important hedgerows will constitute commencement and therefore be covered by the pre-construction requirements. There has been no change with regard to inclusion of any offshore definition of commencement. Normally works such as dredging are part of offshore commencement as they form a significant part of the environmental impact offshore.</p> <p>Natural England advise the Applicant could use the approach from offshore windfarms and have a definition for onshore and offshore commencement which would avoid issues such as timing of works.</p> <p>This approach makes logical sense as the onshore and offshore works are both governed and enforced by different authorities under differing legislation</p> <p>Further under the definitions a definition of Statutory Nature Conservation Body has been included. Natural England agree with the inclusion of this definition.</p> <p>The definition of maintain has been expanded to include refurbish, clear, replace and improve. They are limited to works that do not give rise to materially new environmental effects.</p> <p>A new definition has been added for Wet Woodland strategy, noting the document is a certified document.</p> | |
| 2 | Part 24 | <p>The vertical limits of deviation allow the works to increase vertically as far as the Applicant wishes. Except works 4C 11 and 12 which may only vary by 1m. There is no requirement for permission or limitation to within the environmental statement. Natural England do not support this definition with no limitation.</p> | |
| 3 | 23 (1) | <p>Supplemental powers Natural England would welcome further clarification of which water courses may be used in the connection, carrying out and operation and maintenance of the authorised development. It is unclear from this statement which water courses the document refers to and if these are linked to</p> | |

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| | | <p>designated sites and features and water bodies. The article could reference the ES and limit to water courses that have been included in the assessment of impacts. Note the definition of water course within the DCO is broad and includes pretty much any and all water courses save sewers or public drains.</p> <p>We have been advised by the Applicant to expect these at Deadline 5 and will review them once submitted to the examination.</p> | |
| 4 | 23 (5) | Definition of water course has been included | |
| 5 | 23 (6) | Clarity on chemical and thermal differences has been included. | |
| 6 | 55 (1) | Natural England note article 55 has been removed. Is dredging no longer covered by this application? | |
| 7 | 63(1) | Natural England advise as the harbour boundary lies within the Southern North Sea SAC and Outer Thames Estuary SPA, we would request to be consulted on the making of bylaws e.g. anchoring of vessels, vessel routes in designated sites. | |
| 8 | 65(1) | Natural England advise on the need for a vessel management plan to be secured to minimise risk of disturbance to overwintering Red-throated diver in Outer Thames Estuary SPA | |
| 9 | 82 | Natural England agrees with the terms of arbitration. However, we also support the MMO's position regarding appeals. | |
| Schedule 1 | | | |
| 10 | | <p>Authorised Development</p> <p>The final DCO/DML authorised development should be cross referenceable with the project description and final EIA. It should be clearly linked to the Worst Case Scenario as outlined within the EIA and clear that works can be built within the scope of the ES. We would suggest that the first paragraph of schedule 1 is amended to note that the following development and works, is authorised as described in the Environmental Statement. The works list provide a wide range of buildings and structures to be constructed. However, a link to the environmental Statement should be included to make it clear that buildings of size or scale not assessed in the ES may not be constructed.</p> | |

| Schedule 2 | | | |
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| 11 | (2) | What does the Applicant mean by general accordance? NE advise this includes consultation with the relevant SNCB. | Yellow |
| 12 | (4) | Condition had been amended to include consultation with Natural England. While we support the consultation, we advise that it should refer to the relevant SNCB. | Yellow |
| 13 | (7) | The relevant SNCB are now a named consultee on this plan | Green |
| 14 | 9 | NE request 'in consultation with the relevant SNCB' is added to end of the condition to ensure Natural England is consulted in our statutory role. | Purple |
| 15 | 12 (1) | Natural England has been included as a statutory consultee. | Green |
| 16 | 14(11) | 'In consultation with the relevant SNCB' requested text to be added to the end of the first sentence of the condition to ensure Natural England is consulted in our statutory role. | Yellow |
| 17 | 15 | Natural England has been included as a statutory consultee. | Green |
| Schedule 20 DML | | | |
| 18 | 1 | Current definition of commence is acceptable. | Green |
| 19 | Part 2 Condition 4 (1) (c) | The Applicant has added a line to this condition allowing the undertaker to undertake works outside the scope of the assessment, as long as they do not create materially different works. This appears to differ to the normal approach taken under the MCAA 2009 licensing. What is the definition of Materially different, and is this legally securable? Does it meet the 5 tests under enforceable? | Yellow |
| 20 | 1 | All references to Natural England have largely been changed to the relevant Statutory Nature Conservation Body. | Green |
| 21 | 2 | Licensed Activities All works should be able to be cross-referenced with project description and Worst Case Scenario in EIA. Further details should be provided to include maximum area and volume of dredge for example. Works such as UXO removal should be listed according to maximum number and size of | Yellow |

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| | | detonations assessed. This is standard for UXO marine licences, see the current EA1N and EA2 applications. In addition it should be noted that a European Protected Species licence may be needed for detonation of UXO's. | |
| 22 | Part 2 4 (2) e | Max area and volume of scour protection should be included in DML. | |
| 23 | 4 (2) a (v) | The use of a temporary rock construction or jack up barge is not assessed in the marine ecology chapter. Is this assessed in coastal geomorphology EIA chapter? Needs to be considered in HRA, and definition cross referenced. | |
| 24 | 4 (2) (c) | The grain size, placement etc if required as mitigation should be secured through later conditions. | |
| 25 | 42d | Disposal of Tunnel Boring Machine at a sealed point below seabed – Recommend the Applicant discusses this with MMO and whether this is permissible under OSPAR. | |
| 26 | 4,2,e,iii | Disposal should be within a designated disposal site only, as required by OSPAR. | |
| 27 | Part 3, 9 | Include notification to the relevant SNCB. | |
| 28 | Part 3, 11 s | This now states 6 months. | |
| 29 | Part 3, General | Natural England has been removed from consultation on the coastal processes monitoring and mitigation plan. We request that we remain a named consultee on this condition. Condition 40 now requires a Marine Mammal mitigation protocol for the construction, a site integrity plan for the Southern North Sea SAC and completion of the noise registry. We request that we are a named consultee on this condition. | |
| 30 | Part 3, General | It appears there is currently no provision for updated methodologies, final design, or updated plans to be provided. Please clarify how this will be included and conditioned. | |
| 31 | Part 3, General | All mitigation as outlined within the final EIA should be able to be cross referenced and linked with a condition (or conditioned plan). | |

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| 32 | Part 3, General | All conditions now have a timing requirement of 6 months prior to works. | |
| 33 | Part 3, 17 | All conditions now have a timing requirement of 6 months prior to works. | |
| 34 | Part 3, 18 | All conditions now have a timing requirement of 6 months prior to works. | |
| 35 | Part 3, 23 | The condition barring discharge into water courses has been removed entirely and no replacement is provided. | |
| 36 | Part 3, 24 | Condition 40 has been amended to include MMMP and SIP as noted above. | |
| 37 | Part 3, 39 | <p>Definition of UXO should be included. Please clarify if UXO detonation will only be included within construction, or will this be continued during maintenance and operation?</p> <p>Natural England would have concerns about a UXO license being granted to cover the entire lifetime of the project.</p> | |
| 38 | Part 4, 41 | The Coastal processes monitoring and mitigation plan is now included under condition 17. See comments under Point 29 above. | |
| 39 | Part 4, 45 | <p>We welcome that a Sabellaria Monitoring and Mitigation Plan will be submitted to the examination and secured in the DCL/DML (as advised by the Applicant).</p> <p>We advise that all references to Natural England should be amended to the relevant Statutory Nature Conservation Body.</p> | |
| 40 | Part 4, 48 | Is this Drilling? | |
| 41 | Part 4, 50 | <p>Condition 50 requires a plan to be submitted and for consultation with Natural England.</p> <p>Natural England advises any monitoring should:</p> <ul style="list-style-type: none"> • Verify entrapment estimates/predictions are accurate (monitoring both impingement and entrainment). • Quantifies the performance of fish mitigation measures, including species specific mortality rates. • Verifies levels of predicted impact, relative to: <ul style="list-style-type: none"> ○ Temporal/spatial distributions ○ Species populations including vulnerable sub-populations • Fish as prey – Specifically for evidence of entrapment impacts on foraging success of | |

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| | | <p>nearby SPA breeding colonies.</p> <p>Natural England advise the following are secured prior to development consent being granted:</p> <ul style="list-style-type: none"> • Key monitoring principles, including aims, agreed with NE and other relevant agencies (EA/MMO/IFCA/CEFAS). • The resulting dataset will be open access, readily available online, with initial results made available a timely manner, and regularly updated. • Commitment to collaborative design of the monitoring programme. Involvement from key fish expert agencies (eg: NE, EA, CEFAS) and specific targets created to ensure that advice from these agencies is meaningfully incorporated. | |
| Schedule 22 | | | |
| 42 | | <p>Certified Documents does not currently include: any of the Monitoring and Mitigation Plans, such as</p> <p>Terrestrial Ecology monitoring Plan or any of the DML plans</p> <p>Can the Applicant confirm where and how commitments to these will these be secured?</p> | |
| Schedule 23 | | | |
| 43 | 1 | As above, Natural England support the MMO position with regard to appeals under MCAA 2009. | |
| 44 | 2 | Natural England request clarification on how long consultees would have to respond, as schedule 23, condition 2 (3) is unclear. | |
| 45 | 3 | <p>Appeals</p> <p>See comments on Article 75A above.</p> | |