

ExQ2: 03 August 2021**Responses due by Deadline 7: 03 September 2021**

ExQ2	Question to:	Question:
Bio.2	Biodiversity and ecology, terrestrial and marine	
Part 1 – Matters to be dealt with in writing following ISH7 – wet woodland		
Bio.2.0	The Applicant	Wet Woodland. Please will the Applicant set out briefly what wet woodland compensation it proposes and its location, especially where combined with Fen Meadow compensation
Bio.2.1	Natural England, ESC, SCC	Please will Natural England, ESC and SCC set out their views on (a) the need and reasons for wet woodland compensation and (b) any concerns they have over establishing wet woodland
Bio.2.2	Applicant, Natural England, RSPB/SWT	In relation to both fen meadow and wet woodland why should clearance (and therefore effects) be permitted before the fully functioning establishment of the compensation? The ExA notes this issue is raised by both Natural England and the RSPB/SWT.
Part 2 – Matters to be dealt with in writing following ISH7 – protected species		
Bio.2.3	Natural England	Has Natural England now received all the licence applications needed to advise the SofS? According to the SoCG [REP2-071] issue 2 it was awaiting drafts in May.
Bio.2.4	Applicant	Please will the Applicant summarise the outcome of the bat stakeholder workshop held on 3 June?
Bio.2.5	ESC	Please will ESC explain its concern about roost loss and comparison with the total roost resource on the wider Sizewell Estate – see para 8.5.2 of the LIR [REP1-045]
Bio.2.6	Applicant, Natural England, ESC	The attention of the Applicant, Natural England and ESC is drawn to the ExA's comments in the commentary on the DCO (issued on the same day as ExQs2) to its observations on the drafting of the Bat Mitigation Strategy [APP-252]
Bio.2.7	Applicant, ESC	In relation to bat roosts at Goose Hill, there is a dispute between the Applicant and ESC; ESC maintains that the ES and the Updated Bat Impact Assessment [AS-208] contradict each other (see LIR para 8.53). There is considerable detail about tree counts. What progress is there on resolving this?
Part 3 - Matters to be dealt with in writing following ISH7 – Designated sites		
Bio.2.8	The Applicant, FERN	Please clarify the meaning of EN-1 para 5.3.14. It says "aged or "veteran" trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided". Are there two categories here, aged trees and veteran trees, or is

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		veteran an alternative description for aged trees? If there are two categories, have all the relevant trees in both categories been identified in the application material?
Bio.2.9	Applicant	<p>To be clear as there was a technical difficulty during ISH7 at agenda item 2f, the ExA's questions on the plans were as follows, and the Applicant undertook to submit amended plans;</p> <p>(1) The Applicant had submitted a new Updated Clearance Plan to replace [AS-128]. It is [REP4-003] and the Applicant's response note [REP4-006] says at para 2.2.2 that it results in the retention of an 8m hedgerow to the south of the existing path at Farnham Hall. Where is that?</p> <p>(2) Please explain the reason for the change and has brought it about now?</p> <p>(3) Looking at the plans which are figures 1, 2 and 3, please explain the meaning of the TVB Development Site Boundary and the Permanent Boundary. Where do we see those as limits of activity in the DCO?</p> <p>(4) Concentrating on the transect route between Farnham Hall Farm House and the Farnham Hall complex, please summarise for the conclusions reached in relation to the activity of (a) bats, (b) birds and the effect on them of the TVB and whether or not they are significant effects</p>
Part 4 - Matters to be dealt with in writing following ISH7 – Sabellaria Spinulosa		
Bio.2.10	Natural England, MMO, Applicant	<p>The ExA notes that this is protected under s.41 NERC Act 2006</p> <p>(1) The SoCG with the MMO [REP2-028] says (MEF4) that discussions are needed on the Marine Mammal Monitoring Plan and the Sabellaria monitoring plan. Please will MMO explain and update the ExA on the position?</p> <p>(2) MMO also say at SoCG [REP2-082] 3.1.58 that the way in which design reduces loss of reef has not been done. Does not Revision 4 of the DCO [REP2-013] deal with that?</p> <p>(3) Natural England – please would Natural England summarise its up-to-date position.</p>
Part 5 – matters arising from the Applicant's replies to ExQs1 [REP2-100]		
Bio.2.11	The Applicant	Bio 1.5, 1.6 and 1.7 – the wording and intention of these questions are to cover all cases where s.28G is engaged by the application, not just the Sizewell Marshes SSSI. Please will the Applicant revise the information given in reply to Bio 1.5, 1.6 and 1.7 accordingly.

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Bio.2.12	Applicant	Bio.1.9 The Applicant's reply refers to the Mitigation Route Map. The ExA explained concerns in relation to the usability of the Mitigation Route Map arising from the fact that it generally uses blocks of paragraphs in the ES rather than the actual paragraph numbers, making it difficult to correlate and check where specific promises of mitigation are made and secured. Please will the Applicant submit a revision of the MRM which addresses this issue.
Bio.2.13	Applicant	Bio.1.13. The ExA thanks the Applicant for its response. Please would the Applicant answer also the question of whether more than one non-significant effect can together result in a significant cumulative effect?
Bio.2.14	Applicant	Bio 1.23. In relation to invertebrates the Applicant states the effects on invertebrate species (Section 14.8) that fit the criteria in The State of Nature report are mostly minor adverse, and considered not significant. The response goes on to consider <i>Evagetes pectinipes</i> for which the effect of land take is moderate adverse significant. Is that the only species not within the "mostly minor adverse"? If not, please deal with the others.
Bio.2.15	Applicant	Bio 1.24 – The Applicant's response to Bio 1.24 committed to submitting the results of two studies relating to fungi to the Examination. Have the results in relation to fungi been submitted to the examination? If not, when is it anticipated they will be provided?
Bio.2.16	Applicant	Bio.1.48. The ExA notes the Applicants' response and Appendix 7F (at [REP2-110]). Will the Applicant confirm (or otherwise) the ExA's understanding which is (a) that 104ha of wetland foraging (para 1.2.18 of Appendix 7F) and 260ha of arable foraging (para 1.2.120) will be lost (in the sense that it will either no longer be there or that it will not be used by marsh harrier, and accepting that this is the Applicant's precautionary assessment) making a total loss of 364 ha; (b) that compensatory habitat of 48.7ha is proposed at Upper Abbey Farm with the possibility of a further 54ha at Westleton; and (c) that the Applicant's argument for the adequacy of the Upper Abbey Farm site is its proximity to the Minsmere nesting area (para 1.2.26 of Appendix 7F).
Bio.2.17	Applicant	Bio.1.50. (i) The Wet Woodland Strategy [REP1-020] explains that the loss of wet woodland habitat from the Sizewell Marshes SSSI would be approx. 3.06ha and that the application proposal was to deliver only 0.7ha of compensatory wet woodland. This would form part of the Upper Abbey Farm marsh harrier habitat improvement area and is stated at para 5.1.10 to be part of the original application. Further wetland in the form of open

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		<p>water and reed habitats at the Upper Abbey Wood site formed part of the first change request and that could be transitioned to additional wet woodland of 2.36 ha, but this could not be done until the end of the construction phase (para 5.1.13). Thus, the proposal is to create new wet woodland at Benhall and Pakenham totalling at least 2.36 ha. If that fails, wet woodland would be created after construction at the Upper Abbey Farm area of open water and reed woodland.</p> <p>(ii) What is the Applicant's proposal if Pakenham is not confirmed?</p> <p>(iii) Natural England's D5 submission suggests a wet woodland plan is due. When is the Applicant planning to submit this?</p>
Bio.2.18	Applicant	<p>Bio.1.55. The Applicant's response to the question as to how the recreation and amenity strategy is secured is that the reference should have been to the Rights of Way and Access Strategy and that it is secured as it helps to inform the footpath implementation plans to be submitted under Art 15(1) of the DCO.</p> <p>(a) There is no reference to the Rights of Way and Access Strategy in Art 15; surely there should be.</p> <p>It is also said to "accompany" the ROW Plans, and to have been "carefully incorporated into the design and construction planning" which suggests not only routes but also timing and phasing.</p> <p>(b) In what sense does it "accompany" the ROW Plans and how is that explained in those plans?</p> <p>(c) How can the ExA be confident that the strategy has been incorporated into the design and construction of the proposed development?</p>

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Bio.2.19	Applicant, ESC	<p>Bio.1.78. (a) The Applicant states that the mitigation or enhancements for associated development on sites on third party land are to be secured in the Deed of Obligation. Why are they not in the DCO?</p> <p>(b) For measures on the main development site the measures "would remain within EDF Energy ownership and control". "EDF Energy", an undefined entity in the response, is neither the proposed undertaker nor the Applicant. However, if all the measures are secured pursuant to requirements, which the ExA understands from the preceding parts of the Applicant's response is the case, it will be for the undertaker to ensure that it has the necessary rights to carry out the mitigation on the land of "EDF Energy", or any other landowner. Please will the Applicant and ESC confirm that this is also their understanding and will ESC please state whether or not it considers the arrangements to be acceptable and enforceable.</p> <p>(c) There are many references in the ES to the use of the EDF Energy Estate to deliver mitigation. Given that the Applicant (and would-be undertaker) has clarified that it owns very little land for the development, how does it propose to deliver the mitigation on the EDF Energy Estate?</p>
Bio.2.20	Applicant	<p>Bio.1.92. The ExA thanks the Applicant for its response to this question. However, the ExA was asking about the inconsistency between the conclusions at (on the one hand) Section C.a.d para 14.8.38 re compartment 2 and Section C.a.d para 14.8 61 re compartment 4/4a where the assessment is of minor adverse not significant and (on the other hand) paragraph 14.8.98 which states that in compartments 1, 2 and 4a there is a significant adverse effect. The ExA does not understand the Applicant's response to address that inconsistency. Please will the Applicant clarify.</p>
Bio.2.21	Applicant	<p>Bio.1.105. Can it be right for the marsh harrier line in Table 14.26 to conclude no significant EIA effect on the marsh harriers as a whole (i.e. including the Minsmere breeding marsh harriers) when the response to this question states that the bird would be reluctant to traverse the temporary construction area to reach Aldhurst Farm and the Upper Abbey Farm compensatory habitat is needed to address adverse effect on integrity for the Minsmere breeding harriers?</p>

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		(As a comment and not a question, the ExA was surprised to read that "have been established" should be read as "in the process of being established". The ExA thanks the Applicant for the correction which underlines the need for accuracy in the ES.)
Bio.2.22	Applicant	Bio.1.107. Is the area of wet reedbed habitat creation north of the site part of the area referred to orally during the ASI and ISH7 as Upper Abbey Farm? The response to question Bio.1.107 refers the ExA to Figures 6.3 – 6.5 of [APP-145] which is an 828 page report whose index does not contain any Figures. The ExA concludes they are located elsewhere. Please will the Applicant indicate where and give the electronic page number.
Bio.2.23	Applicant	The response to Bio.1.108 (b) and (c)(i) states they are at both [APP-145] and [APP-146]. Whilst there are figures with those numbers at [APP-146] they do not show the 48.7 ha of compensatory habitat referred to in the response to Bio.1.108. Did the Applicant mean to refer to figures 8.2 – 8.6 of [APP-146]?
Bio.2.24	Applicant	Bio1.138. Does the Applicant's response to this question apply across all hedgerow losses and replacements in the development? If not, please clarify the exceptions.
Bio.2.25	Applicant, ESC, SCC	Bio.1.145 - The draft non-licensable method statement is referred to. Attention is drawn to the ExA's comments on this in commentary on the DCO issued with these ExQs2.
Bio.2.26	Applicant	Bio.1.152. The ExA thanks the Applicant for its immediate clarification that the phrases of intent are to be seen as imperative. Please carry this across to similar documents including the CoCP and those under the CoCP and provide such clarification in each of them. Please confirm that this has been done and state where the wording is to be found.
Bio.2.27	Applicant	Bio1.161 – please will the Applicant answer the question more clearly. Please also provide the paragraph numbers in the new Biodiversity report [REP1-017]. As the ExA reads the answer the planting has decreased from 17,619 m to 13,490 m and the unaffected hedgerow has decreased from 3,730 m to 3,487 m. Is that correct? Does or does not the 17,619 figure in [APP-461] para 7.6.104 include the unaffected hedgerow?
Bio.2.28	Applicant	Bio.1.195. The reply states that boring of the cooling water tunnels by Tunnel Boring Machines is exempt from the Marine Licence. How in that case is it regulated? Is the Applicant saying that the marine licensing arrangements do not apply?

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Bio.2.29	Applicant	Bio.1.255 The response refers to Table 22.214. The ExA cannot find this table. Please can the Applicant give the paragraph number in which it is to be found.
Bio.2.30	Applicant	Bio.1.260 – policy and law on BNG. The ExA thanks the Applicant for its response. The ExA notes also the response to Bio.1.269 (“The BNG assessments have been undertaken on a voluntary exercise. NSIPs are also currently excluded from any future mandatory requirement, based on the current proposals within the Environment Bill90 (see also Bio 1.260 above). These assessments have been undertaken to address stakeholder requests and no targets have been set. Updated Biodiversity Net Gain Reports [REP1-004, REP1-017, REP1-018, and REP1-019] clarify this position”). The ExA had expected the response to include a statement that BNG does not currently apply to NSIPs. Is that what is intended by the words “The BNG assessments have been undertaken on a voluntary exercise”? The sentence following is a little ambiguous.
Bio.2.31	Applicant	Bio.1.261 The ExA understood from submissions to ISH7 that a new biodiversity metric has been issued. Does the Applicant propose to update its BNG report and calculations? If so when will that be submitted to the examination? If not, please explain why.
Bio.2.32	Applicant	Bio.1.263 The question was: Please provide a plan showing Studio Fields Complex, St James Covert, Great mount walk or point the ExA to a plan in the Application documents where they are shown. Whilst the Applicant has directed the ExA to [APP-266] and [REP1-004] the ExA there are several plans in those documents and the location of these features is not “springing off the page” for the ExA. Please will the Applicant indicate the exact plan numbers or give separate plans.
Bio.2.33	Applicant	Bio.1.264 The response puzzles the ExA. (i) The LEMPs for the SLR and TVB were not part of the suite of application documents in May 2020. They do not appear to have been contemplated originally. How therefore can they be “creation and management plans” referred to in the executive summary of the biodiversity report [APP-266] and ExQ1, Bio.1.264? (ii) The ExA repeats the question at Bio.1.264.
Bio.2.34	Applicant	A number of the ExA’s questions in ExQs1 on biodiversity and ecology were about monitoring, the criteria for further action depending on the results of the monitoring and what steps should be taken. Considering the answers, is the ExA correct to conclude that the Applicant’s overall approach, at least in relation to biodiversity and ecology, is that where monitoring shows that the effects are more significant than shown by the ES,

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		remedial measures to restore matters to no worse than that level of significance are to be taken? Are there any exceptions to that approach?
Bio.2.35	Natural England	<p>In replies to ExQs1 on biodiversity the MMO has drawn attention to the role of Natural England in marine ecology and biodiversity. Accordingly, please will Natural England respond to the marine ecology questions addressed to the MMO as though they were addressed to Natural England. The relevant questions are (all prefixed Bio.):1.38; 1.39 (please address Natural England's remit on marine matters); 1.199; 1.208; 1.209; 1.210; 1.215; 1.216; 1.218; 1.220; 1.223; 1.234; 1.237; 1.239; 1.242; 1.243; 1.244; 1.245; 1.247; 1.248; 1.249; 1.250; 1.251; 1.252; 1.253; 1.254; 1.256.</p> <p>Natural England may be assisted in responding to Bio.2.38 by looking at REP3-046 where the Applicant set out its comments on responses by others, along with the responses themselves.</p> <p>The ExA assumes that Natural England does not wish to respond on the other Bio questions which were in first ExQs but not specifically addressed to it, except where it actually did so.</p>
HRA.2 Habitats Regulations Assessment		
HRA.2.0	Natural England	<p>Staverton Parks and the Thicks, Wantisden SAC</p> <p>Do you agree with the Applicant's conclusion in the Shadow HRA and as also responded to in the Initial SoCG – Natural England [REP2-071] that likely significant effects on Staverton Park and the Thicks Wantisden SAC can be excluded due to distance and absence of potential effect pathways? If you do not agree, please expand on your concerns for this European site.</p>
HRA.2.1	Natural England	<p>Air quality effects due to NOx and acid deposition</p> <p>Noting NE's current position on this matter as reiterated in REP5-160, could you provide an update on your position following the stated review of the Applicant's information by your air quality specialists.</p>

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HRA.2.2	Applicant	Impediment to management Could the Applicant confirm whether a written commitment, including plan, showing access routes to maintain access for the RSPB to continue management to the southern side of the Minsmere reserve is to be provided to the Examination. If so, please provide this information and confirm whether such an access commitment has been agreed with the RSPB and NE.
HRA.2.3	Applicant	Disturbance to shoveler and gadwall (breeding and non-breeding) using functionally linked land In REP5-112 the Applicant confirmed that points of difference relating to survey data and precaution will be responded to in writing. However, no specific deadline for such a response was stated. Could the Applicant respond to NE and RSPB's concerns in respect to both species (breeding and non-breeding).
HRA.2.4	Natural England	White fronted goose survey report The Applicant has submitted a white-fronted goose survey report to the Examination at Deadline 5 [REP5-125]. Could NE provide any comments on the findings of this report; does this address the point raised regarding nocturnal surveys for this species in NE's Relevant Representation [RR-0878].
HRA.2.5	Natural England RSPB and Suffolk Wildlife Trust East Suffolk Council	Mitigation for recreational pressure - Minsmere Monitoring and Mitigation Plan (MMP) [REP5-105] and Monitoring and Mitigation Plan for Sandlings (Central) and Alde, Ore and Butley Estuaries European Sites [REP5-122] Could you comment on the latest mitigation package in respect to Minsmere and recreational pressure, as provided by the Applicant at Deadline 2 and updated at Deadline 5 [REP5-105]. Does this satisfy your concerns with regards to the stated need for additional strategic off-site measures to mitigate for recreational pressure? Could you also comment on the MMP for Sandlings (Central) and Alde, Ore and Butley Estuaries, which has also been submitted at Deadline 5 [REP5-122].
HRA.2.6	Natural England	Marine mammals - Southern North Sea Site Integrity Plan (SNS SIP) As noted in submission REP5-160, could NE confirm whether you have reviewed the SNS SIP and what is your conclusion with regards to potential adverse effects on integrity for this European site?

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HRA.2.7	MMO	Marine mammals – underwater noise Could the MMO comment on the revised underwater noise assessment submitted by the Applicant at Deadline 5 [REP5-124]. Does this address the concerns previously raised, including the cutting of piles during decommissioning?
HRA.2.8	Applicant	Marsh harrier – HRA Compensatory Measures Could the Applicant respond to the points raised by Natural England with regards to the proposed HRA compensatory measures, including: <ul style="list-style-type: none">• expand on the feasibility of the wetland habitat element for the proposed HRA compensatory measures for marsh harrier at Upper Abbey Farm• confirm whether the wetland habitat element of the HRA compensatory measures will be in place prior to construction. If this is not proposed, could the Applicant expand on why they consider this to be acceptable with reference to the Defra HRA guidance and the point at which negative effects are considered likely to occur
HRA.2.9		In relation to First ExQs HRA.1.4. In the light of the Northumbrian Water’s conclusion that it cannot supply the Sizewell C project from the outset, reported in the Applicant’s decision to make a change request to include a desalination plant to cover the period until Northumbrian Water can supply the project, is there any change needed to the shadow HRA? Without pre-empting the ExA’s decision on whether or not to accept the change request: (i) when is it intended to submit updates to the shadow HRA? (ii) what would be the effect on the conclusions of the shadow HRA