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Carly Vince
Chief Planning Officer
EDF Energy
By email only

Your Ref:
Our Ref: EN010012
Date: 5 August 2021

Dear Carly Vince,

Planning Act 2008 - Section 89(3) and 89(4) and The Infrastructure Planning (Examination Procedure) Rules 2010 - Rule 9

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

Notice by Applicant of intention to submit a request for changes to the application

Thank you for your letter dated 23 July 2021 which indicated, amongst other things, that you considered that a further change to the application for development consent to include provision for a temporary desalination plant would be necessary. The Third Notification of Proposed Project Changes (the Notification Report) gives notice of NNB Generation Company (SZC) Limited's intention to submit a request to make changes to the application submitted on 27 May 2020. The letter and the Notification Report have been published on the project page of the National Infrastructure Planning website here:

[Cover Letter](#)

[Third Notification of Proposed Project Changes](#)

The Notification Report identifies a further proposed change that the Applicant seeks to make to the application and provides a summary overview of this in Section 2.3. An indicative programme is also included at Section 5, and this anticipates a formal request for changes, in accordance with Step 4 of AN16¹, to be made on 3 September

¹ The Planning Inspectorate Advice Note 16: How to request a change which may be material

2021. Section 4 of the Notification Report sets out the non-statutory consultation the Applicant proposes to undertake and how this would be reported.

The Applicant seeks advice from the Examining Authority (ExA) on the procedural implications of the proposed change and on the need, scale, and nature of the proposed consultation exercise.

Materiality of the proposed change

In the Applicant's view, the further Proposed Change 19 to the application is not material. However, it acknowledges that at this stage it is not possible to fully determine whether the further proposed change would generate new or materially different likely significant environmental effects. Assessments are ongoing to establish this, and the results of these assessments will be included in the formal change request. The Applicant's preliminary view is that it is unlikely that there will be any new or materially different effects. In addition, the further proposed change does not involve an extension to the Order land.

It is ultimately for the ExA to decide whether a proposed change is material and the ExA does not at this stage have sufficient information to reach a view as to materiality. On receipt of the formal change request there are various factors, such as whether the change would generate new or different likely significant effects, which may lead the ExA to conclude that the change is material. This means that before accepting the material change for Examination, the ExA will need to have the following information provided with the change request:

- The information identified in paragraphs (a) to (d) in Figure 3 of AN16;
- the results of the assessments to establish whether the further proposed change would generate new or different likely significant environmental effects;
- if the findings reveal that the proposed change would result in any new or different environmental effects, the provision of relevant other environmental information; confirmation that the effects identified have been adequately assessed, and details of the publicity for that environmental information and the consultation of relevant consultation bodies on it²; and
- the Consultation Statement.

Consultation

Whether or not the proposed change is material the ExA agrees that, in order to ensure fairness, appropriate and proportionate non-statutory consultation should be carried out before the change request is submitted.

The Notification Report confirmed that public consultation on the proposed changes would take place between 3 August and midnight 27 August 2021. The ExA notes that the public consultation period will therefore be less than the minimum of 28 days recommended by AN16 and this matter is reflected in the ExA's recommendations in relation to the Consultation Statement set out below.

The ExA agrees that the consultation must engage all those persons identified in the Planning Act 2008 under section 42 (1) (a) to (d) (including any section 42 persons not originally consulted on the application but who may now be affected by the proposed changes), the Marine Management Organisation (MMO), the local authorities and persons with an interest in the land.

² see paragraph (f) of Figure 3 of AN16

The Applicant proposes, and the ExA agrees, that the public should be consulted through a newsletter and publication in appropriate newspapers. The ExA also considers that site notices should be posted. In addition, the Applicant proposes, and the ExA agrees, that parish councils within the areas affected by the proposed changes will be offered meetings to discuss the proposed changes. The ExA also agrees that consultation should also be advertised through digital and social platforms. Furthermore, the Applicant should ensure that access to physical documents is available for those who are unable to access material online. The ExA therefore welcomes the provision of access (by appointment) to view hard copies of the consultation material at the Sizewell C Information Office and the Leiston-cum-Sizewell Town Council.

The Applicant proposes to submit a Consultation Statement in the form of a further addendum to the Consultation Report. The ExA recommends that this:

- lists the persons (affected by the changes) under section 42 (1) (a) to (d) who have been consulted (identifying particularly any new persons i.e. those who were consulted in relation to the proposed change but not in relation to the original application);
- provides justification as to why any person under section 42 (1) (a) to (d) is not affected by the proposed changes and has not therefore been consulted (if any);
- provides copies of any newspaper notices or site notices;
- appends as an annex any consultation responses received;
- explains how the Applicant has had regard to the consultees' comments made in response to the non-statutory consultation before it decided on the final form of the change request; and
- explains why the Applicant considers that the consultation period of less than the minimum of 28 days recommended by AN16 still provides a fair and reasonable opportunity for those potentially impacted by the proposed change to consider and respond to the proposal.

If the ExA decides to accept the change (whether or not material), all Interested Parties will have an opportunity to make representations on the changed application during the Examination. Nonetheless, if the ExA is not satisfied with the extent of non-statutory consultation undertaken by the Applicant, the ExA may request that further non-statutory consultation is carried out to safeguard the interests of and/or inform those potentially impacted by the change who are not already involved in the Examination.

Timing implications

The Applicant, in Section 5 of the Notification Report, identifies an indicative programme setting out the various steps contained in AN16. The Applicant states that at this stage it does not consider that it is appropriate or necessary to carry out any publicity that reflects the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs). However, it indicates that if such publicity is subsequently considered to be required, this would be carried out following acceptance of the proposed change (if accepted) in September to October 2021.

In the event that the ongoing assessments in connection with the proposed change reveal the need for the submission of the revised and additional environmental information, no prejudice should thereby be caused to any Interested Party and they

should have a fair and reasonable opportunity to consider this. Therefore, should the Applicant subsequently consider publicity to reflect the EIA Regs to be appropriate or necessary, further details should be provided with the formal change request setting out how this is proposed to be carried out to enable the representations received in response to that publicity, and from consultation bodies, to be fairly considered within the timescale of the Examination.

Next steps

The Applicant is asked to ensure that the change request, that is intended to be submitted on 3 September 2021, responds fully to the points made above and contains sufficient information to enable the ExA to consider whether that change request can be accepted.

If you have any questions about any of the matters raised in this correspondence, please contact the Case Team using the details provided in this letter.

Yours sincerely

Wendy McKay

Lead Member of the Examining Authority, on behalf of the Panel

This communication does not constitute legal advice.

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