

The Sizewell C Project, Ref. EN010012

Request to participate in the Compulsory Acquisition Hearings, 17-20 August

Suffolk County Council Registration ID Number: 20026012

Deadline 6

06 August 2021

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A. STATEMENT OF INTENTION TO ATTEND CAH1 17-20 AUGUST 2021

Suffolk County Council wishes to attend the CAH, 17-20 August 2021, with regard to Protective Provisions for the Highway Authority, and its landholding interests at Alde Valley Academy, Leiston and the Leiston Recycling Centre. In addition, there are land issues in respect of the Two Villages Bypass and the Sizewell Link Road. There are also highway issues and concerns regarding surface water drainage, public rights of way, and the Pakenham Fen Meadow.

We will confirm details of who will be attending on behalf of SCC once the agenda is issued and will ensure that a representative will also be available throughout the CAH to assist the Panel by responding to any questions.

B. SUPPORTING INFORMATION FOR SCC'S AREAS OF CONCERN

Suffolk County Council (SCC) will be in attendance during the CAH to assist the ExA and, as necessary, to explain its concerns where its interests are affected by the proposals. Set out below is some background to each land interest and some issues which the ExA might want to further explore and clarify. SCC also notes that the ExA wishes to consider the strategic case for compulsory acquisition and temporary possession during Part 1 of the CAH, which also engages with issues raised by SCC, especially with regard to the Sizewell Link Road.

1. Leiston Recycling Centre (LRC), Lovers Lane, Leiston, IP16 4UJ

1.1 The LRC is covered in the SCC SZC local impact report (LIR) submitted at Deadline 1 [REP1-045] (paragraphs 10.22 – 10.37 and cross-referenced in the Highways section paragraphs 16.9 & 16.10). Extracts from the LIR:

Paragraph 10.36. Lovers Lane HWRC: Discussions with the Applicant are ongoing as to how the impact can be mitigated to ensure that the community continues to have safe access to a good recycling service. SCC, as the Waste Disposal Authority, believes that the best option is a relocation of the Recycling Centre to increase road safety by minimising the effects of the significant traffic and HGV increase that is anticipated during construction, as well as providing an improved amenity for the community of Leiston and surrounding areas. The relocation site would be sought to be outside of the AONB, and in seeking a relocation, this would need to comply with Local Plan policy.

Paragraph 10.37. The alternative to relocation is the provision of measures to provide safe and appropriate access arrangements to the site, which is challenging due to the constrained nature of the site. The Applicant would need to demonstrate that a proposal to stay at the current site is feasible and safe; the Councils have not seen the evidence that the current proposal would meet these criteria. The Councils are concerned that relocation needs a sufficient lead-in time so it is important to resolve this issue promptly so Leiston is not left with a diminished service and insufficient time to do anything about it.

1.2 Work No. 1C, set out in Schedule 1 to the dDCO, will affect the LRC site [REP5-027]

1.3 The LRC site is owned by EDF Energy Nuclear Generation Limited (ENGL) and leased to SCC. The lease expired in 2014 and SCC is currently 'holding over'.

1.4 The LRC serves Leiston and a wide catchment area. The next nearest recycling centres are at Foxhall (on the eastern edge of Ipswich) and Lowestoft.

1.5 SCC has concerns that the compulsory acquisition of land currently used for the LRC could jeopardise the ongoing operation of the recycling service. SCC has been in discussions with the Applicant to resolve matters and reach agreement.

1.6 The intention is for agreement to be reached between the parties and set out in a statement of common ground.

1.7 Highway issues

1.7.1 SCC has confirmed that the design as presented by the Applicant for the reprovision of car parking spaces/highway layout etc. is, in principle, acceptable. However, the following outstanding queries/actions remain:

1.7.2 The 40mph speed limit outside the LRC – is this to be permanent? It differs from the proposed changes in Schedule 14 of the dDCO which includes temporary and permanent 30mph speed limits

1.7.3 Is the right-hand turn into the LRC to be permanent?

1.7.4 If so, has the requirement for dedication of additional land as public highway been considered?

1.7.5 Is the adjacent Pegasus crossing to be permanent?

1.7.6 The Applicant must undertake a road safety audit.

1.7.7 SCC needs to receive scaled drawings for the proposed works.

1.7.8 SCC needs to consider if there is a sufficient turning circle for lorries delivering/removing containers to enter/leave the LRC in a forward direction.

1.8 Interface arrangements between the ongoing operation of the LRC and the Applicant's construction works to Lovers Lane. There is the potential for temporary and permanent service disruption to the LRC.

1.8.1 SCC still has concerns that the proposed compulsory acquisition area shown on plans (the red-line boundary) will permanently remove land from the LRC operational area and remove current staff parking areas. This could then leave the LRC site too small for ongoing operational purposes, resulting in an inferior service provision to the public through the reduction of types of recycling that would be able to be accepted. This would mean that this Recycling Centre would be the only one in Suffolk with such a reduced provision. From the current information available, it is expected that the changes may result in a reduction of the actual recycling area (where all the recycling banks excluding the skips are) by around 45-50% which would reduce the types of recycling accepted by at least five (currently recycle 24 waste types) and probably result in a reduced capacity of others. SCC considers this is unacceptable.

1.8.2 It is necessary to agree suitable notice periods for the Applicant's proposed construction works (including for users of the LRC) and to ensure that any communications to site stakeholders and site users is timely.

1.8.3 Phasing of the Applicant's construction works to ensure continuity of the LRC service and to avoid interim loss of staff parking spaces.

1.8.4 SCC has concerns about the potential impact on and interference with drainage at the LRC site.

1.8.5 SCC requires confirmation of the extent of the relocation of the LRC entrance gates.

1.8.6 SCC needs to understand whether any boundary changes would require amendment to the Environment Agency Permit and, if so, the associated timescales and costs associated with this.

2. Alde Valley Academy, Seaward Avenue, Leiston, IP16 4BG

2.1. SCC owns the freehold. Alde Valley Academy is run by the Waveney Valley Academies Trust (the Trust), and they have been granted a 125-year lease by SCC.

2.2. Alde Valley Academy is a secondary school (ages 11 – 16).

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- 2.3. The Applicant proposes to provide funding to East Suffolk Council to enable the delivery of new sports facilities on the school site for use by the SZC workforce, the local community, and the school pupils. These facilities would also provide a legacy benefit once the construction of SZC is completed.
- 2.4. The new facilities are proposed to be a 3G playing pitch and 2 x multi-use game areas (MUGAs) [see revised plans submitted by the Applicant at D2 under reference REP2-011].
- 2.5. The dDCO describes the proposal under Work No. 5 and its construction is controlled by Requirement 12A [REP5-027]
- 2.6. The draft Deed of Obligation Schedule 10 (Leisure, Public Rights of Way and Amenity) covers the proposed funding arrangements, which are still under discussion with the Applicant [REP5-082].
- 2.7. The provisions required by the lead local flood authority (LLFA) still need to be agreed with the Applicant.
- 2.8. There have been ongoing discussions between the Applicant, SCC, ESC, the Department for Education (DfE) and the Trust.
- 2.9. A query has been raised by the Applicant as to whether this land is “Crown land” as defined in s227 of the Planning Act 2008. Following discussion with the DfE, the views of SCC and the DfE is that the Secretary of State for Education (SofS) does not hold any interest as defined under s227 of the Act. As confirmed above, the land is owned by SCC and leased to the Trust.
- 2.10. However, the SofS will become involved when the disposal of educational land (including by lease or appropriation by a local authority) or when a change of use is proposed. The education legislation (Schedule 1 of the Academies Act 2010 and s77 School Standards and Framework Act 1998) requires the landowner to seek SofS consent to any transaction before it can go ahead. The policy presumption is against any loss of educational land and even more strongly so for playing field land, which means any land on a school site not built on, road, pathway or car park or garden connected with staff residential accommodation. The SofS can consent, refuse, or direct the land to another party, usually a local authority or person connected with the running of an academy.
- 2.11. SCC and the DfE consider that it is not appropriate to give consent under s135 of the Planning Act 2008 requested by the Applicant. This is because such an approach would override the need for the SofS to consider and give consent under existing education legislation (Schedule 1 of the Academies Act 2010 and s77 School Standards and Framework Act 1998).
- 2.12. SCC considers the key issue to address here is whether there will be any loss of amenity or ownership of existing educational land. This would include any transfer or lease of land from SCC and/or the Trust to the Applicant, ESC, or a third-party leisure operator. If there is, then the SofS’s prior consent will be required.

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- 2.13. SCC and the Trust are willing to help facilitate the delivery of the new sports facilities on the school site. We consider that the best way to secure this is for the land to remain in the ownership of SCC (leased to the Trust) and for a service level agreement to be entered into with ESC over the delivery and ongoing management of the facilities. This would be based on the school retaining an appropriate level of use to deliver the curriculum and to continue its present level of extra-curricular activities. However, if there was any suggestion that this would be implemented through a lease or licence, or the school's use of facilities was curtailed, that would trigger the need for the SofS's prior consent. While we cannot pre-empt the SofS's decision, there is a strong presumption based on existing legislation against a school losing amenity in this way.
- 2.14. A project delivery plan for the construction of the new facilities will need to be agreed with ESC to minimise disruption to the school including dealing with health & safety and safeguarding issues.
- 2.15. The intention is for agreement to be reached between the parties and set out in a statement of common ground.**

3. Pakenham fen meadow, Pakenham

- 3.1. The area proposed for the Pakenham fen meadow is under private ownership. Whilst the fen meadow is in the lower tier local authority area of West Suffolk Council (WSC), it has been agreed that SCC will be the discharging authority in respect of this matter [See the WSC submission in lieu of attendance at Issue Specific Hearing 1 (ISH1) the draft DCO and Section 106 agreement / Deed of obligation – 6 July 2021]. SCC has no land interests that would be affected by the proposals but noting the terms of ExQ2 Part 3 CA.2.15 SCC considers that there may be issues raised at the CAH that it would wish to comment on as prospective discharging authority.
- 3.2. Pakenham fen meadow is described in the dDCO under Work No. 18 in Schedule 1 and is included as Requirement 14A 1 (ii) in Schedule 2 [REP5-027].
- 3.3. In addition, the draft Deed of Obligation Schedule 11 (Natural Environment) covers the proposed arrangements, which are still under discussion with the Applicant. The draft Deed says "Pakenham Fen Meadow Works" means Work No. 18 in Schedule 1 to the Development Consent Order, being landscape and ecological works including earthworks, drainage and associated water control structures which are to provide permanent fen meadow habitat compensation areas to mitigate the loss of fen meadow habitat [REP5-082].
- 3.4. There are two important issues for the Applicant to clarify:

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- 3.4.1. Details regarding the scheme of works and ongoing management arrangements in respect of providing permanent fen meadow habitat compensation areas; and,
- 3.4.2. Clarification of the arrangements to ensure that the fen meadow will be permanent and maintained in perpetuity.
- 3.5. Pakenham Water Mill is in close proximity to the fen meadow. The Water Mill is owned by the Suffolk Building Preservation Trust Ltd (Registered Charity number 265212). The Water Mill was voted one of the best landmark sites in Britain by BBC Countryfile Magazine – it is a popular visitor/tourist destination. There is a shop and tearoom. [See REP5-315 from the Suffolk Buildings Preservation Trust].
- 3.6. Issues raised by SCC with the Applicant include:
- 3.6.1. Investment in the fen meadow is likely to increase visitor numbers, so access and car parking needs to be carefully considered.
- 3.6.2. SCC has identified a requirement to upgrade and improve existing public rights of way across the fen meadow and in the locality. These improvements would be to Pakenham FPs 2 and 3 as well as FP1 (boardwalk across the fen meadow).
- 3.6.3. Walking/cycling connectivity with the village of Pakenham and nearby Ixworth are important sustainable measures to establish.
- 3.7. The intention is for agreement to be reached between the parties and set out in a statement of common ground.**

4. Sizewell Link Road (SLR)

- 4.1. SCC considers that whilst the SLR is required during construction only. There is insufficient justification for the road's permanent retention.
- 4.2. In paragraph 16.90 of the Joint Local Impact Report (LIR) it says '*SCC asks for the removal of the Sizewell Link Road on completion of the Sizewell C project, as on balance, it does not consider the Sizewell Link Road with its proposed routeing to have sufficient strategic legacy benefit after construction of Sizewell C (running parallel to the existing B1122) to justify the environmental impact, the impact on local receptors and additional maintenance burden on the highway authority of the road in perpetuity. Any legacy value provided by the road is minimal, as it is not needed following construction, and any supposed benefit is far outweighed by the environmental disbenefits created by the retention of the road*' [REP1-045].

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- 4.3. The ExA is invited to take SCC's previous representations into account when considering the implications of the compulsory acquisition of land for the route of the SLR.
 - 4.4. The SLR is described in Work No's. 12A, 12B, 12C and 12D (Schedule 1) [REP5-027].
 - 4.5. The Applicant will need to indemnify SCC in respect of any claims submitted under Part 1 of the Land Compensation Act 1973 (LCA 1973). Responsible authorities may be liable to pay compensation for depreciation in the value of an interest in land which is attributable to the use of public works, and where no land has been taken from the claimant. The responsible authority is in relation to a highway the appropriate highway authority, and in relation to other public works the authority providing those works. Compensation is limited to depreciation in the value of the qualifying interest caused by the use of the land or the works but only so far as that depreciation is attributable to 'physical factors', which are defined in section 1 LCA 1973 as noise, vibration, smell, fumes, smoke, artificial lighting, and the discharge on to the land in respect which the claim is made of any solid or liquid substance.
 - 4.6. The drainage strategy is not yet agreed with SCC as the LLFA or LHA. The details are included in the drainage specific D6 response [see SCC D6 comments on the D5 submissions by the Applicant] but the key issue in terms of land acquisition is the uncertainty regarding the size and location of drainage lagoons. This has an impact on the area and location of land acquisition for highway purposes, either through changes in the areas adopted as public highway or, where connections are required to watercourses, in the creation of appropriate easements or wayleaves.
 - 4.7. While a highway fence is shown on a number of plans for approval this is a physical feature and not an indication of the future highway boundary. Significant areas are shown on plans for retention as landscaped areas although these are not essential for operation of the highway. Further discussions are necessary with the applicant in respect of the limits of the land that will be permanently adopted as public highway.

5. Two Villages Bypass

- 5.1. The Two Villages Bypass is described in Work No's. 11A, 11B and 11C (Schedule 1) [REP5-027].
- 5.2. The Applicant will need to indemnify SCC in respect of any claims submitted under Part 1 of the LCA1973.
- 5.3. The drainage strategy is not yet agreed with SCC as the LLFA or LHA. The details are included in the drainage specific D6 response [see SCC D6 comments on the D5 submissions by the Applicant] but the key issue in terms of land acquisition is the uncertainty regarding the size and location of drainage lagoons. This has an impact on the area and location of land

acquisition for highway purposes either through changes in the areas adopted as public highway or, where connections are required to watercourses, in the creation of appropriate easements or wayleaves

5.4. While a highway fence is shown on a number of plans for approval this is a physical feature and not an indication of the future highway boundary. Significant areas are shown on plans for retention as landscaped areas although these are not essential for operation of the highway. Further discussions are necessary with the applicant in respect of the limits of the land that will be permanently adopted as public highway. .

6. Public rights of way

6.1. For information in respect of delivering the public rights of way fund, SCC will rely on powers under the Highways Act 1980 including section 25 for the creation of footpaths [bridleways or restricted byways] by agreement or section 26 for the compulsory powers for creation of footpaths [bridleways or byways]. Also, section 119 of the Act for the diversion of footpaths [bridleways and restricted byways].

6.2. In addition, SCC considers that Paragraph 3 of Schedule 10 in the draft Deed of Obligation should include an obligation on the Applicant to enter into any creation agreement required under section 25 of the Highways Act 1980 in respect of new or upgraded public rights of way within its ownership and a covenant that the Applicant will not seek compensation under section 28 of the Highways Act 1980 in respect of any use by SCC of its compulsory powers for creation of footpaths, bridleways and restricted byways under section 26 of the Highways Act 1980 on land within the Applicant's ownership. See SCC's submission at D5 on the draft Deed of Obligation [REP5-179].

7. General highway issues

7.1. The Applicant will need to indemnify SCC in respect of any claims submitted under Part 1 of the LCA1973. See SCC's submission at D5 on the draft Deed of Obligation [REP5-179].

7.2. Compensation claims:

7.2.1. SCC considers that the Applicant should provide an indemnity against all claims SCC may receive under works carried out to the highway as part of the project (and those required under the Deed of Obligation) pursuant to the LCA

Act 1973 and the requirements of the Noise Insulation Regulations 1975. SCC suggests that wording similar to the following is included in the Deed of Obligation:

- SZC Co shall from the date of this Deed indemnify Suffolk County Council against all claims liability or loss whatsoever arising out of and incidental to any or all of the works carried out pursuant to the Project and/or this Deed arising out of any legally sustainable claims for payments under Section 10 of the Compulsory Purchase Act 1965 and Part I of the Land Compensation Act 1973 (as amended) in connection with those works provided that SZC Co's indemnity will not extend to any claims submitted to Suffolk County Council arising out of the negligence of Suffolk County Council's employees.
- SZC Co covenants with Suffolk County Council to comply with the requirements of the Noise Insulation Regulations 1975 (SI 1975/1763) as amended and to provide to Suffolk County Council such evidence as is required by Suffolk County Council to demonstrate compliance with the Noise Insulation Regulations 1975.

7.3. Article 21 of the dDCO allows the Applicant to enter into agreements with SCC to, amongst other things, construct any new street authorised by the dDCO, and stop up, alter or divert a street authorised by it. In accordance with usual practice, SCC expects the applicant to pay all approval, supervision and legal fees associated with creating and implementing these agreements (which SCC expects will be substantially in accordance with its standard section 278 and / or section 38 agreements). The applicant may consider it appropriate to draft overarching agreements in a similar way undertaken by SPR for EA1(N) and EA2 (See, for example, [\[REP8-080\]](#) of the EA1N examination library)

7.4. Further clarity is required for temporary highway works such as the roundabout for the northern park and ride. It is unclear what status this highway will have between completion of the works and removal at the end of the SZC construction period. Presently the dDCO states that these would become maintainable highway 12 months after completion [\[REP5-030\]](#) but this is not accepted by SCC at this time

7.5. The applicant will be required to provide Bonds to cover the authority's risk of non-completion of highway works, including remediation of temporary highway works.

7.6. Payment of commuted sums will be required for future maintenance of highway works.

8. Protective Provisions

8.1. SCC considers the highways regime proposed under the dDCO to be unsatisfactory. While the introduction of new paragraph 3 in article 21 is a step in the right direction (subject to the amendments to that provision that SCC has suggested to the applicant) SCC considers further detail is required in respect of the proposed agreements under article 20. While discussions with the applicant in respect of these points (and others) are ongoing, SCC would seek to protect its position by proposing protective provisions for itself as highway authority. Draft protective provisions which would be acceptable to SCC are set out in the Schedule to this note.

SCHEDULE

Part 8

For the protection of Suffolk County Council as the Local Highway Authority

Application

1. The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and the local highway authority.

Interpretation

2. In this Part of this Schedule—

“Commuted Sum” means the sum to be paid by the undertaker to the local highway authority for the future maintenance of Non-standard Highway Assets not previously forming part of the local highway which will be transferred to the local highway authority, as calculated in accordance with paragraph 22 of this Part of this Schedule;

“Detailed Information” means the following drawings, specifications and other information relating to the local highway—

- (a) boundary, environmental and mitigation fencing;
- (b) road restraint systems (vehicle and pedestrian);
- (c) drainage and ducting;
- (d) earthworks;
- (e) road pavements;
- (f) kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) road lighting (including columns and brackets);
- (i) electrical work for road lighting, traffic signals and traffic signs;
- (j) highway structures;
- (k) landscaping, planting and any boundary features which will form part of the local highway;
- (l) utility diversions;
- (m) a schedule of timings for the works, including dates and durations for any closures of any part of the local highway;
- (n) traffic management proposals including any diversionary routes;
- (o) a schedule of condition of all local highway within the order limits; and

(p) where local highway is occupied under this Order in connection with any Works but is not itself subject to Works, specification of the condition in which the local highway will be returned post occupation;

(q) reinstatement following removal of temporary works

“Detailed Local Operating Agreement” means an agreement made pursuant to paragraph 4 of this Part of this Schedule;

“director” means a director of [Growth, Highways & Infrastructure] of the local highway authority or any successor post responsible for the highway authority function of Suffolk County Council;

“HMOP” means the local highway authority’s Highways Maintenance Operational Plan;

“local highway” means any public, vehicular highway which vests or is intended at the completion of works to vest in or be otherwise maintainable by the local highway authority;

“local highway authority” means Suffolk County Council;

“Non-standard Highway Assets” means highway assets which the local highway authority will become responsible for maintaining and which incur maintenance costs beyond the normal costs of maintaining the public highway having regard to the lists of standard and nonstandard assets set out in paragraph 22(2) of this Part of this Schedule;

“Other Detailed Information” relating to any Works, means—

(a) a schedule of timings for the Works, including dates and durations of any closures of any part of a local highway;

(b) traffic management proposals, including any diversionary routes and any Detailed Local Operating Agreement;

(c) a schedule of condition of the affected local highway within the Order limits; and

(d) where the local highway is occupied under this Order in connection with the Works but Works are not undertaken on, to or under the local highway, a specification of the condition in which the local highway will be returned after the occupation has finished;

“Provisional Certificate” means a certificate issued by the local highway authority to certify that the Works to which the certificate relates have been completed in accordance with this Part of this Schedule and are ready for use for public traffic; and

“Works” means any works authorised by this Order undertaken on, to or under any local highway.

Construction on Public Highways

3. Before commencing the construction of, or the carrying out of any work authorised by this Order which involves interference with a local highway (including interference with the use by the public of a local highway and temporary or permanent stopping up of any part of a local highway), the undertaker must provide to the local highway authority the Detailed Information relating to the interference, and the Works must not be carried out except in accordance with the Detailed Information submitted to the local highway authority or as otherwise agreed between the undertaker and the local highway authority.

4.—(1) Before commencing the construction of, or the carrying out of any work authorised by this Order which involves interference with a local highway (including interference with the use by the public of a local highway and temporary or permanent stopping up of any part of a local highway), the undertaker must use reasonable endeavours to agree with the local highway authority a Detailed Local Operating Agreement covering the following—

- (a) communications and customer care: communication with stakeholders and identification of which party is responsible for each activity;
- (b) asset handover: describing the scheme existing assets and activities to be undertaken to enable commencement and completion of Works, and the party responsible for each;
- (c) asset inspection;
- (d) routine maintenance and repair;
- (e) winter maintenance and severe weather;
- (f) expiration of powers conferred under DCO;
- (g) incidents;
- (h) traffic management: provides the key activities to be undertaken with regard to the design, installation, maintenance and removal of Traffic Management; and
- (i) claims made by and against the undertaker.

(2) Any agreement completed under sub-paragraph (1) must continue in force until the completion of the Works or the removal of the undertaker from all local highways, whichever is the earlier.

(3) Where agreement cannot be reached under sub-paragraph (1), the terms of the Detailed Local Operating Agreement will be resolved by arbitration under article 82 (arbitration).

5.—(1) Before commencing the construction of, or the carrying out of any Works the undertaker must provide to the local highway authority the Other Detailed Information relating to those Works.

(2) The undertaker must not commence construction of, or the carrying out of the Works in question until approval has been given by the local highway authority to the Other Detailed Information or the Other Detailed Information has otherwise been agreed in writing between the undertaker and the local highway authority.

(3) The Works must not be constructed except in accordance with the Other Detailed Information as may be approved or agreed in accordance with sub-paragraph (2).

(4) If within 28 days after the Other Detailed Information has been submitted the local highway authority has not approved or disapproved it or it has not been otherwise agreed, the local highway authority is deemed to have approved it as submitted.

(5) If the local highway authority considers further information is necessary to allow it to approve or disapprove the Other Detailed Information, it may request further information from the undertaker and, in these circumstances, the 28 days mentioned in sub-paragraph (4) will commence on the day on which the requested further information is received.

6.—(1) The undertaker will allow and facilitate an appropriately qualified officer of the local highway authority to participate in the design process for the detailed design of those parts of the authorised development which are local highway, and will have reasonable regard to any views of that officer in finalising the detailed design prior to any element reaching design fix or freeze;

provided always that it will be the decision of the undertaker whether it implements such views and for the avoidance of doubt any such view shared by the officer will not be an instruction, requirement or authorisation under this Order.

(2) Participation under sub-paragraph (1) will be in the form of invitations to attend design meetings not less than once per calendar month and the provision to the local highway authority of such drawings, cross sections and design proposals as are required to allow the local highway authority to provide views on detailed design proposals to the undertaker.

(3) Any participation by the local highway authority (or its appropriately qualified officer) in accordance with this paragraph will be at the cost of the local highway authority.

(4) An appropriately qualified officer of the local highway authority who participates in the design process in accordance with sub-paragraph (1), is not acting as a “designer” for the purposes of the Construction (Design and Management) Regulations 2015.

7.—(1) Any officer of the local highway authority duly appointed for the purpose may at all reasonable times, subject to any necessary and reasonable health and safety restrictions imposed by the undertaker, enter upon and inspect any part of the authorised development which—

(a) is in, over, under or adjacent to any local highway, or

(b) may affect any local highway or any property of the local highway authority,

during the carrying out of the Works, and the undertaker must give to such officer all reasonable facilities for such inspection.

(2) The testing of materials used in any Works affecting local highways must be carried out at the expense of the undertaker in accordance with the Manual of Contract Documents for Highway Works Appendix 1/5 (Specification for Highway Works). The local highway authority must receive copies of all test certificates and results which have been requested by it in writing as soon as reasonably practicable. Notwithstanding the foregoing, the local highway authority has full power to test all or any materials used or proposed to be used in any work to the local highway at its own expense and the undertaker must provide such information and materials as is reasonably necessary to facilitate such testing.

(3) The undertaker must not alter, disturb or in any way interfere with any property of the local highway authority on or under any local highway, or the access thereto (except to the extent authorised under the powers conferred by this Order), without the prior written consent of the local highway authority.

Road Safety Audits

8.—(1) The undertaker must procure that an appropriately qualified safety auditor undertakes road safety audit stages 2, 3 and 4 on the Works including any Works to local highways in accordance with the Design Manual for Roads and Bridges (“DMRB”) Volume 5 Section 2 Part 2 (GG 119) or any

replacement or modification of that standard and must provide copies of the reports of such audits to the local highway authority.

(2) The local highway authority must be invited to participate in the stage 2, 3 and 4 road safety audits conducted under sub-paragraph (1).

(3) Where the report of the stage 3 road safety audit identifies any recommended works to the local highway, the undertaker must use reasonable endeavours to agree with the local highway authority which works or alternative proposals require to be implemented, provided that no works may be implemented which would give rise to any new or materially different environmental effects to those identified in the environmental information.

(4) Where the report of the stage 4 road safety audit identifies any recommended works to the local highway, the undertaker must use reasonable endeavours to agree with the local highway authority which works or alternative proposals require to be implemented.

(5) Any works which the undertaker considers are required to be carried out to the local highway in accordance with the report of the stage 3 or stage 4 road safety audit, which works may not give rise to any new or materially different environmental effects to those identified in the environmental information, must be undertaken by and at the expense of the undertaker to the reasonable satisfaction of the local highway authority.

(6) The undertaker must use reasonable endeavours to agree with the local highway authority a programme for any works to be carried out under sub-paragraph (5), which programme must include timing of any closures of any part of the highway, traffic management arrangements, signage and diversion routes where required.

(7) The carrying out of works under sub-paragraph (5) are to be taken to be works carried under this Order.

Protection of Road Users

9. Provision must be made in accordance with the local highway authority's reasonable requirements at the site of the Works to prevent mud and other materials from being carried on to the adjacent highway by vehicles and plant. The operational highway in the vicinity of the site of the Works is to be swept as required to ensure its safe use as a public highway.

10. The undertaker must not, except with the consent of the local highway authority, erect or retain on or over a local highway to which the public continues to have access any scaffolding or other structure which obstructs the local highway.

11. Except in an emergency or where necessary to secure the safety of the public, no direction or instruction may be given by the local highway authority to the contractors, servants or agents of the undertaker regarding any highway operations without the prior consent in writing of the undertaker.

12. In exercising the powers conferred by the Order in relation to any local highway the undertaker must have regard to the potential disruption of traffic which may be caused, seek to minimise such

disruption so far as is reasonably practicable and must at no time prevent or unreasonably impede access by emergency service vehicles to any property.

13. The undertaker must, if reasonably required by the local highway authority, provide and maintain during such time as the undertaker may occupy any part of a local highway for the purpose of the construction of any part of the authorised development, temporary ramps for vehicular or pedestrian traffic, or both, and any other traffic measures required to protect the safety of road traffic.

14.—(1) If reasonably requested by the local highway authority, the undertaker must execute and complete a transfer to the local highway authority of any land and rights within the local highway compulsorily acquired by the undertaker pursuant to articles 23 (compulsory acquisition of land) and 26 (compulsory acquisition of rights) for the construction, operation and maintenance of the local highway or to facilitate it, or as is incidental to it, at nil consideration provided that the undertaker has completed all necessary works within the local highway for which that land and rights were compulsorily acquired.

(2) Sub-paragraph (1) above does not apply in relation to any land within the local highway compulsorily acquired by the undertaker that has been or is proposed to be permanently stopped up and rights extinguished pursuant to article 16 (permanent stopping up and restriction of use of highways, streets and private means of access).

15.—(1) Where the undertaker carries out any Works to any local highway it must make good any defects in those Works notified to it by the local highway authority within the period of 52 weeks after the date of the completion of the Works to that area of local highway to the reasonable satisfaction of the local highway authority.

(2) The carrying out of any remedial works required under sub-paragraph (1) is to be regarded as works carried out under this Order.

(3) The carrying out of any remedial works required under sub-paragraph (1) requires the submission of such items of Detailed Information to the local highway authority as the undertaker deems to be reasonable in the circumstances but always including a description of the works to be carried out, a schedule of timings for the works, including dates and durations for any closures of any part of the local highway and traffic management proposals.

(4) Notwithstanding sub-paragraph (1), where any defect constitutes a hazard, as defined in the HMOP, the defect must be repaired within the timescale stated in that document.

16.—(1) The Works must all be completed on such date or dates that will be notified by the undertaker to the local highway authority in writing. The completion of Works for the purposes of paragraph 15 of this Schedule will be such date notified under this paragraph.

(2) Prior to the completion of the Works, the undertaker must invite the local highway authority to participate in inspection of the Works to identify any defects or incomplete works. Any defects must be rectified and any incomplete works carried out prior to any notification of completion being issued under sub-paragraph (1).

17. The undertaker will hold the local highway authority harmless and indemnified from and against any liability, loss, cost or claim arising out of or incidental to the carrying out of the Works (other than those arising out of or in consequence of any negligent act, default or omission of the local highway authority) provided that no claim can be settled or liability accepted by the local highway authority without first obtaining the written approval of the undertaker, such approval not to be unreasonably withheld or delayed.

18.—(1) When the undertaker considers that the Works have reached completion it must notify the local highway authority and must allow the local highway authority the opportunity to inspect the Works and the undertaker must give proper consideration to any representations that are made by the local highway authority.

(2) The undertaker may not notify the local highway authority under sub-paragraph (1) until either—

(a) a stage 3 safety audit has been carried out in respect of the Works in question in accordance with GG119 of DMRB and in the opinion of the undertaker any recommended works identified in the audit have been completed; or

(b) if the Works in question were not subject to a safety audit, the local highway authority has been provided an opportunity to inspect the works and the undertaker has in its opinion completed any further works required to address any safety deficiencies or defects identified as a result of the inspection.

Completion of Works

19. - The local highway authority must, if requested to do so by the undertaker, issue to the undertaker a Provisional Certificate in relation to any part of the Works, after completion of that part of the Works if the local highway authority is satisfied that the Works have been completed in accordance with this Part of this Schedule.

20. No earlier than 52 weeks from the date of issue of the Provisional Certificate, the local highway authority must issue a Final Certificate, certifying that all outstanding defects relating to the part of the Works in question and which required remediation have been so remedied, provided that—

(a) all identified defects requiring remediation have been so remedied such that the local highway authority consider the Final Certificate may be issued;

(b) a stage 4 safety audit has been carried out (if a stage 4 safety audit is required in accordance with GG119 of DMRB in connection with the Works), and following proper consideration of the representations of the local highway authority, any additional works, alterations or amendments to the Works as a result of the stage 4 safety audit have been completed to the reasonable satisfaction of the local highway authority;

(c) the undertaker has given the local highway authority an opportunity to inspect the Works and has given proper consideration to any representations made by the local highway authority;

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- (d) the undertaker has paid to the local highway authority any Commuted Sum due in relation to the part of the local highway to which the Provisional Certificate relates;
 - (e) the undertaker has provided the local highway authority with such detailed information as the local highway authority may reasonably require in relation to the Works as built; and
 - (f) all costs charges, expenses payable to the local highway authority pursuant to this Part have been paid.

Payments to the Highway Authority

21. The undertaker must pay to the local highway authority in respect of the highway works a sum equal to the whole of any costs and expenses which the local highway authority reasonably incur—

- (a) in the examination or approval of the Other Detailed Information under this Part;
- (b) in inspecting the construction of the Works including any works required by the local highway authority under this Part;
- (c) in carrying out any surveys which are reasonably required in connection with the construction of the Works;
- (d) in the transfer pursuant to paragraph 14 to the local highway authority of the land and rights acquired by the undertaker; and
- (e) making good any damage to a local highway caused by the undertaker.

22—(1) Prior to the issue of a Provisional Certificate, the undertaker must, prepare a list of assets not previously forming part of the local highway for which the local highway authority will be responsible for maintenance following completion of the Works.

(2) The undertaker must use reasonable endeavours to agree a schedule of items on the list agreed under sub-paragraph (1) which are Non-standard Highway Assets having regard to the following—

- (a) standard highway assets include—
 - (i) carriageways surfaced in concrete asphaltic materials (non-pigmented binder and non-coloured aggregates);
 - (ii) footway surfaced in concrete asphaltic materials (non-pigmented binder or coloured aggregates);
 - (iii) footways adjacent to block paved carriageways also surfaced in 200mm x 100mm x 65mm thick concrete block paving (optional);
 - (iv) cycleways surfaced in concrete asphaltic materials (red pigmented binders and/or aggregates);
 - (v) pre-cast concrete kerbing;
 - (vi) gully drainage, connection pipes and gravity draining highway carrier drains;
 - (vii) galvanised pedestrian guard railing;
 - (viii) standard highway lighting layouts, columns and lanterns;

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- (ix) standard illuminated and non-illuminated highway signs;
 - (x) passively safe sign posts where required for road safety;
 - (xi) bollards and markers posts manufactured from plastic derivatives or recycled plastic/rubber;
 - (xii) road markings;
 - (xiii) grass verges;

(b) Non-Standard Highway Assets include—

- (i) any culvert, bridge, retaining wall or other structure
- (ii) special features such as noise fencing, vehicle restraint barriers, signalised crossings, pedestrian guard railing, knee rails and fences, gates
- (iii) landscaping features such as planting, trees, hedging
- (iv) sustainable drainage systems (“SuDS”) or non-standard highway drainage features such as—
 - (aa) flow control devices and attenuation storage;
 - (bb) SuDS including maintenance of any landscaping;
 - (cc) oil or petrol interceptors including the disposal of contaminated waste;
 - (dd) pumping stations and their energy charges;
 - (ee) watercourses and swales;
 - (ff) drainage lagoons or ponds.

(3) Where the schedule prepared under sub-paragraph (2) cannot be agreed, the determination of the schedule will be referred to arbitration under article 82 (arbitration).

(4) Following agreement of the schedule under sub-paragraph (2) or determination under sub-paragraph (3), the local highway authority must prepare a calculation of the Commuted Sum based on the maintenance the local highway authority considers to be required for the schedule of NonStandard Highway Assets agreed under sub-paragraph (2) or determined under sub-paragraph (3) and must use reasonable endeavours to agree it with the undertaker.

(5) The undertaker must be provided with a breakdown of the calculation of the Commuted Sum by the local highway authority under sub-paragraph (4) including any assumptions used.

(6) Where the calculation prepared under sub-paragraph (4) cannot be agreed, the determination of the Commuted Sum will be referred to arbitration under article 82 (arbitration)

(7) The undertaker must pay the Commuted Sum to the local highway authority in one instalment within 10 working days of the later of—

- (a) the date of issue of the Provisional Certificate; or
- (b) the date of agreement of the value of the Commuted Sum under sub-paragraph (4) or determination under sub-paragraph (6).

23. Nothing in this Part of this Schedule prevents the local highway authority from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public.

Damage to the Public Highway

24.-If any damage to any local highway or any property of the local highway authority on or under any local highway is caused by, or results from, the construction of any work authorised by this Order or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon such work, the undertaker may, in the case of damage to a local highway, make good such damage to the reasonable satisfaction of the local highway authority and, where the undertaker does not make good, or in the case of damage to property of the highway authority, the undertaker must pay compensation to the local highway authority. No such works may take place except with the consent of the relevant highway authority.

25.The fact that any act or thing may have been done in accordance with plans approved by the local highway authority does not (if it was not attributable to the act, neglect or default of the local highway authority, any person in its employ, its contractors or its agents) exonerate the undertaker from any liability, or affect any claim for damages, under this Part or otherwise.

26. Prior to the commencement of each phase of the Works the undertaker must secure the cost of it by the deposit with the local highway authority of a bond, drafted substantially as detailed in Form 1 below, in a sum equivalent to the director’s reasonable estimate of the cost of that phase of the Works (including any statutory undertakers works) or must provide some alternative form of security acceptable to the local highway authority.

27 - Any difference arising between the undertaker and the local highway authority under this Part of this Schedule (other than in difference as to the meaning or construction of this Part of this Schedule) will be resolved by arbitration under article 82 (arbitration).

Form 1

BY THIS BOND [] LIMITED of []

[] (“the Undertaker”) and

[] (“the Surety”) are held and firmly bound to **SUFFOLK COUNTY COUNCIL** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2DH (“the County Council” in the sum of £[] pounds) to be paid to the County Council for the payment of which sum the Undertaker and the Surety bind themselves their successors and assigns jointly and severally

IN WITNESS whereof the Undertaker and the Surety have hereunto affixed their respective Common Seals and delivered the same on but not before this day of [] Two thousand and []

WHEREAS the Undertaker intends to carry out [description of highways works] referred to in Part 3 of and / or Schedule 18 to the Sizewell C (Nuclear Generating Station) Order 202[x] “the DCO”

NOW THE CONDITION of the above-written Bond is such that if the Undertaker must duly perform and observe all the terms provisions conditions and stipulations of the said DCO (in so far as they relate to the Works) on the Undertaker’s part to be performed and observed according to the true

intent and meaning thereof or if on default by the Undertaker the Surety shall duly satisfy and discharge the damages sustained by the County Council up to the amount of the above-written Bond then the above-written Bond shall be null and void but otherwise shall remain in full force and effect **PROVIDED ALWAYS** that the giving by the County Council of any extension of time for performing the said Agreement or any stipulations therein contained and on the part of the Undertaker to be performed or any other forgiveness or forbearance on the part of the County Council or its successors or assigns shall not in any way release the Surety from any liability under the above-written Bond.

THE COMMON SEAL of)

[UNDERTAKER])

was hereunto affixed)

in the presence of)

Director

Secretary

THE COMMON SEAL of)

[SURETY])

was hereunto affixed)

in the presence of)

Director