



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

The Sizewell C Project

**Natural England's Comments on Terrestrial Ecology Documents Submitted to
the Examination**

Planning Inspectorate Reference: EN010012

6th August 2021

Natural England's comments on documents submitted to the Examination

1. Wet Woodland

1.1 Documents reviewed include:

- EN010012-003978-Sizewell C Project – Other- Deadline 1 submission – Wet Woodland Strategy [REP1-020]

1.2 We welcome that some of our previous comments had been addressed in this revised version of the Wet Woodland strategy. In particular, the focus on natural colonisation of woodland, the provision of deadwood within new habitat areas and work to develop the aged community at Sizewell Marshes. We also welcome that our comments on hydrology and providing wet woodland alongside fen meadow habitats have been taken into account.

1.3 There are three main concerns carried over from previous engagement on this issue

- i) The quantity of habitat provided from the outset is still less than that lost, with 0.7ha still proposed to be provided post construction which contradicts guidance that states habitats should be established before loss (DEFRA, 2012) not 10-12 years hence.
- ii) Test of success measures should include monitoring of invertebrate communities; the strategy infers more detail on this will be provided in the Wet Woodland Plan and it is still not clear whether this will be provided within the examination timescale.
- iii) Many important details which are crucial to understanding whether the strategy is likely to be successful or not have been pushed back to the Environment Review Group and the Wet Woodland Plan and it is still unclear whether or not we will see this information within the Examination. Therefore, we cannot be confident on the likelihood of success of this strategy as a whole.

1.4 We would reiterate our comments made within our Written Representations [REP2-153].

It is very disappointing that this compensatory habitat will not be in place and functioning ecologically in advance of any loss occurring as has been accepted by the Applicant as a principle at Aldhurst Farm with respect to SSSI reedbed and ditch habitats which would be lost (see our comments under issue 49 above). As a result, even if the proposed compensation approach is eventually agreed between all

parties, the extent of this habitat which supports the nationally important invertebrate assemblage will not be maintained throughout the lifetime of the project should it be consented, and we draw the Examining Authority's attention to this point.

2. Fen Meadow

2.1 Documents reviewed include:

- EN010012-005414-D3 - The Sizewell C Project - Other - Fen Meadow Plan Report 1 Baseline Report Part 1 of 2 [REP3-051]
- EN010012-005427-D3 - The Sizewell C Project - Other - Fen Meadow Plan Report 1 Baseline Report Part 2 of 2 [REP3-052]
- EN010012-005602-The Sizewell C Project - Other- Fen Meadow Compensation Study 2018 Phase 1 Report [REP4-007]

2.2 Having reviewed these documents, Natural England advise that in principle the creation of Fen Meadow M22 within the sites investigated appears feasible. However, there remain many issues that may arise during further investigation and groundworks that have potential to challenge the fundamental viability of habitat creation. Aiming to restore as natural a system as possible is likely to have the greatest chance of success. Consequently, sites where there are multiple constraints to achieving this offer a limited chance of success.

2.3 As outlined throughout our engagement on this issue, recreating Fen Meadow M22 is incredibly difficult with only a handful of examples of it be being done successfully. While the baseline reports do much to improve our understanding of the suitability of the proposed locations, there remains a significant amount of uncertainty regarding the potential success of the fen meadow habitat recreation. To progress this issue and reduce residual uncertainty the applicant should provide further detailed information in the form of the Fen Meadow Plan which we understand will be submitted at a later deadline. Given the limited evidence of successful re-creation strategies we advise securing a robust contingency strategy should the habitat creation fail at the proposed sites. We advise that potential compensation sites further afield (i.e. not restricted to Suffolk) should be investigated. The SSSI habitat to be lost is important at a national level and, if necessary, the compensation options should therefore be explored at that scale to ensure the overall amount of this habitat type is not reduced nationally.

2.4 We also reiterate comments made in our Written Representations [REP2-153], that this compensatory habitat will not be in place and functioning ecologically in advance

of any loss occurring. As a result, even if the proposed compensation approach is eventually agreed between all parties, the extent of this nationally important habitat will not be maintained throughout the lifetime of the project should it be consented, and we draw the Examining Authority's attention to this point.

3. SSSI Crossing

3.1 Documents reviewed include:

- SZC_Bk2_2.5(A)_Main_Development_Site_Permanent_and_Temporary_BLF_and_SSSI_Crossing_Plans_Part_1_of_Part_2 [REP5-009]
- SZC_Bk2_2.5(A)_Main_Development_Site_Permanent_and_Temporary_BLF_and_SSSI_Crossing_Plans_Part_2_of_Part_2 [REP5-010]

3.2 Natural England welcomes the submission of detailed designs for the first time during the examination. We are encouraged by the ongoing engagement on the SSSI crossing design and its optimisation for invertebrates and hydrology.

3.3 However, our position remains that outlined in our Written Representations [REP2-153].

“...that project proposals should clearly follow the avoidance-mitigation-compensation hierarchy in terms of impacts to high value ecological receptors of national importance such as the SSSI and include consideration of less damaging alternatives where available, as per section 4.4. and paragraph 5.3.7 of NPS EN-1. While the applicant has improved the design for the SSSI crossing, we reiterate our previous advice that there remain potentially less damaging options for its design, including that of a three span bridge which was one of several designs initially proposed at pre-application. Progressing with a design option which goes against this principle of ‘least direct SSSI land take’ is contradictory the protection afforded to SSSIs in England under the Wildlife and Countryside Act 1981 (as amended) to minimise damage the special interest of the site.”

3.4 Currently Natural England is satisfied that our comments and those of the Environment Agency and other interested parties have been taken into account during the optimisation process of the SSSI hybrid bridge-culvert design option. We are currently reviewing these detailed plans with our specialist and hope to progress this issue further within upcoming iteration of our Statement of Common Ground.

4. **Marsh Harrier**

4.1 Documents reviewed include:

- EN010012-004712-D2 - Sizewell C Project - Other- Marsh Harrier Habitat Report [REP2-119]
- EN010012-005412-D3 - The Sizewell C Project - Other - Marsh Harrier Compensatory Habitat Report [REP3-053]

4.2 Natural England advise that this issue is covered comprehensively in Issue 27 of our Written Representations [REP2-153].

4.3 We welcome the inclusion of the wetland element within proposals. Having reviewed the report we believe that the design is sufficient to compensate for habitat losses within the main development site which will be impacted by noise and visual disturbance during construction.

4.4 In regard to feasibility studies, we request reassurance from the applicant that the wetland creation element of the compensation area is feasible given their previous justification (ground levels, geology and ground and surface water regimes unsuitable) for not including it in their initial proposals.

4.5 We also advise that the wetland element of habitat creation should be in place prior to construction in line with sections 24 of the Habitats Directive: guidance on the application of article 6 (4), Alternative solutions, imperative reasons of overriding public interest (IROPI) and compensatory measures (DEFRA, 2012) which states *“Compensation must be secured before damage occurs. This includes ensuring all legal, technical and financial arrangements are in place. Compensation measures should normally be delivered before the adverse effect on the European site occurs, as this reduces the chance of harming the network of sites and also ensures there is no loss during the period before the compensatory measures are implemented.”*.

4.6 The offer of additional compensatory habitat at Westleton will minimise residual concerns that the displacement of marsh harriers could result in an impact. If Natural England can be provided with further information on the above two points and if, after review by our specialists, detailed plans are deemed satisfactory then we advise that risks through this impact pathway can be adequately compensated for, provided plans and monitoring are robustly implemented.”

5. Ecological Monitoring

5.1 Documents reviewed include:

- EN010012-003974-Sizewell C Project – Other- Deadline 1 submission – Terrestrial Ecology Monitoring and Mitigation Plan [REP5-088]
- SZC_Bk9_9.4(A)_Terrestrial_Ecology_Monitoring_and_Mitigation_Plan_Tracked_Changes_Version [REP5-089]

5.2 Natural England has reviewed the Terrestrial Ecology Monitoring and Mitigation Plan both at deadline 1 and the current deadline but provides comments here for the first time due to resource capacity.

5.3 We welcome the that the plan covers a wide range of species and habitats and links them to the supporting documentation. At this stage we have concerns regarding the frequency and duration of monitoring committed to from the outset for breeding and non-breeding waterbirds and red-throated diver. We advise that both these groups of species have been identified as having a potentially high risk of significant impact that longer term monitoring is committed to from the outset rather than pushed to the Environment Group to review. We recommend annual monitoring for both groups of species during phases 1 and 2 of construction unless the Environment Group suggest that more frequent monitoring is required. Thereafter monitoring to be a minimum of every other year with the Environment Group to review impacts and increase frequency is necessary for the duration of construction.

5.4 We are content with the proposed monitoring in relation to Marsh Harrier and the Marsh Harrier Compensation area.

5.5 We will be commenting on monitoring on groundwater for Sizewell Marshes SSSI in response to the Water Monitoring Plan.

5.6 Comments on fen meadow and wet woodland monitoring will be provided in response to their relevant Plans being submitted to the examination and through our Statement of Common Ground.

5.7 Comments of licensable species will be provided in via our licensing process.

5.8 We will not be commenting on monitoring for non-licensable species and defer to the judgment of the relevant local planning authorities in this regard.

6. Recreational Disturbance

6.1 Documents reviewed include:

- EN010012-004711-D2 - Sizewell C Project - Other- Minsmere Monitoring and Mitigation Plan [REP2-118]
- SZC_Bk9_9.15(A)_Minsmere_Monitoring_and_Mitigation_Plan [REP5-105]

6.2 Natural England has reviewed the Minsmere Monitoring and Mitigation Plan both at deadline 2 and the current deadline but provides comments here for the first time due to resource capacity. We have also been engaging with the Applicant via issue specific meetings.

6.3 We will be providing more detailed comments on recreational disturbance at a later deadline, as we still perceive this to be a high risk issue with the potential for significant impacts on protected sites in proximity to the development which needs to be considered in greater detail. We do not believe that the Minsmere Monitoring and Mitigation Plan and associated recreational disturbance mitigation strategies currently have the capacity to exclude adverse effects on integrity beyond reasonable scientific doubt, therefore our comments on this document are on the basis that further work is required in conjunction to this plan to progress this issue further.

Issues needing further detail/consideration

6.4 Mitigation measures to educate workers on sensitive features of protected sites such as breeding birds and vegetated shingle are currently proposed via printed literature in the form of leaflets or similar. This form of information may be easily discarded by workers. We advise in addition to printed literature this information is delivered orally within worker inductions or as a toolbox talk to ensure these vulnerable features are properly highlighted to workers. Further guidance and best practice can be found within the Working with wildlife: guidance for the construction industry (C691).

6.5 The creation and maintenance of firebreaks has been proposed as a contingency measure at Westleton Heath, the outer areas of RSPB Minsemre, Dunwich Heath, Aldringham Walks and North Warren. We understand that many of these areas (for example Westleton Heath) already have and maintain firebreaks. Therefore, we request further clarity on whether the Applicant is proposing additional firebreaks to the existing (which are unlikely to be any more effective and would reduce the quantity of natural habitat), whether there were specific areas they felt could benefit from additional firebreaks (which we would need to see further justification for),

whether they are proposing taking over their management of firebreaks, or whether some sites were identified in error.

- 6.6 We welcome the two-pronged approach to monitoring that have been outlined in this document which we believe has the potential to be highly effective. However, as much of this mitigation is contingent on the wardening resource, we question whether the provision of two wardens over 10+ sites tasked with monitoring visitor attendance, educating visitors, monitoring field signs of recreational disturbance, in addition to their other day to duties have the capacity to provide fulfil the above roles adequately. We suggest that the wardening resource is carefully considered and the capacity assessed in more detail potentially providing an additional warden from the outset.

7. **Biodiversity Net Gain**

- 7.1 Documents reviewed include:

- EN010012-
00186SZC_Bk6_ES_V2_Ch14_Terrestrial_Ecology_Ornithology_Appx14E_SZC_MDS_BNG_Calculations [APP-266]

- 7.2 Natural England will not be providing any detailed comments on Biodiversity Net Gain Calculations. We welcome its inclusion within proposals and reiterate comments made within our Written Representations [REP2-153] in particular comments advising that the project must first represent 'no biodiversity net loss'.

*"As a first principle, it is imperative that the project as a whole avoids, mitigates and/or compensates for impacts on sites and species of existing high value which sit outside the BNG considerations (i.e. internationally and nationally protected sites and species and ancient woodland). The necessary measures as required through the respective statutory requirements must therefore be agreed and secured through the appropriate mechanisms. Delivery of BNG is therefore dependent on all relevant parties, including Natural England, agreeing that the project represents 'no biodiversity net loss' in these regards. **This necessarily requires all issues relating to protected sites and species and ancient woodland, as set out in the Statement of Common Ground to first be classified as 'green'.**"*

- 7.3 Additionally, we offer our support in developing a net gain strategy that incorporates a bespoke species-based approach for farmland birds:

“Natural England has also offered to advise the applicant on the incorporation a bespoke species-based approach for farmland birds (e.g. turtle dove, nightingale, yellow wagtail, stone curlew etc.). These species are specifically associated with arable habitats which are categorised as low value through the BNG habitats-based approach and therefore likely to be lost. Provisions could therefore be made for these species without compromising the current approach and this offer remains open.”

8. References

- Newton, J. Nicholson, B. Saunders, R. (2011) Working with wildlife: guidance for the construction industry (C691). CIRA
- DEFRA (2012) Habitats Directive: guidance on the application of article 6 (4), Alternative solutions, imperative reasons of overriding public interest (IROPI) and compensatory measures