

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

Notification of the dates, times, and venue for the Compulsory Acquisition Hearing (CAH) from Tuesday 17 August to Friday 20 August 2021 was provided in the Examining Authority's letter dated 20 July 2021 [PD-029].

Detailed Agenda for Compulsory Acquisition Hearing 1 Parts 1-4 (CAH)

Date: Tuesday 17 August to Friday 20 August 2021

Arrangements Conference: 9:30am

Participants must join the Arrangements Conference in order to register and be permitted access to the virtual CAH.

Hearing start time: 10:00am

Venue: Virtual hearing via Microsoft Teams

Full instructions on how to join online or by phone will be sent to parties registered to attend, shortly before the Hearing.

The event will be livestreamed and a link for watching the livestream will be posted on the project page of the National Infrastructure Planning website closer to the event date. Interested Parties (IPs) and members of the public who wish to observe the event can therefore view and listen to the Hearing using the livestream, or the recording, after it has concluded.

Participation, conduct and management of the Hearing

The CAH notification explained that the CAH Part 1 will consider the strategic case for compulsory acquisition and temporary possession for the application. It is not the place for individual objections to be heard. Affected Persons (APs) will be heard at Part 1 but only on the basis that the Applicant has not complied with the relevant legal tests, policy, and guidance in respect of the application in general. The remaining parts of the CAH will allow individual objections by APs relating to individual parcels of land and/or interests in land to be heard. The utilisation of CAH Parts 2-4 will depend upon the numbers of APs with individual objections requesting to be heard. It may not be necessary to hold all parts depending on how progress is made. Conversely, the CAH Part 1 agenda will continue on the second day of the CAH before Part 2 begins if not concluded on day one.

The Examining Authority (ExA) has identified the matters to be considered at this CAH, and those on which it requires additional information, and these are set out in this agenda. It is intended that the scope of the CAH will be limited to those matters. However, the ExA may wish to raise matters arising from oral

submissions and pursue lines of inquiry in the course of the discussions which are not listed on the agenda. The actual agenda on the day including the order of items may be subject to change at the discretion of the ExA.

All APs whose land interests are affected under Compulsory Acquisition proposals are entitled to speak at a CAH. The ExA invites the Applicant and the following APs who have indicated a wish to speak to attend and participate in this CAH:

- The Applicant;
- East Suffolk Council;
- Suffolk County Council;
- Network Rail;
- Sally Watts on behalf of Ms Dyball, Ms Hall and SR Whitwell & Co;
- Justin and Emma Dowley;
- Raj Gupta on behalf of Justin Dowley and Emma Dowley;
- Michael Horton on behalf of Ward Farming, NJ Bacon Farms, AW Bacon Will Trust, David Grant, Justin Dowley, Emma Dowley, and the Boden Family;
- Nathaniel Bacon;
- David Grant;
- Simon Mellen; and
- Pinsent Mason LLP on behalf of Nuclear Decommissioning Authority (NDA) and Magnox Ltd.

Participation in the CAH is subject to the ExA's power to control the CAH. It is for the ExA to determine how hearings are to be conducted, including the time allowed at the CAH for the making of a person's representations.

The ExA will probe, test, and assess the evidence through direct questioning of persons making oral representations. Questioning at the CAH will therefore be led by a member of the Panel, supported by other Panel members.

The CAH will continue until the ExA is content that all matters on the agenda have been addressed. Should the consideration of the issues take less time than anticipated, the ExA may conclude the CAH as soon as all relevant contributions have been made and all questions asked and responded to.

To avoid 'screen fatigue', session breaks will be provided after about 90 minutes of business, and other breaks may be taken, subject to the ExA's discretion.

All participants are advised that written summaries of their oral submissions at this Hearing should be submitted at **Deadline 7, 3 September 2021**.

Arrangements Conference

An Arrangements Conference will be held on each day of the CAH before it opens or resumes. Invitees will receive a joining link or telephone number in a separate e-mail, shortly before the CAH. Please join the Arrangements Conference at the appointed time for each part of the CAH that you wish to attend. The Case Team will admit you from the Lobby and register your attendance. The Arrangements Conference allows procedures to be explained and will enable the CAH to start promptly each day.

About the Compulsory Acquisition Hearing

CAHs are for those whose land and/or rights are directly affected. This includes all APs and additional APs. It may include persons not listed in the Book of Reference but who have applied for and been granted IP status under section 102 of the Planning Act 2008 (PA2008).

The CAH is being held to ensure adequate examination of the provisions within the draft Development Consent Order (draft DCO) seeking to authorise the Compulsory Acquisition of land and/ or rights over land and to assess whether the conditions relating to the land and/ or rights being required for the Proposed Development or required to facilitate or be incidental to that development are met and whether there is a compelling case in the public interest for the land to be acquired compulsorily.

The ExA recognises that other Hearings may contribute information and evidence which will be used in support of a recommendation in respect of Compulsory Acquisition.

The CAH will have regard to written submissions already provided to the Examination. Relevant application and supporting documents to be considered include:

- Draft DCO Revision 7 submitted at Deadline 6 [REP6-006].
- Draft DCO Explanatory Memorandum Revision 6 submitted at Deadline 6 [REP6-009].
- Statement of Reasons [APP-062], Statement of Reasons Addendum - Revision 1.0 [AS-149], Updated Statement of Reasons Appendix A - Statement of Reasons Justification Tables - Revision 2.0 [REP2-020],
- Statement of Reasons Appendix B 'Status of Negotiations with Owners of the Order Land' - Revision 6 submitted at Deadline 6 [REP6-011].
- Statement of Reasons Appendix C 'Status of Negotiations with Statutory Undertakers' - Revision 5 submitted at Deadline 6 [REP6-012].
- Funding Statement [APP-066], Funding Statement Addendum - Rev 1.0 [AS-011], Second Funding Statement Addendum - Revision 1.0 [AS-150].
- Book of Reference Addendum - Revision 1.0 [AS-151], Schedule of Changes to the Book of Reference - Revision 4 submitted at Deadline 6 [REP6-014], and Updated Book of Reference - Revision 5 submitted at Deadline 6 [REP6-013].
- Updated Crown Land Plans - Revision 3.0 [REP2-003]
- NNB Generation Company (SZC) Limited response to ExA's First Written Questions [REP2-100], and Appendix 5D thereto [REP2-108]

Detailed Agenda for Compulsory Acquisition Hearing (CAH)

CAH Part 1

- 1. Welcome, introductions and arrangements for the Hearing**
- 2. The statutory conditions and general principles applicable to the exercise of powers of compulsory acquisition:**
 - (a) Whether the purpose for which Compulsory Acquisition powers are sought would comply with section 122(2) of the PA2008?
 - (b) Whether all reasonable alternatives to Compulsory Acquisition have been explored?
 - (c) Whether the Secretary of State could be satisfied that the land proposed to be acquired is no more than is reasonably necessary for the purposes of the Proposed Development?
 - (d) Whether having regard to section 122(3) of the PA2008 there is a compelling case in the public interest for the land to be acquired compulsorily and the public benefit would outweigh the private loss?
- 3. Whether there is a reasonable prospect of the requisite funds becoming available:**
 - (a) The resource implications of both acquiring the land and implementing the project for which the land is required.
 - (b) Whether adequate funding is likely to be available to enable the Compulsory Acquisition to proceed within the statutory period following the draft DCO being made?
- 4. Whether the purposes of the proposed compulsory acquisition are legitimate and would justify interfering with the human rights of those with interest in the land affected:**
 - (a) What regard has been had to Articles 8 and 6 of the European Convention on Human Rights (ECHR) and Article 1 of the First Protocol?
 - (b) The degree of importance attributed to the existing uses of the land proposed to be acquired.
 - (c) The weighing of any potential infringement of ECHR rights against the potential public benefits if the draft DCO is made.
- 5. Consideration of duties under the Equality Act 2010**

The Applicant to provide an update in relation to compliance with any duties under section 149 of the Equalities Act 2010.

6. Sections 127 and 138 of the PA2008 – the acquisition of statutory undertaker’s land and the extinguishment of rights and removal of apparatus of statutory undertakers

(a) The current position in relation to negotiations with Statutory Undertakers.

(b) Whether Protective Provisions have been agreed with all Statutory Undertakers.

(c) In the event that agreement is not reached with all Statutory Undertakers, whether the relevant tests for the exercise of powers pursuant to sections 127 and 138 PA2008 would be met.

7. Section 135 of the PA2008 - Crown Land

The Applicant to provide an update in relation to the position on Crown Land.

CAH Parts 2 - 4

8. Continuation of Agenda from CAH Part 1 (if required)

9. Representations from parties who may be affected by the compulsory acquisition provisions in the draft DCO

The ExA will hear oral representations from:

(a) Affected Persons (APs) including additional APs who have notified a wish to make oral representations at this CAH:

East Suffolk Council (ESC)

Suffolk County Council (SCC)

Sally Watts on behalf of Ms Dyball, Ms Hall and SR Whitwell & Co

Simon Mellen

Michael Horton on behalf of Ward Farming, NJ Bacon Farms, and AW Bacon Will Trust

Michael Horton on behalf of David Grant

Raj Gupta and Michael Horton on behalf of Justin Dowley and Emma Dowley

Michael Horton on behalf of the Boden family

Nathaniel Bacon

Pinsent Mason on behalf of NDA and Magnox Ltd

(b) Any section 102 or Category 3¹ persons wishing to make oral representations.

10. Representations from Statutory Undertakers

The ExA will hear oral representations from:

Network Rail

11. Any other matters relevant to the Agenda

12. Close of Hearing

¹ Those persons whose land is not proposed to be subject to compulsory acquisition but whose land or property may be affected by the construction or use of the proposed development such that they may be able to make claims for compensation (section 57(4) PA2008 (as amended)).