

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 Issue Specific Hearings (ISH) from Wednesday 25 August Friday 27 August 2021 was provided in the Examining Authority's letter dated 27 July 2021 [PD-030].

Detailed Agenda for Issue Specific Hearing 10 (ISH10) on Biodiversity and Ecology

Dates: Friday 27 August 2021

Arrangements Conference: 9.15am Friday 27 August 2021

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

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 Examining Authority (ExA) has identified the matters to be considered at this ISH, and those on which it requires additional information, and these are set out in this agenda. It is intended that the scope of the ISH 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.

Oral submissions on other matters or from persons who are not IPs may only be heard at the discretion of the ExA. However, reliance should not be placed upon the exercise of that discretion and attention is drawn to the opportunity for any such submissions to be made in writing by **Deadline 7, 3 September 2021**.

The ExA invites and would particularly like to hear from the following IPs during this Hearing:

- The Applicant
- Natural England
- Marine Management Organisation
- Environment Agency
- East Suffolk Council
- Suffolk County Council
- RSPB
- Suffolk Wildlife Trust
- Suffolk Coast and Heaths AONB Partnership
- Suffolk Coastal Friends of the Earth
- Minsmere Levels Stakeholders Group
- Bioscan
- Sarah Morgan for Farnham Environment Residents and Neighbours
- Paul Collins
- S.A.G.E.

Those IPs listed above are those from whom the ExA would particularly like to hear from on this topic. By way of clarification, IPs who are not included in that list, but who have specifically requested to speak at this ISH will also be sent a joining link. They are reminded that the ISH will be livestreamed in the usual way. The ExA would be grateful if those IPs who have indicated a wish to speak at all ISHs would notify the case team by noon on Friday 20 August 2021, if in fact they wish to participate in the discussion at this ISH.

Participation in the Hearing is subject to the ExA's power to control the Hearing. It is for the ExA to determine how hearings are to be conducted, including the time allowed at the Hearing for the making of a person's representations. IPs may be invited to make oral representations at the Hearing¹ (subject to the ExA's power to control the Hearing), on the specific issues being examined at the event, as set out in this agenda. The Hearing will be managed in the interests of ensuring that the submissions of invited persons are fully heard within the allotted time.

Oral representations should be informed by the Relevant Representations, Written Representations and Local Impact Reports made by the person by whom (or on whose behalf) the oral representations are made.

However, representations made at the Hearing should not simply repeat matters previously covered in a written submission. Rather, they should draw attention to those submissions in summary form and provide further detail, explanation, and evidential corroboration to help inform the ExA.

The ExA may ask questions about representations or ask the Applicant or other parties to comment or respond. The ExA will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the Hearing will therefore be led by a member of the Examining Authority, supported by other members.

¹ Section 91 Planning Act 2008

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

The Hearing will run until the ExA is content that all matters on the agenda have been addressed. To avoid 'screen fatigue', session breaks will be provided after about 90 minutes of business, subject to the ExA's discretion.

Arrangements Conference

Invitees will receive a joining link or telephone number in a separate e-mail, shortly before the Hearing. Please join the Arrangement Conference at the appointed time for the Hearing you have been invited to. 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 Hearing to start promptly.

About the Issue Specific Hearing 10 on Biodiversity and Ecology

ISH7 addressed several Biodiversity and Ecology topics. The main purpose of this ISH is to undertake an examination of other issues within the topic of Biodiversity and Ecology, to follow up on some of the issues addressed in ISH7, to address some issues which were deferred from ISH7, address some related issues in Marine Water Quality and to provide an opportunity for the issues raised by IPs, in particular the differences between them, to be explored further by the ExA.

Detailed Agenda for Issue Specific Hearing 10 (ISH10) on Biodiversity and Ecology

1. Welcome, introductions and arrangements for the Hearing

Reference may be made to EN-1, EN-6, the Applicant's and IPs' responses to ExQ1, submissions at Deadlines 5 and 6 and other relevant submissions.

2. Ecology – general and policy

- a. To understand and explore compliance (or otherwise) with EN-1 (applied by para 3.9.5 of EN-6), in particular: (i) para 5.3.5 (and Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System (ODPM 06/2005, Defra 01/2005)); (ii) para 5.3.13 and County Wildlife Sites; (iii) para 5.3.14 and deterioration in relation to Foxburrow Wood; (iv) para 5.3.5 and beneficial biodiversity; para 5.3.18 and opportunities for enhancement of habitats where practicable.
- b. To understand and explore compliance (or otherwise) with EN-6 Part II Annex A paras Sizewell C.8.59, C.8.63 and C.8.67 (pages 207 and following) and whether the Applicant's proposals have sufficiently taken into account the issues identified in the Appraisal of Sustainability, and
- c. To be clear where the matters in a and b are addressed, brought together and discussed in the Application documentation

3. Marine ecology

- a. Sabellaria spinulosa, in general and progress with a Sabellaria mitigation and monitoring plan which is awaited from the Applicant - see also Natural England's position set out in their post-ISH7 submission [REP5-160] what DML conditions are proposed for mitigation and comments on likelihood of presence and need for compensation (see also MMO's REP6-039) paras 1.3.6.6 and 1.3.7.6)
- b. To understand which issues considered at the Hinkley Point C water discharge permit acoustic fish deterrent appeal and in dispute are common to the Sizewell DCO application
- c. Eels Regulations; to understand the positions of the Environment Agency and Applicant in relation to compliance and entrainment monitoring – see the responses and exchanges on ExQ.Ma.1.0 and the Environment Agency's position generally on this
- d. Smelt – the Environment Agency's position in their Written Representation [REP2-135], summarised at Annex B, page 74
- e. Alde & Ore – reduction in numbers of fish entering – to understand the Environment Agency's position in their written representation [REP2-135] summarised at Annex B page 74
- f. Environmental permitting and the DCO; to understand the positions of the Environment Agency and Applicant in relation to the need for protective measures in the DCO – paragraph 11.5 of the Environment Agency's Relevant Representation [RR-0373]

- g. Impacts of bromoform and hydrazine on birds, both direct and indirect are raised by RSPB in their response to Ma.1.8. The Applicant's reply only addresses indirect effects. To understand the Applicant's position.

4. Terrestrial ecology

- a. Fen meadow proposals, including Pakenham – to understand in particular Natural England's position on need, quantum and the likelihood of success
- b. Wet woodland
- c. Designated sites including County Wildlife Sites, Foxburrow Wood and veteran trees
- d. Protected species including bats and progress with draft licence submissions to Natural England – see also their response in their post-ISH7 submission [REP5-160]
- e. District licensing – changes and effects
- f. SSSI crossing (including landscape and visual aspects)
- g. Biodiversity net gain – the effect of the new metric and assessment of SSSIs

5. HRA issues

- a. The Applicant's HRA screening assessment – to seek clarification on specific European sites and qualifying features, with views also sought from Natural England and IPs to understand any outstanding differences between the Applicant and Natural England/IPs with regards to the conclusions of no likely significant effects
- b. Summary or list of those European sites and qualifying features that Natural England do not currently agree with the Applicant's conclusion of no adverse effects on integrity
- c. HRA and recreational pressure on European sites - to understand the position of the Applicant and IPs, including Natural England, with regards to the proposed mitigation to avoid adverse effects on the integrity of European sites arising from recreational pressure, including progress on the two Management and Monitoring Plans and the securing of such measures
- d. Outer Thames Estuary SPA and red throated divers – to explore the assumptions made by the Applicant in their assessment and the Outline Vessel Management Plan with regards to the timings of vessel movements and how timing restrictions are secured. To seek comments from Natural England, the MMO, RSPB/SWT and IPs on the Outline Vessel Management Plan
- e. HRA and marine mammals:
 - i. Mitigation - to explore whether the draft Marine Mammal Monitoring Plan (MMMP) should be a certified document that the final MMMP should be based upon and therefore referred to in Condition 40 of the DML and certified. To seek the views of NE and MMO on the contents of the draft MMMP and the Applicant's 'Underwater noise effect assessment for the Sizewell C revised marine freight options' submitted at Deadline 5

- ii. Seals – to obtain an update on the discussions between the MMO, Natural England and the Applicant with regards to mitigation proposed for seals; for which European Sites is this relevant?
- iii. Noise, light and visual disturbance - To understand NE's view with regards to the information requested in respect of noise, light and visual disturbance of grey seals, harbour porpoise and common seal of the Humber Estuary SAC, Southern North Sea SAC and The Wash and North Norfolk Coast SAC utilising the MDS as functionally linked land
- iv. Southern North Sea SAC – to seek the views of NE further to the Applicant's updated assessment of prey species impingement [AS-173], [AS-238] [REP6-016]
- v. Draft Site Integrity Plan (SIP) – to seek the views of NE, MMO and IPs on the draft SIP and to explore how secured and whether this should be certified document
- f. Marsh harrier compensatory measures – to explore the proposed compensatory measures, including the additional habitat proposed at Westleton and how these are secured through the DCO with reference to the certification of documents, and to explore Natural England's reasons leading to Westleton being proposed
- g. HRA and migratory fish²:
 - i. Prey species – to seek clarification regarding the relationship between the fish entrapment calculations and indirect impacts of prey availability to SPA and SAC qualifying features; to explore which European sites and qualifying features this applies
 - ii. Equivalent Adult Values (EAV) and stock size – to seek views on the Applicant's Technical Note on EAV and stock size (Appendix F of [REP6-024]); and to explore the EA's response at Deadline 5 [REP5-150] with regards to an updated impingement assessment to include repeat spawning in the EAV calculations
 - iii. Entrapment uncertainty report – to seek the views of the EA and NE on the Applicant's report entitled 'Quantifying uncertainty in entrapment predictions for Sizewell C' [REP6-028] and in particular on whether without the LVSE heads effects are below thresholds which would trigger further investigation for potential population level effects.

6. Timescale for the submission of further documents and the use of the Examination Library

- a. What further documents (not revisions) are envisaged?
- b. What further revisions are envisaged?
- c. When will they be submitted?
- d. The importance of using Examination Library references

7. Close of hearing

² The ExA has understood what was said at ISH10 in relation to the Hinkley Point C water discharge permit acoustic fish deterrent appeal but would like at least an update on the matters in agenda item 5.f and the clarifications sought.

Documents list

In addition to the documents listed in the detailed agenda, the following documents are likely to be referred to.

Agenda item	Documents
1	Note that Natural England and the MMO have made written submissions in lieu of attendance. They are available on the National Infrastructure website for this project
2	EN-1, EN-6, [APP-171] (EIA methodology) and [APP-590] (planning statement)
3	Natural England post-ISH submission [REP5-160], [REP3-046] Applicant's D3 Comments on Responses to Examining Authority's First Written Questions (ExQ1), p.741. [REP5-121] Applicant's D5 Comments on Responses to the ExA's First Written Questions (ExQ1)
4	Wet woodland - [REP5-275] (FoE); Designated sites - [REP5-145] (ESC post-ISH7 written submissions); SSSI Crossing [REP6-032] (ESC submission); [REP1-045] Local Impact Report
5b	[REP1-045] LIR para 8.37
5c	[REP2-118], [REP5-105], [REP5-122],
5d	Protected species [AS-208] (updated bat assessment) [REP1-045] LIR para 8.52
5e	[REP5-124], [REP2-121], [AS-173], [AS-238], [REP6-016], [RR-0878], [REP5-159], [REP3-070a]
5f	[REP6-046] (RSPB), [AS-408] (Applicant note on Marsh Harrier habitat), [REP5-160] (Natural England post-ISH7 written submission), [RR-0878] (Natural England relevant representation)
5g	Applicant's Technical Note on EAV and stock size (Appendix F) of [REP6-024], [REP5-150] (Environment Agency D5 response), [REP6-028] (the Applicant's report entitled 'Quantifying uncertainty in entrapment predictions for Sizewell C')

Please note: The Agenda provides a framework for the Hearings and is not exclusive or exhaustive. The ExA may rearrange the Agenda on the day; may omit or add other issues; may alter the order in which issues and items are considered; and may ask for some matters to be addressed in writing in post-Hearing submissions.