

The Sizewell C Project, Ref. EN010012

Compulsory Acquisition Hearing Part 2 (18 August 2021) – (CAH2)

Post Hearing Submissions including written summary of Suffolk County Council's Oral Case

Suffolk County Council Registration ID Number: 20026012

Deadline 7

3 September 2021

Glossary of Acronyms

- **2VB** – Two Village Bypass
- **CoCP** – Code of Construction Practice
- **CWTP** – Construction Worker Travel Plan (Revision 2.0) [REP2-055]
- **CTMP** – Construction Traffic Management Plan (Revision 2) [REP2-054]
- **DCO** - Development Consent Order (Revision 4 tracked) [REP2-013]
- **EM** - Explanatory Memorandum to the DCO (version 3) [REP2-016]
- **ESC** – East Suffolk Council
- **HGV** – Heavy Goods Vehicles
- **oLEMP** – Outline Landscape Ecological Management Plan
- **SCC** – Suffolk County Council
- **SLR** – Sizewell Link Road

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Post Hearing Submissions including written summary of Suffolk County Council's Oral Case

Note: These Post Hearing Submissions include a written summary of the Oral Case presented by Suffolk County Council (SCC). They also include SCC's submissions on all relevant Agenda Items, not all of which were rehearsed orally at the CAH due to the need to keep oral presentations succinct. The structure of the Submissions follows the order of the Agenda Items but within each Agenda Item, the Submissions begin by identifying the main points of concern to SCC and then turn to more detailed matters and specific matters of drafting.

Examining Authority's Agenda Item / Question	Suffolk County Council's Response	References
Agenda Item 9 – Representations from parties who may be affected by the compulsory acquisition provisions in the draft DCO		
<u>Highway Boundary</u>	<p>Discussions are ongoing between SCC and the applicant regarding the precise limits of land being taken into the highway maintainable at public expense, and those areas of highway being stopped up and returned to adjacent landowners. The details are dependant to a large extent on the areas required by drainage of the public highway, for access to this drainage and areas necessary for landscaping including, if required, noise mitigation bunds.</p> <p>An example of this is the drainage north of the River Alde bridge on the TVB. The Plans for Approval SZC-SZ0204-XX-000-DRW-100038 Rev 3, SZC-SZ0701-XX-000-DRW-100166 Rep3 (REP5-020) show a private access track separating the drainage lagoon from the main carriageway. During technical meetings it was agreed with the applicant that the lagoon should be located adjacent to the main carriageway to allow unimpeded access from the highway and that the private access track would be located to the east of the lagoon.</p> <p>Drawing SZC-AD0320-WSP-TVBHDG-ZZ0000-DRW-HCD-305000 P01 dated 05/02/20 was submitted to the highway</p>	

	<p>authority in May 20021 for preliminary technical approval. This has yet to be reflected in the plans for approval.</p> <p>Several parts of the drainage for the SLR rely on connections between highway drainage lagoons and existing ditches or watercourses. In discussions with the applicant it was agreed that incorporation of these drains into the public highway was excessively disruptive to landowners and that a more appropriate measure was for the applicant to agree easements or wayleaves protecting the future highway access for the LHA.</p>	
Leiston Recycling Centre	<p>Leiston Recycling Centre is affected by the proposed realignment of Lover's Lane and associated changes to the access to the Centre. This important public facility serves a large catchment around Leiston, with the nearest alternative facilities being at Lowestoft to the north (approximately 35 minutes' drive), Foxhall, Ipswich to the south (35 mins) and Stowmarket to the west (50 mins).</p> <p>The Centre is safeguarded in the Suffolk Minerals and Waste Plan 2020, which is at Appendix 1.2 to the Local Impact Report [REP1-063]. The relevant policy (policy WP18) is set out in Table 5 on page 123 of the LIR [REP1-045]. It says:</p> <p>"The County Council will seek to safeguard existing sites and sites proposed for waste management use as shown on the Proposals & Safeguarding Maps and will object to development proposals that would prevent or prejudice the use of such sites for those purposes unless suitable alternative provision is made.</p> <p>Development proposals in close proximity to existing sites, should demonstrate that they would not prejudice or be</p>	

	<p>prejudiced by a waste management facility. The safeguarding policy will also apply to any site where planning permission has already been granted.</p> <p>Where existing business or other use could have a significant adverse effect in any proposed new development, the applicant must provide suitable mitigation before the development is completed so that the existing use is not disadvantaged by new development.”</p> <p>The land to be acquired permanently under the Order includes plot MDS/02/40a which is an area of hardstanding at the entrance to the Centre. SCC is named as having an interest in the land in the book of reference (revision 5 [REP6-013]).</p> <p>SCC’s lease of the site from EDF Nuclear Generation Ltd expired in 2014 and SCC have been “holding over” since then, the consequences being that it is likely that it occupies the Centre under a tenancy at will.</p> <p>Since the CAH, SCC has reached in-principle agreement with the Applicant with regard to the HWRC, that a design can be found that will ensure that the HWRC can remain operating from its existing site. This design is subject to further detailed refinements (requested by SCC on 19th August 2021) to provide clarity on a number of discreet elements, such as the revised access tie in with the existing fence line and the pedestrian access routes from re-provided staff car parking spaces.</p> <p>In order to reach final agreement on the issues relating to the HWRC, the Applicant and SCC must now agree the following:</p>	
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	<ol style="list-style-type: none"> 1. Legally binding terms to minimise the site impacts and service disruption during construction; and 2. Terms for the transfer of the freehold of the site. <p>Discussions on these matters are well underway.</p>	
Alde Valley Academy	<p>Existing sporting facilities at the Academy (which are designated as playing fields) are subject to temporary acquisition under the Order for the purpose of the construction and use of the sports facilities by the undertaker's workforce and the public. The relevant plot number is SF/11/01 and SCC are named in the book of reference [REP6-013] as the freeholder. The plot is subject only to temporary possession under the DCO, because it is listed in Schedule 17. "Temporary", in the context of the construction works could mean many years, and it is SCC's understanding that the facilities will be available for use by the applicant's workforce (and others) for the duration of the construction period of 9 to 12 years.</p> <p>On the question of whether the sports facilities land is Crown Land for the purposes of section 227 of the Planning Act 2008, SCC understands that the Department for Education ("DfE") have written to the ExA and confirmed in their view that the land is not Crown Land, and that therefore no consent is required under section 135 of the Act. SCC supports this view and understands that the Applicant will amend the application documentation accordingly.</p> <p>As regards the use of the facilities, negotiations are ongoing and the intention is that the Applicant will provide a sum of money to East Suffolk Council ("ESC") to deliver and manage the new sports facilities. This is proposed to be dealt with under Schedule 10 to the Deed of Obligation [REP5-082]. The current</p>	

	<p>drafting would ensure the continued use of the sports facilities by the Academy and SCC would remain in ownership with the Academy Trust as lessee and with ESC operating the facility under a management agreement. SCC acknowledges that the powers to take temporary possession of the facilities are required as a fall back in the event that an agreement is not reached.</p> <p>The issue remains as to whether the DCO as drafted would override the need for any consent of DfE under section 77 of the School Standards and Framework Act 1998 should the occupation and/or use of land under the DCO occur. DfE has highlighted this issue in its recent letter to the ExA. At a meeting following the hearing, the Applicant said that it would be content for the draft DCO to be amended so that it is made clear that any requirement for consent under section 77 is not affected. SCC have proposed the following additional paragraph (2) to be added to article 37 (temporary use of land for carrying out authorised development):</p> <p>“() Nothing in this Order affects any requirement for the consent of the Secretary of State to be provided for the change of use of a playing field under section 77 of the School Standards and Framework Act 1998.”</p> <p>DfE have confirmed they are content with this drafting.</p>	
<p>Indemnification in respect of any claims submitted under Part 1 of the Land Compensation Act 1973 in relation to the use of new or altered highways constructed by the Applicant</p>	<p>Discussions on this issue have continued since the CAH. The Applicant has clarified that all costs arising from Part 1 claims that might arise in respect of highway works under the DCO should fall to be met by them and not SCC as the Highway Authority.</p>	

	<p>The Applicant has confirmed that in respect of authorised works to be carried out under the DCO, section 152(7) of the Planning Act 2008 would apply so that the Applicant will be the responsible authority as regards claims arising in respect of the depreciation in value of an interest in land by physical factors caused by the use of public works (including the Two Villages Bypass, the Sizewell Link Road and other highway works).</p> <p>Discussions are continuing in relation to other works which may not fall within section 152(7), in particular highway works to be delivered by the Applicant under the Deed of Obligation. The Council intends to secure a general indemnity from the Applicant in respect of compensation claims relating to such works in the same way it would normally expect to for highway works carried out by third parties.</p>	
Pakenham Fen Meadow	<p>The intention remains for agreement to be reached between the parties and to be set out in a statement of common ground. Two important issues were raised in the Request to Participate [REP6-050], namely</p> <p>(a) details regarding the scheme of works and ongoing management arrangements in respect of providing permanent fen meadow habitat compensation areas, and</p> <p>(b) clarification of the arrangements to ensure that the fen meadow will be permanent and maintained in perpetuity. SCC also identified the need for careful consideration of access and car parking in the light of increased visitor numbers, the need to upgrade and improve existing rights of way and walking and cycling connectivity with the village of Pakenham.</p>	

Two Village Bypass and Sizewell Link Road drainage	Uncertainty remains regarding the drainage strategy and in particular the size and location of drainage lagoons as identified in the Request to Participate [REP6-050].	
Public rights of way:	As identified in the Request to Participate [REP6-050], 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].	
Other general highways land related issues:	<p>The Request to Participate [REP6-050] identified a number of other highway land related issues yet to be resolved. The following remain unresolved at D7:</p> <p>(a) the need for a covenant by the Applicant to comply with the requirements of the Noise Insulation Regulations 1975 (SI 1975/1763) and to provide to Suffolk County Council such evidence as is required by Suffolk County Council to demonstrate compliance with those Regulations</p> <p>(c) clarity about the status of temporary highway works such as the roundabout for the northern park and ride. In particular status of those highway works between completion of the works and removal at the end of the SZC construction period. Presently the dDCO states that these would become</p>	

	<p>maintainable highway 12 months after completion [REP5-030] but this is not accepted by SCC at this time</p> <p>(d) the provision of bonds to cover the authority’s risk of non-completion of highway works, including remediation of temporary highway works</p> <p>(e) the payment of commuted sums will be required for future maintenance of highway works.</p> <p>Since the CAH, SCC and the Applicant have been able to resolve the following issue:</p> <p>(b) the need for agreement by the Applicant that they will pay all approval, supervision and legal fees associated with creating and implementing highways agreements: The Applicant has agreed to SCC’s standard fees to cover technical approval and supervision of highway works, at 7.5% of the bond (see https://www.suffolk.gov.uk/planning-waste-and-environment/planning-and-development-advice/application-for-works-licence/).</p>	
Agenda Item 10 – Representations from Statutory Undertakers		
Agenda Item 11 – Any other matters relevant to the Agenda		