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To the Applicant, Historic England, East
Suffolk Council, Suffolk County Council,
Natural England

Your Ref:

Our Ref: EN010012

Date: 20 September 2021

Dear Sir/Madam

**Planning Act 2008 (as amended) and The Infrastructure Planning
(Examination Procedure) Rules 2010 (as amended) – Rule 17**

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

Request for further information

The Examining Authority has further questions, directed to the above parties. Please note the deadlines for responses.

Sizewell Link Road – Design Considerations.

As referred to by Mr Merry of Suffolk County Council during ISH13 on 16 September 2021 [EV-142e], the original design speed for the Sizewell link road was 50mph. However, the current design is a 60mph road. Please can the Applicant explain the rationale for the chosen speed of 60mph as opposed to a lesser design speed.

If the Sizewell link road was a lesser speed than 60mph, please can the Applicant confirm whether this would lead to reduced impacts in respect of air quality, noise, landscape and the historic environment? If the design speed were reduced would not that road more appropriately meet the tests set out in the National Policy Statement by minimising impacts? Please can the Applicant provide a response to these questions for Deadline 8 on 24 September 2021.

In addition, could Suffolk County Council provide their view on this matter for Deadline 8 on 24 September 2021.

**Heveningham Hall Estate and Cockfield Hall Complex – Historic Environment
Impacts.**

The response made by Historic England at ISH13 on 16 September 2021 [EV-142e] regarding the Applicant's assessment findings in respect of the Cockfield Hall complex

is noted. In respect of this issue and noting the recent Stonehenge judgement [2021] EWHC 2161 (Admin), please can Historic England confirm whether their position remains as detailed at [REP2-138] paragraphs 2.145-2.152 for Deadline 8 on 24 September 2021.

Project Enhancement

Several references have been made by the Applicant in respect of additional measures which have been referred to as 'enhancement' or 'corporate social responsibility measures'. For Deadline 9 on 30 September 2021, please can the Applicant provide a project-wide table which lists those measures which are considered enhancement or corporate social responsibility measures as opposed to mitigation.

Accommodation Campus

Can the Applicant explain, for Deadline 8 on 24 September 2021, the distinction between the terminology used in the draft Deed of Obligation [REP7-041] (Housing Fund and Housing Contingency Fund) and the terminology used in Appendix 3B of [REP7-057] (Housing Fund – Contingent elements, Housing Fund-non contingent elements) so that there is a full understanding of how the various components of the 'Housing Fund' are proposed to work and the figures presented in both documents are made up.

Main Development Site – Flood Risk Assessment

The Statement of Common Ground with the Environment Agency [REP7-090] identifies at point MDS_FRA8 in Table 2.5 that landowner consent needs to be sought for increase in flood depth at the tank traps and that Natural England need to be consulted. Can the Applicant provide, at Deadline 9, an update of the position with respect to agreement for the increase in flood depth.

Appendix C to the Applicant's Response to the Examining Authority's commentary on the DCO [PD-038]

A commentary with questions is set out at Annex A to this letter. Please respond at Deadline 8, 24 September. East Suffolk Council should note there are points directed to both the Applicant and East Suffolk Council.

Parameter plans and approved plans – which take precedence? – art 4 of the dDCO and Requirement 8

The ExA stated at ISH14 that it would issue questions on specific Requirements. The questions are at Annex B to this letter. Please respond at Deadline 8, 24 September. There are points directed to both the Applicant and East Suffolk Council.

Biodiversity, ecology and HRA

Questions are set out at Annex C. They are for response at Deadline 10, 12 October. Parties can respond to these questions as part of their updated SoCGs or comments on the Report on the Implications for European Sites (RIES), for efficiency. However, in that case there must be clear cross-referencing.

Marsh Harrier

Natural England responded on 17 September to [EV-188] (the ExA's Request for Written Responses from Issue Specific Hearing 10). The ExA has follow-up questions on the responses to item (f) of [EV-188] (which are to be found at section 5 of Natural England's response note). Please will Natural England answer the follow up questions which are set out at Annex D to this letter. Please respond at Deadline 8, 24 September 2021.

Yours faithfully

Wendy McKay

Wendy McKay
Lead Member of the Examining Authority, on behalf of the Panel

Annex A

STRATEGIES AND PLANS SECURED BY THE DCO AND DoO – COMMENTARY AND QUESTIONNAIRE

For response at Deadline 8, 24 September 2021

1. The Applicant's note "Structure of Control Documents and Subsequent Approvals" (Appendix C to Book 9, 9.72, Applicant's response to the ExA's Commentary on the DCO [REP7-058], hereinafter referred to as the Structure Note) came out of the ExA's questioning of various Codes, outline Plans, Strategies and the like. The ExA was assured there was a framework in the DCO and other regulatory documentation which delivered robust obligations and controls. It explains that level 2 documents are to be approved by various bodies and are enforceable by the requirements, DML or DoO. Let us do a worked example to test this.
2. Worked example 1 – the Dust Monitoring and Management Plan
 - 2.1. Table 2 tells us this sits under the CoCP (a level 1 document) and is a level 2 document for approval. The approving body is ESC and the securing mechanism is Reqt 2.
 - 2.2. The CoCP (Rev 5 submitted at D7 submission) says "*Further details of dust monitoring and management will be set out in a Dust Monitoring and Management Plan (DMMP) that would be prepared before relevant construction works commence. The frequency, methods and indicative locations for dust monitoring would be agreed with ESC through the DMMP and secured by Requirement. The DMMP would be submitted to ESC for approval and would be implemented as agreed*".
 - 2.3. However, there is nothing in the CoCP to provide a procedure for that. Nor does a word search for "dust" in the dDCO produce any procedure. Nor can the ExA find anything for that in the DoO. Questions which arise are (a) what is the procedure, (b) what are the time limits and dispute resolution procedure and (c) is there a fee structure?
 - 2.4. The same quotation from the CoCP says the frequency, methods and locations for monitoring would be both agreed "and secured by a Requirement". The "would be" suggests a future requirement. There is no mechanism for that to come into existence. Is there an existing requirement in the dDCO which is being referred to?
 - 2.5. Reqt 2 states that "*The construction of the authorised development and the removal and reinstatement of the temporary works must be carried out in accordance with the Code of Construction Practice, unless otherwise approved by East Suffolk Council*". It is unclear from the wording of Reqt 2 whether the Dust Monitoring and Management Plan or other level 2 documents referred to in the Structure Note are documents which must be complied with in order to comply with Reqt 2. It needs to be made crystal clear in the DCO that that are.
 - 2.6. A word search for Dust Monitoring and Management Plan in the DoO Rev 7 does not produce any results.
 - 2.7. Table 2 says the relevant governance group is the Environment Review Group ("ERG"). This, like the other groups, is to be found in the DoO. Sch 11 Natural Environment para 13 seems to be the complete statement and incorporates other parts and definitions in Sch 11. (In passing the ExA notes that the definition of the ERG¹ states that it is "constituted in accordance with

¹ At para 1.1 of Sch 11

and having the functions ascribed to it by paragraph 13.1". Para 13.1 does not go that far. The reference should be to para 13 as a whole. The definitions of other groups make a similar error. But it is not the job of the ExA to check the Applicant's preparation and drafting.)

2.8. Nowhere in para 13 are there any functions relating to the Dust Monitoring and Management Plan. A word search for Dust Monitoring does not return any hits.

2.9. The ExA questions whether the ERG is in fact meant to be monitoring or governing the Dust Monitoring and Management Plan. It questions the enforceability of the DMMP. This is disappointing as the DMMP was chosen at random to work through the explanations given to the ExA during the Examination, and to test how the plans are secured and enforced.

2.10. Nor are there any references to a Soil Management Plan, a Main Site Noise Monitoring and Management Plan, or to any Associated Development Sites Noise Monitoring and Management Plans, all of which are said in the Structure Note to come under the ERG. Nor is the CoCP referred to in the functions of the ERG.

3. But to return to Table 2 of the Structure Note, what it says about the Overarching Archaeological Written Scheme of Investigation, Peat Strategy and Drainage Strategy and Estate Wide Management Plan is correct. They are all to be approved by one of the Councils.

4. There is however an error with the TEMMP which is said to be for the approval of the EWG, whereas Reqt 4 actually gives approval to ESC. And the Construction Emergency Plan is said not to require approval. However, Reqt 5(3) clearly contemplates approval, presumably by SCC and so Reqt 5 needs to state this clearly and if the Structure Note is to be revised it should be corrected.

5. The references to the relevant governance groups on page 1 of Table 2 are however puzzling. Three are referred to – ERG, Ecology Working Group, and Planning Group. Yet none of them appear to have any functions with regard to the Level 1 or 2 Control Documents on page 1. The functions of the Planning Group in the DoO are hard to discern apart from being a dispute resolution body for the Working Groups. Please will the Applicant check whether the other Governance Groups actually have any functions in relation to the Level 1 and 2 Documents allocated to them by Table 2 and confirm the position, and make any necessary amendments

6. Coastal Processes Monitoring and Mitigation Plan. The approval mechanism is correctly described in Table 2 page 2. However separate plans are to be submitted to ESC and to the MMO, with the possibility of different results. How is that to be avoided?

7. Page three is correct, except that the ExA has the concerns as to whether the functions are actually allocated to the relevant governance groups, set out in paragraph 5 above.

8. Page 4. There are some points here.

8.1. What is described as a Fish Impingement and Entrainment Monitoring Plan has a different name in the DML where it is a Fish Entrainment and Impingement Monitoring Plan.

- 8.2. There are no obligations to comply with the Marine Mammal Mitigation Protocol, the Site Integrity Plan, the Sabellaria Reef Management and Monitoring Plan, the Fish Impingement and Entrainment Monitoring Plan
- 8.3. Housing Supply Plan and Tourist Accommodation Plan. The ExA presumes the Applicant means the Private Housing Supply Plan (PHSP). Please will the Applicant confirm.
- 8.3.1. Private Housing Supply Plan – this is influential in the release of the Housing Fund. £2,000,000 is paid 1 month after approval of the PHSP and then £1,139,661 “from the first anniversary of approval to sixth anniversary” – DoO Sch 3, para 2.7.2 (B). Should this say this sum is to be paid on EACH anniversary? It is unclear at the moment. ESC spend the money on accommodation purposes – the types of initiatives and the aim – 1200 bedspaces before 6th anniversary of Commencement Date (see para 2.7.6). SZC provide six-monthly reports of demand and use (para 2.7.4). AWG can review the PHSP in the light of that and how ESC have spent the money.
- 8.3.2. Tourist Accommodation Plan – required by para 2.8.1 and then payments are made to support tourist accommodation initiatives in the plan. Then annual payments to support Accommodation Providers, reports and plan revisions if AWG require them.
- 8.3.3. On the RE issue as a whole, there are other plans and most recently in Rev 7 of the DoO - a Housing Contingency Fund. The ExA presumes this is to be the Project Accommodation Delay provisions described at Appendix 3B of the Appendices to the Applicant’s responses to ExQs2 [REP7-057]. Please will the Applicant confirm. On these provisions, the ExA comments:
- 8.3.3.1. The delivery of any remedy is dependent on the private sector
- 8.3.3.2. That sector will already be motivated by rents, so if there is a problem still it is difficult to see how it will be solved
- 8.3.3.3. If the NHB workers number jumps from (in the case of the caravan park) 849 the day the survey is finalised to any number above 850, however high there is an immediate problem
- 8.3.3.4. But that problem will not be known until six months later and then there is a three-month delay until the caravan park is finished.
- 8.3.3.5. The same problems will affect the Housing Contingency Fund in the case of the Accommodation Campus.
- 8.3.4. Some of the points in 8.3.3. were explored at ISH14. The ExA asks the Applicant to set out their response and explanation carefully in their post-ISH14 summary at Deadline 8. Similarly, ESC is asked to set out its position carefully in its post-ISH14 summary. Question 8.3.3.3 was not put. Question 8.3.3.4 was mentioned but not followed up. The Applicant’s answer to Question 8.3.3.5 is assumed to be the same as the answers to Questions 8.3.3.1 and 8.3.3.2 but please will the Applicant confirm or explain otherwise.
- 8.4. Annual Skills Implementation Plans: whilst these have to be produced, the ExA cannot then see what is to be done with them, what difference they make
- 8.5. The Apprenticeship Strategy is actually to be part of the Workforce Delivery Strategy which is its Level 1 Control Document. There is no approval by ESEWG but instead the document is produced in consultation with them. In addition, the Workforce Delivery Strategy is in fact for the approval of the ERG which does not sound right. There is no requirement for approval of the Supply Chain Work Plan. What should be the position on these matters?

8.6. The Annual Skill Implementation Plans, are actually approved by the ERG in the DoO, but the substantive question is, what is then done with it? Where is it implemented?

8.7. In relation to the Supply Chain Work Plan the ExA cannot see any requirement for it to be approved.

9. Page 5. The measures described on this page appear to be in order.

10. Page 6. The measures described on this page appear to be in order.

Annex B

Questions arising from ISH14 (DCO and allied documents), Agenda Item 4

PARAMETER PLANS AND APPROVED PLANS – WHICH TAKE PRECEDENCE? – ART 4 OF THE dDCO AND REQUIREMENT 8

For response at Deadline 8, 24 September 2021

During the hearing, the Applicant confirmed that that the Approved Plans are in all cases within the Parameter Plans. The following are questions are on the detail of certain relevant parts of the dDCO, revision 8, [REP7-006].

(a) In the case of Art 4(2) and the GRR, TVB and SLR to which it applies, the vertical deviation is 1 metre up or down, but the Parameter Plans and Approved Plans only apply laterally. Please will the Applicant confirm that a 1 metre up and down deviation would be within the Parameter Plans?

(b) Req 11 – Approved Buildings on the MDS, a list of works which are all part of Work No.1, but the Req only applies the Parameters Plans to alternative plans. In answer to the question, what happens if there is a difference between the Parameter Plans and the plans referred to in Req 11(1)? The Applicant explained that Req 11 applies to buildings that have been designed – see also the reference to Approved Plans. Therefore, the reference in Req 11(2) to alternative plans (and only alternatives) being in accordance with Parameter Plans is proper.

(c) Req 12 – MDS reserved matters, the Parameter Plans apply to some buildings on the MDS, but not all. Why? It was explained by the Applicant that between them, Reqs 11, 12 and 13 cover all the buildings, structures and plant on the MDS. Req 13 requires the buildings to which is applies to be in accordance with the relevant Parameters Plans.

(d) Req 12A sports facilities – there is no reference to Parameters Plans in the Req. Why is this? How has the design been assessed in the ES? (Applicant)

(e) Req 12B is the BLFs and the HCDF – Parameter Plans apply.

(f) Req 12C – SSSI crossing – there is no reference to Parameter Plans. How is this acceptable? (Applicant)

(g) Req 13 – MDS ancillary structures – Parameter Plans specifically apply

(h) Req 17 – Accommodation campus – the Parameter Plans are applied by this Req and take precedence

(i) Req 20 – Associated development sites buildings, structures and landscape – Park and Rides and the Freight Management Facility. There are no Approved Plans and the Parameter Plans only apply to variations. Is the reason for this that the Associated Development Design Principles referred to in Req 20(1) have been assessed in the ES? (Applicant)

(j) Other Works where Parameter Plans don't seem to be applied are Work 11C (the TVB footbridge); Work 12C (SLR road bridge); and Part 2 (Other Associated Development). Please will the Applicant explain why this is proper.

(k) Please will East Suffolk Council and Suffolk County Council state whether they agree with the ExA's summary in questions (b) and (c) above of the Applicant's explanations given during ISH14.

Annex C

BIODIVERSITY, ECOLOGY AND HRA

For response at Deadline 10, 12 October 2021

1	<p>Cumulative/inter project effects</p> <p>To Applicant, NE and RSPB/SWT:</p> <p>In the absence of an updated SoCG between the Applicant and NE at the point of issue of the RIES, the views of NE with regards to the Applicant's assessment of cumulative/inter project effects in the HRA are unknown/unclear. The Deadline 2 initial SoCG records this matter as 'discussions ongoing'. Similarly, the initial SoCG submitted at Deadline 2 between the Applicant and the RSPB/SWT records this matter as 'not agreed' and it is unclear whether this matter is under further discussion between the Applicant and the RSPB/SWT.</p> <p>Please could NE comment on the Applicant's assessment of cumulative/inter project effects. Do you have outstanding concerns? If so, please expand with reference to any information or assessment you are seeking from the Applicant on this matter.</p> <p>Please could the RSPB/SWT also expand on any outstanding concerns with the Applicant's assessment of cumulative/inter project effects.</p>
2	<p>In combination effects – Sizewell B relocated facilities</p> <p>To NE and Applicant:</p> <p>NE [RR-0878] identified the Sizewell B relocated facilities Town and Country Planning Act application as a potential in combination project, stating that "<i>The application for Sizewell B has been revised and resubmitted to the Local Planning Authority. Natural England have not yet had the opportunity to provide detailed comment on the revised application. We would expect the DCO to be updated with the details of the new application and any potential impacts considered.</i>"</p> <p>Could NE confirm whether it has provided detailed comments on the revised application for Sizewell B and whether it considers there to be potential in combination effects with this project.</p> <p>Could the Applicant also respond to NE's comment in their Relevant Representation on this matter.</p>
3	<p>HRA Screening – breeding bittern of Minsmere-Walberswick SPA and Benacre to Easton Bavents SPA</p> <p>To NE, EA and RSPB/SWT</p> <p>The Applicant has confirmed a worst-case assessment of entrainment of eels had been presented in [AS-238] and that the effects were</p>

	<p>predicted to be between 0.007 and 0.024% of the River District Basin biomass. It therefore considers there to be no discernible impact pathway to breeding bittern of Minsmere-Walberswick SPA and Benacre to Easton Bavents SPA [APP-148].</p> <p>Do NE, the EA and the RSPB/SWT have any comments on the Applicant's assessment of indirect impacts on breeding bittern from entrapment of eel as their prey species?</p>
4	<p>Air quality assessment – in combination effects</p> <p>To Applicant</p> <p>Could the Applicant confirm where it has responded to the comments made in representations on behalf of Heveningham Hall Estate [RR-0908 and REP2-287 (section 3)], which stated that there was a lack of assessment of in combination effects from traffic emissions in the Applicant's Shadow HRA Report?</p>
5	<p>Air quality assessment and qualifying features of the Minsmere-Walberswick Ramsar site</p> <p>To the Applicant</p> <p>The Applicant explained [REP3-042] that only a small part of the vegetated sand dune habitat qualifying feature (approximately 2ha) would experience an increase in nitrogen and acid deposition above 1% of the lower value of the Critical Load as a result of the Proposed Development. This 2ha area is described as "<i>only 5% of the approximately 43ha of vegetated sand dune in the underlying [Minsmere-Walberswick Heaths and Marshes] SSSI</i>".</p> <p>In view of the Ramsar and SSSI boundaries not being entirely coincident, what proportion of the vegetated sand dune habitat does 2ha represent in the context of the Minsmere-Walberswick Ramsar site?</p>
6	<p>Acoustic barriers</p> <p>To the Applicant</p> <p>(i) Section 3.3a in Part of B of the CoCP [REP7-038] confirms that acoustic screening would be an early priority during Phase 1 of construction, in accordance with the construction parameters plan. The RSPB/SWT [REP5-166] considers that a commitment to commence the construction of acoustic barriers at the beginning of construction Phase 1 (and before other significantly noisy activity occurs) should be secured. Is the Applicant willing to commit to this, and if so, will it update the CoCP?</p> <p>(ii) Please can the Applicant respond to RSPB/SWT's concerns [REP5-166] regarding noise levels during construction Phase 5 and the need to model and assess chronic noise during construction Phases 1, 2 and 5.</p>
7	<p>Monitoring and management of displaced waterbirds</p>

	<p>To the Applicant</p> <p>NE [REP5-160] recommended that monitoring and adaptive management for displaced waterbirds should be more robust than that currently proposed within the Terrestrial Ecology Monitoring and Mitigation Plan (TEMMP) [REP5-089]. The RSPB/SWT [REP5-164] also consider there to be a need for a robust monitoring and mitigation plan. Please can the Applicant respond to this matter?</p>
<p>8</p>	<p>Outline Vessel Management Plan</p> <p>To MMO, NE* and RSPB/SWT</p> <p>Do the MMO, NE and the RSPB/SWT have any comments on the revised version of the Outline Vessel Management Plan submitted by the Applicant at Deadline 7 [REP7-046]?</p> <p>*The ExA notes and welcomes NE’s intention to submit its comments on the revised version of the Outline Vessel Management Plan at Deadline 8, as stated in NE’s submission dated 17 September 2021.</p>
<p>9</p>	<p>Collision risk with power lines and pylons</p> <p>To the Applicant, NE and National Grid</p> <p>In Appendix D of [REP6-024], the Applicant proposes as a precautionary measure that line markers are installed to minimise collision risk with power lines: <i>"SZC Co. will update the design principles to include reference to the proposed line markers, subject to operational and technical requirements and consideration of the views of key stakeholders, including National Grid"</i> [REP6-024].</p> <ul style="list-style-type: none"> a) Can the Applicant confirm where this commitment is secured as part of the design principles document? b) Does NE or National Grid have any comments on the Applicant’s proposal? c) Does NE consider line markers essential to reaching a given conclusion? <p>The Applicant should note that if line markers are considered essential by NE to rule out effects on European sites, the ExA would expect the Applicant to ensure this commitment is secured without any potential for it not to be implemented (for example, if it conflicts with the views of National Grid).</p>
<p>10</p>	<p>In combination effects – AEoI</p> <p>To NE:</p> <p>NE’s comments on the Applicant’s HRA assessments/information have largely focused on potential impacts arising from the project alone when considering the potential for AEoI. Does NE have any outstanding concerns with regards to any remaining potential for AEoI in</p>

	combination with other plans or projects at the appropriate assessment stage?
11	<p>Alternative Solutions and Imperative Reasons for Overriding Public Interest (IROPI)</p> <p>To NE:</p> <p>NE's RR [RR-0878] stated that "<i>The criteria for derogating from the Habitats Regulations are fulfilled with respect to marsh harrier, with regards to Minsmere-Walberswick SPA and Ramsar site</i>". Does NE have any views or comments on the Applicant's case for Alternative Solutions [APP-150] and IROPI [APP-151] with regards to the identified AEoI to the marsh harrier qualifying features of the Minsmere-Walberswick SPA and Ramsar as a result of the Proposed Development?</p>
12	<p>Recreational disturbance</p> <p>To the Applicant:</p> <p>NE has advised, in paragraph 2.13 of its submission of 17 September 2021 (Response to The Examining Authority's Request for Written Responses from Issue Specific Hearing 10), that "<i>...as a minimum the Applicant should consider two full time wardens and one seasonal wardens to cover the responsibilities outlined in their plans with contingency for further resourcing if the Environment Review Group deem it necessary</i>".</p> <p>Can the Applicant comment on whether it would consider increasing its proposed resource allocation for wardening in line with NE's advice?</p>
13	<p>Impacts on breeding birds (including marsh harrier) and their habitats</p> <p>To the Applicant:</p> <p>NE has reiterated (in its submission of 17 September 2021, Response to The Examining Authority's Request for Written Responses from Issue Specific Hearing 10), that compensatory habitats must be established and functioning in order to support displaced SPA birds from the start of the construction period.</p> <p>The Applicant's position is that the new wetland habitats proposed at Lower Abbey Farm on the EDF Energy Estate would be created in the first winter of the construction phase following the grant of any DCO.</p> <p>Can the Applicant please explain how the construction works would be phased to avoid impacts on breeding birds (including marsh harrier) and their habitats before the establishment of the compensatory habitat?</p>

Annex D

EXAMINING AUTHORITY'S FOLLOW-UP QUESTIONS TO NATURAL ENGLAND'S RESPONSE TO [EV-188], SECTION 5, MARSH HARRIER

For response at Deadline 8, 24 September 2021

1 Para 5.8.6 of Natural England's response states "Until the final stages of the planning process and submission of revised marsh harrier plans in 2021, the Applicant's draft shadow HRA passed Stage II and excluded Adverse Effect on Site Integrity on the basis of terrestrial habitat being provided as mitigation". The ExA's understanding is that the Applicant agreed it could NOT demonstrate no adverse effect on integrity and so proceeded to consider alternatives and then IROPI, from which compensatory habitat at Abbey Farm and (if the Secretary of State requires it) Westleton flowed. Please will Natural England state which is the case, with cross-references to the relevant documents and paragraphs.

2 In the same paragraph Natural England state that the Applicant claimed AEoI was excluded until "final stages of the planning process and submission of revised marsh harrier plans in 2021". Please clarify to which events and plans Natural England is referring. (Final stages of the planning process suggests closely before submission of the DCO application whereas revised plans in 2021 is obviously later.)

3 At para 5.8.8 Natural England point out: "Finally, at Issue Specific Hearing 10 Session 4 on 27 August, Natural England was made aware of evidence provided by Roger Buisson (Associate Director at BSG Ecology) in relation to his client's 53ha land holding close the SPA where wetland habitat for marsh harriers could be created." Please will Natural England set out what conclusion it draws from that. Does Natural England suggest there is a problem, substantive or legal, as a result of this?

4 At paragraphs 5.18 – 5.20 Natural England respond to the ExA's question on their conclusion that "The offer of additional compensatory habitat at Westleton will minimise residual concerns that the displacement of marsh harriers could result in an impact". However the ExA is still unsure what is being said. Is the answer to the question that the concerns are eliminated or only minimised? If only minimised, is that, in Natural England's view, a bar to the grant of a DCO, or how else does it affect the decision?