



**Comments on Other Submissions
(submitted at Previous Deadlines)**

**for the
Royal Society for the Protection of Birds
and Suffolk Wildlife Trust**

**Submitted for Deadline 8
24 September 2021**

Planning Act 2008 (as amended)

In the matter of:

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

**Planning Inspectorate Ref: EN010012
RSPB Registration Identification Ref: 20026628
Suffolk Wildlife Trust Registration Identification Ref: 20026359**

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1. Summary of latest RSPB/SWT Position

- 1.1. We apologise for not updating the ExA about continuing discussions with the Applicant and a revised Statement of Common Ground. We can confirm that this will be submitted as soon as possible and we are hoping by Deadline 9.
- 1.2. In the interim we thought it would be helpful to briefly set out our position. Please note (as set out in more detail in the covering email to this submission) we are continuing to find it extremely challenging to stay on top of all the new materials at each deadline. The RSPB/SWT have worked extremely hard to try and read all new documents however we are keen to ensure that further commentary could be made at Deadline 9 should this prove not to be the case and in light of further information to be submitted at Deadline 8.
- 1.3. *We maintain our objection to the Sizewell C project, in particular due to proposed land-take from Sizewell Marshes SSSI, which we cannot support, as well as significant concerns about potential impacts on waterbirds, marine birds, coastal vegetated shingle and bats.*
- 1.4. *Whilst we welcome Aldhurst farm to compensate for loss of reedbed from Sizewell Marshes SSSI, we do not believe that the full impacts on the fen meadow and wet woodland are being taken account of nor compensated for and are not confident of the ability to achieve full functionality for both fen meadow nor wet woodland.*
- 1.5. *We welcome the approach of the Water Monitoring Plan, but believe that the threat to the fen meadow community from potential changes to water quality has not been adequately considered.*
- 1.6. *We remain concerned about impacts on marsh harriers. We agree with the general approach towards foraging habitat replacement (comprising both wet and dry habitats), but consider that the additional wetland within the compensation area should be created in advance of construction or site clearance commencing. Robust monitoring plans (and plans for additional interventions if necessary) are required to demonstrate efficacy as currently we are not confident full functionality can be achieved.*
- 1.7. *Noise impacts on breeding and wintering waterbirds using land functionally-linked to the Minsmere-Walberswick SPA remain of significant concern to us and we consider that the mitigation proposed is insufficient and do not believe that the further intervention measures within the TEMMP would be effective.*
- 1.8. *We remain concerned about impacts on fish prey species for foraging seabirds and consider that an Acoustic Fish Deterrent is required to mitigate this impact and are also concerned about combined marine impacts (from disturbance, effects on prey and the various plumes) on foraging birds.*
- 1.9. *We are concerned about vessel disturbance to red-throated divers and consider that, in the event of vessel movements being required in winter, mitigation routes should be used.*
- 1.10. *We are seeking to resolve our remaining concerns regarding flood risk and boundary concerns in consultation with the Applicant. The RSPB reserves its position concerning possible future impacts on its land holdings resulting from the Application negligence, nuisance or injurious effects that are not yet fully known or might not be known until further down the construction and operation phases.*

- 1.11. *We welcome the progress that has been made in developing the Monitoring and Mitigation Plans for recreational impacts on designated sites, although we consider that additional greenspace for construction workers is also necessary.*
- 1.12. *We welcome the progress on the Coastal Processes Monitoring and Mitigation Plan, but do not agree with the approach to coastal vegetated shingle and in particular believe that the potential impact from marine infrastructure and the proposed sea defences on the adjacent southern Minsmere frontage has not been adequately assessed.*
- 1.13. *We are grateful for the continued engagement with the Applicant and are pleased with the progress that has been made for example for natterjack toads and the central dark corridor through the site for bats.*
- 1.14. *We welcome the feedback loop/adaptive mitigation process now being proposed by the Applicant which we have been pressing for. However we continue to have concerns about the effectiveness of initial and additional mitigation for a number of the internationally and nationally important protected sites and species.*
- 1.15. *Whilst we welcome the Applicant's proposal to address residual biodiversity effects, we do not agree that overall biodiversity net gain can be claimed whilst permanently destroying habitat within the SSSI.*
- 1.16. *We are pleased that agreement has finally been reached with the Applicant on the amount to be included within the Resilience Fund to be made available for measures to attempt to mitigate the quality of the visitor experience we provide to our members and the wider public.*

2. Written Summaries of Oral Submissions made at Issue Specific Hearing 10: Biodiversity, Ecology and HRA (27 August 2021)¹

1.2 Agenda Item 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](#)

- 2.1. We do not agree with the Applicant's view that the reference to the Circular within paragraph 5.3.2 of NPS EN-1 and footnote 97 is not policy (paragraph 1.2.3).
- 2.2. We refer to the Circular² and the introductory paragraph which states *This circular provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England...*

And also to the Planning Portal³ which also helpfully states *This Circular provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England.*

¹ Written Summaries of Oral Submissions made at Issue Specific Hearing 10: Biodiversity, Ecology and HRA (27 August 2021) [REP7-069](#)

² <https://www.gov.uk/government/publications/biodiversity-and-geological-conservation-circular-06-2005>

³ https://www.planningportal.co.uk/directory_record/75/circular_0605_biodiversity_and_geological_conservation_-_statutory_obligations_and_their_impact_within_the_planning_system

- 2.3. In our Written Representations⁴ we noted that paragraph 61 of the Circular places a requirement on all section 28G authorities in relation to SSSIs

The Government expects all section 28G authorities, including planning authorities, to: a) apply strict tests when carrying out any functions within or affecting SSSIs, to ensure that they avoid or at least minimise adverse effects; b) adopt the highest standards of management in relation to SSSIs in their ownership, and to take appropriate action to prevent damage by third parties; and c) as owners or otherwise to take positive steps, wherever possible, to conserve and enhance the special interest features of a SSSI where their activities may be affecting it, or as opportunities arise in the exercise of their functions. English Nature will advise on a case by case basis as to opportunities for enhancement.

- 2.4. In our view the Circular is very relevant and important, and continued reference to it in footnotes such as EN-1 footnote 97 confirms this.

- 2.5. We do not agree with the Applicant's view that the Application complies with EN-1 paragraph 5.3.5 (paragraphs 1.2.5 and 1.2.6). We do not consider that an Application that is causing direct adverse impacts to a SSSI complies with the aim of *a halting, and if possible a reversal, of declines in priority habitats and species* (EN-1 para 5.3.5) or with the requirement to avoid or at least minimise adverse effects on SSSIs (06/2005 para 61): Or with EN-1 para 5.3.18

The applicant should include appropriate mitigation measures as an integral part of the proposed development. In particular, the applicant should demonstrate that:

- *during construction, they will seek to ensure that activities will be confined to the minimum areas required for the works;*
- *during construction and operation best practice will be followed to ensure that risk of disturbance or damage to species or habitats is minimised, including as a consequence of transport access arrangements;*
- *habitats will, where practicable, be restored after construction works have finished; and*
- *opportunities will be taken to enhance existing habitats and, where practicable, to create new habitats of value within the site landscaping proposals;*

- 2.6. We do still consider the triple span bridge to be the best option to minimise SSSI land take⁵ and still have concerns over the proposals for habitat restoration, creation and enhancement.

- 2.7. Paragraph 2.1.6 states *in relation to the SSSI, the Applicant is confident that there will be some gains and we can explore other species and habitats as the ExA sees fit but the BNG of 19% is powerful evidence on this particular point (i.e. how Applicant should halt and reverse decline of habitats and species).*

- 2.8. We do not consider that an Application that is causing direct adverse impacts to a SSSI complies with the aim of *a halting, and if possible a reversal, of declines in priority habitats and species* (EN-1 para 5.3.5). Also, as we have stated repeatedly in our view the Application cannot claim BNG due to direct adverse impacts on Sizewell Marshes SSSI⁶.

⁴ Written Submission for the Royal Society for the Protection of Birds and Suffolk Wildlife Trust [REP2-506](#) paragraph 4.55

⁵ RSPB & SWT Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) paragraph 4.18

⁶ RSPB & SWT Summary of Oral Submissions at ISH10 Biodiversity and Ecology [REP7-153](#) page 6 and 7

iv) para 5.3.5 and beneficial biodiversity; para 5.3.18 and opportunities for enhancement of habitats where practicable.

- 2.9. The Applicant provides measures for bats (European Protected Species) and marsh harrier (SPA species) as examples of enhancements (1.2.11-11.2.15). It is important to be clear plans for mitigation and compensation for bats and marsh harrier are legally required due to the EIA Regulations⁷ and the Habitats Regulations⁸. Our understanding is paragraph 5.3.18 is talking about additional benefits over and above those measures legally required and therefore bats and marsh harrier should not be included.
- 2.10. The Applicant responded to our view that mitigation measures for bats and marsh harriers should not be included as enhancements and highlighted that *the BNG assessment methodology is really clear and that the SSSI and their compensatory habitats are not included. However, the guidance is clear that in relation to the other habitats, they can and should be included. He highlighted that in relation to bats and marsh harriers, the habitat works which are for those species do not negate the benefits that those habitats will provide for other species even if one could say that you should discount the enhancements to bats there will be enhancements for other species, which is obviously a positive gain* (1.2.15).
- 2.11. We reiterate our comments in our Deadline 7 submission⁹
- As we have stated previously in our view measures that are for protected species mitigation and compensation should not be counted as BNG without clear and robust evidence to show how both requirements can be achieved within the same area. The Biodiversity Net Gain Report⁸ provides no indication of specific measures for other species over and above protected species mitigation and compensation measures (para 5.37). In addition the Applicant must demonstrate again robustly that having BNG aspirations in a mitigation area will not have any impact on effectiveness of mitigation/compensation⁹ nor the current biodiversity value of the land and has failed to do so.*
- 2.12. The Application still does not include information about specific measures for other species over and above protected species mitigation and compensation measures or demonstrate how BNG aspirations will not have any impact on effectiveness of mitigation/compensation.
- 2.13. The Applicant notes BNG work was peer reviewed by a BNG team at Aecom to provide reassurance (1.2.16). The Applicant reviewing the Applicant's work does not provide us with reassurance. We request the Applicant provides the BNG calculation spreadsheet for review by the Examination Authority and interested parties.

⁷ The Infrastructure Planning (Environmental Impact Assessment) Regulations
<https://www.legislation.gov.uk/uksi/2017/572/contents>

⁸ Conservation of Habitats and Species Regulations 2017 as amended [The Conservation of Habitats and Species Regulations 2017 \(legislation.gov.uk\)](#)

⁹ RSPB & SWT Summary of Oral Submissions at ISH10 Biodiversity and Ecology [REP7-153](#) paragraph 2.19

[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 \[added during the hearing “or EN 6 or Hab Regs assessment”\] EN 6 - 5.11 5.14. to 5.18](#)

2.14. As set out in our Written Representations¹⁰ we do not agree that the requirement in EN-1 paragraph 5.3.7 *to avoid significant harm to biodiversity ...through mitigation and the consideration of reasonable alternatives* has been met and do not agree the Application complies with C.8.63. Our key concerns include:

- the risk of temporary loss becoming permanent damage
- a massive risk that changes in groundwater and surface water balance will result in the whole of the fen meadow being destroyed
- adequacy of the proposed habitat compensation
- proposed SSSI crossing design.

As set out in our Written Representations (paragraphs 3.31 to 3.39) we consider the Application does not meet the AoS.

3. [Written Submissions Responding to Actions Arising from Issue Specific Hearing 10: Biodiversity, Ecology and HRA \(27 August 2021\)](#)¹¹

[1.8 Direct impacts of bromoform and hydrazine on birds](#)

3.1. We welcome the additional clarification provided regarding the potential for direct toxicity to birds arising from the bromoform and hydrazine plumes.

[5.f Marsh harrier compensatory measures](#)

3.2. We reiterate our points that the creation of the wetland during the first winter of the construction period will in effect lead to a reduction in compensatory habitat available to marsh harriers during one of the most significant (in terms of potential impacts on marsh harriers) construction phases. We support Natural England’s point that:

“Compensatory habitat should be established and capable of supporting SPA birds before they are displaced. Merely starting the process of habitat creation at, or near, the point of breaking ground and the commencement of disturbing construction would leave displaced birds without alternative habitat.”¹²

3.3. The reedbed would not provide harrier hunting opportunities for the first 1-2 years while the habitat is establishing (noting the need to protect reed to enable establishment). We therefore

¹⁰ Written Submission for the Royal Society for the Protection of Birds and Suffolk Wildlife Trust [REP2-506](#) paragraph 3.21 to 3.30

¹¹ Written Submissions Responding to Actions Arising from Issue Specific Hearing 10: Biodiversity, Ecology and HRA (27 August 2021) ([REP7-069](#))

¹² Paragraph 5.22 (epage 12) of Natural England’s Response to The Examining Authority’s Request for Written Responses from Issue Specific Hearing 10 ([REP7-294](#))

continue to request that creation of the wetland habitats is carried out before the main construction period commences.

- 3.4. We also welcome the clarification about the documents to be specifically referenced within the DCO, Schedule 2, requirement 14C¹³ however we strongly recommend that the timescales are brought forward, so that not only are plans approved but measures are in place. We appreciate that Work No. 1A includes some of those measures, however it is vital in our view that Work 1A(dd) is completed well in advance of the construction elements of Work 1A and this is specifically included within Requirement 14C through the following amendment:

14C Main development site: Marsh harrier

(1) No part of Work No.1A the authorised development may be commenced until

(i) a marsh harrier implementation plan for the establishment of marsh harrier compensation land has been submitted to and approved by East Suffolk Council in consultation with Natural England; and

(ii) Work No. 1A (dd) flood mitigation area and associated habitat; must be completed 12 months before the site clearance and the construction elements of Work 1A.

(2) The marsh harrier implementation plan must be in general accordance with [the Marsh Harrier Compensatory Habitat Report and] the Marsh Harrier Habitat Report and include details of the proposed works including:

(i) landscape and planting details;

(ii) any relevant water management measures;

(iii) Monitoring and management measures; and

(iv) an implementation timetable for the works

(3) The marsh harrier implementation plan must be implemented as approved.

- 3.5. In addition, please note our comments below on Appendix C concerning the functionality of the compensation proposed.

- 3.6. We welcome and support East Suffolk Council's Deadline 7 submissions¹⁴ requesting that:

“Requirement 14C (Marsh Harrier) should be within the classification of pre-commencement requirements, as it deals with an impact that can start occurring as site clearance starts, rather than as development commences.

...

Paragraph 1(5) of Schedule 2 says: “For the avoidance of doubt, the undertaker must comply with requirements 2, 3, 4, 5B, 6A, 8, 9, 14A and 14B throughout the construction of the authorised development and these requirements are not triggered by commencement” ESC is suggesting that requirement 14C should be included in this list

And:

“ESC considers that the drafting of the new provision (paragraph 1(5) of Schedule 2) could be enhanced so as to include the following text at the end of the existing wording ‘and

¹³ Draft Development Consent Order - Tracked Changes Version Revision 8 against Revision 7 (REP7-006)

¹⁴ Pages 3-4 <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010012/EN010012-006896-submissions%20received%20by%20D6.pdf>

these requirements apply to all material operations including those excluded from the definition of ‘commence’”

5.g.i Prey Species (fish)

- 3.7. We note that our position on concerns regarding the effects of localised prey depletion on birds (including little tern) were set out in our detailed comments on Report SPP103 Consideration of potential effects on selected fish stocks at Sizewell¹⁵. We explained our disagreement with the Applicant’s position that such impacts are insignificant.

Appendix C - Marsh Harrier Compensatory Measures – Assessment against relevant criteria

- 3.8. With regard Table 1.1 which compares the compensatory provision with the requirements of guidance and policy, please note that our comparison of the provision with the requirements of EN-6¹⁶ is provided in paragraphs 3.474 – 3.489 of our Written Representations¹⁷ and our comparison with the updated Defra guidance around protecting a European site¹⁸ is provided in our Deadline 7 response¹⁹. In both cases, we conclude that the proposals do not fully meet the standards set out in the guidance, for the following reasons:

- Lack of confidence that dry habitats can sustain the necessary level of prey provision or harrier activity
- Concern that the compensatory habitat extent is not adequate
- Concern that the wetland habitats will not be functional before construction commences, again meaning the compensation is not adequate
- The lack of detailed habitat establishment and management plans for both the wetland and dry habitats at Abbey Farm

- 3.9. It is also our view that all relevant policy and guidance should be considered but with particular emphasis given to Defra’s guidance²⁰ on the relevant parts of the legal requirements, particularly as this makes specific references to all necessary requirements. For example, the need for adequate funding, monitoring and for all measures to be based on scientific evidence.

Response to RSPB/Appendix 7B

- 3.10. In relation to regulation 10 Conservation of Habitats and Species Regulations 201721 we are disappointed to note that the Applicant has not cover this as requested. Instead the Applicant states

¹⁵ Section 2 (epage 7) of RSPB & SWT Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154]

¹⁶ A.7.5 (epage 17) of [National Policy Statement for Nuclear Power Generation \(EN-6\) Volume II of II – Annexes \(DECC\)](#)

¹⁷ Paragraphs 3.474 – 3.489 (epage 97) of the Written Submission for the Royal Society for the Protection of Birds and Suffolk Wildlife Trust [REP2-506]

¹⁸ <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>

¹⁹ Paragraph 4.26 – 4.38 (epage 16) of the RSPB and SWT’s Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154]

²⁰ <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>

²¹ Reg 10 must take such steps as consider appropriate in exercise of their function to 10(3) preserve, maintain and re-establish **sufficient diversity** and areas of habitats for wild birds to **maintain the population** of bird species) including by means of the **upkeep, management and creation** of such habitat, as appropriate.

10(7) Appropriate account must be taken of **economic and recreational** matters

10(8) **In addition Comp authorities must use all reasonable endeavours to avoid** any **pollution** or **deterioration** of wild bird habitats (emphasis added)

“1.3 Response to RSPB/Appendix 7B 1.3.1 The Applicant can confirm that Appendix 7B, appended to REP2-109, and now updated as Appendix 2A to Doc Ref. 9.71 at Deadline 7, does not explicitly cover Regulation 10 of the Habitat Regulations, although many of the points in relation to birds will be directly relevant. This is because the questions to which this document responds, in relation to the WCA 1981 and the NERCA 2006, did not extend to the Habitat Regulations.”

- 3.11. As Natural England v Julian Edward Warren [2019] UKUT 300 (AAC) at [34], makes clear
“Regulation 10 imposes specific duties in relation to wild bird habitats having regard to the requirements of the Wild Birds Directive”.
- 3.12. In our view consideration of the Regulation 10 Duty differs from consideration of the Biodiversity and SSSI duties. The Biodiversity Duty places a general duty on decision makers to have regard to the purpose of conserving biodiversity. It is clear therefore that the biodiversity of the site is an important material consideration regardless of the fact that the site has not been designated or specifically identified for its nature conservation interest.
- 3.13. The S.28G Duty imposes a positive obligation on the decision- maker to *“take reasonable steps to further the conservation and enhancement of the flora, fauna or geological or physiological features,”* for which the site is notified as a SSSI.
- 3.14. The Regulation 10 Duty imposes even more specific duties in respect of habitats for wild birds. And therefore is not the same as having regard to issues of conservation (the Biodiversity Duty) and the more specific requirement to take reasonable positive steps in respect of SSSI features. This is due to the need to have specific regard to the statutory criteria in Regulation 10(3) including a duty to achieve a specific result, that being the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the United Kingdom. It is concerned with outcomes. Therefore it should be considered on its own.

4. Comments at Deadline 7 on Submissions from Earlier Deadlines and Subsequent Written Submissions to ISH1-ISH6²²

Coastal processes

- 4.1. We note in 2.4.2 (epage 15) that an update to this report describing the design of the sea defences [REP2- 116], detailing the latest design (as shown in [REP5-015]) will be provided at Deadline 8 and that the comments of RSPB/SWT will be addressed and/or responded to in that update. We note that there will be little or no time to resolve any remaining concerns ahead of the ISH 15 on Coastal nor the end of the Examination, which is disappointing and of concern.
- 4.2. We note in 2.9.2 (epage 19) that an update to the CPMMP [REP5-059] is planned for Deadline 10, where all stakeholder comments will be addressed and/or responded to. The Deadline 10 submission will be the final version for comment in the Examination. We note the intention to continue consultation with the Sizewell C Marine Technical Forum, including the RSPB, to finalise the plan for approval under Requirement 7A and Marine Licence Condition 17,

²² Comments at Deadline 7 on Submissions from Earlier Deadlines and Subsequent Written Submissions to ISH1-ISH6 - Revision 1.0 ([REP7-061](#))

however this of course is after the Examination has ended. It is disappointing that our remaining issues may not be addressed by the end of the Examination.

- 4.3. We note 2.29.2 (epage 29) that a full response to the RSPB/SWT in relation to the SCDF will be provided at Deadline 8. Again, we note that there will be little or no time to resolve any remaining concerns ahead of the Examination, which is disappointing.

2.14 Sizewell Link Road Landscape and Ecology Management Plan

- 4.4. We are disappointed the Applicant does not intend to include bird boxes within the SLR LEMP (2.14.4) or the two village bypass LEMP (2.11.4).

2.19 Appendices to SZC Co. Comments on Submissions from Earlier Deadlines

[g\) Appendix J: Future Adaptation of the SSSI Crossing in the DCO Submission](#)

- 4.5. 2.19.13 In response to RSPB and SWT's Deadline 6 submission [REP6-046] SZC Co. refers RSPB and SWT to the Main Development Site Flood Risk Assessment (Doc. Ref 5.2A) [AS-018] and Main Development Site Flood Risk Assessment Addendum (Doc. Ref 5.2A_Ad) [AS-157]. The revised design of the SSSI Crossing has a wider opening and higher soffit, and thus performs no worse hydraulically than the assessment findings provided to date, and consequently the flood risk impact on the RSPB Minsmere reserve is no worse than presented.

2.24 Natterjack Toad Licence Method Statement

- 4.6. The Applicant provided a response to the three main concerns we raised [REP5-053, REP6-046].
- 4.7. We are disappointed the Applicant has not undertaken surveys during 2021 (paragraph 2.24.2). In our view monitoring is required to provide up to date survey information for the licence application and to monitor the effectiveness of measures to prevent corvid predation following the low tadpole counts in 2020 (REP5-053 paragraph 1.2.23). Also we repeat our query whether the pond was netted to reduce corvid predation.
- 4.8. We welcome the updated figure in Appendix M (2.24.3).
- 4.9. We are disappointed the Applicant has not agreed to continue monitoring annually following the cease of operation of the WMZ (2.24.4). In our view annual monitoring should be continued to detect residual impacts from the development.

4.7 Issue Specific Hearing 7

- 4.10. Paragraph 7 4.7.1 notes the updated Landscape Retention and Clearance Plans (Doc Ref 2.5(B)) are being submitted at Deadline 7 to reflect the revised engineering proposals around the SSSI crossing in order to retain a greater degree of the existing vegetation to the west of the SSSI crossing. We have not had time to review the plans and we request the right to provide comments at a later deadline.

5. Comments at Deadline 7 on Submissions from Earlier Deadlines and Subsequent Written Submissions to ISH1-ISH6 – Appendices Part 1²³

Appendix A: Response by SzC Co. to Natural England, the RSPB and Suffolk Wildlife Trust’s Responses to Deadline 6

- 5.1. Paragraph 2.1.7 explains Natural England’s view that alternative greenspace is required in order to fully mitigate the potential impacts of construction workers on protected sites. As set out in our comments submitted in response to the Request for Information after ISH10²⁴, we strongly support this view.
- 5.2. Paragraph 2.1.15 explain that the creation and maintenance of firebreaks was included in the Monitoring and Mitigation Plans at the request of the RSPB and SWT. As explained in the text, we consider that such measures would only be required should monitoring show that potential risks exist e.g. if an area was regularly being used for barbeques. It may also be possible to mitigate such risks through other methods such as through education by wardens in the first instance. If additional firebreaks were considered necessary, we recommend that they should be sited with care to reduce damage to habitats and avoid the creation of new desire lines and relevant parties including Natural England must be consulted before implementation.
- 5.3. Paragraph 2.1.18 states that additional wardening is being discussed with the RSPB as part of the discussions around a Resilience Fund. However, we reiterate that we are not seeking for issues under the recreational Monitoring and Mitigation Plans to be covered through the Resilience Fund. The Resilience Fund is purely to cover socio-economic impacts on visitors to the RSPB’s Minsmere Reserve and we have agreed with the Applicant that it will not cover additional wardening in respect of the MMP. We also note our support for Natural England’s point²⁵ advocating provision of a further seasonal warden from the outset given the scope of the roles as described in the Plans.
- 5.4. Paragraph 3.1.7 explains that little terns will be monitored through obtaining data from the little tern recovery project. We note that whilst little terns are monitored at some sites by land managers or volunteer groups and hence some data may be available, there are no co-ordinated surveys with full coverage of all relevant areas and it is not possible or appropriate to rely on existing resource availability to carry out this work. Therefore, these data may not provide a suitable evidence base to monitor potential impacts of the Application and specific surveys need to be included in the proposals.
- 5.5. We welcome the proposal in paragraph 3.1.9 to arrange a meeting to discuss the arrangements to ensure timely implementation of additional mitigation measures.

²³ Comments at Deadline 7 on Submissions from Earlier Deadlines and Subsequent Written Submissions to ISH1-ISH6 – Appendices Part 1 ([REP7-060](#))

²⁴ Paragraphs 1.3 – 1.6 (page 3) of RSPB & SWT Response to Request for Information after ISH10 Agenda Item 5: HRA Issues ([REP7-152](#))

²⁵ Paragraph 2.12 (page 4) of Natural England’s Response to The Examining Authority’s Request for Written Responses from Issue Specific Hearing 10 ([REP7-294](#))

[Monitoring and Mitigation Plan for Sandlings \(Central\) and Alde-Ore Estuary European Sites](#)

- 5.6. We continue to recommend that monitoring is carried out of recreational use in the Slaughden area due to the potential for access and recreational use to damage vegetated shingle and reduce opportunities for beach nesting birds (including little tern).

[Aldhurst Farm Technical Note](#)

- 5.7. Our key outstanding concern relates to the current limited provision of alternative sporting/active and social greenspace for construction workers. We note the provision of the recreation/fitness route around the accommodation campus itself but query the attractiveness of this route given its proximity to the campus buildings and the limited natural habitat available. We consider that construction workers would be likely to consider nearby designated sites a more attractive destination for both fitness-related and social use. We therefore continue to state our view that further additional greenspace is required to mitigate this potential impact, as whilst the recreational provision at Aldhurst Farm is welcomed, we do not consider it will be able to fully accommodate the needs of both displaced visitors and construction workers.
- 5.8. We remain of the position that it is not possible to exclude all potential *adverse effects on the integrity* of the Minsmere-Walberswick designated sites nor the Sandlings SPA in the absence of measures to reduce further potential impacts of construction worker use. We look forward to further discussions of these issues and to reviewing further information at a future deadline, as proposed in paragraph 3.3.14.

[Appendix B: Coastal Geomorphology Topic Based Response to Written Representations \(From epage 20\)](#)

- 5.9. We note in 9.1.5 (epage 37) the Applicant proposes that the loss of the Minsmere Sluice will result in substantial movement away from the present balance of wave forcing (which) is likely to simplify the conservation setting as the balanced processes which maintain vegetated drift lines adjacent to Sizewell C will be lost. We cannot agree with the conclusion that the loss of the Sluice, over 1km north of the vegetated drift lines adjacent to Sizewell C will have as much influence as the introduction of the HCDF, SCDF and BLF which will be very much closer. We would require further justification to understand the conclusion drawn by the applicant.
- 5.10. We maintain our contention that the evidence to support the applicant's assertion in 11.1.4 and 11.1.5 (epage 39) that the release of sediment from SCDF to the beaches to the north may re-establish the wider supra-tidal shingle habitat needed for annual vegetated drift lines and used by nesting little tern. As is now accepted by the Applicant, the supra-tidal shingle habitat and annual vegetated drift lines are currently present on the beaches to the north, so it is incorrect to state that they may be re-established.
- 5.11. We note that 11.1.6 re-asserts the proposal to use sediment within the native size-distribution which it is proposed will be entrained from the SCDF in small quantities and mixed into the subtidal sand-gravel mix in transport, where any resultant change in dynamics will not be detectable, but this conclusion is drawn from a modelling process where the impact of the sediment on shoreline change processes is more difficult to assess as no model for beaches with sand and pebble mixtures currently exists (11.1.3). 11.1.8 (epage 39) asserts that the SCDF potentially increases the resilience of the south Minsmere frontage against future regime

change, but we remain concerned that the interest feature (supra-tidal shingle) is by its nature dynamic, and so increased 'resilience' has the potential to create adverse impacts by stabilising the processes.

- 5.12. Section 11.1.9 (p40-41) concludes in brief, some of this sediment from the SCDF will be transported north onto the more rapidly eroding Minsmere frontage. Some WRs indicate that increased accretion is undesirable here for preservation of the vegetated drift line habitat (although the Natural England site survey suggests that accretion would be beneficial for SSSI unit 113). However, there is limited risk of significant net accretion at an eroding site such as this i.e., net transport will still be away from this section as presently– any sediment fed out from the SCDF will be removed from the eroding section at the natural rate, with the net effect of simply slowing the rate of retreat. Cross-shore process generating drift lines would not be affected – but the space available for drift line formation may be maintained longer than if the shoreline were allowed to retreat as rapidly (or faster) than at present.
- 5.13. This describes an assumption, which will be tested by the CPMMP. If the assumption proves incorrect, we cannot see how the impacts will be addressed by adaptive mitigation. To our knowledge, the Applicant has been unable to provide a similar example from anywhere on the UK coastline where an intervention of this nature adjacent to an internationally important vegetated shingle SAC feature has proved successful. There are various examples where such interventions have caused damage and loss to such habitats. This is flagged in item 4 of NE's issue/concerns on the table on p45 of the pdf Impacts from changes to coastal processes/ geomorphology arising from a number of the MDS project elements (e.g. HCDF, BLF) and subsequent ecological effects on internationally designated sites (SACs, SPAs and Ramsar sites) and their notified features. And we do not believe it has been satisfactorily addressed.
- 5.14. We would continue to advocate a particle size that reflects natural distribution and includes a sand component to include the elements most important for supporting the supra tidal interest features. Section 11.1.10 notes a progressive coarsening of the SCDF material...(is) not (an) indispensable design elements of the SCDF. However, we also note at ISH 11 that the Applicant proposed that if material size was fixed it could be problematic to engineering function and that it could be better to discharge as a condition in due course. This remains our concern that ultimately an engineering design, that has the potential to be more environmentally damaging is possible to be approved outside the Examination process.

6. SZC Co Responses to ExQ2 Volume 1²⁶

HRA.2.2

- 6.1. We note on page 99 of the response to HRA.2.2 the proposed commitment in writing not to impede the RSPB's access to Minsmere reserve and look forward to receiving this in due course.

²⁶ SZC Co Responses to ExQ2 Volume 1 ([REP7-056](#))

7. SZC Co Responses to ExQ2 Volume 1 Part 2²⁷

Bio 2.4

- 7.1. Our concerns are clearly stated in our Written Representations²⁸. We reiterated concerns the Applicant does not appear to have addressed in our deadline 7 submissions²⁹.
- 7.2. Whilst we welcome the bat workshop and the progress made we wish to make clear that where we did not provide an immediate response that does not mean we agree with the Applicant.

Data Adequacy

- 7.3. We did not agree the static locations and methodology were suitable.
- 7.4. We welcome the Applicant agreed to add back in some of the static locations that had been removed from 2020 and wait to see the results.
- 7.5. We requested monitoring at Goose Hill and Kenton Hills because the 2020 back-tracking surveys suggested pregnant female and juvenile barbastelle were using those areas. The Applicant agreed to consider that, but we have not seen a response to that request.
- 7.6. Our concerns over data adequacy are clearly stated in our Written Representations and there are still spatial gaps in the dataset, such as the link between Bridleway 19 and Kenton Hills and areas to cover breeding and juvenile barbastelle as outlined in our Deadline 7 submissions³⁰.
- 7.7. Also, we have been clear there needs to be more quantitative data to inform a better analysis that can focus on barbastelle and Natterer's bats. This includes using actual counts and not relying on percentages which mean common species mask actual (rather than relative) importance of a location for rare species.
- 7.8. We welcome the inclusion of radio-tracking surveys of barbastelle to enable the comparison of levels of bat activity.

Data Analysis

- 7.9. We understood the Applicant's clarification but are still not happy with the approach to data analysis (the analysis should use actual abundance and not percentages) and did make clear at the workshop we still consider data analysis should focus on barbastelle and Natterer's bat. We noted the Applicant agreed to review the approach to data analysis for barbastelle but have not seen a response.

²⁷ SZC Co Responses to ExQ2 Volume 1 Part 2 ([REP7-051](#))

²⁸ Written Submission for the Royal Society for the Protection of Birds and Suffolk Wildlife Trust [REP2-506](#) paragraphs 3.622-3.762

²⁹ RSPB & SWT Summary of Oral Submissions at ISH10 Biodiversity and Ecology [REP7-153](#) paragraphs 2.8 to 2.12, RSPB & SWT Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) paragraph 6.4 to 6.18

³⁰ Deadline 7 Submission - Summary of Oral Submissions at ISH10 Biodiversity and Ecology [REP7-153](#) paragraphs 2.8 to 2.12, Deadline 7 Submission - Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) paragraph 6.4 to 6.18

- 7.10. Our concerns over data analysis detailed in our Written Representations³¹ remain as outlined in our deadline 7 submissions³². There is huge uncertainty over the impacts on barbastelle and the use of percentages as a metric is deeply flawed. As we have repeatedly said, actual counts of barbastelle and Natterer's bats should be used instead.

Future Monitoring

- 7.11. Please refer to our comments on the TEMMP in our deadline 7 submission³³.
- 7.12. We do not agree the compensation and adequacy of mitigation proposals for impacts on barbastelle are appropriate and are reflective of the scale of the potential impacts. As detailed in our written submissions³⁴ our main concerns are lack of buffers in key areas, lack of roost resource provision, uncertainty over task specific lighting and noise. We now have further concerns having seen the Bat Method Statement, given the Applicant does not plan to replace approximately half the lost roosts until the late operational stage of the power station (70+ years), as they are waiting for trees to mature. It is critical that the Applicant does more in the early stages. Not necessarily just more bat boxes but use some of the other techniques such as early veteranisation of trees and reusing felled roosts.

Noise

- 7.13. We understood the Applicant's clarification, but we still have concerns over impacts from noise and the approach to noise monitoring as outlined in our deadline 7 submissions³⁵.

Lighting

- 7.14. Please refer to our comments on REP3-057 in our deadline 5 submission³⁶ and the concerns in our deadline 7 submissions³⁷.

Mitigation

- 7.15. Please refer to the concerns detailed in our deadline 7 submissions³⁸.

³¹ Written Submission for the Royal Society for the Protection of Birds and Suffolk Wildlife Trust [REP2-506](#) paragraphs 3.677-3.686

³² Deadline 7 Submission - Summary of Oral Submissions at ISH10 Biodiversity and Ecology [REP7-153](#) paragraphs 2.8 to 2.12, Deadline 7 Submission - Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) paragraph 6.16 to 6.18

³³ Deadline 7 Submission - Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) paragraph 13.6 - 13.12

³⁴ Deadline 7 Submission - Summary of Oral Submissions at ISH10 Biodiversity and Ecology [REP7-153](#) paragraphs 2.8 to 2.12, Deadline 7 Submission - Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) paragraph 6.4-6.22

Written Submission for the Royal Society for the Protection of Birds and Suffolk Wildlife Trust [REP2-506](#) paragraphs 3.677-3.686

³⁵ Deadline 7 Submission - Summary of Oral Submissions at ISH10 Biodiversity and Ecology [REP7-153](#) paragraphs 2.8 to 2.12, Deadline 7 Submission - Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) paragraphs 6.4-6.22 and sections 7, 8, 12 and 13

³⁶ Comments on Other Submissions Submitted at Deadline 3 [REP5-165](#) section 6

³⁷ Deadline 7 Submission - Summary of Oral Submissions at ISH10 Biodiversity and Ecology [REP7-153](#) paragraphs 2.8 to 2.12, Deadline 7 Submission - Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) paragraphs 6.4-6.22 and sections 7, 8, 12 and 13

³⁸ Deadline 7 Submission - Summary of Oral Submissions at ISH10 Biodiversity and Ecology [REP7-153](#) paragraphs 2.8 to 2.12, Deadline 7 Submission - Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) paragraphs 6.4-6.22 and sections 7, 8, 12 and 13

- 7.16. The Applicant notes the final details of the bat barn will be included within the draft bat licence application. The details are not included in the draft bat method statement (REP7-080 to REP7-85) and query when they will be submitted to the Examination.

[In combination Effects](#)

- 7.17. Please refer to our comments on REP6-024 in our deadline 7 submission³⁹.
- 7.18. As stated in our deadline 6 submission⁴⁰, the Applicant presented no new information on the potential combined impacts of the MDS and SLR in REP5-120 Appendix Q. The concerns detailed in our Written Representations submitted at Deadline 2 remain.
- 7.19. Whilst we welcome the progress made, we are disappointed and very concerned the Applicant has still not addressed many of our concerns at this late stage of the Examination.

[Bio.2.19](#)

- 7.20. At epage 23 and 24, in the Applicant's response to Bio.2.19 in relation to *(a) the Applicant securing mitigation or enhancements on third party land, through the Deed of Obligation. Why are they not in the DCO?* The Applicant states:

"Where the obligations relate to land outwith SZC Co's ownership, the delivery of the commitments will be pursuant to private agreement with the relevant landowner."

And in answer to (b) (relating to EDF Nuclear Generation Limited, currently not the undertaker nor the Applicant) the Applicant states for areas within EDF Nuclear Generation Limited (ENGL) ownership but not within the main development site (MDS):

"the implementation and maintenance of such measures will be secured as part of the private agreement to be reached with ENGL, with the principle having already been agreed between the parties."

- 7.21. Our concern, as has been repeated on many occasions is not only the ecological viability of mitigation and enhancement measures proposed but also the legal (and financial) certainty of them being provided. For the ExA and Secretary of State to be able to take such measures into account in their consideration they must be able to have confidence with regard to all three aspects.
- 7.22. Therefore, whilst *principles are already agreed* with ENGL, the fact that these are not in place for relevant third party landowners (noting in addition how late in the application process we are). We therefore continue to have concerns and at present do believe that full confidence can be placed in such measures being possible and deliverable.

[HRA.2.3 Disturbance to shoveler and gadwall \(breeding and non-breeding\) using functionally linked land \(epage 36\)](#)

- 7.23. The Applicant refers to their response at Deadline 3 (REP3-042) to the RSPB and SWT's Written Representations⁴¹ and summarises the points made in that submission. We also note our

³⁹ Deadline 7 Submission - Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) section 7

⁴⁰ Comments on any additional information/submissions received by D5 [REP6-046](#)

⁴¹ Applicant's Comments on Written Representations ([REP3-042](#)) responding to the Written Submission for the Royal Society for the Protection of Birds and Suffolk Wildlife Trust [\[REP2-506\]](#)

response at Deadline 5⁴², which responded in detail to the Applicant's points in REP3-042 and is therefore also relevant to the summary points listed by the Applicant.

- 7.24. The following points are in response to the issues noted arising from ISH7.

[Distributional data for breeding populations on Functionally Linked Land \(FLL\)](#)

- 7.25. We do agree that the assumption of an even distribution of waterbirds is a reasonable assumption. The Applicant has noted that their surveys (covering a single year) showed a more clustered distribution of birds around the north-eastern pools on the South Levels, however, we consider that breeding waterbirds are likely to use ditches and long vegetation in parts of the South Levels that were not covered during the Applicant's surveys, including areas likely to be affected by noise and visual disturbance. The assumption of an even distribution is therefore a reasonable (rather than highly precautionary) approach in our view.

[Between-year movements of breeding birds](#)

- 7.26. We are unclear regarding the source of the statement that the data are "not sufficient to adequately capture the potential for such between-year movements and to enable the issue to be accounted for within the assessment". Our comments at ISH7 on the movements of birds between sites such as the Minsmere-Walberswick SPA, the South Levels and Sizewell Marshes were made to support the assumption (made by the Applicant and agreed by the RSPB and SWT) that the South Levels and Sizewell Marshes are functionally linked to the SPA.

[Predicted levels of displacement](#)

- 7.27. We consider that the levels of displacement predicted are significant for breeding birds (11% of the total SPA and functionally linked land population for breeding gadwall and 7% for breeding shoveler) and for wintering birds (around 4% displacement predicted). Minsmere South Levels and Sizewell Marshes provide important breeding and wintering habitat for birds from the SPA and the effective reduction in the area of this functionally-linked habitat available has the potential to result in declines in overall species populations of the SPA. Given the magnitude of the predicted displacement to the total SPA populations, we consider that such population changes are possible and therefore do not agree that *adverse effects on integrity* can be excluded without reasonable scientific doubt.

- 7.28. We are extremely concerned that to date, the Applicant has not proposed sufficient measures to address this potential impact. Whilst we appreciate the TEMMP⁴³ confirms that monitoring will be undertaken and should it:

"Determine any changes in usage of the Minsmere South levels by breeding waterbirds as a result of construction of Sizewell C" then "Further boundary screening and or other approaches to noise reduction and visual disturbance to lessen any apparent impacts and to maintain populations."

- 7.29. However, as we have previously commented, it is our view that initial and additional measures proposed will not mitigate potential effects. We believe the Applicant will be amending the TEMMP to include more details and therefore we will not comment further here but reserve the right to comment further in light of changes (or not) made to the TEMMP at Deadline 8.

⁴² RSPB & SWT Comments on Written Representations ([REP5-166](#))

⁴³ Table 2.1 (epage 16) of the Terrestrial Ecology Monitoring and Mitigation Plan ([REP5-088](#))

HRA 2.8 Marsh harrier – HRA Compensatory Measures (epage 41)⁴⁴

- 7.30. The RSPB and SWT have raised concerns that the proposed wetland components of the compensatory habitat at Abbey Farm will not be functional in the early part of the construction period as they will not be constructed until the first winter (possibly running into the second winter) of the first phase of construction. We support Natural England’s point that:

“Compensatory habitat should be established and capable of supporting SPA birds before they are displaced. Merely starting the process of habitat creation at, or near, the point of breaking ground and the commencement of disturbing construction would leave displaced birds without alternative habitat.”⁴⁵

- 7.31. As we raised at ISH10⁴⁶, we are concerned with the Applicant’s statements that the early wet habitats (before the reedbed is established) will function in terms of providing marsh harrier prey as newly planted reed typically requires protection at this stage through e.g. netting, which would limit use of these areas by both marsh harriers and potential prey species. We therefore do not agree that wetland areas will be functional for at least the first year of construction (and possibly the second if works are extended into a second winter). We consider that the timing of wetland creation should be brought forward so that all compensatory habitats are functional before construction commences. If this is not possible, we advocate creation of wetland habitat elsewhere alongside maximising the dry habitats created at Abbey Farm.

- 7.32. We also wish to repeat our concerns with the TEMMP⁴⁷. We welcome provision for further baseline monitoring of potential impacts on marsh harriers and the inclusion of targets and effective measures as set out in Table 2.1, along with potential interventions as follows:

“Targets and Effectiveness Measure

target is to ensure that foraging activity for marsh harriers on the EDF Energy estate is not materially different than at present such that productivity of breeding marsh harriers of the SPA is maintained. This will be achieved by the following:

- *Determining changes in usage of foraging areas by marsh harrier around the Main Development Site during the construction period (and particularly on the Sizewell Marshes SSSI)*
- *Determining the extent to which marsh harrier use the habitat improvement area and whether usage of this area increases or reduces with time.*
- *Determining whether there is any correlation between changes (particularly any reductions) in usage of foraging areas (particularly Sizewell Marshes) and marsh harrier breeding productivity (as measured by RSPB for birds nesting on the RSPB Minsmere Reserve).”*

⁴⁴ Please note our comments on Written Submissions Responding to Actions Arising from Issue Specific Hearing 10: Biodiversity, Ecology and HRA (27 August 2021) (REP7-069) - 5.f Marsh harrier compensatory measures

⁴⁵ Paragraph 5.22 (epage 12) of Natural England’s Response to The Examining Authority’s Request for Written Responses from Issue Specific Hearing 10 ([REP7-294](#))

⁴⁶ Paragraph 3.4 (epage 8) of RSPB and SWT Summary of Oral Submissions at ISH10 Biodiversity and Ecology ([REP7-153](#))

⁴⁷ [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/ENO10012/ENO10012-004763-D2%20-%20Sizewell%20C%20Project%20-%20Initial%20Statements%20of%20Common%20Ground%20\(SoCG\)%20requested%20by%20the%20ExA%2023.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/ENO10012/ENO10012-004763-D2%20-%20Sizewell%20C%20Project%20-%20Initial%20Statements%20of%20Common%20Ground%20(SoCG)%20requested%20by%20the%20ExA%2023.pdf)

7.33. With the Potential Interventions being

“Further habitat enhancements to be deployed if

(i) marsh harrier usage of Sizewell Marshes SSSI declines and

(ii) if this is not offset by predicted levels of usage of the habitat improvement areas to the rates defined in the sHRA Report [APP-146 to APP-152] and Addendum [AS-173 to AS-178] of the habitat improvement area.”

7.34. What is not included is any reference to DCO, Schedule 2, Requirement 14C the Main Development Site Marsh Harrier nor the plans that will be specifically referenced and tied into that Requirement.

7.35. We welcome the changes made by the Applicant to Table 2.1 with helpful additional detail going into the Targets and Effective measures including:

“Targets and Effectiveness Measure

*The target is to ensure that **foraging activity for marsh harriers on the EDF Energy estate is not materially different** than at present such that **productivity of breeding marsh harriers of the SPA is maintained.**”* (emphasis added)

7.36. However, this target does not reflect all of the targets supporting the SPA Conservation Objectives for marsh harriers. As we have previously set out,⁴⁸ Natural England’s Supplementary Advice on Conservation Objectives for the Minsmere-Walberswick SPA⁴⁹ marsh harrier feature sets targets relating to supporting habitats, including the following:

“Maintain the extent, distribution and availability of suitable habitat (either within or outside the site boundary) which supports the feature for all necessary stages of its breeding cycle (courtship, nesting, feeding)” [It is noted that this target applies year-round]

and:

“Restrict the frequency, duration and / or intensity of disturbance affecting roosting, foraging, feeding, moulting and/or loafing birds so that they are not significantly disturbed” [It is noted that such effects may operate within or outside the site boundary and include changes to feeding behaviour]

And therefore, references to *foraging activity* and *productivity* are not enough, geographical extent and minimising significant disturbance should also be included.

7.37. In addition, the Potential Interventions start with a different smaller target which is only focused on the SSSI (therefore excluding impacts on Minsmere South Levels) and the habitat improvement areas (undefined with no link nor reference to Requirement 14C nor the compensation plans) -

⁴⁸ In paragraph 3.372 (epage 75) of the Written Submission for the Royal Society for the Protection of Birds and Suffolk Wildlife Trust [REP2-506]

⁴⁹ [Natural England Supplementary Advice on Conservation Objectives \(SACOs\) - Minsmere-Walberswick SPA](#), please note once webpage opened you have to tick which species and then ask it to show attributes and targets for selected features.

“Further habitat enhancements to be deployed if (i) marsh harrier usage of Sizewell Marshes SSSI declines and (ii) if this is not offset by predicted levels of usage of the habitat improvement areas to the rates...” (emphasis added)

7.38. Therefore, in addition to a clear link being included within the TEMMP to Requirement 14C we also recommend that this first paragraph is changed to ensure consistency with both the Target and Effective Measures and the targets supporting the Conservation Objectives for marsh harriers.

7.39. Currently we do have drafts of the Marsh Harrier Compensatory Habitat Report for the Abbey Farm site within the EDF Estate and whilst we welcome the role of Natural England and East Suffolk Council in the Implementation Plan and the inclusion of the provision that:

*“The marsh harrier implementation plan must be **in general accordance with** [the Marsh Harrier Compensatory Habitat Report and] the Marsh Harrier Habitat Report and include details of the proposed works including*

...

(iii) monitoring and management measures; and

(iv) an implementation timetable for the works

(2) The marsh harrier implementation plan must be implemented as approved.”

7.40. Since that Implementation plan is yet to be drafted it is not before the Examination and Interested Parties are unable to comment on it. We recommend that within (iii) monitoring and management measures there is reference to the details set out in the TEMMP table 2.1

7.41. We are grateful to the Applicant for its commentary during ISH14 regarding DCO, Sch 2 Requirement 5C Project wide: Estate Management - The Estate must be maintained in accordance with the Estate Wide Management Plan... which includes those preparatory works for the dry habitats at Abbey Farm outside the Application site boundary that are already being progressed and we also appreciate that those initial works do not require planning or other permissions. However as set out above we are concerned about different aspects of the marsh harrier compensation measures being covered in different DCO Requirements with currently no single Requirement, plan or report clearly setting out all that is proposed.

7.42. Therefore, our overall concerns and conclusions remain namely that we do not believe there is currently sufficient certainty nor detail within the Requirement 14C and the TEMMP (nor any linking between them) for the ExA to have confidence in the timeliness of delivery; the effectiveness/functionality; nor the adaptive management of the proposed marsh harrier compensatory habitats.

8. ES Volume 2: Main Development Site Chapter 5 - Description of the Permanent Development - Appendix 2A of the Environmental Statement: Drainage Strategy⁵⁰

Overall

- 8.1. We note and support the concerns raised by Suffolk County Council and the East Suffolk Internal Drainage Board at ISH 11. We recognise that the Applicant is likely to further revise the drainage strategy in relation to these concerns.
- 8.2. The implementation of a robust and secure drainage strategy remains integral to protecting the neighbouring Sizewell Marshes SSSI and Minsmere – Walberswick SPA, SAC, Ramsar and SSSI from increased water levels and potential pollution. Therefore, the resolution of issues raised around, for example, infiltration and discharge rates and pollution containment will be critical to ensuring our concerns for the protected sites are addressed.

Other comments

- 8.3. We note that 2.1.4 still refers to a *'design process in order to maximize the **economic** benefit without compromising the sustainability of ecosystems. [our emphasis]'* We note that the Applicant's response (2.7 on epage 191 of REP6-024 Appendix H⁵¹) reported *'The inclusion of the word 'economic' is erroneous and will be removed at the next iteration of the Strategy'* so we question why this has not happened.

9. Water Monitoring Plan⁵²

- 9.1. 1.1.6 (epage p3) of pdf *'for the Minsmere reserves, There is ...no **current management plan for the current mosaic of habitats. [our emphasis]'*** Whilst it is correct that there is no current accurate Water Level Management Plan, we note that there is a Reserve Management Plan and the RSPB offered the Applicant a report detailing further information on water management at Minsmere in 2020.
- 9.2. 1.1.9 (epage p5) *No change to the monitoring regime or water level control are proposed for the Minsmere reserves.* We note that monitoring point G8 from the Water Monitoring and Response Strategy [AS-236] and Table 2.1 on (epage p10) of the Water Monitoring Plan is on RSPB Minsmere and G1 may also be. Therefore monitoring is proposed by the Applicant on the Minsmere reserve.
- 9.3. 1.3.3 (epage p6) *'Monitoring of Minsmere South Levels or the wider Minsmere Reserve as SZC Co. is not proposed, as significant effects within these areas are not predicted.'* We remain in disagreement with the applicant as we believe precautionary monitoring would be appropriate, but we believe the data from locations G1 and G8 will alert to any unexpected

⁵⁰ Volume 2: Main Development Site Chapter 5 - Description of the Permanent Development - Appendix 2A of the Environmental Statement: Drainage Strategy - Tracked Changes Version - Revision 3.0 ([REP7-018](#))

⁵¹ Deadline 6 Submission - 9.63 Comments at Deadline 6 on Submission from Earlier Submissions and Subsequent Written Submissions to ISH1-ISH6 - Appendices - Revision 1.0 Appendix H from p185 of pdf ([REP6-024](#))

⁵² Water Monitoring Plan - Revision 1.0 ([REP7-075](#))

rise in water levels that could affect the Minsmere reserve and use of this data could alleviate our concerns.

- 9.4. We also refer to the D8 submission by Friends of the Earth and their consultants Dr Mould, Dr Low and Mr Graham⁵³. We refer specifically to the inadequate plans to sample on a bi-annual basis. In our view at such a sensitive site, monitoring should be undertaken monthly. Additionally, we wish to point out the responses on the significant deficiencies in relations to methodology, such as the use of Piezometric monitoring.
- 9.5. Paragraph 3.1.4 notes *Natural England's latest condition assessment, conducted in 2021, indicates that Sizewell Marshes SSSI is in favourable condition. Elevated water levels across parts of the site, however, impeded Natural England's ability to complete the condition assessment for the whole site.*
- 9.6. This statement is misleading because the latest condition assessment⁵⁴ shows the condition of the fen has not been assessed since 2009.

⁵³ SCFoE, Deadline 8: Written Submissions of Oral Case (ISH11) and Expert Comments on ISH11

⁵⁴ <https://designatedsites.naturalengland.org.uk/ReportUnitCondition.aspx?SiteCode=S1003416&ReportTitle=Sizewell Marshes SSSI>

| Unit Condition | Responsible Officer | Unit Number | Unit Id | Area (ha) | NNR Overlap Area (ha) | Latest Assessment Date | Assessment Description | Comment | Adverse Condition Reasons |
|--|---|-------------|---------|-----------|-----------------------|------------------------|------------------------|---|---------------------------|
| Sizewell Marshes SSSI - SUFFOLK (SUFFOLK COASTAL) | | | | | | | | | |
| NEUTRAL GRASSLAND - Lowland | Conservation Delivery and Projects Team | 001 | 1008787 | 11.1401 | 0.00 | 30/06/2021 | Favourable | Unit is meeting objectives for favourable condition. More detailed information is filed on TRIM. | |
| FEN, MARSH AND SWAMP - Lowland | Conservation Delivery and Projects Team | 002 | 1008790 | 31.6848 | 0.00 | 16/09/2009 | Favourable | Fen/swamp ? favourable maintained Ditches ? favourable maintained The ditches were not monitored using CSM techniques as most of the unit is difficult to access and the ditches are probably not a key feature. However, the one sample looked at was floristically quite rich. Breeding bird assemblage ? favourable maintained Invertebrate Assemblage ? favourable maintained (pending specialist survey) | |
| NEUTRAL GRASSLAND - Lowland | Conservation Delivery and Projects Team | 003 | 1008788 | 24.7388 | 0.00 | 30/06/2021 | Favourable | Unit is meeting objectives for favourable condition. More detailed information is filed on TRIM. | |
| NEUTRAL GRASSLAND - Lowland | Conservation Delivery and Projects Team | 004 | 1008789 | 37.8321 | 0.00 | 30/06/2021 | Favourable | Unit is meeting objectives for favourable condition. More detailed information is filed on TRIM. | |

10. Main Development Site - Permanent and Temporary Beach Landing Facility and SSSI Crossing Plans - Plans Not For Approval - Part 1 of 2⁵⁵

10.1. We note that on drawing SZC-SZ0100-XX-000-DRW-100202 the key indicates that the NGL/RSPB boundary should be indicated but it is not illustrated on the drawing.

10.2. We also wish to flag our support for East Suffolk Council's Deadline 7 submissions⁵⁶ and its request that

“Requirement 12C (SSSI Crossing) is within pre-commencement as it includes controls over how this part of the SSSI will be cleared in order that construction work can commence. It is noted that the Applicant considers that this includes the production of Method Statements for working (including site clearance) in all parts of the SSSI (and not just the Crossing area).”

11. Preliminary Design and Maintenance Requirements for the Sizewell C Coastal Defence Feature⁵⁷

11.1. The concerns expressed above regarding the risk of engineering concerns not taking full account of the potential ecological impacts are further reinforced by the proposal to consider only two options for pebble size, both at the coarse end of native particle size in section 2.4 (SCDF sediment composition) on page 36.

11.2. Once again, this document incorrectly states (page 20) *on the Sizewell C to Minsmere Sluice frontage, Natural England condition surveys show that the annual vegetated drift lines were degrading in the early 2000's and were lost by 2010. As accepted by the Applicant⁵⁸ it is incorrect to claim the annual vegetated drift lines were lost from this frontage in 2010.* The reference supplied by the Applicant⁵⁹ actually states for the site survey in August 2011: *“Annual shingle vegetation was evidence but appeared to be a single species of Atriplex (Atriplex prostrata).”*

11.3. We also continue to contest the statement

‘In the longer term, natural coastal squeeze will continue to reduce the supratidal zone along the Minsmere frontage until regular overwashing and roll back begins. Until that time, unless additional shingle is deposited to widen the supratidal zone, it is unlikely to sustain a drift line vegetation habitat.’

⁵⁵ Main Development Site - Permanent and Temporary Beach Landing Facility and SSSI Crossing Plans - Plans Not For Approval - Part 1 of 2 - Revision 3.0 ([REP7-004](#))

⁵⁶ Pages 3 and 4 OF <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010012/EN010012-006896-submissions%20received%20by%20D6.pdf>

⁵⁷ Preliminary Design and Maintenance Requirements for the Sizewell C Coastal Defence Feature - Revision 3.0 ([REP7-101](#))

⁵⁸ Section 2.8b Comments at Deadline 6 on Submission from Earlier Submissions and Subsequent Written Submissions to ISH1-ISH6 (REP6-025)

⁵⁹ DEFRA MAGIC (accessed April 2021). Designated Sites View, Minsmere-Walberswick Heaths and Marshes SSSI - MINSMERE HAVEN SHINGLE (PSRT UNIT 56 PRE-FEB 02) (113). <https://designatedsites.naturalengland.org.uk/UnitDetail.aspx?UnitId=1027095>

- 11.4. This is incorrect. As is accepted by the Applicant⁶⁰ the Minsmere frontage currently sustains drift line vegetation. There is also evidence on site that drift line vegetation species occur on the areas of shingle that have over-washed the dune ridge, both on the sections of frontage north and south of the Minsmere Sluice.
- 11.5. It is stated *Although the whole beach retreat would be slowed as a result of additional shingle, there would be no impact to the cycle of erosion and reconstruction of the beach face and hence to the frontal supra-tidal zone where drift lines form* and this is also implied in other sections (such as p19 of the pdf). However, we continue to contend that there is a risk of impacts regarding particle size on the frontage, due to the proposed options to use coarser particles from the native size distribution, which could affect the viability of the supra-tidal shingle to support the SAC, SPA and Ramsar site interest features which are associated with smaller particle sizes and sand.
- 11.6. Whilst the Applicant continues to propose this process *may* be beneficial, we continue to contend that there may be an increase in particle size from the SCDF imported shingle that impacts the supra-tidal shingle. The speculative positive, non-adverse outcome that *may* occur, but their remains potential for an adverse impact. The CPMMP indicates that this will be monitored, but we are not assured that it there is appropriate adaptive mitigation should it occur.
- 11.7. On epage 27 speculatively beneficial impacts are repeated *As a result, immediately neighbouring beaches **may** benefit volumetrically from the additional sediment supplied by the SCDF that would not otherwise be available. Over time, the erosion rates adjacent to the SCDF **may** be lessened, supratidal shingle **may** accumulate, and annual vegetated drift line species may colonise (as observed at Sizewell B) [our emphasis].*
- 11.8. Whilst we agree these speculative assumptions may occur, we believe that with the proposed coarse particle size these assumptions cannot be guaranteed and therefore potential adverse effects on the interest features of neighbouring beaches cannot be excluded and this potential needs to be fully taken into considerations.
- 11.9. On epage 28 it is stated. *Whilst works to recharge the SCDF may disrupt some local vegetation, any disruption would be temporary, infrequent and localised, and without replenishment any local vegetated shingle would be lost due to erosion anyway. That is, SCDF recharge would occur in areas where vegetation is naturally lost, replenishing the sediment there and facilitating potential re-colonisation of the supratidal habitat within the county wildlife site.*
- 11.10. We are very concerned about the suggestion that some local vegetation could be disrupted, as some of the coastal communities would be very fragile to any disruption. Once again, we believe the proposed sediment particle size for the SCDF is not appropriate to support supra-tidal shingle. If, as asserted, local vegetated shingle will be naturally lost due to erosion of supra-tidal shingle, replenishment by shingle that is at the coarse end of native particle size is extremely unlikely to facilitate re-colonisation.
- 11.11. On epage 29 it is stated *The mode of retreat on the south Minsmere frontage (south of the Minsmere sluice outfall) is presently scarping, as the shingle barrier is presently too high and large for overwashing and barrier roll-back to occur.*

⁶⁰ Section 2.8b Comments at Deadline 6 on Submission from Earlier Submissions and Subsequent Written Submissions to ISH1-ISH6 (REP6-025)

11.12. This statement is not entirely accurate either. Whilst there are some sections that are scarping, the prevalence of scarping has reduced in the last 15 years and there are some sections that have seen shingle over wash from 2013 onwards. It is also stated that *Hurst Spit (Hampshire, U.K.) provides an example where shingle recharge has promoted colonisation of shingle vegetation*. As per our Deadline 3 submission⁶¹, we believe this analogy oversimplifies the success of recharge at Hurst Spit of enabling vegetation to colonise and would welcome comment on the more recent references we provided which suggest less confidence that the benefits proposed by the Applicant will be repeated on the southern Minsmere frontage

12. Storm Erosion Modelling of the Sizewell C Soft Coastal Defence Feature using XBeach-2D and XBeach-G⁶²

12.1. Our main concern remains that the proposal to use a coarser grain size as recommended from an engineering perspective (4.6.3 Particle size recommendations). We note on epage 86 that *the cobbles in the laboratory study were found to be dynamic, and exchanged readily from **the front to the back of the feature** being tested [our emphasis]*. These conclusions increase concern that finer supra-tidal shingle could be submerged by coarser particles introduced on the SCDF. Currently the vegetated shingle on the southern Minsmere frontage is sited at the back of the beach

13. Statement on Recreational Disturbance Numbers⁶³

13.1. We acknowledge the submission of this document which includes our comments on the Applicant's predictions of uplift in visitor use at various sites arising from recreational displacement and construction worker use.

14. Outline Vessel Management Plan⁶⁴

14.1. We welcome the update to the Outline Vessel Management Plan in response to our comments made at ISH10⁶⁵ and our submissions at Deadline 7⁶⁶ (which were shared with the Applicant in advance of Deadline 7 as requested at ISH10). Our comments below use the headings from our Deadline 7 response to assist with clarity on progress with the issues raised.

Exclusion of some activities

14.2. We note that it is explained that movements related to some activities (tug movements, marine works and coastal defence material deliveries) are excluded from detailed consideration in this plan. We welcome the commitment that these movements should be subject to the same vessel protocols and routings as those in the Plan but note that these movements do have potential to disturb red-throated diver in the Greater Sizewell Bay and hence such measures are in our view necessary mitigation.

⁶¹ Section 5.7 Deadline 3 Submission - Comments on Other Submissions (submitted at Deadline 2) for the Royal Society for the Protection of Birds and Suffolk Wildlife Trust [[REP3-074](#)]

⁶² Storm Erosion Modelling of the Sizewell C Soft Coastal Defence Feature using XBeach-2D and XBeach-G - Revision 2.0 [[REP7-045](#)]

⁶³ Statement on Recreational Disturbance Numbers [[REP7-087](#)]

⁶⁴ Outline Vessel Management Plan - Tracked Changes Version - Revision 2.0 [[REP7-046](#)]

⁶⁵ Section 3 (epage 8) of RSPB and SWT Summary of Oral Submissions at ISH10 Biodiversity and Ecology [[REP7-153](#)]

⁶⁶ Section 3 (epage 9) of RSPB & SWT Comments on Other Submissions (submitted at Deadline 5 and 6) [[REP7-154](#)]

Number of vessel movements

- 14.3. We acknowledge that the title of Table 3.1 has been clarified.

Uplift in vessel movements – Table 4.2

- 14.4. We welcome the update to Table 4.2 which now presents seasonal uplift over an equivalent baseline period, as requested in our Deadline 7 response. We also welcome the explanation that the anticipated number of deliveries in winter (when potential impacts on red-throated divers would occur) is zero. We query what factors could affect the number of movements that would actually take place and the circumstances under which the maximum winter capacity might be needed.

Vessel routes from Lowestoft and Ipswich/Harwich

- 14.5. We note the addition of paragraph 4.1.9 which explains why no Route 3 alternative is proposed for vessels from/to Lowestoft. We do not consider that these points have been fully justified given the potential impacts of routes within the SPA and the provision of a constraints/options map would assist progress on this issue.

Indicative routes

- 14.6. We note new paragraph 4.1.16 states a commitment to use alternative routes only if the proposed monitoring indicates they are required. Given our serious concerns around the design of the monitoring protocol (see below), we do not consider that this commitment is strong enough to ensure that adverse effects on the integrity of the Outer Thames Estuary SPA can be excluded. We consider that the alternative routes are necessary from the outset to avoid disturbance impacts.

- 14.7. The Supplementary Advice⁶⁷ for this SPA is clear:

“Red-throated diver are highly sensitive to marine industries and recreational vessels, and have been shown to have a strong stress response to disturbance (Natural England (NE) and Joint Nature Conservation Committee (JNCC), 2013) (Dierschke et al., 2017). Approaching ships and smaller vessels have been shown to cause displacement, even when several kilometres away (Dierschke et al., 2017).”

- 14.8. A target has therefore been set to:

“Reduce the frequency, duration and / or intensity of disturbance affecting roosting, foraging, feeding, moulting and/or loafing birds so that they are not significantly disturbed”

- 14.9. With significant disturbance defined within the Supplementary Advice as:

*“I. changed local distribution on a continuing basis; and/or
II. changed local abundance on a sustained basis; and/or
III. the reduction of ability of any significant group of birds to survive, breed, or rear their young.”*

⁶⁷ [Supplementary Advice on Conservation Objectives for the Outer Thames Estuary SPA](#)

- 14.10. We therefore do not agree that the current proposals are compatible with the targets supporting the Conservation Objectives for this SPA.

Additional measures

- 14.11. We welcome the addition of section 5.4 Vessel Disturbance Mitigation, as recommended in our Deadline 7 response, although we note that to accord with bullet point 2 “*Restrict vessel movements where possible to existing navigation routes (where the densities of divers are typically relatively low)*”, the commitment in paragraph 4.1.6 discussed above requires strengthening such that the alternative (mitigation) routes are the default if vessel movements are required in winter.

Monitoring

- 14.12. No changes have been proposed to Section 5.3 Ecological Monitoring and therefore our comments made at Deadline 7 still apply. In summary, we consider that methods relying on boat-based observations are unlikely to be effective as birds are likely to be flushed at too great a distance to be observed from boats or may have avoided the area entirely due to boats being present. We also consider that drone surveys will have significant limitations in the offshore environment and are unlikely to be effective for this purpose.
- 14.13. We therefore do not agree that the monitoring strategy proposed is sensitive or reliable enough to inform the need to move from a direct route to a mitigation route and hence on the basis of the current proposals, we do not agree that *adverse effects on the integrity* of the Outer Thames Estuary SPA can be excluded.

Further TEMMP issues

- 14.14. The TEMMP helpfully defers to the Outline Vessel Management Plan (OVMP) paragraph 2.3.3.(and we appreciate that this will be a certified doc and clearly tied into the deemed Marine Licence). However, our concerns about the proposed monitoring and potential interventions noted in Table 2.2 have been explained in our detailed response to the OVMP above. In summary, given our concerns that the proposed monitoring will not be effective and our position that mitigation routes should be used from the outset to avoid disturbance impacts, we are currently struggling to see how the Target in Table 2.2 (epage 20) can be met:

“Target is to ensure that red throated diver populations are not adversely impacted by Sizewell C vessel movements, by regular displacement of foraging or resting birds...”

15. Lighting Management Plan⁶⁸

1.2 Site context

b) Legislation, policy and guidance

i. National & local policy

- 15.1. We note the policy reference to the NPPF has been replaced with NPS-1 but query the relevance of NPS-1 to the lighting plan since it does not mention lighting.

⁶⁸ Volume 2: Main Development Site - Chapter 5 - Description of the Permanent Development - Appendix 2B of the Environmental Statement: Lighting Management Plan - Tracked Changes Version- Revision 2.0 ([REP7-019](#))

1.3 Construction lighting management plan

c) Sensitive Areas

i. Bat sensitive areas

15.2. We note Figure 2B.3 shows

- Retained dark corridors to be maintained at 0.1 lux or lower;
- Low light areas which are to be maintained at levels of lower than 1 lux, with no permanent lighting to be included in these areas; We consider more needs to be done on understanding the effect of task specific lighting which will be above 1 lux in many low light areas.

Additional comments

15.3. We have also previously commented about our concerns around lighting of the permanent and temporary Beach Landing Facilities (BLFs)⁶⁹:

“We note that no assessment is made or mitigation proposed for the potential effects of lighting on red-throated divers of the Outer Thames Estuary SPA through disturbance and displacement. The potential effects of lighting of the BLFs should also be considered along with other project impacts (such as vessel disturbance) in an assessment of the total disturbance displacement impacts on red-throated diver arising from the Application, both alone and in-combination with offshore windfarm projects”

15.4. These comments do not appear to have been addressed within the Lighting Management Plan.

16. Draft Noise Monitoring and Management Plan - Main Development Site - Revision 2.0⁷⁰

16.1. The Applicant does not appear to have addressed the comments in our Deadline 7 submission⁷¹.

16.2. This submission included the following point which does not appear to have been addressed:

“Whilst we note the focus of this plan is on management of noise with regard human receptors, we consider that noise monitoring will be necessary to verify predictions and monitor impacts on ecological receptors. We are therefore concerned that Appendix B indicates that no noise monitoring is proposed on the Minsmere South Levels or on the majority of Sizewell Marshes where impacts on breeding and wintering waterfowl functionally linked to the Minsmere-Walberswick SPA have the potential to result in adverse effects on the integrity of this SPA. We therefore request that suitable monitoring locations are proposed.”

⁶⁹ Paragraph 6.5 (epage 7) in RSPB and SWT Comments on Other Submissions Submitted at Deadline 3 ([REP5-165](#)) - comments on the Technical Note on Indicative Lighting Modelling ([REP3-057](#))

⁷⁰ Draft Noise Monitoring and Management Plan - Main Development Site - Revision 2.0 ([REP7-048](#))

⁷¹ RSPB & SWT Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) section 8

17. Code of Construction Practice⁷²

17.1. We provided comments on the CoCP in our Deadline 7 submission⁷³ that do not appear to have been addressed.

17.2. We make some additional comments now:

1.4 Other Relevant Environmental Management Strategies and Plans

17.3. We note the oLEMP has been removed from the list of most relevant Level 1 control documents (1.4.2) and request clarification.

6 Terrestrial ecology and ornithology

17.4. With regard the main development site, section 6 (epage 72) explains the draft protected species licences and supporting documents have been submitted to the examination for information only

6.1.5 A number of ecological draft licences for protected species at the associated development sites are appended to Volumes 3 to 9 Chapter 7 of the ES [APP-363, APP-394, APP-425, APP-461, APP-494, APP-523 and APP-555]. These draft protected species licences and supporting documents form the applications to Natural England for protected species licences and have been submitted to the examination for information only.

And notes the CoCP commits SZC Co. to compliance with non-licensable method statements and mitigation strategies.

6.1.6 This CoCP commits SZC Co. to compliance with non-licensable method statements and mitigation strategies. The DoO establishes an Ecology Working Group and any updates to these documents must be approved by the EWG.

And goes on to list the documents. The documents listed do not contain or reference the additional mitigation measures submitted to the Examination for protected species. Therefore these will need to be updated in order to do so.

17.5. In addition, it is our view that, **All** protected species mitigation measures submitted to the Examination and contained within the protected species licence applications must be secured in the TEMMP and the CoCP and therefore also secured within the DCO via Schedule 2 Requirements 2 and 4.

17.6. We welcome the inclusion of the use of task lighting in the requirement for the contractor to consult with the ECoW prior to undertaking works which could have an adverse effect (Table 6.1).

17.7. Please refer to our comments on the associated development sites in our response to ExQ3 Bio.3.0 within this submission.

⁷² Code of Construction Practice (CoCP) Tracked Changes Version [REP7-038](#)

⁷³ RSPB & SWT Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) section 12

18. 2021 Ecology Survey Update at Deadline 7 Part 1 of 2⁷⁴

Appendix F: 2021 Bat Crossing Point Surveys Report 1

- 18.1. Paragraph 3.1.1 states *The crossing point surveys were based upon the guidance outlined within Berthinussen A & Altringham J (2015) (Ref 1)*⁷⁵. This guidance provides a best practice survey protocol and data analysis in Appendix G.
- 18.2. Our main concern is data adequacy, specifically the spatial and temporal coverage of the initial surveys to identify important commuting routes for further survey and the need for longer surveys, running later into the night for barbastelle in accordance with the good practice guidance referenced.

Spatial coverage

- 18.3. The detailed guidelines in Appendix G of the guidance⁷⁶ state

To identify potential bat commuting routes before construction, we advise conducting two preliminary dusk and dawn surveys (following the survey protocol below) at any significant habitat feature or boundary that will be severed by the proposed infrastructure scheme (e.g. hedgerows, treelines, woodland and woodland rides, rivers, streams and wetlands. At any site where more than 10 bats are recorded using a flight path (1-5 for rare species, depending upon rarity) a full set of surveys should be conducted, as described below.

- 18.4. Figure 1A shows only three crossing point locations for the main development site (MDS) and we request the Applicant clarifies how the crossing points were selected and explains why some significant commuting routes along hedgerows and treelines that will be severed are not included. The commuting route between Nursery covert and Ash Wood⁷⁷ and some road crossings of Bridleway 19 are not included. The surveys identified CP24 and CP25 as important commuting routes and concluded CP26 at the SSSI crossing is not an important commuting route although the updated bat impact assessment shows an important commuting route at the SSSI crossing (at CP26).
- 18.5. We are concerned the failure to identify and monitor all commuting routes to be severed means the potential impact of the development on commuting bats will be underestimated and the mitigation will be inadequate. We request clarification and consideration of additional crossing point surveys at these locations.
- 18.6. Figure 1B shows the crossing point locations for the Sizewell link road. Crossing point surveys have not been undertaken at three hedgerows between CP20 and CP22 that will be severed

⁷⁴ Additional Ecology Baseline Survey Reports Part 1 [REP7-027](#)

⁷⁵ Berthinussen A & Altringham J (2015) WC1060 Development of a Cost Effective Method for Monitoring the Effectiveness of Mitigation for Bats Crossing Linear Transport Infrastructure, Defra [Defra, UK - Science Search](#)

⁷⁶ Berthinussen A & Altringham J (2015) WC1060 Development of a Cost Effective Method for Monitoring the Effectiveness of Mitigation for Bats Crossing Linear Transport Infrastructure, Defra [Defra, UK - Science Search](#) Appendix G [WC1060AppendixG](#) page 1

⁷⁷ Volume 3 Chapter 2 Environmental Statement Addendum Terrestrial Ecology and Ornithology Appendices 2.9.A-2.9.D Part 1 of 2 [[AS-208](#)] Appendix 2.9.B Updated Bat Impact Assessment Figure 2.9.B.14

by the road⁷⁸. We also request clarification and consideration of additional crossing point surveys at these locations.

Temporal coverage

- 18.7. Section 3.1 explains each crossing point had two surveys between April and July 2021 and those with more than 10 observed bat passes or any calls of rare species such as barbastelle were taken forward for further survey between July and September. Table 1 shows most crossing points had two surveys separated by 3 or 4 weeks however CP3, CP13 and CP26 each had two surveys just seven days apart.
- 18.8. We would expect the surveys to have good temporal coverage with at least two surveys at each crossing point within June-August in accordance with Appendix G of the guidance which states
- Surveys are best done June-August inclusive. May and September are acceptable, but bat activity may be lower than in other months and behaviour may not be typical of mid-summer. Annual repeats of surveys must be carried out at the same time of year at each site to avoid seasonal changes in bat activity.*
- 18.9. The following crossing points not selected for further survey did not have two surveys within June-August: CP10, CP14, CP15, CP16 and CP26. We are concerned the limited temporal coverage, some of it at suboptimal times may have missed important commuting routes.
- 18.10. The guidance also states *Longer surveys, running later into the night, may be necessary if vulnerable, woodland-adapted species are involved.*
- 18.11. We query whether longer surveys for barbastelle were completed and request the Applicant provides detailed survey methodology for scrutiny by the Examining Authority and interested parties.
- 18.12. The guidance also states surveys should be *repeated at the same time each year and for a minimum of three years post-construction, and for a minimum of three years post-construction.*
- 18.13. Other concerns include:
- 18.14. It is not clear why the “further survey” triggers, other than barbastelle presence, have been set at the levels they have (i.e. numbers of observations and numbers of passes).
- 18.15. It is apparent in recent surveys that there was some equipment failure but the reports do not identify which surveys were affected, so we cannot judge how much of a limiting factor this might have been (i.e. was the same location affected by equipment failure on both surveys). We believe this may be a serious limitation on the quality of the dataset.
- 18.16. The Applicant do not include the data collected at each survey so it is not possible to make a comparison between survey points.
- 18.17. We request detailed survey methodology and results following the good practice guidance are submitted to the Examination for scrutiny by the Examination Authority and interested parties. We also request the TEMMP is updated to include construction and post-construction

⁷⁸ Volume 6 Sizewell Link Road Chapter 7 Terrestrial Ecology and Ornithology Appendix 7A Ecological Baseline and Method Statements Annex 7A.1 [APP-463] Figure 7.4 TN9, H43, H48

monitoring of all crossing points at the main development site, Sizewell link road and two village bypass and to state it must comply with the good practice guidance.

19. Estate Wide Management Plan for the EDF Energy Estate⁷⁹

19.1. The Applicant stated in Comments on the Local Impact Report⁸⁰

*It is recognised that all woodland habitat provides a foraging resource to barbastelle and other bat species. Goose Hill is also considered a commuting corridor for barbastelle bats. It is considered that the most significant impact will occur during the construction period. To address these impacts further foraging habitat will be created in the retained woodland areas in particular conifer plantations where glades, and rides will be created (in Kenton Hills) to provide edge habitats which is selected by barbastelle and other bat species. **This approach will be explained further in an Estate-wide management Plan (EWMP)** [emphasis added] which is being developed which will further explain the habitats across the EDF Energy estate and explains how these will be managed. The EWMP will be submitted to examination.*

19.2. The Estate Wide Management Plan does refer to reptile mitigation habitat at Kenton Hills but does not mention woodland glades and rides for barbastelle or other bat species and we request clarification.

19.3. We have not had time to review the plan in detail and we request the right to provide comments at a later deadline.

20. Draft Bat Method Statement⁸¹

20.1. We would like to make a few general comments and defer to Natural England and East Suffolk Council on the detail.

20.2. Section A (epage 4) notes *The MDS Biodiversity Net Gain report outlines that under current plans, an overall 18.03% increase in biodiversity units and 0.16% increase in hedgerow units is predicted for the MDS in the operational phase of the power station.* Please refer to our Summary of Oral Case for ISH10⁸² where we reiterate that we do not agree the Applicant can claim BNG because both the latest draft of the Environment Bill and current Policy and Guidance presume projects damaging statutory protected sites and features cannot claim to be delivering net gain.

20.3. Section A also notes *With all of the measures in place, the proposed development is considered to maintain favourable conservation status of bats in the local area and The proposed AD site developments are therefore considered to maintain favourable conservation status of bats in the local area.*

⁷⁹ Estate Wide Management Plan for the EDF Energy Estate [REP7-076](#)

⁸⁰ Comments on the Local Impact Report (Doc Ref. 9.29) [[REP3-044](#)]

⁸¹ Sizewell C Draft Bat Method Statement Part 1 of 6 [REP7-080](#)

⁸² RSPB & SWT Summary of Oral Submissions at ISH10 Biodiversity and Ecology [REP7-153 epage 6](#)

- 20.4. As detailed in our Deadline 7 submission⁸³ and our Written Representations⁸⁴ we are concerned about the residual effects for barbastelle and do not agree the Applicant has provided evidence to demonstrate the proposed development will maintain favourable conservation status of bats in the local area

There are no conclusions as to what the predicted residual effects may be for barbastelle. Having concluded significant impact on barbastelle due to habitat fragmentation, there appears to be no attempt to explain what that will actually mean to the population or, how conclusions can be tested through an appropriately detailed monitoring protocol;

- 20.5. Section C3 (electronic page 12) refers to Ecology Technical Note: Approach to assessing the impacts to bats from high-frequency noise. We query whether this note has been submitted to the Examination.
- 20.6. Section C5 instructs the Applicant *Where a site/structure/tree has demonstrable hibernation potential appropriate surveys must be carried out*. We query why hibernation surveys were only undertaken in 2011 (epage 12).

21. Documents requiring further time to review

- 21.1. The RSPB and Suffolk Wildlife Trust are unable to review and provide detailed comments on all relevant new information submitted by the Applicant at Deadline 7 in time for Deadline 8. Whilst we have reviewed and commented on the majority of the documents, the volume of material is unfortunately too great for us to review in detail and provide comments on all of it. We respectfully request the right to provide comments at a later deadline when we have had time to fully review the following documents. We also note that having insufficient time to review and respond to documents does not mean we agree with the Applicant.
- 21.2. Comments at Deadline 7 on Submissions from Earlier Deadlines and Subsequent Written Submissions to ISH1-ISH6 – Appendices Part 1
- Appendix D: Planting phasing strategy
 - Appendix E: ESC Response to the applicant's response on bat impacts raised in the LIR
- 21.3. Comments at Deadline 7 on Submissions from Earlier Deadlines and Subsequent Written Submissions to ISH1-ISH6 - Appendices Part 3 of 3
- Appendix I: Availability of a fund for farmland birds
- 21.4. The entirety of Written Submissions Responding to Actions Arising from Issue Specific Hearing 10: Biodiversity, Ecology and HRA (27 August 2021)

⁸³ RSPB & SWT Comments on Other Submissions (submitted at Deadline 5 and 6) [REP7-154](#) paragraph 6.14

⁸⁴ Written Submission for the Royal Society for the Protection of Birds and Suffolk Wildlife Trust [REP2-506](#) paragraph 3.636