



MOLLETT'S FARM

Deadline 9 Submission from Mollett's Partnership (trading as Mollett's Farm)

Summary of this document's contents:

This document contains our Deadline 9 submission to the Examining Authority, relating to the Sizewell C development application.

Our submission at Deadline 8 remains – as commented on further or amplified in this submission – but we seek also to update the ExA as to continuing discussions and draw attention to the issue as to conduct.

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Abbreviations

For convenience the following abbreviations are used throughout this document:

CPO	Compulsory Purchase order
DCLG	Department for Communities and Local Government
DCO	EDF's proposed Development Consent Order
DMRB	Design Manual for Roads and Bridges
ESC	East Suffolk Council
EDF	NNB Generation Company (SZC) Limited
ExA	the Examining Authority
FP	a public footpath
LPA	local planning authority
Mollett's	the trading partnership of Richard and Sasha Ayres
NIMBY	opposition by residents to proposed developments in their 'back yard'
PMA	Private Means of Access
PRoW	public right of way
SRO	Side Roads Order
SCC	Suffolk County Council
TVB	Two Villages Bypass (for Stratford St Andrew and Farnham)
USP	unique selling point

1. Introduction

We have tried in this submission to avoid repetition but feel we must continue to make clear salient points for the ExA's consideration.

For ease of reference, we have made relevant submissions during the Examination period that have included:

Deadline 2 Written Representation [[REP2-380](#)]

Deadline 5 Written Representation [[REP5-244](#)]

Deadline 6 Written Representation [[REP6-066](#)]

Deadline 7 Written Representation [[REP7-210](#)]

Deadline 8 Written Representation [[REP8-xxx](#)] (*reference number yet to be allocated*)

Although many of the matters previously raised remain unaddressed and unresolved (for example, drainage, irrigation and PMAs), we have not elaborated or repeated them here but rely on our earlier submissions.

2. Mollett's Farm – an *"isolated farmstead"*

We hope by now that we have demonstrated that we are anything but an *"isolated farmstead"*. This misidentification by EDF at the earliest stages of formulating their DCO application has meant a failure by this very large commercial enterprise to appreciate properly the effect of their proposals on our much smaller business, in terms of foreseeable and avoidable harm. As a thriving tourism-led operation we are an important part of the local economy and of worth in the community. EDF's fundamental mistake has led to them scrambling to see what they can rescue within self-imposed land-take limits.

We do not doubt the sincerity of some within EDF, and their consultants, to see what they can do to alleviate the situation. Improved proposals were presented to us by EDF and its landscape consultant which represent some genuine movement, but limited, and the issue of effective and sufficient noise attenuation (our principal concern) remains unresolved.

SCC has convened a meeting with EDF and ESC on 1st October to see if further progress can be made, but time is desperately short in the DCO process.

3. Noise

The situation regarding noise remains unchanged from **Deadline 8**, as no further progress has been made and none of the information that EDF undertook to provide to us prior to **Deadline 9** has been provided.

At **Deadline 8** we repeated the faults we had previously identified with the methodology employed to assess the significance of effects of noise on Mollett's Farm and questioned what acoustic input there had actually been into the design of the mitigation package.

EDF's response to the **ExQ3 Nv 3.1.2** is thoroughly misleading for the ExA. It has been demonstrated that EDF have not applied the DMRB properly. Surely, it cannot be that EDF do not understand it?

In their responses EDF have stated:

“At paragraph 9.3, ACC states: ‘Wind direction has a significant effect on sound propagation. The assessment methodology is based on a comparison of predicted levels for the existing and proposed routes that assume downwind propagation to the farm from both. This is unrepresentative as the farm is located between the two routes. The prevailing wind direction is such that sound from the proposed route will have favourable propagation conditions to the farm much more often than the existing route.’

It is correct to say that the wind direction inherent in the calculations is moderately adverse, which is to say that the wind is assumed to blow from each source to every receptor. It is accepted that this cannot occur in practice, as it requires the wind to be blowing in several directions at once. However, that assumption is intrinsic to the CRTN calculation method, and that is the calculation method that is required by DMRB LA111; this is not the result of a decision made by SZC Co.’

The assumptions on wind direction are inherent to the road traffic noise calculation method that must be used.”

We have always accepted that the DMRB methodology must be used to assess the impacts and effects of noise from the road and that the algorithms within that methodology used to calculate noise levels assume downwind propagation in all cases. We have never argued that these calculated values are wrong. However, all that those algorithms deliver within the methodology are numbers. The DMRB also sets out the

procedures that must be followed to derive impacts and significance of effects from those numbers. These procedures state that the sensitivity of the receptor to noise and the impact of significant changes to landscape on the noise environment (LA111 para 3.50-3.60) must be taken into consideration when deriving the significance of effects from the predicted numbers. This is what EDF have failed to do, as we have set out in our previous submissions. EDF has yet to acknowledge or respond to this specific point.

To summarise the specific points of context raised in the previous submissions:

- Mollett's Farm is not just a residence. It is a private tourism business dependent upon its reputation for tranquillity. It therefore has a significantly increased sensitivity to noise compared with a residence.
- The layout of the business has evolved to take advantage of the tranquillity of the land to the south and mitigate the effect of noise from the existing A12 to the north. It therefore has a significantly greater sensitivity to noise coming from the south than noise coming from the north.
- The wind-rose for the area shows that wind is more likely to blow from a generally southern direction than a generally northern direction. This is therefore significant change to the landscape, which would be expected to result in an increase in significance of effect for the TVB located to the south.

None of these points change the numbers generated by the DMRB algorithms, but paragraphs 3.50-3.60 of the DMRB noise assessment methodology require that they must be taken into account when assessing significance of impacts.

EDF has been relying on an inadequate assessment which does not comply with the DMRB and as a result has not set clear and appropriate objectives for a noise mitigation proposal. This is a fundamental failure on the part of EDF and, with respect to the ExA, should be rejected for what it is: wrong to start with and inadequate. EDF's approach is out of step with proper noise assessment practice.

It emerged at a meeting held with EDF at Mollett's Farm on 22nd September that there had not been any acoustic input into the design of the modified 'mitigation' package offered prior to **Deadline 8**. The package had been designed based on other requirements – principally visual and landscaping – and its acoustic benefits were calculated retrospectively. As a result, there are several apparent acoustic weaknesses in the proposals and it failed to deliver a sufficient noise reduction to address the impacts and effects on Mollett's Farm.

EDF appear to be not acknowledging that there is a need for noise reduction but at the same time offering noise benefits that are a by-product of a landscape mitigation package.

The appropriate approach that EDF should be taking is:

- Accept that the specific context of Mollett's Farm increases the significance of effects on noise from the TVB.
- Use that assessment to set a clear noise reduction criterion for a mitigation package.
- Use the tools at their disposal, such as the already existing noise model, to design a noise mitigation package that can deliver that reduction.
- Resolve conflicts with other requirements, such as public rights of way, without undermining the acoustic performance of the package.

We asked EDF a series of questions that would help us to help them work towards a more effective solution. This request for information was included in our **Deadline 8** submission [[REP8-xxx](#) and [REP8-xxx](#)] (*reference numbers yet to be allocated*). To date none of the requested information has been forthcoming from EDF so we are not able to identify any progress.

4. Business Operation

We cannot see how we can run our tourism business during construction of the TVB. The noise, fumes, dust and disruption (including to our access) will be too great. We already have an inkling of what it will be like from the construction of a nearby agricultural reservoir, here at Farnham, and from videos we've seen of a similar bypass currently under construction in Hertfordshire.

EDF has chosen not to take land from us. It could have done so to provide a larger bund and landscape belt. Unfortunately, not having land taken from us means that statutory compensation is limited and simply does not cover business loss.

Being on EDF's preferred supplier list for Sizewell workers has been presented as an option but, at the rates offered, will not cover costs. We take the point made to us on 22nd September that we might attract some Sizewell management people who want to live in luxury holiday self-catering accommodation but that is an unknown and, without early and meaningful shielding from noise, may be an unattractive option even for such project-related customers. Excavating a cutting and constructing a bund is of itself noisy.

Without proper and effective noise attenuation, we have grave doubts that our tourism business can survive in the post TVB-opening world but we do not qualify for disturbance compensation (including future business loss).

For us, compensation rights in statute are not a remedy. We need proper noise attenuation works anyway and sufficient to adequately protect our three residential units and to be able to continue to function as a business.

5. Land-Take for the DCO

We understand order limits have to be set but, as we see it, the issue for the ExA is whether the proposed land-take is right. If the land-take is not great enough to put in noise mitigation and landscaping which is necessary to make the 'development' acceptable, then surely it must follow that the DCO is not acceptable.

We appreciate that EDF have been on this project for a long time. It is understandable that, if only to avoid objections, EDF would have tried to tie up deals with landowners. With due respect to the ExA, a pertinent question to EDF would be whether it has deals in place that prevent the ExA taking a decision that land take is insufficient and that the DCO, on current order limits, cannot be recommended. If so, EDF would have to re-negotiate.

For Mr Blyth's severed field on the western side of the TVB by FP 29 (and without a PMA), that land must be virtually worthless and therefore EDF should be due to pay near or full agricultural value.

EDF has not designed a bund from FP 29 to the roundabout but, if that required additional land-take, that might be from the construction compound which EDF has told us is to be returned to Mr Blyth as agricultural land. He might suffer some additional loss but EDF will already be due to pay proper compensation to Mr Blyth for land being taken for the TVB.

For additional land-take from Mr Latham, he too has severance and will be left with land that is uneconomic to farm.

The issue is surely what extra harm would be caused to that farmland from additional land-take and whether compensation would be an acceptable remedy; as for land already being taken and injurious affection and severance. Is EDF taking it that they are absolutely bound as to the extent of land-take by the terms of whatever deals they have in place and therefore that the ExA are so bound? If so, we suggest that it is substituting EDF's judgement, as to what is acceptable land-take, for the ExA's and that must be wrong in law.

Has EDF actually talked to either landowner?

We appreciate that extra land-take might be said to be for the benefit of other landowners but, with respect to the EXA, that would be a false argument. As we see it, the issue is what is objectively necessary to provide adequate mitigation and is that land-take justified under **S246 Highways Act 1980** to make the TVB scheme acceptable in planning terms.

6. Discussions with EDF and the Councils

Issues on noise have been covered above.

It appears that discussions with SCC before we were presented with revised proposals were on general principles only, without a plan. EDF, the Councils and we can report later to the ExA whether we have made any further progress tomorrow.

Regrettably, SCC have failed to respond in any substantive way to questions we have raised about FP 29. We have found it necessary to submit questions under **Freedom of Information** procedures, as follows:

1. Does SCC have an identifiable policy as regards having an at-grade crossing of a new road?
2. If so, where can we see that and will SCC provide a copy?
3. If not, is it the case that, where new infrastructure (like a road) means the stopping up of a public footpath and an at-grade crossing of the new road for pedestrians is proposed, the issues are decided on that specific scheme?
4. In the case addressed in question 3, what are the parameters that SCC sets itself for deciding whether an at-grade crossing should be accepted (as opposed, for example, to a bridge or underpass)?
5. Also in the case addressed in question 3, was an Equality Assessment Impact carried out?
6. If so, was such carried out for the proposed change in FP 29 in respect of the Two Villages Bypass and will SCC provide a copy?
7. If not, what other assessment was undertaken by SCC in respect of the proposal embodied in the draft DCO for FP 29?
8. What surveys or other measures were undertaken by SCC to ascertain the level and nature of use of FP 29?
9. What consultations were undertaken by SCC in respect of the FP 29 proposal with stakeholders, including East Suffolk Council, the relevant Parish Councils, user groups and landowners? Where can any such consultation responses be seen and will SCC provide copies?
10. Was the subject of public rights of way affected by the TVB addressed by the Joint Local Authority Group or any other joint panel or other councillor group addressing Sizewell C issues? If so,

please identify when and advise whether reports to any such body are available for public inspection, together with the minutes.

11. Was the subject of public rights of way affected by the TVB reported on to SCC's Cabinet? If so when and what is the report number?
12. Was the existence of the tourism business at Mollett's Farm known to SCC when it decided to accept an at-grade crossing for FP 29?
13. Did SCC take into account its Green Access Strategy (Rights of Way Improvement Plan) in relation to the proposal for FP 29, either at officer level or in consideration by Councillors?

We have raised supplementary questions as to whether the **Suffolk Road Safety Partnership Board** were consulted and whether a safety audit for the FP 29 at-grade crossing was carried out by SCC.

Our solicitors have looked for relevant information on the danger to pedestrians of relative speeds. SCC have been sent the following references, which may also be of assistance to the ExA in considering the issues for FP 29:

https://www.who.int/violence_injury_prevention/publications/road_traffic/world_report/speed_en.pdf

<https://publications.parliament.uk/pa/cm200102/cmselect/cmtlgr/557/55705.htm>

<https://trid.trb.org/view/762266>

https://saiv.espaceweb.usherbrooke.ca/References/269_2004_SpeedAndRoadAccidents_148p.pdf

https://www.youtube.com/watch?v=6_fu34wOsBY&t=10s

<https://www.think.gov.uk/road-stats/>

Think! was established officially in 2000 as the Government's road safety campaign.

7. Proper Behaviour

Our attention has been drawn to the **DCLG Circular of July 2013**. Whilst there may be costs recovery for unreasonable behaviour, we note the expectations in para 30 for:

“constructive co-operation and dialogue between the parties at all stages”

and the further requirements that:

- *“parties should review actively the content of submissions and evidence, responding promptly to changing circumstances, and provide a clear explanation of any revised stance or position, so that nothing comes as a complete surprise throughout the examination”*
- *“parties should be willing to accept the possibility that a view taken in the past can no longer be supported and act accordingly at the earliest opportunity, even at the risk of an application for costs being made where, for example, a particular matter addressed in the consent application or supporting material or submissions or, the submissions and evidence of any party, is withdrawn and no longer pursued”*

We are endeavouring to behave accordingly and trust that, even in these closing stages of the Examination, other interested parties and EDF will do likewise.

8. Conclusion

We are not objecting to a new power station at Sizewell C. We recognise that a bypass is required for the villages of Farnham and Stratford St Andrew. This is not a NIMBY objection but rather related to the harmful impact the DCO alignment will have on our tourism business at Mollett's Farm and the homes. We have, at considerable expense, retained professional advisers in particular for noise and other matters. The ExA are in receipt of our expert evidence on noise but discussions are yet to be concluded. We have yet to see a design solution for mitigation which sufficiently alleviates the harm.

Regretfully, therefore, we have to say that the matters addressed in our submission at **Deadline 8** remain of effect, as commented on or amplified in this submission. We submit that, in coming to a judgement on the planning balance, the ExA should be giving significant weight to that harm and its consequential effects, such that the TVB scheme should not proceed without satisfactory alleviation of that harm.