



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

The Sizewell C Project

**Natural England's response to Examining Authority's follow-up questions to
Natural England's response to [EV-188], section 5, Marsh Harrier**

Planning Inspectorate Reference: EN010012

24th September 2021

ANNEX D

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

For response at Deadline 8, 24 September 2021

Examining Authority's question

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

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

Natural England's response

- 1.1 Natural England has been engaged in advising the Applicant on the proposed development since the pre-application stage which started in 2012. Until 2019, the Applicant continued to describe habitat creation for displaced marsh harriers as HRA mitigation - necessary to exclude adverse effect on site integrity. This definition narrowed the area of search, within which the Applicant could only find a site suitable for creating experimental terrestrial (i.e. non-wetland) habitat. Despite Natural England's advice, the Applicant would not consider a Stage III & IV HRA to allow a wider search, to find a location with suitable hydrological conditions to create optimal wetland habitat.
- 1.2 Since the Development Consent Order (DCO) application was submitted in May 2020 and the Examination Authority has been sighted on the proposals in this regard, habitat creation for displaced marsh harriers has been described by the Applicant as compensation. Consequently, the geographic area of search for habitat creation is no longer tightly constrained (the relevant Habitats Regulations test is the coherence of the network). Despite this revision to the Applicant's previous approach, which was maintained over several years pre-application, the Applicant has not explored options to create optimal wetland habitat across a wider area that the removal of this constraint now allows.

Examining Authority's question

- 2) **At para 5.8.8 Natural England point out: "Finally, at Issue Specific Hearing 10 Session 4 on 27 August, Natural England was made aware of evidence provided by Roger Buisson (Associate Director at BSG Ecology) in relation to**

his client's 53ha land holding close the SPA where wetland habitat for marsh harriers could be created." Please will Natural England set out what conclusion it draws from that. Does Natural England suggest there is a problem, substantive or legal, as a result of this?

Natural England's response

- 2.1. Natural England would prefer more wetland habitat to be created (offering benefits to other wetland species potentially affected). It is not Natural England's role to search for compensatory sites but merely highlight that this process does not appear to be finalised. Natural England is not suggesting there is a problem, substantive or legal, as a result of this.

Examining Authority's question

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

Natural England's response

- 3.1 Natural England refers the Examining Authority to its previous response in relation to the proposed compensation:

Therefore, whilst potential effects on harriers cannot be eliminated, it would appear unlikely that such effects would be significant to the degree they might constitute an impact.

Eliminating concerns might be interpreted as guaranteeing the lack of an effect, and Natural England does not believe this level of certainty is either justified or necessary.