



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

The Sizewell C Project

**Natural England's Response to The Examining Authority's Third Written Questions**

Planning Inspectorate Reference: EN010012

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24<sup>th</sup> September 2021

ExA Q3 Ref:	Question to:	Question:	NE Response
Bio 3.1	Natural England, MMO	A number of questions were raised seeking information and input from Natural England and MMO during ISH10. Those at agenda item 5 were published by the ExA on 31 August 2021 following ISH10 and a note of the times at which other questions relevant to them were raised was sent to them later. For ease of reference, the ExA sets out those points below. Please will Natural England and the MMO respond at Deadline 8. In the event that their D7 responses or submissions in lieu of attendance have covered these points to their satisfaction, please will they state where, with EL references, paragraph and electronic page numbers.	Noted, no response required.
Bio 3.2	Natural England, MMO	Agenda item 3.a Sabellaria spinulosa, in general and progress with a Sabellaria mitigation and monitoring plan which is awaited from the Applicant - see also Natural England's position set out in their post-ISH7 submission [REP5-160] (page 21 of 21) what DML conditions are proposed for mitigation and comments on likelihood of presence and need for compensation (see also MMO's REP6-039] paras 1.3.6.6 and 1.3.7.9). Q(a) Where is the mitigation and monitoring plan, is Natural England content with it, likewise MMO Q(b) Natural England say three locations for intakes; Are there not	<p>A) Natural England advise that the Applicant submitted a Sabellaria Management and Monitoring Plan at Deadline 7 [REP7-078]. We have previously engaged with the Applicant to inform this plan; however, this is the first time we have seen the plan. We are currently reviewing it and will make best endeavours to provide our comment at Deadline 8.</p> <p>B) The Applicant's clarification is correct, we intended to refer to the three potential intake head locations.</p> <p>C) This question lies within the MMO's remit.</p>

		two intakes of which the northernmost avoids SS as it is not on reef. Southernmost has to be on reef, does it not? What is the third? Was it a candidate rejected? (The Applicant clarified there are two heads per intake and three potential locations.) Q(c) Will there be a condition in the DML requiring mitigation of any effects on SS? And also will an in principle monitoring and mitigation plan be submitted to the examination as suggested by MMO at para 1.3.6.6? When?	
Bio 3.3	Natural England, MMO	Agenda item 3.b To understand which issues considered at the Hinkley Point C water discharge permit acoustic fish deterrent appeal and in dispute are common to the Sizewell DCO application; and who was involved? (Please will the MMO and Natural England take into account the Applicant's response at ISH10 and its post-ISH10 submissions in replying.	Natural England refers the Examining Authority to the Environment Agency's Post Hearing submissions including written submissions of oral case [REP7-131], where in table ref 3.b. they have answered this question and we believe represents an accurate assessment of the issues, and we align with their opinions.
Bio 3.4	Natural England	Agenda item 4.a Fen meadow proposals, including Pakenham – to understand in particular Natural England's position on need, quantum and the likelihood of success ExA As Natural England are not able to be here today, the ExA is going to put this question to the Applicant to ask for their understanding of Natural England's position and their reply, and also so that Natural England can speak for themselves in writing at	<b>Impacts on Sizewell Marshes SSSI</b> We would draw attention to the sentence in the same paragraph of the AoS for EN6 which states " <i>The applicant will need to develop an ecological mitigation and management plan to minimise the impacts.</i> "  Firstly, we do not consider that this 'minimisation' of SSSI impacts has been demonstrated sufficiently at this stage, with the Applicant proceeding with a hybrid culvert- bridge SSSI crossing design despite less ecologically damaging alternatives being presented at

	<p>Deadline 7. The ExA has their note in lieu of attendance.</p> <p>The policy in EN1 para 5.3.11 is not normally to grant where there is a likely adverse effect on an SSSI, and that where after mitigation there is an AE on a site's notified special interest features an exception can be made where benefits outweigh impacts on the site as a SSSI and on the national network of SSSIs. You are taking 0.4 something ha of fen meadow, call it 0.5 ha. (a) That, it seems to me, is the Natural England position on need. Q (b) Please will you explain to me fairly, putting it in the best light, how Natural England justify the total land take at Halesworth, Benhall and Pakenham put together. Q (c) What made the Applicant think at the time of the Application in May 2020 that Halesworth and Benhall alone would be sufficient? And Q(d) why at Deadline 5, 23 July, would Natural England describe the possibility of success thus: "To summarise, our advice is that creating compensatory habitat of the same quality to that which will be destroyed will be extremely difficult, if not impossible". It was said by Mr Lewis for the Applicant at CAH1 Part 1 that this was a hangover from an earlier stage in the Examination. Is that it right. It was their clearly stated view at D5, 23 July.</p> <p>Q(e) Will the Applicant explain to its position but only in so far as it needs to add to anything</p>	<p>earlier stages in the consultation which involved less direct SSSI land take.</p> <p><b><i>Need for Compensation Outlined in EN6</i></b></p> <p>Secondly, where direct SSSI loss has been minimised and cannot be further avoided or mitigated, this paragraph clearly outlines the potential impacts on "wet meadows", acknowledging the need for habitat creation in the form of compensatory habitat. We consider that the reference to a potential inability to fully compensate for losses of this habitat type acknowledges the inherent difficulty in creating and establishing habitat of this quality and scarcity and by no means implies a lack of obligation to fully and exhaustively attempt to do so.</p> <p><b><i>Pakenham Site Selection</i></b></p> <p>It is not within Natural England's remit to justify compensation site selection, only to offer advice on the likelihood of success for habitat creation to compensate for impacts arising from the proposed development (in this case to a nationally important SSSI).</p> <p><b><i>Advice on Fen Meadow</i></b></p> <p>We reiterate our advice on this issue as provided within our Relevant Representations [RR-0878] and Written Representations [REP2-153].</p> <p>Due to the high degree of uncertainty in establishment, a multiplier offers the best chance of successful delivery. This habitat is nationally scarce and only occurs under specific hydrological regimes. While it is extremely difficult to replicate, our advice is the</p>
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		<p>it said at CAH1 Part 1. The ExA notes that the AoS of EN6, at para 5.13 says: There is potential for habitat creation within the wider area in order to replace lost ‘wet meadows’ habitats of the Sizewell Marshes SSSI but it may not be possible to fully compensate for losses to this habitat ... develop and ecological mitigation and management plan to minimise the impacts”. Does the Applicant draw an comfort from this or rely it? There is a question there also for Natural England – does this para allow for some failure of fen meadow recreation, and how in the light of it is the fen meadow at Pakenham justified?</p> <p>Q(f) Is the money for the Fen Meadow Contingency Fund yet agreed?</p>	<p>best chance of successfully delivering fen meadow (and wet woodland) is by providing a natural ecohydrological regime within a site. This has implications for the amount of land necessary to instate such a regime. The information provided to the examination so far goes some way towards considering the feasibility of each site and outlining how habitat creation would be achieved. However, the Fen Meadow Plan as submitted at Deadline 6 still relies on a range of artificial hydrological management techniques limiting the chances of successful delivery. We suggest that further revisions of the Fen Meadow Plan are undertaken with these comments in mind. We also provide detailed comments on the Fen Meadow Plan at this deadline. This provides our opinion on the likelihood of successful habitat creation across the Halesworth, Benhall and Pakenham sites in terms of Sizewell Marshes SSSI fen meadow compensation.</p> <p><b>Fen Meadow Contingency Fund</b></p> <p>We have noted the provision for £3,000,000 contingency fund for Fen Meadow and welcome its inclusion within the deed of obligation. While the amount proposed seems reasonable, we have limited experience in assessing the costing for establishing this kind of habitat and therefore defer to East Suffolk Council on its sufficiency.</p> <p>Given the difficulty of finding potentially suitable sites to date throughout Suffolk, in addition to the national level of importance of this habitat, we advise that compensation options should be explored nationally if a suitable site cannot be found more widely within East Anglia and that this should be acknowledged within the Deed of Obligation.</p>
Bio 3.5	Natural England	Agenda item 4.e District licensing – changes and effects	We can confirm that District Level Licensing (DLL) currently only applies to Great Crested Newts.

		<p>Q(a) The ExA's understanding is that it is only for newts and has no separate statutory basis. But in the absence of Natural England, please can ESC tell us if we are right or not and explain what difference it makes? (See also Natural England Blog post of 11 Dec 2020.)</p>	<p>As we understand it the Applicant will be going through the normal licensing procedure while simultaneously entering into discussions with the DLL team at Natural England in order to minimise further delays.</p> <p>General advice and information on district licensing can be found on the government <a href="#">website</a>.</p>
Bio 3.6	Natural England	<p>Agenda item 4.g Biodiversity net gain – the effect of the new metric and assessment of SSSIs</p> <p>Q(a) To the Applicant – (i) what are you intending to do in relation to Metric 3.0? (ii) If you are putting something in, when will we get it? (iii) The ExA notes that at the Natural England website it is stated that “Users of the previous Biodiversity Metric 2.0 should continue to use that metric (unless requested to do otherwise by their client or consenting body) for the duration of the project it is being used for as they may find that the biodiversity unit values metric 2.0 generates will differ from those generated by Biodiversity Metric 3.0”. Does the Applicant wish to say in relation to that? Please will Natural England comment.</p>	<p>The statement quoted on our website remains valid, we advise that the Applicant continue to use Biodiversity Metric 2.0 unless they wish to do otherwise.</p>
Bio 3.7	Natural England, MMO	<p>The ExA understands that Natural England and the MMO did not respond to the consultation. Please will they both set out their responses to the proposed changes?</p>	<p>Natural England wish to correct that we did respond to the Applicant's consultation on the 25<sup>th</sup> August 2021. Having contacted the Applicant directly on this matter they appear to have omitted our response in error and will notify and provide the Examining Authority with our response at Deadline 8.</p>
HRA 3.6	Natural England	<p>Re. Question CG.2.6 of ExQ2 [PD-034]</p>	<p>i) Natural England advise that we support the EA's position as outlined in their response [REP7-124].</p>

		In NE's response to Question CG.2.6 of ExQ2 at Deadline 7, NE requested "...that the ExA defer our input to Part 3 of Examiner's questions, when we will aim to provide a response by Deadline 8". Can NE please provide its response to Question CG.2.6 of ExQ2 [PD-034].	<ul style="list-style-type: none"> <li>ii) Natural England have no comment to provide on the funding of the monitoring and mitigation process.</li> <li>iii) Natural England advise that the Marine Management Organisation (MMO) and East Suffolk Council are the competent authorities concerned with securing and enforcing provisions. We defer to both organisations.</li> <li>iv) We believe these satisfactorily addresses this point.</li> <li>v) Natural England support the extension of monitoring to include the Coralline Crag at Thorpness, to allow changes to be identified and raised with the MTF.</li> </ul>
HRA 3.7	Natural England	<p>Southern North Sea (SNS) SAC (Marine mammals) (Physical interaction with project infrastructure – collision)</p> <p>NE's RR [RR-0878] highlighted the risk of collision to mobile species including from marine vessel activity, capital dredging, piling and drilling works. Subsequently, NE [REP2-153] confirmed it had no further concerns regarding physical interaction between project infrastructure and marine mammals. Can NE please confirm what information resolved their concerns?</p>	<p>Natural England advises that further information provided by the Applicant between submission of our Relevant Representations [RR-0878] and Written Representations [REP2-153] resolved our concerns on this matter.</p> <p>This included a more refined idea of construction plans, alongside updates to the Applicant's Marine Mammal Monitoring and Mitigation Plan which resolved many of our concerns between our RR [RR-0878] and WR [REP2-153].</p> <p>Additionally, we joined a meeting with the Applicant on 18<sup>th</sup> January 2021 to discuss outstanding marine ecology issues, which enabled us to resolve this issue for marine mammals.</p>
DCO 3.5	MMO, Natural England, Environment Agency	Are the MMO, Natural England and Environment Agency satisfied that the co-ordinates for the location of the works and their construction are given correctly in the ninth revision of the dDCO?	Natural England defer to the MMO on this point, as they are the competent authority for the DML.
LI 3.1	ESC, SCC, AONB	Design and Access Statement – Detailed Built Development Principles	Principle 56 amendment. We are content for the colour palette to be discussed and agreed with East Suffolk Council, on the

	Partnership, National Trust, Natural England	In response to FWQ LI.2.13 and LI.2.14 the Applicant has detailed amendments to Principles 56 and 57. Please review and provide a response to the appropriateness of the additional text.	understanding that the AONB Partnership would be invited to participate in that process.  Principle 57 amendment. It is not clear whether and how the local authority and AONB Partnership would be involved in selecting the colour of the interim spent fuel store.
LI 3.2	ESC, SCC, AONB Partnership, National Trust, Natural England	Estate Wide Management Plan for the EDF Energy Estate  At Deadline 7 the Applicant submitted an Estate Wide Management Plan for the EDF Energy Estate (Doc 9.88). Please review and comment on the content and likely effectiveness of the plan. Are you content with the wording of Requirement 5C within the draft DCO (Doc 3.1 Revision 8.0)?	In relation to designated landscape matters we defer to the AONB Partnership to comment on how effective this would be in upholding the AONB's statutory purpose. Their comments can, we hope, relate the Management Plan to the aims and objectives of the area's statutory management plan.  We are content with the wording in the draft DCO which says: "Project wide: Estate Management, The Estate must be maintained in accordance with the Estate Wide Management Plan, unless otherwise approved by East Suffolk Council. "
LI 3.3	ESC, SCC, AONB Partnership, Natural England	Associated Development Design Principles  Please comment on the amendments made to the Associated Development Design Principles (Doc 8.3, Revision 3.0) submitted at Deadline 7, in respect of planting and hedgerows.	Natural England is not able to provide landscape related advice for those parts of the scheme located outside the AONB and its setting.