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To: [SizewellC](#)
Subject: ExQu3 - A13 Alternatives (AI.3.0 - 3) - and Responses at Deadline 8:Some Comments
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Attachments: [ExQu3 Comments 121021.docx](#)

Please find attached a copy of our final comments on the above. With thanks, Regan Scott,
S.A.G.E.

ExQu3 – AI3 Alternatives (AI.3.0 – 3) and Responses at Deadline 8 : Some Comments

from Regan Scott (.S.A.G.E.)

Tuesday 12th October, 2021

1 The Stonehenge Case Our reason for citing this case as of interest was not exclusively the matter of alternatives. It also concerned amenity, a principled concern which we had found relevant, and drawn attention to, at various points in the Examination. We articulated our view that Minsmere might be regarded as a historically meaningful amenity – a particular kind of nature asset – in our recent submission **Comment on RIES** (9th October), approaching this view through the lens of site integrity. The Marsh Harrier narrative as a constituent example might also be viewed as historic legacy meaning, since its survival in England is owed to Minsmere (Entech Reports history). Another case of interest, already cited, is Navitas Bay.

2 The Developer’s case on alternatives We set out a range of considerations about alternatives in our submission on RIES. We see this principle as engaging both specific impacts and also whole project options as is abundantly clear from the 8 site options established in EN6, and still awaiting 7 deliverable projects if the letter of the law is to be referenced.

The developer’s arguments about the the road/underpass options at Stonehenge omit consideration of whether the case engaged “good design” and “enhancement” principles which we suggest may be adduced from the judgement. Both principles derive from the PA2008 and SoS duties we have previously pointed out in ISH submissions on DCO issues – that is, positive contributions to climate change and good design at PA2008 Section 10.

Otherwise we note the developer argument that the matter of alternatives is a question of law, but suggest that there is the countervailing space for reasoned judgement by the decision maker, especially in an overwhelmingly policy-led infrastructure planing issue.

As to realistic alternatives (para 7, bullet point 3) on whole project alternatives, it is now the case that there are three alternative credible prospects in North Wales, as we have outlined previously. We note here the authority of the

Wales Government's support for the conventional large scale nuclear project, and UK government development funding support for SMRs which will benefit the other two SMR projects at North Wales locations.

3 NPS Review and impending EN6 Revision - AI 3.3 – General Assessment

Principles Our interest here is in the “pending” status of the EN6 review, the HRA Review and expositions of sustainability requirement in the Main Report and the Review of Policies, Plans and Programmes. We are grateful for references in RIES to this body of Review documentation.

The pending status of the revised/promised EN6 is of interest because of an essential ambivalence about it being, as established in 2017, freestanding of EN1. This may be more than a matter of timing, involving substantial differences to come, perhaps in closer definition of nuclear “newness” and “large scale nuclear”, and maybe even “urgency” – defining the energy gap with more precision to reflect its speedy adaptations and challenges to energy modeling. A preliminary look at the extensive documentation suggest some comments below.

The Review process invites consideration of the time line for SZC, since it may take some time or arrive quickly. Whichever occurs, we suggest that the EN1 Review and its associated sustainability and HRA texts will have policy weight at SoS level.

Another time line matter of interest is the “deployable by 2025” date. There are issues which the ONR looks likely to have a role in once they are clear, namely the declared aim of minority ownership for EDF, and how a controlling in the project might be secured with likely multiple owners. And how, if RAB funding needs legislation, this might be secured and most likely co-exist with further mixed ownership. And whether the minority ownership starts with funding for the construction of SZC or only from first operation.

The point here is how the NPS Review process as policy will fit into the foreseen timetable for the ExA recommendation and the reasoning of the SoS if IROPI is accepted.

To these timeline questions we now have to add the fact that a decision has been made by Government to delay, sine die, the publication of a revised EN6.

The main Review Report “Planning for New Energy Infrastructure” sets out clearly (p 11, Transitional Arrangements) that the Ministerial Statement of 7th

December 2017 is policy. Further, National Policy Statements for Energy – Appraisal of Sustainability Main Report then sets out a careful refinement (p 6 para 3) about how BEIS is planning to revise EN1-5 in 2021, but not EN6 yet:

“except EN6 as the decision has been made not to update that NPS at present. EN6 currently sets out the planning and consents regime for nuclear projects deployable before 2025 and a new NPS for nuclear electrical generation deliverable after 2025 will be developed”.

Deployability means the project must be in place by December 2024, and afterwards there will be a new prospectus, maybe some time ahead. So while an invitation to SZC remains in place, the door seems to be closing with a race to get a DCO and resolve ownership and control issues and funding challenges by year end 2024, without the DCO as presently designed being able to resolve key issues.

The policy narrative has a further dimension concerning the overarching revised Appraisal of Sustainability and HRA draft texts. If unchanged in substance after consultation, they could hardly be regarded as not at least supplementary to the letter of the law if the SoS has not been able or wished to see them enacted. If enacted, as overarching, arguably they would cover any subsequent reasoning about nuclear projects still not deployed.

A general comment is invited by these timeline considerations. This that the delayed and maybe otherwise “freestanding” new EN6 can be seen as reflecting the fact that what is dominating – other than maybe economics and value for money and the new corpus of energy policy from Autumn 2020– is the speed of both overall energy technology developments and the new options in the nuclear generation field. These are SMRs with hydrogen linkage, all of them overlaid by changing energy trading and market structures, namely interconnectors, supply and grid localisation and EU collaboration options on renewables at offshore energy hubs. The latest developments are that EDF’s parent country France has announced a national programme for developing SMRs. And National Grid are to build an offshore energy hub in the North Sea, mirroring the big EU hub programme.

The timeline issues invite a further observation that EDF’s recital of urgency is looking untenable, and the explanation of delay to date that an earlier DCO application was not possible may be describing the future as well as the past.

4 Sustainability Issues & Alternatives We offer some comments on the developer's answers to ExA questions about policy/need and sustainability. Their answers do not address the policy review issues outlined above. They seem to be addressed to straw men. Our approach, as with many IPs, has been to respect NPS 1 and 6, adding the argument for due weight to be attached to the Energy NPS Review process and other policy developments as material considerations. We welcome the ExA's recognition of these matters in the Examination timetable.

The developer's stance that EN1 & 6 acts as a guarantee of a successful planning journey's is not tenable. In our view there are overwhelming reasons for opposition to this project in this place at this time and in current policy circumstances, above and beyond many legitimate concern about large scale nuclear power as a sustainable, affordable and timely climate change contributing energy source.

The Key Findings (AoS), at AI.3.3. Para 2 Response cited by the developer and summarised in six bullet points interestingly recognise impacts and planning negatives which the developer has overwhelmingly set aside in its own assessments, most notably of likely impacts on Minsmere. The further argument about the alternatives considered consists in reliance on forecasting for energy industry segments – wind, solar, gas etc -, not the availability of suitably scaled nuclear projects elsewhere.

Our argument is not that nuclear is not needed, but that this project does not conform to policy needs for energy, environment and climate change. If it is accepted that the UK needs nuclear in the energy mix, this does not justify the SZC project in itself, it simply opens the door for this project to be considered on its merits. For the developer to conclude that The Key Finding (AoS) "...serves to validate the up to date requirement for new nuclear and the absence of a valid alternative" may be a legitimate opinion, but it belies the up to date facts of alternatives, new policy perspectives and maybe new regulatory standards. Nor does it alter the view that this project does not conform to UK energy policy need, is not suitable for Sizewell and not sustainable.

4 HRA Issues We can't find developer commentary on the new HRA provisions. We assume these will apply across to the existing EN6 and maybe, if the revised NPS EN 1-5 policy bundle is enacted soon, as regulatory law since they are attached to the revised EN1 Overarching Energy Policy.

We suggest that there are some new formulations of interest.

Amongst these at Compensation 6.3 (penultimate para) is a proposal that IROPI compensation sites will be added to the existing sites. This seemingly obvious measure might attract challenge where the addition is partial or not obviously equivalent to the primary site's overall qualifying features. Notwithstanding this point it refines the principle of HRA compensation.

At 2.1 we note that there is a novel requirement to supplement the protection of the coherence of Natura 2000 sites, using the term "reinforcement". Maybe it replaces or parallels the established "enhancement" terminology.

Water abstraction conditions are apparently tightened in 5.5.8.

IROPI figures in respect of a new distinction between public and private interest.

There is a requirement for longterm public interest, with implications for the 60 year operating life of SZC's EPR reactors.

6.2.2 is express about large scale nuclear being linked to hydrogen production, not a matter immediately obvious in the design of the SZC project.

These are just initial observations in the circumstances, and we note the consultation period for the Review extends beyond the close of this public period of Examination.

5 IROPI The Compensation proposals form part of the review of IROPI, and, as noted, there is an important redefinition or refinement of the public interest hurdle.

We record that the developer has not responded to this part of the Review which seems to propose quite substantial clarifications of a largely untested area of law. Nor so far, apparently, have they responded to the ExA invitation in RIES to update its IROPI application.

We have argued throughout that **public interest** considerations should centre on sustainability issues as much as local impact issues. Sustainability questions that need to be addressed deserve rehearsal. Can the project in operation survive for 60 years in future energy markets? What time span might outside investors envisage – Hinkley Point C has a CfD for only 35 years. Might sustainability issues be referred to the ONR by the SoS in the special circumstance of an already much delayed project? This is a question provoked

by the developer's assertion in its replies that ExA and ONR issues are distinct and separate, a view we contest, and a matter which will be closely followed. What consideration needs to be given in the public interest about future ownership and control of the project? Might not outside investors with a controlling interest need special enforceable obligations in advance? What overarching consideration is being contributed by this project to climate change, given its very heavy construction carbon footprint, its inability to contribute its claimed low carbon electricity, after paying off its carbon debt, until well after climate change tipping point – variously 2030-35, leaving only a small fraction of its low carbon operating life of 60 years until 2050?

We raise these matters not just as examples of sustainability matters above and beyond formal (sic) conformity to law and regulatory standards. We raise them also to suggest that if they are not fully resolved in advance in the ExA process, and need to be called in later under DCO change of ownership requirements, the end date of 2025 may not be reachable. "Urgency" would be eroded, policy uncertainty would be likely to remain and sustainability, above and beyond statutory and regulatory conformities would, would likely become the theme of public narrative. The final comment must be that the public interest would be best served to have them thoroughly examined in this DCO process.

6 End of public examination As a group and network involved with local IPs, we have managed to either participate or observe the full range of OFHs and ISH's and to contribute comments at many points in the various narratives. We have experienced the hearings as comprehensive and inclusive of the wide range of issues, but feel the need to register concern at the extent to which likely important matters between the ExA and the developer and other statutory IPs have taken the form of late exchanges of letters while the SoCG process has not been transparent. It has appeared as exclusive to the parties and not available to other IPs as easily as the chosen issues for ISHs. We have, nevertheless, attempted to raise issues of concern in a well informed manner in our contributions to hearings and associated commentaries. We have also endeavoured to express views and make comments within the terminologies and frameworks of planning law and practise.

At the end of the public examination, it remains to thank EXA staff for their courteous responses to enquiries and several IT and communication snags.

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