



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

The Sizewell C Project

Natural England's response to the Examining Authority's request for further information (*Sizewell - Rule 17 request for information*, letter dated 1st October 2021 and *Sizewell C - Rule 17 request for information by Deadline 10*, letter dated 6th October 2021)

Planning Inspectorate Reference: EN010012

12th October 2021

Natural England's response to the Examining Authority's Sizewell - Rule 17 request for information, letter dated 1st October 2021

- 1.1 Please see below responses to individual questions contained in the *Rule 17 request for information* letter dated the 1st October 2021.
- 1.2 For Deadline 10, Natural England and the Applicant have produced a streamlined version of our Statement of Common Ground (SoCG), with the Applicant detailing our respective final positions on issues.
- 1.3 We have also updated our full SoCG with final risk ratings only for clarity and completeness. All new text on Natural England's final position for each issue is contained within the new streamlined SoCG or answered below.
- 1.4 The table below answers specific questions asked by the Examining Authority where the answer has not been provided within our latest SoCG Response.

Natural England SoCG – Examining Authority’s comments of Revision 2, [REP8-094]		
	Examining Authority question	Natural England’s response
4	<p>“Rigorously implemented”, “rigorously implemented and maintained” – is Natural England satisfied with the way the DCO has secured these matters to which they have attached this and similar comments? Such as the Drainage Strategy, the Code of Construction Practice, the Outline Dust Management Plan. Please record the position in the SOCG with an explanation of the issue if an issue remains, and the wording Natural England seeks.</p>	<p>Both terms referenced here should be taken to mean that Natural England is satisfied provided the mitigation is secured as proposed by the Applicant within the referenced documents and DCO.</p>
6	<p>The colour coding system: Highlighter yellow. Natural England have explained: “These are issues/comments where Natural England does not yet completely agree with the Applicant’s position or approach. However, we are satisfied for this particular project that they do not make a material difference to our advice or the outcome of the decision-making process”. Is the ExA to conclude that these are not “important and relevant matters” (see s.105(2) of the Planning Act 2008) and that they are not matters which are inconsistent with any of the policy and law referred to in s.104(2)(a), (aa) and (c), (4), (5), (6) and (8). (The ExA is not by this suggesting that this is a s.104 case.)</p>	<p>Highlighted yellow issues within our SoCG are issues where Natural England raised some points at the Relevant Representations stage for the Examining Authority’s awareness, but which are not deemed important and of priority <u>in the context of our remit</u>, hence us not commenting on them further than the response given at the Relevant Representation stage.</p>

13	<p>Issue 48 – SSSI crossing effect on tall herb fen and lowland ditch systems. Natural England are recorded as being of the view in August – the latest view expressed - that should the current design and the new mammal culvert be considered justifiable against possible alternatives the quantity and quality of tall herb reed fen and lowland ditch systems created at Aldhurst Farm satisfy them “in principle”. Please can SoCG record what Natural England consider to be the possible alternatives.</p>	<p>The latest comments from Natural England on this issue within our SoCG (August 2021) is as follows:</p> <p><i>We welcome the continued optimisation of the SSSI crossing design and that while our preference remains for a three-span bridge we acknowledge that the current design represents a best alternative. However, this issue will remain ‘amber’ as we still believe that the three-span bridge design will have the least impact ecologically on Sizewell Marshes SSSI.</i></p> <p><i>We also welcome steps taken to increase connectivity between Aldhurst Farm and Sizewell Marshes SSSI using a mammal culvert.</i></p> <p><i>Should these be considered justifiable against possible alternatives, then we are satisfied ‘in principle’ with the quantity and quality of tall herb fen (reedbed) and lowland ditch systems created as compensation at Aldhurst Farm.”</i></p> <p>To clarify, the ‘possible alternatives’ as outlined above refers to the three-span bridge design option presented in pre-application for the SSSI crossing itself rather than the mammal culvert on Lover’s Lane. Natural England reiterate our point made above and throughout our pre-application advice, Relevant and Written Representations with regards the SSSI crossing design proposals against possible alternatives.</p>
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14	<p>Issue 52 – protected species. The table in the Natural England comment column sets out dates for submission to Natural England of draft licences. The submission date column in relation to some licences states “(issued)”. The ExA presumes this does not mean that the licence has been issued. Please however for clarity could “issued” be changed to “submitted”. This issue affects the table each time it appears in the SoCG.</p>	<p>This has been changed in the most recent iteration of the streamlined SoCG.</p>
16	<p>Issue 57 - Natural England state their 2020 recommendations for bat surveys, on the role of the ECoW in relation to badgers, and suggest vegetation clearance in relation to reptiles and recommendations for bird surveys. Please can the SoCG state whether Natural England accepts the current survey position. The ExA cannot tell whether Natural England’s concerns have been satisfactorily addressed. This is an issue of general application in the SoCG. Please can the Applicant and Natural England bear in mind as they finalise the SoCG the comments of the ExA at row 3 above.</p>	<p>All protected species issues are currently being assessed through our licensing process (which includes consideration of survey adequacy) and therefore will not be commented on further here or within our SoCG.</p>
17	<p>Issue 58 – as with issue 57 for the Southern P&R, please can please can the SoCG state whether Natural England accepts the current survey position but on bats and GCN.</p>	<p>All protected species issues are currently being assessed through our licensing process (which includes consideration of survey adequacy) and therefore will not be commented on further here or within our SoCG.</p>

18	Issue 60 - Natural England refer to EDNA. Please state what this is in full.	eDNA stands for Environmental Deoxyribonucleic acid.
19	Issue 61 - Natural England recommends an extended Phase 1 habitat survey, review of IEFs and bird surveys. Please can the SoCG state whether Natural England is now satisfied on this issue.	All protected species issues are currently being assessed through our licensing process (which includes consideration of survey adequacy) and therefore will not be commented on further here or within our SoCG

20	There are recommendations for bat and breeding bird surveys. Again, please can the SoCG state whether Natural England is now satisfied on this issue.	All protected species issues are currently being assessed through our licensing process (which includes consideration of survey adequacy) and therefore will not be commented on further here or within our SoCG
21	Please can Natural England review the response made by the Applicant to ExQ3 Ag.3.1 [REP8-116] and confirm whether the comments and amendments made to the OSMP are satisfactory? Please provide a response for Deadline 10, 12 October 2021 and include the position between Natural England and the Applicant in the SoCG.	Natural England is now satisfied with provisions outlined in the Outline Soil Management Plan and has updated our position accordingly in our latest SoCG.

22	Section 1.6 of [REP8-127] details the on-going discussions with landowners in respect of possible enhanced landscaping proposals. Please can the Applicant confirm whether such additions are enhancement measures or further mitigation? If the additional landscaping is enhancement, please can the Applicant confirm and explain how these measures would be secured within the DCO? Please provide a response for Deadline 10, 12 October 2021 and include the position between Natural England and the Applicant in the SoCG.	Measures outlined within section 1.6 on whether measures are enhancement or mitigation do not materially affect the nature of our previous advice on landscape. We will not be commenting further on this issue.
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Natural England's response to the Examining Authority's Sizewell C - Rule 17 request for information by Deadline 10, letter dated 6th October 2021

2.1 Please see our answers outlined below:

Questions arising from Issue Specific Hearing 15 (ISH15)		
Examining Authority question		Natural England's response
18	Natural England (NE) did not attend ISH15 but provided a briefing note on the detailed agenda. Section 3.1 of that note was discussed at ISH15 under item 3(a). NE is requested to respond to what was said by the Applicant at the hearing on that item and also to set out their position in relation to agenda items 3(b) to (j).	<p>To address the Applicant's point regarding Natural England's non-attendance at ISH15 we highlight that, despite our significant pre-application advice, a large number of significant and fundamental issues relevant to our remit have persisted and been left to resolution (where they have been resolved) throughout the examination.</p> <p>Consequently, the Applicant has provided large tranches of information at every examination deadline which has put strain on our limited resources to review. This is in addition to a large number of changes to the application put forward by the Applicant, with the nineteenth change (the subject of ISH15) proposed close to the end of the examination. However, through this primarily written process, we have provided written responses at every relevant deadline while also ensuring that we engage with the Applicant outside of our statutory duty in order to progress and resolve issues which is our priority in protecting the natural environment.</p> <p>We have therefore had to carefully balance and prioritise our resources when deciding on whether or not we are able to attend ISHs (as we did in other instances) or provide written briefing notes in lieu of our attendance (as we did in this instance).</p>
20	The following questions were posed at ISH15 agenda items 3 and 4 to the government advisers and RSPB. The Environment Agency and RSPB were present and gave their responses. Please will Natural England and the	<p>Natural England welcomes the further information provided by the Applicant on air quality and further responses provided on landscape within the hearing.</p> <p>On air quality we have responded in our last iteration of the SoCG with Applicant which we repeat below:</p>

<p>MMO respond in writing. The ExA appreciates that the primary focus of the MMO is marine and that it may not have a view on all the questions.</p> <p>(a) Item 3(b) In relation particularly to terrestrial ecology, are there any submissions you wish to make as to the assessment for HRA of additional HGV movements? If so, what is the problem and what do you want to see? Are you satisfied with the HRA assessment of these matters? For completeness, please address this issue for nationally designated sites as well. Does the HRA assessment properly address the HGV movements arising from Change 19?</p> <p>(b) Item 3(c) Are there any submissions you wish to make as to the assessment for HRA of noise and vibration? So please include disturbance effects. (Natural England's and the MMO's attention is drawn to the Applicant's oral comments on the use of the word "disturbance" during ISH15 at Agenda item 3(a)). Please include disturbance effects on bird, marine mammal and fish qualifying features of relevant internationally and nationally designated sites. What is / are the problem / problems you identify and what do you want to see?</p> <p>(c) Item 3(d) Are there any submissions you wish to make as to the assessment for HRA of the air-quality effects of additional on-site diesel generators and of additional HGV movements? If so, what is the problem and what do you want to see? Are you satisfied with the HRA assessment of these matters?</p> <p>(d) Item 3(e) in relation particularly to marine ecology, are there any submissions you wish to make as to the assessment for HRA of the</p>	<p><i>"Natural England remain concerned on the increased deposition of nitrogen oxides (NOx) arising from diesel generators on the Minsmere to Walberswick European sites <u>only</u>.</i></p> <p><i>The Applicant has gone some way towards assessing the impacts of the diesel generators for use during construction [APP-212 & APP-145] and the diesel generators which will be used for the temporary desalination plant [REP9-026]. However, these analyses were both done in isolation and fail to assess the cumulative impact of all diesel generators and any other sources of NOx from other sources.</i></p> <p><i>The Minsmere to Walberswick SAC and SPA Site Improvement Plan specifically identifies air pollution from NOx and atmospheric nitrogen as a threat to the favourable condition of these sites.</i></p> <p><i>While it is not the Applicant's responsibility to return these sites to favourable condition they are obligated as a section 28G body to ensure their actions do not interfere with the sites' conservation objectives.</i></p> <p><i>Natural England's position is that the Applicant has not provided enough justification as to why increased NOx deposition over a number of years in close proximity to a site that already faces pressure from NOx will not interfere with its conservation objectives."</i></p> <p>On the subject of landscape, the Applicant's consultants have used their professional judgement to justify that no further assessment is needed. We would again reiterate our previous responses outlined in our ISH15 briefing note [EV-222].</p> <p>It is Natural England's position that further assessment of landscape impacts is required due to the increased HGV movements, increased infrastructure to the Main Development Site, and related construction for the intake and outfall pipelines addition of multiple new generators which are due to be running 24 hours a day.</p>
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<p>alterations to coastal processes and sediment transport arising from Change 19? If so, what is the problem and what do you want to see? Are you satisfied with the HRA assessment of these matters? And is there anything you want to say about effects of coastal processes and sediment transport on nationally designated sites</p> <p>(e) Item 3(h) The point is often made in the ES fourth addendum that the outfall is in same area as the FRR and that as that was assessed there are no additional issues for the desalination outfall construction, although the nature of what is discharged is different. But the FRR and the CDO would not operate together. The two headworks for the desalination plant will (a) be constructed together but more importantly be operating at the same time as the CDO. So are the comparisons with the FRR alone appropriate? (f) Item 3(h) Migratory fish have been screened out of the Third HRA Addendum at paragraphs 4.1.5 to 4.1.7, referencing an absence of potential effect pathways. However, these paragraphs also include reference to the seawater intake for the desalination plant consisting of a Passive Wedge-Wire Cylinder (PWWC) screen with a mesh size of approximately 2mm. Does this comply with the Sweetman Judgment (People Over Wind), which confirmed that measures to avoid or reduce effects are not permitted to be taken into account at the screening stage. Does the Applicant consider the PWWC to comprise a measure to avoid or reduce impacts to migratory fish?</p>	<p>Natural England have no comment to provide on the impacts the proposed desalination plant may have on the marine environment. Due to the late submission of this change to the Examination, we have been unable to sufficiently review the supporting material provided by the Applicant. We do however note that any discharges from the plant are proposed to be managed as part of the Environment Agency's Water Discharge Activity permit. Natural England has yet to be formally consulted on the permit and associated HRA. We would require further details to be available through this WDA permitting process before we could provide robust advice on potential impacts to designated sites and species from the discharge of the desalination plant.</p> <p>We have no further comments on any of the agenda items beyond those raised in our final SoCG.</p>
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(g) Item 3(h) What submissions do you wish to make about Item 3(h) matters, including chlorination please, on habitat, bird, fish and marine mammals and fish qualifying features of internationally and nationally designated sites? Do you see any damage to qualifying features of internationally designated sites from abstraction? (h) Item 3(i) Are there any submissions you wish to make, over and above what we have already covered?

(i) Item 3(j) Are there any submissions you wish to make, over and above what we have already covered?

(j) Item 4 (a) and (b) The ExA did not have anything specific on these headings apart from one item on which see below. Apart that, do Natural England or MMO have any representations they wish to make about agenda items 4(a) and (b) which they have not made before?

(k) Item 4(c) Please will Natural England and the MMO set out any further views they wish to express on the third addendum to the Shadow HRA report [REP7-279] and any relevant subsequent HRA material.

(l) The one other item at agenda item 4 related to the marine mammal baseline and was directed to the Applicant. It was as follows. In Section 6 of the Shadow HRA third addendum we see that it is noted at Section 6 of the Shadow HRA Third Addendum that the Applicant states the reference populations used in the marine mammal assessments have been updated since the Shadow HRA Report [APP-145] and first Shadow HRA Addendum [AS-178]

	<p>were prepared. These are outlined in Table 6.1 of the Shadow HRA Third Addendum and the marine mammal assessments in Section 9 “have been based on the updated reference populations, as well as the previous reference populations to allow a like-for-like comparison.”</p> <p>Could the Applicant tell the ExA how their original HRA assessments for the Proposed Development as a whole would change if they used the updated reference population counts?</p>	
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