



Department for
Business, Energy
& Industrial Strategy

1 Victoria Street
London
SW1H 0ET

Web: www.gov.uk/beis

To:

Our Ref: EN010012

NNB Generation Company (SZC) Limited
Department for Transport
Marine and Coastguard Agency
Office for Nuclear Regulation
UK Health Security Agency
East Suffolk Council
Suffolk County Council
Suffolk Coast and Heaths AONB Partnership
Natural England
Environment Agency
The Royal Society for the Protection of Birds
Suffolk Wildlife Trust

Date: 31 March 2022

Dear Sir or Madam,

Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010

Application by NNB Generation Company (SZC) Limited (“the Applicant”) for an Order granting Development Consent for the proposed Sizewell C Nuclear Power Station (“the proposed Development”)

1. Following the completion of the Examination on 14 October 2021, the Examining Authority (“ExA”) submitted a Report and Recommendation in respect of its findings and conclusions on the application for the proposed Development (the “Application”) to the Secretary of State for Business, Energy & Industrial Strategy (“the Secretary of State”) on 25 February 2022. The statutory deadline for determining the Application is 25 May 2022.
2. The Secretary of State issued a request for further information to the Applicant, the Environment Agency, the Marine Management Organisation, Natural England, and the Office for Nuclear Regulation on 18 March 2022.

3. Further to that letter, there are some additional outstanding matters on which the Secretary of State would be grateful if the parties identified in bold could provide information or updates as appropriate.

4. Harbour Byelaws and Powers

- 4.1. The Secretary of State invites the **Department for Transport (“DfT”)** and the **Maritime and Coastguard Agency (“MCA”)** to confirm their final position on the proposed Harbour Order and the proposed establishment of a Competent Harbour Authority (“CHA”). In particular, **DfT** and **MCA** should confirm if they agree with the Applicant’s view, as expressed in the *Final Development Consent Order Explanatory Memorandum* [REP10-013] that Article 53 of the draft Development Consent Order (“DCO”) [REP10-009] can be used to make the undertaker a CHA for the purposes of the Pilotage Act 1987.
- 4.2. The Secretary of State invites the **MCA** to provide their comments on the Applicant’s proposal to remove article 58 (lights on marine works etc. during construction), article 59 (provision against danger to navigation), and article 60 (permanent lights on marine works) from the draft DCO. The Applicant has instead included a condition on Aids to Navigation within the deemed marine licence of the draft DCO (condition 35 of Schedule 21 [REP10-009]).

5. Statement of Common Ground

- 5.1. For the purposes of the Secretary of State’s considerations, confirmation is required from the **DfT** [REP2-099]; the **MCA** [REP7-100]; the **Office for Nuclear Regulation** [REP2-078]; the **UK Health Security Agency** (formerly Public Health England) [REP2-086]; **East Suffolk Council (“ESC”)**; **Suffolk County Council** [REP10-102; REP3-031; REP7-093; REP10-101] and **Suffolk Coast and Heaths AONB Partnership** [REP10-108] that the relevant unsigned statement of common ground has been agreed.

6. Control Documents

- 6.1. The Planning Statement Final Update [REP10-068] includes definitions of the following terms as used in the suite of control documents: "where practicable", "where possible" and "as soon as possible". The **Applicant** is asked whether, and how, these definitions are, or can be, secured within the control documents.

7. Soil Management Plan

- 7.1. The Secretary of State invites the **Applicant** to provide a final Outline Soil Management Plan that reflects the areas identified for further amendment by Natural England [REP7-140 and REP7-144].

8. Habitats Regulations Assessment, Biodiversity, and Ecology

8.1. **Natural England** is invited to provide an update on the progress of its review of the Applicant's draft protected species licences, and its views on the prospect of it being able to issue Letters of No Impediment for the following protected species:

- Bats
- Breeding birds
- Natterjack toad
- Great crested newt
- Water vole
- Otter
- Badger
- Deptford Pink

8.2. **The Applicant** is invited to provide an update as to whether landowner consent has been obtained for great crested newt mitigation at the Northern Park and Ride, and in the event landowner consent is not obtained, to comment on alternative sites for translocation.

8.3. In relation to the comments made by the Environment Agency on the Sizewell Link Road in Deadline 7 Submission (*Comments on reports contained within 9.63 Comments at Deadline 6 on Submission from Earlier Submissions and Subsequent Written Submissions to ISH1- ISH6 - Appendices - Revision 1.0 submitted at Deadline 6*) [REP7-128], **the Applicant** is requested to provide an update to the Sizewell Link Road Landscape and Ecology Management Plan, to include mitigation measures detailed in *9.63 Comments at Deadline 6 on Submission from Earlier Submissions and Subsequent Written Submissions to ISH1-ISH6 - Appendices - Revision 1.0, Appendix C Sizewell Link Road Watercourse Crossing Mitigation Note* [REP6-024].

8.4. **The Applicant** is invited to respond to the Environment Agency's concerns, in the *Deadline 10 Submission - Comments on 9.110 Sizewell C European Sea Bass Stock Assessment - Revision 1.0* [REP10-187] and *Deadline 7 Submission - Comments on additional reports submitted by the Applicant at Deadline 6* [REP7-133], in relation to the Sizewell C European Sea Bass Stock Assessment (*Deadline 8 Submission - 9.110 Sizewell C European Sea Bass Stock Assessment - Revision 1.0*) [REP8-131], which include:

- The scale of the stock assessment method;
- Consideration of the most recent stock assessment and fishery advice;
- The Applicant's parameters in consideration of Equivalent Adult Values having not applied the Spawning Production Foregone method, with provision of results for all years and scenarios; and

- Evidence of a replenishment rate of 10% for seabass.
- 8.5. **Natural England** is invited to provide comment on the mitigation measures for impacts from drilling mud and bentonite break out presented in the Applicant's *Deadline 10 Submission – 8.11/10.2 Code of Construction Practice* [REP10-072].
- 8.6. The **Environment Agency** is invited to provide an update on the status of the Applicant's applications for a Water Discharge Activity Environmental Permit, a Radioactive Substance Regulation Environmental Permit and a Combustion Plant Environmental Permit.
- 8.7. **Natural England**, having now been consulted on the Environment Agency's draft Habitats Regulations Assessment for the Water Discharge Activity Environmental Permit, is invited to provide advice on whether an adverse effect on site integrity due to marine water quality impacts can be excluded for the following sites:
- Alde-Ore Estuary Special Protection Area (SPA) and Ramsar site;
 - Benacre to Easton Bavents SPA;
 - Humber Estuary Special Area of Conservation (SAC);
 - Minsmere to Walberswick Heaths and Marshes SAC;
 - Minsmere-Walberswick SPA and Ramsar site; and
 - Outer Thames Estuary SPA.
- 8.8. **Natural England** is invited to provide advice on whether an adverse effect on integrity due to indirect impacts of entrapment of prey species on the qualifying bird features of the following sites can be excluded:
- Alde-Ore Estuary SPA and Ramsar site;
 - Benacre to Easton Bavents SPA;
 - Minsmere-Walberswick SPA and Ramsar site; and
 - Outer Thames Estuary SPA.
- 8.9. **Natural England** is invited to provide advice on whether an adverse effect on integrity due to physical interaction between species and project infrastructure on the sea lamprey and river lamprey qualifying features of the Humber Estuary SAC can be excluded.
- 8.10. **Natural England** and the **Environment Agency** are invited to provide their views as to whether they are satisfied with the Applicant's *Deadline 10 Submission – 9.89/10.7 Draft Fish Impingement and Entrainment Monitoring Plan* [REP10-138].

- 8.11. In relation to changes to coastal processes/sediment transfer impacts on the Minsmere to Walberswick Heaths and Marshes SAC and the Minsmere-Walberswick SPA and Ramsar site, the **Applicant** is invited to respond to Natural England's *Deadline 10 Submission – Comments on Deadline 7, Deadline 8 and Deadline 9 Submissions* [REP10-200] and the RSPB/Suffolk Wildlife Trust's *Deadline 10 Submission – Final Submissions* [REP10-204].
- 8.12. In relation to changes to coastal processes/sediment transfer impacts on the Minsmere to Walberswick Heaths and Marshes SAC and the Minsmere-Walberswick SPA and Ramsar site, **Natural England**, the **MMO**, the **EA**, the **RSPB** and the **Suffolk Wildlife Trust** and **ESC** are invited to comment on the Applicant's updated submissions in relation to changes to coastal process and sediment transport made at the final examination deadline:
- *Deadline 10 Submission – 9.12 Preliminary Design and Maintenance Requirements for the Sizewell C Coastal Defence Feature* [REP10-124]; and
 - *Deadline 10 Submission – 6.14/10.5: Environmental Statement Addendum, Volume 3, Chapter 2, Appendix 2.15.A: Coastal Processes Monitoring and Mitigation Plan* [REP10-041].
- 8.13. In relation to the impediment of management practices on the Minsmere to Walberswick Heaths and Marshes SAC and the Minsmere-Walberswick SPA and Ramsar site, the **Applicant** is invited to provide details of how it can provide assurance, within the DCO or otherwise, that there will be no impediment to the RSPB's existing access route to the Minsmere reserve via Lower Abbey Farm.
- 8.14. In relation to indirect impacts from the disturbance of prey species on the little tern and common tern features of the Outer Thames Estuary SPA, and the little tern feature of the Minsmere-Walberswick SPA and Ramsar site, the **Applicant** is invited to provide suggested amendments to Deemed Marine Licence Condition 36(3) which restrict all construction works for the Beach Landing Facility and Temporary Marine Bulk Import Facility between the 1st May to 31st August inclusive.
- 8.15. In relation to in-combination impacts on the harbour porpoise feature of the Southern North Sea SAC, the **Applicant**, in consultation with **Natural England**, is invited to provide an updated SIP subsequent to *Deadline 10 Submission – 5.10/10.11 Shadow Habitats Regulations Assessment Addendum Appendix 9A: Southern North Sea Site Integrity Plan* [REP10-022] to address Natural England's outstanding concerns in *Deadline 10 Submission – 9.10.7 Statement of Common Ground* [REP10-097].
- 8.16. With regards to disturbance upon the bittern, gadwall and shoveler features of the Minsmere-Walberswick SPA and Ramsar site caused by excavation works associated with the creation of the marsh harrier compensatory habitat

[that are due to commence in the first winter of construction], the **Applicant** is invited to submit an updated Code of Construction Practice which includes an amendment to the excavation period to specifically exclude the month of February.

8.17. Section 28I of the Wildlife and Countryside Act 1981 includes procedural requirements in relation to operations likely to damage features of a SSSI. At the end of the Examination, Natural England were of the view that there would be harm to SSSIs. The Secretary of State asks **Natural England** to confirm whether they agree that the DCO examination has met the requirements to give Natural England notice of the proposed operations and time to respond (section 28(2) to (4)).

9. **Responses to the requested information should be submitted by email only to: sizewellc@planninginspectorate.gov.uk by 23.59 on 14 April 2022.**

10. Responses will be published on the Sizewell C Nuclear Power Station project page of the National Infrastructure Planning website as soon as possible after **14 April 2022**:

<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/the-sizewell-c-project/>

11. This letter is without prejudice to the Secretary of State's consideration of whether to grant or withhold development consent for the Sizewell C Nuclear Power Station or any part of the project. Nothing in this letter is to be taken to imply what the eventual decision might be or what final conclusions the Secretary of State may reach on any particular issue which is relevant to the determination of the application.

Yours faithfully

Gareth Leigh

Gareth Leigh

Head of Energy Infrastructure Planning