



Maritime &
Coastguard
Agency

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Ref: EN010012

14th April 2022

Dear Gareth,

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”)

Thank you for your letter dated 31st March 2022 inviting the Maritime and Coastguard Agency (MCA) to comment on the Harbour Byelaws and Powers, and the Statement of Common Ground. The MCA would like to respond as follows:

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.*

The Department for Transport (DfT) is responsible for Competent Harbour Authority (CHA) aspects for the purposes of the Pilotage Act 1987 and is not MCA’s policy area. Therefore, the MCA will defer to DfT to answer this question. The DfT would need to be satisfied with the justification/need for a CHA for this site above SHA status.

*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]).*

It is the MCA's view that articles 58, 59 and article 60 should not be removed from the harbour powers within the draft Development Consent Order (DCO). We note that the applicant is seeking harbour powers in the DCO, to empower themselves as a harbour authority, therefore all the statutory obligations of a harbour authority should be applied here including:

- Lights on marine works etc. during construction
- Provision against danger to navigation
- Permanent lights on marine works

Under the Harbour Order, these are statutory obligations, which would fall to the undertaker and should not be removed from the DCO Harbour Powers. It is the responsibility of the Statutory Harbour to regulate its own harbour operations at their own harbour facilities using its own powers (set out in Part 6 of the DCO), and if any enforcement action is considered appropriate, this may be undertaken by relevant authorities. By removing the provisions from the DCO which relate to lighting of the harbour facilities, this changes the onus on the undertaker, and removes the ability of the relevant authorities to take any appropriate action for a failure to comply with the statutory obligations of a harbour authority.

The MCA believes that operating a harbour facility through the DCO should mirror the existing framework that would have been used for a Harbour Empowerment Order under the Harbours Act 1964, and Port Marine Safety Code. It should not just be contained in the DML, for which the MMO has sole responsibility. There is no reason to deviate from this framework and would ensure it is in line with other Statutory Harbour Authorities.

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.*

The MCA can confirm the SoCG is current, and MCA has agreed the status for each aspect relevant to MCA.

Yours sincerely,



Helen Croxson
Marine Licensing and Space Launch lead
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