



Department
for Transport

27 April 2022

Dear Planning Inspectorate,

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”)

BEIS wrote to the Department for Transport (DfT) and the Maritime and Coastguard Agency (MCA) on 31 March 2022, inviting comments on the harbour byelaws and powers aspects of the Sizewell C project.

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.*

DfT is responsible for Competent Harbour Authority (CHA) aspects for the purposes of the Pilotage Act 1987. Whilst a new CHA has not been created for some time, it is our view that section 145 of the Planning Act 2008 provides for the creation of a harbour authority within a DCO where the conditions in sections 145(1)(a) and 145(1)(b) are met. DfT is therefore satisfied with the proposed establishment of a CHA and agrees with the Applicant’s view that Article 53 of the draft Development Consent Order can be used to make the undertaker a CHA for the purposes of the Pilotage Act 1987.

DfT is satisfied with the justification for a CHA for this site above Statutory Harbour Authority (SHA) status. As it is likely that the Applicant will need to undertake pilotage duties, CHA status will ensure safety of the harbour in accordance with the Pilotage Act 1987.

As raised by the MCA in their response, the contents of the draft Development Consent Order establishing the CHA should mirror the framework of a harbour empowerment order. This is to ensure that the Port Marine Safety Code and the Pilotage Act 1987 are fully applicable, and all the relevant safety requirements are ensured.

*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]).*

The MCA has responded separately on this point.

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.*

DfT wishes to highlight that the entry in the Statement of Common Ground at page 4 under Ref 3 (made by the MMO) should refer to Article 53 and not Article 50 of the DCO, as it is Article 53 which deals with CHAs, not Article 50. Once corrected, the DfT agrees to the status for each aspect of the unsigned Statement of Common Ground [REP2-099] relevant to the DfT.

Yours sincerely,

Maritime Directorate
Department for Transport