

Our Ref: AC/MM/EC
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Enquiries to: Michael Moll
Email: sizewellc@suffolk.gov.uk
Tel: 01473 264808

To: sizewellc@planninginspectorate.gov.uk

FAO Mr Gareth Leigh

The Sizewell C Project, Ref. EN010012

Suffolk County Council's updated comments on discharging of drainage matters and on responses received by Secretary of State in response to his queries

Suffolk County Council Registration ID Number: 20026012

Dear Mr Leigh

In the light of the recent East Anglia One North and East Anglia Two NSIP decisions and the Applicant's responses on drainage matters to the Secretary of State's letter of 18 March 2022, Suffolk County Council (SCC) would like to provide additional comments with regard to appropriate discharging authority for drainage and surface water.

In addition, SCC has a detailed comment in relation to the Sizewell Link Road Outline Landscape and Ecology Management Plan which formed part of the Applicant's responses to the Secretary of State's letters.

1 Drainage strategy and appropriate discharging authority related to drainage and surface water

- 1.1 In response to Question 3.7 from the Secretary of State's letter of 18 March 2022, SZC Co. submitted a revised Drainage Strategy. SCC can confirm that it considers the revised Drainage Strategy to now be an acceptable 'Level 1' Certified Control Document in respect of drainage matters, and supports SZC Co. in its invitation to the Secretary of State, as per SZC Co.'s [letter](#), to replace the contested Deadline 10 version of the Drainage Strategy [REP10-030] with this updated version.
- 1.2 With regard to the appropriate discharging authority, SCC highlighted in several submissions to the examination, including in its final position statement [REP10-210], as well as in its [submission to the Secretary of State](#) and in the [recent Position Statement with SZC Co.](#) agreed on 5 April 2022, its request for Requirement 5 to be amended so that SCC, as the Lead Local Flood Authority, is the discharging authority for surface water drainage (as opposed to East Suffolk Council). This change would reflect SCC's statutory responsibility for surface water drainage and would provide assurance that impacts and related risks from surface water drainage and flooding are discharged by the most relevant and competent authority.

- 1.3 SCC wish to draw to the particular attention of the Secretary of State that such an approach was followed in his recent decision on the East Anglia One North and East Anglia Two NSIPs, made on 31 March 2022. One of the many issues that the Examining Authority (ExA) and the Secretary of State had to resolve in those decisions was which body should be the discharging authority for DCO requirements relating to flood risk and drainage matters.
- 1.4 The ExA concluded for those projects in its Report to the Secretary of State, that SCC as the Lead Local Flood Authority, should be the discharging / approving authority, both in relation to the surface water and drainage management plan and the flood management plan during construction (both being component parts of the Code of Construction Practice) and for the Operational Drainage Management Plan, with East Suffolk Council being a consultee. This can be seen in paragraphs 6.5.30 ([Volume 1](#)) and 30.5.17-30.5.20 ([Volume 2](#)) of the ExA's report and is reflected in Requirements 22(3) and 41 of the final DCO.
- 1.5 For ease of reference, below quotes paragraphs 30.5.19 and 30.5.20 from the [ExA's report](#) for East Anglia One North and East Anglia Two:

30.5.19 During the Examination and particularly at ISH16 [EV-140][EV-142-5] into the substations' sites, where flood and drainage matters were explored, The ExA noted the many strong and expert contributions by SCC as lead local flood authority, with a demonstrated understanding of and expertise in making judgments about the effective management of the flood and drainage issues potentially arising in the environs of Friston. The evidence provided by SCC was preferred on a number of points to that offered by the Applicant, in circumstances where ESC had limited involvement in technical reasoning. The support of other community representative IPs for the proposition that SCC should be the discharging authority on these matters has also been taken into account.

30.5.20 In these circumstances, the ExA considers that the technical and specialist elements of the CoCP relating to flooding and drainage are appropriate to be subject to formal approval (discharge) by SCC as the lead local flood authority. It has recommended changes to R22 to this effect, noting that these relate to the approval of the flooding and drainage elements of the CoCP alone: the remaining CoCP components are matters within the normal purview of the LPA, rightly remain for discharge by ESC and are unaffected by the ExA's recommended amendment. The same broad argument holds good for R41 and the ODMP, but here the ExA considers that this requirement should be discharged in totality by SCC, as its entire subject matter relates to operational drainage and any assessment of the plan or advice or enforcement under it will need to draw on SCC expertise.

- 1.6 Consistency of decision making would strongly favour a similar approach to the identity of the discharging authority on flood and drainage matters for the Sizewell C case. The technical issues are of a similar nature, as is the presence of strong local concern on drainage and flood risk matters. The potential discharging authorities (SCC or ESC) are also the same, and the particular expertise of SCC is, of course, unchanged. As a simple matter of chronology, the ExA for Sizewell C was not aware of the recommendations of the ExA for the East Anglia One North / East Anglia Two projects and nor was it aware of the Secretary of State's acceptance of those recommendations in the final decisions and the approved

DCOs. Whilst SCC does not (obviously) know what views have been reached by the ExA for Sizewell C, necessarily those views will not have been informed by the latest decision by the Secretary of State on this matter.

- 1.7 Hence, SCC considers that revised wording of Requirement 5 should not be as proposed by the Applicant (in paragraph 2.61 of its [letter to the Secretary of State](#)), but, as already proposed in SCC's Final Position Statement [REP10-210], i.e.

(1) No part of the authorised development (save for Work No. 1B, 1C, 4A(c), 9(b), 10(b), 11, 12, 13(b), 14, 15, 16 or 17) may be commenced until details of the foul water drainage system for that part (including projected volume and flow rates, management and maintenance arrangements, means of pollution control, sewage treatment works and a programme of construction and implementation) have been submitted to and approved by East Suffolk Council, following consultation with the Environment Agency, the relevant Statutory Nature Conservation Body, the East Suffolk Internal Drainage Board and the sewerage undertaker.

(2) No part of the authorised development (save for Work No. 1B, 1C, 4A(c), 9(b), 10(b), 11, 12, 13(b), 14, 15, 16 or 17) may be commenced until details of the surface water drainage system for that part (including management and maintenance arrangements, means of pollution control, and a programme of construction and implementation) have been submitted to and approved by Suffolk County Council in its capacity as the Lead Local Flood Authority and the drainage authority, following consultation with the Environment Agency, the relevant Statutory Nature Conservation Body, the relevant Internal Drainage Board and the sewerage undertaker.

(3) The details of the foul water drainage system and the surface water drainage system must be based on sustainable drainage principles and must be in accordance with the Drainage Strategy.

(4) Any approved foul water drainage system or surface water drainage system must be constructed and maintained in accordance with the approved details.

- 1.8 Whilst for the East Anglia One North and East Anglia Two projects all operational drainage matters were for SCC to be the discharging authority, SCC is content in the Sizewell C project to limit its request to be the discharging authority to surface water drainage matters. Surface water drainage is, for Sizewell C, dealt with through a standalone control document, therefore it would be justified to separate out the discharging for foul and surface water drainage. SCC's statutory responsibilities as Lead Local Flood Authority are limited to surface water drainage, and do not extend to foul water. It is to be noted that the drainage issues for Sizewell C are largely dealt with pursuant to Requirements 5, so there is no need for Sizewell C's DCO to separate out the discharge of any drainage elements of the Code of Construction Practice. For completeness, it can be noted that (in contrast to the position for East Anglia One North and East Anglia Two) it is not necessary to include express reference in Requirement 5(2) to East Suffolk Council as a consultee on surface water drainage matters because that is already secured as a general provision, wherever SCC is to be the relevant discharging authority, by the terms of paragraph 1(4) of Schedule 25 to the draft Development Consent Order [REP10-009]. However, SCC would have no objection to the express inclusion of

East Suffolk Council as a consultee in Requirement 5(2), if this were considered helpful by the Secretary of State for the avoidance of doubt.

2 Sizewell Link Road Outline Landscape and Ecology Management Plan

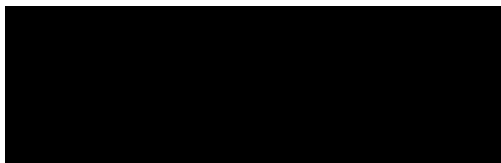
- 2.1 In Appendix A to the [Sizewell Link Road Outline Landscape and Ecology Management Plan](#), “Sizewell Link Road – Watercourse Crossings Mitigation Note, the Applicant notes in Paragraph 4.1.4 (highlight added by SCC):

*SZC Co. is committed to mitigating the impact of loss of watercourses and delivering enhancement of the existing watercourses within the extent of land which will form part of permanent land take for the Sizewell link road in order to offset these losses and deliver overall biodiversity net gain. This land will transfer to SCC upon adoption of the road. **The land take is typically 50m upstream and downstream of the proposed new portal culverts.** In addition, SZC.Co. commits to include natural enhancement features within the three watercourse diversions shown on Plates 3, 4 & 5 above. At Middleton drain, the retained section of ditch will be augmented with new wetland habitat such as a scrape to be provided within the triangular area bounded by the existing retained and proposed new diverted watercourse.*

- 2.2 Notwithstanding SCC’s position regarding the permanence of the Sizewell Link Road, and SCC’s principal support for such additional habitat features as proposed, SCC as local highway authority notes that to include land beyond that specifically required to maintain the public highway is not usual and in this case SCC sees no need to include land 50m either side of the culverts within the public highway. This would expose SCC to a permanent maintenance liability of an ecological feature for the local highway authority whose main focus is not on managing ecological mitigation.
- 2.3 This concern has been raised with the Applicant and the Examining Authority, including in [\[REP7-157\]](#) (see section “SCC response to [REP6-024] Appendix C”, page 8 Ref. 4.1.4) and in Appendix 1 of the recent [Updated Position Statement between SZC Co. and Suffolk County Council \(SCC\) on matters relating to drainage](#) (Table “Sizewell C Site Establishment Active Surveillance comments” WBS EW0320 Action No 74, Action Plan Ref..13).

Please do not hesitate to contact me if you require further information.

Kind regards



Andrew Cook
Executive Director of Growth, Highways and Infrastructure