

Sizewell C – Direct Consent Order ('DCO')

Interested Party –Woodbridge Town Council ('WTC')

Response to the request by the Secretary of State ('SoS') for comments on submissions by Parties to SoS questions of 18 March and 31 March 2022

Introduction

1. WTC's comments address the responses by the Applicant Sizewell C Co ('SzC Co') in its report (PINS reference EN010012 – 010817), to the questions posed by the SoS and are in chronological order of SoS requests and under the headings used in the SoS Questions.

Submissions in response to SoS Questions of 18 March

The DCO Applicant, SZC Co, submission

2. Water Supply, Desalination Plant and Drainage

- i) *Question 3.1/3.2 abbreviated – The Secretary of State notes that at the end of the Examination, the Applicant was unable to demonstrate that they had secured a permanent water supply for the proposed Development.
The Applicant should therefore provide information that sets out the progress that has been made in terms of securing a permanent water supply solution*

- a) The Applicant has been engaged in the preparation of documentation for consultations, and latterly the DCO, for at least ten years and the crucial matter of water supply, both temporary for construction purposes and permanent for operation of the proposed facility, has been raised throughout by various Interested Parties. SzC Co has failed during this extensive period to make advance arrangements via the local water supplier Northumberland Water Limited ('NWL') to secure an adequate water supply, even for construction, by its proposed start date of 2023. This is demonstrated by the fact that it was only in the latter part of the DCO Examination that the Applicant submitted details of a temporary water supply for construction via a desalination plant.
- b) **The Applicant's response to the SoS questions can be succinctly summarised as no progress as there is no secure water supply solution that has been fully developed, assessed for environmental compliance and impact and approved by the water supplier Northumberland Water Limited('NWL') and Regulators.**
- c) NWL's current Water Resources Management Plan ('WRMP') August 2019 for East Suffolk Water states "Our view is that there is still significant

uncertainty regarding the Sizewell C construction start date and as such it would be wrong to include it in our final plan now.” NWL did state that based on a maximum demand requirement of 2ML/d (2 million litres/day) it assessed its ability to supply and *“The scenario testing shows that there would be a supply deficit and so a new supply would be required”*. NWL further stated the Applicant (referred to therein as EDF) would have to fund the new water supply.

- d) Further, the Applicant is dependent on Northumberland Water Limited ('NWL') on securing a supply via Sections 55 and 56 of the Water Industry Act 1991 ('WIA') which is only a reasonable endeavours obligation and not a statutory obligation to supply.
- e) NWL's five yearly Water Resources Management Plan update is due for submission in 2024 and is in its early stages of preparation. We understand no definitive proposals exist as to whether NWL will provide a permanent water supply for Sizewell C. Further the required demand now well exceeds that which the Applicant advised to NWL for its 2019 WRMP.
- f) The Applicant has indicated that it wishes to commence the construction of Sizewell C in 2023. This means construction will start and substantial costs will be incurred with no certainty that there will be a permanent water supply via NWL.
- g) WTC considers it is unreasonable for the Applicant to state in §2.1.15 of its response *“This background should provide more than sufficient comfort both for SZC Co., but also for the Secretary of State, that NWL will be in accordance with the statutory scheme plan to deliver the required infrastructure (so far as is possible) to provide a long-term supply to SZC”*. Further, it is unreasonable to further state in §2.1.19 that *“SZC Co. can reasonably expect that NWL will deliver the required infrastructure as the relevant demand is now included within the current draft WRMP”*. That the demand is included does not, in WTC's view, confer certainty of supply.
- h) The Applicant concedes that point as in §2.1.20 it states *“If it were to become apparent that there was any risk of NWL being unable to provide the supply, there are a range of actions open to SZC Co (see further below).”*
- i) **In summary, WTC contend there is no certainty that such a supply will be available and thus no comfort is provided that monies spent by government to advance this project, if DCO approval is given, will gain a recovery or that an operational plant will be feasible.**

ii) Question 3.3 The Applicant should confirm if it would be possible for the proposed temporary desalination plant to permanently meet the full water supply demand for the lifetime of the proposed Development should no alternative water supply solution be identified.

- a) **The simple answer is no, as eventually conceded by the Applicant in its fifth paragraph §2.2.5**
- b) The Applicant introduces here the necessity of a permanent desalination plant if NWL is not able to provide the water supply crucial to the operation of Sizewell C.
- c) The Applicant's preliminary considerations are outlined in §2.2.6 and it is readily apparent that it is considering that the desalination plant will be located on, or adjacent to, the nuclear platform for Sizewell C as it refers to new outfalls/intakes and/or altered DCO presented outfalls and intakes. The Applicant also refers in §2.2.5 to "*likely...standby desalination capability within the plant to maintain security of supply during maintenance periods*". The plant here refers to the desalination facility.
- d) The Applicant and Interested Parties are aware of the tight constraints of the area of land that Sizewell C facilities sit upon, and WTC considers it likely that there will be difficulty in locating such additional plant in such a constrained site without significant alteration to other facilities, assuming that is even feasible. The Applicant has neither demonstrated that it is feasible nor shown the layout of any reconfiguration of the main site from that presented to and proposed for permitting by the DCO process. WTC note the Applicant is proposing in §2.2.9 to locate these permanent desalination facilities either underground north-west of the SSSI crossing, i.e. off the area within the DCO for permanent development or on a part of Sizewell A which would increase traffic along the current road to Sizewell A and B. This former will require substantive earthworks and other engineering works e.g. contiguous bored pile walls as WTC believe it will be below the groundwater table, the latter's impact has not been assessed in the DCO.
- e) WTC also contend that the location of such critical supply plant immediately adjacent to the rest of the Sizewell C main site development or other active nuclear facilities, such as Sizewell B, poses unacceptable risks of adverse interaction with it, or by it, in case of fire or other incidents. Such a facility should be sufficiently remote from the site to minimise such risks and any standby back up facility should be remote from the main facility for the same reason. For surety of supply WTC would also contend that a standby facility should be as independent as possible and a surface reservoir fed by natural springs would provide such surety. The Applicant has in WTC's view failed to consider all viable and sensible options.
- f) In §2.2.8 the Applicant concedes it has not completed a detailed environment assessment of such a scheme despite it having all relevant base data to do so. WTC believe it is likely this is due to SzC Co proposals for a permanent salination plant being so underdeveloped that detailed assessment at this time is impossible. SzC Co attempts to conclude, without any assessment or even limited justification statements, that a permanent desalination plant will "*be unlikely to generate any materially new or materially different significant environmental effects*"

and that “*the marine environmental impact of connecting the desalination plant discharge into the cooling water discharge is likely to be insignificant*”, the latter on the sole basis of saline discharge rather than total discharge composition of such a facility. This is unreasonable, as, if considered acceptable to allow the DCO to be approved, it would question the need for any detailed assessment of essential subsidiary plant to nationally important projects.

- g) Whilst the Applicant states in §2.2.11 that it has spoken to ONR about “*a bespoke permanent desalination plant*”, salient details to confirm acceptability have clearly not been able to be provided to give surety that such solution will be acceptable to ONR prior to DCO approval and construction commencement.
- h) **In summary WTC does not agree with the Applicant’s §2.2.11 that “*the Secretary of State can be satisfied that there is no in principle difficulty regarding a permanent desalination supply*”**

iii) Question 3.4: The information provided should be sufficiently detailed to enable the Secretary of State to understand and reach a reasoned conclusion on the cumulative environmental effects, including for Habitats Regulations purposes, of the different permanent water supply solutions.

- a) **The simple answer is the Applicant has not provided sufficient detail to enable the SoS to understand and reach a reasoned conclusion, as eventually conceded by the Applicant in its third paragraph §2.3.3**
- b) The Applicant in §2.3.6 tries to circumvent the SoS requirement by providing what it considers is case law to support the SoS reaching a conclusion without such detail. It is readily apparent to WTC, and hopefully the SoS, that the case is not comparable and thus case law precedent does not apply. Additionally the Applicant is only using this to support a permanent solution as provided by NWL not its own permanent desalination plant as effectively stated in §2.3.10.
- c) The case relates to two linked but separate projects, the main assessment being done on the first project, but the case law refers to “***The ES for the first project should contain appropriate data on likely significant cumulative impacts arising from the first and second projects to the level which an applicant could reasonably be required to provide, having regard to current knowledge and methods of assessment***” (WTC highlight). That is clearly not the case for the permanent water supply for Sizewell C as the DCO application does not contain appropriate data on likely significant cumulative impacts arising from any, as yet, determined NWL development. Further if one takes an Applicant developed permanent desalination plant as the second project, that similarly is undefined at this time.

3. Traffic and Transport

i) *Question 4.1 The Applicant should advise as to whether or not they consider that a control mechanism(s) could secure the delivery of the Sizewell Link Road and Two Village Bypass in advance of the commencement of Phase 1 works on the Main Development Site*

- a) The Applicant implies in §3.1.12 and 3.1.13 that the SoS request for the SLR and TVB to be delivered before Phase 1 of the Main Development Site will incur a delay of 2 years or greater and thereby additional costs.
- b) Phase 1 works comprise Site Establishment and Preparation for Earthworks and is shown in REP10-025 as commencing in January 2023. The SLR and TVB are shown as commencing at the same time with a 2-year construction programme. **WTC believe, via its councillor who is highly experienced in highway construction in East Suffolk, that the latter period can be considerably shortened to 12 - 15 months.** Such acceleration was achieved by minor design changes at very short notice on a major part of the A14 (then A45) Ipswich Bypass in the 1980's when it became apparent to the then Department of Transport Eastern region office that the Orwell Bridge construction would otherwise be completed before road links were present. Thus WTC contend delay can be reduced to one year or even less as the SLR and TVB are significantly smaller scheme to the A14 particularly as the Applicant is already delayed on the Main Development Site with its geotechnical trials for crucial elements of Phase 1/2 yet to commence.
- c) The Applicant under subsection c) of its response entitled Practical Difficulties refers in §3.1.29 to the SLR being delivered in parallel with the Main Development site to *"optimise sustainability, delivery and efficiency"* and in §3.1.30 to *"not exporting any natural/inert excavated material off-site as waste and an aim to make use of all suitable site won material as fill within the Main Development Site thereby also minimising the need for imported fill aggregate"*.
- d) The Applicant further states in §3.1.33 that this is because *"site won material from the SLR and the TVB on the Main Development Site, circa 140,000m³ of surplus material will be diverted from off-site disposal to on-site reuse"*.
- e) **WTC contend this argument is spurious and perverse. It is entirely feasible for the site won material to be temporarily stockpiled for re-use off the Main Development Site.** As the Applicant is already intending for it to be temporarily stockpiled for re-use on the Main Development Site, see extract from §3.1.33 above, there is no clear sustainability argument which precludes the SLR and TVB being built prior to Phase 1 works on the Main Development site or any requirement for additional HGV movements. In both instances double handling is required.

Question 7.1: In relation to noise and visual disturbance effects during the construction of the proposed Development upon the breeding marsh harrier feature of the Minsmere-Walberswick Special Protection Area ("SPA") and Ramsar site, the Applicant is requested to provide information to demonstrate how the wetland habitat element of the proposed marsh harrier compensatory habitat area could be in place and functioning prior to the onset of disturbance to marsh harrier from construction activities.

The applicant has responded to this question with a number of statements about timing, which WTC recommends the SoS should check with species conservation experts such as the RSPB.

6.1.2 *"Other habitat works, such as planting and seeding, are excluded from this seasonal constraint because they will not cause disturbance."* This seems a questionable statement; it should be checked with the RSPB as local expert on the conservation of the priority species.

6.1.3 *"...the Excavation works will not disturb breeding birds, including bittern or marsh harrier, provided they cease by the end of February."* Again this should be checked with the RSPB. The applicant says it has been advised that booming starts in February. "Booming" is calling by the male bitterns to establish territories and advertise their presence to females. It therefore seems that it could easily be disrupted by excavation works adjacent to their nesting area, and advice should be taken from species conservation experts as to whether excavation should cease by early February.

6.1.4/6.1.5 *"SZC Co. wish to revise the Excavation period (and definition) in the Code of Construction Practice from October-February over up to two consecutive winters, to mid August to February (inclusive) over a single winter."* The applicant proposes to change from 2 periods of 5 months each, to one period of 6½ months (which might possibly have to be shortened to finish by early February, see above); and then baldly states that it is *"confident this is achievable"*. The much shorter time allowed, calls into question the applicant's intentions as to the extent and quality of the work now planned. Is there any allowance for unfavourable weather, unexpected discoveries such as wartime defences, and so on? Again, the RSPB has relevant experience of this type of work in this location, and WTC requests the SoS to seek confirmation from the RSPB that the new plan has a high chance of success.

These considerations also apply to the applicants response to **Question 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 6 [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.**

Question 7.2: In relation to noise and visual disturbance effects during the construction of the proposed Development upon the breeding and non-breeding gadwall and shoveler features of the Minsmere-Walberswick SPA and Ramsar site, the Applicant is requested to provide additional information to demonstrate exclusion of adverse effects on site integrity alone and in combination or alternatively measures to avoid, mitigate, or compensate for any adverse effects identified.

The applicant's response does not provide the requested information; instead it seeks to give excuses as to why the information is not needed. WTC believes the applicant is hoping that by sounding confident, it can convince the SoS that there is nothing to worry about. WTC recommends that the SoS should press the applicant for the required information about excluding adverse effects (i.e. preventing them) or mitigating/compensating them.

6.2.1- 6.2.6 refer back to the applicant's position at examination; the very statements which the SoS has rightly requested more information about.

6.2.1 *"Important to this conclusion is the fact that for both the breeding and non-breeding populations of these two species, the potential for disturbance effects is limited to birds which occur on the functionally linked land (FLL) on the Minsmere South Levels and Sizewell Marshes. It is considered that the displacement of a proportion of the birds from these areas of FLL would not affect the status of the populations of the qualifying features within the designated site and, hence, the associated conservation objectives of the site."* It is claimed as "fact" that disturbance is limited to the FLL area; and then stated, without support, that displacement of birds from FLL doesn't affect the status of the populations on the main site. There is no reason to believe this statement about displacement is true; it is highly likely that displacement will take place onto the main SPA/Ramsar site itself - and generally, when a site receives displaced birds there is less to go round among the birds already present and the incoming displaced individuals, in terms of feeding opportunities, roosting or nesting sites or other resources. (If this were not the case, the birds would form larger flocks in the most favourable place, so as to benefit from the safety-in-numbers principle).

6.2.2 *"effects which would not be acceptable within the boundary of the protected site may or may not be acceptable on the FLL"* – In referring to this guidance, the applicant doesn't make any specific point about how it relates to the disturbance that would be caused by the construction of SZC.

6.2.3-6.2.6 make similar claims to 6.2.1, without reference to the impact of displacement to the main site.

Regarding the new baseline data referenced in 6.2.7-6.2.16, WTC recommends that the species numbers should be checked with Natural England and the RSPB.

Question 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.

WTC notes that the applicant has applied for a District Licence that avoids having to provide on-site mitigation, however the applicant's answer fails to comment on alternative sites for compensation or translocation.