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**Response to the
Secretary of State's Question of 16 May 2022
from the Royal Society for the Protection of Birds
and Suffolk Wildlife Trust**

**Submitted on
14 June 2022**

Planning Act 2008 (as amended)

In the matter of:

**Application by NNB Generation Company (SZC) Limited for an Order
Granting Development Consent for
The Sizewell C Project**

**Planning Inspectorate Ref: EN010012
The RSPB PINs Registration Identification Ref: 20026628
Suffolk Wildlife Trust Registration Identification Ref: 20026359**

Marsh Harriers – HRA Addendum

- 1.1. We welcome the Applicant's letter¹ and update to the marsh harrier section of the HRA² due to the recent nesting of marsh harriers at Aldhurst Farm and Sizewell Marshes SSSI.
- 1.2. We agree with the conclusion that these nests are likely to be functionally-linked to the Minsmere-Walberswick SPA population given their proximity to the main nesting area and agree that these sites could be subject to direct habitat loss, visual and noise disturbance and recreational impacts as a result of the Sizewell C development³. We are concerned however, that these potential impacts are not properly assessed.
- 1.3. Instead of assessing the potential impacts of the Application on these additional marsh harrier nest sites, the Applicant argues that there is no potential for adverse effects on integrity to arise as a result of such impacts due to:
 - 1.3.1. the potential for direct effects on nesting birds is limited to those using sites on functionally linked land, which would not affect the population nesting within the designated land;
 - 1.3.2. the 'maintain' objective and the amount of habitat managed for nesting marsh harriers within the SPA means it is possible to conclude that the designated land provides sufficient nesting habitat to maintain the population at or above the site's designation citation level and avoid deterioration from its current level, and that the SPA population is not dependent on functionally linked land for nesting; and
 - 1.3.3. the absence of evidence of historical dependence of the designated population on functionally linked land for nesting, as new nests are on recently created habitat or land which has been used for the first time in 25 years.
- 1.4. The Applicant therefore concludes that adverse effects on integrity can be ruled out for the project both alone and in-combination.
- 1.5. We note that there has been an average of two nests across both sites (Aldhurst Farm and Sizewell Marshes SSSI) in the last three years. The Minsmere-Walberswick SPA marsh harrier population at the time of designation was 15 pairs⁴, noting that Natural England's supplementary advice for the species⁵ has a target to:

"Maintain the size of the breeding population at a level which is above 15 breeding females, whilst avoiding deterioration from its current level as indicated by the latest mean peak count or equivalent"

¹ [Application EN010012 for The Sizewell C Project by NNB Generation Company \(SZC\) Limited \(SZC Co.\) – Supplementary information in relation to breeding marsh harriers within the EDF Sizewell Estate, 5 May 2022](#)

² The Habitats Regulation Assessment Addendum, attached to the above letter, starting on page 5

³ As set out in para 1.1.5 of the HRA Addendum "The locations of the above nesting areas are approximately 3.5km (at Aldhurst Farm) and 2.5km (at Sizewell Marshes SSSI) from the marsh harrier nesting area in the Minsmere reedbeds within the SPA and, as such, are sufficiently close to be regarded as having the potential to be functionally linked with the SPA population."

⁴ Noting, as discussed in more detail within paras 3.3.68 to 3.375 of [our Written Submissions](#) (REP2-509) "15 breeding females which represented 20% of the British population" (para 3.3.68) and the population has experienced a decline recently (para 3.374)

⁵ [Natural England Supplementary Advice on Conservation Objectives](#) (SACOs) - Minsmere-Walberswick SPA, please note once webpage opened you have to tick which species and then ask it to show attributes and targets for selected features

therefore, two nests constitute a significant proportion of the population. On that basis, we consider that the Applicant should properly assess the impacts on these sites, including in particular:

- 1.5.1. direct loss of nesting habitat affecting birds within Sizewell Marshes SSSI.
 - 1.5.2. barrier effect on birds nesting at Aldhurst Farm. As acknowledged by the Applicant, these birds are likely to be functionally-linked to the Minsmere-Walberswick SPA therefore the location of the construction site to the north of Aldhurst Farm may act as a barrier for birds nesting there to access foraging habitats at both Minsmere and the marsh harrier compensatory foraging habitats at Abbey Farm. This, coupled with direct loss and noise impacts on some of the foraging habitat at Sizewell Marshes may mean these birds suffer a significant reduction in available foraging habitat. This potential impact has not been acknowledged by the Applicant.
 - 1.5.3. noise disturbance on nests at Aldhurst Farm, given the noise contour maps in the [Shadow HRA Report Addendum Appendices 1A-10A Part 5 of 5](#) (REP4-004) suggest that parts of this area will experience noise levels over 70dB, although further clarity regarding impacts in the breeding season (throughout the construction period, including Phase 5) is required. Whilst we acknowledge the provisions within the [Code of Construction Practice](#) (REP10-072) should marsh harriers be found nesting within the construction site, we consider that the potential for noise to deter nesting activity should also be considered, as well as impacts on birds outside the works area.
 - 1.5.4. recreational disturbance – consider any measures necessary to ensure that public access at Aldhurst Farm does not adversely affect marsh harriers.
- 1.6. Based on the potential impacts above and the limited information available at present, we do not consider it is possible to rule out adverse effects on the integrity of the Minsmere-Walberswick SPA. We also do not agree that the approach taken by the Applicant, which fails to assess these potential impacts and instead focuses on the argument that the SPA population is not reliant on birds nesting on functionally linked land, is acceptable for the purposes of Habitats Regulations Assessment.