



## Meeting note

<b>Project name</b>	Sizewell C New Nuclear Power Station (Sizewell C)
<b>File reference</b>	EN010012
<b>Status</b>	<b>Draft</b>
<b>Author</b>	The Planning Inspectorate (the Inspectorate)
<b>Date</b>	6 February 2020
<b>Meeting with</b>	NNB Nuclear Generation (SZC) Limited (the Applicant)
<b>Venue</b>	Temple Quay House, Bristol
<b>Meeting objectives</b>	Project update meeting and review of draft documents
<b>Circulation</b>	All attendees

### **Summary of key points discussed and advice given**

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

### ***Draft Documents***

The Inspectorate reviewed the following draft documents provided to the Inspectorate on 20 November 2019:

- Draft Development Consent Order
- Explanatory Memorandum
- Sample of Land Plans
- Sample of Work Plans
- Consultation Report
- Environmental Statement: Project Description chapters
- Habitats Regulations Assessment

A brief discussion of the Inspectorate's comments on the draft documents was held. Detailed comments are provided in the Table below.

### ***Programme update***

The Applicant confirmed that submission of the Application is still expected in Q1 2020 and highlighted the need for Sizewell C to follow Hinkley Point C New Nuclear Power Station (HPC) closely enough to allow for transfer of skills and workers from the latter. The Inspectorate queried whether this meant the timeline for HPC could impact on the submission of the Application for Sizewell C. The Applicant advised that there is no reason why this would impact the submission date.

## ***Targeted Consultation – Water Resource Storage Area and Wet Woodland Area***

The Applicant stated it was undertaking targeted consultation in regard to the water supply strategy, in particular with the Environment Agency (EA) and local stakeholders, and it is considered as non-statutory. The Inspectorate advised the Applicant to make this clear in the Consultation Report to demonstrate where consultation had been targeted and why.

### ***Engagement with the Defra Group***

The Inspectorate spoke about a meeting it had held with the EA, Natural England and the Marine Management Organisation, collectively the Defra Group. This meeting had focused on the current engagement between the Defra Group and the Applicant and the amount of new information these bodies would potentially see at the point the Application is submitted. The Inspectorate advised the Applicant that a note of the meeting would be published shortly.

The Applicant said it had been holding frequent meetings with the EA and that, whilst there were some outstanding issues to resolve, there was good progress being made across all workstreams. The Inspectorate advised that it would be optimal to resolve as much as possible prior to Examination and where possible to share as much information with key statutory bodies ahead of submission especially where the Applicant does not agree to the publishing of documents on receipt of the Application.

## Sizewell C New Nuclear Power Station

### Section 51 advice – review of draft application documents provided by NNB Nuclear Generation (SZC) Ltd

This advice relates solely to matters raised upon the Planning Inspectorate’s review of the draft application documents provided by NNB Nuclear Generation (SZC) Limited (the Applicant), and not the merits of the proposal. The advice is limited by the time available for consideration and raised without prejudice to the acceptance or otherwise of the eventual application.

#### Abbreviations used

<b>PA2008</b>	<i>Planning Act 2008</i>	<b>CA</b>	<i>Compulsory Acquisition</i>	<b>dDCO</b>	<i>draft Development Consent Order</i>
<b>dEM</b>	<i>draft Explanatory Memorandum</i>	<b>ExA</b>	<i>Examining Authority</i>	<b>PINS</b>	<i>Planning Inspectorate</i>
<b>SI</b>	<i>Statutory Instrument</i>	<b>SoR</b>	<i>Statement of Reasons</i>	<b>SoS</b>	<i>Secretary of State</i>

<b>Draft Development Consent Order and draft Explanatory Memorandum</b>			
<b>Q No.</b>	<b>Article (A)/ Requirement (R)</b>	<b>Extract from DCO (for ease of reference)</b>	<b>Comment/Question</b>
<b>1.</b>	<b>General drafting matters</b>	-	<p>The dDCO and dEM need to be thoroughly checked before submission to ensure that:</p> <ul style="list-style-type: none"> <li>• They refer to the current and the correct sections/schedules of legislation (principally the PA2008);</li> <li>• each numbered para in the dEM refers to the correct and corresponding Article/Schedule in the dDCO;</li> <li>• each Article/Schedule in the dDCO has a corresponding para in the dEM. At present they do not. Some (eg Article 50) are marked as “<i>to be drafted</i>” in the dEM although the Article/Schedule is already there in the dDCO. Others are missing (eg in relation to Article 25A), although the</li> </ul>

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			<p>Inspectorate assumes this is because the dEM is at an early stage; and there are no 'dangling Schedules' ie each Schedule is given effect by an operative Article in the main body of the dDCO and that the relevant Article (noting that this is often Article 2) refers to the correct Schedule – and vice versa.</p>
<b>2.</b>	<b>General drafting matters</b>	-	<p>The dDCO should be:</p> <ul style="list-style-type: none"> <li>• In the SI template;</li> <li>• follow guidance and best practice for SI drafting (for example avoiding "shall"/"should") in accordance with the latest version of guidance from the Office of the Parliamentary Counsel; and</li> <li>• follow best practice drafting guidance from the Planning Inspectorate and the Departments in <a href="#">Advice Note 15</a>.</li> </ul>
<b>3.</b>	<b>General drafting matters</b>	-	<p>Generally, the dEM tends to explain the effect of the relevant provision in the dDCO, rather than explaining why it its necessary.</p> <p>Further explanation and evidence (including the outcomes of any consultation) is required to explain why the content of each Article, Schedule etc to the dDCO is relevant and required for this proposal. Please refer to <a href="#">Advice Note 15</a>.</p> <p>The dEM should provide explanation and justification where a provision departs from a precedent (see <a href="#">Advice Note 13</a> and <a href="#">Advice Note 15</a>). This should include reference to the particular circumstances of this development and an explanation as to why this is necessary or desirable.</p> <p>Where drafting precedents in previous made DCOs have been relied on, these should be checked to identify whether they have been subsequently refined or developed in the most recent DCOs so that</p>

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			the DCO provisions reflect the SoS's current policy preferences. If any general provisions (other than works descriptions and other drafting bespoke to the facts of this particular application and dDCO) actually differ in any way from corresponding provisions in the SoS's most recent made DCOs, an explanation should be provided as to how and why they differ (including but not limited to changes to statutory provisions made by or related to the Housing and Planning Act 2016).
<b>4.</b>	<b>General drafting matters</b>	-	In respect of references to the Wylfa dDCO in the Applicant's dEM: The Inspectorate would advise that whilst these references are useful to understand the rationale behind the drafting in the Sizewell C dDCO, the Applicant should be mindful that the SoS has of course not yet made a decision on the Wylfa application and there is no Wylfa DCO to rely on as precedent. If the Wylfa dDCO is made, the SoS may choose not to accept the drafting proposed by the Applicant in that case.
<b>5.</b>	<b>General drafting matters</b>	-	The purpose of and necessity for any provision which uses novel drafting and which does not have precedent in a made DCO or similar statutory Order should be explained. The drafting should: <ul style="list-style-type: none"> <li>• Be unambiguous;</li> <li>• achieve what the Applicant wants it to achieve;</li> <li>• be consistent with any definitions or expressions in other provisions of the dDCO; and</li> <li>• identify the power in the PA2008 upon which the provision is based.</li> </ul>
<b>6.</b>	<b>General drafting matters</b>	-	The extent of any flexibility provided by the dDCO should be fully explained, such as the scope of maintenance works and ancillary works, limits of deviation and the ability (through tailpieces) of

Draft Development Consent Order and draft Explanatory Memorandum			
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			<p>discharging authorities to authorise subsequent amendments.</p> <p>The preferred approach to limiting this flexibility is to limit the works (or amendments) to those that would not give rise to any <b>materially new or materially different</b> environmental effects to those identified in the Environmental Statement.</p> <p>The drafting which gives rise to an element of flexibility (or alternatives) should provide clearly for unforeseen circumstances and define the scope of what is being authorised with sufficient precision. For example, the SoS had to amend Article 6 (Benefit of Order) of The National Grid (Richborough Connection Project) Development Consent Order 2017 at decision stage to remove ambiguity (as later corrected by <a href="#">The National Grid (Richborough Connection Project) (Correction) Order 2018</a>).</p> <p>In relation to the flexibility to carry out advance works, any 'carve out' from the definition of "<i>commencement</i>" should be fully justified and it should be demonstrated that such works are <i>de minimis</i> and do not have environmental impacts which would need to be controlled by Requirement. See section 21 of <a href="#">Advice Note 15</a>.</p>
7.	General drafting matters	-	<p>The definitions both in Article 2 and those in Schedules need a careful review to ensure that:</p> <ul style="list-style-type: none"> <li>• There are no 'black holes'/omissions (ie no missing definitions or defined terms which do not actually appear in the main body of the dDCO) or conflict (ie parallel but different definitions of the same term);</li> <li>• definitions refer out to the correct Schedule or Article - at present some do not (eg Land Plans);</li> <li>• definitions which refer out to those in other SIs/legislation are still appropriate in the overall context of the dDCO and are not</li> </ul>

Draft Development Consent Order and draft Explanatory Memorandum			
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			<p>inconsistent with its bespoke definitions; and</p> <ul style="list-style-type: none"> <li>all the points raised in the dEM in relation to definitions are actually captured in Article 2 (for example para 7.40 of the dEM indicates that the Nuclear Decommissioning Authority would be included in the definition of "statutory undertaking" as it is not a Statutory Undertaker for the purposes of the PA2008 or the Communications Act 2003 (but this is not captured either in Article 2 or the main operative Articles).</li> </ul>
8.	General drafting matters	-	The Applicant will be asked to maintain a list of all plans and other documents that will require SoS certification (including plan/document references), updated throughout the examination process, and supplied to the ExA before the close of the examination.
9.	General drafting matters - references to Part 1 of the 1961 Act	-	A number of Articles make provision for "compensation to be determined, in case of dispute, under Part 1 of the 1961 Act". Part 1 of the 1961 Act only relates to compensation for CA. In order for there to be certainty that it would apply in other situations (eg the temporary use of land under A34), should a modification be included as with the other compensation provisions in Schedule 17? If not, why not?
10.	A2	Definition of "maintain"	The definition is very broad and includes the right to extend or replace any part of the Authorised Development. The dEM acknowledges that the Applicant may need to reconstruct operational buildings or replace components of the power station during its (proposed) 60-year lifespan. Is this power sufficiently limited?
11.	A2	Definition of "commencement"	It should be clear that the 'carve out' works (from the definition of "commencement") are <i>de minimis</i> and do not have environmental impacts which would need to be controlled by Requirement. See

Draft Development Consent Order and draft Explanatory Memorandum			
Q No.	Article (A)/ Requirement (R)	Extract from DCO (for ease of reference)	Comment/Question
			section 21 of <a href="#">Advice Note 15</a> .
12.	A3	<b>Development consent etc granted by the order</b>	The intent of this Article is to avoid inconsistency with other relevant statutory provisions applying in the vicinity but notwithstanding other precedents, as much information as possible should be provided about "any enactments" together with clarification about how far from the Order limits the provision might bite.
13.	A29	<b>Compulsory acquisition of rights</b>	These provisions (and any relevant plans) should be drafted in accordance with the guidance in <a href="#">Advice Note 15</a> , in particular sections 23 (extinguishment of rights) and 24 (restrictive covenants)
14.			•
15.	<b>A33A</b>	<b>Rights under or over streets</b>	It is not clear from the dEM what the rationale is for the power to enter on, appropriate and use the subsoil of any street within the Order limits (as opposed to the airspace above)?
16.	<b>A34</b>	<b>Temporary use of land</b>	This power allows temporary possession of any land within the Order limits, regardless of whether or not it is listed in Schedule 18 to the dDCO which details specific plots over which temporary possession may be taken for specific purposes listed in that Schedule. An appointed ExA is likely to want to know whether those wider powers are necessary and appropriate. What steps has the Applicant taken to alert all landowners, occupiers etc within the Order limits to the possibility of this power of temporary use being exercised over their land?

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17.	A37/A38	<b>Statutory Undertakers and apparatus and rights of Statutory Undertakers in stopped-up streets</b>	<p>Where a representation is made by a Statutory Undertaker under s127 of the PA2008 and has not been withdrawn, the SoS will be unable to authorise powers relating to Statutory Undertaker land unless satisfied of specified matters set out in s127. If the representation is not withdrawn by the end of the examination, confirmation will be needed that the “<i>expedience</i>” test is met.</p> <p>The SoS will also be unable to authorise removal or repositioning of apparatus unless satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates in accordance with s138 of the PA2008. Justification will be needed to show that extinguishment or removal is necessary.</p>
18.	A16	<b>Temporary stopping up of streets</b>	Notwithstanding other precedents, justification should be provided as to why the power is appropriate and proportionate having regard to the impacts on pedestrians and others of authorising temporary working sites in these streets.
19.	A11	<b>Power to alter layout of streets</b>	This is a wide power – authorising alteration etc with <b>any</b> street within the Order limits. It should be clear why this power is necessary and consideration given to whether or not it should be limited to identified streets.
20.	A74	<b>Felling or lopping of trees and removal of hedgerows</b>	The guidance in section 22 of <a href="#">Advice Note 15</a> should be followed. If it hasn’t been followed justification should be provided as to why this is the case.
21.	A79	<b>Procedure in relation to certain approvals etc.</b>	<a href="#">Advice Note 15</a> provides standard drafting for Articles dealing with discharge of requirements. If this guidance hasn’t been followed justification should be provided as to why this is the case.

Draft Development Consent Order and draft Explanatory Memorandum			
Q No.	Article (A)/ Requirement (R)	Extract from DCO (for ease of reference)	Comment/Question
22.	<b>A82</b>	<b>Crown rights</b>	CA of an interest in land held by the Crown cannot be authorised through this or any other Article. This could be achieved, for example, by expressly excluding Crown interests in the Book of Reference land descriptions for relevant plots or by excepting them from the definition of the Order land. Acquisition of some other person's interest in that same land can only be done if the appropriate Crown authority consents to it under s135(1) of the PA2008. This Article (A82(b)) requires Crown authority consent before the CA power can be exercised. Section 135(1) consent should be provided for the power/Article to be in the dDCO.
23.	<b>Schedule 1</b>	<b>Part 4</b>	"Other associated development" is wide-ranging and an appointed ExA is likely to seek justification for the breadth applied.
24.	<b>Schedule 2</b>	<b>Requirements</b>	Schedule is superficially populated. The Inspectorate therefore cannot undertake a meaningful review of the Requirements.

Draft Land Plans			
Q No.	Land Plan Ref	Extract from Plan Key (for ease of reference)	Question/Comments
1.	<b>Plans - general</b>	-	<ul style="list-style-type: none"> <li>It would be helpful if the plan/file naming convention could be more intuitive at application.</li> <li>Key Plans for plans comprising three or more sheets not included in suite of draft documents.</li> </ul>

<b>Draft Land Plans</b>			
<b>Q No.</b>	<b>Land Plan Ref</b>	<b>Extract from Plan Key (for ease of reference)</b>	<b>Question/Comments</b>
			<ul style="list-style-type: none"> <li>Cut lines are absent from some plans.</li> </ul>
<b>2.</b>	<b>Draft Land Plans</b>	-	<p>The Red Line Boundary is poorly articulated on the Land Plans. The Applicant is advised to not overlay plot boundaries.</p> <p>No Book of Reference or Statement of Reasons has been provided with draft documents, and only four Land Plans have been provided. This has limited the Inspectorate's ability to meaningfully review the Land Plans.</p>

<b>Draft Works Plans</b>			
<b>Q No.</b>	<b>Work Plan Ref</b>	<b>Extract from Schedule 1: Authorised Development (PART 1)</b>	<b>Question/Comments</b>
<b>1.</b>	<b>SZC-SZ0204-XX-000-DRW-100262_P04</b>	-	No Key Plan for the works carried out outside of the Main Site. The Works Plans are basic but without a Key Plan for works outside the Main Site it is difficult to understand how the works relate to the overall scheme.
<b>2.</b>	<b>SZC SZ0204 XX 000 DRW 100255_P5</b>	<b>Work No. 7H etc</b>	Colour palette across Works Plans does not assist reading (light grey/dark grey and black). Consider using colours that assist differentiation? Descriptions and Line Pointers to works could be clearer.
<b>3.</b>	<b>SZC MAIN DEVELOPMENT SITE &amp; RAIL WORK PLANS - SHEET 4/6</b>	<b>Work No. 1D</b>	Shown on the Work Plans (Sheet 4, Sheet 6) but is not in Schedule 1 of the dDCO.

<b>Draft Works Plans</b>			
<b>Q No.</b>	<b>Work Plan Ref</b>	<b>Extract from Schedule 1: Authorised Development (PART 1)</b>	<b>Question/Comments</b>
4.	<b>SZC MAIN DEVELOPMENT SITE &amp; RAIL WORK PLANS – SHEET 1 – KEY PLAN etc</b>	<b>Work No. 2</b>	The dDCO splits Work No. 2 into A – L. Work Plan Sheet 1 (the Key Plan) does not illustrate where these separate works are – however it does indicate Work 1A, 1B and 1C separately. Sheets 7 and 8 do show the various sub-works for Work 2. The Applicant is advised to consider the consistency of approach on the Key Plan.
5.	<b>SZC-SZ0204-XX 000-DRW-100XXX_P05</b>	<b>Work No. 4D / Work No. 6D</b>	Reference on page 57 of the dDCO should be to Work No.6D?
6.	<b>SZC SZ0204 XX DRW 100261 P_05</b>	<b>Work No. 8A</b>	Cannot locate this work in relation to the Main Site works.
7.	<b>SZC SZ0204 XX 000 DRW 100254_P05</b>	<b>Work No. 7</b>	Work Nos. 7C, 7D and 7E seem to be combined.
8.	<b>SZC SZ0204 XX 000 DRW 100253_P05</b>	<b>Work No. 7</b>	The Key Plan for Work No. 7 is not to standard scale.
9.	<b>SZC SZ0204 XX 000 DRW 100252_P06</b>	<b>Work No. 6</b>	A Key Plan for the Two Village Bypass Works Plans has not been provided. There are four plans included in this series and one plan seems to be missing which links to Works Plans SZC SZ0204 XX 000 DRW 100252_P06 and SZC SZ0204 XX 000 DRW 100XXX_P06. The submitted Works Plans references for the Two Village Bypass are: <ul style="list-style-type: none"> <li>• SZC SZ0204 XX 000 DRW 100252_P06 (Sheet 01)</li> </ul>

<b>Draft Works Plans</b>			
<b>Q No.</b>	<b>Work Plan Ref</b>	<b>Extract from Schedule 1: Authorised Development (PART 1)</b>	<b>Question/Comments</b>
			<ul style="list-style-type: none"> <li>• SZC SZ0204 XX 000 DRW 100XXX_P06 (Sheet 02)</li> <li>• SZC SZ0204 XX 000 DRW 100XXX_P05 (Sheet 03)</li> <li>• SZC SZ0204 XX 000 DRW 100XXX_P01 (Sheet 02.1)</li> </ul>
<b>10.</b>	<b>General</b>	-	<p>No Works Plans provided for the following works:</p> <ul style="list-style-type: none"> <li>• Works Nos. 4A and 4B</li> <li>• Work No. 5B</li> <li>• Work No. 6E</li> <li>• Works Nos. 10C, 10D, 10E and 10F</li> </ul>

<b>Draft Consultation Report</b>			
<b>Q No.</b>	<b>Paragraph/ Section</b>	<b>Extract from CR (for ease of reference)</b>	<b>Question/Comments</b>
<b>1.</b>	<b>Contents page</b>	"8. Stage Four Pre-Application Consultation – January to March 2019"	Is the date correct?
<b>2.</b>	<b>Executive Summary - Introduction</b>	"This report outlines the pre-application consultation undertaken by EDF Energy..."	EDF Energy is not defined as NNB Generation Company (SZC) Limited until Section B. Is this therefore referring to a separate entity?
<b>3.</b>	<b>2.4.10</b>	Identification of Relevant Local Authorities	The Broads Authority is a 'local authority' according to 43(3). Therefore is the Broads Authority prescribed under either 43(2) or 43(2A)?

<b>Draft Consultation Report</b>			
<b>Q No.</b>	<b>Paragraph/ Section</b>	<b>Extract from CR (for ease of reference)</b>	<b>Question/Comments</b>
4.	<b>Table 2.2</b>	Covering letter consulting Suffolk Coastal District Council (SCDC) on draft Statement of Community Consultation (SoCC)	Was Suffolk County Council consulted on this SoCC?
5.	<b>Table 2.7</b>	Covering letter consulting SCDC on draft SoCC	Why is Suffolk County Council not mentioned here?
6.	<b>2.4.15</b>	"A full list of PILs is provided at Appendix G.9."	Not required as appendix to Consultation Report.
7.	<b>Table 7.1</b>	List of parishes in which public events took place	Why do these not match the list of parishes in which events are meant to take place?

<b>Draft ES Project description chapters</b>			
<b>Q No.</b>	<b>Paragraph/ Section</b>	<b>Extract from [abbreviation of doc] (for ease of reference)</b>	<b>Question/Comments</b>
1.	6.3 Vol 2 Chapter 1	1.2.4	Would be helpful if there was an overarching contents page for the ES. Could be expressed more clearly about which are overarching and which are repeated in the context of each volume. References to overarching chapters "including" implies that there may be others and is not definitive. May also help set the context of the "main site" along with the "other sites" reported in other volumes of the ES. Figures setting out the development as a "whole" would be helpful, including a figure showing which volumes of the ES relate to which aspects of the development for clarity. Assuming that these will be prepared but that they just haven't been received as part of PINS draft docs review.
2.	6.3 Vol 2 Chapter 1	1.2.10	Cumulative impacts: appears as though there an entirely separate volume for cumulative effects by topic area (vol.10)? I think this is referring to intra and inter project effects? Maybe worth clarifying that so that there is no expectation of cumulative effects assessment in every chapter?

<b>Draft ES Project description chapters</b>			
<b>Q No.</b>	<b>Paragraph/ Section</b>	<b>Extract from [abbreviation of doc] (for ease of reference)</b>	<b>Question/Comments</b>
3.	6.3 Vol 2 Chapter 1	1.4.32 – 1.4.35	May be worth clarifying that these “additional sites” are in the context of the “main site” and that there are other aspects of the proposed development at other locations that are set out in other volumes (see point raised above about an overview of the ES volumes)
4.	6.3 Vol 2 Chapter 1	2.1.2	Presumably reference should be to “Details on the construction of <u>the main site of Sizewell C...</u> ”. As a general observation reference to “the proposed development” should possibly be reserved to the development as a whole to avoid confusion with sub-components of the development.
5.	6.3 Vol 2 Chapter 1	Table 2.2	Where the parameters for the stack heights and locations are specified (and the ES is based upon them), it is likely that there will be questions as to how the DCO itself limits the design to these parameters and whether there are LoD attached to these aspects.
6.	6.3 Vol 2 Chapter 1	Section 2.4 (a) – (k) (and subsets)	Whilst it is clear in a lot of these paragraphs that there is “one for each UK EPR reactor unit”, it could be clearer as to which of all the described elements are shared and which are duplicated for each island.
7.	6.3 Vol 2 Chapter 1	Table 2.1	<p>Could be usefully labelled with the building structures set out in section 2.4(a) – (k) so as to better understand the relationship between the parameters and the description of the aspects of the work</p> <p>As a general observation, there is limited reference specifications / dimensions in the descriptions of the various work elements in section 2.4, (other than in the parameters tables). In the physical descriptions of the works, references to figures and dimensions etc would aid understanding of the discreet elements.</p>
8.	6.3 Vol 2 Chapter 3	3.1.1	The descriptions of sections 3.2 and 3.3 given in paragraph 3.1.1 do not appear to correspond to the actual content of sections 3.2 and 3.3 that follow. It is a bit unclear as to why the distinction of 2 sections in paragraph 3.1.1 is even necessary.
9.	6.3 Vol 2 Chapter 3	3.1.5	For clarity, reference to the offsite works in 3.1.5 could benefit from cross references to plans / figures / DCO work numbers as to how these offsite (but within order limit) works would be delivered within the consent.

<b>Draft ES Project description chapters</b>			
<b>Q No.</b>	<b>Paragraph/ Section</b>	<b>Extract from [abbreviation of doc] (for ease of reference)</b>	<b>Question/Comments</b>
10.	6.3 Vol 2 Chapter 3	3.3.119 – 3.3.126	There is limited information about where the disposal sites are in respect of the order limits, and what (if anything) will need to be agreed in this regard post-consent.
<b>Freight Management Facility Project Description (although the nature of these comments also apply to the Park and Ride, link road, rail link and Two Village Bypass chapters)</b>			
11.		2.2.5	<p>The paragraph lists the elements of the proposal. It is noted that the description of Work No.8a &amp; b included in the draft DCO Schedule 1 Authorised Development does not appear to match the description of the development presented at paragraph 2.2.5 in terms of specifications and parameters. The Planning Inspectorate reminds the Applicant to be mindful of the principles established in the Rochdale case law (see also <a href="#">Advice note nine: Rochdale Envelope</a>) and the need to ensure the worst case that could be permitted by the draft DCO has been assessed.</p> <p>Similar comments apply to work no. 4a &amp; b (northern park and ride), 5a &amp; b (southern park and ride), 7a – h (link road) and work 9a – c (rail link).</p>
12.		2.2 section d	<p>The Planning Inspectorate notes that the draft DCO (Part 1 Interpretation) contains the definition of Landscape and Habitat Management Strategy” or “LHMS” as the document certified as the Landscape and Habitat Management Strategy by the Secretary of State under article 78 and identified in Schedule 23 for the purposes of the Order. It is not clear whether an Outline LHMS will be presented by the Applicant at submission and the draft DCO does not contains indications of how the LHMS will be approved in its final version and which parties will be involved (e.g. through requirements in Schedule 2).</p> <p>These are matters that are likely to be explored during the examination, particularly the extent to which such plans are being relied upon as mitigation and whether or not such mitigation measures are sufficiently well explained within the application documents.</p>

<b>Draft ES Project description chapters</b>			
<b>Q No.</b>	<b>Paragraph/ Section</b>	<b>Extract from [abbreviation of doc] (for ease of reference)</b>	<b>Question/Comments</b>
13.		2.2.14	<p>The landscaping strategy for the site has been designed specifically to minimise potential effects on ecological, amenity and recreation, heritage and landscape, and visual receptors through the provision of landscape bunds, in accordance with the Design Principles (Doc Ref. 8.3) document. The Planning Inspectorate does not have a draft version of the Design Principles at this stage and thus is unable to provide comments.</p> <p>However, it would seem to be an important document through these references, and although appears in the current drafting on the DCO (interpretations), it has not been defined nor does it appear anywhere else in the DCO (requirements etc). From experience in other cases, such documents as well as their security in the DCO (eg design must be "in accordance with" (or similar) the Design Principles document), are likely to be issues explored in examination.</p> <p>Similar comments on the design principles apply to the other volumes of the ES.</p>
14.		2.2.15	<p>The Planning Inspectorate notes that the removal of the hedgerow is excluded by the definition of commence included in the draft DCO (Part 1 General provisions, Interpretation). It is assumed that the ES will include measures to ensure that no negative impacts will occur due to the removal of hedgerow, with mechanisms in the draft DCO to secure this and justify its exclusion from the 'commence' definition.</p>
15.		2.2.17 – 2.2.27	<p>Landscape bunds and planting, SUDs and bypass separators, foul sewage on-site treatment, height and specification of lighting columns.</p> <p>The ES should clearly indicate how the Proposed Development will not result in adverse significant impacts as a result of these measures, and how such measures would be secured by the DCO.</p>
16.		2.3 (Table 2.1)	<p>Parameters for approval for the freight management facility at Severn Hill (Table 2.1 of the ES) are not presented in the draft DCO (Works No. 8A and 8B), and as drafted, it is unclear how these will be secured and the detailed design limited as part of the DCO.</p> <p>These comments apply equally to the other ES volumes for the other components of the development.</p>

<b>Draft ES Project description chapters</b>			
<b>Q No.</b>	<b>Paragraph/ Section</b>	<b>Extract from [abbreviation of doc] (for ease of reference)</b>	<b>Question/Comments</b>
17.		2.4.26	Reference is made to a waste management strategy to be included in Volume 2 of the ES. The Planning Inspectorate has not seen this document at this stage, and it is unclear how the draft DCO will contain any requirement connected with the approval of a (detailed) waste management strategy based on an outline / draft version forming part of ES volume II.
18.		2.2.38 (two villages bypass ES)	It is noted that floodplain compensation is proposed. The Inspectorate has not seen draft versions of the FRA (including the need case for compensation) but there is no reference to floodplain compensation in the draft DCO. It is therefore unclear at this stage how such provisions will be made for in the DCO.
<b>DCO comments in respect of the ES</b>			
19.	<b>DCO</b>	Reference to ES addendum on the dDCO	There is reference to an ES addendum in the draft DCO. Unclear why there is need for such reference at this stage (the ES will need to meet the minimum statutory requirements at the point of application), unless this is simply safeguarding the possibility of an addendum at a later stage, or a drafting error.
20.	<b>DCO</b>	Schedule 2 - Requirements	Schedule 2 (Requirements) appears to be at an early stage of drafting. Therefore the Applicant's approach to various plans and provisions that might be secured by requirement (e.g. CoCP, Design Principles, Ecological and Landscape Management plan, CTMP /CWTP etc) is unclear at this stage (assuming that such plans are likely to be subject to requirements).
21.	<b>DCO</b>		There is a work no. 1D on the works plans but no work 1D in the DCO itself.

<b>Draft ES Project description chapters</b>			
<b>Q No.</b>	<b>Paragraph/ Section</b>	<b>Extract from [abbreviation of doc] (for ease of reference)</b>	<b>Question/Comments</b>
22.	DCO	Article 4	<p>Article 4 (limits of deviation) does not appear to restrict vertical limits of deviation for any aspect of the proposed development (albeit subject to Schedule 2 of the DCO).</p> <p>In the absence of detailed drafting of requirements in schedule 2 at this stage, it is unclear how important vertical parameters set out in the ES will be constrained such that article 4 would not allow unlimited heights of the emission stacks (for example).</p> <p>In terms of the marine environment (fish return tunnel and cooling water infrastructure), there will need to be evidence of such limits of deviation being assessed as part of the HRA and EIA (eg the worst case effects of "x" metres below the seabed).</p>
23.	DCO	Reference to parameter plans in the dDCO	<p>There are references to "parameter zones" which are not defined on the works plans that have been provided. These "parameter zones" are set out in table 2.1 of Vol. 2, Chapter 2 but it is unclear how those parameters set in the ES will be specifically secured as part of the DCO (inc. heights, widths etc). The DCO does not appear to limit the development to being in accordance with the Parameter plans (although these are certified), nor are "parameter zones" defined as being shown on the parameter plans. The reliance on the design being within the parameter plans does not appear to be formalised in the DCO.</p>
24.			<p>Work no 1A is extremely broadly defined on the works plans (as a grey shaded area) and covers a large amount of land (see works plans key plan). There are what appear to be substantive elements of the development under 1A((a)-(w)) (with sub elements under (d), (e), (h), (i) and (j)) and the works plans give no further specificity as to the locations of these works within the larger 1A component shown on the works plans. As an example, work plans 3 and 5 show large areas of shaded area as work no 1A, but it is unclear which elements of works listed under 1A would take place within the demarked area on work plan 3 (the same applies to other work plans).</p> <p>PINS has not seen draft versions of the parameter plans so it is possible that the parameter zones and sub-works of work no. 1A are better illustrated on those plans (in the context of the 'main development site area').</p>

<b>Draft ES Project description chapters</b>			
<b>Q No.</b>	<b>Paragraph/ Section</b>	<b>Extract from [abbreviation of doc] (for ease of reference)</b>	<b>Question/Comments</b>
25.	DCO	Schedule 23 (plans to be certified)	Together with the current drafting of the requirements, it is difficult to provide comments on the applicant's approach to which documents and plans (e.g. the ES and sub-component management plans etc) will be certified and defined as part of the DCO.

<b>Draft HRA</b>			
<b>Q No.</b>	<b>Paragraph/ Section</b>	<b>Extract from [abbreviation of doc] (for ease of reference)</b>	<b>Question/Comments</b>
1.	2.1.2	Reference to OLEMP (not yet finalised). Project description.	Project description: some of the gaps relate to the proposed OLEMP and proposals for the reinstatement of land following construction. Presumably the details of this including timescales and phasing will be provided (noting the text in Paragraph 2.1.2 regarding details are to follow) and the report will clearly set out what the assessment has relied upon in this regard. There is no detail in the project description on the location and nature of the causeway/culvert crossing Sizewell Marshes SSSI. This information may be elsewhere (eg the ES) but is of high relevance to the HRA and it would be helpful to have a summary in the HRA report with cross references as needed to more detailed information.
2.	2.3.7	"...sustainable drainage will be installed where possible....."	The proposals for drainage which have been relied upon in the shadow HRA should be described in as much detail as possible such as to understand how the design has been factored into that assessment and relied upon in its conclusions.
3.	2.7.2	Table 2.2 is intended to clarify the basis upon which the assessment presented in the Shadow HRA has been undertaken, and to highlight any areas where such an approach is different from that adopted in the Environmental Impact Assessment (EIA)	Table 2.2 doesn't actually highlight any differences to the EIA, does this mean the parameters used are in fact identical? If so, it would be helpful to state so. It would also be helpful to identify where the parameters differ from those used in the stand-alone shadow HRA related to the Environmental Permit applications referred to in Paragraph 1.1.4, if applicable.
4.	4.2.14	"following consultation with the HRA Working	Should this final sentence read 'scoped in' (with reference to Table 4.4)?

<b>Draft HRA</b>			
<b>Q No.</b>	<b>Paragraph/Section</b>	<b>Extract from [abbreviation of doc] (for ease of reference)</b>	<b>Question/Comments</b>
		Group in 2019, it was determined that these European Sites may be affected by the Freight Management Facility which is within close proximity to the Stour and Orwell Estuaries and Deben Estuary SPAs and Ramsar sites. Hence, these sites were scoped out of the HRA process.”	
5.	Paragraph 4.2.2 and Table 5.1, Appendix B1 (screening matrices)	Cause-effect pathways. Potential effects. LSE screening	<p>There is overlap between Paragraph 4.2.2 and Table 5.1 in the Appendix, and it would be clearer to include this information in one location or with appropriate cross-reference.</p> <p>At acceptance, the Planning Inspectorate will try to establish to what extent the consultation/ evidence plan process has informed the identification of the cause-effect pathways, and it would be helpful if this section could include or cross-refer to this information.</p> <p>Appendix B.1 – care should be taken to describe the potential effects considered and included within the screening matrices. There should be no discrepancies between the main Shadow HRA Report and the matrices in this regard. The table of potential effects in Appendix B1 uses statements like ‘such as’ and ‘largely’ which creates uncertainty over what potential effects have been considered.</p> <p>Appendix B.1 –the evidence footnotes do not include specific references to the relevant sections of supporting documents eg section of the main HRA report or ES. This should be included in the final version.</p> <p>Appendix C is referred to in the report for the other plans and projects considered in the in-combination likely significant effects screening but this has not been provided and therefore has not been reviewed. This Appendix is essential information and the Inspectorate would expect it to be included with the application. It would be useful for the Table C.1 referred to in the report to include a brief summary of the reasoning</p>

<b>Draft HRA</b>			
<b>Q No.</b>	<b>Paragraph/Section</b>	<b>Extract from [abbreviation of doc] (for ease of reference)</b>	<b>Question/Comments</b>
			behind the inclusion or exclusion of the plan/project in the LSIE exercise. A figure showing the approximate location of the other plans/projects should also be considered for inclusion in this appendix.
6.	Section 6, Section 6.2 Section 6.3	Baseline conditions – coastal process overview Birds	<p>Figures would be helpful in identifying the features referred to in Section 6. If these form part of the ES they should be accurately cross-reference in the HRA report or reproduced as considered appropriate to aid the reader.</p> <p>The report appears to be limited to desk study information in relation to the habitats described. It would be useful to understand if any fieldwork has been carried out and if not, why this was not considered necessary (with reference to consultation as applicable). If this is explained in the ES then cross-reference could be made to this information.</p> <p>The most recent surveys for some bird species of concern (little tern, sandwich tern, lesser black-backed gulls) appear to date from 2013, and for marsh harrier 2016. Given that some of these surveys are over six years old, the report should provide justification as to why this data remains suitable and why up to date survey information was not sought.</p> <p>Paragraph 6.3.48 determines that the 2011-2013 survey data for little tern would not be relevant to the Benacre to Easton Bavents SPA given the survey locations distance from this designated site. No reference is made to any separate, geographically specific little tern survey data being gathered in relation to the little tern population of Benacre to Easton Bavents SPA. Justification should be provided for the geographical scope of the survey work, reference to specific sections of the ES could be made to avoid repetition in the application documents.</p> <p>It would be helpful to explain in each section how the evidence plan and HRA Working Group consultation process referred to in Section 3.6 of the report has informed the baseline data gathered for the assessment.</p>

<p><b>Specific matter where PINS feedback requested: “In light of recent case law, in the draft HRA Shadow Assessment, we have taken a conservative view of the what constitutes ‘mitigation’, with habitat improvement measures (in this case for Marsh Harriers) being defined as ‘compensation’. This then has the consequence of requiring further consideration of alternatives and consideration of IROPI (yet to be presented). Does PINS consider this is the correct approach? Is this approach aligned with the most recent NSIP submissions to PINS (of those which have undertaken shadow HRA assessments)?”</b></p>			
7.	Paragraph 8.8.225	states that ‘it is not possible to discount AEOI on marsh harrier from noise and visual disturbance effects’.	<p>It will be for the Applicant to decide if the measures they propose are mitigation or compensation, and would need to seek their own legal advice on this matter.</p> <p>Detailed comments are difficult at this stage, in the absence of full information on the “compensation” measures proposed (details are ‘to follow’ in Paragraph 8.8.228). It is not clear from the Shadow HRA report whether the opinion of NE (and/or other consultees) has been sought with regard to the approach taken.</p> <p>The Inspectorate would like to take the opportunity at the Draft Documents review meeting on 6 February 2020 to discuss this matter with the Applicant further, including the specific “recent case law” references and the proposals for habitat improvement in relation to the European site. Advice could then be given under s.51 of the PA2008 as part of the record of the meeting.</p>
<p><b>Specific matter where PINS feedback requested: comment of the level of detail in the report against other recent NSIP submissions</b></p>			
8.	Section 8	N/A	<p>A review against other applications has not been undertaken and the Inspectorate considers this is for the Applicant to carry out if they wish. Nevertheless, comments are provided based on reviewer experience which includes experience of other NSIP applications. NB Section 8, the assessment in relation to birds, was the only section chosen for review. Comments made on this section should be taken into consideration for the other sections (coastal habitats, marine mammals, and fish).</p> <p>The structure of the report is based around a large number of subheadings and sections as each designated site, then qualifying feature, then predicted effect are discussed in turn. Section 8.2 lists the sites screened-in and Section 8.3, 8.4, 8.5 etc present information for each site, beginning with a list of the potential effects considered and the qualifying features they may affect. It would be helpful for Section 8.2 to</p>

			<p>include a 'quick reference' table here with references to each section where the site, potential effect, and qualifying feature are discussed in detail further on in the report. The references could also be included in the matrices in the evidence footnotes, the table suggested here (and its counterparts in the other assessment sections) and should reflect the outcomes of the screening exercise reported in Section 5 of the draft Shadow HRA.</p> <p>The report is extremely long even with the gaps it identifies, and the Inspectorate appreciates that this may be unavoidable given the nature and complexity of the information it is intended to convey. Nevertheless, the Applicant is asked to consider how the structure/content may be reviewed to avoid repetition and to make it as accessible as possible to all stakeholders who make use of it. It would certainly be useful to format the report to ensure that the conclusions section for each European site stands out and makes cross-reference to the corresponding matrices.</p> <p>Should the Applicant undertake such a review of the report structure, the number of typographical errors may also be reduced and clarity improved, eg Paragraph 8.3.161 and 8.3.162 – the section heading is for effect on marsh harrier but the conclusion relates to avocet.</p>
9.	<b>Figure 7.3</b>	Surface water temperature exceeding A 2°C and 3°C increase due to The operation of Sizewell C	<p>This figure does not show the fish recovery and return outfalls and it does not show the offshore works in relation to the designated features of concern both offshore and onshore. It would be useful to have a figure that shows the offshore proposals in more detail and places them in context with the designated sites assessed in the report. Cross-reference could be made to this information if it exists elsewhere in the application documents eg the ES or works plans.</p>

**General**

1. Where references are provided to other application documents it would be beneficial to provide the full title thereof inclusive of document reference number. Should further draft documents be provided for review, the Applicant may wish to consider providing a full list of known application documents (for the purpose of sign-posting) as well as their respective reference numbers.
2. [DCLG: Application form Guidance](#), paragraph 3 states: "*The application **must be of a standard which the Secretary of State considers satisfactory**: Section 37(3) of the Planning Act requires the application to specify the development to which it relates, be made in the prescribed*

*form, be accompanied by the consultation report, and be accompanied by documents and information of a prescribed description. The Applications Regulations set out the prescribed form at Schedule 2, and prescribed documents and information at regulations 5 and 6.” [emphasis added]*