SPR EA1N and EA2 PROJECTS

DEADLINE 11 – POST ISH17 SUBMISSION - DRAFT DCOS

Interested Party: SASES **PINS Refs:** 20024106 & 20024110

Date: 7 June 2021 **Issue:** 1

Agenda Item 2

1. SASES notes that it still has a large number of unaddressed concerns in respect of the dDCOs.

    a. Article 7. SASES still does not consider that it is appropriate to seek to disapply the normal controls on statutory nuisance without requiring the undertaker to use best practicable means to avoid such a nuisance occurring. The purpose of Article 7 is to avoid proceedings for statutory nuisance being instituted, but that purpose can equally be served whilst requiring the undertaker to use BPM;

    b. Schedule 1 Part 1. The Applicants have indicated they would agree to a minimum power requirement of 600MW although this is only two thirds of the planned capacity for EA2 and three quarters of that for EA1N. This minimum of 600MW represent the scheme benefits which fall to be assessed against the adverse impacts of each of the projects provided this minimum output is included in the final draft of the DCOs to be submitted at Deadline 12 otherwise 100MW has to be considered as the benefit of each scheme. This is particularly important when considering the scale and impacts of the National Grid infrastructure.

    c. Schedule 1 Part 3. SASES remains concerned on the following points:

        i. Parameters. See further submissions below on good design. Given uncertainty about finished ground levels, the AOD figures for all elements of the Scottish Power and National Grid infrastructure should be specified in the DCO not just referred to in SDPS.
        ii. Potential alternative uses for the operational access road, not least given its potential width of 7 m.
        iii. The use of the cable sealing ends and the National Grid substation for projects other than EA1N and EA2. This is also relevant to whether these projects in truth need to connect to all four circuits and whether there is a need in respect of these projects for a very large cable sealing compound which includes a circuit breaker seemingly unrelated to the EA1N and EA2 projects.
        iv. In respect of construction working hours, the reduced working hours are not secured in the DCO (see requirements 23 and 24). No explanation has been given for not giving effect to this agreed change, which is reflected in paragraph 48 of the draft COCP.
        v. Operational noise. The ongoing concerns are not repeated here. The Applicants have failed to engage with SASES's noise expert (although

a further meeting has since been offered). Further submissions will be made on this as necessary. However in summary:

1. The background noise level issue has not been resolved;
2. It is unclear why the Applicants have rejected a tonal noise requirement;
3. It is unclear why the Applicants have rejected a 30dB threshold;
4. The requirement should apply to cable sealing end compounds;
5. The requirement should apply to all sensitive receptors;
6. It remains unclear how the requirement will be achieved.

d. Discharging authority for drainage matters. SASES maintains that given the particular drainage and flood issues here, the County Council as LLFA should be the discharging authority for drainage design since it has the competence to do so. There is nothing unusual in requiring the approval of one matter by one authority, and other matters by another. That is precisely what will happen in respect of highways matters so far as they relate to other aspects of design. SASES supports SCC's position on this matter.

Agenda item 3

2. SASES notes that the proposals are for "standalone" consents, and should be assessed on that basis. The particular concerns are:

a. How will consents operate where NG infrastructure (and by necessity its landscaping mitigation and flood risk mitigation) is built under another DCO other than for EA1N and EA2, for example under the DCO for the Nautilus project? SASES has consistently raised this point and it has yet to be addressed. The issues raised in sub paragraphs b – f below are further compounded in such a circumatance.

b. It is unclear how single, or sequential, development will address e.g. flood mitigation measures. It is unclear how later development could come forward consistently with the final drainage design for the first phase of the Applicants' development;

c. It is unclear who will be responsible for maintenance, etc., of the mitigation measures where they emerge piecemeal. For example, perimeter planting will be required for any development, but it is unclear whether the first developer will retain responsibility for that or whether it would then pass to the subsequent developer. The dDCOs contain no process for managing these matters;

d. There is no requirement for comprehensive master planning if one project comes forward alone;

e. No consideration appears to have been given as to how the first project will ensure that the site is not unduly constrained for the delivery of the second project. This will be relevant to all approvals e.g. in respect of mitigation measures;

f. On their face, there appears to be risk of inconsistency between the two dDCOs since their implementation will necessarily require the development of site wide measures which may be incompatible with later delivery of the second project.

For example, it would obviously be unacceptable for the first project to propose no mitigation planting on the undeveloped site of the potential second substation, but the subsequent removal of that mitigation planting would be inconsistent with the management obligations in the first DCO.

Agenda item 4

3. SASES has fundamental concerns about the supervision of the detailed design of the infrastructure. These were in part addressed at ISH16, where the Applicants indicated that the "power" design (i.e., the actual infrastructure as opposed to mitigation) will be settled – and even procured – before (a) any further consultation with residents and (b) submission for approvals under requirement 12. In essence, this means that the approvals stage will be too late to influence the selection of equipment and its disposition within the site.

4. Whilst the local planning authority could refuse an application under requirement 12, it is not equipped to review power design It follows that, unless further controls are introduced, there will be no proper external scrutiny of the power design, and indeed this is a deliberate choice by the Applicants.

5. SASES has repeatedly submitted that the parameters are too broad, and give more flexibility than is required in practice. However, in the absence of any scope to review or control the power design, they are in essence the only check on the scale of the infrastructure which will come forward.

6. In terms of design review, the SDPS limits this mitigation measures. The "design champion" is not a substitute for design review because he is (a) inexpert and (b) charged with delivering the project. In any event it is wholly unclear how an SPR design champion, can influence the NG infrastructure.

7. What is required is far more sophisticated supervision of the power design through proper design review. Design review must be:

    a. Independent;

    b. Informed by engineering expertise;

    c. Have regard to the National Infrastructure Commission design principles;

    d. Occur prior to submission of designs to the planning authority under requirement 12.

8. This request is not novel, and has been included in other DCOs including the Silvertown Tunnel.

9. The Silvertown Order imposes the following requirement:

    "**Design principles and design review panel**
    3.—(1) The authorised development must be designed and implemented—
    (a)in accordance with the design principles; and
    (b)in general accordance with the general arrangement plans.

(2) TfL must consult with—
(a)the Silvertown Tunnel Design Review Panel; and
(b)the Silvertown Tunnel Stakeholder Design Consultation Group,
during the detailed design of the authorised development and in the manner provided for by the design principles and have regard to the responses received."

10. As previously noted, a design review panel is also used on HS2. It is consistent with Government policy in the HM Treasury National Infrastructure Strategy (referred to in SDPS).

11. Further, a requirement for design review is consistent with EN 1:

> "4.5.1 The visual appearance of a building is sometimes considered to be the most important factor in good design. But high quality and inclusive design goes far beyond aesthetic considerations. The functionality of an object — be it a building or other type of infrastructure — including fitness for purpose and sustainability, is equally important. Applying "good design" to energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic as far as possible. It is acknowledged, however that the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area."

12. Such a requirement would also be consistent with planning policy, e.g. in paragraph 129 of the NPPF:

> "129. Local planning authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development. These include workshops to engage the local community, design advice and review arrangements, and assessment frameworks such as Building for Life. These are of most benefit if used as early as possible in the evolution of schemes, and are particularly important for significant projects such as large scale housing and mixed use developments. In assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels."

13. The solution in the absence of a commitment to design review in the SDPS for the power design is to impose a further clause to requirement 12. We suggest that no application for approval should be made until design review has been carried out and the outcome reported with the submission for approval.

14. SASES suggests the following additional paragraph to be inserted in Requirement 12:

> "(dr1) No application for approval under this requirement shall be made unless:
> (i) The proposal has been submitted for design review; and
> (ii) The undertaker includes in the application the conclusions of the design review panel and a report summarising any steps taken by the undertaker as a consequence of the design review.
>
> (dr2) For the purposes of this requirement:

(i) "Design review" means independent consideration of the design of the part of the proposed development for which approval is sought by a design review panel;

(ii) "Design review panel" means a panel of experts convened by the undetaker to consider the design of the relevant part of the proposed development which shall be independent from the undertaker and include at least one person who is expert in the following specialisms:
   a. Electrical engineering, in the field of electricity transmission infrastructure
   b. Architecture
   c. Landscape architecture.

(iii) Design review under this requirement shall be carried out in accordance with the Design Principles of the National Infrastructure Commission."

15. SASES also remains concerned about the delivery of the proposed growth rates for mitigation planting. Since the site mitigation relies almost exclusively on mitigation planting, the growths rates which the Applicants are confident of should be directly secured in the DCOs rather than indirectly and incompletely through a maintenance obligation which does not provide adequate assurance that the growth rates will in fact be achieved. Further the Applicants should provide more detail as to how these growth rates will be achieved and what steps will be taken in the event that those rates prove to be optimistic and are not achieved.

Agenda Item 5

16. Whilst the ExAs' suggested amendments to requirement 12 would be an improvement, they do not address SASES's concerns in full. The proposal is that the undertaker would define the extent of operational land in making submissions for detailed approval of the substation infrastructure, and that permitted development rights would otherwise be removed by requirement 44. This proposal would provide some further clarity and is an improvement on the present position in the dDCOs.

17. Whilst these changes would provide some clarity, they would remain problematic:

    a. The extent of operational land would be in the gift of undertaker submitting the plan and it is unclear on what basis such a submission could be refused by the approving planning authority;

    b. It would not prevent the identification of operational land beyond the fence line of the proposed compounds. SASES can see no justification for any land outside the compounds having the benefit of permitted development rights;

    c. It is unclear why the proposed requirement refers to the SDPS, which does not grapple with this issue.

18. Accordingly, SASES considers that the proposed approach should be further modified to ensure that only land within the proposed compounds (as built) is included on the suggested onshore operational land plan, and that the land shown should be "reasonably required to be operational land for the purposes of the undertaking", to ensure that the approving authority could refuse to approve the plan in the event that the land included was excessive.