



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

**Sizewell C New Nuclear Power Station**

Examining Authority's Report  
of Findings and Conclusions

and

Recommendation to the Secretary of State for Business, Energy and  
Industrial Strategy

**VOLUME 1 OF 4**

---

Examining Authority

**Wendy McKay** LLB (Hons), Solicitor (non-practising); ExA Panel Lead

**David Brock** LLB, retired Solicitor

**Helen Cassini** BSc (Hons) DipTP MRTPI

**Neil Humphrey** BSc (Hons), C Eng FICE MTPS

**Edwin Maund** MSc DipUP BA (Hons) MRTPI

**25 February 2022**

This page is intentionally blank.

# LIST OF REPORT VOLUMES

This Report contains four volumes.

This is Volume 1 of 4.

1. **Volume 1: Chapters 1 to 4;**
2. Volume 2: Chapter 5 Sections 5.1 to 5.13;
3. Volume 3: Chapter 5 Sections 5.14 to 5.23; and
4. Volume 4: Chapters 6 to 10.

This report is also supported by five Appendices. The Appendices each form a self-contained document.

- Appendix A: Events in Pre-Examination and the Examination;
- Appendix B: Examination Library;
- Appendix C: Abbreviations and Definitions;
- Appendix D: Recommended Development Consent Order; and
- Appendix E: Considerations for the Secretary of State.

# OVERVIEW

File Ref: EN010012

The application, dated 27 May 2020, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 27 May 2020.

The Applicant is NNB Generation Company (SZC) Limited.

The application was accepted for Examination on 24 June 2020.

The Examination of the application began on 14 April 2021 and was completed on 14 October 2021.

The proposed Sizewell C nuclear power station comprises two United Kingdom European Pressurised Reactor (UK EPR™) units with an expected net electrical output of approximately 1,670 MW per unit, giving a total site capacity of approximately 3,340 MW.

In addition to the key operational elements of the UK EPR™ units, the Sizewell C Project comprises other permanent and temporary development to support the construction, operation and maintenance of Sizewell C. The key elements are the main development site, comprises the Sizewell C nuclear power station itself, offshore works, land used temporarily to support construction including an accommodation campus, the enhancement of sports facilities in Leiston, fen meadow and marsh harrier compensation land, and a series of off-site associated development sites in the local area. These are:

- two temporary park and ride sites; one to the north-west of Sizewell C at Darsham (the 'northern park and ride'), and one to the south-west at Wickham Market (the 'southern park and ride');
- a permanent road to bypass the A12 through Stratford St Andrew and Farnham (referred to as the 'two village bypass');
- a permanent road linking the A12 to the Sizewell C main development site (referred to as the 'Sizewell link road');
- permanent highway improvements at Yoxford and other road junctions;
- a temporary freight management facility on land to the south-east of the A12/A14 junction; and
- a temporary extension of the existing Saxmundham to Leiston branch line into the main development site the ('green rail route') and other permanent rail improvements on the Saxmundham to Leiston branch line.

Summary of Recommendation:

The Examining Authority recommends that unless the outstanding water supply strategy can be resolved and sufficient information provided to enable the Secretary of State to carry out his obligations under the Habitats Regulations, the case for an Order granting development consent for the application is not made out. If, however, the Secretary of State decides to grant development consent then the Examining Authority recommends that the Order should be in the form set out at Appendix D to this Report.

# VOLUME TABLE OF CONTENTS

1.	INTRODUCTION .....	1
1.1.	INTRODUCTION TO THE EXAMINATION.....	1
1.2.	APPOINTMENT OF THE EXAMINING AUTHORITY .....	3
1.3.	THE PERSONS INVOLVED IN THE EXAMINATION .....	3
1.4.	THE EXAMINATION AND PROCEDURAL DECISIONS .....	3
1.5.	ENVIRONMENTAL IMPACT ASSESSMENT .....	16
1.6.	HABITATS REGULATIONS ASSESSMENT.....	16
1.7.	UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS .....	17
1.8.	OTHER CONSENTS .....	17
1.9.	STRUCTURE OF THIS REPORT.....	19
2.	THE PROPOSAL AND THE SITE .....	21
2.1.	THE APPLICATION AS MADE .....	21
2.2.	THE APPLICATION AS EXAMINED .....	22
2.3.	RELEVANT PLANNING HISTORY.....	25
3.	LEGAL AND POLICY CONTEXT.....	27
3.1.	INTRODUCTION .....	27
3.2.	THE PLANNING ACT 2008.....	27
3.3.	THE APPLICATION OF S105 of PA2008.....	27
3.4.	NATIONAL POLICY STATEMENTS .....	28
3.5.	MARINE AND COASTAL ACCESS ACT 2009 .....	29
3.6.	EUROPEAN LAW AND RELATED UK REGULATIONS .....	31
3.7.	OTHER LEGAL PROVISIONS.....	36
3.8.	MADE DEVELOPMENT CONSENT ORDERS .....	43
3.9.	TRANSBOUNDARY EFFECTS.....	43
3.10.	OTHER RELEVANT POLICY STATEMENTS .....	45
3.11.	THE NATIONAL PLANNING POLICY FRAMEWORK .....	46
3.12.	LOCAL IMPACT REPORTS.....	46
3.13.	THE DEVELOPMENT PLAN .....	46
3.14.	THE SECRETARY OF STATE’S POWERS TO MAKE A DCO .....	47
4.	THE PLANNING ISSUES .....	49
4.1.	MAIN ISSUES IN THE EXAMINATION .....	49
4.2.	ISSUES ARISING IN WRITTEN SUBMISSIONS.....	54
4.3.	ISSUES ARISING IN THE LOCAL IMPACT REPORT .....	57
4.4.	CONFORMITY WITH THE NATIONAL POLICY STATEMENTS .....	62
4.5.	CONFORMITY WITH THE MARINE POLICY STATEMENT (MPS) AND MARINE PLANS .....	68
4.6.	CONFORMITY WITH THE DEVELOPMENT PLAN .....	69
4.7.	APPLICATION OF OTHER POLICIES .....	71
4.8.	THE PRINCIPLE OF THE DEVELOPMENT .....	71
4.9.	ENVIRONMENTAL IMPACT ASSESSMENT .....	72
4.10.	HABITATS REGULATIONS ASSESMENT.....	72

## **List of Tables and Figures**

Table 1:	
Outstanding Issues Identified in SoCG and LIR Summary Review .....	59



**Examining authority’s Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Business, Energy and Industrial Strategy, dated 25 February 2022**

**Corrections agreed by the Examining Authority prior to a decision being made**

**Vol 1: Chapters 1-4**

<b>PDF Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>
7	1.1.2	Formatting error – Two bullet points have been used in description of off-site associated development sites in the local area. e.g. : <ul style="list-style-type: none"><li>▪ • two temporary park and ride sites; one to the north-west....</li></ul>	Should delete additional square bullet point symbol.

## Vol 2: Sections 5.1 – 5.13

PDF Page No.	Paragraph	Error	Correction
20	5.2.92	'The ExA considers there are no matters relating to ALC which would weigh for or against the Order being made.'	This paragraph should be deleted- it repeats what is said in 5.2.93 and refers to ALC, whereas this section is on livestock. Paragraph 5.2.93 provides the correct summary of ExA consideration on topic of livestock.
35	5.2.198	Typos – missing word 'weight' and 'Aldhurst' is misspelt.	Should read 'However, the percentage temporarily required brings the viability of the land holding into question during the construction phase. Therefore, the ExA attributes moderate weight to matters relating to Aldhurst Farm Cottages against the Order being made.'
38	5.2.228	Typo – it says 'that for the Proposed Development alone...' – replace 'that' with 'than'.	Should read 'The only cumulative effect that has been found to be greater in-combination with the non-Sizewell schemes than for the Proposed Development alone in respect of '
40	5.2.237	Refers to subgrade 3a but this is not consistent with other paragraphs and is not correct subgrade for poorer quality BMV land – replace	Should read 'However, the majority of BMV land to be permanently lost would be within subgrade 3b, which represents poorer quality BMV land.'



		reference to 3a with 3b	
67	5.3.203	Concerns over lack of and independence of monitoring and mitigation proposed for impacts on air quality.	Correct to: "The IPs raised concerns over..."
69	5.3.219	so that the time period for the operation of the diesel generators operation	Repetition - delete second "operation"
69	5.3.223	(WHO. Global air quality guidelines. Particulate Matter (PM2.5 and PM10), ozone, nitrogen dioxide, sulfur dioxide, and carbon monoxide.2021)	(WHO - Global air quality guidelines. Particulate Matter (PM2.5 and PM10), ozone, nitrogen dioxide, sulfur dioxide, and carbon monoxide, 2021)
174	5.5.210	Exa	ExA
186	5.6.48	'is the risk of birds strike s'	No space between strike and s, should read 'strikes'
191	5.6.78	Typo – unnecessary bracket	Remove bracket before 'It should be noted that'
200	5.6.121	'We also not the EN-6 policy...'	Letter 'e' is missing from 'note', should read 'We also note the EN-6 policy...'
209	5.6.182	Missing the word 'the' before 'quantity'	Should read 'NE's position is that it is satisfied with the quantity of wet woodland...'
214	5.6.210	Missing closed square bracket ]	Add square bracket – should read 'In its [RR-1174]...'
214	5.6.210	Missing the word 'the'	Should read 'They stated that the three span bridge would have better ecological...'
216	5.6.215	'Were the thre- span bridge to have...'	Should read 'Were the three-span bridge to have...'
218	5.6.225	PD in this sentence doesn't seem to	Remove PD

		make sense 'However PD, by the end of Examination the Councils' ....'	
222	5.6.248	End of paragraph ends abruptly 'The EA and NE similarly'	The ExA has confirmed that the wording at the end of the paragraph should be:  "The EA and NE similarly retain a preference for a three span bridge. However, NE acknowledges that the current design represents a best alternative [REP10-097, epage 59] and the EA agrees that the environmental impacts would be reduced to acceptable levels with the optimised single span crossing design [REP10-094, epage 17]."
228	5.6.280	'and we accept the Applicants' conclusion of minor significant adverse effects.'	'and we accept the Applicants' conclusion of minor adverse effects considered to be not significant.'
229	5.6.288	'Line markers on cables have been agreed and this main issues have been resolved.'	Should read 'Line markers on cables have been agreed and the main issues have been resolved.'
234	5.6.312	No space between 'thereforesatisfied'	Add space – should read '...We are therefore satisfied...'
238	5.6.339	'In relation to the last of those (scientific certainty) the ExA observes that this criticism in relation to EIA.'	Should read '...this criticism is in relation to EIA.'
238	5.6.341	Should this not refer to the Applicant's assessment of <b>no</b> significant adverse	Should read 'The ExA does not disagree with the Applicant's assessment of no

		effects, as per paragraph 5.6.333?	significant adverse effects...'
247-248	5.6.402	Missing additional closed bracket after the word 'only'.	Should read `...(all in relation to the MDS and to great crested newts (SLR and NPR only)).
249	5.6.405	Says both 'do / do not'	The Planning Inspectorate confirmed that the end of this paragraph should read 'Applying the planning balance the benefits of the development do outweigh the harm.'
258	5.6.457	'Subject what we say below in relation to European sites'	Should read 'Subject to what we say below ...'
407	5.10.56	'records a number of outstanding areas matters between the parties'	'Areas matters' does not make sense - Should read 'records a number of outstanding matters between the parties'
437	5.10.210	Refers to 'matters' rather than 'matter'	Should read 'With the exception of that outstanding matter'
439	5.11.11	Paragraph numbers for NPPF incorrect.	Correct para numbers are as follows: 'Paragraphs 152 to 169 of the NPPF outline the development requirements in terms of climate change and flood risk confirming the requirement for a site-specific FRA. Paragraph 159 confirms that inappropriate development should be avoided in areas at the highest risk of flooding and where development is necessary in those areas it should be made safe without increasing flood risk elsewhere.'
514	5.12.121	Reads "The range of mitigation secured through amongst	Should read - The range of mitigation secured through amongst other

		other things the CoCP, CWTP, CMTP, Public Services Resilience Fund”	things the CoCP, CWTP, CTMP, Public Services Resilience Fund
--	--	---	--

## **Volume 3: Sections 5.14 – 5.23**

<b>PDF Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>
7	5.14.1	Missing word 'impact' after Landscape	Should read 'Landscape impact, visual effects, and design ...'
48	5.14.202	Missing the word 'be'	Should read '...the ExA considers it to be a reasonable timescale'
63	5.14.289	Typo - 'significant' mistyped as 'significance'	Should read 'Overall, whilst some significant adverse effects would be permanent...'
71	5.14.335	Refers to landscape effects and weight attributed, but this is already covered in 5.14.333. Should this refer to visual effects instead?	Correct to: 'For these reasons the ExA attributes moderate weight against the Order being made to visual effects arising from the NPR.'
88	5.14.444	Typo - 'wider' mistyped as 'wiser'	Correct to 'For the operational stage, the ExA considers that delivery of the landscape vision and design principles of the DAS would provide enhanced naturalised landscapes in the wider area and'
109	5.15.99	And REP8-284]	Missing closed bracket
112	5.15.140	Stock Size report [REP6-024].)	Stock Size report [REP6-024]
128-129	5.15.173 + 5.15.175	Applicant's AFD report is [REP5-123] at para 5.15.173 and at 5.15.175 it is [REP5-122].	Correct to REP5-123
139	5.15.194	"...to which we refer above. demonstrates that..."	"...to which we refer above, demonstrates that..."
160	5.15.309	[REP-298o]	[REP8-298o]
177	5.16.76	Use of brackets on new sentence	Should be '...and internationally designated sites (these are reported in Section 5.6, 5.15 and Chapter 6 of this Report).'
176	5.16.70	Should refer to section 5.15, not 5.9	'Matters raised by others with regards transboundary issues in relation to marine water quality

			were in relation to the effect of impingement predictions of cooling systems. The position is reported in Section 3.9 of this Recommendation Report and concluded in Section 5.15 and Chapter 6 as the concerns relate to fish species from other EEA States.'
179 & 188	5.17.8 & 5.17.67	"have regard to the need to prevent interference with legitimate <b>uses</b> of the sea" AND Based on the above, the ExA is also content that the Applicant has had regard to preventing interference with legitimate <b>users</b> of the sea (Marine Coastal Act).	it is a typo in 5.17.67 and the word should be "uses" not "users" - Based on the above, the ExA is also content that the Applicant has had regard to preventing interference with legitimate <b>uses</b> of the sea (Marine Coastal Act).
309	5.20.59	Quote from TASC without anything written before it '...for the whole lifetime of the project. "this assessment will not be adequate...'	Correct to: '...for the whole lifetime of the project. TASC state that "This assessment will..."
326	5.20.133	Capital X used in last line in ExA	Make X in ExA in lowercase
367	5.22.9	NPPF at paragraph 109	Should refer to NPPF paragraph 111
370	5.22.30	Management of residual freight by road.	Change full stop to colon
380	5.22.67	Numbering starts at ix - xii	Numbering should be (i), (ii), (iii) and (iv).
381	5.22.69	Bullet numbering	Numbering should be (i), (ii), (iii), (iv).
385	5.22.89	(classified as HGVs in the CTMP	Insert closed bracket

## Vol 4: Chapters 6 - 10

PDF Page No.	Paragraph	Error	Correction
49	Table 6.2	"Breeding Sandwich Tern <i>S. sandvicensis</i> "	"Breeding Sandwich Tern <i>T. sandvicensis</i> "
49	Table 6.2	"Over winter Redshank <i>Tringa tetanus</i> "	"Over winter Redshank <i>Tringa totanus</i> "
56	Table 6.2	"Wintering White Fronted Goose <i>Anser albifrons albifrons</i> "	"Wintering White Fronted Goose <i>Anser albifrons</i> "
61	Table 6.3	Two sites are written together: <ul style="list-style-type: none"> <li>• Unterems und Außenems SCIEms SCI</li> </ul>	<ul style="list-style-type: none"> <li>• Unterems und Außenems SCI</li> <li>• Ems SCI</li> </ul>
159		6.4.476 includes: <p><b>"Alteration of coastal local hydrology and hydro-geology:</b></p> <ul style="list-style-type: none"> <li>o Perennial vegetation of stony banks (C, O, D)</li> <li>o Ramsar criterion 2 - nationally-scarce plant species and British Red Data Book invertebrates (C, O, D) "</li> </ul> <p>For the Minsmere to Walberswick SAC and Ramsar.</p> <p>But Table 6.2, and paragraph 6.4.155 does not include this pathway for the SAC,</p>	Inclusion of alteration of local hydrology and hydrogeology in Table 6.2 and 6.4.155 for perennial vegetation of stony banks for the Minsmere to Walberswick SAC, as is done in 6.4.476. <p>Also, typo, remove "coastal" from "alteration of coastal local hydrology and hydrogeology"</p>
150		6.4.476 includes: <p><b>"Changes in water quality – terrestrial environment:</b></p> <ul style="list-style-type: none"> <li>o Perennial vegetation of stony banks (C, O, D)</li> <li>o Ramsar criterion 2 - nationally-scarce plant species and British Red</li> </ul>	Inclusion of changes in water quality effects (terrestrial environment) in Table 6.2 and 6.4.155 for perennial vegetation of stony banks for the Minsmere to Walberswick SAC, as is done in 6.4.476.

		Data Book invertebrates (C, O, D)" For the Minsmere to Walberswick SAC and Ramsar.  But Table 6.2, and paragraph 6.4.155 does not include this pathway for the SAC,	
56 and 159		Table 6.2 (page 56) includes "Ramsar criterion 1 Mosaic of marine, freshwater, marshland and associated habitats" alongside Criterion 2 for the Minsmere-Walberswick Ramsar.  But Criterion 1 is not included in the Minsmere SAC & Ramsar section in paragraph 6.4.475 and 6.4.476 (page 159)	Include Criterion 1 in the Minsmere SAC & Ramsar section in paragraph 6.4.476.
115	6.4.239	"...considered suitable manage and reduce the effects..."	"...considered suitable <b>to</b> manage and reduce the effects..."
194	6.4.645	<b>"Error! Reference source not found."</b>	Remove
230, 257	6.5.3, 6.9.8	"The Wash and North Norfolk Coast <b>SPA</b> "	"The Wash and North Norfolk Coast <b>SAC</b> "



## **Appendix B – Examination Library**

<b>PDF Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>
208		REP7-149 is wrongly attributed to the Office on Nuclear Regulation	'REP7-149 Together Against Sizewell C (TASC)'

# 1. INTRODUCTION

## 1.1. INTRODUCTION TO THE EXAMINATION

1.1.1. The application for the Sizewell C Project (the Proposed Development) EN010012 was submitted by NNB Generation Company (SZC) Limited (the Applicant) to the Planning Inspectorate on 27 May 2020 under section 37 of the Planning Act 2008 (PA2008) and accepted for Examination under section 55 of the PA2008 on 24 June 2020 [PD-001]<sup>1</sup>.

1.1.2. The Proposed Development comprises:

- Two United Kingdom European Pressurised Reactor (UK EPR™) units with an expected net electrical output of approximately 1,670 MW per unit, giving a total site capacity of approximately 3,340 MW.
- In addition to the key operational elements of the UK EPR™ units, the Sizewell C Project comprises other permanent and temporary development to support the construction, operation and maintenance of Sizewell C. The key elements are the main development site, comprising the Sizewell C nuclear power station itself, offshore works, land used temporarily to support construction including an accommodation campus, the enhancement of sports facilities in Leiston, fen meadow and marsh harrier compensation land, and a series of off-site associated development sites in the local area. These are:
  - two temporary park and ride sites; one to the north-west of Sizewell C at Darsham (the 'northern park and ride'), and one to the south-west at Wickham Market (the 'southern park and ride');
  - a permanent road to bypass the A12 through Stratford St Andrew and Farnham (referred to as the 'Two Village Bypass') (TVB);
  - a permanent road linking the A12 to the Sizewell C main development site (referred to as the 'Sizewell Link Road') (SLR);
  - permanent highway improvements at Yoxford and other road junctions;
  - a temporary freight management facility on land to the south-east of the A12/A14 junction; and
  - a temporary extension of the existing Saxmundham to Leiston branch line into the main development site (the 'green rail route') and other permanent rail improvements on the Saxmundham to Leiston branch line.

1.1.3. Following Acceptance of the First Change Request additional land was added to the DCO to accommodate various changes as set out under section 1.4.8. This added to the description of development with the following elements:

---

<sup>1</sup> References to documents in the Examination Library for this Report are enclosed in brackets []. A full index to the Examination library can be found in Appendix B.

- Extension of the Order Limits to provide for additional fen meadow habitat at Pakenham as mitigation for fen meadow loss.
- 1.1.4. Following Acceptance of the Third Change request a desalination plant was added to the DCO for the construction period as set out in section 1.4.16. This added to the description of development with the following elements:
- Temporary desalination plant. A change to the Water Supply Strategy to propose new temporary infrastructure for the desalination and treatment of seawater to produce potable water suitable for construction-related activities until the Sizewell transfer main is delivered and operational.
- 1.1.5. The location of the Proposed Development is shown in the Site Context Plan Figure 1.1 [APP-065] and Land Plans, final updated versions of which were received at Deadline 8 [REP8-044]. The site lies within the administrative county of Suffolk County Council (SCC), within the districts of East Suffolk Council (ESC) and West Suffolk Council (WSC) and is wholly in England.
- 1.1.6. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State (SoS) for the Department of Housing, Communities and Local Government (DCLG) now the department for Leveling up, Housing and Communities, in its decision to accept the application for Examination in accordance with section 55 of PA2008 [PD-001].
- 1.1.7. On this basis, the Planning Inspectorate agreed with the Applicant's view stated in the application form [APP-006] that the Proposed Development is an NSIP as it is for the construction of an onshore generating station in England with a capacity of more than 50MW, and so requires development consent in accordance with s31 of PA2008. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(a) and 15(2) of PA2008.
- 1.1.8. The site of Sizewell C was identified as a potentially suitable site for the deployment of a new nuclear power station by 2025 in the National Policy Statement for Nuclear Power Generation (EN-6) following a Strategic Siting Assessment (SSA). Further consideration of this is set out within Chapter 3.
- 1.1.9. The stated objectives of the Proposed Development are to:
- make a major contribution to the nation's low-carbon energy needs;
  - for development, operation and ultimate decommissioning to be undertaken in a manner consistent with the highest standards of safety, reliability and sustainability;
  - to make the most of its practical contributions to the local and regional economy;

- to design and deliver the project in such a way as to limit any adverse effects on the environment and on local communities as far as is reasonably practicable; and
- to mitigate any significant adverse impacts of the construction, operation or decommissioning of the power station where practical and appropriate in a way that is environmentally responsible and sensitive both to the needs of the community and to the strategies of the relevant authorities.

## **1.2. APPOINTMENT OF THE EXAMINING AUTHORITY**

1.2.1. On 30 June 2020, Wendy McKay (Panel Lead), Helen Cassini, Edwin Maund, David Brock and Neil Humphrey were appointed as the Examining Authority (ExA) for the application under s65 and s61 of PA2008 [PD-004].

## **1.3. THE PERSONS INVOLVED IN THE EXAMINATION**

1.3.1. The persons involved in the Examination were:

- Persons who were entitled to be Interested Parties (IPs) because they had made a Relevant Representation (RR) or were a statutory party who requested to become an IP.
- Affected Persons (APs) who were affected by a compulsory acquisition (CA) and / or temporary possession (TP) proposal made as part of the application and objected to it at any stage in the Examination.
- Other Persons, who were invited to participate in the Examination by the ExA because they were either affected by it in some other relevant way or because they had particular expertise or evidence that the ExA considered to be necessary to inform the Examination.

## **1.4. THE EXAMINATION AND PROCEDURAL DECISIONS**

1.4.1. The Examination began on 14 April 2021 and concluded on 14 October 2021. The commencement of the Examination was delayed following receipt of the first change request from the Applicant dated the 6 October 2020. As explained in the ExA procedural decision, [PD-006] in following the advice set out in AN16 *"This may delay the start of the Examination stage but would mean that Interested Parties and others would have an opportunity to consider the implications of the change before the start of the Examination and minimise the impact on the statutory six month Examination period."*

1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

### **The Preliminary Meeting**

1.4.3. On 23 February 2021, the ExA wrote to all Interested Parties (IPs), Statutory Parties and Other Persons under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (Examination Procedure

Rules) (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM) [PD-011], outlining:

- the arrangements and agenda for the PM;
- introduction to the PM;
- an Initial Assessment of the Principal Issues (IAPI);
- the draft Examination Timetable;
- availability of RRs and application documents; and
- the ExA's procedural decisions.

1.4.4. The PM took place on 23 and 24 March 2021 (PM Part 1) and 14 April 2021 (PM Part 2) and were held virtually. Video recordings [EV-004 – EV-011 (PM Part 1)], [EV-021 – EV-024 (PM Part 2)] and transcripts [EV-012 – EV-019 (PM Part 1)], [EV-025 – EV-028 (PM Part 2)] were published on the Planning Inspectorate National Infrastructure website<sup>2</sup>. A note of the meetings [EV-029] was subsequently published on the Planning Inspectorate National Infrastructure website.

1.4.5. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 of the Examination Procedure Rules Letter [PD-015], and an additional Procedural Decision [PD-013] dated 21 April 2021.

### **Key Procedural Decisions**

1.4.6. Most of the procedural decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. The decisions can be obtained from the Rule 8 Letter [PD-015] and so there is no need to reiterate them here.

1.4.7. Following submission of the application on 27 May 2020, and acceptance on 24 June 2020 the Applicant made three requests for change to the application, the first being received on 11 January 2021 [AS-105]. These changes and the decisions and dates when they were submitted and subsequently accepted are set out below.

#### **First Change Request.**

1.4.8. The Applicant notified the ExA of the intention to request a change to the application on 6 October 2020 [AS-004]. The ExA responded on 23 October with advice drawing attention to the requirements of the Planning Inspectorate's Advice Note 16 [PD-006].

1.4.9. The first change request [AS-105] submitted on 11 January 2021 was supported by an Environmental Statement Addendum (this subsequently is described as the First Environmental Addendum) [AS-179 – AS-260] and proposed the following changes:

---

<sup>2</sup> [The Sizewell C Project | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/the-sizewell-c-project-national-infrastructure-planning/)

- Change 1. Potential to increase the frequency of freight train movements to facilitate bulk material imports by rail.
- Change 2. An enhancement of the permanent beach landing facility and construction of a new, temporary beach landing facility.
- Change 3. Greater flexibility as to where certain Sizewell B facilities are relocated to potentially avoid the need for car parking on Pillbox Field.
- Change 4. Change to certain parameter heights and activities on the main development site.
- Change 5. Change to the location of the water resource storage area and the addition of flood mitigation measures to lower flood risk.
- Change 6. Change to the Site of Special Scientific Interest (SSSI) crossing design to a single span bridge with embankments.
- Change 7. Revisions to tree retention on the main development site.
- Change 8. Surface water removed early in the construction process to be discharged to the foreshore via a temporary outfall.
- Change 9. Change to the sea defence to make the scheme more efficient and resilient to climate change.
- Change 10. Extension of landscaped bund, other minor changes at the southern park and ride, including a minor reduction of the Order Limits.
- Change 11. Extension of the Order Limits to provide for additional fen meadow habitat at Pakenham as mitigation for fen meadow loss.
- Change 12. Extensions and reductions of the Order Limits for works on the TVB, SLR and Yoxford roundabout as well as minor changes to the public right of way proposals at these sites.
- Change 13. Minor extensions and reductions of the Order Limits for works on the main development site and related sites (fen meadow mitigation sites and marsh harrier improvement sites).
- Change 14. Minor reductions to the Order Limits of the northern park and ride, the A12/B1119 junction at Saxmundham and the A1094/B1069 south of Knodishall).
- Change 15. A new bridleway link between Aldhurst Farm and Kenton Hills.

1.4.10. The ExA explained the reasons for accepting the proposed changes in [PD-013] dated 21 April 2021.

### **Second Change Request**

1.4.11. The Applicant notified the ExA of the intention to request further changes to the application on 2 June 2021 [REP2-001]. The ExA responded on 8 June 2021 again drawing attention to the requirements of the Planning Inspectorate's Advice Note 16 [PD-026].

1.4.12. Received on 23 July 2021 the Applicant's letter [REP5-002] was supported by a Second Environmental Statement Addendum [REP5-062 to REP5-069] and proposed the following changes:

- Change 16: Lovers Lane and Main Development Site Access Works which consisted of three elements.

- i. Public Right of Way (PRoW) change (Bridleway 19) and the relocation of Pegasus crossing.
- ii. The removal of trees from the tree belt adjacent to Bridleway 19 at its southern end (north of Sizewell Gap).
- iii. Repositioning a proposed mammal culvert.
- Change 17: Two Village Bypass which consisted of three elements.
  - iv. Flood relief culverts.
  - v. PRoW change (removal of bridleway upgrade.)
  - vi. PRoW Change at Friday Street Roundabout.
- Change 18: Sizewell Link Road which consisted of 8 elements.
  - i. A change from a Non-Motorised User bridge to a vehicular bridge to avoid the closure of Pretty Road and increase connectivity across the route of the Sizewell link road.
  - ii. Changes to PRoW.
  - iii. Increase in Order Limits to facilitate a gravity led drainage solution.
  - iv. Change to the road layout on the B1122 near Brown's Plantation.
  - v. Change to the road layout at the B1122/B1125 link.
  - vi. Highway Works at Hawthorn Road including an extension to the Order Limits to allow tie into the link road.
  - vii. Highway works at Middleton Moor roundabout including an extension to the Order Limits to allow tie into the link road.
  - viii. Highway works at Trust Farm junction with B1122 and Moat Road junction with the link road, with revisions to the limits of deviation.

1.4.13. The Second Environmental Statement Addendum [REP5-062 – REP5-069] was supported by the following additional documents:

- Volume 2, Chapter 2 Description of Permanent Development [REP5-061];
- Volume 2, Chapter 3 Description of Construction [REP5-047];
- Volume 2 Main Development Site Chapter 3 Description of Construction - Appendix 3D: Construction Method Statement [REP5-048];
- Two Village Bypass Description of Development [REP5-060];
- Sizewell Link Road Description of Development [REP5-058]

1.4.14. The ExA explained the reasons for accepting the proposed changes in [PD-039] 10 August 2021.

1.4.15. A Third Environmental Statement Addendum was submitted [REP6-017] to correct road traffic noise modelling associated with the TVB, SLR, Yoxford Roundabout and other highway improvements.

### **Third Change Request**

1.4.16. The Applicant notified the ExA of the intention to request a third change to the application on 3 August 2021 [AS-397]. Submitted in support of that request, was a Fourth Environmental Statement Addendum [REP7-029 to REP7-033] with environmental information on the Proposed Change 19 included within Volume 1, Chapter 3.

1.4.17. The ExA responded on 5 August 2021 [PD-041] once again drawing attention to the requirements of the Planning Inspectorate's Advice Note 16. The Applicant's letter [REP7-286] received on 3 September 2021 proposed the following change:

- Change 19. Temporary desalination plant. A change to the Water Supply Strategy to propose new temporary infrastructure for the desalination and treatment of seawater to produce potable water suitable for construction-related activities until the Sizewell transfer main is delivered and operational.

1.4.18. The ExA explained the reasons for accepting the proposed change in [PD-050] on the 10 September 2021.

### **Other changes to the Application**

1.4.19. At D8 a Fifth Environmental Statement Addendum [REP8-072 and REP8-073] was submitted following the reduction of the Order Limits at the Pakenham, Halesworth, and Benhall fen meadow sites, Sizewell link road, and the green rail route.

1.4.20. The change to the Order Limits included in this submission was accepted by the ExA and the reasons explained in PD-056 dated 13 October 2021.

### **Site Inspections**

1.4.21. Site Inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.

1.4.22. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, an Unaccompanied Site Inspection (USI) is held. Where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and / or there are requests made to accompany an inspection, an Accompanied Site Inspection (ASI) is held.

1.4.23. The ExA held the following USIs:

- An unaccompanied site inspection (USI1) by the ExA took place on the 18-20 August 2020 to allow the members of the ExA to become familiar with the sites of the application and their surrounds (the application comprising a main site for the proposed development, land for associated development and highway works). [EV-001];
- Further USIs by members of the ExA took place on the following dates
  - 16-18 February 2021 [EV-002],
  - 7, 8, 9 and 10 June 2021 [EV-002a],
  - 12, 13 September 2021 [EV-002b] to further the ExA's understanding of elements of the Proposed Development and the sites context.

A site note providing a procedural record of each USI can be found in the Examination Library under the above references.



- 1.4.24. The ExA held the following ASIs:
- 8 June 2021 to the Main Development Site, Temporary Construction area and Sizewell Beach,
  - 9 June 2021 to Land East of the Eastlands Industrial Estate, Aldhurst Farm, Kenton Hills, site of the Green rail route, and Sizewell Link road,
  - 10 June 2021 to the site of the proposed Northern Park and Ride, Yoxford Roundabout, Two Village Bypass, and Southern Park and Ride.
  - 22 June 2021 to Hinkley Point C in Somerset.

Each visit was undertaken to aid the ExA's understanding of the Proposed Development within the local context and to appreciate the form and type of development from that underway in Somerset. The itinerary and accompanying maps are at [EV-066].

- 1.4.25. The itinerary for each of the ASI can be found in the Examination Library under the above reference.
- 1.4.26. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

## **Hearing Processes**

- 1.4.27. Hearings are held in PA2008 Examinations in two main circumstances:
- To respond to specific requests from persons who have a right to be heard - in summary terms:
    - where persons affected by compulsory acquisition (CA) and/or temporary possession (TP) proposals (Affected Persons) object and request to be heard at a Compulsory Acquisition Hearing (CAH); and / or
    - where IPs request to be heard at an Open Floor Hearing (OFH).
  - To address matters where the ExA considers that a hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.
- 1.4.28. The ExA held a number of hearings to ensure the thorough examination of the issues raised by the application.
- 1.4.29. Issue Specific Hearings (ISHs) under s91 of PA2008 were held using a blended format combining the virtual hearing with in person attendance at Snape Maltings between 14 and 17 September 2021, approximately 9km south west of the main development site location but within a reasonable distance for IPs to travel.
- 1.4.30. ISHs were held on the subject matter of the draft DCO on:
- ISH1, [EV-069] 6 July 2021;
  - ISH14, [EV-142f] 17 September 2021;

- 1.4.31. ISHs were held on the following matters with the reference for the agenda provided:
- ISH2, [EV-070] Traffic and Transport (part 1) 7 July 2021
  - ISH3, [EV-071] Traffic and Transport (part 2) 8 July 2021
  - ISH4, [EV-072] Socio-economic and Community Issues 9 July 2021
  - ISH5, [EV-074] Landscape and Visual Impact and Design 13 July 2021
  - ISH6, [EV-075] Coastal Geomorphology 14 July 2021
  - ISH7, [EV-076] Biodiversity and Ecology 15 and 16 July 2021
  - ISH8, [EV-142] Air Quality and Noise and Vibration 25 August 2021
  - ISH9, [EV-142a] Policy and Need 26 August 2021
  - ISH10, [EV-142b] Biodiversity and Ecology 27 August 2021
  - ISH11, [EV-142c] Flooding, Water and Coastal Processes 14 September 2021
  - ISH12, [EV-142d] Community, Amenity and Recreational Impacts 15 September 2021
  - ISH13, [EV-142e] Landscape, Visual Impact, Design and Terrestrial Heritage 16 September 2021
  - ISH15, [EV-221] Proposed Desalination Plant the subject of Change Request 19 5 October 2021.
- 1.4.32. Virtual Compulsory Acquisition Hearings (CAH) were held under s92 of PA2008 on:
- CAH 1 (part 1), 17 August 2021 [EV-155a]; and
  - CAH 1 (part 2), 18 August 2021
- 1.4.33. All persons affected by compulsory acquisition (CA) and/or temporary possession (TP) proposals (Affected Persons or APs) were provided with an opportunity to be heard. We also used these hearings to examine the Applicant's case for CA and TP in the round.
- 1.4.34. Virtual Open Floor Hearings (OFH) were held under s93 of PA2008 on 18, 19, 20 and 21 May 2021 and the Agenda can be found at [EV-030]. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.
- 1.4.35. In light of the fact the first change request which was accepted included land not initially identified within the Development Consent Order Land a further virtual OFH was held on the 24 August 2021 [EV-065b].

## **Written Processes**

- 1.4.36. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the application and arising from the Examination. All of this material is recorded in the Examination Library (Appendix B) and published online. Individual document references to the Examination Library in this report are enclosed in square brackets []. For this reason, this Report does not contain extensive summaries of all documents and representations, although full

regard has been had to them in the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.

1.4.37. Key written sources are set out further below.

### **Relevant Representations**

1.4.38. 1282 Relevant Representations (RRs) were received by the Planning Inspectorate [RR-001 to RR-1282]. All makers of RRs were notified of the publication of the Rule 6 letter and provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapter 5 of this Report.

1.4.39. With the acceptance of the first change request additional land not originally identified as being within the Order Limits was proposed to be added to the DCO. This resulted in additional APs and IPs coming forward. nine additional RRs were received in the light of the publicity and consultation carried out. [RR-1283 - RR-1291].

### **Written Representations and Other Examination Documents**

1.4.40. The Applicant, IPs and Other Persons were provided with opportunities to:

- make Written Representations (WRs) (Deadline (D2 and D5));
- comment on WRs made by the Applicant and other IPs (D3 and D6);
- summarise their oral submissions at hearings in writing (D2, D5, D7, D8 and D10);
- make other written submissions requested or accepted by the ExA; and
- comment on documents issued for consultation by the ExA including:
  - A Report on Implications for European Sites (RIES) [PD-053] published on 15 September 2021; and
  - A commentary on the draft Development Consent Order (dDCO) [PD-038] published on 3 August 2021 by D7 and Further Commentary [PD-042] published on 9 September 2021 by D8.

1.4.41. All WRs and other Examination documents have been fully considered by the ExA. The issues that they raise are considered in the relevant sections of Chapter 5 of this Report.

### **Local Impact Report**

1.4.42. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 of PA2008.

1.4.43. One joint LIR was received by the ExA from East Suffolk Council (ESC) working with Suffolk County Council (SCC) [REP1-045]. This was

supplemented with an Executive Summary [REP1-044] and a series of Annexes and Appendices.

- Annex A – Pen Profiles of Key Council Officers [REP1-046]
- Annex B – Sizewell B Relocated Facilities [REP1-047]
- Annex C- Suffolk Traffic and Transport Network [REP1-048]
- Annex D – Sizewell C Economic Development Skills, Education and Employment Principles [REP1- 049]
- Annex E – Sizewell C design Principles: The Local Perspective [REP1-050]
- Annex F - Suffolk principles for the management of the Sizewell estate [REP1-051]
- Annex G - Suffolk ecology principles for Sizewell C [REP1-052]
- Annex H – Suffolk access principles for Sizewell C [REP1-053]
- Annex I – RAMS Calculation [REP1-054]
- Annex J – Suggested/Revised Requirements [REP1-055]
- Annex K – Historic Environment Critical Assessment [REP1-056]
- Annex L - Site by site assessment of archaeological impacts and mitigation measures [REP1-057]
- Annex M - Transport related mitigation, requirements and obligations [REP1-058]
- Annex N – Community Safety Partnership/ Safer Stronger communities Board Action Plans [REP1-059]
- Annex O – Coastal Geomorphology: Additional Information [REP1-060]

1.4.44. The subsequent Appendices [REP1-061 – REP1-098] can be grouped broadly into the following categories:

- Area of Outstanding Natural Beauty Issues [REP1-061, 079, 081, 083];
- Local Policies and Plans [REP1-062, 063, 064, 065, 066, 067, 068, 069];
- New Anglia Local Enterprise Partnership Plans [REP1-070, 071];
- Marine Management Plans [REP1-072, 073];
- Flooding and Drainage Issues [REP1-084, 085, 086, 087, 088];
- Ecology [REP1-091, 092];
- Rail [REP1-093, 099, 101];
- Noise [REP1-094]; and
- Tourism and Economy [REP1-074, 075, 095, 096, 097].

1.4.45. At the final deadline [D10] ESC and SCC submitted a joint LIR Review [REP10-183], which helpfully summarises the issues which had formed parts of the discussion throughout the Examination and the progress in developing understandings of the respective parties’ positions on these issues. This is developed further in the Statement of Common Ground between the parties referred to in the next section of this chapter.

1.4.46. The LIR has been taken fully into account by the ExA in all relevant Chapters of this Report.

### **Statements of Common Ground**

- 1.4.47. A Statement of Common Ground (SoCG) is a statement agreed between the applicant and one or more IPs, recording matters that are agreed between them.
- 1.4.48. By the end of the Examination, 39 SoCGs had been prepared. As set out in the final Statement of Commonality [REP10-091] 21 had been agreed, 12 had a final version where some matters remained unresolved between the parties, and six confirmed no agreement had been reached.
- 1.4.49. The following 21 bodies had agreed SoCGs with the Applicant. Where at the conclusion of the Examination these remained unsigned it is indicated at the relevant entry:
- Anglian Water Services Limited [REP9-014];
  - Cadent Gas Limited [REP10-098];
  - Department for Transport [REP2-099] (Unsigned);
  - East Anglia One North and Two [REP10-115];
  - East of England Ambulance Trust [REP10-105];
  - EDF Energy Nuclear Generation Limited [REP7-097];
  - English Heritage Trust [REP10-117];
  - Historic England [REP10-096];
  - Magnox Ltd. and the Nuclear Decommissioning Authority [REP9-018];
  - Maritime and Coastguard Agency [REP7-100] (Unsigned);
  - National Farmers Union [REP10-113];
  - National Grid Electricity Transmissions Plc [REP9-016];
  - National Highways [REP10-095];
  - Network Rail [REP10-099];
  - Office for Nuclear Regulation [REP2-078] (Unsigned);
  - Northumbrian Water Limited (Essex and Suffolk Water) [REP10-092];
  - Pro Corda Trust/Leiston Abbey [REP10-109]
  - Public Health England [REP2-086] (Unsigned);
  - Royal Mail [REP10-100];
  - Suffolk Constabulary [REP10-106];
  - Suffolk Fire and Rescue [REP10-103];
- 1.4.50. The SoS should note that those SoCGs listed above which are unsigned are all from either Government departments or Government Agencies. It is not completely clear if this is departmental/agency policy not to sign such documents and this has not been expressly stated bar by the Applicant in respect of Public Health England. For the purposes of this report the ExA has assumed they have been agreed and has therefore afforded them weight. The SoS may wish to consult with the relevant bodies should there be any doubt on this matter.
- 1.4.51. The following 12 bodies had completed final SoCGs, but matters remained outstanding where agreement had not been reached:
- East Suffolk Council and Suffolk County Council [REP10-102] supported by Appendix 11A: SZC Co. clarifications in response to questions raised by East Suffolk Council and Suffolk County Council [REP3-031], Appendix 11B: SZC Co.'s Second Set of LPA request for Information responses [REP7-093], Appendix 11C: Operational Noise Summary [REP10-101] (signed by SCC only);

- East Suffolk Internal Drainage Board [REP10-093];
- Environment Agency [REP10-094];
- Ipswich and East Suffolk Clinical Commissioning Group [REP10-104];
- Marine Management Organisation [REP10-107];
- National Trust [REP10-112];
- Natural England [REP10-097];
- RSPB and SWT [REP10-111];
- Suffolk Coast and Heaths AONB Partnership [REP10-108] (Unsigned);
- Suffolk Coast Destination Management Organisation [REP10-119];
- Suffolk Coastal Friends of the Earth [REP10-120];

1.4.52. As with the previous section the SoS may wish to contact ESC in light of the fact that the SoCG submitted by the end of the Examination was signed by SCC only. The ExA have assumed it has been agreed by ESC and afforded it weight within the report.

1.4.53. The following six bodies confirmed there was no agreement between the parties:

- B1122 Action Group [REP10-118];
- Paul Collins [REP10-122] (Unsigned);
- Create Consulting on behalf of Mr and Mrs Dowley [REP10-123];
- Create Consulting on behalf of Mr and Ms Grant [REP10-121];
- Minsmere Levels Stakeholder Group [REP10-114] (Unsigned);
- Stop Sizewell C [REP10-116] (Unsigned);
- Together Against Sizewell C [REP10-110] (Unsigned);

1.4.54. The SoCG(s) (other than unsigned or incomplete ones referred to above) have been taken fully into account by the ExA in all relevant Chapters of this Report.

### **Written Questions**

1.4.55. The ExA asked three rounds of written questions.

- First written questions (ExQ1) [PD-016, PD-017, PD-018, PD-019, PD-020, PD-021, PD-022] and procedural decisions were set out in the Rule 8 letter [PD-015], dated 21 April 2021.
- Second written questions (ExQ2) [PD-031, PD-032, PD-033, PD-034, PD-035, PD-036, PD-037] were issued on 3 August 2021.
- Third written questions (ExQ3) [PD-043, PD-044, PD-045, PD-046, PD-047, PD-048, PD-049] were issued on 9 September 2021.

1.4.56. The following requests for further information and comments under Rule 17 of the Examination Procedure Rules were issued on:

- 22 December 2020 [PD-009] in light of the ongoing public health restrictions, the ExA needed to forewarn the Applicant, relevant local authorities and IPs of the prospect that the Examination could commence in a virtual environment. The ExA were interested to understand the relevant parties' views on and capabilities of progressing with the Examination in this manner; additionally, the ExA sought clarification from the Applicant on a number of matters; namely;

- (i) The submission of confidential documents;
- (ii) An understanding of the consultations undertaken in respect of the proposed harbour powers included within the dDCO;
- (iii) Information on whether different associated sites had been included within the soils and agriculture assessment; and
- (iv) Clarification on the project description, environmental statement and dDCO.

- 25 February 2021 [PD-012] was issued seeking clarification and more detailed plans in respect of two of 15 proposed changes presented by the Applicant. Proposed Change No. 2 an enhanced permanent beach landing facility (BLF) and temporary BLF and Proposed Change No. 6 A change to the design of the crossing of the SSSI to a single span bridge with embankments and its connection to the Main Development Site (MDS).
- 6 May 2021 [PD-025] sought clarification upon the Applicant's draft s.106 agreement [PDB-004] and draft s.106 Explanatory Memorandum [PDB-009] submitted on 7 April 2021. A series of questions were also Annexed to this Rule 17 letter seeking the views of ESC, SCC and West Suffolk Council (WSC) in respect of these documents.
- 18 June 2021 [PD-027] sought further information with regard to the following:
  - (i) exactly where the veteran trees are located in relation to the TVB Order Limits, and alignment, showing precisely which such trees will or may be felled
  - (ii) the relationship between the Order Limits and alignment of the TVB in relation to both Foxburrow Wood, and Farnham Hall, Farnham Hall Farmhouse and (if different) Farnham Manor (showing and labelling the component parts using the dwelling names of those building complexes) and any trees in the ancient woodland which will or may be felled
  - (iii) the same in relation to Pond Wood and Nuttery Belt, and
  - (iv) assessment of bats and any other protected species which use any parts, fly-lines, commuting routes, roosting, nesting or foraging areas related to those places.
- 20 September 2021 [PD-052] sought further clarity on the proposed design speed for the SLR, the potential historic environment impacts at Heveningham Hall Estate and Cockfield Hall. What the Applicant regarded as enhancement as opposed to mitigation, the details of the terminology used to deliver accommodation and associated mitigation. An update was also sought on the Main Development Site Flood Risk Assessment (MDS FRA) as well as clarification on the ecological position.

- 1 October 2021 [PD-055] sought clarification from the Applicant and Natural England in respect of the Statement of Common Ground submitted at D8.
- 6 October 2021 [PD-054] issued a series of questions to the Applicant and IPs in respect of the proposed desalination plant the subject of Change Request No.19.

1.4.57. All responses to the ExA's written questions have been fully considered and taken into account in all relevant Chapters of this Report.

## **Requests to Join and Leave the Examination**

1.4.58. The following persons who were not already IPs requested that the ExA should enable them to join the Examination at or after the PM:

1.4.59. Sarah Whitelock of (Aldeburgh Business Association) wrote on the 8 June 2021 and the ExA confirmed on 23 June 2021 [PD-028] that she was to be conferred the status as an IP under s102A of the Planning Act 2008,

1.4.60. Richard Litchfield of (Woodbridge Glamping) wrote on 25 April 2021 and the ExA confirmed on 28 April 2021 [PD-024] that he was to be conferred status as an IP under s102A of the Planning Act 2008.

1.4.61. During the Examination, as a consequence of discussion at hearings and/or discussions between relevant IPs/APs/Other Persons and the Applicant, the following persons wrote to the ExA to inform it that their issues were settled, and their representations were withdrawn:

- East Anglia One North Ltd. [REP10-175] confirmed withdrawal of both their Relevant Representation [RR-0340] and Written Representation [REP2-260] on the basis that protective provisions had been agreed and were to be included in the DCO.
- East Anglia Two Ltd. [REP10-176] confirmed withdrawal of both their Relevant Representation [RR-0341] and Written Representation [REP2-261] on the basis that protective provisions had been agreed and were to be included in the DCO.
- Cadent Gas Ltd. [REP10-235] confirmed that following the agreement of protective provisions that the holding objection submitted with their Relevant Representation [RR-0168] and Written Representation [REP2-132] was withdrawn.
- The Nuclear Decommissioning Authority (NDA) and Magnox Ltd. [REP9-031] wrote to confirm that the NDA and Magnox to withdraw their objections to the DCO, set out in the Relevant Representations [RR-0991 and RR-0992] which had also been summarised in [REP1-029] and Written Representation [REP2-410], and to withdraw the in principle objection to the compulsory acquisition of plots MDS 05/06 and MDS 05/07 set out in the Oral Summary of the Compulsory Acquisition Hearing [REP7-237]. On the basis that the made Development Consent Order (should it be made by the Secretary of State) includes the protections for the NDA/Magnox as set out in the draft DCO (Rev 10) [REP10-010].
- Network Rail [REP7-145] confirmed that the Applicant and Network Rail had entered into an agreement and the Applicant included



protective provisions within the DCO it withdrew its objections to the DCO. This being subject to compliance by the Applicant with the agreement.

- National Grid Electricity Transmission Plc. (NGET) confirmed that NGET is now satisfied that its existing infrastructure is adequately protected and that it will be able to deliver the infrastructure that would be authorised by the DCO appropriately [REP10-633].

- 1.4.62. Suffolk Preservation Society [PDB-035] indicated they would no longer participate in the Examination as their resources meant they could not afford to spend the time necessary to fully participate when their obligations were County wide. Despite this a representation was received at D10 in opposition to the proposal. [REP10-397].

## **1.5. ENVIRONMENTAL IMPACT ASSESSMENT**

- 1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).

- 1.5.2. In April 2014 and again on 22 May 2019, the Applicant submitted Scoping Reports to the Secretary of State (SoS) under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion) [APP-168]. It follows that the Applicant is deemed to have notified the Secretary of State under Regulation 6(1)(b) of the EIA Regulations that it proposes to provide an ES in respect of the Project.

- 1.5.3. In June 2014 and subsequently in July 2019 the Planning Inspectorate provided a Scoping Opinion [APP-169]. Therefore, in accordance with Regulation 4(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES on 27 May 2020.

- 1.5.4. On 12 October 2020 the Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 13 of the EIA Regulations had been complied with [OD-004].

- 1.5.5. Consideration is given to the adequacy of the ES and matters arising from it in Chapter 5 of this Report.

## **1.6. HABITATS REGULATIONS ASSESSMENT**

- 1.6.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Report has been provided. The European sites of relevance to the application are the Benacre to Easton Bavents Lagoons, Minsmere Walberswick, Sandlings, Outer Thames Estuary SPAs and Benacre to Easton Bavents, Minsmere to Walberswick Heaths and Marshes, Minsmere-Walberswick Dews Ponds, Staverton Park and the Thicks, Wantisden, Orfordness-Shingle Street and Alde-Ore and Butley Estuaries SACs.

1.6.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapters 6 of this Report.

1.6.3. The Panel undertook a Report on the Implications for European Sites (RIES) [PD-053]

## **1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS**

1.7.1. By the end of the Examination, the following bodies had entered into formal undertakings, obligations and / or agreements with the Applicant that are important and relevant considerations for the SoS:

- ESC and SCC entered into a Deed of Obligation with the Applicant [REP10-075 - REP10-084]; the ExA consider this to be an important and relevant consideration for the SoS;
- The Environment Agency entered into a Deed of Covenant with the Applicant [REP10-088] in order to address the EA's responsibilities relating to the protection of eels and migratory fish under the Eels (England and Wales) Regulations 2009 and the Environment Act 1995; the ExA consider this to be an important and relevant consideration for the SoS.
- An Environment Trust was proposed by the Applicant and the ExA understands this has been completed although it was not submitted to the Examination and therefore is not considered to be a material consideration that should be taken into account by the SoS. A commentary on it is included in Appendix C of SCCs final submission to the Examination. [REP10-210] and in [REP10-182] from ESC.

1.7.2. These undertakings, obligations and agreements have been taken fully into account by the ExA in all relevant Chapters of this Report.

## **1.8. OTHER CONSENTS**

1.8.1. The application documentation and questions during this Examination have identified the following consents that the Proposed Development has obtained or must obtain, in addition to the Development Consent under PA2008. The latest position is set out in the Applicant's Schedule of Other Consents and Licences [REP10-++ ] and these are recorded below.

### **Office for Nuclear Regulation**

- Nuclear Site Licence
- Site Security Plan
- Generic Design Assessment
- COMAH Notification, and
- Notification of a construction project.

### **European Commission**

- Notification under Article 37 from the Department for Business, Energy and Industrial Strategy (BEIS) to EU Commission

- Notification under Article 41 of the Euratom Treaty of intention to construct and operate two UK EPR reactors.

## **Environment Agency (EA)**

- Operational Water Discharge Activity Permit.
- Construction Water Discharge Activity Permits required for discharge of waste water streams from the Main Development Site and potentially the Land East of Eastlands Industrial Estate (LEEIE) (This area was subsequently renamed by the Applicant as the Ancillary Construction Area (ACA)).
- A Radioactive Substances Regulation Permit for the disposal of radioactive waste.
- An Operational Construction Water Discharge Activity Permit for discharge of non-radioactive water to sea.
- Flood Risk Activity Environmental Permit for the Main Development Site (works to the Leiston Drain), works to the Pakenham Stream, River Fromus, and Walpole River and potentially ACA/Lovers Lane.
- Construction Combustion Activities Permits for any combustion plant used during construction which exceeds permit thresholds i.e. combined heat and power, desalination plant and diesel generators.
- An Operational Combustion Activity Permit to allow the discharge of emissions to air during operation.
- A Greenhouse Gas Emissions Permit for any combustion plant used during construction, commissioning and operation which exceeds certain thresholds, ie emergency diesels during operation and potentially a combined heat and power plant during construction.
- Waste Permits and exemptions, required for a variety of waste treatments.
- COMAH Notification
- Water Abstraction Licence
- Water Impoundment/Transfer Licence
- Fish Pass Approval
- Permit to discharge cooling water and liquid effluents into the North Sea

## **Marine Management Organisation (MMO)**

- The DCO Application includes a Deemed Marine Licence as set out at paragraph 3.5.3 later in this section of this report.

## **East Suffolk Internal Drainage Board**

- Land Drainage Consent

## **Natural England**

- Protected Species Licences under the Conservation and Habitats Species Regulations 2017.

- Consents to work within the SSSI under the Wildlife and Countryside Act 1981.

## **East Suffolk Council**

- Waste Permit (part B) Hazardous Substances Consent
- Prior Consent(s) pursuant to S61 of the Control of Pollution Act 1974

## **Suffolk County Council**

- Movement Order for transport of abnormal indivisible loads (AILs)
- Temporary Access Licences
- Section 50 Street Works Licences
- Temporary Signals in the Highway
- Temporary Traffic Management
- Land Drainage Consent for works to ordinary water courses at the compensatory fen meadow habitat at Pakenham, Benhall and Halesworth.

1.8.2. In relation to the outstanding consents recorded above, the ExA has considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, has concluded that outstanding matters do arise and these are addressed in section 5.6, 5.11 and 5.15 of Chapter 5 of this Report.

1.8.3. Permits and Licences from EA, Natural England and MMO were all outstanding at the end of the Examination and no 'letters of no impediment' were received.

1.8.4. NE's position at the end of the Examination is that it is not yet possible to ascertain that the Proposed Development would have no adverse effects on European and/ or nationally protected species and therefore letters of no impediment (LONIs) cannot currently be provided. NE also have other outstanding concerns relevant to licensing and consents which are set out in section 5.6 5.11 and 5.15 of Chapter 5 of this Report

## **1.9. STRUCTURE OF THIS REPORT**

1.9.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the application, the processes used to carry out the Examination and make this Report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- **Chapter 3** records the legal and policy context for the SoS' decision.
- **Chapter 4** sets out the planning issues that arose from the Application and during the Examination.
- **Chapter 5** sets out the ExA's main findings and conclusions in respect of each of the planning issues taking into account the information provided in the ES and raised during the Examination.
- **Chapter 6** considers effects on European Sites and Habitats Regulations Assessment (HRA).

- **Chapter 7** sets out the balance of planning considerations arising from Chapters 4 and 5, in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 8** sets out the ExA's examination of Compulsory Acquisition (CA) and Temporary Possession (TP) proposals.
- **Chapter 9** considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
- **Chapter 10** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.9.2. This report is supported by the following Appendices:

- **Appendix A** – the Examination Events
- **Appendix B** – the Examination Library
- **Appendix C** – List of Abbreviations and Definitions
- **Appendix D** – the Recommended DCO
- **Appendix E** – Considerations for the Secretary of State

## **2. THE PROPOSAL AND THE SITE**

### **2.1. THE APPLICATION AS MADE**

- 2.1.1. The application is for a Development Consent Order (DCO) to construct and operate a nuclear power station comprising two United Kingdom European Pressurised Reactors (UK EPR™) each having a net electrical power output of 1,670 megawatts (MW) and giving the power station a nominal capacity of 3.34MW.
- 2.1.2. The power station, with other onsite developments and marine works would be located at Sizewell in East Suffolk, adjacent the existing power station (Sizewell B). It would be located almost halfway between Lowestoft and Felixstowe, approximately 3km to the north east of the town of Leiston.
- 2.1.3. The majority of the onshore element of the main development site (MDS) is located within the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB). The MDS is also located within Suffolk Coast and Heaths National Character Area and Suffolk Heritage Coast.
- 2.1.4. The Proposed Development for the power station, together with the proposed associated developments is what is described as 'The Sizewell C Project' [APP-001, APP-006]
- 2.1.5. The Planning Statement of the ES [APP-590] provides a full description of the Proposed Development, which in summary comprises:
- Main Development Site, which comprises the Sizewell C nuclear power station itself, offshore works, land used temporarily to support construction including an accommodation campus;
  - the enhancement of sports facilities in Leiston;
  - fen meadow compensation sites south of Benhall and east of Halesworth and, if required, a marsh harrier habitat improvement area (Westleton);
  - two temporary park and ride sites; one to the north-west of Sizewell C at Darsham (the 'northern park and ride'), and one to the south-west at Wickham Market (the 'southern park and ride') to reduce the amount of traffic generated by the construction workforce on local roads and through local villages;
  - a permanent road to bypass Stratford St Andrew and Farnham (referred to as the 'two village bypass') to alleviate traffic on the A12 through the villages;
  - a permanent road linking the A12 to the Sizewell C main development site (referred to as the 'Sizewell link road') to alleviate traffic from the B1122 through Theberton and Middleton Moor;
  - permanent highway improvements at the junction of the A12 and B1122 east of Yoxford (referred to as the 'Yoxford roundabout') and other road junctions to accommodate Sizewell C construction traffic;
  - a temporary freight management facility at Seven Hills on land to the south-east of the A12/A14 junction to manage the flow of freight to the main development site; and

- a temporary extension of the existing Saxmundham to Leiston branch line into the main development site ('the green rail route') and other permanent rail improvements on the Saxmundham to Leiston branch line, to transport freight by rail in order to remove large numbers of HGVs from the regional and local road network.

2.1.6. The Applicant included within their submission two definitions of the Main Development Site (MDS). The dDCO description includes "the land within which Work No.1 may be constructed as shown on the Works Plans" The Environmental Statement included within the MDS definition the following:

- The site of the proposed Sizewell C nuclear power station and construction areas which consist of;
  - The main platform;
  - The temporary construction area;
  - The Land to the East of the Eastlands Industrial Estate (LEEIE) (the Application changed how this was referred to during the Examination to the Ancillary Construction Area (ACA));
  - Offshore works area;
  - Sizewell B relocated facilities and National Grid works.

Where the ExA have referred to the MDS unless specified otherwise it is on the basis of the works included within the scope as defined in the ES.

## **2.2. THE APPLICATION AS EXAMINED**

2.2.1. The documents submitted at the outset of the application were updated through the Examination in response to First Written Questions (ExQ1) [PD-016, PD-017, PD-018, PD-019, PD-020, PD-021, PD-022], Second Written Questions (ExQ2) [PD-031, PD-032, PD-033, PD-034, PD-035, PD-036, PD-037] and Third Written Questions (ExQ3) [PD-043, PD-044, PD-045, PD-046, PD-047, PD-048, PD-049] as well as Relevant Representations and Written Representations. The ExA accepts that updates and minor changes to submitted documents are an inevitability as discussions take place, questions are asked and as circumstances evolve.

2.2.2. Three formal change requests were made, the first on 11 January 2021 [AS-105] prior to the commencement of the Examination but after acceptance of the Application.

### **First Change Request**

2.2.3. The Applicant notified the ExA of the intention to request a change to the Application on 6 October 2020 [AS-004]. The ExA responded on 23 October [PD-006] with advice drawing attention to the requirements of the Planning Inspectorate's Advice Note 16. The Applicant's letter [AS-105] received on 11 January 2021 proposed the following changes:

- Change 1. Potential to increase the frequency of freight train movements to facilitate bulk material imports by rail.

- Change 2. An enhancement of the permanent beach landing facility and construction of a new, temporary beach landing facility.
- Change 3. Greater flexibility as to where certain Sizewell B facilities are relocated to potentially avoid the need for car parking on Pillbox Field.
- Change 4. Change to certain parameter heights and activities on the main development site.
- Change 5. Change to the location of the water resource storage area and the addition of flood mitigation measures to lower flood risk.
- Change 6. Change to the Site of Special Scientific Interest (SSSI) crossing design to a single span bridge with embankments.
- Change 7. Revisions to tree retention on the main development site.
- Change 8. Surface water removed early in the construction process to be discharged to the foreshore via a temporary outfall.
- Change 9. Change to the sea defence to make the scheme more efficient and resilient to climate change.
- Change 10. Extension of landscaped bund, other minor changes at the southern park and ride, including a minor reduction of the Order Limits.
- Change 11. Extension of the Order Limits to provide for additional fen meadow habitat at Pakenham as mitigation for fen meadow loss.
- Change 12. Extensions and reductions of the Order Limits for works on the Two village bypass, Sizewell link road and Yoxford roundabout as well as minor changes to the public right of way proposals at these sites
- Change 13. Minor extensions and reductions of the Order Limits for works on the main development site and related sites (fen meadow mitigation sites and marsh harrier improvement sites).
- Change 14. Minor reductions to the Order Limits of the northern park and ride, the A12/B1119 junction at Saxmundham and the A1094/B1069 south of Knodishall).
- Change 15. A new bridleway link between Aldhurst Farm and Kenton Hills.

2.2.4. The ExA explained the reasons for accepting the proposed changes in [PD-013] dated 21 April 2021.

### **Second Change Request**

2.2.5. The Applicant notified the ExA of the intention to request further changes to the application on 2 June 2021 [REP2-001]. The ExA responded on 8 June 2021 [PD-026] again drawing attention to the requirements of the Planning Inspectorate's Advice Note 16. The Applicant's letter [REP5-002] received on 23 July 2021 proposed the following changes:

- Change 16: Lovers Lane and Main Development Site Access Works which consisted of three elements.
- ix. Public Right of Way (PROW) change (Bridleway 19) and the relocation of Pegasus crossing.
  - x. The removal of trees from the tree belt adjacent to Bridleway 19 at its southern end (north of Sizewell Gap).
  - xi. Repositioning a proposed mammal culvert.



- Change 17: Two Village Bypass which consisted of three elements.
    - i. Flood relief culverts.
    - ii. PROW change (removal of bridleway upgrade.)
    - iii. PROW Change at Friday Street Roundabout.
  - Change 18. Sizewell Link Road which consisted of 8 elements.
    - i. A change from a Non-Motorised User bridge to a vehicular bridge to avoid the closure of Pretty Road and increase connectivity across the route of the Sizewell link road.
    - ii. Changes to PROW.
    - iii. Increase in Order Limits to facilitate a gravity led drainage solution.
    - iv. Change to the road layout on the B1122 near Brown's Plantation.
    - v. Change to the road layout at the B1122/B1125 link.
    - vi. Highway Works at Hawthorn Road including an extension to the Order Limits to allow tie into the link road.
    - vii. Highway works at Middleton Moor roundabout including an extension to the Order Limits to allow tie into the link road.
    - viii. Highway works at Trust Farm junction with B1122 and Moat Road junction with the link road, with revisions to the limits of deviation.
- 2.2.6. The ExA explained the reasons for accepting the proposed changes in [PD-039] 10 August 2021.

### **Third Change Request**

- 2.2.7. The Applicant notified the ExA of the intention to request a third change to the application on 2021 [AS-397]. The ExA responded on 5 August 2021 [PD-041] once again drawing attention to the requirements of the Planning Inspectorate's Advice Note 16. The Applicant's letter [REP7-286] received on 3 September 2021 proposed the following change:
- Change 19. Temporary desalination plant. A change to the Water Supply Strategy to propose new temporary infrastructure for the desalination and treatment of seawater to produce potable water suitable for construction-related activities until the Sizewell transfer main is delivered and operational.
- 2.2.8. The ExA explained the reasons for accepting the proposed change in [PD-050] on the 10 September 2021.

### **Change to the Order Limits**

- 2.2.9. The Applicant wrote on 24 September 2021 [REP8-001] confirming the reduction in the Order Limits at the three fen meadow sites (Pakenham, Halesworth and Benhall), the Sizewell Link Road and the Green Rail route. These proposed Order Limit reductions were explained at the Compulsory Acquisition Hearing (CAH) Part 1 on 17 August 2021. The plots being removed in whole or in part are identified in Appendix B of the Applicant's letter of 24 September 2021 which also provides reasons for the removal or reduction of the relevant plots.
- 2.2.10. The ExA made a procedural decision to accept these changes, and this is set out in the letter of 13 October 2021 [PD-056].

## **Position after Final Change Request**

- 2.2.11. It is also worth noting that the Applicant's description of elements of the project changed during the Examination. The Land East of the Eastlands Industrial Estate (LEEIE) was changed to Ancillary Construction Area (ACA). The Temporary Beach Landing Facility (TBLF) was later described as the Marine Bulk Import Facility (MBIF). In order to be consistent, the report uses the later description and abbreviations.
- 2.2.12. The ExA undertook a specific ISH15 to consider the implications of the third change request. It was made clear during the hearing and is confirmed within the final submissions by the Applicant that the desalination plant is to be provided for a temporary period during construction. The construction phasing, however, relies on water being brought by tankers prior to the desalination plant being brought to the site and being commissioned.
- 2.2.13. This phasing is illustrated on Plate 2.1 within the Construction Method Statement (CMS) [REP10-025] which also illustrates that the desalination plant would need to be removed prior to the completion of construction to allow the temporary construction area to be restored. The CMS stipulates that the "*temporary desalination plant must cease before cold-flush testing commissioning works commence.*". The implications of this position are considered further in section 5.11 of Chapter 5 of this Report.

## **2.3. RELEVANT PLANNING HISTORY**

- 2.3.1. The Applicant's Planning Statement [APP-590], subsequent update [REP2-043] and Final Update [REP10-068] outlines the planning history associated with the application site and the wider Sizewell power station sites. It notes there has been a history of power generation by way of nuclear generation since the 1960s when Sizewell A was originally commissioned.
- 2.3.2. The Sizewell B power station was granted planning permission in 1987 and subsequently commenced energy generation in 1995 after a seven-year build programme. This power station is currently anticipated to be decommissioned in 2035.
- 2.3.3. At the time the public inquiry considered the application for Sizewell B a third nuclear power station was already being considered and this we were told is referenced in the Inspector's report although a copy of the report was not submitted into the Examination.
- 2.3.4. The Sizewell C site was considered a potentially suitable site for a further nuclear power station following the Government Strategic Siting Assessment (SSA) undertaken prior to the adoption of the NPS (EN-6) in March 2011.
- 2.3.5. The Applicant has obtained planning permission in advance of the submission of this DCO to try to progress with early works. These are summarised below:

- Planning permission granted on 13.11.2019 by ESC ref DC/19/1637/FUL for the relocation of facilities from Sizewell B. This was subject to a legal challenge by way of judicial review which was dismissed by the High Court, heard in October 2020. A subsequent application for permission to Appeal against that decision was rejected by the Court of Appeal in November 2020. As such, the permission remains extant and works commenced on site at the end of 2020.
- A revised (second) application for Sizewell B relocated facilities was submitted on 19 November 2020 and planning permission was granted on 18 February 2021 (ESC ref: DC/20/4646/FUL)
- Planning permission ESC ref DC/14/4224/FUL was approved in March 2015 for the Aldhurst Farm habitat creation scheme. This scheme has commenced and was designed to compensate for future land take from the Sizewell Marshes SSSI should a DCO be granted and implemented at Sizewell C.

2.3.6. No additional applications have been referred to in the Planning Statement for the other sites which form the Associated Development Sites. Nor have the Councils referred to any additional applications which could be of relevance within the LIR [REP1-045]

## **3. LEGAL AND POLICY CONTEXT**

### **3.1. INTRODUCTION**

- 3.1.1. This chapter sets out the relevant legal and policy context for the application which was considered and applied by the Examining Authority (ExA) in undertaking the Examination and in making its findings and recommendations to the Secretary of State (SoS).
- 3.1.2. Findings, reasoning and conclusions are set out on the relevance of different elements of the policy framework and include the identification of 'important and relevant' matters in accordance with the Planning Act 2008, as amended (PA2008).
- 3.1.3. The Planning Statement [APP-590] Planning Statement Update [REP2-043] and Final Planning Statement Update and Signposting document [REP10-068] as well as the Environmental Statement Chapter on Legislation and Policy Context [APP-174] sets out the Applicant's policy position in relation to the Proposed Development.
- 3.1.4. These submissions were further supported by the Applicant's responses to written questions G.1.4, G.1.11, G.1.16 [REP2-100], G.2.0, G.2.7 [REP7-050] and G.3.0 [REP8-116] and the National Policy Statement Tracker the final version of which was received at D10 [REP10-125].
- 3.1.5. Cumulatively these documents include an assessment of the proposals against the policy requirements of the National Policy Statements (NPSs) EN-1 and EN-6.
- 3.1.6. East Suffolk Council (ESC) and Suffolk County Council (SCC) joint Local Impact Report (LIR) [REP1-045] includes the local authority position on the relevant development plan policies and other local strategies.

### **3.2. THE PLANNING ACT 2008**

- 3.2.1. The proposal is a nationally significant infrastructure project (NSIP) by virtue of being an electricity generating station with a capacity of more than 50 MW (Planning Act 2008, s15) a type of development for which National Policy Statements would apply. The Applicant accepts however that due to the passage of time and the way the NPS are time limited the scheme comes to be considered under s105.

### **3.3. THE APPLICATION OF S105 of PA2008**

- 3.3.1. The PA2008 provides different decision-making processes for NSIP applications where a relevant NPS has been designated (section (s)104) and where there is no designated NPS (s105). Paragraph 1.1.6. above identifies that the Application is for NSIP development.
- 3.3.2. This is an application for which s105 is applicable. The Written Ministerial Statement on Energy Infrastructure published on 7 December 2017 (the WMS) states that the NPS for Nuclear Power Generation (EN-6) only

*"has effect for the purposes of s104 of the PA2008 (where the decision maker would legally have regard to the relevant NPS) for development which forms part of a project able to demonstrate expected deployment by the end of 2025"*

- 3.3.3. The WMS makes it clear that, in the absence of a post-2025 nuclear NPS, nuclear power station projects yet to apply for development consent and due to be deployed beyond 2025 should be considered under s105 of the PA2008 until such time as a new nuclear NPS is adopted.
- 3.3.4. As this proposal would be deployed post 2025 it falls to be considered and a decision made under s105 of the PA2008.
- 3.3.5. S105(2) of the PA2008 provides that the SoS must have regard to:
- any Local Impact Report (LIR) (within the meaning given by PA2008 s60(3)) submitted to the SoS before the deadline for submission;
  - any matters prescribed in relation to development of which the application relates; and
  - other matters that the SoS thinks are both important and relevant to their decision.
- 3.3.6. The PA2008 s10 also places a statutory sustainable development duty on the SoS. The duty makes specific reference to the SoS having regard to the desirability of:
- mitigating and adapting to climate change; and
  - achieving good design.

### **3.4. NATIONAL POLICY STATEMENTS**

- 3.4.1. Being an application for a nuclear power station, NPS EN-1: Overarching National Policy Statement for Energy (EN-1), and NPS EN-6: National Policy Statement for Nuclear Power Generation (EN-6) apply.
- 3.4.2. NPS EN-1 sets out the need and urgency for new energy infrastructure to be consented and built with the objective of contributing to a secure, diverse and affordable energy supply and supporting the Government's policies on sustainable development, in particular by mitigating and adapting to climate change.
- 3.4.3. Part 3 of NPS EN-1 advocates that for the UK to meet energy and climate change objectives the Government believes that there is an urgent need for new nuclear power (para 3.5.1); that new nuclear will ensure a diverse mix of technology and fuel sources, which will increase the resilience of the UK's energy system (para 3.5.3) and that new nuclear power therefore forms one of three key elements of the Government's strategy for moving towards a decarbonised diverse electricity sector by 2050 (para 3.5.6).
- 3.4.4. NPS EN-6 provides further detail in relation to nuclear power generation including the need for early deployment; the siting of new nuclear power stations; the consideration of alternatives and the management and disposal of radioactive waste.

- 3.4.5. The WMS states that new nuclear power stations have an important role to play, and that nuclear power is seen as a vital part of the UK's energy mix, providing low carbon power now and in the future. The WMS confirmed that new nuclear power generation remains key to meeting the UK's 2050 obligations.
- 3.4.6. The WMS states that for projects due to deploy beyond 2025, the Government continues to give its strong in principle support to project proposals at those sites listed in EN-6. The WMS states that even if EN-6 is considered not to have effect under s104 of the PA2008, as is the case for this application, s105 would apply.
- 3.4.7. This stance was repeated in the Energy White Paper (December 2020)<sup>3</sup>
- "They (NPS) will, therefore, continue to provide a proper basis on which the Planning Inspectorate can examine, and the Secretary of State can make decisions on, applications for development consent."*
- 3.4.8. As outlined above s105(2)(c) of the PA2008 requires that the SoS must have regard to, amongst other things, matters that the SoS thinks are both important and relevant to their decision. The WMS states that the Government is confident that both EN-1 and EN-6 incorporate information, assessments and statements which would continue to be important and relevant for projects which could deploy post 2025.
- 3.4.9. In deciding whether or not to grant development consent to such a project the SoS is required, under s105(2)(c) of the PA2008, to have regard to the content of EN-1 and EN-6, unless they have been suspended or revoked. In respect of matters where there is no relevant change to circumstances the WMS states that it is likely that significant weight would be given to policy in EN-1 and EN-6.
- 3.4.10. In addition, the ExA consider that NPS-EN5 and Geological Disposal Infrastructure NPS are important and relevant considerations to the consideration of this Development Consent Order, in so far as they relate to the connection of the Proposed Development to the National Grid and the provision of facilities for the management and storage of waste from nuclear power stations.

### **3.5. MARINE AND COASTAL ACCESS ACT 2009**

- 3.5.1. The Marine and Coastal Access Act 2009 (MCAA) provides the legal mechanism to help ensure clean, healthy, safe, productive and biologically diverse oceans and seas by putting in place a system for improved management and protection of the marine and coastal environment. It established a strategic marine planning system which includes the production of a Marine Policy Statement (MPS), introduced the production of marine plans and designation of Marine Conservation Zones (MCZs) in UK waters as well as establishing the Marine

---

3

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/945899/201216\\_BEIS\\_EWP\\_Command\\_Paper\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945899/201216_BEIS_EWP_Command_Paper_Accessible.pdf)

Management Organisation (MMO) and streamlining the marine licensing system.

3.5.2. The SoS must have regard to the appropriate marine policy documents in taking any decision as set out by s58(3) Marine and Coastal Access Act 2009. In this case the appropriate marine policy documents are the Marine Policy Statement (MPS) and the adopted East Inshore and East Offshore Marine Plans (EIEOMP).

3.5.3. The Applicant's draft DCO (dDCO) includes a Deemed Marine Licence detailed within Articles 74-75 and Schedule 21 [REP10-009]. This would include but is not limited to:

- The taking of sediment samples to inform pre-construction (but post application), construction and operation phase monitoring.
- The construction of works in or over the sea/tidal waters or on or under the bed of these waters up to the mean high-water springs which would include:
  - the cooling water intake and outfall structures and any protections associated with these;
  - the Permanent and Temporary Beach Landing Facilities;
  - fish recovery and return outfall structure;
  - construction drainage outfall structure;
  - dolphins, fenders or mooring/impact protection equipment;
  - sea defences or erosion protection works;
  - the installation of any marker buoys or other navigational aids;
  - removal of material associated with capital dredging, and subsequent disposal; and
  - maintenance dredging, and disposal of arisings.

3.5.4. The Orford Inshore MCZ which has been designated under MCAA is located approximately 16Km south east of the main development site and 14Km from the Alde Ore estuary.

3.5.5. Accordingly, the decision of the SoS must comply with the general duty under section 125 to exercise his functions in the manner which he considers best furthers the conservation objectives for the MCZ, or where this is not possible, to exercise his functions in the manner which he considers least hinders the achievement of those objectives. In addition, section 126 sets out the specific duties of public authorities. These matters are discussed in Chapter 6.

3.5.6. With regard to coastal access, Part 9 of the Marine and Coastal Access Act 2009 aims to improve public access to, and enjoyment of, the English coastline by creating clear and consistent public rights along the English coast for open-air recreation on foot. It allows existing coastal access to be secured and improved and new access to be created in coastal places where it did not already exist.

### **UK Marine Policy Statement (MPS)**

3.5.7. The MPS provides the high-level policy context within which marine plans will be developed, implemented and monitored. It is intended to provide

consistency in marine planning across the UK marine area, including the territorial seas and offshore area adjacent to the UK. It provides the overarching policy context for our consideration of the offshore works.

- 3.5.8. The East Inshore and Offshore Marine Plans (Department for Environment, Food and Rural Affairs, 2014) provide a clear approach to managing the East Inshore and East Offshore areas, their resources, and the activities and interactions that take place within them.
- 3.5.9. Nationally significant infrastructure project applications must be determined in accordance with the National Policy Statement, subject to certain exceptions, and have regard to the Marine Policy Statement and relevant marine plans.

### **3.6. EUROPEAN LAW AND RELATED UK REGULATIONS**

- 3.6.1. The UK is no longer a member of the European Union (EU). However, the UK through The European Union (Withdrawal) Act 2018 (EUWA2018) has converted EU law into UK law and preserves laws made in the UK which implements EU obligations.
- 3.6.2. The SoS will be aware that retained EU law as defined in the EUWA2018 continues to apply.

#### **Waste Framework Directive (WaFD)(2008/98/EC)**

- 3.6.3. The WaFD came into force on 12 December 2008, establishing the overarching framework for the management of waste across the EU.
- 3.6.4. Article 4 of the revised EU Waste Framework Directive (Directive 2008/98/EC) sets out five steps for dealing with waste, ranked according to environmental impact - the 'waste hierarchy'. The definitions of each of the stages can be found in Article 3. It gives top priority to preventing waste. When waste is created, it gives priority to preparing it for re-use, then recycling, then recovery, and last of all disposal (e.g. landfill). A very key principle in the backdrop to the hierarchy is to pursue efficient use of resource.
- 3.6.5. Responsibility for compliance with the waste hierarchy lies with processors of waste whose compliance therewith is regulated and monitored by the Environment Agency (EA) (or other permitting authority if located elsewhere in the UK) through their respective Environmental Permits (EPs).

#### **Water Framework Directive (2000/60/EC)**

- 3.6.6. Directive 2000/60/EC establishing a framework for Community action in the field of water policy (the Water Framework Directive or WFD) sets objectives to prevent and reduce pollution, improve aquatic ecosystems and mitigate the effects of floods. It provides for the production of River Basin Management Plans for the sustainable management of rivers. The Directive is transposed into law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales)



Regulations 2017. Relevant matters are considered in section 5.11 of Chapter 5.

### **Groundwater Daughter Directive (2006/118/EC)**

- 3.6.7. Pursuant to Article 17, paragraphs 1 and 2 of Directive 2000/60/EC, this Directive lays down measures to prevent and control groundwater pollution, including: (a) criteria for the assessment of good groundwater chemical status; and (b) criteria for the identification and reversal of significant and sustained upward trends and for the definition of starting points for trend reversals. Moreover, the Directive complements the provisions preventing or limiting inputs of pollutants into groundwater.

### **The Discharge of Dangerous Substances into the Aquatic Environment Directive (2006/11/EC)**

- 3.6.8. Requires Member States to take appropriate action to eliminate pollution of inland surface waters and internal coastal waters of certain dangerous substances (listed in Annex I). All discharges shall require prior authorisation by the competent authority of the Member State.

### **Landfill Directive (1999/31/EC)**

- 3.6.9. With a view to supporting the Union's transition to a circular economy and meeting the requirements of Directive 2008/98/EC, the aim of this Directive is to ensure a progressive reduction of landfilling of waste, in particular of waste that is suitable for recycling or other recovery, and, by way of stringent operational and technical requirements on the waste and landfills, to provide for measures, procedures and guidance to prevent or reduce as far as possible negative effects on the environment, in particular the pollution of surface water, groundwater, soil and air, and on the global environment, including the greenhouse effect, as well as any resulting risk to human health, from landfilling of waste, during the whole life-cycle of the landfill.

### **Hazardous Waste Directive (2008/98/EC)**

- 3.6.10. This Directive lays down measures to protect the environment and human health by preventing or reducing the generation of waste, the adverse impacts of the generation and management of waste and by reducing overall impacts of resource use and improving the efficiency of such use, which are crucial for the transition to a circular economy and for guaranteeing the Union's long-term competitiveness.

### **The Air Quality Directive (2008/50/EC)**

- 3.6.11. Council Directive 2008/50/EC on ambient air quality and cleaner air for Europe (the Air Quality Directive) requires Member States to assess ambient air quality with respect to sulphur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), oxides of nitrogen (NO<sub>x</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene, carbon monoxide and ozone. The Directive aims to protect human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollutants. It sets legally binding concentration-based limit values (LVs) as well as target values to be

achieved for the main air pollutants and establishes control actions where these are exceeded. It is transposed into UK statute through the Air Quality Standards Regulations 2010 made under the Environment Act 1995 (EA1995).

#### **The Medium Combustion Plant Directive (2015/2193)**

- 3.6.12. The Medium Combustion Plant Directive (MCPD) regulates pollutant emissions from the combustion of fuels in plants with a rated thermal input equal to or greater than 1 Megawatt thermal (MWth) and less than 50 MWth.

#### **Euratom Basic Safety Standard Directive (2013/59)**

- 3.6.13. This Directive establishes uniform basic safety standards for the protection of the health of individuals subject to occupational exposures, besides the medical and public exposures against the dangers arising from ionising radiation.

#### **Nuclear Safety Directive (2009/71/Euratom)**

- 3.6.14. Imposes obligations on the Member States to establish and maintain a national framework for nuclear safety. This reflects the provisions of the main international instruments in the field of nuclear safety, namely the Convention on Nuclear Safety, as well as the Safety Fundamentals established by the International Atomic Energy Agency ('IAEA'). Amended by 2014/87/Euratom – Framework for the nuclear safety of nuclear installations.

#### **The control of major-accident hazards involving dangerous substances ('Seveso III Directive') (2012/18/EU)**

- 3.6.15. This Directive lays down rules for the prevention of major accidents which involve dangerous substances, and the limitation of their consequences for human health and the environment, with a view to ensuring a high level of protection throughout the Union in a consistent and effective manner.

#### **The European Landscape Convention 2000**

- 3.6.16. The European Landscape Convention (ELC) promotes the protection, management and planning of European landscapes and organises European co-operation on landscape issues. The ELC requires landscape to be integrated into regional and town planning policies and in cultural, environmental, agricultural, social and economic policies, as well as any other policies with possible direct or indirect impacts on landscape.

#### **The European Birds Directive**

- 3.6.17. Council Directive 2009/147/EC on the conservation of wild birds (Birds Directive) is a European nature conservation legislative measure for the protection for all wild bird species naturally occurring in the EU. The Directive places great emphasis on the protection of habitats for endangered as well as migratory species. It requires classification of areas as Special Protection Areas (SPAs) comprising all the most suitable

territories for these species. Since 1994 all SPAs form an integral part of the Natura 2000 ecological network.

### **The European Habitats Directive**

- 3.6.18. Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive) is a European nature conservation legislative measure.
- 3.6.19. Habitat types requiring the designation of Special Areas of Conservation (SACs) are listed in Annex I of the Directive. Animal and plant species of interest whose conservation requires the designation of SACs are listed in Annex II. SACs form part of the Natura 2000 network of protected sites. Annex IV lists animal and plants species of interest in need of legal protection. All species listed in these annexes are identified as European Protected Species.

### **Bern Convention on the Conservation of European Wildlife and Habitats**

- 3.6.20. The Bern Convention was ratified by the UK in 1982. The obligations of the Convention have been transposed by the Wildlife and Countryside Act 1981.

### **The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) 1979**

- 3.6.21. The convention on the Conservation of Migratory Species of Wild Animals aims to conserve terrestrial, marine and avian migratory species throughout their range.

### **Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention 1972)**

- 3.6.22. The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972, commonly called the "London Convention" is an agreement to control pollution of the sea by dumping and to encourage regional agreements supplementary to the Convention.

### **The Conservation of Habitats and Species Regulations (Habitat Regulations) 2017**

- 3.6.23. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) are the principal means by which the Habitats Directive and the Birds Directive are transposed into the law of England and Wales. Assessment processes taking place pursuant to these regulations are referred to as Habitats Regulations Assessment (HRA).
- 3.6.24. The types of European site relevant to the application are as follows:
- SACs designated pursuant to the Habitats Directive;
  - SPAs designated pursuant to the Birds Directive; and
  - Ramsar sites designated under the Ramsar Convention on Wetlands of International Importance.

- 3.6.25. The applicant is therefore required to provide information to allow a Habitats Regulations Assessment (HRA) to be undertaken by the competent authorities in support of its DCO and environmental permit applications. In this case the competent authorities are the Secretary of State for BEIS (for the DCO) and the Environment Agency (for the environmental permits).

### **Conservation of Offshore Marine Habitats and Species Regulations 2017**

- 3.6.26. The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2017 transpose Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive) and Council Directive 2009/147/EC on the conservation of wild birds (Birds Directive) into national law. These regulations apply to the UK's offshore marine area which covers waters beyond 12nm, within British Fishery Limits and the seabed within the UK Continental Shelf Designated Area.

### **The Ramsar Convention on the conservation of wetlands**

- 3.6.27. The Ramsar Convention on Wetlands of International importance 1971 (as amended) (the Ramsar Convention) is an international treaty that provides a framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. The UK Government has chosen to apply, as a matter of policy, the legislative provisions that apply to the consideration of SACs and SPAs to Ramsar sites, even though these are not European sites as a matter of law.

### **The Oslo and Paris convention for the protection of the marine environment of the north-east Atlantic (OSPAR)**

- 3.6.28. The OSPAR Convention is an international treaty which seeks to prevent and eliminate pollution from land based sources (Annex I), from dumping or incineration (Annex II), from offshore sources (Annex III), assess the quality of the marine environment (Annex IV) and protect and conserve ecosystems and biological diversity of the maritime area.

### **Bathing Waters Directive (2006/7/EC)**

- 3.6.29. This Directive sets rules to safeguard public health and clean bathing waters requiring member States to monitor and assess bathing water and in doing so advise the public of the findings. This Directive compliments other environmental policy in the Water Framework Directive and Marine Strategy Framework Directive.

### **Marine Strategy Framework Directive (MSFD) (2008/56/EC)**

- 3.6.30. The MSFD aims to achieve Good Environmental Status (GES) of the EU's marine waters by 2020 and to protect the resource base upon which marine related economic and social activities depend.

### **Paris Agreement (2016)**

- 3.6.31. The Paris Agreement concluded in December 2015 with an agreement from all parties to the United Nations Framework Convention on Climate

Change (UNFCCC) to the central aim: *"to keep the global temperature rise this century well below 2 degrees Celsius above pre-industrial levels, while pursuing efforts to limit the increase even further to 1.5 degrees Celsius"*. The Paris Agreement requires all parties to the agreement to make ambitious efforts to combat climate change and to accelerate and intensify the actions and investments needed for a sustainable low carbon future. For this purpose, the parties agreed to making finance available consistent with a low greenhouse gas emissions and climate resilient pathway.

- 3.6.32. The Paris Agreement requires all parties to put forward their best efforts through nationally determined contributions and to report regularly on their emissions and implementation efforts. Some of the key aspects of the agreement include long-term temperature goal, global peaking of greenhouse gas and climate neutrality, and mitigation. There will be a global stocktake every five years to assess the collective progress towards achieving the purpose of the agreement and to inform further individual actions by parties to the agreement.

#### **The EIA Directive (2014/52/EU)**

- 3.6.33. The Environmental Impact Assessment Directive 2011 as amended by the EIA Directive 2014, has been transposed by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

#### **Environmental Noise Directive**

- 3.6.34. The Environmental Noise Directive requires Member States to produce and publish noise maps and noise management action plans for major agglomerations, roads, railways and airports above a given threshold. This is reflected in Environmental Noise (England) Regulations 2006.

#### **Aarhus Convention on genuine public participation in environmental decision-making**

- 3.6.35. The Aarhus Convention grants rights in respect of access to environmental information, participation in environmental decision making and access to environmental justice.

### **3.7. OTHER LEGAL PROVISIONS**

#### **The United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Protection of the Underwater Cultural Heritage 2001**

- 3.7.1. This is intended to enable States to better protect their submerged cultural heritage and provides widely recognised practical rules for the treatment and research of underwater cultural heritage.

#### **The Nuclear Installations Act 1965 and 1969 and The Radioactive Substances Act 1948**

- 3.7.2. The two Acts are known collectively as the Nuclear Installations Act 1965 and 1969. The Radioactive Substances Act 1948 empowers the

Government to control the use of radioactive substances and irradiated apparatus in medicine, industry and research and the transport of such substances and apparatus.

### **Nuclear Industries Security Regulations 2003**

- 3.7.3. These Regulations provide for the regulation of the civil nuclear industry for security purposes and prescribe certain types of fissile material as “nuclear material”.

### **Ionising Radiations Regulations 2017**

- 3.7.4. The main legal requirements enforced by HSE are the Ionising Radiation Regulations 2017 (IRR17). Any employer who undertakes work with ionising radiation must comply with IRR17. IRR17 requires employers to keep exposure to ionising radiations as low as reasonably practicable.

### **Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPPIR)**

- 3.7.5. The Regulations ensure that members of the public are provided with information, both before and during an emergency, so that they are properly informed and prepared, in advance, about what they need to do in the unlikely event of a radiation emergency occurring.

### **Equality Act 2010**

- 3.7.6. S149 of the Equality Act 2010 establishes a duty (the public sector equality duty (PSED)) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The ExA are satisfied that they have complied with the PSED throughout the Examination, issues raised are considered in section 5.12 of Chapter 5.

### **Environmental Protection Act (EPA) 1990**

- 3.7.7. Section 79(1) of the Environmental Protection Act 1990 identifies a number of matters which are considered to be statutory nuisance. Article 12 of the dCO [REP10-009] contains provisions relating to proceedings in respect of statutory nuisance.

### **The Environmental Permitting Regulations 2016**

- 3.7.8. The EP Regulations apply to all new installations and implement the EU Directive 2008/1/EC concerning Integrated Pollution Prevention and Control (the IPPC Directive). They define activities that require the operator to obtain an EP from the EA and transpose the requirements of the EU IED into UK legislation. As the Proposed Development falls under the EP Regulations, an EP would be required before the Proposed Development commences operation.
- 3.7.9. The EP Regulations provide a regulatory system to ensure a high level of protection of environmental and health impacts, secured by demonstrating that the proposed approach used adopts BAT to prevent or minimise the effects of the activity on the environment, taking account

of relevant local factors. Generating stations exceeding 50MW are covered by the IED and the EP Regulations.

#### **The Noise Insulation Regulations 1975 (as amended 1988)**

- 3.7.10. The Noise Insulation Regulations 1975 (as amended 1988) set out the requirements under which buildings may qualify for both statutory and discretionary noise insulation.

#### **The Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996**

- 3.7.11. Subject to and in accordance with the provisions of these Regulations, the responsible authority may carry out, or make a grant in respect of the cost of carrying out, insulation work in or to any eligible building.

#### **The Waste (England and Wales) Regulations 2011 (SI 2011/988)**

- 3.7.12. The Waste (England and Wales) Regulations 2011 require businesses to confirm that they have applied the waste management hierarchy when transferring waste and include a declaration to this effect.

#### **Environmental Permitting (England and Wales) Regulations 2016 (SI 2016/1154)**

- 3.7.13. The environmental permitting regime requires those carrying on certain types of activity to hold an environmental permit. In this way Environmental Permitting Regulations provides for the ongoing supervision by regulators of activities which could harm the environment. The aim of the regime is to:

- protect the environment so that statutory and government policy environmental targets and outcomes are achieved;
- deliver permitting, and compliance with permits and certain environmental targets, effectively and efficiently, in a way that provides increased clarity and minimises the administrative burden on both the regulator and operators;
- encourage regulators to promote best practice in the operation of facilities; and
- continue to implement European legislation fully.

#### **Controlled Waste (England and Wales) Regulations 2012 (SI 2012/811)**

- 3.7.14. The Controlled Waste Regulations (England and Wales) 2012 states that household, industrial and commercial waste are classed as controlled waste and are subject to the Environmental Protection Act 1990.

#### **Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894)**

- 3.7.15. These Regulations set out the regime for the control and tracking of the movement of hazardous waste for the purpose of the prevention, reduction and elimination of pollution caused by Hazardous Waste.

### **The Control of Pollution Act 1974**

- 3.7.16. Sections 60 and 61 of the Control of Pollution Act 1974 (CoPA) provides the main legislation regarding demolition and construction site noise and vibration. If noise complaints are received, a s60 notice may be issued by the local planning authority with instructions to cease work until specific conditions to reduce noise have been adopted. S61 of the CoPA provides a means for applying for prior consent to carry out noise generating activities during construction. Once prior consent has been agreed under s61, a s60 notice cannot be served provided the agreed conditions are maintained on-site. The legislation requires that Best Practicable Means be adopted for construction noise on any given site.

### **National Parks and Access to the Countryside Act 1949 (As Amended)**

- 3.7.17. This Act provides the framework for the establishment of National Parks and Areas of Outstanding National Beauty (AONBs). It also establishes powers to declare National Nature Reserves (NNRs), to notify Sites of Special Scientific Interest (SSSIs) and for local authorities to establish Local Nature Reserves (LNRs).
- 3.7.18. National Parks and AONBs have statutory protection in order to conserve and enhance the natural beauty of their landscape. The purpose of designating a National Park or AONB is to conserve and enhance their natural beauty; including landform, geology, plants, animals, landscape features and the rich pattern of human settlement over the ages.
- 3.7.19. The statutory protection of the Suffolk Coast and Heaths AONB and the effects of the proposal on the Sizewell Marshes SSSI and The Minsmere to Walberswick Heaths and Marshes SSSI, are considered in Sections 5.5, 5.6 and 5.14 Chapter 5 of this Report.

### **The Countryside and Rights of Way (CRoW) Act 2000 (As Amended)**

- 3.7.20. The Countryside and Rights of Way Act 2000 (as amended) includes provisions in respect of Public Rights of Way (PRoW) and brought in new measures to further protect AONBs. This included meeting the demands of recreation, without compromising the original reasons for designation and safeguarding rural industries and local communities. There was also a new duty for all public bodies, including the ExA and the SoS to have regard to the purposes of AONBs and improved provisions for the protection and management of SSSIs.
- 3.7.21. The majority of the proposed development site falls within the Suffolk Coast and Heaths AONB. In addition, there are two SSSIs that could be affected by the proposal. The site includes approximately 10ha of the Sizewell Marshes SSSI and The Minsmere to Walberswick Heaths and Marshes SSSI is located to the north-east of the site. These affects are considered in Sections 5.5, 5.6 and 5.12 Of Chapters 5 of this Report.

### **The Convention on Biological Diversity 1992**



3.7.22. The Convention on Biological Diversity (CBD) is the international legal instrument for "the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources".

### **The Wildlife and Countryside Act 1981 (As Amended)**

3.7.23. The Wildlife and Countryside Act 1981 (as amended) (W&CA) is the primary legislation which protects animals, plants and certain habitats in the UK. The Act contains measures for the notification, confirmation, protection and management of SSSIs.

3.7.24. The Act has relevance to consideration of impacts on SSSIs and on protected species and habitats including European sites. These are considered in section 5.6 of Chapter 5 of this Report.

3.7.25. If a species such as bats, owls or great crested newts protected under Part I of this Act is likely to be affected by development, a protected species licence would be required from NE in addition to any consent that may be granted by the SoS through a DCO.

### **The Natural Environment and Rural Communities Act (NERC) 2006**

3.7.26. The Natural Environment and Rural Communities Act 2006 (NERC) includes a duty that every public body (including the ExA and the SoS) must have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. In complying with this, regard must be given to the United Nations Convention on Biological Diversity of 1992.

3.7.27. How the Proposed Development would affect biodiversity and ecology and landscape matters is considered in section 5.6 of Chapter 5 of this Report.

### **The Hedgerows Regulation 1997**

3.7.28. The Hedgerow Regulations 1997 protect 'important' hedgerows with licencing and enforcement and penalties.

### **Protection of Badgers Act 1992**

3.7.29. The Protection of Badgers Act 1992 creates offences relating to badgers, including interfering with badger setts, together with exceptions and licences and enforcement and penalties. The implications of the Proposed Development for badgers are provided in ES Chapter 14 [APP-0++] and:

- The Confidential Badger Mitigation Strategy [APP-256],
- Badger Draft Licence [APP-257] and [REP5-049] for the Main Development Site,
- [APP-428] for the TVB,
- Badger Technical Report [AS-059].

All of which have been withheld from publication on the Inspectorate's National Infrastructure website.

- 3.7.30. The implications of the Protection of Badgers Act (1992) are discussed at section 5.6 of Chapter 5 of this Report.

#### **The Ancient Monuments and Archaeological Areas Act 1979.**

- 3.7.31.** The Ancient Monuments and Archaeological Areas Act provides for Scheduled Monuments to be protected and for the maintenance of a list of Scheduled Monuments. It also imposes a requirement for Scheduled Monument Consent for any works of demolition, repair, and alteration that might affect a designated Scheduled Monument. The Act is relevant due to the scheduled monuments identified in the ES [APP-272 - 276].

#### **The Planning (Listed Buildings and Conservation Areas) Act 1990**

- 3.7.32. The Planning (Listed Buildings and Conservation Areas) Act empowers the SoS to maintain a list of built structures of historic or architectural importance and sets out the principal statutory provisions that must be considered in the determination of any application affecting listed buildings and conservation areas. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, we have had regard to the desirability of preserving any listed buildings or their settings or any features of special architectural or historic interest which they possess. The historic environment is discussed in section 5.13 of Chapter 5 of this Report.

#### **The Protection of Military Remains Act 1986**

- 3.7.33. The Protection of Military Remains Act 1986 provides protection for the wreckage of military aircraft and certain military wrecks. Administered by the Ministry of Defence, designations can be either as a Controlled Site or Protected Place where access may be permitted but any operations which may disturb the site are illegal unless licensed by the Ministry of Defence. There are currently six Controlled Sites and 450 Protected Places (including 434 recorded aircraft) in England's territorial waters.

#### **The Protection of Wrecks Act 1973**

- 3.7.34. The Protection of Wrecks Act 1973 allows the Secretary of State for Digital, Culture, Media and Sport to designate a restricted area around the site of a vessel lying on or in the seabed in UK territorial waters if he/she is satisfied that, on account of the historical, archaeological or artistic importance of the vessel, or its contents or former contents, the site ought to be protected from unauthorised interference. There are currently 52 protected wreck sites in England (62 in the UK).

#### **Water Resources Act 1991, Flood and Water Management Act 2010, Water Act 2003 and 2014, Land Drainage Act 1991.**

- 3.7.35. The above Acts set out the relevant regulatory controls that provide protection to waterbodies and water resources from abstraction pressures, discharge and pollution, and for drainage management related to non-main rivers. The application would have implications for land drainage, flood risk and water quality and further consents may be

needed under the above Acts. Relevant matters are considered in section 5.11 of Chapter 5 of this Report.

### **The Control of Substances Hazardous to Human Health Regulations 2002**

- 3.7.36. The main aims of the COSHH Regulations is to protect people from the hazards of substances used or likely to be present in the workplace and to impose specific duties regarding the import and use of certain specified substances within the EU.
- 3.7.37. The Regulations apply to a wide range of substances and preparations (mixtures of two or more substances) which have the potential to cause harm to health if they are ingested, inhaled, absorbed by, or come into contact with, the skin, or other body membranes. Hazardous substances can occur in many forms, including solids, liquids, vapours, gases and fumes.

### **Climate Change Act 2008.**

- 3.7.38. The Climate Change Act 2008 is the basis for the UK's approach to tackling and responding to climate change. It requires that emissions of carbon dioxide and other greenhouse gases are reduced and that climate change risks are prepared for. The Act also establishes the framework to deliver on these requirements and supports the UK's commitment to urgent international action to tackle climate change.
- 3.7.39. The Climate Change Act commits the Government by law to reducing greenhouse gas emissions by at least 80% of 1990 levels by 2050 (Committee on Climate Change, 2008). The 80% target was based on advice from the Climate Change Committee's (CCC's) 2008 report, 'Building a low-carbon economy' (Committee on Climate Change, 2008).
- 3.7.40. The Climate Change Act was amended by Statutory Instrument 1056 (2019) [3] to a 100% net zero target by 2050 following the CCC's updated report.
- 3.7.41. This has subsequently been updated following the CCC's 6th Carbon Budget (December 2020) which sets a pathway which requires a 78% reduction in UK territorial emissions between 1990 and 2035. Thus, bringing forward the UK's previous target by nearly 15 years. The Carbon Budget Order 2021 secures the carbon budget for 2033-2037 (the Sixth Carbon Budget).

### **The Environment Act 2021**

- 3.7.42. The Examination occurred concurrently with the period which the Environment Bill (now the Environment Act) underwent its passage through Parliament before receiving Royal Assent on the 9 November 2021. Interested Parties were aware of this and made reference to it. The ExA, however have not taken it into consideration as the Examination concluded on the 14 October 2021 prior to the final consideration of potential amendments and the Act coming into law.

## **3.8. MADE DEVELOPMENT CONSENT ORDERS**

3.8.1. The Applicant has cited as precedent a number of DCOs. These are referred to in a number of submissions including; The DCO Explanatory Memorandum [AS-146] and responses made by the Applicant to ExQ1 [REP2-100] and [PDB-009]. The following schedule of DCOs, and Draft DCOs referred to the ExA and we have had regard to them where relevant:

- Northampton Gateway Strategic Rail Freight Interchange Order 2019
- North London Heat and Power Generating Station Order 2017
- Wrexham Gas Fired Generating Station Order 2017
- Glyn Rhonwy Pumped Storage Generating Station Order 2017
- Hirwaun Generating Station Order 2015
- M20 Junction 10a Development Consent Order 2017
- Keuper Underground Gas Storage Facility Order 2017
- North Wales Wind Farms Connection Order 2016
- East Anglia Three Offshore Wind Farm Order 2017
- Thames Tideway Tunnel Order 2014
- Hinckley Point C (Nuclear Generating Station) Order 2013
- National Grid (Hinkley Point C Connection Project) Order 2016
- Able Marine Energy Park Order 2014
- Walney Extension Offshore Windfarm Order 2014
- Burbo Bank Extension offshore Windfarm Order 2014
- Silvertown Tunnel Order 2018
- Draft Aquind Interconnector Order 2021

3.8.2. Reference was also made to the Draft Wylfa Newydd (Nuclear Generating Station) Order 2019. The Report to the SoS was made public, however the application was withdrawn prior to a decision being made.

## **3.9. TRANSBOUNDARY EFFECTS**

3.9.1. Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations), transposes Article 7 of EIA Directive (2011/92/EU) into UK Law as it applies to the PA2008 regime. During pre-application and before a recommendation to the Secretary of State (SoS) is made, the duties under EIA Regulation 32 are carried out by the Planning Inspectorate on behalf of the SoS.

3.9.2. On the basis of the information available from the Applicant, the Planning Inspectorate was of the view that the Proposed Development was not likely to have a significant effect on the environment in a European Economic Area (EEA) State [OD-007]. In reaching this view the Planning Inspectorate applied the precautionary approach (as explained in the Planning Inspectorate Advice Note 12: Transboundary Impacts Consultation).

3.9.3. The Inspectorate followed the transboundary screening and notification processes set out in their Advice Note 12, which contains special arrangements for nuclear electricity generating station NSIPs. The special arrangements require that all EEA States and signatories to the United

Nations Economic Commission for Europe (UNECE) Espoo and Aarhus conventions are informed of their ability to participate in the DCO examination process should they wish to do so.

- 3.9.4. In accordance with Regulation 32 of the EIA Regulations, the Inspectorate published a notification in the London Gazette on 5 November 2019 which provided information about the proposed project and its likely significant effects. The EEA States were asked to indicate by 12 December 2019 whether or not they wished to participate in the procedure for examining and determining the application under PA2008 and Regulation 32 of the EIA Regulations.
- 3.9.5. Similarly, following acceptance of the application for Examination the Inspectorate re-notified all EEA States and signatories of the UNECE Espoo and Aarhus conventions, even though the Inspectorate was of the view that the Proposed Development was not likely to have a significant effect on the environment in an EEA State.
- 3.9.6. In accordance with its notification letter to the EEA States, the Inspectorate assumed that the States who did not respond to the notification letter did not wish to participate in the procedure under Regulation 32 of the EIA Regulations in relation to the Proposed Development.
- 3.9.7. Regulation 32 Transboundary responses were received from Austria [AS-298], Estonia [AS-299], Germany [AS-300], Ireland [AS-301], Norway [AS-302], Sweden [AS-303], Poland, Denmark and the Netherlands. The ExA used its discretion to accept these submissions into the Examination where representatives of EEA States had not registered as an Interested Party (IP) and/or their Regulation 32 responses contained additional information beyond their Relevant Representations (RR) that was considered to include matters relevant to the Examination. All responses to the Regulation 32 consultation are available on the National Infrastructure Planning website, albeit not all have references within the Examination Library for the reasons given above.
- 3.9.8. In addition, representatives from the EEA States of Belgium [RR-0127], Denmark [RR-0265], Germany [RR-0801], Iceland [RR-0876], Ireland [RR-1280], Netherlands [RR-0802] and Sweden [RR-1196] all registered as IPs.
- 3.9.9. There have been a number of RRs made by non-UK individuals and organisations, and those individuals and organisations have been provided the opportunity to participate in the Examination as an IP.
- 3.9.10. The issues raised by IPs and/or in the Regulation 32 responses broadly cover the following matters:
- Concerns with regard to the potential impacts on fish migration particularly in respect of twaite shad and cucumber smelt;
  - Potential effects on selected fish stocks in and around Sizewell;
  - Effect of impingement predictions of cooling water systems;
  - Potential effects on shipping movements;

- Question of whether waste was to be moved by sea;
- Effect of radiological emissions to atmosphere; and
- Effect of a beyond design accident.

3.9.11. The ExA asked a series of ExQ1 in respect of transboundary issues Cu.1.46 – Cu.1.49, are set out in [PD-019] and R.1.17 is within [PD-021]. Responses can be found at [REP2-100] and [REP2-159].

3.9.12. The issues raised by IPs and in the Regulation 32 responses are dealt with in the relevant sections of this recommendation report.

3.9.13. All correspondence received in relation to transboundary issues will be passed to the SoS who must have regard to transboundary considerations and to any responses made.

### **3.10. OTHER RELEVANT POLICY STATEMENTS**

#### **Noise Policy Statement for England (NPSE)**

3.10.1. The NPSE seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. It applies to all forms of noise, including environmental noise, neighbour noise and neighbourhood noise. The Explanatory Note within the NPSE provides further guidance on defining 'significant adverse effects' and 'adverse effects'. One such concept identifies Lowest Observable Adverse Effect Level (LOAEL), which is defined as the level above which adverse effects on health and quality of life can be detected. Other concepts identified are: Significant Observed Adverse Effect Level (SOAEL), which is the level above which significant adverse effects on health and quality of life occur, and No Observed Effect Level (NOEL), which is the level below which no effect can be detected.

3.10.2. When assessing the effects of development on noise matters, the aim should firstly be to avoid noise levels above the SOAEL, and to take all reasonable steps to mitigate and minimise noise effects where development noise levels are between LOAEL and SOAEL. The ExA has considered the effects of noise in Chapter 5 of this Report.

#### **National Planning Policy for Waste 2014**

3.10.3. The Waste Management Plan for England sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. The Policy sets out detailed waste planning policies. It should be read in conjunction with the National Planning Policy Framework, the Waste Management Plan for England and National Policy Statements for Waste Water and Hazardous Waste.

3.10.4. Other relevant policy statements include:

- Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) Position Statement;
- Suffolk Coast and Heaths (AONB) Management Plan 2018-2023;
- Government's 25 Year Environment Plan;
- Industrial Strategy Nuclear Sector Deal (June 2018);

- National Air Quality Strategy;
- Energy White Paper (December 2020); and
- National Planning Practice Guidance (PPG) (2019).

### **3.11. THE NATIONAL PLANNING POLICY FRAMEWORK**

3.11.1. The National Planning Policy Framework (NPPF) and its accompanying Planning Practice Guidance (PPG) set out the Government’s planning policies for England and how these are expected to be applied, for the particular purposes of making Development Plans and deciding applications for planning permission and related determinations under the Town and Country Planning Act 1990 (as amended) (TCPA1990). NPPF paragraph 3 makes clear that it is not a source of individual or project-specific policy for NSIP decision-making.

### **3.12. LOCAL IMPACT REPORTS**

3.12.1. Section 104 and s105 of the PA2008 state that in deciding an application the SoS must have regard to any Local Impact Report (LIR) within the meaning of s60(3) of the PA2008. A LIR is a report made by a relevant local authority giving details of the likely impact of a proposed development on the authority’s area (or any part of that area) that had been invited and submitted to the ExA under s60 of the PA2008.

3.12.2. Our Rule 6 letter [PD-011] contained a formal request under s60(2) of the PA2008 to eligible local authorities to submit LIRs. A single joint LIR was prepared on behalf of East Suffolk Council and Suffolk County Council [REP1-045]. This was supported by a series of Annexes [REP1-046- REP1-060] and Appendices [REP1-061 – REP1-098]. In addition, three reports referred to within the LIR have also been submitted into the Examination [REP1-099-REP1-101].

3.12.3. Following the submission and subsequent acceptance of the first proposed change to the application additional land within the West Suffolk District Council administrative area was added to the DCO application. West Suffolk Council in [EV-073] confirmed that SCC were authorised to negotiate and act on WSC behalf.

### **3.13. THE DEVELOPMENT PLAN**

3.13.1. The legal requirement under s38 (6) of the Planning and Compulsory Purchase Act 2004 to determine applications for development consent in accordance with development plan documents does not apply to applications under the PA2008.

3.13.2. ESC adopted a new Local Plan on 23 September 2020 for the part of the district formerly covered by Suffolk District Council. The plan contains a specific policy relating to energy projects: Proposals for Major Energy Infrastructure Projects, Policy SCLP3.4.

3.13.3. Both ESC and SCC recognise within the LIR that the policy is intended to inform pre-application and early engagement discussions with promoters and provide an early view on potential constraints and opportunities

across the district. It is not intended to replace NPS or Government guidance. It is intended to support proposals from construction through to operation and decommissioning.

- 3.13.4. Leiston Neighbourhood Plan 2015-2029, was formally 'made' by Suffolk Coastal District Council on the 23 March 2017 and includes reference to the emergency arrangements for the operation of a nuclear power station at Sizewell B. It highlights existing waste-water capacity in the town as a potential constraint to future housing growth, and could potentially affect future proposals at Sizewell, but acknowledges it would not influence planning decisions on the matter.
- 3.13.5. NPS EN-1 states at paragraph 4.1.5 if there is any conflict between the above documents and an NPS, the NPS takes precedence due to the national significance of the proposed infrastructure.

### **3.14. THE SECRETARY OF STATE'S POWERS TO MAKE A DCO**

- 3.14.1. The ExA has remained aware throughout the Examination of the need to consider whether changes to the application documents have changed the Proposed Development to a point where it became a different application and whether the SoS would have power therefore under s114 of the PA2008 to make a DCO having regard to the development consent applied for.
- 3.14.2. Planning Act 2008: Guidance for the Examination of applications for development consent (March 2015), provides guidance at paragraphs 109 to 115 in relation to changing an application post Acceptance. The view expressed by the Government during the passage of the Localism Act was that s114(1) places the responsibility for making a DCO on the decision-maker and does not limit the terms in which it can be made.
- 3.14.3. Having considered this context throughout the Examination, the changes to the application have not resulted in any significant change to that which was applied for. The changes considered in reaching this conclusion are documented in Section 2.2 of this Report above.
- 3.14.4. It follows that the SoS has the power to make the DCO and should the SoS elect to do so the ExA's recommended DCO is provided in Appendix D to this Report.
- 3.14.5. In summary, the ExA is satisfied that the DCO can be made within the power provided by s114. The ExA considers that the proposed changes represent material changes to the original application dated 27 May 2020. However, they are not so material, when considered either separately or together, as to constitute a new application:
- the application as changed would remain materially the same project as applied for;
  - having regard to the principles of the Wheatcroft judgement, the ExA is satisfied that anyone who might be affected by the changes has



- had sufficient opportunity to have their views heard and taken into account during the Examination; and
- all procedural relevant requirements have been met.

## 4. THE PLANNING ISSUES

### 4.1. MAIN ISSUES IN THE EXAMINATION

#### **Initial Assessment of Principal Issues (IAPI)**

- 4.1.1. The Examining Authority's (ExA) IAPI was published on 23 October 2020 [PD-007]. This formed an initial assessment of the issues based on the application documents and submitted Relevant Representations (RR). The list of issues relates to both the construction and operational phases of the Proposed Development.
- 4.1.2. Following the Preliminary Meeting (PM) Part 1 on the 23 and 24 March 2021 and the subsequent PM Part 2 on 14 April 2021 it was decided not to update the IAPI from that initially published [PD-007].
- 4.1.3. The ExA did however, confirm that Coastal Geomorphology should be considered as an issue in its own right. This would include potential impacts on coastal processes from the proposed hard and soft coastal defences together with the permanent Beach Landing Facility, the Coastal Monitoring and Mitigation Plan and the temporary Beach Landing Facility.
- 4.1.4. The ExA also considered that there was a significant degree of overlap between topic areas where there is the potential for Community Impacts and that the effect on the local community from the Proposed Development should also be considered as a principal issue during the Examination. This decision was confirmed in the ExA's letter of 21 April 2021 [PD-015].
- 4.1.5. **Agriculture and soils** – to include:
- Effects of the proposal on agricultural land and farming operations.
  - Soil quality.
- 4.1.6. **Air Quality** – to include:
- Air Quality impact baseline assessment methodology.
  - Effects on air quality arising from dust and particulates during the construction phase including through construction activities, emissions from construction traffic and equipment/plant and changes in traffic flows.
  - Effects on air quality arising from dust and particulates during the operational phase including through changes in vehicular activity and changes in distances between sources of emissions and air quality sensitive receptors.
  - Proposed mitigation, monitoring and control measures for air quality, dust suppression, control and use of equipment/plant and construction traffic management and how such matters would be secured and enforced including by the Construction Environmental Management Plan (CEMP) and Code of Construction Practice (CoCP).
  - Effects on air quality arising from dust and particulates during the decommissioning of the Proposed Development including through

construction activities, emissions from construction traffic and equipment/plant and changes in traffic flows.

- Adequacy of the environmental measures incorporated into the design and mitigation proposal and whether all reasonable steps have been taken and would be taken to minimise any detrimental impact on amenity from emissions.

4.1.7. **Alternatives** – to include:

- The Environmental Statement (ES) approach to alternatives including consideration of various routes, locations, strategies and design development options for the project.
- Whether the Proposed Development would comply with all specific legal and policy requirements in relation to the consideration of alternatives including any relevant National Policy Statements (NPSs), the Habitats Regulations and the Water Framework Directive (WFD).

4.1.8. **Amenity and recreation** – to include:

- Delivery and timing of provision of sports pitch at Leiston.
- Whether the plans are appropriate to minimise disruption to users of the Public Right of Way (PRoW) network and minimise impacts on local and tourism community.
- Residential amenity.
- Recreational opportunities.

4.1.9. **Biodiversity and ecology, terrestrial and marine** – to include:

- Effects on the Minsmere – Walberswick designated sites, other European Sites and Sites of Special Scientific Interest (SSSIs).
- Appropriate Assessment (HRA), including Imperative Reasons of Overriding Public Importance, compensatory measures, selection of Natura 2000 sites, and alternatives for the Minsmere-Walberswick Special Protection Area (SPA) and Ramsar sites in respect of effects on breeding marsh harrier population during construction. Appropriate assessment in respect of coastal, freshwater and terrestrial habitats, ornithology, marine mammals and migratory fish.
- Eels.
- Bio-diversity net gain, including the relevance of the Environment Bill.
- The sum of all effects, and whether and how they will be mitigated/compensated.
- The weight to be given to local interests in relation to Suffolk priority habitats and species.
- Monitoring and further steps.
- Design and options for the SSSI crossing.
- Effects of the crossing and loss of watercourses.
- Effects of the cut-off wall.

4.1.10. **Climate change and resilience** – to include:

- Whether the proposed adaptation measures would ensure that the development would be sufficiently resilient against the possible impacts of climate change.

- Whether the proposed adaptation measures would give rise to any additional adverse impacts such as consequential impacts on coastal change.
- Whether there are features of the design of the Proposed Development critical to its operation which might be seriously affected by more radical changes to the climate beyond that projected in the latest set of UK climate projections, taking account of the latest credible scientific evidence on, for example, sea level rise.
- Carbon footprint.

4.1.11. **Compulsory acquisition** – to include:

- Independently from the question of whether development consent should be granted, whether the full extent of the land, rights and powers that are sought to be compulsorily acquired are required for or to facilitate or are incidental to the Proposed Development.
- Whether there is a compelling case in the public interest for the compulsory acquisition of the land, rights and powers that are sought by the draft Development Consent Order (dDCO).
- Whether all reasonable alternatives to compulsory acquisition have been explored.
- Whether adequate funding is likely to be available to enable the promoter to carry out the compulsory acquisition within the statutory period including provision for the resource implications of a possible blight notice.
- Whether the purposes stated for the acquisition are legitimate and sufficient to justify the inevitable interference with the human rights of those affected.
- Accuracy of the Book of Reference.
- The acquisition of any statutory undertakers' land or rights over such land and the detriment that may be caused to the carrying on of the undertaking in question
- Adequacy of any Protective Provisions set out in the dDCO and the need for any other Protective Provisions to safeguard relevant interests.
- Crown land.

4.1.12. **Cumulative impact** – to include:

- The effects of the Proposed Development on other constructed and proposed major projects nearby.
- The effects of other major projects on the Proposed Development.
- Cumulative and in-combination effects with other major projects and proposals.

4.1.13. **Draft Development Consent Order** – to include:

- The s.106 agreement and other obligations and agreements.
- The harbour, harbour powers and the harbour authority.
- The deemed marine licence (DML).
- Regulatory approvals and environmental permits.

- Adequacy of the dDCO Requirements, and associated provisions and documents, their status and enforceability to secure the proposed mitigation (primary, secondary and tertiary) and monitoring.
- Whether any additional Requirements are necessary.
- Whether the flexibility that the scheme currently provides in terms of detailed design can be justified and represents a reasonable approach.
- The proposed procedures for consultation on and the discharge of Requirements, and for approvals, consents and appeals, including arbitration.
- The need for and means of securing funding for any necessary monitoring and enforcement of the dDCO Requirements.
- The Explanatory Memorandum.

4.1.14. **Flood risk, ground water, surface water** – to include:

- Effectiveness of Flood Risk Assessments (FRA) for the main development site and all other associated development sites in considering the effects of coastal, fluvial, surface water, groundwater, sewers and other sources of flooding, taking into account climate change.
- Effects on groundwater and surface water, including Source Protection Zones, water dependent resources and receptors from the construction and operational phases of the Proposed Development.
- Effectiveness of mitigation measures and monitoring.
- Compliance with the WFD.

4.1.15. **Health and wellbeing** – to include:

- Potential adverse effects on human health and the living conditions of local residents during construction and operation including those arising from air quality, noise and vibration, visual impact and pollution.
- Potential beneficial effects on human health and the living conditions of local residents during construction and operation.
- The overall impact upon human health and the living conditions of local residents taking into account the cumulative effects of the Proposed Development itself and with other development.
- Whether there is a need for on-going monitoring of any potential adverse health effects?

4.1.16. **Historic environment (terrestrial and marine)** – to include:

- Effects on the terrestrial heritage assets and their visual and functional settings, and on buried and marine archaeology.
- Future archaeological investigation, monitoring and supervision.

4.1.17. **Landscape impact, visual effects and design** – to include:

- Suitability of study areas and viewpoints used in the Landscape and Visual Impact Assessment (LVIA).
- Interpretation of provided photographs and montages.
- Design of the proposal.

- Impact on landscape and visual amenity, including the settings of protected landscapes.
- The effects of temporary and permanent lighting on the landscape and visual amenity.
- Effects on amenity and views from the PRow network.
- Effectiveness of mitigation.
- Cumulative effects.

4.1.18. **Marine ecology and fisheries, marine water quality and sediment, marine navigation** – to include:

- In addition to the issues listed under biodiversity and ecology, above:
  - Restrictions and effects on navigation.
  - Marine ornithology.
  - The DML.

4.1.19. **Noise and vibration** – to include:

- Noise and vibration baseline noise survey methodologies.
- Noise and vibration from traffic, rail and other operations generated through construction, maintenance and decommissioning.
- Construction, operational and decommissioning noise and vibration effects on residents, businesses and wildlife.
- Maximum noise levels and exposures and working hours. Establishing the maxima, and monitoring and enforcement throughout the development.
- Proposed monitoring and mitigation measures, including noise and vibration reduction measures, working hours, techniques and practices and the means whereby this would be secured by the dDCO and CoCP.

4.1.20. **Policy and need** – to include:

- The need for the proposed development including in terms of national considerations and the local economy.
- In particular, the current role and status of NPSs EN-1 and EN-6 including whether there has been any relevant change of circumstances that would call into question whether the assessment of need for sites set out in the NPSs remains up to date.
- Whether site circumstances have changed at Sizewell to the extent that the NPS policies for Sizewell C can no longer be regarded as being up to date including changes to the nominated site area.

4.1.21. **Radiological considerations** – to include:

- Adequacy of provision of facilities for the safe storage of Intermediate Level Waste (ILW) and spent fuel rods. Whether contingency is adequate.
- Longer term plans for this storage and how this would be facilitated and maintained.

4.1.22. **Socio-economic** – to include:

- Baseline assessment methodology and the socio-economic evaluation.

- Effects of incoming workers on the receiving communities (including law and order considerations, schooling and impact on community facilities).
- Effects on health on the receiving communities and on the incoming workforce.
- Effects on accommodation.
- Effects in relation to temporary on-site accommodation.
- Effects on local businesses including tourism and the local supply chain.
- Effects on the labour market.

4.1.23. **Traffic and Transport** – to include:

- Suitability of the Transport Strategy, including consideration of movement of people and freight by mode of travel.
- Suitability of proposed associated development of park and ride sites, bypasses, junction improvements, rail extensions and beach landing facility.
- Suitability of the Transport Assessment and modelling approaches.
- Effects on local road network and roads, including access, congestion, road safety and disruption.
- Effects on emergency services.
- Effects on the Strategic Road Network (SRN).
- Effects on PRow and Non-Motorised User (NMU) routes
- Effectiveness of mitigation and control measures, monitoring and enforcement.
- Consideration of effects of other developments.

4.1.24. **Waste (conventional) and material resource** – to include:

- Effectiveness of Conventional Waste Management Strategy.
- Effects on the supply of construction materials.
- Effects on the supply of potable and non-potable water during construction.

## 4.2. ISSUES ARISING IN WRITTEN SUBMISSIONS

4.2.1. Concern was raised at the PM (Parts 1 and 2) that the Applicant's request to make 15 changes to the application meant that there was the potential for additional or different principal issues and as a consequence the IAPI produced would need to be revised if the Change request was accepted.

4.2.2. In considering the representations made prior to and during the PM the ExA took account of these issues. In deciding not to issue a revised IAPI the ExA did however recognise that it was appropriate to consider Coastal geomorphology and Community impacts as principal issues.

4.2.3. As the IAPI had been derived from an assessment of the application documents and the RRs received in response to the application, the subsequent Written Representations (WR) at Deadline 2 (D2) did not increase the range of issues already identified, beyond those raised at the PM and referred to earlier. The WRs did however identify areas of particular concern which were raised through the Examination.

4.2.4. As there were over 1200 RRs and over 250 WRs it is not intended that the following section of the Report goes through all these issues here but for them to be covered within the individual chapters. The following topics are a brief summary of the key issues which arose from the representations received and which arose during the Examination process.

### **General and Cross Topic Issues**

4.2.5. The question of whether in light of the passage of time since the adoption of the NPS that the site was still one which could be regarded as suitable for the development of a nuclear power station.

### **Alternatives**

4.2.6. The issue of the examination of alternatives for different aspects of the Proposed Development were raised by a number of parties;

- The strategic selection for the power station and reactor design.
- The Consideration of Alternative Strategies for the Accommodation and Movement of Construction Workers and the Transportation of Freight.
- The Main Development Site including crossing of the Sizewell Marshes SSSI, electrical connection to the National Grid substation, Sizewell B relocated facilities and the outage car park at Goose Hill, National Grid land, offshore works, the Temporary Construction Area, the Land East of Eastlands Industrial Estate (LEEIE), the Leiston off-site sports facilities, the fen meadow compensation land, the marsh harrier improvement area, and the rail proposals.
- The associated development including the site selection for the TVB, the SLR, the Northern Park and Ride, the Southern Park and Ride, the FMF, the Yoxford roundabout and other highway improvements.

4.2.7. The concerns in respect of the alternative options came about for several reasons including;

- In light of the time limited nature of the NPS whether the assessment of sustainability which had been undertaken to support the NPS still applied,
- Whether the application of S105 of the Planning Act 2008 meant a different approach to alternatives needed to be considered, and
- Whether in light of the High Court judgement on the A303 Stonehenge NSIP case how alternatives needed to be considered.

### **Biodiversity – terrestrial and marine**

4.2.8. Natural England raised concerns in respect of internationally and nationally designated sites, environmental permitting and protected species ancient woodland and veteran trees. They highlighted the loss of fen meadow to the main platform and SSSI crossing.

4.2.9. The Environment Agency also drew attention to the SSSI crossing, wet woodland and invertebrates. In the marine environment their concerns related to eels and migratory fish, the design of the cooling water



system, fish and other biota impingement in that system the calculation of impinged fish, calculation of losses of fish and future monitoring.

- 4.2.10. The MMO were largely supportive of the assessments of impacts on fish populations subject to some further investigations.
- 4.2.11. RSPB / SWT were concerned in relation to the SSSI crossing and landtake from the Sizewell Marshes SSSI, noise and visual disturbance of birds, effects on the marsh harrier, effects of recreational pressure, marine ecology, bats and natterjack toads.
- 4.2.12. TASC made submissions in relation to the effects on marine ecology of the cooling water system.
- 4.2.13. Suffolk Coastal Friend of the Earth made submissions in relation to ecohydrology, biodiversity net gain, invertebrates and other biodiversity issues
- 4.2.14. Others made representations on subjects including the route of the TVB and its effects on Farnham Hall and Foxburrow Wood (near the TVB), ancient and veteran trees, bats, and biodiversity net gain topics in biodiversity raised in written representations
- 4.2.15. The Host Authorities also made representations in addition to their LIR.

### **Coastal Geomorphology**

- 4.2.16. The development's impact on coastal geomorphology was regarded as an issue in its own right, covering potential impacts on coastal processes from the proposed hard and soft coastal sea defences together with the permanent Beach Landing Facility (BLF), the Coastal Monitoring and Mitigation Plan (CMMP) and the temporary Beach Landing Facility (tBLF).

### **Climate Change and Resilience**

- Whether the proposed adaptation measures would ensure that the development would be sufficiently resilient against the possible impacts of climate change.
- Whether the proposed adaptation measures would give rise to any additional adverse impacts such as consequential impacts on coastal change.
- Whether there are features of the design of the Proposed Development critical to its operation which might be seriously affected by more radical changes to the climate beyond that projected in the latest set of UK climate projections, taking account of the latest credible scientific evidence on, for example, sea level rise.
- Carbon footprint

### **Community Impacts**

- 4.2.17. Effect of the Proposed Development on the community of Suffolk and East Suffolk in particular from both the proposed construction but then the operation and future decommissioning of the power station. With particular focus on the road transport and workforce implications from

such a large scheme in a predominantly rural area set well away from the strategic road network.

### **Timing of Mitigation**

- 4.2.18. The Applicant presented a case which identified a need for mitigation in terms of the provision of the SLR, TVB, Northern and Southern P&Rs, Yoxford roundabout revisions and need for an Accommodation campus to support the workers associated with the development. This though was accompanied by an Implementation Plan which did not deliver these mitigation proposals in advance of the work commencing on the MDS.
- 4.2.19. The timing of and mechanisms for the delivery of the mitigation became an important issue within the Examination.

### **Water Supply**

- 4.2.20. Scarcity of water for the construction and operation of the power station had been identified as a concern during the pre-application consultation. The Applicant had engaged in consultation with Northumbrian Water to seek to address this concern and proposed a new pipeline to connect the power station to a new main. This did not form part of the DCO application.
- 4.2.21. Late on in the Examination following receipt of responses from Northumbrian Water it became apparent that the provision of a water main could not be achieved in the time frame required to meet the delivery objectives for the proposed power stations within the construction period.
- 4.2.22. Northumbrian Water additionally advised that the Environment Agency had put them on notice that the quantity of water which could be extracted from the River Waveney may need to be reduced giving a shortfall in the potential provision of water for the development of the project.
- 4.2.23. This resulted in a third change request to seek the provision of a temporary desalination plant to provide water for the construction period, or up until the time a water main became available.
- 4.2.24. The timing of the provision of the water main for the supply of water for the operation of the power stations remained unresolved at the close of the Examination.

## **4.3. ISSUES ARISING IN THE LOCAL IMPACT REPORT**

- 4.3.1. S104 and s105 PA2008 state that in deciding the application the SoS must have regard to any LIR within the meaning of s60(3). There is a requirement under s60(2) PA2008 to give notice in writing to each LA falling under s56A inviting them to submit LIRs. This notice was given as part of the Rule 6 letter [PD-011] dated 23 February 2021 and reiterated in the Rule 8 letter [PD-015] dated the 21 April 2021 following the PM.

4.3.2. A joint LIR was submitted by both ESC and SCC [REP1-045]. The LIR expressed concern in respect of the potentially adverse impacts across a variety of topic and geographical areas. It covers the following issues:

- Landscape and Visual Impact Assessment,
- Impacts on the AONB,
- Ecology and Biodiversity,
- Soils and Agriculture,
- Minerals and Waste,
- Coastal Change / Geomorphology,
- Historic Environment,
- Archaeology
- Design,
- Traffic and Transport,
- Transport Impacts at Associated Development Sites,
- Access (PROW), Amenity and Recreation,
- Noise and Vibration,
- Air Quality,
- Flood and Water (surface water) / (coastal flood risk)
- Sustainability,
- Major Accidents and Disasters,
- Economic Skills and Employment Strategy,
- Economic and Supply Chain Impacts,
- Skills, Employment and Education,
- Tourism Impacts,
- Public Services,
- Community Impacts,
- Accommodation and Housing,
- Quality of Life and Wellbeing,
- Implementation and Deliverability Risks,
- Cumulative Impacts.

4.3.3. The LIR then addresses impacts by site and location for the Main Development Site and associated development sites. It then sets out impact by specific community.

4.3.4. The Applicant sought to demonstrate through the Examination and its continuing dialogue with ESC/SCC that the issues identified within the LIR could be addressed. This would be by way of amendments to the dDCO, the Changes to the application and the safeguards provided through amongst other things the delivery mechanisms set out in the Code of Construction Practice (CoCP), Outline Landscape and Ecological Management Plans (oLEMP), Construction Worker Travel Plan (CWTP) Construction Traffic Management Plan (CTMP), and Coastal Processes Monitoring and Mitigation Plan (CPMMP) which were to be secured through obligations within the dDCO such that the issues initially identified would be satisfied.

4.3.5. The submissions in the final rounds of deadlines from both the Applicant and ESC/SCC confirmed agreement in the majority of areas overcoming the majority of those issues that had been presented by both councils at the outset.

4.3.6. Nevertheless, by the conclusion of the Examination, a number of issues remained:

**Table 1: Outstanding Issues Identified in SoCG and LIR Summary Review**

Issue	SCC	Both ESC/SCC
Draft DCO	Articles 9B, 21(2), 22 and 23 Provisions related to Deemed Consent/ unreasonable withholding of consent (related to Art 11(3), 12(2), 12(3), 17(5)(b), and 22(2) Requirement 5 (drainage) and Requirement 5A (emergency planning)	
Outage Car Park at Goose Hill	Not Agreed	
Use of overhead Pylons to make electrical connection to the grid	Not Agreed	
SSSI Crossing Design	Not Agreed	
SSSI land take and fragmentation		The Councils disagree that, in ecological terms, the SSSI crossing option proposed is no worse than a triple span bridge alternative. The crossing option proposed will result in greater SSSI land take than a triple span bridge.

<b>Issue</b>	<b>SCC</b>	<b>Both ESC/SCC</b>
Sizewell Link Road	Principle of it being a permanent road not agreed	
Magnitude of Impact on Coastguard Cottages		Agreed – albeit an agreement to disagree over the magnitude of impact on Coastguard Cottages; and noting the mitigation for this has been agreed with the National Trust, as secured in the Deed of Obligation
Hard Coastal Defence Feature (HCDF)		Not Agreed (However, it is considered the matter can be dealt with through the discharging of Requirement 12B).
Worst case assessment for coastal modelling		Not Agreed (However, it is considered that the matter can be dealt with through the discharging of Requirement 12B and implementation of the CPMMP (Requirement 7A).
120/140 year asset life assessment for coastal modelling		Not Agreed (However, it is considered that the matter can be dealt with through the discharging of Requirement 12B and implementation of the CPMMP (Requirement 7A).

Issue	SCC	Both ESC/SCC
Assessment conclusions for coastal modelling		Agreed for the: BLF/MBIF, sub-tidal intakes/outfalls, desalination intake/outfall and Not Agreed in relation to the HCDF/SCDF (However, it is considered that this can be resolved through the approval and implementation of the CPMMP (Requirement 7A).
Timing of wet woodland compensation		Principle agreed, but the timing of delivery is not agreed.
Highway Design		Agreed, with the exception of matters relating to drainage
Drainage Strategy	In order to demonstrate acceptability of the Level 1 drainage strategy, the level of information to be provided needs to be consistent with that of an outline application as shown in the table contained on pages 9 & 10, Suffolk Flood Risk Management Strategy, Appendix A –Sustainable Drainage Systems (SuDS) a Local Design Guide	

4.3.7. All issues arising from the LIR have been taken into account. Analysis of the outstanding issues is carried forward and addressed in the relevant sections and chapters of this Report to ensure that they are considered appropriately by the SoS.

## 4.4. CONFORMITY WITH THE NATIONAL POLICY STATEMENTS

- 4.4.1. The Overarching National Policy Statement for Energy (NPS EN-1) and National Policy Statement for Nuclear Power Generation (NPS EN-6) were formally designated in July 2011. Together, NPS EN-1 and NPS EN-6 provide the framework for development consent decisions on applications for new nuclear power stations which are capable of deployment by the end of 2025.
- 4.4.2. The site of Sizewell C is one of eight sites within England and Wales that were considered potentially suitable for new nuclear power stations following an Assessment of Sustainability (AoS) undertaken by the Government prior to formal designation of the sites within NPS-EN6.
- 4.4.3. At the time EN-6 was designated it was to apply to schemes which could be deployed by the end of 2025. In light of the 10 - 12 year build programme expected for this project this is not something that can be achieved for the scheme the subject of this DCO application.
- 4.4.4. Consequently, the Applicant has accepted that section 104 of the PA2008 does not apply and the scheme would need to be assessed under s105.
- 4.4.5. The Written Ministerial Statement (WMS)<sup>4</sup> of December 2017 also made a similar point:
- 4.4.6. This position was again reaffirmed in the Energy White Paper<sup>5</sup>.
- 4.4.7. The WMS does however, make clear the ongoing commitment of the Government to both EN-1 and EN-6:

*"Government considers that the current nuclear NPS, EN-6, only "has effect" for the purposes of section 104 of the Planning Act 2008 ("the Act") for development which forms parts of a project able to demonstrate expected deployment by the end of 2025".*

*"EN-1 and EN-6 incorporate information, assessments and statements which will continue to be important and relevant for projects which will deploy after 2025"*

*"the Secretary of State would be required, under section 105(2)(c) of the Act, to have regard to the content of EN-1 and EN-6, unless they have been suspended or revoked. In respect of matters where there is no relevant change of circumstances it is likely that significant weight would be given to the policy in EN-1 and EN-6"*

---

<sup>4</sup> <https://questions-statements.parliament.uk/written-statements/detail/2017-12-07/HCWS321#skipToContent>

<sup>5</sup> <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>

4.4.8. In 2018 the Government's response to the consultation on the new NPS was published. This reiterated the Government's position stated in the 2017 WMS.

*"Government's view is that those sites listed in EN-6 continue to be those sites which can deploy the soonest and are likely to be the only sites capable of deploying a nuclear power station by 2035" (paragraph II.4)".*

4.4.9. It is clear from these submissions and Government statements that for this proposal the NPS policies do not have effect in so far as s104 of PA2008 is concerned, however, as this application is being considered under s105 of PA2008 both EN-1 and EN-6 must be regarded nevertheless as important and relevant to the decision making process.

### **The Energy NPSs**

4.4.10. We consider the following NPSs to be important and relevant in this case:

- EN-1: Overarching NPS for Energy; and
- EN-6: Nuclear Power Generation.

4.4.11. The NPSs were designated by the SoS for Energy and Climate Change on 19 July 2011. Responsibility for energy now rests with the SoS for Business, Energy and Industrial Strategy. The NPSs form the primary policy context for this Examination and our findings, conclusions and recommendations, applying the approach set out in s105 of the PA2008.

4.4.12. The purpose and broad content of these NPSs is summarised here. However, topic-specific consideration of policy arising from them is provided where necessary later in this Report.

### **EN-1: Overarching National Policy Statement for Energy**

4.4.13. NPS EN-1 (July 2011) sets out general principles and generic impacts to be taken into account in considering applications for energy NSIPs. It provides the primary basis for determining if development consent should be granted. All other energy NPSs are used together with this NPS. The overarching policy objectives that underpin NPS EN-1 include:

- meeting the demand for energy generation in the United Kingdom (UK); and
- transitioning to low carbon sources and reducing greenhouse gas emissions.

4.4.14. While NPS EN-1 is clear about the Government's commitment to transitioning to low carbon sources and meeting the targets to reduce emissions, the need for projects to strike a balance in meeting the overarching policy objectives is acknowledged throughout NPS EN-1.

4.4.15. Part 2 reaffirms the commitment to meeting legally binding targets to cutting greenhouse gas emissions, now more recently updated following the 6th CCC report.



- 4.4.16. Part 3 sets out a presumption in favour of granting consent for energy NSIPs and requires that the weight to be attributed to the considerations of need should be proportionate to the project's actual contribution.

*paragraph 3.1.1* "states that 'the UK needs all the types of energy infrastructure covered by the NPS's in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions'";

*paragraph 3.1.4* "states that 'the SoS should give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for development consent under the PA2008'; and

*paragraph 3.2.3* says, "the weight which is attributed to considerations of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure".

- 4.4.17. Part 3.3 references the urgency of the need for new electricity generation capacity and makes clear the need to bring forward new energy NSIPs as soon as possible. Going on to warn at paragraph 3.3.16

*"Energy NSIPs take a long time to move from design conception to operation and they are generally designed to operate for 30 to 60 years. The Government has therefore considered a planning horizon of 2025 for the energy NPSs in general and for EN-6 in particular, as an interim milestone to secure our longer term objectives. A failure to decarbonise and diversify our energy sources now could result in the UK becoming locked into a system of high carbon generation, which would make it very difficult and expensive to meet our 2050 carbon reduction target. We cannot afford for this to happen."*

- 4.4.18. Paragraph 3.3.2 notes that new generating capacity is required because of the need to ensure energy security, and so the need to ensure sufficient capacity is a key objective of Government energy policy:

*"The Government needs to ensure sufficient electricity generating capacity is available to meet maximum peak demand, with a safety margin or spare capacity to accommodate unexpectedly high demand and to mitigate risks such as unexpected plant closures and extreme weather events."*

- 4.4.19. Part 3.5 of EN-1 deals specifically with the role for nuclear electricity generation. Making clear that there is a need for new nuclear to be part of the mix of new generation capacity that will be required to meet the energy and climate change objectives.

- 4.4.20. Paragraph 3.5.2 states:

*"It is Government policy that new nuclear power should be able to contribute as much as possible to the UK's need for new capacity."*

- 4.4.21. Paragraph 3.5.3 states:

*"New nuclear power stations will help to ensure a diverse mix of technology and fuel sources, which will increase the resilience of the UK's energy system. It will reduce exposure to the risks of supply interruptions and of sudden and large spikes in electricity prices that can arise when a single technology or fuel dominates electricity generation."*

4.4.22. Paragraph 3.5.6 states:

*"New nuclear power therefore forms one of the three key elements of the Government's strategy for moving towards a decarbonised, diverse electricity sector by 2050: (i) renewables; (ii) fossil fuels with CCS; and (iii) new nuclear."*

4.4.23. And Paragraph 3.5.7

*"To ensure our future energy is secure, clean and affordable, the UK needs a mix consisting of each of these forms of electricity generation. The Government believes that new nuclear generation would complement renewables and fossil fuels with CCS in ensuring that we meet our legal obligations as it can provide dependable supplies of low carbon electricity. Nuclear is also the only non-renewable low carbon technology that is currently proven and can be deployed on a large scale."*

4.4.24. Sections 3.5.9 - 3.5.11 reiterate the urgency of the need for deployment of nuclear energy generation as soon as possible to contribute to the energy mix and contribute to the low forms of electricity generation.

4.4.25. Part 4 of NPS EN-1, generic impacts of relevance to this application include impacts on air quality and emissions, biodiversity, historic environment, landscape and visual, traffic and transport, and socioeconomic benefits at national, regional and local levels.

4.4.26. Paragraph 4.1.2 of NPS EN-1 says that the SoS should start with a presumption in favour of granting consent to applications for energy NSIPs, and that the presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused.

4.4.27. In addition, paragraph 4.1.3 states that the SoS should consider environmental, social and economic benefits and adverse impacts at national, regional and local levels. These considerations should include potential benefits in meeting the need for energy infrastructure, job creation and any long-term or wider benefits and any potential adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.

#### **EN-6: The NPS for Nuclear Power Generation**

4.4.28. EN-6 National Policy Statement for Nuclear Power Generation sets out the matters that bear on the consenting of nuclear power stations and makes clear at paragraph 1.6.1

*"This NPS will remain in force in its entirety unless withdrawn or suspended in whole or in part by the Secretary of State."*

4.4.29. In summarising the findings of the Nuclear AoS paragraph 1.7.4 identifies the main issues which are repeated below.

- *"EN-6 could bring significant benefits in meeting the Government's climate change and energy security objectives.*
- *Possible adverse effects on nature conservation sites of European importance were identified by the Nuclear Habitats Regulations Assessment (HRA). Further studies will need to be carried out, as part of the project HRA and environmental impact assessment (EIA) processes for individual development consent applications, to determine the significance of the effects and the effectiveness of any mitigation measures.*
- *Possible significant adverse effects on nationally important nature conservation sites and designated landscapes were identified by the Nuclear AoS. Further studies will need to be carried out, as part of the project EIA process for individual development consent applications, to determine the significance of the effects and the effectiveness of any mitigation measures.*
- *Key inter-relationships between biodiversity and other sustainability effects were identified. These were most notably in relation to flood risk management, water quality and sustainable communities. There is the potential for interactions and cumulative adverse effects on wider biodiversity in relation to water quality and resources, habitat loss and "coastal squeeze" where there is more than one potentially suitable site for new nuclear power in the locality or as a result of other major development in the area. Such interactions and adverse effects are possible in European Sites in the Severn Estuary and River Wye and the Outer Thames Estuary where there are two potentially suitable nuclear sites. These issues will need to be considered in project level HRAs and EIAs.*
- *Effects associated with the management and disposal of hazardous wastes, including radioactive wastes, can affect other sustainability topics. The significance of these effects can only be determined through studies as part of the project level EIA and HRA.*
- *There is the potential for positive effects on local employment opportunities. A development consent application should therefore include an assessment of the considerations given to socio-economic as well as environmental issues (see Section 4.2 of EN-1 for further details regarding the EIA and Environmental Statement). This might be especially relevant where there is the potential for cumulative positive effects for economic development at the regional level, for example in the south-west and north-west of England.*
- *Significant trans-boundary effects arising from the construction of new nuclear power stations are not considered likely. Due to the robustness of the regulatory regime there is a very low probability of an unintended release of radiation, and routine radioactive discharges will be within legally authorised limits."*

4.4.30. Part 2 goes on to set out a series of general assessment principles that should be applied in the assessment of DCO proposals, these are:

- The need for nuclear power stations and the benefits of early deployment,
- The siting of new nuclear power stations,
- The Government's assessment of alternatives and the need for the sites to be included within the NPS,
- The ExA/SoS (IPC) assessment of alternatives,
- The regulatory process and the planning regime,
- The relationship between the regulatory framework for nuclear power stations and the planning regime,
- Consideration of good design,
- Consideration of combined heat and power,
- Climate change adaptation,
- Radioactive waste management.

4.4.31. Part 3 then sets out the 'nuclear impacts' in addition to the generic impacts listed in EN-1, with specific 'flags' for local consideration. Each of these elements are considered in the forthcoming chapters of this Report.

4.4.32. At the time the Nuclear AOS was undertaken the promoters of the sites prepared and submitted plans defining the area which they anticipated would be appropriate for the development of the power stations that they were supporting. The plans identifying the difference between the nominated site and the DCO application site area were submitted in response to ExQ G.1.1, Figure 2.3 [REP2-101].

4.4.33. This application extends beyond the area that had been defined within that AOS and the extent of the site has been the subject of some debate during the Examination in part due to the extension of the site on the seaward side to facilitate coastal defences, but also due to the size of the site being below that which the Office for Nuclear Regulation (ONR) identify as being appropriate for a Nuclear Power Station.

4.4.34. The NPS EN-6 at paragraph 2.2.3 however makes clear that the boundary defined within the AOS is not fixed. EN-6 notes further that the boundaries may vary as the NPS recognises that "*it is not reasonable to expect nominators to have established detailed layouts' at that stage.*"

4.4.35. NPS EN-6 at paragraph 2.3.4 additionally notes that the Strategic Siting Assessment was carried out on the basis that DCO applications may include additional land, for example for construction.

4.4.36. With regard to site size, this was identified as an issue in NPS EN-6 Annex II. The ONR supported the assessment that between 30-50 hectares would be required for the operation of a permanent site of a single nuclear power unit allowing for operation, maintenance, storage of spent fuel and intermediate level waste.

4.4.37. In light of the explanation within EN-6 and the consideration of the DCO application under s105 of the PA2008, the fact that elements of the Proposed Development site extend beyond those originally nominated has not altered our assessment of the importance or relevance of any of the issues that arise. Nor do we consider that by virtue of the Proposed

Development extending beyond the nomination boundary that the scheme falls outside of the scope of NPS EN-6.

### **Energy National Policy Statement Consultation**

- 4.4.38. On the 6 September 2021 the Government published 'Planning for New Energy Infrastructure Draft National Policy Statements for energy infrastructure' a consultation on the suite of energy NPS EN-1 to EN-5 which ran until 29 November 2021. This reaffirmed that the current NPS remain relevant government policy and EN-1 to 5 have effect for the purposes of the Planning Act 2008.
- 4.4.39. The Draft NPS EN-1 directs that the current suite of NPSs should have effect for any application accepted for Examination before the designation of the 2021 amendments, but that any emerging draft NPSs "are potentially capable of being important and relevant considerations in the decision-making process". EN-6 does not form part of the consultation on the basis that the review concluded that: "there are no changes material to the limited circumstances in which it will have effect (see the Written Ministerial Statement of 7 December 2017)".
- 4.4.40. NPS EN-6 is not part of the consultation, the consultation document confirms that:
- "A new NPS for nuclear electricity generation infrastructure deployable after 2025 will be developed to reflect the changing policy and technology landscape for nuclear, as set out in EN-1 para 3.3.39-3.3.40."*
- 4.4.41. It goes on to state that EN-6 will continue to have the role set out in the 2017 Written Ministerial Statement during the development of any new nuclear NPS.
- 4.4.42. As the Examination had closed in advance of the consultation period the ExA have not given weight to the consultation, other than as far as it restates Government Policy on the positions of EN-1 and EN-6.

## **4.5. CONFORMITY WITH THE MARINE POLICY STATEMENT (MPS) AND MARINE PLANS**

- 4.5.1. The Marine Policy Statement was adopted in March 2011, the aims of the statement are to:
- *"Promote sustainable economic development.*
  - *Enable the UK's move towards a low-carbon economy, in order to mitigate the causes of climate change and ocean acidification and adapt to their effects.*
  - *Ensure a sustainable marine environment that promotes healthy, functioning marine ecosystems and protects marine habitats, species and heritage assets.*
  - *Contribute to the societal benefits of the marine area, including the sustainable use of marine resources to address local social and economic issues."*

- 4.5.2. The MPS recognises that in coastal areas power stations can make an important contribution to the UK's energy mix but also may have impacts on the environment. The details within NPS EN-6 are relied upon to avoid or minimise such impacts.
- 4.5.3. NPS EN-1 advises that the SoS must have regard to the MPS and any relevant marine plan in taking any decision that may affect the whole or any part of the UK marine area. In the event that a conflict may exist between a NPS and any of the marine policy documents the NPS prevails in respect of SoS decisions on NSIP projects.
- 4.5.4. The East Inshore and East Offshore Marine Plans provide a clear approach to managing these areas, their resources, and the activities and interactions that take place within them.
- 4.5.5. The MPS reflects the NPSs in balancing the national, regional or more local need for such a proposal against expected adverse effects including cumulative impacts.
- 4.5.6. At Schedule 21, the dDCO [REP10-009] submitted as part of the application also contains a Deemed Marine Licence (DML) under part 4 of MACAA2009. The MPS has provided the overarching policy context for our consideration of the DML.

## **4.6. CONFORMITY WITH THE DEVELOPMENT PLAN**

- 4.6.1. The application relates to land within the local authority area of ESC except for the proposed Pakenham Fen Meadow site which lies in the West Suffolk District.
- 4.6.2. EN-1 (para 4.1.5) states that policies contained within Development Plan documents and other Local Development Framework documents may be considered important and relevant in decision making.
- 4.6.3. The LIR [REP1-045] identifies that, for the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004, the development plan for the area of the application site comprises the Suffolk Coastal Local Plan, Suffolk County Council Minerals and Waste Local Plan and the Leiston Neighbourhood Plan.
- 4.6.4. The development plan policies cited by ESC and SCC in their LIR [REP1-045] as being relevant to the Proposed Development are as follows:
- Suffolk Coastal Local Plan: Proposals for Major Energy Infrastructure Projects, Policy SCLP3.4,
  - Suffolk Coastal Local Plan Policy SCLP12.1 supports the production of Neighbourhood Plans.
  - Suffolk County Council Minerals and Waste Local Plan: Policies MP10 and WP18 respectively seek to protect mineral resources from sterilisation and waste management facilities from other forms of competing development.

- The Leiston Neighbourhood Plan 2015 – 2029. The Plan acknowledges the potential for Sizewell C but acknowledges it cannot influence planning decisions on this matter.
- Policy HE1: Protection of Heritage Assets
- Policy TM1: Dedicated access for cyclists and pedestrians,
- Policy TM2: 'Highway capacity at key road junctions' references concerns in Leiston town centre,
- Policy TM5 refers specifically to improvements to access for Leiston Household Waste Recycling Facility on Lovers Lane.

4.6.5. We have considered whether the Proposed Development gives rise to important and relevant impacts arising in neighbouring local government areas. However, having taken into account the absence of LIRs from any neighbouring authorities and our own inspections of the setting of the application site, we have concluded that it is not necessary to consider policies from any neighbouring authority development plans.

4.6.6. As stated in paragraph 4.1.5 of NPS EN-1, if there is any conflict between the above documents and a NPS then the NPS takes precedence because of the national significance of the infrastructure. The Statement of Common Ground signed between the Applicant and ESC/SCC [REP10-102] agrees that there would be no conflict with the Development Plan.

4.6.7. In referencing the Development Plan policies ESC/SCC did not suggest there was a dispute over the interpretation of the policy, or a suggestion there was a conflict with it. Moreover, ESC and SCC in referencing policies within the LIR confirm their position as to the relative position of the Development Plan in the hierarchy of policy as set out in the NPS.

4.6.8. Policy other than that arising from NPSs is capable of being important and relevant. The compliance or otherwise of the Proposed Development with the relevant development plan policies is identified and analysed further in relation to the individual topics in the following chapters.

### **THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF)**

4.6.9. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It provides a framework upon which local planning authorities make development plans and is also a material consideration for local planning authorities when making planning decisions for development under the TCPA1990.

4.6.10. The policies in the NPPF are supported by National Planning Practice Guidance (the Guidance). Both the NPPF and the Guidance are likely to be important and relevant considerations in decisions on NSIPs, but only to the extent relevant to that project.

4.6.11. Paragraph 5 of the NPPF makes it clear that the document does not contain specific policies for NSIPs, where particular considerations can apply. It also states that matters considered to be both important and relevant to NSIPs may include the NPPF and the policies within it.

- 4.6.12. Chapter 2, paragraphs 7 and 8, states that the Government's approach to achieving sustainable development means that the planning system has three overarching objectives, these being economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
- 4.6.13. As such, we have considered some parts of the NPPF to be relevant to this application and have considered appropriate matters in our Examination.

## **4.7. APPLICATION OF OTHER POLICIES**

- 4.7.1. Suffolk Local Transport Plan sets out the long-term strategy for the Council's transport network and how to support future sustainable economic growth. The Local Transport Plan identifies congestion on the A12 between Marlesford and Farnham as a key transport issue and that a long-term aspiration of the County is the reinstatement of a passenger rail line to Leiston. It also identifies the issue of congestion on the eastern fringe of Ipswich affecting the A12, A14 and A1214.
- 4.7.2. Green Access Strategy (Rights of Way Improvement Plan) outlines future plans and management plans for Public Rights of Way in Suffolk 2020-2030. It identifies green access as important for health and wellbeing and explains the impact that green access can have on growing and managing tourism.
- 4.7.3. Suffolk Shoreline Management Plan (SMP) 2012. Suffolk Coastal District Council (now ESC) as one of the parties to the SMP, adopted it in November 2011. The SMP has also been endorsed by SCC.
- 4.7.4. In respect of the Shoreline Management Plan the general policy approach is to allow for a managed realignment, in the location of the project, however, in recognising that a coastal sea defence would be required. Non-compliance with SMP policy would be inevitable if the DCO were to be granted and implemented.

## **4.8. THE PRINCIPLE OF THE DEVELOPMENT**

- 4.8.1. The Applicant provided a Planning Statement [APP-590] setting out how it considered the Proposed Development accorded with Planning Policy. This was updated by [REP2-043] and [REP10-068] as the Examination progressed in light of issues raised by IPs and as a consequence of questions raised by the ExA.
- 4.8.2. The ExA asked questions in respect of policy at each stage and the responses can be found at [REP2-100, REP7-050, and REP8-116].
- 4.8.3. The generic impacts of the Proposed Development are considered in the light of the relevant NPS EN-1 and EN-6 policies in Chapter 5 of this Report. Subject to that detailed consideration and in relation to weighing the balance of any adverse effects against benefits in Chapter 7 of this Report, the ExA is satisfied that the Proposed Development is consistent with the broad policy objectives set out in the NPS EN-1 and EN-6.



## **4.9. ENVIRONMENTAL IMPACT ASSESSMENT**

4.9.1. The Proposed Development is EIA development.

4.9.2. The Sizewell C project falls within Schedule 1 paragraph 2(2) of the Infrastructure Planning EIA Regulations and Schedule A1 paragraph 3 of the Marine Works EIA Regulations. The ES was prepared with the terrestrial elements being assessed against the Infrastructure Planning EIA Regulations and the marine elements being assessed against the Marine Works EIA Regulations. The approach taken by the Applicant is explained in [APP-172].

## **4.10. HABITATS REGULATIONS ASSESMENT**

### **The Competent Authority**

4.10.1. The Secretary of State (SoS) is the Competent Authority for the purposes of the Habitats Directive, the Habitats Regulations and the Offshore Habitats Regulations for applications submitted under PA2008.

4.10.2. Chapter 6 sets out our findings and conclusions in relation to effects on European sites and is intended to assist the SoS in performing their duty under the Habitats Regulations and the Offshore Habitats Regulations.

### **Habitats Regulations Assessment Documentation**

4.10.3. The application was accompanied by a Shadow Habitats Regulations Assessment [APP-145 - APP-152]. The ExA published a Report on the Implications for European Sites (RIES) [PD-053]. The RIES identifies all other relevant documentation. The Applicant's approach to HRA, the matters raised during the Examination and our findings and conclusions are reported on in Chapter 6.

This page is intentionally blank.