

3 September 2021

The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

Norton Rose Fulbright LLP
3 More London Riverside
London SE1 2AQ
United Kingdom

Tel +44 20 7283 6000
Fax +44 20 7283 6500
DX 85 London
nortonrosefulbright.com

Direct line

+ [REDACTED]

Email

[REDACTED]

Attention: **Sizewell C Case Team**

Your reference
EN010012

Our reference
SFIT/CARW/1001117461

Dear Sirs

The Sizewell C Project – Deadline 7: Comments on additional documents

- 1 We act for the Heveningham Hall Estate (Unique Reference: 20026675) (the **HHE**) and write further to the publication of the following documents:
 - (a) Document 9.54 – SZC Co. Comments on Submissions from earlier deadlines (Deadlines 2-4) [**REP5-119**]; and
 - (b) Document 9.62 – Written submissions responding to actions arising from Issue Specific Hearing 7 (**ISH7**): Biodiversity and Ecology Parts 1 and 2 (15-16 July 2021) [**REP6-002**].
- 2 Ecology Solutions Consultants (**ESC**), acting on behalf of the HHE, make the following comments regarding the above documents in Table 1 and Table 2 of this letter.

Table 1: ESC comments on REP5-119

Reference	Comment
Paragraphs 14.4.2 and 14.4.3	No detailed explanation has been provided as to how the specific receptor transect locations subject to air quality modelling were identified, save that these were ' <i>for sites that are within 200m of the affected road network</i> '. As such, there remains a lack of clarity as to how modelled locations in close proximity to each of the European designated sites has been identified.
Paragraph 14.4.4	The potential for ammonia emissions to result in harm to European designated sites has been summarily dismissed

Norton Rose Fulbright LLP is a limited liability partnership registered in England and Wales with number OC328697, and is authorised and regulated by the Solicitors Regulation Authority. A list of its members and of the other partners is available at its registered office, 3 More London Riverside, London SE1 2AQ; reference to a partner is to a member or to an employee or consultant with equivalent standing and qualification employed or engaged by Norton Rose Fulbright LLP or any of its affiliates.

Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright Canada LLP, Norton Rose Fulbright South Africa Inc and Norton Rose Fulbright US LLP are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss Verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients. Details of each entity, with certain regulatory information, are available at nortonrosefulbright.com.

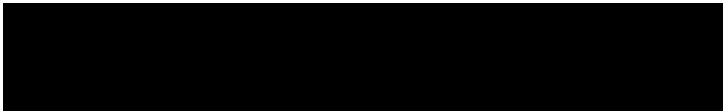
Reference	Comment
	here, contrary to the position of Natural England and the Institute of Air Quality Management.
Paragraph 14.4.5	The response provided here in relation to the geographical consideration of air quality impacts on European designated sites is lacking in detail and does not provide any evidence to back up the claims made. It does not provide the Decision Taker with the requisite level of information to enable them to consider potential implications of air quality effects upon European designated sites.

Table 2: ESC comments on REP6-002

Reference	Comment
Section 1.9 <i>“Comments on any cartographical evidence for ancient woodland status of Nuttery Belt and Little Nursey [sic] Wood”</i>	The response here and further analysis refers to historical mapping only, with no justification or explanation provided to address the contradictory ecological survey findings as presented in the Applicant’s submissions (as noted in HHE’s Post Hearing Submission REP5-279, Section 5).
Appendix B: Sufficiency of Compensatory Measures for Marsh Harrier Paragraph 2.1.2: <i>“At ISH7 it was asserted (by Mr Streeten) that largely relying on terrestrial habitat (with only a small proportion of wetland habitat) for the compensatory habitat provision was a novel approach and did not meet the test of certainty... SZC Co. strongly disagrees with the suggestion that the provision of terrestrial habitat is novel and the implication that it would not represent appropriate foraging habitat”</i> Paragraph 5.1.5: <i>“...Whilst there may not be other comparable examples of creating compensatory habitat for marsh harriers, that is not, in its own right, a justification for suggesting that the compensatory habitat would not be effective”</i>	<p>The position adopted here is contradictory and seeks to dispel the fact that there is no precedent, scientific study or practical example of a plan or project which has successfully delivered, or even sought to deliver, compensatory foraging habitats for Marsh Harriers.</p> <p>Whilst Sizewell C have sought to present a series of ‘metrics’ to support their assessment, there remains no available scientific evidence to demonstrate with the requisite level of certainty that this approach will be successful.</p> <p>Moreover, as outlined in HHE’s submissions, Sizewell C has not proposed any alternative measures should monitoring of the key element – that is, the use of the compensatory habitat by Marsh Harriers themselves – indicate that the measures are unsuccessful, other than to continue with the same approach (as outlined in paragraph 2.7 of HHE’s Post Hearing Submission REP5-279).</p>

- 3 In addition, with regard to Document 9.62 – Written submissions responding to actions arising from Issue Specific Hearing 7 (**ISH7**): Biodiversity and Ecology Parts 1 and 2 (15-16 July 2021) [**REP6-002**], there is a fundamental contradiction between Sizewell C's "strong disagreement" with the HHE's statement that the compensation approach is 'novel' (see paragraph 2.1.2) and Sizewell C's acceptance that "there may not be other comparable examples of creating compensatory habitat for marsh harriers" (see paragraph 5.1.5). The HHE do not propose to respond in detail to Sizewell C's arguments at this stage, but note that their position is paradoxical; they say it is not novel, but accept there are no other comparable examples of its use.
- 4 Please note that the fact the HHE has not commented on or responded to a particular point made or document published should not be interpreted as tacit approval.

Yours faithfully



Norton Rose Fulbright LLP