



SEAS DEADLINE 7 RESPONSE TO AS-167

PINS Ref: EN020026
DEADLINE 7: 29 APRIL 2026

SEAS IP: [REDACTED]
Date: 29 APRIL 2026

Late introduction of a materially different approval regime

1. The Applicant's proposal AS-167 introduces a new mechanism whereby a future, as yet undefined DESNZ unit, may assume responsibility for the discharge of DCO Requirements, at the discretion of the undertaker. This represents a material change to the post-consent governance of the Proposed Development, including who determines compliance with key mitigation and control measures, and introduces uncertainty as to the identity of the decision-maker responsible for approving those measures.
2. This proposal has been introduced at a late stage in the Examination and the Applicant has provided no explanation as to why this proposal could not have been raised earlier in the Examination, given the dates of the Fingleton Review and Government response, including during recent hearings (ISH3) at which post-consent controls and mitigation were discussed.
3. Indeed, the issue of a DESNZ discharge unit, including concerns regarding transparency, accountability and the role of local authorities, has been the subject of ongoing public discussion and correspondence between Government and Suffolk County Council (SCC), including through the New Nuclear Local Authorities Group ("NNLAG"), for several months (available in SCC's assets library, see also point 16.). The Applicant cannot plausibly suggest this issue only emerged at the end of the Examination, and the Applicant's decision to introduce these proposed amendments only days before Deadline 7, without prior examination or meaningful consultation during this Examination, is procedurally unfair.
4. As a result of its late introduction, this proposal has not been subject to equivalent scrutiny, it has not been assessed as part of the Application, including through the cumulative impact assessment. The timing of the proposal has also limited the opportunity for Interested Parties and local authorities to consider and respond fully to its implications before the close of the Examination.
5. The Examination to date has proceeded on the basis that Requirements would be discharged by the relevant local and statutory authorities identified in the draft DCO. The proposed change therefore alters a fundamental aspect of how impacts would be controlled post-consent.

Discretion vested in the undertaker

6. The drafting would allow the undertaker to choose, on a case-by-case basis, whether applications for discharge are determined by the DESNZ unit or by the authority otherwise specified in the Requirement (AS-167, para 1.1.6). This introduces a discretion that has not been justified, is not mentioned in the Fingleton Review or the Government's response, and creates the potential for inconsistent or preferential selection of decision-maker.

Reduction in role of Local Authorities

7. Under the proposed approach, local authorities would in many cases be reduced to consultees rather than decision-makers (AS-167, para 1.1.6). This represents a substantive change in the balance of control and reduces the role of bodies with local knowledge in determining detailed mitigation, including matters relevant to cumulative impact.
8. The effectiveness of DCO controls in managing cumulative impacts depends on consistent, locally informed and coordinated decision-making at the discharge stage across multiple concurrent projects. The planning framework, including the National Policy Statements, assumes a meaningful role for local authorities in securing and overseeing detailed mitigation, drawing on their knowledge of local conditions and interaction with other projects.
9. The Applicant's proposed amendment, which would enable a DESNZ unit to assume responsibility for the discharge of Requirements, at the discretion of the undertaker, would materially weaken those mechanisms. In particular, it would reduce the role of local authorities in coordinating mitigation across concurrent projects and introduce uncertainty as to how cumulative effects would be addressed in practice. In these circumstances, the robustness of the proposed control framework for managing cumulative impacts cannot be relied upon.
10. A clear example of where this amendment would not be appropriate is the approval of the Construction Traffic Management Plan (REP6-062). This involves detailed consideration of local road conditions, junction capacity, seasonal variations in traffic and coordination with other major infrastructure projects. These are matters within the expertise and remit of the local highway authority, whose detailed knowledge of local conditions is essential to effective mitigation and coordination with other projects, and it would be inappropriate for such decisions to be removed from local control.

Lack of policy basis, evidential support and procedural fairness

11. The Applicant relies on the Nuclear Regulatory Review 2025 ("Fingleton Review") and the subsequent Government response to support the proposed introduction of a DESNZ discharge unit. This reliance is misplaced.
12. The Fingleton Review is a nuclear-specific regulatory reform document, directed at improving the delivery of civil and defence nuclear programmes. Recommendation 30, the only reference in the Review on which the Applicant relies, is framed in that context and forms part of a wider package of reforms

addressing nuclear regulatory systems. The Review is directed to the nuclear sector, with any wider relevance expressed only in general terms and not as a basis for project-specific implementation.

13. The Government response cited by the Applicant, accepting Recommendation 30 from the Fingleton Review, indicates that such a unit will be established in future, initially for nuclear and electricity networks projects, with any extension to other types of energy projects subject to evaluation of its effectiveness. However, this is a prospective policy position. No detail is provided as to the structure, powers, procedures or safeguards of any such unit, nor how it would operate within the statutory framework governing development consent orders.
14. Even on the Government's own terms, the proposal is prospective and subject to future design and guidance. It does not therefore provide a basis for project-specific implementation in advance of that framework. Indeed, the Government's own correspondence with Suffolk County Council has emphasised the continuing importance of local authority involvement, public trust, transparency and local insight within the Planning Act 2008 framework (as reflected in correspondence available in SCC's assets library).
15. In these circumstances, neither the Fingleton Review nor the Government response provides any basis for introducing a materially different approval regime into this DCO at this late stage of the Examination. The proposal represents a last-minute change to the control framework which has not been examined and raises serious concerns as to procedural fairness.
16. Suffolk County Council, through the New Nuclear Local Authorities Group ("NNLAG"), has previously raised formal concerns with Government regarding the proposed DESNZ discharge unit approach, including concerns relating to transparency, accountability and the reduction in local authority decision-making functions. The correspondence (available in SCC's assets library) also demonstrates that the potential extension of the unit to electricity networks projects has been under active consideration for some time. In those circumstances, the Applicant's decision to introduce these proposed amendments only days before Deadline 7, without prior examination or meaningful consultation during this Examination, is particularly inappropriate and procedurally unfair, especially given that the underlying policy discussions and SCC's concerns pre-date the Applicant's late submission by several months.
17. The Applicant has therefore sought to introduce, at the close of the Examination, a substantive alteration to the governance and discharge framework of the DCO in circumstances where both the underlying policy position and local authority objections were already well known (available in SCC's assets library).
18. Furthermore, the Applicant's drafting introduces an unprecedented and completely unjustified undertaker discretion in determining the discharging authority "in each case" (AS-167, para 1.1.6), a feature not even contemplated in Recommendation 30 of the Fingleton Review or the Government's response.

19. This would allow the undertaker, in effect, to determine which body exercises statutory control over the discharge of requirements, undermining the independence and consistency of the decision-making framework, and creating the potential for selective routing of applications and inconsistent levels of scrutiny.
20. This would materially alter the control regime against which impacts and mitigation have been assessed, without that regime having been examined.
21. The proposal is based on a prospective institutional arrangement, not yet established and without defined statutory footing, or detail as to how the DESNZ unit would operate, what weight would be given to consultees, or what safeguards would apply. No framework or criteria are identified governing when the undertaker would select the DESNZ unit rather than the local authority as discharging authority. In the absence of such detail, the effect of the proposed change cannot be properly assessed.

Legal basis for the proposed changes

22. In addition to the policy and procedural concerns identified above, SEAS is concerned that the Applicant has failed to explain the legal basis for the proposed amendments.
23. The Applicant's document does not trouble to address or explain the legal basis for the proposed changes. SEAS is concerned by this, and concerned the Applicant's rush to sidestep the local authorities may be legally flawed, as well as unmeritorious.
24. The Planning Act 2008 provides for requirements at s.120, which begins as follows:
 - a. An order granting development consent may impose requirements in connection with the development for which consent is granted.
 - b. The requirements may in particular include –
 1. requirements corresponding to conditions which could have been imposed on the grant of any permission, consent or authorisation, or the giving of any notice, which (but for section 33(1)) would have been required for the development;
 2. requirements to obtain the approval of the Secretary of State or any other person, so far as not within paragraph (a).
25. Section 33(1) begins as follows:
 - a. To the extent that development consent is required for development, none of the following is required to be obtained for the development or given in relation to it—
 1. planning permission;
 2. ...[and so on]
26. The Applicant's proposal to substitute a putative DESNZ unit can only be under s.120(2)(b).
27. That is because, in the case of the requirements falling within s.120(2)(a), being conditions which could have been imposed on any of the permissions,

consents etc listed at s.33(1), the discharging authority would be the local planning authority or other body as the case may be.

28. Of the requirements of this draft DCO, a great many fall within s.120(2)(a).

29. Yet the Applicant appears to be suggesting drafting that does not limit its ability to refer a requirement for discharge by a putative DESNZ unit only if the requirement falls under s.120(2)(b).

Conclusion on this issue

30. The proposed amendment therefore cannot be regarded as a minor drafting clarification, but instead constitutes a substantive and unexamined alteration to the governance and control framework of the Proposed Development.

31. In these circumstances, SEAS considers that the proposed amendments should not be accepted. They represent a last-minute, unexamined and procedurally unfair change to the control framework, lacking a clear policy, evidential or legal basis, introduced without meaningful examination or consultation, and introducing unjustified undertaker discretion.

end