Suffolk Coastal Local Plan Examination

National Grid Venture’s (NGV’s) Hearing Statement on the Inspector’s MIQs: Matter 2 - E Major Energy Infrastructure

Issue: Are the strategic policies for Major Energy effective and justified? Policy SCLP3.4: Proposals for Major Energy Infrastructure Projects.

1. This document sets out NGV’s written response to the Inspector’s MIQs dated June 2019 and should be read in conjunction with the original representation in response the Council’s public consultation on the Pre-Submission Draft Local Plan dated 25th February 2019 (Appendix 2). NGV contacted the Programme Officer on 8th August 2019 to reserve the right to participate in the hearing session.

2. The sub-headings below repeat the relevant paragraphs/questions from the Inspectors MIQs. NGV’s response is set out beneath each question.

MIQs para 2.32: Given the process for the consenting of Nationally Significant Infrastructure Projects (NSIP) and the designated National Policy Statements, would the Policy as worded be effective? Is the distinction between projects which may be determined locally and those nationally, sufficiently clear?

3. NGV do not consider that Policy SCLP3.4 as worded would be effective or indeed could be implemented. Policy SCLP3.4 does not distinguish how the policy would apply specifically to NSIPs and generalises all Major Energy Infrastructure Projects regardless of whether specific projects would be determined at a national or local level. Given that the relevant National Policy Statements (NPSs) provide the primary basis for decisions on NSIPs under the Development Consent Order (DCO) regime, Policy SCLP3.4 as worded could not be an effective policy in assessing and determining NSIPs.

4. NPS EN-1 paragraph 4.1.5 states “other matters that the IPC may consider both important and relevant to its decision-making may include Development Plan Documents or other documents in the Local Development Framework. In the event of a conflict between these or any other documents and an NPS, the NPS prevails for purposes of IPC decision making given the national significance of the infrastructure” (underlining our emphasis.) It is therefore clear that national policy outweighs the draft local policy such that, as currently drafted, it could not be successfully implemented. As such, NGV consider the policy is unsound and in conflict with the Planning Act 2008.

5. There is a lack of distinction between projects which may be determined locally and nationally as Policy SCLP3.4 is currently worded. The first paragraph of Policy SCLP3.4 references that the Council would be a statutory consultee in the DCO process. However, listing specific ‘policy requirements’ for all Major Energy Infrastructure projects in the third paragraph is misleading as it does not differentiate between the two consenting regimes. Nor does it distinguish between the policy expectations of different types of major energy infrastructure. As it is currently worded, Policy SCLP3.4 and the supporting text (including table 3.6) focus on new nuclear energy. Any policy requirements relating to new nuclear should be set apart and clearly distinguished as they do not apply to all major energy infrastructure. As currently drafted NGV consider the policy creates ambiguity on the position and fails to acknowledge the greater weight and relevance NPS’s pay in determining NSIPs, as our observations at paragraph 4.
6. Amendments suggested to the wording of Policy SCLP3.4 and the supporting text in order to make the policy sound, are identified in Appendix 1.

**MIQs para 2.33: Is criterion b) consistent with national policy as set out in paragraphs 55 and 56 of the Framework and the Community Infrastructure Regulations and is it positively prepared?**

7. In addition to NGV’s observations regarding the general soundness of Policy SCLP3.4 in relation to Energy NSIPs, NGV has concerns with some of the specific criteria listed within Policy SCLP3.4, including criterion b).

8. Paragraph 56 of the NPPF (2019) states that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms. Each project should be assessed on an individual basis and therefore it is not reasonable to require all proposed developments to provide benefit/compensation packages without considering in detail the effects of the specific development.

9. The Community Infrastructure Levy Regulations (2010) confirm that “a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—(a)necessary to make the development acceptable in planning terms; (b)directly related to the development; and (c)fairly and reasonably related in scale and kind to the development.”

10. Specifically, in relation to Energy NSIPs, NPS EN-1 sets out at paragraph 4.1.8 that development consent obligations “must be relevant to planning, necessary to make the proposed development acceptable in planning terms, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development, and reasonable in all other respects.”

11. Policy SCLP3.4 is not positively prepared in that:
   - It does not recognise the greater weight and policy test established by NPS EN-1 for Energy NSIP projects;
   - It does not establish any thresholds against which, at a Development Plan level, obligations could be sought;
   - Is drafted negatively in its assumption that all Major Energy Infrastructure Development will result in a “burden and disturbance.”
   - There is no definition of what constitutes a “burden and disturbance” within Policy SCLP3.4.

12. The NPPF, Community Infrastructure Levy Regulations and NPS EN-1 recognise that any obligation required in order to make individual projects acceptable in planning terms will be project specific. As relevant policy is already set out at a national level, it is therefore considered unreasonable and unnecessary for Policy SCLP3.4 criterion b) to require developers to provide “packages of local community benefit” and assume that all projects will result in a “burden and disturbance” to the local community.

13. In the absence of setting clear thresholds for energy development considered through the Town and Country Planning Act (TCPA) and defining “burden and disturbance,” we consider this policy to be unsound.

**MIQs para 2.34: Is criterion i) seeking local positive outcomes justified in the context of NSIP projects where National Policy Statements apply?**

14. No definition of “positive outcomes” is provided which means it is subjective and unclear how this policy requirement would be applied and assessed.
15. Overarching NPS EN-1 and the other relevant NPS documents set out the requirements for both developers and decision makers in assessing proposals, this includes socio-economic and landscape and visual impacts which are often important matters to the local community. Due to their scale and nature, NSIPs are likely to impact on the surrounding area and community. Where necessary mitigation measures are proposed to mitigate potential significant effects; these are secured through existing legislation. Paragraph 7 of Schedule 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, require that Environmental Statements should include “A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment.”

16. NPS EN-1 acknowledges at paragraph 4.5.1 that “the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area.” Paragraph 4.5.2 goes on to state that energy infrastructure developments should be as attractive, durable and adaptable as they can be. NPS’s EN-3, 5 and 6 provide more information on the different impacts and potential effects relevant to different types of NSIPs, and the related policy expectations.

17. As currently drafted Policy SCLP3.4 criterion i) is considered unsound as it is not measurable in the absence of a definition and threshold.

Other comments

18. Suggested amendments to Policy SCLP3.4 which NGV consider would make the policy sound, are set out at Appendix 1.

19. Please refer to the original representation dated 25th February 2019 for comments on other matters relating to Policy SCLP3.4.

Word Count (excluding MIQ headings) - 1123
Appendix 1 - Suggested amended policy wording

Amended text is denoted in red and underlined.

Suggested amended wording to supporting text at paragraph 3.57

3.57 The cumulative impact of hosting a variety of major energy infrastructure facilities in the area is likely to have an impact on existing and future generations. To balance this impact a variety of local economic, environmental and community mitigation and enhancement measures benefits will need may be required to be delivered to ensure proposed Major Energy Infrastructure Projects are acceptable in planning terms, an overall positive balance of outcomes for the local communities and the District.

Suggested amended wording to supporting text at paragraph 3.59

3.59 A variety of local issues have been identified by the Council, as local planning authority, which need to be addressed in relation to Major Energy Infrastructure Projects. The Council will work with the local community, other local authorities, government agencies, service providers and operators to ensure the most successful outcomes are achieved. Although Table 3.6 identifies a variety of issues that may not be relevant to every Major Energy infrastructure Project, it is intended to inform pre-application and early engagement discussions and provides an early view on potential constraints and opportunities across the District.

Table 3.6 – Themes that may be relevant to the consideration of energy infrastructure proposals

Suggested amended wording to Policy SCLP3.4

Policy SCLP3.4: Proposals for Major Energy Infrastructure Projects

In its role either as determining authority for development under the Town and Country Planning Act, or as consultee on Nationally Significant Infrastructure Projects, the Council will take into consideration the nature, scale, extent and potential impact of proposals for Major Energy Infrastructure Projects, including cumulative impacts throughout their lifetime, including decommissioning.

The Council will work in partnership with the scheme promoter, local communities, National Grid, Government, New Anglia Local Enterprise Partnership, service providers, public bodies and relevant local authorities. Where relevant, appropriate and necessary, the Council will seek to secure appropriate mitigation for proposed Major Energy Infrastructure Projects, to ensure significant local community benefits and an ongoing legacy of the development is achieved as part of any Major Infrastructure Projects as outlined in Table 3.6.

Where relevant, as informed by NPS EN1 and any other relevant NPS, proposals for Major Energy Infrastructure Projects across the District and the need to mitigate the impacts arising from these will be considered against the following policy requirements:

a) Relevant Neighbourhood Plan policies, strategies and visions;

b) Where relevant, appropriate and necessary, the Council will seek to secure appropriate mitigation for proposed Major Energy Infrastructure Projects. Appropriate packages of local community benefit to be provided by the developer to offset and compensate the burden and disturbance experienced by the local community for hosting major infrastructure projects;

c) Community safety and cohesion impacts;

d) Requirement for a robust Environmental Impact Assessment

e) Requirement for a robust Habitats Regulations Assessment;

f) Requirement for robust assessment of the potential impacts on the Suffolk Coast and Heaths Area of Outstanding Natural Beauty;
g) Appropriate flood and erosion defences, including the effects of climate change are incorporated into the project to protect the site during the construction, operational and decommissioning stages;

h) Appropriate road and highway measures are introduced (including diversion routes) for construction, operational and commercial traffic to reduce the pressure on the local communities;

i) The development and associated infrastructure proposals are to deliver positive outcomes for the local community and surrounding environment;

j) Economic and community benefits where feasible are maximised through agreement of strategies in relation to employment, education and training opportunities for the local community;

k) Measures to ensure the successful decommissioning and restoration of the site through appropriate landscaping is delivered to minimise and mitigate the environmental and social harm caused during operational stages of projects;

l) Cumulative impacts of projects are taken into account and do not cause significant adverse impacts once appropriate mitigation measures are proposed; and

m) Appropriate monitoring measures during construction, operating and decommissioning phases to ensure mitigation measures remain relevant and effective.
Appendix 2 – NGV response the Council’s public consultation on the Pre-Submission Draft Local Plan dated 25th February 2019
Dear Sir/Madam,

Response to Consultation on Suffolk Coastal Final Draft Local Plan

This letter is sent on behalf of National Grid Ventures (NGV) in response to the current consultation on the Suffolk Coastal Final Draft Local Plan.

As the Council are aware, NGV has interests in East Suffolk in relation to our two proposed interconnector projects known as ‘Nautilus’ and ‘Eurolink’. This letter provides background to NGV, information on the Nautilus and Eurolink Interconnector projects and comments on the Final Draft Local Plan in the context of legal compliance and soundness.

National Grid Ventures (NGV)

NGV is a ringfenced division of National Grid plc, responsible for both developing and operating businesses in our UK and US territories. NGV’s portfolio includes:

- All the UK’s existing electricity interconnectors to continental Europe – 4GW of capacity which gives consumers access to lower price electricity markets and is critical to security of supply;
- The largest Liquefied Natural Gas (LNG) terminal in Europe – with capacity equivalent to 20% of the UK’s gas demand;
- Over 12 million industrial, commercial, and domestic gas meters in the UK; and
- A pipeline of further interconnectors to Europe – including 3.8 GW coming online from 2019.

Through these activities, we have developed and demonstrated our credentials as a safe, innovative, and consumer focussed developer.

NGV’s Current Position

Both the Nautilus and Eurolink Interconnector projects are at an early stage of development; with Nautilus being the more advanced of the two.

Nautilus comprises a 1400 MW high voltage direct current (HVDC) electricity link between the British and Belgium transmission systems connecting between a substation in Suffolk and a substation in Belgium.

The project will involve the construction of a converter station in each country and the installation of offshore and onshore underground direct current cables (HVDC) between each converter station and underground alternating current cables (HVAC) between the converter station and substation in each country.

The Nautilus Interconnector will enhance security of supply for the UK by diversifying sources of energy, increase competition in energy markets by offering alternatives to consumers and contribute to the Governments energy and climate goals by facilitating the integration of an increasing share of energy from variable renewable energy sources.
Comments on the Final Draft Local Plan in the context of legal compliance and soundness

NGV note and welcome the Council’s commitment to working with the relevant bodies to ensure the best outcomes for Major Energy Infrastructure projects in the area. However, there is no clear definition within the Final Draft Local Plan for ‘Major Energy Infrastructure Projects.’ The plan would benefit from a clear definition and how this relates to Nationally Significant Infrastructure Project (NSIP) definitions and thresholds. There are several other concerns regarding the legal compliance and soundness of the Final Draft Local Plan which are explained below.

At paragraph 3.55 of the Final Draft Local Plan, in the context of Policy SCLP3.4, it is stated that “the role of the Local Plan will be to consider the suitability of any specific proposal and the mitigation of local impacts...” However, this statement could not apply in a determining fashion if a project is classified as a NSIP and therefore consented under the Development Consent Order (DCO) regime. The Final Draft Local Plan and specifically Policy SCLP3.4, fails to make reference to, or acknowledged the interface with, National Policy Statements (NPS) in this regard, which would apply in the case of a NSIP. It is not the role of a Local Plan to determine NSIP development and, as such therefore the policy as currently drafted is considered unsound and in conflict with the Planning Act 2008.

At Table 3.6 a number of themes are identified setting out relevant issues for the consideration of energy infrastructure projects, intended to inform early engagement discussions. The list of themes and issues identified should not be prescriptive as each project and its potential effects will vary.

Policy SCLP3.4: ‘Proposals for Major Energy Infrastructure Projects’ sets out the Council’s approach to partnership working to deliver Major Energy Infrastructure Projects and lists a series of policy requirements which proposals for these projects will be assessed against. NGV have several concerns about the wording of Policy SCLP3.4 in respect of soundness of this policy. These concerns are listed below:

- Policy SCLP3.4 refers to ‘National Grid’ as opposed to National Grid Electricity Transmission (NGET); the regulated body responsible for the National Transmission System. To avoid any ambiguity with NGV, we consider it is necessary that the policy be more precise and to explicitly reference NGET here.

- Policy SCLP3.4 is titled Major Energy Infrastructure Projects, but the policy text only refers to Major Infrastructure Projects which is misleading.

- Policy SCLP3.4 states that “proposals for Major Infrastructure Projects across the District, and the need to mitigate the impacts arising from these, will be considered against the following policy requirements...” Policy SCLP3.4 does not acknowledge that typically Major Energy Infrastructure Projects will be considered under a different policy assessment by virtue of their determination under the Planning Act 2008. It is not the Council’s responsibility to assess and determine NSIPs against their own local policy. Whilst Policy SCLP3.4 does reference the NSIP process in the first paragraph, it goes onto state specific ‘policy requirements’ which is misleading as it fails to differentiate between consenting regimes. In this respect, the policy is unnecessary and unsound as no reference is made to the Planning Act 2008 or National Policy Statements.

With regard to the specific criteria ‘a’ to ‘m’ of Policy SCLP3.4 there are a number of additional concerns regarding the soundness of these requirements, as set out below.

- Criteria ‘b’ requires “appropriate packages of local community benefit to be provided to offset and compensate the burden and disturbance experienced by the local community for hosting major infrastructure projects” (underlining our emphasis). The requirement for community benefit packages, currently undefined, has the potential to conflict with Planning Obligation policy, as currently drafted; it is unclear how these would be triggered and dovetail with typical planning obligation policy in this
regard. Further, there is no definition as to what constitutes “burden and disturbance” experienced by the local community. NSIPs, by their consideration under the Planning Act, are likely to impact on the surrounding area and community, although the nature and extent of any impact is dependent upon the specific project and associated proposed mitigation. The assertion that all projects will result in a “burden and disturbance” to the local community is therefore subjective and is not evidence based.

- Criteria ‘i’ states that “the development and associated infrastructure proposals are to deliver positive outcomes for the local community and surrounding environment” (underlining our emphasis). No definition of “positive outcomes” is provided. As noted above, NSIP projects, due to their scale, are likely to impact on the surrounding area and community; it should be acknowledged that typically aims of NSIPs are to deliver and meet national policy objectives. In the case of interconnectors, for example, to enhance the security of electricity supply for the UK.

- Criteria ‘i’ states that “economic and community benefits where feasible are maximised through agreement of strategies…” (underlining our emphasis). This links to criteria ‘b’ as the community benefit strategies/packages could conflict/overlap with Planning Obligation policy.

- Criteria ‘i’ states that “cumulative impacts of projects are taken into account and do not cause significant adverse impacts” (Underlining our emphasis). This criterion is unsound as currently worded as it makes no reference to appropriate mitigation of significant effects being applied. If, during the EIA process, a project is found to result in a significant effect, appropriate mitigation measures would then be considered to reduce the effect. As currently worded, the policy implies that any significant effect would be wholly unacceptable.

As is detailed above, the wording of Policy SCLP3.4 and its introductory text is presently in conflict with the Planning Act 2008 and fails to recognise the NSIP regime and associated National Policy Statements which apply. Policy SCLP3.4 is therefore considered to be unsound as it is currently drafted.

It is understood that the Council are intending to submit the Suffolk Coastal Final Draft Local Plan to the Secretary of State on 29 March 2019 for Public Examination. NGV would welcome the opportunity to discuss any amended policy wording to reflect our observations above to feed into the Inspector’s consideration at Examination stage and inform the Main Modifications to the Local Plan.

NGV welcomes any further updates on the progression of the Local Plan up to submission and during examination. NGV will continue to engage with the Council on our proposals in East Suffolk.

Should you have any questions on the information presented in this letter please do contact me.

Yours sincerely,

Liz Wells
Consents Manager