

NORTH LONDON HEAT AND POWER PROJECT

APPLICATION REFERENCE EN010071

TABLE OF REVISIONS TO THE DRAFT DEVELOPMENT CONSENT ORDER (APPLICATION DOCUMENT REFERENCE AD03.01)

SUBMITTED BY THE APPLICANT ON 16 JUNE 2016

(TO MEET DEADLINE 6 OF THE EXAMINATION TIMETABLE)

General Note: the table below refers to the article, requirement, paragraph or schedule number in the draft DCO submitted for deadline 3 (document number AD03.01/REP3-018). Any new numbering in the revised draft DCO as at deadline 6 is indicated in the “Amendment” column in the table below, where relevant.

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
Article 2 (Interpretation)			
1	Definition of “book of reference”	Amended so that it now starts with the words: “means the document certified by the Secretary of State as the book of reference”, rather than “means the book of reference certified by the Secretary of State as the book of reference...”	This amendment has been made to refer to “document” as this was tautologous, and is now consistent with the definition of the environmental statement.
2	Definition of “carriageway”	Amended to add the section number of the Highways Act 1980.	This amendment has been made in response to a written representation by London Borough of Enfield. Please see page 39 of the Applicant’s comments on Written Representations

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			(AD07.05).
3	Definition of “code of construction practice”	Amended so that it now starts with the words: “means the <u>document</u> certified by the Secretary of State as the code of construction practice”, rather than “means the code of construction practice certified by the Secretary of State as the code of construction practice ...”	This amendment has been made to refer to “document” as this was tautologous, and is now consistent with the definition of the environmental statement.
4	Definition of “commence”	The following words have been deleted: “archaeological investigations”, “investigations for the purposes of assessing ground conditions”. And “erection of any temporary means of enclosure”.	These words have been deleted as these are all actions that will fall within the amended definition of enabling works.
5	Definition of “decommissioning”	This definition has been deleted.	This definition has been deleted because Requirement 19 effectively defines decommissioning by reference to: (a) a time period (operation by both the ERF and existing EfW for no longer than 12 months); and (b) Requirement 20. Requirement 20 defines decommissioning by reference to Works No. 7 and a scheme for their delivery. Requirement 21 refers to the cessation of use for waste management purposes and the submission of a plan for

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			decommissioning, which itself will set out what that comprises. In light of this, a definition of “decommissioning” is not required in Article 2.
6	Definition of “design code principles”	Amended so that it now reads: “means the document certified by the Secretary of State as the design code principles...”	This amendment has been made to refer to “document” as this was tautologous, and is now consistent with the definition of the environmental statement.
7	Definition of “discharging authority”	Amended so that a discharging authority can also be a person or a body (in addition to an authority).	A discharging authority is defined as the authority responsible for approving or consenting or discharging any matter. Consent of a street authority is needed under article 13 (4) (b) before altering, diverting or temporarily stopping any other street within the Order limits. A street authority is defined as having the same meaning under Part 3 of the 1991 Act. Part 3 of the 1991 Act defines ‘street authority’ as a person liable to the public to maintain or repair the street or, if there is none, any authority, body or person having the management or control of the street.
8	Definition of “enabling works”	The words “geometrical testing” have been replaced with “geological testing”. The following words have been deleted:	The word “geometrical” has been replaced with “geological” in order to correct a typographical error. The Applicant has given further consideration of the definition of “enabling works”

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		<p>“contaminated land remediation”;</p> <p>“ground improvement works”; and</p> <p>“demolition of buildings and structures”.</p> <p>The following words have been inserted:</p> <p>“removal of minor and re-locatable buildings and structures”;</p> <p>"and for works falling within this definition, the erection of fencing, hoarding or any other means of temporary enclosure, temporary facilities including re-locatable buildings, connections to utilities".</p> <p>The words “significantly adverse environmental effects” have been replaced with “any new significant adverse environmental effects”</p>	<p>as a result of question 10.7 of the Examining Authority’s second written questions.</p> <p>References to “contaminated land remediation” and “ground improvement works” have been deleted as requirement 14 requires the submission and approval of a written scheme relating to pre-existing contamination before any stage commences.</p> <p>Reference to “demolition of buildings and structures” has been deleted and replaced with “removal of minor and re-locatable buildings and structures”. This is to catch actions such as the removal of temporary portakabins which can for example be lifted away rather than be demolished.</p> <p>Reference to the "erection of fencing, hoarding or any other means of temporary enclosure" for works falling within this definition of enabling works has been inserted as these will be needed for the enabling works. Note also that the reference to temporary means of enclosure in the definition of "commence" has been deleted in light of this amendment to "enabling works".</p>

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			<p>Reference to “connections to utilities” for works falling within this definition of enabling works has been inserted as temporary connections may be needed to service the enabling works such as electricity for lighting.</p> <p>Reference to “temporary facilities” for works falling within this definition of enabling works has been inserted because facilities such as temporary portakabins may be required in connection with enabling works.</p> <p>The words “significantly adverse environmental effects” have been replaced with “any new significant adverse environmental effects” to make it consistent with the same phrase used in the definition of “commencement” and other parts of the draft DCO that also use this phrase. Please see the amendments to paragraph 3 of schedule 1 and paragraph 1(1) of schedule 2, where similar amendments have been made in order to ensure the consistent wording of this phrase.</p>
9	Definition of	Amended so that it now	This amendment has been

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	“environmental commitments and mitigation schedule”	reads: “means the document certified by the Secretary of State as the environmental commitments and mitigation schedule ...”	made to refer to “document” as this was tautologous, and is now consistent with the definition of the environmental statement.
10	Definition of “operational site”.	“Rev 00” inserted after drawing number.	Amendment made to ensure the correct revision number of the drawing is stated.
11	Definition of “Order land”	Amended to also refer to the land shown on drawing number C_0018 Rev 00.	The land shown on drawing number C_0018 Rev 00 is land over which the Applicant is applying for a power to use temporarily for the purposes of maintaining the authorised development pursuant to Article 28(1)(b). This is a small section of land to the east of Deephams Farm Road and comprises the verge to Deephams Farm Road. This revision was stated on page 41 of the Applicant’s comments on Written Representations (AD07.05), in response to a written representation by London Borough of Enfield.
12	Definition of “stages”	Amended to add the words “construction of”, so that the first words of this definition now read: “means stages of <u>construction of</u> the authorised development...”	This amendment is to clarify that what is being referred to is stages of construction. Please also see the related amendment to requirement 3 (stages of the authorised development) explained below.
13	Definition of “undertaker”	Amended to delete the reference to section 156(1) of the 2008 Act.	As stated in the Applicant’s response to question 10.5 of the ExA’s Second Written

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			<p>Questions (AD07.08), the intention is for “undertaker” to only include the Applicant, a successor body to the Applicant, and anyone to whom the benefit of the Order has been transferred pursuant to Article 8. It is not the intention for the Order to benefit those who have an interest in the land, which is why the reference to section 156 of the 2008 Act has been deleted.</p>
Article 4 (Limits of deviation)			
14	<p>Article 4(2)(a) and Article 4(2)(b)(ii)</p>	<p>The following words have been inserted at the start of Article 4(2)(a):</p> <p>“subject to lateral limits of deviation relating to piling approved in piling risk assessments and method statements submitted pursuant to requirement 4 (Detailed design)...”</p> <p>The words have been inserted at the start of Article 4(2)(b)(ii):</p> <p>“subject to vertical limits of deviation relating to piling approved in piling risk assessments and method statements submitted pursuant to requirement 4 (Detailed design)” .</p>	<p>The amendments to this requirement were agreed as part of the Statement of Common Ground with the Environment Agency.</p> <p>Article 4 (Limits of deviation) has been amended so that reference is made to the approved lateral and vertical limits of deviation contained in the approved piling risk assessments and method statements for the ERF, RRF, and EcoPark House. Please also see the amendments made to requirement 4 in this respect.</p> <p>These amendments have been made to address representations by the EA and London Borough of Enfield about lateral and vertical limits of deviation, in particular:</p>

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			<p>(1) the written representation from London Borough of Enfield (LBE) on downwards limits of deviation downwards (please see the Applicant's response at pages 32 and 43 of the Applicant's comments on Written Representations (AD07.05));</p> <p>(2) LBE's comment in its Local Impact Report (see pages 8 and 9 of the Applicant's Comments on Local Impact Reports (AD07.06)); and</p> <p>(3) written representations from the EA on page 97 of the Applicant's comments on Written Representations (AD07.05).</p> <p>As explained in the above-mentioned responses, the Applicant does not provide for specific downwards limits of deviation (other than for bunkers set out in Works plan C_003), as the precise depth of the works cannot be determined until necessary further ground investigations have been carried out to inform the piling risk assessments and piling method statements as part of detailed design.</p> <p>Please also see the related amendments to requirement 4</p>

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			(detailed design).
Article 9 (Defence to proceedings in respect of statutory nuisance)			
15	Article 9(1)(a)(i) and Article 9(2).	References to section 65 of the Control of Pollution Act 1974 have been deleted.	Section 65 of the Control of Pollution Act 1974 has been repealed.
16	Article 12 (Public rights of way)		
17	Article 12 (1)	Revision numbers for each of the drawing numbers referred to in this article have been inserted.	Amendment made to ensure the correct revision numbers for drawings are referred to, especially as revised plans are being submitted in time for Deadline 6.
Article 18 (Authority to survey and investigate)			
18	Article 18(1)	Amended to insert the words “(or the local planning authority for land outside the London Borough of Enfield)”. References to “away from” replaced with “beyond”.	As explained in the Applicant’s response to question 10.9 of the Examining Authority’s Second Written Questions (AD07.08), the power to survey and investigate land that is more than 250m beyond the Application Site is required because, if there is a claim that there is an impact from the construction works or from the operation of the Project, the undertaker would need the ability to investigate such a claim and not be restricted by distance. Whilst no such claims are anticipated, it is difficult to place a maximum range on such a power given that it is important to be able to investigate all claims that may be made. Such power would

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			<p>be for the benefit for the claimant as well as the undertaker. The Application Site is situated close to natural features, commercial and residential premises, and also has a large number of utilities running close to or beneath it. Furthermore, the undertaker would not have an unrestricted power to investigate anywhere in the country: (i) the undertaker would need to obtain the approval of the relevant planning authority for that area first; (ii) the exercise of the power would need to be “for the purposes of the Order” (as is stated in the opening words of Article 18(1)); and (iii) in practice, the undertaker would need to prove to the local authority that the exercise of the power beyond 250m from the Order land is reasonable and necessary in order to obtain approval. It is for the latter reason that this amendment has been made to article 18(1).</p> <p>References to “away from” have been replaced with “beyond” because “beyond is clearer. Also, the words “away from” could be interpreted as including “within”, which is not the intention in this part of Article 18(1).</p>

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19	Article 18(4)	Words “No trial holes can” amended to “No trial holes may”	This Article previously started with the words “No trial holes shall”. On further consideration, the Applicant does not think “shall” should be changed to “can” as part of using more modern drafting, and that using the word “may” instead, is better.
Article 19 (Compulsory acquisition of land)			
20	Article 19	<p>The reference to Schedule 10 (land to be compulsorily acquired) has been deleted from Article 19(1).</p> <p>Article 19(4) has been inserted, which states: “This article is subject to articles 23 (compulsory acquisition of rights) and 27 (temporary use of land for carrying out the authorised development)”.</p>	<p>These amendments were proposed as part of the Applicant’s comments on written representations (please see pages 46 and 47 of the Applicant’s Comments on Written Representations (AD07.05)). As that explained, the Model Provision wording for the power to compulsorily acquire land provides that the undertaker may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate, or is incidental, to it. The Model Provisions limit the power to compulsorily acquire land by making it subject to the power to temporarily use land (i.e. the undertaker cannot compulsorily acquire land that it has a power to only temporarily use). There is no cross reference in the Model Provisions to a schedule</p>

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			<p>setting out which interests are subject to the power to compulsorily acquire land.</p> <p>Other development consent orders, such as The Knottingley Power Plant Order 2015 and The Progress Power (Gas Fired Power Station) Order 2015, go a step further than the Model Provisions. They make the power to compulsorily acquire land also subject to the power to compulsorily acquire rights. Like the Model Provisions, other DCOs like Knottingley and Progress Power do not cross refer to a schedule setting out which interests are subject to the power to compulsorily acquire land. This is because, by making it 'subject to' the powers relating to rights and temporary possession, the power to compulsorily acquire does not apply to: (i) land over which only rights can be compulsorily acquired; and (ii) land over which the power to temporarily use and possess can be exercised. A schedule setting out which land is subject to the power to compulsorily acquire land would only be necessary where the power to compulsorily acquire land is not stated to be subject to powers to compulsorily acquire rights and powers to allow temporary use. This is</p>

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			<p>because without a schedule, the undertaker could potentially compulsorily acquire the freehold of any part of the Order land.</p> <p>Looking at the Model Provisions and previous DCOs, there therefore appear to be two approaches:</p> <ul style="list-style-type: none"> • Approach 1 – limit the power to compulsorily acquire the Order land by making it subject to powers to compulsorily acquire rights and the power to temporarily use land. No cross reference to a schedule is necessary here; or • Approach 2 – limit the power to compulsorily acquire the Order land by cross referring to a schedule setting out which interests are subject to this power. <p>The Applicant followed Approach 1 in the wording of Article 19 in the submission version of the draft DCO in April 2016.</p> <p>The ExA however queried during the hearing on the draft DCO on 18 March whether the Applicant could: (i) delete the cross references to articles 23 and 27; and (ii) amend the wording of Article 19 to cross refer to Schedule 10, (effectively following</p>

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			<p>Approach 2). The Applicant agreed to follow the ExA's suggestions and amended the wording of Article 19 in the revised draft DCO. On further consideration, however, the Applicant would like to revert to Approach 1 because by setting out specific interests in Schedule 10, there may be interests that would not be caught by Article 19 because they may not have been revealed by the Applicant's due diligence or because they are only created after the Applicant's due diligence. The risk in following Approach 2 is that the Applicant could potentially be held to ransom by undiscovered or indeed new interests, which would affect the deliverability of the Project. In light of this, the Applicant has therefore amended the wording of Article 19 back to its original drafting and deleted Schedule 10.</p>
21	Article 21 (power to override easements and other rights)		
22	Article 21	<p>Article 21(1) has been amended so that:</p> <ul style="list-style-type: none"> ▪ it now states that any authorised activity is authorised notwithstanding it involves: "...(a) an 	<p>The Applicant has given further consideration to the wording of Article 21(1) and has made amendments to simplify its drafting.</p> <p>Articles 21 (1) (a) to (c) used to distinguish between the</p>

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		<p>interference with an interest or right to which this article applies; or (b) a breach of a restriction as to the user of land to which this article applies.”; and</p> <ul style="list-style-type: none"> ▪ the references to statutory undertaker rights or interests and protective provisions have been deleted; and ▪ the references to Schedules 11 (Land in which rights may be temporarily suspended) and 12 (Land in which rights may be extinguished) have been deleted. <p>Article 21(3) - The words “restrictions as to the user of land arising by contract” have been inserted to replace the words “restrictions arising by virtue of a contract”.</p> <p>Article 21(4) - this has been amended so that it now states: “Where any interest, right or restriction to which this article applies is overridden under</p>	<p>temporary suspension of rights and extinguishment of rights, and referred to Schedules 11 and 12 which specified which plot numbers were affected. Articles 21 (1) (a) to (c) also used to state that the power to temporarily suspend rights or extinguish rights applied to statutory undertaker rights and apparatus and was subject to protective provisions.</p> <p>Article 21(4) has been amended to refer to an interference being an extinguishment or a temporary suspension of rights. This now means it is not necessary for Article 21(1) to distinguish between an extinguishment and a temporary suspension of rights.</p> <p>The Applicant has also deleted the reference to schedules 11 and 12 from Article 21(1) on the basis that by setting out specific plot numbers in these schedules, there may be interests and rights that would not be caught because they may not have been revealed by the Applicant's due diligence or because they are only created after the Applicant's due diligence. The Applicant could potentially be held to ransom by undiscovered or indeed new interests or rights,</p>

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		<p>paragraph (1) (whether interfered with or breached), the interest, right or restriction is extinguished, temporarily suspended or discharged at the time that the interference or breach.....”.</p> <p>Article 21(5) – this has been amended so that it now states: “Where any interest, right or restriction to which this article applies is overridden under paragraph (1) (whether interfered with or breached), compensation...”</p>	<p>which would affect the deliverability of the Project.</p> <p>The Applicant has inserted a new article (Article 29 (Statutory undertakers) to deal with the interference with rights, interests and apparatus of statutory undertakers. Details of the new Article 29 are below. For this reason, it is no longer necessary for Article 21 to relate to statutory rights and interests or protective provisions.</p> <p>The amendments to Article 21(3) and 21(5) have been made to clarify the drafting.</p> <p>The amendments to Article 21 will require minor consequential amendments to some of the Application documents. Please see Appendix 1 to this table which sets out what consequential amendments are required to certain Application documents. The Applicant would welcome the ExA’s confirmation as to whether the amendments set out in Appendix 1 are acceptable and can be made.</p>
Article 22 (Statutory authority to override easements and other rights)			
23	Article 22	The following words have been inserted at the end of article 22(3):	The words “virtue of” have been deleted from articles 22(1)(b) and 22(2)(b) to make the drafting more succinct.

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		<p>The words “virtue of” have been deleted from articles 22(1) and 22(2) so that they now refer to “by contract”.</p> <p>“The restrictions to which this article applies are restrictions as to the user of the land arising by contract.”</p>	<p>The words “The restrictions to which this article applies are restrictions as to the user of the land arising by contract” have been inserted because article 22(1) states that the carrying out of the authorised development and the doing of anything else by this Order, notwithstanding that it involves a breach of an interference with an interest or right or a restriction as to user arising by contract. Article 22(3) clarifies that what interests and rights include and this amendment now makes article 22(3) describe what restrictions are covered by article 22.</p>
Article 26 (Rights over buildings)			
24	Article 26	<p>Minor amendments have been made to this article as follows:</p> <p>(a) all references to the word "building" have been replaced with "land"</p> <p>(b) all references to paragraphs have been checked and corrected; and</p> <p>(c) the reference to a drawing showing the area of land affected by this power that is outside the Order limits has been replaced with the words "land located within [x]</p>	<p>These amendments have been made to tidy up the drafting of Article 26.</p> <p>The word "land" has been used to replace the word "building" because this power may need to be exercised over land.</p> <p>The proposed drawing was going to show the extent of land that is outside the Order limits affected by the power. The Applicant has amended this article to refer to land located within [x] metres of</p>

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		metres of the Order limits"	the Order limits. This will be updated in time for the hearing on matters relating to the draft DCO on 5 July.
Article 27 (Temporary use of land for carrying out the authorised development)			
25	Article 27(5)	<p>This article has been amended so that the undertaker must remove all temporary works and restore the relevant land not only to the reasonable satisfaction of the owners of the land, but also:</p> <p>(a) in accordance with the design code principles; and</p> <p>(b) to a condition no worse than the relevant land was in before temporary possession of the relevant land was taken pursuant to this article.</p>	<p>Article 27(5) originally required restoration to be carried out to the reasonable satisfaction of the owners of the land.</p> <p>Limb (a)</p> <p>Wording requiring restoration to be in accordance with design code principles has been inserted in response to the ExA's question 7.4 of its Second Written Questions (please see pages 13 and 14 of AD07.08).</p> <p>Limb (b)</p> <p>The owners of the temporary laydown area have set out their positions on restoration of their land during on-going private agreement negotiations. The Applicant wishes to respect those positions, and details of restoration are being agreed privately. Please see the Applicant's responses to written representations by Lee Valley Regional Park Authority's and Thames Water on pages 83 and 87 of Applicant's comments on</p>

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			<p>Written Representations (AD07.05). This position is also explained on page 21 of the Applicant's comments on Written Representations (AD07.05) and on pages 14 and 15 of the Applicant's Responses to the Examining Authority's Second Written Questions (AD07.08).</p> <p>LBE has made a representation that it should approve details of the restoration of the temporary laydown area (please see page 49 of the Applicant's comments on Written Representations (AD07.05)). LBE also made a statement in its Local Impact Report that there is a lack of an appropriate strategy with regard to the restoration of the temporary laydown area (see pages 16 and 24 of the Applicant's Comments on local Impact Reports (AD07.06)).</p> <p>Control by LBE over restoration is not necessary in light of the private agreement discussions taking place and Limb (b). Limb (b) has been inserted to give comfort to LBE that restoration must be to a state no worse than the relevant land was in before temporary possession of the relevant land was taken. This should be sufficient control for</p>

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			<p>privately owned land.</p> <p>Please also see the Applicant's response to the ExA's question 7.4 of its Second Written Questions (AD07.08).</p> <p>Further to the amendment to Article 27(5), it is necessary to amend Requirement 10 (landscaping) so that the landscaping scheme to be submitted will now not cover the restoration of the temporary laydown area. Please see the entry in this table relating to Requirement 10.</p>
Article 28 (Temporary use of land for maintaining authorised development)			
26	Article 28(1)(b)	<p>The following words have been inserted: "for the purpose of keeping that land clean and tidy".</p> <p>The words "at any time during the maintenance period" have been moved to the end of Article 28(1)(b).</p> <p>The revision number for the drawing referred to in Article 28(1)(b) has been inserted.</p>	<p>As explained in the Applicant's response to question 10.10 of the ExA's Second Written Questions (AD07.08), these words have been inserted so as to make the Applicant's intention clear with regard to the land shown on drawing number C_0018 (i.e. it is more than cutting back overgrowing vegetation, which the Applicant accepted could be covered by Article 32).</p> <p>The words "at any time during the maintenance period" have been moved to the end of Article 28(1)(b) as it makes</p>

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			<p>the drafting clearer.</p> <p>The revision number for the drawing referred to in Article 28)(1)(b) has been inserted to ensure the correct revision of that drawing is referred to. This is important especially as revised drawings are being submitted in time for Deadline 6.</p>
27	Articles 28(2) and 28(3)	<p>The wording starting with “The requirement to serve at least 14 days’ notice...” at the end of Article 28(3) has been moved so that it appears at the end of Article 28(2).</p> <p>The following wording has been deleted from Article 28(2): “There are separate requirements in paragraph (3).”</p>	This wording sits better at the end of Article 28(2), which relates to the service of notices. Please see page 50 of the Applicant’s Comments on Written Representations (AD07.05), where this amendment was referred to.
28	Article 28(11)(d)	The revision number for the drawing referred to in Article 28)(11)(d) has been inserted.	The revision number for the drawing referred to in Article 28)(11)(d) has been inserted to ensure the correct revision of that drawing is referred to. This is important especially as revised drawings are being submitted in time for Deadline 6.
Article 29 (Statutory undertakers)			
29	Article 29	This article has been inserted.	This article has been inserted as a result of the amendments made to Article

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			<p>21 (Power to override easements and other rights.</p> <p>Article 29 is based on Model Provision article 31. It authorises the undertaker to: (a) compulsorily acquire land belonging to statutory undertakers within the Order limits as described in the book of reference; (b) suspend or extinguish rights of statutory undertakers within the Order limits as described in the book of reference and remove or reposition apparatus within the Order limits; and (c) acquire compulsorily new rights over land belonging to statutory undertakers within the Order limits as described in the book of reference. These powers are subject to the protective provisions.</p> <p>These powers are required for the purposes set out in the Statement of Reasons.</p>
Article 36 (Protective provisions for specified undertakers)			
30	Article 36	This is now Article 37. The word “have” has been replaced with “has”.	This amendment has been made to make the drafting clearer.
Article 37 (Approvals, consents and appeals)			
31	Article 37(3)	This is now Article 38(3). The word “be” that appears before “(unless the parties have agreed otherwise)”,	This amendment has been made to make the drafting clearer.

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		has been moved to after “(unless the parties have agreed otherwise)”. This part of Article 37(3) now reads: “...will (unless the parties have agreed otherwise) be deemed to have approved the application...”	
32	Article 37(5)	This is now Article 38(5). Very minor drafting amendments.	These minor drafting amendments have been made to make the drafting clearer.
33	Article 37(6)	This is now Article 38(6). References to the code of construction practice and process under Section 61 Control of Pollution Act 1974 have been inserted, so that this Article now reads: “Where an approval, agreement or consent is required under the terms of any article or requirement in this Order or by the code of construction practice (unless this Order or the code of construction practice requires that a consent be obtained pursuant to section 61 of the Control of Pollution Act 1974), the discharging authority must, in addition to any named consultee in the relevant provision, consult all other relevant and appropriate statutory	The code of construction practice requires various consents and approvals to be obtained from LBE. In light of this, it is important that the same process under Schedule 3 of the Order (Procedure for approvals consents and appeals) applies to consents required under the code of construction practice, so that there is consistency in relation to who needs to be consulted.

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		consultees in accordance with Schedule 3 (procedure for approvals and appeals) before deciding whether or not to approve, agree or consent.”	
Schedule 1 (Authorised development)			
34	Schedule 1	“indicated on Works Plan ...” has been replaced with “identified on Works Plan...” throughout Schedule 1.	This amendment has been made to make the drafting clearer.
35	Schedule 1, paragraph 1(1)	<p>“...a minimum capacity of 50 mega-watts...” has been replaced with: “a capacity of more than 50 mega-watts...”</p> <p>The revision number stated for drawing number C_0002 has been amended from Rev 00 to Rev 01.</p>	<p>Section 15(2)(b) Planning Act 2008 states that a generating station falls within section 15 (generating stations that are nationally significant infrastructure projects) if its capacity is “more than 50 megawatts”.</p> <p>This amendment to paragraph 1(1) of Schedule 1 has been made to reflect the language used in section 15(2)(b) of the Planning Act 2008.</p> <p>The revision number stated for drawing number C_0002 has been amended from Rev 00 to Rev 01 because this drawing number has been revised and is being submitted in time for Deadline 6.</p>
36	Schedule 1, paragraph 2(a)	The revision number stated for works plan number	The revision number stated for works plan number

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		C_0002 has been amended from Rev 00 to Rev 01.	C_0002 has been amended from Rev 00 to Rev 01 because this drawing number has been revised and is being submitted in time for Deadline 6.
37	Schedule 1, paragraph 2(b)	The revision number stated for works plan number C_0004 has been amended from Rev 00 to Rev 01.	The revision number stated for works plan number C_0004 has been amended from Rev 00 to Rev 01 because this drawing number has been revised and is being submitted in time for Deadline 6.
38	Schedule 1, paragraph 2(c)	The revision number stated for works plan number C_0006 has been amended from Rev 00 to Rev 01.	The revision number stated for works plan number C_0006 has been amended from Rev 00 to Rev 01 because this drawing number has been revised and is being submitted in time for Deadline 6.
39	Schedule 1, paragraph 2(d)	The revision number stated for works plan number C_0008 has been amended from Rev 00 to Rev 01.	The revision number stated for works plan number C_0008 has been amended from Rev 00 to Rev 01 because this drawing number has been revised and is being submitted in time for Deadline 6.
40	Schedule 1, paragraph 2(e)	The revision number stated for works plan number C_0009 has been amended from Rev 00 to Rev 01.	The revision number stated for works plan number C_0009 has been amended from Rev 00 to Rev 01 because this drawing number has been revised and is being submitted in time for Deadline 6.

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
41	Schedule 1, paragraph 2(f)	The revision number stated for works plan number C_00010 has been amended from Rev 00 to Rev 01.	The revision number stated for works plan number C_00010 has been amended from Rev 00 to Rev 01 because this drawing number has been revised and is being submitted in time for Deadline 6.
42	Schedule 1, paragraph 2(g)	“Rev 01” inserted after drawing number.	Amendment made to ensure the correct revision number of the drawing is stated.
43	Schedule 1, paragraph 3	<p>“(and including)” in the first line of paragraph 3 has been deleted. The word “(inclusive)” has been inserted, so that the first line of paragraph 3 now reads: “In connection with Works No. 1 to Works No. 7 (inclusive)...”</p> <p>The words “when compared to those” have been replaced with “that were not”, so that the last section reads: “...do not give rise to any new significant adverse environmental effects that were not assessed in the environmental statement”.</p>	<p>This amendment has been made to make the drafting clearer.</p> <p>The last line has been amended so that it reads: “...do not give rise to any new significant adverse environmental effects that were not assessed in the environmental statement”, in order to make the wording of this phrase consistent with other parts of the draft DCO where these words are also used (please see the definitions of “commence” and “enabling works” and paragraph 1(1) (as amended) of schedule 2.).</p>
44	Schedule 1, paragraph 2(b)(ii)	“refuse” has been amended to “reuse”, so that it now reads “a reuse and recycling centre”.	This amendment has been made to correct a typographical error.

Schedule 2 (Requirements)

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
45	Schedule 2, paragraph 1(1)	The words “when compared to those” have been replaced with “that were not”, so that the last line reads: “...do not give rise to any new significant adverse environmental effects that were not assessed in the environmental statement”.	The last line has been amended so that it reads: “...do not give rise to any new significant adverse environmental effects that were not assessed in the environmental statement”, in order to make the wording of this phrase consistent with other parts of the draft DCO where this phrase is also used (please see the definitions of “commence” and “enabling works” and paragraph 3 (as amended) of schedule 1).
46	Schedule 2, paragraph 1(2)	The following words have been inserted at the end of paragraph 1(2): “or to any subsequent version of that document or plan approved or agreed by the discharging authority under a requirement of this schedule”.	<p>Paragraph 1(2) previously stated that where a requirement refers to a document or a plan, that document or plan (if applicable) is to be taken as the version certified by the Secretary of State under the provisions of this Order.</p> <p>These words have been added because the requirements refer to documents that are not to be certified by the Secretary of State and that can be altered with the approval or agreement of the discharging authority.</p> <p>For example, Requirement 3 (Stages of the authorised development) states that “Nothing in this requirement prevents the undertaker from</p>

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>submitting further written schemes revising the approved stages of development for the approval of the relevant planning authority”.</p> <p>It is therefore important for paragraph 1(2) to catch subsequent versions of documents or plans that are approved by the discharging authority pursuant to a requirement.</p>
47	Requirement 3 of (Stages authorised development)	The words “construction of” have been inserted after “a written scheme setting out all the stages...”	These words have been inserted to make it clear that it is written details of stages of <u>construction of the authorised development</u> that the written scheme must cover. This amendment has also been made to the definition of “stages” (please see row 13 of this table).
48	Requirement 4 (Detailed design approval)	<p>The words “where relevant” have been moved.</p> <p>The words “for that stage” have been inserted.</p> <p>Wording relating to piling risk assessments and piling has been inserted.</p>	<p>The amendments relating to “where relevant” and “for that stage” have been made in order to make the drafting of requirement 4 clearer.</p> <p>Wording relating to piling has been inserted so that: (i) piling risk assessments and method statements for the Energy Recovery Facility, Resource Recovery Facility, and EcoPark House must include lateral and vertical limits of deviation relating to piling, with the limits to not exceed those lines and</p>

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>situations shown on the works plans; (ii) the piling risk assessments and method statements must be approved by the relevant planning authority, who must consult the EA in reaching its decision; (iii) the relevant planning authority must only approve the piling risk assessments and method statements where the approved investigation and assessment report mentioned at requirement 14(2) has concluded that there is no unacceptable risk to groundwater in the relevant part of the Order land. The amended wording also states that the Applicant would consult the EA on the piling risk assessments and piling method statements, after which they would be submitted to and approved by the relevant planning authority. The approved piling method statement would form the basis of the piling designs for the authorised development. Article 4 (Limits of deviation) has also been amended so that reference is made to the approved lateral and vertical limits of deviation contained in the approved piling risk assessments and method statements for the ERF, RRF, and EcoPark House.</p> <p>These amendments have</p>

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			been made to address representations by the EA and London Borough of Enfield about lateral and vertical limits of deviation.
49	Requirement 5(1)	Table sub-heading "(Works 1a (Drawing C_0003 Rev 00)" has been amended so that the revision number for the drawing is "Rev 01".	Drawing number C_0003 has been revised and is being submitted in time for Deadline 6.
50	Requirement 5(2)	The revision number for the drawing number C_0002 stated in the sub-heading has been amended from "Rev 00" to "Rev 01".	Drawing number C_0002 has been revised and is being submitted in time for Deadline 6.
51	Requirement 5(3)	The revision number for the drawing number C_0005 stated in the sub-heading has been amended from "Rev 00" to "Rev 01".	Drawing number C_0005 has been revised and is being submitted in time for Deadline 6.
52	Requirement 5(4)	The revision number for the drawing number C_0007 stated in the sub-heading has been amended from "Rev 00" to "Rev 01".	Drawing number C_0007 has been revised and is being submitted in time for Deadline 6.
53	Requirements 5(3) and 5(4) (Parameters)	Requirement 5(3) amended so that it refers to drawing number C_0005 (instead of C_0004). Requirement 5(4) amended so that it refers to drawing number C_0007 (instead of C_0005).	These amendments have been made by the Applicant in response to the ExA's question 10.11 of the ExA's Second Written Questions (please see AD07.08).
54	Requirement 6 (Mitigation)	The name of this requirement "Mitigation	This amendment has been made as the revised

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
	measures in the environmental statement)	measures in the environmental statement” has been changed to “Environmental commitments and mitigation schedule”.	environmental commitments and mitigation schedule now also contains measures identified by the Transport Assessment, in addition to mitigation measures in the environmental statement.
55	Requirement 10 (Provision of landscaping)	Words “other than restoration of the temporary laydown area” inserted after “No development within any stage is to commence”.	<p>As stated in the Applicant’s response to question 7.4 of the Second Written Questions (AD07.08), it would not be necessary for details of the restoration of the Temporary Laydown Area to be included in the landscaping scheme that is required to be approved by the relevant planning authority because:</p> <p>a. The Applicant has amended Article 27(5) so that restoration would (in addition to being to the reasonable satisfaction of the owners) also need to be carried out in accordance with design code principles and to a standard that is no worse than the land was in before the authorised development commenced on that part of the Order land. This should be sufficient control for privately owned land, and further approval by the relevant planning authority should not be necessary;</p> <p>b. Restoration is, in principle, not the same as positive landscaping proposals. It is better to keep distinct the restoration of land</p>

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			(to the satisfaction of the landowner) and details of the authorised development which need to be approved by the relevant planning authority (e.g. landscaping); and c. Details of restoration works are being agreed privately with the owners of the Temporary Laydown Area.
56	Requirement 14 (Contaminated land and groundwater)	The amendments to this requirement were agreed as part of the Statement of Common Ground (SOCG) with the Environment Agency. The agreed wording is also set out in Appendix A to the SOCG with the Environment Agency.	<p>These amendments have been agreed with the Environment Agency. A summary of the principles underpinning these amendments is set out in the Applicant's response to question 10.4 of the ExA's Second Written Questions (AD07.08). These principles include the provision of a verification plan, a verification report, long term monitoring and maintenance plans and procedures for remediation of contamination not previously identified.</p> <p>These amendments have been made to also address:</p> <p>(1) the EA's request to amend requirement 14 in its response to the ExA's first written questions (please see page 10 of the Applicant's comments on Responses to the Examining Authority's First Written Questions (AD07.07));</p>

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>(2) the written representation from London Borough of Enfield on verification and on-going monitoring of remediation works (see pages 32 and 43 of the Applicant's comments on Written Representations (AD07.05));</p> <p>(3) the EA's written representations set out on pages 96 and 97 of the Applicant's comments on Written Representations (AD07.05); and</p> <p>(4) The Local Impact Report by London Borough of Enfield on this requirement (see pages 8 and 9 of the Applicant's Comments on Local Impact Reports (AD07.06)).</p>
57	Requirement 15 (Ecology)	The words "must not commence" have been replaced with "must not occur".	Requirement 15 prohibits the full operation of the electricity and heat generating station until the relevant written details are approved. In this respect, "commence" is being used in a different context to the commencement of works. As explained in the Explanatory Memorandum (AD03.02/APP-010), this is because the Applicant's environmental impact assessment concluded that extensive ecological mitigation measures were not required. To ensure provision and monitoring of appropriate

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			ecological mitigation measures, the Applicant considered it appropriate for the full operation of the electricity and heat generating station to be prohibited, rather than the commencement of each stage of the authorised development, until the relevant details were approved. In light of this, the Applicant has amended Requirement 15 so that it begins with (amendment in bold): “full operation of the electricity and heat generating station must not occur...”
58	Requirement 16(2) (Code of construction practice)	Requirement 16(2) has been amended so that it now reads: “Before commencing the enabling works or any stage of the authorised development, the undertaker must review the code of construction practice to establish whether it should be updated to reflect any new relevant construction methodology or environmental guidance and, where it is to be updated, the undertaker must seek the approval in writing of the relevant planning authority to any update of the code of construction practice”. The substantive meaning of this requirement has not	This amendment has been made to requirement 16(2) in order to remove the passive voice that is less acceptable in modern drafting.

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		changed.	
59	Requirement 18 (Combined heat and power)	<p>This requirement has been re-drafted to state: “(1) Works No. 1A must be constructed so as to be CHP ready through the provision of steam and hot water pass outs and the preservation of space for the future provision of water pressurisation, heating and pumping systems”; and (2) A corridor of land from the proposed electricity and heat generating station to the edge of the Edmonton EcoPark must be safeguarded, the location of which must be broadly in accordance with that identified on indicative drawing number D_0013 Rev 00 of the design code principles.”</p> <p>A definition of “CHP ready” has been inserted into Article 2, as follows: “ “CHP ready” means the provision of steam and hot water pass outs and the preservation of space for the future provision of water pressurisation, heating and pumping systems”.</p>	<p>The re-drafting of Requirement 18 has been triggered by the Applicant’s in its That question asked how heat pipe routes from the ERF to the edge of the Order land were safeguarded in the draft DCO, and the Applicant responded to say that it would amend Requirement 18 in this respect.</p> <p>The drafting of Requirement 18 has been tidied up. A reference to “CHP ready” has been inserted to make it clear that the required activities will achieve this effect.</p> <p>The new Requirement 18(2) contains the wording promised by the Applicant in its response to question 2Q1.3 of the ExA’s second written questions. The safeguarded route for the heat pipes is stated to be “broadly in accordance with” that identified on indicative drawing number D_0013 Rev 00 of the design code principles. The reason for this is to provide the undertaker with flexibility to design the precise pipe route during detailed design stage, and to avoid setting a route at this early stage to later find that it is not deliverable.</p>

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
60	Requirement 19(1)	The reference to “electricity generating station” has been amended to “electricity and heat generating station”.	This reflects the Applicant’s response to the ExA’s question 10.13 of the ExA’s Second Written Questions (please see pages 27 and 28 of AD07.08).
61	Requirement 21(1) (Decommissioning and demolition of the proposed electricity and heat generating station)	The words “twenty four” have been replaced with “24”.	This amendment has been made as drafting convention prefers numerals for larger numbers.
Schedule 3 (Procedure for approvals, consents and appeals)			
62	Paragraph 2(1)	The words “has the right to request” have been replaced with “may request”.	This amendment has been made to make this paragraph comply with modern drafting preferences.
63	Paragraph 2(2)	Paragraph 2(2) has been amended so that it now reads: “Any request by the discharging authority for further information under paragraph (1) must be made in writing within 7 days of receipt of the application and must specify the further information required.”	This amendment has been made to make this paragraph comply with modern drafting preferences.
64	Paragraph 2(4)	The words “is not thereafter entitled to” have been replaced with “may not after that period”.	This amendment has been made to make this paragraph comply with modern drafting preferences.
65	Schedule 4 (Streets subject to street works)		
66	Table	References in this table to	Drawing numbers C_0012

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		<p>plan numbers C_0012 Rev 00” have been amended to “C_0012 Rev 01”.</p> <p>References in this table to plan numbers C_0014 Rev 00” have been amended to “C_00124 Rev 01”.</p>	C_0014 have been revised and are being submitted in time for Deadline 6.
67	Schedule 6 (Public rights of way to be temporarily suspended)		
68	Table	References in this table to plan number C_0014 Rev 00” has been amended to “C_0014 Rev 01”.	Drawing number C_0014 has been revised and is being submitted in time for Deadline 6.
69	Schedule 7 (Public rights of way to be extinguished)		
70	Table	References in this table to plan numbers C_0014 Rev 00” have been amended to “C_0014 Rev 01”.	Drawing number C_0014 has been revised and is being submitted in time for Deadline 6.
71	Schedule 8 (Streets to be temporarily stopped up)		
72	Table	<p>References in this table to plan numbers C_0012 Rev 00” have been amended to “C_0012 Rev 01”.</p> <p>References in this table to plan numbers C_0014 Rev 00” have been amended to “C_00124 Rev 01”.</p>	Drawing numbers C_0012 C_0014 have been revised and are being submitted in time for Deadline 6.
73	Schedule 9 (Access to works)		
74	Table	<p>References in this table to plan numbers C_0012 Rev 00” have been amended to “C_0012 Rev 01”.</p> <p>References in this table to plan numbers C_0014 Rev</p>	Drawing numbers C_0012 C_0014 have been revised and are being submitted in time for Deadline 6.

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		00” have been amended to “C_00124 Rev 01”.	
Schedule 10 (Land to be compulsorily acquired)			
75	Schedule 10	This schedule has been deleted.	Schedule 10 has been deleted as a consequence of the amendment to Article 19 (please see the entry relating to article 19 above).
Schedule 11 (Land in which rights may be temporarily suspended)			
76	Schedule 11	This schedule has been deleted.	This schedule has been deleted in light of the amendments made to Article 21 (Power to override easements and other rights).
Schedule 12 (land in which rights may be extinguished)			
77	Schedule 12	This schedule has been deleted.	This schedule has been deleted in light of the amendments made to Article 21 (Power to override easements and other rights).
78	Schedule 14 (Land of which temporary possession may be taken)		
79	Table	Schedule 14 has now become Schedule 12. References to the revision numbers for works plan numbers C_0006, C_0009 and C_0010 have been amended from “Rev 00” to “Rev 01”.	Works plan numbers C_0006, C_0009 and C_0010 have been revised and are being submitted in time for Deadline 6.
80	Schedule 16, Part 4 (Protective provisions – Environment Agency)		
81	Part 4.	This is now part 4 of schedule 13 (schedule 16	As stated on page 97 of the Applicant’s Comments on

	Provision in the draft DCO (as at Deadline 3, document number AD03.01/REP3-018)	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		<p>has become schedule 13).</p> <p>These provisions have been replaced with the provisions provided by the Environment Agency as part of its written representations.</p>	<p>Written Representations (AD07.05), the EA's revised protective provisions are acceptable to the Applicant.</p>

Appendix 1

Consequential amendments to Application documents as a result of the amendments to Article 21 (Power to override easements and other rights)

1. Land Plans

- (a) Land plan number B_0001 Rev 02: There will be no change to the plan itself or its colouring. Two minor amendments are, however, required to two sections of text on this drawing:
 - (i) the note “Article 21(1)(a) of the DCO (suspension of rights) applies to all areas shaded blue” needs to be deleted; and
 - (ii) the description of the blue colouring in the key needs to be amended so that it states: “Land over which it is proposed to compulsorily acquire new rights (Article 23)”.
- (b) Land plan number B_0004 Rev 02: There will be no change to the plan itself or its colouring. Two minor amendments are, however, required to two sections of text on this drawing:
 - (i) the note “Article 21(1)(a) of the DCO (suspension of rights) applies to all areas shaded blue” needs to be deleted; and
 - (ii) the description of the blue colouring in the key needs to be amended so that it states: “Land over which it is proposed to compulsorily acquire new rights (Article 23)”.

2. CPO Powers Road Map (AD04.04)

- (a) This is a non-statutory document and is not referred to in the draft DCO. The CPO Powers Road Map is, however, intended to be helpful to the Inspector for the purposes of the examination of the Application. It reflects the rights, interests and restrictions revealed by the Applicant’s due diligence at the time the Application was made. The Road Map cannot be treated to be a definitive record of every single right, interest or restriction affected as there may be those that would not be caught because they may not have been revealed by the Applicant's due diligence or because they are only created after the Applicant's due diligence.
- (b) There are two columns in the Road Map which identify the rights to be suspended or extinguished under Articles 21(1) (a) and 21(1) (b) respectively.

The Applicant proposes to amend these columns as follows, so that there are no references to Articles 21(1) (a) and 21(1) (b):

- (i) One column is entitled “Rights and restrictions to be suspended (Article 21(1)(a)”. The Applicant proposes to amend this column so that it states “Rights, interests and restrictions to be suspended (Article 21)”; and
- (ii) One column is entitled “Rights and restrictions to be extinguished (Article 21(1)(b))”. The Applicant proposes to amend this column so that it states “Rights, interests and restrictions to be extinguished (Article 21)”.

3. Statement of Reasons

- (a) The following sections of the Statement of Reasons (AD04.01) will need to be amended to remove reference to Articles 21(1)(a) and 21(1)(b), as the power to suspend and extinguish would now be simply a reference to Article 21(4):
 - (i) Paragraph 2.5.2 on page 5 to be amended to state “temporarily suspend rights over land (Article 21(4))”;
 - (ii) Paragraph 2.5.3 on page 5 to be amended to state “extinguish rights over land (Article 21(4))”;
 - (iii) Sub-heading to paragraph 8.8.5 on page 47 to be amended to state “Extinguishment of rights – Article 21(4) of the draft Order”;
 - (iv) Paragraph 8.8.5(a) on page 47 to be amended so that it states “The Applicant is seeking compulsory acquisition powers to extinguish rights pursuant to Article 21(4) of the draft Order....”
 - (v) Sub-heading to paragraph 8.8.7 on page 92 to be amended to state “Suspension of rights – Article 21(4) of the draft Order”;
 - (vi) Paragraph 8.8.8 on page 92 to be amended to refer to Article 29 in relation to rights belonging to statutory undertakers; and
 - (vii) Paragraph 10.5.9 (a) (i) on page 102 to be amended to refer to Article 29 in relation to rights belonging to statutory undertakers.

- (b) The following paragraphs of the SOR will need to be amended to remove the reference to Articles 21(1)(a) or 21 (1)(b) and instead refer to Article 29 (Statutory undertakers):
 - (i) Paragraph 8.8.5 (b) on page 47; and
 - (ii) Paragraph 8.8.5 (c) on page 47.

- (c) The title line to Table 4 will need to be amended to “Extinguishment of rights (Article 21 and Article 29 of the draft Order)”. Otherwise the table will remain unchanged.