
NORTH LONDON WASTE AUTHORITY
**NORTH LONDON HEAT AND POWER
PROJECT**

EN10071

**TABLE OF REVISIONS TO THE
DRAFT DCO SUBMITTED AT DEADLINE 7
OF EXAMINATION**

The Planning Act 2008 The Infrastructure
Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009
Regulation 5 (2)

AD07 . **14**

July 2016

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 18 JULY 2016

(TO MEET DEADLINE 7 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 6 (document number AD03.01 (Rev 2)). 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 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
Preamble			
1	Final paragraph	Reference to section 122 of the Planning Act 2008 inserted.	This amendment has been made to address the ExA's comment in Agenda Item 2, relating to the hearing on the draft DCO on 5 July 2016 (the " hearing "). The ExA's comment was that the final paragraph did not cite section 122 PA 2008 compared with the list of sections in the first paragraph. The Applicant agreed to make this amendment during the hearing.
2	Article 2 (Interpretation)		
3	Definition of "DCO schedules 6 - 8 explanatory	References to the word "schedule" in this definition have been amended, so it	These amendments were requested by the ExA during the hearing and the Applicant

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
	diagrams”	starts with the letter “s” in upper case.	agreed to make them.
4	Definition of “Edmonton EcoPark”	The words “the location of which is shown on drawing number A_0003 Rev 00” have been inserted.	This amendment has been made to address the ExA’s comment in Agenda Item 2 relating to the hearing. The ExA’s comment was that a reference to where the Edmonton EcoPark is shown on an application drawing (A_0003 for example) would help. The Applicant agreed to make this amendment during the hearing.
5	Definition of “enabling works”	No changes made.	<p>In Agenda Item 2 relating to the hearing, the ExA queried what enabling works accesses are envisaged in addition to those provided for by article 14 and Schedule 9.</p> <p>During the hearing, the Applicant explained that it is important for it to maintain the distinction between an enabling works access and an access covered by Article 14 and Schedule 9. Article 14 and Schedule 9 provides the power to create new or improve existing accesses for access for the project.</p> <p>The Applicant explained that it cannot commence the authorised development until the discharge of various requirements (e.g. requirement 3 states “no authorised development is to</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>commence until a written scheme setting out all the stages of construction have been submitted to and approved by the relevant planning authority). The definition of “commence” in Article 2 excludes “enabling works”. The definition of “enabling works” includes access for enabling works. Therefore, the undertaker will be able to create accesses outside the scope of Article 14 and Schedule 9 for enabling works. Examples of what enabling works accesses would be required include the creation of an access to the proposed temporary laydown area where there currently is no access, to enable the undertaker to carry out geological testing, environmental tests, bringing drilling rigs onto that area, surveying, and pegging; in these cases, the undertaker may need to create an access into the temporary laydown area as part of its enabling works by cutting through existing hedges.</p> <p>Other than accesses for “enabling works”, the creation of new accesses and improvement of existing accesses would be governed by Article 14 and Schedule 9.</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
6	Definition of “environmental statement”	The order of the words in this definition have been changed to reflect the order of the words in the definition of the “book of reference”.	This amendment has been made to address the ExA’s comment in Agenda Item 2 relating to the hearing. The Applicant agreed to make this amendment during the hearing.
7	Definition of “land plans”	The order of the words in this definition have been changed to reflect the order of the words in the definition of the “book of reference”.	This amendment has been made to address the ExA’s comment in Agenda Item 2 relating to the hearing. The Applicant agreed to make this amendment during the hearing.
8	Definition of “National Grid”	This definition has been inserted.	A definition of “National Grid” has been inserted as a result of the ExA’s request at the hearing that a bespoke set of protective provisions be inserted into Schedule 13 that are for the benefit of National Grid alone.
9	Definition of “Order land”	The words “drawing C_0018 Rev 00” have been deleted. The words “within the site boundary” have been inserted after the word “shown.”	This amendment has been made to address the ExA’s comment in Agenda Item 2 relating to the hearing, that <i>“the land shown on drawing C_0018 Rev 00 is not included in the book of reference. Although intended for temporary use for maintenance purposes, if it is to be part of the Order land is it subject to article 19 and if so are the Compulsory Acquisition Regulations triggered”</i> . During the hearing, the Applicant explained that the intention of including the land shown on drawing

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>number C_0018 Rev 00 was to enable the undertaker to keep that land tidy and free from litter, as it forms the verge to Deephams Farm Road. After further consideration, the Applicant may be able to enter into a private arrangement with the owner of that land to deal with this issue, and therefore the reference to drawing C_0018 Rev 00 can be deleted from the definition of "Order land". A consequential amendment will therefore be required to Article 28, to delete Article 28(1)(b) (as it relates to drawing C_0018 Rev 00).</p> <p>The ExA queried in Agenda Item 2 relating to the hearing that <i>"the land plans show the red line boundary of the application which is referred to as the site boundary. This is the same as the Order limits shown on the works plans. Is there any significance in the term "site boundary" and should the definition of Order land be amended by the inclusion of "within the site boundary" after "shown"?"</i> During the hearing, the Applicant confirmed that it would either amend the DCO or the land plans to make it clearer. The Applicant has since decided that it will amend this definition of "Order land" to insert the words "within the</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			site boundary” after the word “shown.
10	Definition of "stage"	The words "means stages of construction" have been replaced with "means a stage of construction".	This amendment has been made to address the ExA's request during the hearing to make this change.
11	Definition of “works plans”	The order of the words in this definition has been changed to reflect the order of the words in the definition of the “book of reference”.	This amendment has been made to address the ExA’s comment in Agenda Item 2 relating to the hearing. The Applicant agreed to make this amendment during the hearing.
12	Article 4 (Limits of deviation)		
13	Article 4(2)	<p>References to "Detailed design approval" in Article 4(2)(a) and Article 4(2)(b)(ii) have been amended so that the word "Detailed" begins with the letter "d" in lower case.</p> <p>Reference to the words "as is shown on the works plans" has been amended so that they now read "shown on the works plans".</p>	<p>These amendments were requested by the ExA during the hearing.</p> <p>During the hearing, the Environment Agency and the London Borough of Enfield also confirmed they had no further comments on the drafting of Article 4.</p>
14	Article 12 (Public rights of way)		
15	Article 12(4)	Reference to "Schedule 7 (Public rights of way to be extinguished)" in the final line of Article 12(4) has been amended so that the word "Public" starts with the letter "p" in lower case.	This amendment was requested by the ExA during the hearing.

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
16	Article 13 (Temporary stopping up of streets)		
17	Article 13(3)	The comma appearing in the words "to the extent specified, in that Schedule" has been deleted.	This amendment was requested by the ExA during the hearing.
18	Article 16 (Discharge of water)		
19	Article 16(7)	No amendments made.	<p>This was raised in the ExA's comment in Agenda Item 2 relating to the hearing, in which the ExA queried whether article 16(7) was necessary in light of article 6(2).</p> <p>The Applicant explained during the hearing that each of these articles cover a separate and distinct situation and that both should remain in place.</p> <p>Article 6(2) states that "other than set out in this Order", the Applicant must obtain any permit or licence or any other obligation under any other legislation that may be required to authorise the operation of any part of the authorised development.</p> <p>Article 16(7) on the other makes it clear that Articles 16(1) to 16(6) are not one of those instances that dis-apply Article 6(2) - Article 16(7) makes it clear that the Applicant is still required to obtain from the Environment Agency any permit, licence or</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>any other obligation under any other legislation that may be required to authorise the making of a connection to or to the use of a public sewer or drain by the undertaker or the discharge of any water into any watercourse, sewer or drain.</p> <p>Furthermore, Article 6(2) relates to the operation of the authorised development, whereas Article 16(7) applies to both construction (because it covers discharges of water and making connections to sewers or drains) and operation.</p> <p>If we were to remove article 6(2) of the draft DCO the Applicant would be given an unfettered right to operate the authorised development with no requirement to obtain any additional consents or licences. This is not the intention of the Applicant and on that basis we do not propose deleting article 6(2).</p> <p>Further if we were to remove article 16(7) the Applicant would not be required to obtain any permits etc. from the Environment Agency in relation to the discharge of water during the construction and maintenance of the authorised development. Again this is not the intention of the Applicant. During the</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			hearing, the Environment Agency agreed that it would prefer to leave Article 16(7) in the draft DCO.
20	Article 18 (Authority to survey and investigate)		
21	Article 18 (1)	<p>Amended so that the first part of Article 18(1) reads:</p> <p>“The undertaker may for the purposes of this Order enter on any land shown within the Order limits, or onto any land which may be affected by the authorised development up to 250 metres away from the Order limits, or onto land which may be affected by the authorised development which is more than 250 metres from the Order limits with the prior approval of the relevant planning authority (or the local planning authority for land outside the London Borough of Enfield).…”</p>	<p>This amendment has been made to address the ExA’s comment in Agenda Item 2 relating to the hearing. The ExA suggested the re-wording of Article 18(1) and provided the replacement wording in Agenda Item 2 relating to the hearing. The Applicant confirmed during the hearing that it would insert the ExA’s replacement wording into Article 18(1).</p> <p>During the hearing, the London Borough of Enfield raised an objection to the use of the words “not to be unreasonably withheld or delayed” in Article 18(4)(a) and Article 18(4)(b). The Applicant explained that those words were required to enable the undertaker to bring the scheme forward in a timely way.</p>
22	Article 19 (Compulsory acquisition of land)		
23	Article 19(1) and Article 19(4)	The words “Save in relation to land to which article 23 (compulsory acquisition of right) and article 27 (temporary use of land for carrying out the authorised development) applies,”	During the hearing into compulsory acquisition matters on 6 July 2016, Transport for London (TfL) raised concerns over the deletion of (what used to be) Schedule 10 of the draft

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		<p>have been inserted at the beginning of Article 19(1). As a consequence, Article 19(4) has been deleted.</p>	<p>DCO, which had set out the plot numbers to be compulsorily acquired. During the hearing, the Applicant and the ExA referred TfL to the reasons provided for this deletion, which were set out in the document "Table of Revisions to the Draft Development Consent Order" submitted by the Applicant on 16 June 2016 for Deadline 6 of the Examination Timetable. The Applicant also explained that the function of Article 19(4) is to effectively make the power to compulsorily acquire land a residual power; the Applicant explained that Article 19(4) makes it clear that the power to compulsorily acquire land cannot be exercised over land that is subject to the power to compulsorily acquire rights (in Article 23) and the power to temporarily use land (Article 27). As previously explained by the Applicant, setting out specific interests that are to be compulsorily acquired in a schedule may leave out interests that may have not been revealed by the Applicant's due diligence or interests that were created after the Applicant's due diligence.</p> <p>During the hearing, the Applicant offered to re-visit the wording of Article 19 to see what (if anything) could</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			be amended to make it clearer. As a result, the Applicant has amended Article 19(1) and deleted Article 19(4) (as described in column 2) in the hope that these amendments would clarify the position beyond all doubt.
Article 21 (Power to override easements and other rights)			
24	Article 21(6)	The words “actionable at the suit of” have been substituted with the words “actionable by”.	This amendment has been made to address the ExA’s comment in Agenda Item 2 relating to the hearing.
Article 26 (Rights over buildings)			
25	Article 26(1)	<p>Article 26 has been re-named to "Rights over land".</p> <p>The word "the" has been inserted before the words "air-space" in line 1 of Article 26(1).</p> <p>The words "located within [] metres of the Order limits" in the second line of Article 26(1) have been replaced with the words " indicated on drawing number E_0011 Rev 00".</p>	<p>The first two drafting amendments described were requested by the ExA in Agenda Item 2 relating to the hearing.</p> <p>The words "indicated on drawing number E_0011 Rev 00" have been inserted because the land that may need to be oversailed differs in terms of its distance from the Order limits in certain places. The land that may need to be oversailed is better shown on a plan. A copy of drawing number E_0011 Rev 00 was provided to the ExA during the hearing. During the hearing, the ExA requested that the Applicant ensures the drawing makes it clear that it only relates to construction of the authorised</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>development. The drawing is to also make the limits of oversailing clear. The Applicant has since checked the drawing number E_0011 Rev 00 for these points and a copy of drawing number E_0011 Rev 00 is being submitted at Deadline 7 of the Examination timetable.</p> <p>Schedule 1 to the Interpretation Act 1978 makes it clear that the term “Land’ includes buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land”. Thus it has not been necessary to make clear in Article 23 that the undertaker’s power to oversail land includes the power to oversail land where that land is covered by buildings, other structures or water.</p>
26	Article 27 (Temporary use of land for carrying out the authorised development)		
27	Article 27(5)(b)	No amendments made.	The ExA's comment in Agenda Item 2 relating to the hearing was that paragraph 2.1 (c) of the Design Code Principles states: “ <i>The Design Code Principles apply to all permanent buildings and structures and works across the Application Site such as landscaping and ecology,</i>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p><i>however they do not apply to temporary buildings and spaces during construction.”</i> The ExA's comment was that the reference to design code principles therefore seems to be inappropriate for Article 27(5)(b). At the hearing the Applicant explained that it did not think reference to the design code principles was inappropriate. The restoration of the temporary laydown area, for example, will be a permanent work and will not fall within the exclusion contained within paragraph 2.1(c) of the design code principles. Paragraph 2.6 of the design code principles covers restoration of land. The Applicant agreed to give this further consideration.</p> <p>Since the hearing, the Applicant has revisited the wording of paragraph 2.1(c) of the design code principles. The Applicant has decided to amend paragraph 2.1(c) in order to clarify that the design code principles do apply to the restoration of the temporary laydown area. The amendment made to the design code principles reads as follows (amendment n bold and underlined): “<u>2.1(c) The Design Code Principles apply to all permanent buildings and structures and works across the Application Site such as</u></p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p><i>landscaping and ecology (including restoration of the temporary laydown area), however they do not apply to temporary buildings and spaces during construction...</i></p> <p>In light of this amendment to the design code principles, the Applicant does not believe it is necessary to amend Article 27(5)(b).</p>
28	Article 28 (Temporary use of land for maintaining authorised development)		
29	Article 28(1)(b)	This has been deleted.	<p>In Agenda Item 2 relating to the hearing, the ExA queried the reasons why the land shown on drawing number C_0018 Rev 00 was required to be maintained. During the hearing, the Applicant explained that this land was needed so that the Applicant could keep it neat and tidy (it is a verge on the eastern side of Deephams Farm Road). The Applicant also explained that after further consideration, it was happy to remove the reference to drawing number C_0018 Rev 00 in Article 28(1)(b) as land to be maintained, and that it would try and reach a private agreement with the landowner to deal with this issue. Please also see the explanation given above in relation to the definition of "Order land" in Article 2.</p>
30	Article 28(11)(d)	This has been deleted.	This Article contained a

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			reference to drawing number C_0018 Rev 00. This Article has been deleted for the same reasons provided above in relation to Article 28(1)(b).
31	Article 29 (Statutory undertakers)		
32	Article 29	The word “temporarily” has been inserted at the beginning of Article 29(2) so that it now reads “temporarily suspend or extinguish...”	<p>The word “temporarily” has been inserted at the beginning of Article 29(2) so that it is consistent with Article 21, which talks about temporary suspension.</p> <p>In Agenda Item 2 relating to the hearing, the ExA commented that "<i>the specific powers over statutory undertakers' land in this article appear to duplicate the general powers in articles 19, 21, and 23, all of which could be used to affect statutory undertakers' land.</i>"</p> <p>During the hearing, the Applicant explained that Article 29 had been inserted for the avoidance of doubt that the general compulsory acquisition powers all relate to the land of statutory undertakers as well. For example, the undertaker has a power to acquire land from the statutory undertakers as well. This approach reflects the model provisions.</p> <p>The Applicant also explained</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>during the hearing that the Planning Act 2008 affords particular protections to statutory undertakers, which is another reason why it was important to make it absolutely clear in the DCO that the general compulsory acquisition powers also related to statutory undertakers. Section 127(2) of the Planning Act 2008 states that a development consent order can contain a provision authorising the compulsory acquisition of statutory undertakers' land. Section 127(5) of the Planning Act 2008 states that a development consent order can include a provision authorising the compulsory acquisition of a right over statutory undertakers' land. Section 127(6), however, states that the secretary of state must be satisfied that there will be no serious detriment to the carrying on of the statutory undertaker's undertaking and that any detriment can be made good by the use by the statutory undertaker of other land.</p> <p>The ExA requested the Applicant to see if it could tidy up the preceding compulsory acquisition articles. The Applicant has considered this and concluded that in light of the amendments to Article 19, no other amendments are</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			required.
33	Article 34 (Certification of documents and plans)		
34	Article 34(1)	No amendments made.	<p>The ExA's comment in Agenda Item 2 relating to the hearing was that the documents listed in this Article needed references to the latest versions.</p> <p>During the hearing, the Applicant explained that this amendment would not be necessary because the reason for certification is to make sure the most up to date version is identified. It was also the Applicant's assumption that when the ExA reports to the secretary of state, its report will identify the most up to date versions of the documents in Article 34. Most development consent orders do not specify a particular version and the Applicant would prefer to follow this approach.</p>
35	Article 38 (Approvals, consents and appeals)		
36	Article 38	<p>The word "applications" has been inserted into the second line of Article 38(1) so that it now refers to "all applications for consents, agreements,..."</p> <p>Reference to the word "Procedure" in Article 38(1)</p>	<p>In Agenda Item 2 relating to the hearing, the ExA questioned what the intent of Article 38(2) was given article 38(1).</p> <p>During the hearing, the Applicant confirmed it would add the words "applications</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		<p>has been amended so that it starts with the letter "p" in lower case.</p> <p>Article 38(1)(a) and 38(1)(d) have been deleted and replaced with a new Article 38(1)(a), which refers to the provisions of the Order.</p> <p>Article 38(2) has been deleted.</p> <p>Article 38(3) has been moved to what is now paragraph 1(3) of Schedule 3.</p> <p>Article 38(4) is now Article 38(2). It has also been amended so that: (i) it starts with the words "Where an application is made to the discharging authority..."; and (ii) the words "or notice" have been added after the words "such consent, agreement, approval".</p>	<p>for" to Article 38(1) and would delete Article 38(2) to address the ExA's comments. Adding a reference to "applications" in Article 38(1) would effectively incorporate Article 38(2), (which covered applications).</p> <p>Article 38(1)(a) (which referred to requirements) and 38(1)(d) (which referred to articles) have been deleted and replaced with a new Article 38(1)(a), which refers to the "provisions of the Order". This is because it is not just requirements and articles that may require an application for a consent, approval or agreement; the protective provisions also envisage such applications. A reference to "provisions of this Order" would catch any provision that requires an application by the undertaker for a consent, approval or agreement. Article 38(4) (which is now Article 38(2)) and Article 38(5) (which is now Article 38(3)) have also been amended to refer to the "provisions of this Order", instead of any article or requirement.</p> <p>During the hearing, London Borough of Enfield (LBE) made representations on Schedule 3 and these are set</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>out below (please see the entry for schedule 3). The Applicant agreed, during the hearing, to look at the interaction between Article 38 and Schedule 3 to see to what extent it could accommodate LBE's representations on Schedule 3. The following are the consequential amendments made by the Applicant to Article 38:</p> <p>(a) Article 38(3) (56-day period before there is deemed approval) has been moved to what is now paragraph 1(3) of Schedule 3. This is because it reads better being within Schedule 3.</p> <p>(b) Article 38(4) is now Article 38(2). It has also been amended so that it starts with the words "Where an application is made to the discharging authority...". This amendment has been made because Article 38(1) has been amended so that it applies to all applications for consents, approvals etc. It follows from this that Article 38(4) (now Article 38(2)) also applies to all applications for consents, approvals etc. The Applicant has also replaced the references to relevant planning authority, highway authority, street authority, owner of a watercourse, sewer or drain with the term</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>"discharging authority" as the definition of discharging authority would cover these entities. The words "or notice" have been added after the words "such consent, agreement, approval" in what is now Article 38(2). This is because the formulation for what Schedule 3 applies to in Article 38(1) states that it relates to all applications for "consents, agreements, approvals or notices". The same formulation needs to be used in what is now Article 38(2) and the amendment achieves this.</p> <p>(c) Article 38(6) (which dealt with who the relevant planning authority must consult) has been moved so that it is now paragraph 2(2) of Schedule 3. This is because it reads better being within Schedule 3.</p>
37	Schedule 1 (Authorised development)		
38	Paragraph 1(1)	The word "residual" has been deleted (definition of Works 1a), so that the description of Works No. 1a now reads: "...fuelled by up to 700,000 tonnes of waste and with a capacity of..."	<p>In Agenda Item 2 relating to the hearing, the ExA commented that a definition of "residual waste" is needed (and for the Applicant to see requirements R 1 (3) and R 7).</p> <p>During the hearing, the Applicant explained that after further consideration, it would</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			delete the reference to the word "residual" from the definition of Works 1a. The Applicant explained that the reference to 700,000 tonnes of waste is how much the ERF can process. Requirement 7 on the other hand sets out that the waste permitted to be managed by the whole authorised development is limited to 890,000 tonnes per annum. There are no other places in the draft DCO that refer to residual waste.
39	Paragraph 1(i)(b)	No amendments made.	<p>In Agenda Item 2 relating to the hearing, the ExA commented that it required a discussion about the reservations in the EA statement of common ground (paragraph 3.2.1 of AD03.04) about bunker design.</p> <p>During the hearing, the EA explained that it had no objection in principle to the bunker of its design. Its concerns related to the continuous operation of a single bunker and that discussions with the Applicant were still continuing on this point and would be dealt with via the environmental permit. The Applicant also explained that the size and output of the proposed facility would not change depending on whether there is a single or</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			double bunker and so this issue does not require any amendment to the draft DCO.
40	Paragraph (1)(i)(c)	No amendments made.	<p>In Agenda Item 2 relating to the hearing, the ExA requested that the word "residual" be inserted before the word "waste".</p> <p>During the hearing, the Applicant explained that this amendment would not be made. This is due to the amendment made to paragraph 1(a) (which defines Works No. 1(a)), where the term "residual waste" is being amended to "waste".</p>
41	Paragraph (1)(i)(f)	The word "a" has been inserted at the start of this paragraph, so that it now reads "a control room..."	This amendment was requested by the ExA during the hearing.
42	Paragraph 2(a)(i)	The word "a" has been inserted at the start of this paragraph, so that it now reads "a wastewater treatment facility;"	This amendment was requested by the ExA during the hearing.
43	Paragraph 2(d)(i) (Works No. 4)	The references to various types of utilities in paragraph 2(d)(a) to (g) have been deleted and re-inserted as paragraph 2(d)(i).	<p>This amendment has been made to make the drafting clearer that the works described in paragraph 2(d)(aa) to (cc) apply to all the utilities mentioned in paragraph 2(d)(i).</p> <p>A copy of the proposed amendments (shown in</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>tracked changes) was shown to the ExA by the Applicant during the hearing.</p> <p>These amendments do not change the substance of Works No. 4, they just change the order of some of the words.</p>
44	Paragraph 2(d) (Works No. 4)	No amendments made.	<p>In Agenda Item 2 relating to the hearing, the ExA commented that " although the temporary lay down area is not part of Works No. 4 and therefore excluded from the Works Plan C_0008 Rev 01 and requirement 10, it is shown on indicative drawing D_0007 Rev 01 (pursuant to Works No. 4) as an area proposed for soft landscaping."</p> <p>During the hearing, the Applicant explained that Work No.4 and Plan C_008 Rev 01 correctly show the areas of landscaping and excludes the temporary laydown area. The laydown area will be subject to restoration under Article 27(5) and all drawing D_007 Rev 01 shows are areas of hard and soft landscaping. Drawing D_007 Rev 01 is not implying that it is part of Works No.4 – what is shown on drawing D_007 Rev 01 are details that would form part of the restoration scheme.</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
45	Paragraph 2(d)(xxi)	A full stop has been inserted at the end of this paragraph.	This amendment was requested by the ExA during the hearing.
46	Paragraph 2(f)	The semi-colon at the end of this paragraph has been replaced with a full stop.	This amendment was requested by the ExA during the hearing.
47	Schedule 2 (Requirements)		
48	Paragraph 1(1)	No change needed.	<p>In Agenda Item 2 relating to the hearing, the ExA queried whether paragraph 1(1) only arose in the context of requirements 4(3) and 14(4). The Applicant confirmed that this was correct.</p> <p>The Applicant also informed the ExA that it would be looking to review the requirements in Schedule 2 to see which other requirements would benefit from tailpiece wording (e.g. requirement 16(1)). The Applicant explained that this is because as things move along, more environmentally better ways or more efficient methods may be discovered to carry out works. It would be unfortunate if the wording of a requirement does not allow for works to be carried out in these better ways. The Applicant would like the ability to be able to ask the relevant planning authority to approve different ways of doing things by adding more tailpiece wording. The ExA queried</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>whether this is not already achieved by Article 38(5) (which is now Article 38(3)). The Applicant explained that the function of Article 38(5) (which is now Article 38(3)) does not allow the undertaker to seek amendments to details and documents; Article 38(5) states that if details or documents are amended, they are to be carried out in accordance with the amended details or document.</p> <p>As a result of this discussion at the hearing, the Applicant has added tailpiece wording "unless otherwise approved by the relevant planning authority" in requirements 9(2), 10(2), 12(3), 15(3), 16(1) and 17(3).</p> <p>At the hearing, London Borough of Enfield asked what mechanism would apply if approvals were sought pursuant to the tailpiece wording. The Applicant explained that the amended form of Article 38(1) (which has the word applications inserted into it) would apply – i.e. the procedure set out in Schedule 3 would apply.</p> <p>During the hearing, the ExA asked the Applicant to consider combining paragraph 1(1) with Article 38(5) (which is now Article</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			38(3)). The Applicant explained that paragraph 1(1) and Article 38(5) serve different purposes. Article 38(5) makes it clear that where the undertaker needs to discharge a provision in accordance with approved details or a document, it is any amended details or document that must be followed. Paragraph 1(1) places a limit on the ability of the discharging authority to approve variations and once it has approved a variation, Article 38(5) comes into play.
49	Paragraph 1(3)	A definition of "AOD" has been inserted.	This definition has been inserted at the request of the ExA in relation to requirement 5 (the request is in Agenda Item 2 relating to the hearing on the draft DCO on 5 July 2016). The ExA's comment was that the final paragraph did not cite section 122 PA 2008 compared with the list of sections in the first paragraph. The Applicant agreed to make this amendment during the hearing.
50	Requirement 4(1)	<p>This requirement has been amended so that the details requiring approval are now listed in sub-paragraphs, so that it is easier to read.</p> <p>The words "the building to provide visitor, community</p>	<p>This amendment has been made to address the ExA's comment in Agenda Item 2 relating to the hearing.</p> <p>During the hearing, the Applicant presented the ExA with its proposed</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		<p>and education facilities, and office accommodation (Works No. 3)" have been inserted to replace the reference to "Works No. 3".</p> <p>The words "No stage is to be commenced ..." have been amended so that they state "No stage is to commence...."</p> <p>No amendment has been made to the tailpiece.</p>	<p>amendments to the drafting of requirement 4(1).</p> <p>During the hearing, the ExA requested that the words "No stage is to be commenced ..." be replaced by "No stage is to commence....". This is so that it is line with the wording of other requirements that prohibit the commencement of the authorised development (e.g. requirement 3) or the commencement of a stage (e.g. requirements 12 and 13).</p> <p>During the hearing, the ExA queried why requirement 4(1) prohibited the commencement of a stage rather than the commencement of the authorised development as a whole. The Applicant explained that the reference to stage is required because: (i) the term excludes enabling works and the Applicant would like the ability to commence enabling works without having to wait for the detailed design for the entire project to be approved; (ii) requirement 3 already prohibits the authorised development as a whole to commence unless the stages are approved; and (iii) it is not the applicant's intention to be prohibited from starting the entire scheme unless details</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			of the entire scheme are approved. That would delay the start of works significantly.
51	Requirement 4(2)	The reference to "sub-paragraph" has been replaced with "paragraph".	<p>This general amendment was requested by the ExA during the hearing, to be made throughout the DCO.</p> <p>The Applicant has therefore made this amendment to the relevant provisions throughout the draft DCO.</p>
52	Requirement 4(3)	<p>No amendments made to the tailpiece wording.</p> <p>The reference to "sub-paragraph" has been replaced with "paragraph".</p>	<p>In Agenda Item 2 relating to the hearing, the ExA queried whether the tailpiece in Requirement 4(3) was needed given Article 38(5) (which is now Article 38(3)).</p> <p>During the hearing, the Applicant explained that Article 38(5) does not give authority to amend details (like the tailpiece wording does); Article 38(5) instead clarifies that where there is a need to carry out works in accordance with details, that should be interpreted to mean in accordance with any amended details.</p> <p>During the hearing, the ExA requested that the reference to "sub-paragraph" be replaced with "paragraph" throughout the draft DCO.</p>
53	Requirement 5	Requirement 5 has been amended in the following ways:	These amendments have been made to address the ExA's comments in Agenda

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		<p>(a) it is set out so that its spacing reflects that of the schedules and there are lines inserted to separate out each row of the tables (following the same format of the schedules in the draft DCO);</p> <p>(b) the word “para” has been replaced with “paragraph”;</p> <p>(c) The word “No.” has been inserted after the word “Works” in the sub-headings of the tables;</p> <p>(d) the full Works No. has been set out concerning the stack, cooling equipment and observation platform in requirement 5(1); and</p> <p>(e) the description of the works in paragraph 5(3) has been simplified to "Resource Recovery Facility"</p> <p>A definition of “AOD” has been inserted into paragraph 1(3) of Schedule 2.</p>	<p>Item 2 relating to the hearing.</p> <p>During the hearing, the London Borough of Enfield commented that requirement 5 did not contain limits of deviation for Works No. 1b and that this allowed one element of Works No. 1b to cover the entire area shown on the works plans for this Works No. The Applicant explained that requirement 5(2) does indeed state a limit of deviation concerning the height of Works No. 1b. The Applicant also explained that Works No. 1b is comprised of small structures such as a vehicle wash, a waste water treatment plant and a water treatment plant. A common sense approach needs to be taken and it will not be possible for one element of Works No. 1b to cover the entire footprint of the area earmarked in the works plans for these works. The Planning Act 2008 recognises the need for flexibility and to try to micro manage the precise size and height of small structures would go against the intention of the Planning Act. Requirement 4 (detailed design) will assist as that requires that before any stage commences, the details of all new buildings and structures need to be approved by the relevant planning authority. Works No. 1b comprises</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			small structures and the Applicant does not think it is necessary to state a limit of deviation for the depth of Works No. 1b and can insert an explanation into the Explanatory Memorandum (EM) as to why. The ExA added that the Applicant should also insert into the EM which elements of Works No. 1b are subject to the limit of deviation set out in requirement 5(2). The Applicant agreed to do this.
54	Requirement 9(1)	The words "No stage is to be commenced ..." have been amended so that they state "No stage is to commence...."	During the hearing, in the context of requirement 4(1), the ExA requested that the words "No stage is to be commenced ..." be replaced by "No stage is to commence....". This is so that it is line with the wording of other requirements that prohibit the commencement of the authorised development (e.g. requirement 3) or the commencement of a stage. This amendment to requirement 9(1) has been made for consistency.
55	Requirement 9(2)	Wording "unless otherwise approved by the relevant planning authority" has been inserted at the end of requirement 9(2).	As explained above in relation to paragraph 1(1) of Schedule 2, the Applicant explained to the ExA at the hearing that it would reviewing the requirements in Schedule 2 to see which other requirements

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>would benefit from tailpiece wording. This is because as things move along, more environmentally better ways or more efficient methods may be discovered to carry out works. It would be unfortunate if the wording of a requirement does not allow for works to be carried out in these better ways. The Applicant would like the ability to be able to ask the relevant planning authority to approve different ways of doing things by adding more tailpiece wording. The function of Article 38(5) (which is now Article 38(3)) does not allow the undertaker to seek amendments to details and documents; Article 38(5) states that if details or documents are amended, they are to be carried out in accordance with the amended details or document.</p> <p>The Applicant has therefore added tailpiece wording "unless otherwise approved by the relevant planning authority" in requirement 9(2).</p>
56	Requirement 10(2)	The words "unless otherwise approved by the relevant planning authority," have been inserted, so that requirement 10(2) now starts with the following words: "The authorised development must be carried out in accordance	As explained above in relation to paragraph 1(1) of Schedule 2, the Applicant explained to the ExA at the hearing that it would reviewing the requirements in Schedule 2 to see which other requirements would benefit from tailpiece wording. This is because as

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		with the detailed approved under paragraph 10(1), unless otherwise approved by the relevant planning authority, ...”	<p>things move along, more environmentally better ways or more efficient methods may be discovered to carry out works. It would be unfortunate if the wording of a requirement does not allow for works to be carried out in these better ways. The Applicant would like the ability to be able to ask the relevant planning authority to approve different ways of doing things by adding more tailpiece wording. The Applicant has therefore added tailpiece wording "unless otherwise approved by the relevant planning authority" in requirement 10(2).</p> <p>Agenda Item 2 relating to the hearing stated in relation to this that confirmation was needed from London Borough of Enfield that requirement 10 applies to the restoration of EfW site. During the hearing, the London Borough of Enfield confirmed that it was happy with the wording of requirement 10.</p>
57	Requirement 12(3)	This requirement has been amended so that it now ends with the words “must be carried out in accordance with the details approved under paragraph 12(1), unless otherwise approved by the relevant planning authority.”	As explained above in relation to paragraph 1(1) of Schedule 2, the Applicant explained to the ExA at the hearing that it would reviewing the requirements in Schedule 2 to see which other requirements would benefit from tailpiece wording. This is because as things move along, more

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			environmentally better ways or more efficient methods may be discovered to carry out works. It would be unfortunate if the wording of a requirement does not allow for works to be carried out in these better ways. The Applicant would like the ability to be able to ask the relevant planning authority to approve different ways of doing things by adding more tailpiece wording. The Applicant has therefore added tailpiece wording "unless otherwise approved by the relevant planning authority" in requirement 12(3).
58	Requirement 14(1)	<p>The words "may commence" at the start of this requirement have been replaced with the words "is to commence".</p> <p>The word "the details of" in the final sentence of requirement 14(1) have been deleted.</p> <p>The final sentence of requirement 14(1) has been moved so that it now appears at the beginning of requirement 14(2).</p>	These amendments have been made to address the ExA's comments in Agenda Item 2 relating to the hearing.
59	Requirement 14(3)	The word "written" has been inserted before the word "scheme".	This amendment has been made to address the ExA's comments in Agenda Item 2 relating to the hearing.

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
60	Requirement 14(4)	<p>The last sentence of requirement 14(4) has been amended to state: "The authorised development shall be carried out in accordance with any remediation strategy approved pursuant to paragraph 14(4), unless otherwise approved by the relevant planning authority."</p> <p>The tailpiece wording "unless otherwise approved by the relevant planning authority" remains.</p>	<p>These amendments have been made to address the ExA's comments in Agenda Item 2 relating to the hearing.</p> <p>In Agenda Item 2 relating to the hearing, the ExA queried whether the tailpiece wording is necessary given Article 38(5) (which is now Article 38(3)). As explained above, the tailpiece wording is necessary. Article 38(5) does not give authority to amend details (like the tailpiece wording does); Article 38(5) instead clarifies that where there is a need to carry out works in accordance with details, that should be interpreted to mean in accordance with any amended details.</p>
61	Requirement 14(5)	<p>The words "remedial measures set out in the approved scheme" have been replaced with "remedial measures set out in the scheme approved pursuant to paragraph 14(2) and any strategy approved pursuant to paragraph 14(4)".</p>	<p>This amendment has been made to address the ExA's query in Agenda Item 2 relating to the hearing. The query was whether the verification report only related to any remediation strategy required under paragraph 14(4) or to the approved written scheme as a whole under paragraph 14(3). The Applicant believes that the verification report is intended to apply to both, and has made the amendment to paragraph 14(5) in order to make this clearer.</p>
62	Requirement 14(6)	The reference to the	These amendments have

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		<p>approved management plan has been amended slightly to clarify that this is the management plan approved pursuant to paragraph 14(2).</p> <p>The reference to the remediation works has been amended slightly to clarify that these are the remediation works to be carried out pursuant to paragraph 14(3) and the remediation works to be carried out in accordance with the approved remediation strategy pursuant to paragraph 14(4).</p>	<p>been made to address the ExA's queries in Agenda Item 2 relating to the hearing.</p>
63	Requirement 14(7)	Last sentence has been deleted.	<p>In Agenda Item 2 relating to the hearing, the ExA queried why there was a reference to requirement 4(1) in the second line and why there was a reference to requirement 4 as a whole in line 6. The ExA also asked why the final sentence (which includes line 6) was necessary given that it is the subject of requirement 4.</p> <p>In light of the ExA's comments, the Applicant has deleted the last sentence in requirement 14(7) (including line 6). This therefore also disposes of the ExA's comment about why there is a reference to requirement 4(1)</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			in the second line and a reference to requirement 4 in line 6 (line 6 has now been removed and the reference to requirement 4(1) in line 2 remains).
64	Requirement 15(2)	<p>Amended so that this now reads: "<i>(2) The approach to monitoring and managing the landscaping and bird and bat boxes submitted pursuant to sub paragraph 15 (1) must include an implementation timetable.</i></p> <p><i>(3) The approach to monitoring and managing the landscaping and bird and bat boxes approved pursuant to paragraph 15(1) must be implemented in accordance with the approved details, including the implementation timetable, unless otherwise approved by the relevant planning authority.</i>"</p>	<p>In Agenda Item 2 relating to the hearing, the ExA queried what the significance was of the words "first implementation".</p> <p>During the hearing, the Applicant confirmed that the words "first implementation" needed to be replaced. The Applicant proposed new wording for requirement 15(2) as an implementation timetable is required. The Applicant explained during the hearing that requirement 15(1) would remain the same, requirement 15(2) would be amended to refer to an implementation timetable, and requirement 15(3) would be amended to say that the approach to monitoring and maintaining would be implemented in accordance with the approved details, including the implementation timetable. During the hearing, the Applicant gave the ExA an extract from the draft DCO showing its proposed amendments to requirement 15(2) and the insertion of a new requirement 15(3). Tailpiece wording has been added at the end of requirement 15(3)</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>for the same reasons set out above in relation to requirement 12(3).</p> <p>The Applicant also explained during the hearing that similar amendments were needed to requirement 17(2).</p>
65	Requirement 16(1)	The words "unless otherwise approved by the relevant planning authority" have been added at the end of Requirement 16(1).	<p>Please see the explanation provided above in relation to paragraph 1(1) of Schedule 2.</p> <p>During the hearing, TfL raised a concern that it was not a named consultee in requirement 16. The Applicant explained that this was not necessary as Article 38(6) requires the discharging authority to consult all other relevant and appropriate statutory consultees.</p>
66	Requirement 17(2)	<p>This requirement has been amended so that it now reads:</p> <p><i>" (2) The written scheme for noise management submitted pursuant to paragraph 17(1) must include an implementation timetable.</i></p> <p><i>(3) The written scheme for noise management approved pursuant to paragraph 17(1) must be implemented in accordance with the approved details, including the implementation timetable,</i></p>	<p>In Agenda Item 2 relating to the hearing, the ExA queries whether the reference to paragraph 1 should be deleted. In considering this, the Applicant has concluded that similar amendments are need to those made to requirement 15(2), described above. The amendments clarify that an implementation timetable is needed within the written scheme for noise management and that the written scheme must be implemented in accordance with the approved details, including the implementation</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		<i>unless otherwise approved by the relevant planning authority."</i>	<p>timetable. Tailpiece wording has been added for the same reasons set out above in relation to requirement 12(3).</p> <p>During the hearing, the Applicant gave the ExA an extract from the draft DCO showing its proposed amendments to requirement 17(2) and the insertion of a new requirement 17(3).</p>
67	Requirement 18(1)	The words "so as to be CHP ready" have been replaced with "to produce combined heat and power".	<p>In Agenda Item 2 relating to the hearing, the ExA asks for a definition of "CHP" to be inserted into Article 2.</p> <p>After considering this, the Applicant concluded that rather than defining "CHP", it would be more appropriate to replace the words "so as to be CHP ready" in requirement 18(1) with the words "to produce combined heat and power".</p> <p>During the hearing, the Applicant gave the ExA an extract from the draft DCO showing its proposed amendments to requirement 18(1).</p>
68	Requirement 19(2)	No amendments have been made.	<p>In Agenda Item 2 relating to the hearing, the ExA requests that the word "residual" be inserted before the word "waste".</p> <p>During the hearing, the Applicant explained this</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			amendment would not be made given that the word "residual" is being deleted from the term "residual waste" in the draft DCO. Please see the entry above in relation to paragraph 1(1) of Schedule 1.
69	Requirement 20(1)	<p>The words "are to be commenced ..." have been amended so that they state "are to commence...."</p> <p>The references to "of Schedule 1 (authorised development)" and "of Schedule 1" have been deleted.</p>	<p>During the hearing, in the context of requirement 4(1), the ExA requested that the words "No stage is to be commenced ..." be replaced by "No stage is to commence....". This is so that it is line with the wording of other requirements that prohibit the commencement of the authorised development or the commencement of a stage. This amendment to requirement 20(1) has been made for consistency.</p> <p>In Agenda Item 2 relating to the hearing, the ExA requests that references to Schedule 1 be deleted from requirement 20(1).</p>
70	Operational Travel Plan and the Delivery and Servicing Plans	No requirement inserted.	In Agenda Item 2 relating to the hearing, the ExA comments that the Operational Travel Plan and the Delivery and Servicing Plans are not secured by the draft DCO but are matters for the DCOb. All other travel plans are secured by the

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>CoCP. The ExA queried whether a requirement was needed in the DCO to cover potential operational matters.</p> <p>During the hearing, the Applicant explained that it intended to cover operational travel plans in the DCOb. As this covers operational matters, the Applicant thought the DCOb would be a more appropriate place rather than the DCO, though the Applicant agreed to explore the possibility of a requirement. The intention is to submit a final form DCOb to the ExA before the end of the Examination and the parties are working hard to submit a near-final form of the DCOb by 18 July. At the hearing the Applicant stated that, if the DCOb were not agreed, the Applicant would consider turning the DCOb into a unilateral undertaking. Since the hearing, significant progress has been made with the negotiation of the DCOb and a unilateral undertaking is not expected to be necessary.</p> <p>Since the hearing, the Applicant has given the subject of inserting a requirement for an operational travel plan. The Applicant has made significant progress in negotiating a trilateral DCOb with London Borough of</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			Enfield and will be submitting a near final form of that DCO at Deadline 7. As that DCO is very close to being finalised and as it contains obligations on the Applicant to submit an operational travel plan to LBE (who is the 'relevant planning authority' under the draft DCO), the Applicant does not deem it necessary to insert a requirement into the draft DCO requiring an operational travel plan.
71	Schedule 3 (Procedure for approvals, consents and appeals)		
72	Paragraphs 1, 2 and 3 in general	<p>Article 38(3) has been moved to Schedule 3 and is now paragraph 1(3).</p> <p>Article 38(6) has been moved to Schedule 3 and is now the new paragraph 2(2).</p> <p>Paragraph 1(1) has been amended slightly so that it now refers to applications for any "consent, agreement, approval or notice". The words "or notice" have been inserted here so that it reflects the formulation of the words in Article 38(1).</p> <p>Paragraph 1(3) has been slightly amended so that it also applies to situations where the discharging authority has not notified</p>	<p>During the Hearing, LBE made representations to the ExA about Schedule 3. LBE confirmed that it was happy for there to be deemed approval after 56 days from receiving an application (pursuant to Article 38 (3), which is now paragraph 1(3)). LBE however raised concerns over the 7-day period in paragraph 2(2) allocated to the discharging authority to make requests for further information, and concerns over the 14-day period from receipt of the application within which the discharging authority must request further information where consultation is required. LBE requested that Schedule 3 be amended so that from receipt of the application, the discharging authority has 14</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		<p>the undertaker of its approval of an application.</p> <p>Paragraph 1(5) has been amended to clarify that any notice of refusal must be in writing.</p> <p>Paragraph 2 has been amended so that the discharging authority is given 24 days to request further information. As a consequence of this, the Applicant has deleted the original paragraph 2(2), which contained provisions about requesting information within 14 days (and is now irrelevant).</p> <p>No amendments have been made to paragraph 3.</p>	<p>days to consult on an application and a further 7 days to formulate requests for further information. The Applicant has considered these representations and has amended Schedule 3. The Applicant has changed the order of the wording in paragraphs 1 and 2. The new paragraph 2(2) now allows the discharging authority 24 days from receipt of the application to make requests for information. This 24-day period incorporates the following:</p> <ul style="list-style-type: none"> - 3 days for the discharging authority to send the application to consultees. This is what the original paragraph 2(2) stated but the Applicant has deleted it; - a further 14 days for the discharging authority to consult; and - a further 7 days for the discharging authority to consider consultation responses and consider what further information it needs to request from the undertaker. <p>In this way, the Applicant has addressed LBE's concerns about timings.</p> <p>LBE also made representations during the hearing that the timescales in Schedule 3 should start after</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>the application is validated and for the applicant to make an application to the discharging authority for deemed approval. The Applicant explained that this will not be acceptable. Validation is a feature of applications made under the Town and Country Planning Act; in this case, if an application is not deemed fit for purpose, the discharging authority can refuse it or ask for further information. If the Applicant is unhappy with the refusal, it will have the ability to appeal under Schedule 3. The Applicant also explained that it would be unreasonable to require the undertaker to apply for deemed approval; the lack of a decision is sufficient for there to be deemed approval.</p> <p>The Applicant explained that Schedule 3 sets out a tried and tested procedure that has been contained within previous development consent orders.</p> <p>LBE raised concerns during the hearing about the level of fees set out in paragraph 3 and how they may change by the time applications are made. The Applicant explained that it would consider an indexation mechanism either in the</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			Planning Performance Agreement, DCOb or the DCO. After subsequent consideration, the Applicant has decided to incorporate an indexation mechanism in the PPA with LBE that would apply to the fees set out in paragraph 3 of Schedule 3.
73	Paragraph 1(2)	The words "under this paragraph" have been replaced with the words "to which paragraph 1(1) applies,"	In Agenda Item 2 relating to the hearing, the ExA queried whether the reference to "this paragraph" is to paragraph 1 as a whole or to just paragraph 1(1). The Applicant has made this amendment so that it is clear that the reference is to just paragraph 1(1).
74	Schedule 4 (Streets subject to street works)		
75	Schedule 4	The reference to "cycle way" in row 6 of the table has been changed to "cycle path".	This amendment was requested by the ExA during the hearing, because the submitted plans refer to "cycle paths".
76	Schedule 6 (Public rights of way to be temporarily suspended)		
77	Schedule 6	References to "figure" in the second column of the table in Schedule 6 have been replaced with references to "diagram". The word "to" has been deleted from the third line in row 2, column 2 of the table, so that it now reads "...with Advent Way after	These amendments were requested by the ExA during the hearing.

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
		<p>the junction of Advent Way with Lee Park Way..."</p> <p>In row 7 of the table, the second line has been row 7, column 2 of the table has been amended so that it now reads "...with Advent Way after the junction of Advent Way with Lee Park Way..."</p>	
78	Schedule 7 (Public rights of way to be extinguished)		
79	Schedule 7	The word "figure" in the second column of the table has been replaced with the word "diagram".	This amendment was requested by the ExA during the hearing.
80	Schedule 8 (Streets to be temporarily stopped up)		
81	Schedule 8	References to the word "figure" in the third column of the table has been replaced with the word "diagram"	These amendments were requested by the ExA during the hearing.
82	Schedules 5, 9, 10 and 12		
83	Schedules 5, 9, 10 and 12	The format of these schedules has been amended to reflect that of Schedule 4.	In Agenda Item 2 relating to the hearing, the ExA requested that this amendment be made.
84	Schedule 12 (Land of which temporary possession may be taken)		
85	Schedule 12	The reference to plot 17 in row 2 of the table in Schedule 12 has been deleted.	The reference to plot 17 has been deleted to reflect the Applicant's submission at the hearing on 6 July 2016 into compulsory acquisition matters (CA hearing). During

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			the CA hearing, the Applicant confirmed that it no longer required a power to temporarily possess the relevant part of plot 17. As a result, an amendment is needed to delete the reference to plot 17 from schedule 12.
86	Schedule 13 (Protective provisions)		
87	Schedule 13, Part 2 (protection of electricity, gas, water and sewerage undertakers), paragraph 1	The following words have been inserted at the beginning of paragraph 1: "Except in relation to National Grid."	During the hearing, the ExA confirmed that it would like Schedule 13 to contain a new Part that sets out protective provisions benefitting National Grid alone. In light of this, wording is required in Part 2 of Schedule 13 to make it clear that National Grid would not benefit from the provisions in Part 2. There are other affected gas and electricity statutory undertakers who will still benefit from Part 2 of Schedule 13.
88	Schedule 13, Part 3 (protection of Canal and River Trust)	-	The position of Canal and River Trust in relation to protective provisions appears in Agenda Item 2 for the hearing. During the hearing, the Applicant explained to the ExA that CRT has requested that the protective provisions benefitting CRT in The Knottingley Power Plant Order 2015 replace the protective provisions in part 3 of Schedule 13. CRT has

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>provided a mark-up of Knottingley protective provisions against those in Part 3 of Schedule 13 to the ExA. The Applicant explained to the ExA that relevant protective provisions in the Knottingley DCO look similar to what is already in Part 3 of Schedule 13. The Applicant has sent CRT's lawyers a note setting out comments on the mark up. There are a number of issues currently being discussed with CRT and the Applicant currently awaits CRT's response on proposed changes to the amended set of protective provisions CRT is seeking. Discussions are moving forward and the Applicant is hopeful that these issues will be resolved shortly, and that an amended form of protective provisions will be agreed with CRT. Please see the note submitted by the Applicant for Deadline 7 which sets out the progress to date being made with CRT in the negotiation of amendments to CRT's requested protective provisions.</p>
89	Schedule 13, Part 4 (protection of Environment Agency)	-	<p>The position of the Environment Agency in relation to protective provisions appears in Agenda Item 2 for the hearing.</p> <p>During the hearing, the</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			Applicant confirmed to the ExA that the protective provisions contained within the draft DCO submitted at deadline 6 of the Examination had been agreed with the Environment Agency and that there were no outstanding issues.
90	Schedule 13, Part 5 (protection of National Grid)	A new Part 5 has been inserted, which is to contain a new set of protective provisions to benefit National Grid alone.	<p>The position of National Grid in relation to protective provisions appears in Agenda Item 2 for the hearing.</p> <p>During the hearing, the ExA expressed its preference for a new Part to be inserted into Schedule 13 that contains protective provisions that benefit National Grid alone. The ExA made it clear that the "standard" protective provisions submitted by National Grid are not to be inserted into the new Part without any amendment; they are to be amended: (i) to take into account the concerns raised by the Applicant in response to question 10.15 of the ExA's Second Written Questions; and (ii) so that they flow from the other provisions of the draft DCO and not contradict or negate earlier provisions of the draft DCO. The ExA and the Applicant gave the example of paragraph 6 of the "standard" National Grid protective provisions, in relation to which the ExA</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			<p>commented that it completely negated the compulsory acquisition powers in the earlier parts of the draft DCO. The Applicant explained that in relation to the content of the protective provisions for National Grid, it has been in constructive discussions with National Grid and has resolved a number of issues. The Applicant confirmed that it and National Grid are not far from agreeing amendments to the protective provisions. In relation to the location of the National Grid protective provisions, the Applicant explained that it would be helpful to have one set of protective provisions in a DCO that benefit the large number of electricity, gas, water and sewerage undertakers that could be affected by the authorised development. Amendments required by specific undertakers could then be dealt with by private agreement. The Applicant however stated that it would follow the ExA's preference and insert a bespoke set of National Grid protective provisions in the draft DCO; the Applicant does not agree to inserting the National Grid "standard" protective provisions.</p> <p>During the hearing, the Applicant also agreed to</p>

	Provision in the draft DCO (as at Deadline 6, document number AD03.01 (Rev 2))	Amendment and, where relevant, numbering of new provision in revised draft DCO	Reason for amendment
			amend the bespoke National Grid protective provisions so that it used common terminology' National Grid would be referred to as the "statutory undertaker" (not the "undertaker").

**NORTH LONDON WASTE
AUTHORITY**

1b Berol House, 25 Ashley Road
Tottenham Hale
N17 9LJ

Telephone: 020 8489 5867

Fax: 020 8365 0254

Email: project@northlondonheatandpower.london