

CORRECTION NOTICE

THE IMMINGHAM OPEN CYCLE GAS TURBINE ORDER 2020 (S.I. 2020 NO, 847)

SCHEDULE 4 TO THE PLANNING ACT 2008

CORRECTION OF ERRORS IN DEVELOPMENT CONSENT DECISIONS

DATE 14 May 2021

The Secretary of State received a request dated 17 September 2020 from DWD LLP on behalf of VPI Immingham B Limited (“the Applicant”) for the correction of errors in the Immingham Open Cycle Gas Turbine Order 2020 (“the Order”), under section 119 of, and Schedule 4 to, the Planning Act 2008.

The Secretary of State has made the following corrections to the Order:

Corrections to the Articles

Article 2 Definition of “access and rights of way plans”

For “(certification of plans etc.)for” substitute “(certification of plans etc.) for”.

Secretary of State’s rationale:

To correct a typographical error.

Article 2 Definition of “book of reference”

For “(documents to be certified)” substitute “(documents and plans to be certified)”.

Secretary of State’s rationale:

To correctly refer to the heading of article 36.

Article 2 Definition of “book of reference”

For “article 39” substitute “article 39 (certification of plans etc.)”.

Secretary of State’s rationale:

To correctly refer to the heading to article 39.

Article 2 Definition of “commitments register”

For “(certification of plans etc.)for” substitute “(certification of plans etc.) for”.

Secretary of State’s rationale:

To correct a typographical error.

Article 2 Definition of “framework biodiversity enhancement and management plan”

For “order” substitute “Order”.

Secretary of State’s rationale:

To correct a typographical error.

Article 14(1)

For “subject to paragraphs (3) and (4)” substitute “subject to paragraphs (2) and (3)”.

Secretary of State’s rationale:

To correct incorrect cross-references.

Article 17(2)(a)

For “authorised project” substitute “authorised development”.

Secretary of State’s rationale:

To correct an incorrect term.

Article 17(5)(b)

After “any crematorium” omit “and that person must, as soon as reasonably practicable after such re-interment or cremation”.

Secretary of State’s rationale:

To remove duplicated text.

Article 17(5)

Immediately after paragraph (b) omit “provide to the undertaker a certificate for the purposes of enabling compliance with paragraph (10)”.

Secretary of State’s rationale:

To remove duplicated text.

Article 20(1)(b)

For “the 1981 Act(as applied by article 23” substitute “the 1981 Act (as applied by article 23”.

Secretary of State’s rationale:

To correct a typographical error.

Article 21(3)

For “imposition of new restrictive covenants)” substitute “imposition of new restrictive covenants)” .

Secretary of State’s rationale:

To correct a typographical error.

Article 21(4)

For “imposition of new restrictive covenants)” substitute “imposition of new restrictive covenants)”.

Secretary of State’s rationale:

To correct a typographical error.

Article 23(2)

For “The1981 Act” substitute “The 1981 Act”.

Secretary of State’s rationale:

To correct a typographical error.

Article 23(10)

For “the 1981Act” substitute “the 1981 Act”.

Secretary of State’s rationale:

To correct a typographical error.

Article 27(4)(b)

For “the1981 Actor substitute “the 1981 Act or””.

Secretary of State’s rationale:

To correct typographical errors.

Article 32(3)

For “under Part of the 1961 Act” substitute “under Part 1 of the 1961 Act”.

Secretary of State’s rationale:

To insert a missing reference.

Article 33(12)

For “order” substitute “Order”.

Secretary of State’s rationale:

To correct a typographical error.

Article 36(1)(b)

Insert “the defendant shows that the nuisance” immediately before “is a consequence of”.

Secretary of State’s rationale:

To correct unclear drafting.

Article 40(3)(a)

For “secretary of clerk” substitute “secretary or clerk”.

Secretary of State’s rationale:

To correct a typographical error.

Corrections to Schedule 2**Schedule 2, Requirement 5(2)**

For “Schedule 12” substitute “Schedule 12 (design parameters” .

Secretary of State’s rationale:

To correctly reference the title of Schedule 12.

Schedule 2, Requirement 13(1)

For “consultation Historic England” substitute “consultation with Historic England”.

Secretary of State’s rationale:

To correct a typographical error.

Schedule 2, Requirement 16(3)(b)

After “mitigate traffic impact” omit “the construction programme”

Secretary of State’s rationale:

Taken with the amendment to Schedule 2, Requirement 16(3)(c) below, to correct a drafting error.

Schedule 2, Requirement 16(3)(c)

For “furniture substitute “furniture; and”.”

Secretary of State’s rationale:

With Schedule 2, Requirement 16(3)(b) above, to correct a drafting error.

Schedule 2, Requirement 16(3)(c)

After requirement 16(3)(c) insert “(d) the construction programme.”

Secretary of State’s rationale:

With the correction to Schedule 2, Requirement 16(3)(b) above, to correct a drafting error.

Corrections to Schedule 7

Schedule 7, Paragraph 3(1)

For “sub-paragraph 2(2)” substitute “sub-paragraph (2)”.

Secretary of State’s rationale:

To correct an incorrect reference.

Schedule 7, Paragraph 3(2)(a)

After “the Immingham Open Cycle Gas Turbine Order 2020;” omit “and”

Secretary of State’s rationale:

To correct a drafting error.

Corrections to Schedule 9

Schedule 9, Paragraph 11

For “utility undertaking” substitute “utility undertaker”.

Secretary of State’s rationale:

To correct a drafting error.

Schedule 9, Paragraph 18 definition of “commence”

For “term” substitute “terms”.

Secretary of State’s rationale:

To correct a typographical error.

Schedule 9, Paragraph 19

For “25 (retained apparatus: protection)” substitute “25 (retained apparatus: protection of gas undertaker)”.

Secretary of State's rationale:

To correct the reference to the paragraph heading.

Schedule 9, Paragraph 21(2)

For "of an undertaker" substitute "of National Grid".

Secretary of State's rationale:

To clarify that the reference is to National Grid rather than VPI Immingham B Limited as the defined undertaker.

Schedule 9, Paragraph 22(3)

For "removal of apparatus/including" substitute "removal of apparatus (including)".

Secretary of State's rationale:

To correct a typographical error.

Schedule 9, Paragraph 23(1)

For "any right of an undertaker" substitute "any right of National Grid".

Secretary of State's rationale:

To clarify the reference is to National Grid (as a statutory undertaker) rather than VPI Immingham as the undertaker.

Schedule 9, Paragraph 24(2)

For "in the matter will be referred to arbitration" substitute "then the matter will be referred to arbitration".

Secretary of State's rationale:

To correct a drafting error.

Schedule 9, Paragraph 27(5)

For "payable to an undertaker" substitute "payable to National Grid".

Secretary of State's rationale:

To clarify that the reference is National Grid (as a statutory undertaker) rather than VPI Immingham as the undertaker.

Schedule 9, Paragraph 28(3)(b)

For "National Grid as an assignee, transferee or lessee of the National Grid" substitute "National Grid as an assignee, transferee or lessee of the undertaker".

Secretary of State's rationale:

To correct a drafting error.

Schedule 9, Paragraph 30(1)

For "the undertaker or an undertaker" substitute "the undertaker or National Grid".

Secretary of State's rationale:

To correct a drafting error.

Schedule 9, Paragraph 30(1)

For “or an undertaker makes requirements” Substitute “or National Grid makes requirements”.

Secretary of State’s rationale:

To clarify the reference is to National Grid (as a statutory undertaker) rather than VPI Immingham as the defined undertaker.

Schedule 9, Paragraph 30(1)

For “paragraph 27” substitute “paragraphs 25 and 26”.

Secretary of State’s rationale:

To correct an incorrect reference.

Schedule 9, Paragraph 30(1)

For “each undertaker must use its best endeavours” substitute “National Grid must use its best endeavours”.

Secretary of State’s rationale:

To clarify the reference is to National Grid (as a statutory undertaker) rather than VPI Immingham B Limited as the defined undertaker.

Schedule 9, Paragraph 30(2)

For “the statutory undertaker’s consent” Substitute “National Grid’s consent”.

Secretary of State’s rationale:

To clarify the reference is to National Grid (as the statutory undertaker).

Schedule 9, Paragraph 30(2)

For “submitted by National Grid or the taking of action by National Grid” substitute “submitted by the undertaker or the taking of action by the undertaker”.

Secretary of State’s rationale:

To correct the reference to the undertaker rather than National Grid as the statutory undertaker.

Schedule 9, Paragraph 35 definition of “applicable legislation”, sub-paragraph (b)

For “disposal or re)” substitute “disposal or release)”.

Secretary of State’s rationale:

To correct a typographical error.

Schedule 9, Paragraph 35 definition of “specified work”

For “mean” substitute “means”.

Secretary of State’s rationale:

To correct a typographical error.

Schedule 9, Paragraph 35 definition of “VPI apparatus”

After “ladder, steps,” omit “gantries”.

Secretary of State's rationale:
To remove duplicate wording.

Schedule 9, Paragraph 63

For “breach of any obligations” substitute “breach of any of the obligations”.

Secretary of State's rationale:
To correct a typographical error.

Schedule 9, Paragraph 81

After “crosses below” delete “.”.

Secretary of State's rationale:
To correct a typographical error.

Schedule 9, Paragraph 83

For “paragraph 103” substitute “paragraph 102 (expert determination)”.

Secretary of State's rationale:
To correct an incorrect reference.

Schedule 9, Paragraph 106(a)

For “2.25metres” substitute “2.25 metres”.

Secretary of State's rationale:
To correct a typographical error.

Schedule 9, Paragraph 107(b)

After “as may be made by Anglia Water” omit “for the alteration or otherwise”.

Secretary of State's rationale:
To remove duplicate text.

Schedule 9, Paragraph 125(5)

For “the Centrica” substitute “Centrica”.

Secretary of State's rationale:
To correct a drafting error.

Schedule 9, Paragraph 146 definition of “acceptable insurance”

For “determined by an expert under paragraph 158” substitute “determined through arbitration under paragraph 158”.

Secretary of State's rationale:
To correct the reference to paragraph 158 which deals with referral to arbitration.

Schedule 9, Paragraph 146 definition of “acceptable insurance”, sub paragraph (c) and (d)

After “third party bodily” in sub-paragraph (c) insert “damage arising from a pollution/contamination event with cover of £10,000,000.00 (ten million pounds) per event or £20,000,000.00 (twenty million pounds) in aggregate;” and omit sub-paragraph (d).

Secretary of State's rationale:

To remove sub-paragraph (d) which was incorrectly drafted within sub-paragraph (c).

Schedule 9, Paragraph 150(5)

For “have been afforded to Cadent” substitute “having been afforded to Cadent”.

Secretary of State's rationale:

To correct a drafting error.

Schedule 9, Paragraph 151(5)

For “for the access to, construction and maintenance alternative apparatus” substitute “for the access to, construction and maintenance of alternative apparatus”.

Secretary of State's rationale:

To correct a typographical error.

Schedule 9, Paragraph 156(2)

For “information submitted by Cadent or the taking of action by Cadent” substitute “information submitted by the undertaker or the taking of action by the undertaker”.

Secretary of State's rationale:

To correct incorrect references to Cadent rather than to the defined undertaker.

Schedule 9, Paragraph 161 definition of “the Existing Gas Pipeline”

Omit “sheets” after “the Order limits as shown on”.

Secretary of State's rationale:

To correct a typographical error.

Schedule 9, Paragraph 161 definition of “the HE works”

Omit “for” after “the strategic road network”.

Secretary of State's rationale:

To correct a drafting error.

Schedule 9, Paragraph 164(1)(e)

For “paragraphs (a) to (e)” substitute “paragraphs (a) to (d)”.

Secretary of State's rationale:

To correct a cross-referencing error.

Schedule 9, Paragraph 173(1)

For “exists to the apparatus being relocated” substitute “exists in relation to the apparatus being relocated”.

Secretary of State's rationale:

To correct a drafting error.

Schedule 9, Paragraph 176(5)

Omit “,” after “in the ordinary course”.

Secretary of State’s rationale:

To correct a typographical error.

Schedule 9, Paragraph 192(7)

For “article 42” substitute “article 42 (arbitration)”.

Secretary of State’s rationale:

To refer to the heading for article 42.

Schedule 9, Paragraph 199(7)

For “article 42” substitute “article 42 (arbitration)”.

Secretary of State’s rationale:

To refer to the heading for article 42.

Corrections to Schedule 10

Schedule 10, Paragraph 2(4)(a)

For “and is accompanied” substitute “and the application is accompanied”.

Secretary of State’s rationale:

To improve clarity of drafting.

Schedule 10, Paragraph 2(4)(b)

For “it considers” substitute “the relevant planning authority considers”.

Secretary of State’s rationale:

To improve clarity of drafting.

Schedule 10, Paragraph 5(1)(b)g

For “paragraph 2(3)” substitute “paragraph 2(4)”.

Secretary of State’s rationale:

To correct an incorrect cross-reference.

Corrections to Schedule 13

Schedule 13, Paragraph 123(1)

For “paragraphs 59, 60, 61 and 64” substitute “paragraphs 128, 129, 130, 131 and 133”.

Secretary of State’s rationale:

To correct incorrect cross-references.

Corrections which the Secretary of State has not made

Schedule 9 – paragraph 18

The correction has not been made as the footnote does not form part of the text.