



Issue Specific Hearing (Development Consent Order) Action Points

Application by EP Waste Management Ltd for an Order Granting Development Consent for the South Humber Bank Energy Centre (SHBEC) Project.

Actions arising from the Issue Specific Hearing (Development Consent Order) (DCO) held virtually online on 9 February 2021.

For the sake of clarity Deadline 4 is Friday 19 February 2021.

	Action	Party	Deadline
Tuesday 9 February 2021 - Issue Specific Hearing (DCO)			
Articles and Schedules			
Part 1 – Preliminary			
1	Article 2 (interpretation) Should the term 'Bridleway be defined?	Applicant	Deadline 4
Part 2 – Principal Powers			
Article 5 (Effect of the Order on the SHBEC Planning Permission)			
2	Applicant to provide an indicative table/ update in regard to which pre-commencement conditions imposed pursuant to the SHBEC Planning Permission (DM/1070/18/FUL), are likely to be submitted for discharge, bearing in mind the currently anticipated construction programme, prior to the determination of the DCO or, should the DCO be granted, prior to the notice being served under Article 5 of the DCO on North East Lincolnshire Council (NELC). Additionally, Applicant to provide an explanation of how any discharged Planning Condition, attached to the above mentioned SHBEC Planning Permission, might interact with the grant of the DCO, especially Article 5.	Applicant	Deadline 4
3	In regard to Article 5(5) of the draft DCO, to justify and provide further information on the proposed approach within the DCO to transfer Conditions discharged under the SHBEC Planning Permission to the discharge of the related Requirement or to make some other proposal in regard to resolving the Examining Authority's (ExA) concerns related to the effect of Article 5(5).	Applicant	Deadline 4
Article 9 (Consents to Transfer Benefits of the Order)			
4	Article 9(2) after the wording "...except in paragraph 3..." should reference also be made	Applicant	Deadline 4



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	to sub-paragraph (8)? Applicant to review and reply.		
Part 3 – Streets			
5	No Actions Arising.		
Part 4 – Supplemental Powers			
6	No Actions Arising.		
Part 5 – Operations			
Articles 19 (Statutory Undertakers)			
7	To provide an update in regard to whether National Grid (NG) (Being National Grid Electricity Transmission PLC and National Grid Gas PLC), are maintaining their concerns over the wording " <i>Extinguished or Suspended Rights of, Removal or...</i> ". This is being asked in the light of the fact that the current version of the draft DCO has been amended to remove this wording. In addition to the above, also provide an update in regard to progress on the Statement of Common Ground (SoCG) with NG and where negotiations have reached with NG as to the wording of any Protective Provisions they are seeking to be included within the draft DCO, including any current draft wording of those Protective Provisions.	Applicant/ National Grid	Deadline 4
Article 26 (Service of Notice)			
8	Please check, clarify, and amend, as required, the wording in Article 26(3)(a). Should the word 'of' be the word 'or'. Applicant to review and reply.	Applicant	Deadline 4
Schedules			
Schedule 1 – Authorised Development; Schedule 4 – Streets subject to Street Works; Schedule 5 – Streets subject to Permanent Alteration of Layout; Schedule 6 – Access; and Schedule 7 – Streets to be Temporarily Stopped Up.			
9	No Actions Arising.		
Schedule 2 – Requirements			
10	Covered by Agenda Item 3 and any Action Points Arising from that agenda item are set out further below.	See below	See below
Schedule 3 – Deemed Approval of Matters Referred to in Requirements.			
11	See Action Point 3 above.	Applicant	Deadline 4
Schedule 8 – Protective Provisions			
Part 1			
12	No actions arising.		



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Part 2 - For the Protection of National Grid as Electricity and Gas Undertaker			
13	See Action Point 7 above.	Applicant/ NG	Deadline 4
14	The Interpretation section of this Part (Paragraph 11) 'National Grid' could be shortened by deleting all wording of this definition after the words 'National Grid' and adding the wording 'has the same meaning as 'National Grid' in Article 2 of this Order.' Applicant to review and reply.	Applicant	Deadline 4
Part 3 – For the Protection of Electricity, Gas, Water and Sewerage Undertakers			
15	No Actions Arising.		
Part 4 – For the Protection of Operators of Electronic Communications Code Networks.			
16	No Actions Arising.		
Part 5 - For the Protection of Network Rail (NR)			
17	Applicant to provide wording of the Protective Provisions agreed with NR in an updated SoCG.	Applicant/ Network Rail	As Soon As Possible (ASAP)
18	Regarding any Side Agreement finalised between the Applicant and NR, please confirm within an updated copy of the SoCG completed by the parties, that the Side Agreement has been signed and dated by both parties. Additionally, also confirm within the SoCG that NR are satisfied that this Side Agreement provides them with surety that the development will result in no detriment to NR Statutory Undertakings. Applicant to liaise with NR and provide an updated version of the SoCG which will confirm the above within that completed document.	Applicant/ Network Rail	ASAP
Agenda Item 3 – Schedule 2 – Requirements			
Requirement 2 (Commencement of the Authorised Development)			
19	Requirement 2(2) What does the term 'event' mean? Applicant to review and reply.	Applicant	Deadline 4
20	Applicant to confirm in writing why the term 'commencement' is no longer referred to in this Requirement and to look at whether the wording related to Requirement 2(2)(a), especially the words 'start' and 'commissioning' are appropriate triggers. Applicant to review and respond.	Applicant	Deadline 4
Requirement 5 – (Detailed Design (Position and Scale))			



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21	The Applicant to enter into evidence the Health and Safety Executive's advice, along with any plans detailing the Inner, Middle or Outer Safety Zones, provided to the LPA in their consideration of the SHBEC Planning Permission or to direct the ExA to where within the existing evidence that information has already been provided.	Applicant	Deadline 4
Requirement 7 – Retained Trees			
22	Requirement 7(2) – Whether the requirement is precise. Should the reference in this requirement to 'Work No. 3' be more precise. Is it clear what reference to 'Work No. 3' means? Applicant to review and respond.	Applicant	Deadline 4
Requirement 8 (Means of Enclosure and Hard Landscaping)			
23	This is another question as to the preciseness of the Requirement. When will the approved details be implemented? There does not appear to be an implementation element to this Requirement. Applicant to review and respond.	Applicant	Deadline 4
Requirement 9 – (Lighting Scheme)			
24	Query in regard to potential typographical error in Requirement 9(2), which reads 'in accordance with the principals <u>in</u> the indicative...' However, the Schedule of Draft Changes to the draft DCO states 'in accordance with the principals <u>of</u> the indicative...' (Underlining is my emphasis). Applicant to review and respond.	Applicant	Deadline 4
Requirement 11 (Biodiversity Protection)			
25	I note the revisions at Requirement 11(2), as discussed in the draft SoCG with NELC at Paragraph 14.2.7, but this differs from the wording of the Requirement agreed with Natural England in the SoCG (See Paragraph 4.7.7 of that document). Has Natural England been consulted with regard to this revision and if so could you enter into evidence written confirmation of its agreement? Applicant to confirm the discussions with NE and confirm the position at Deadline 4.	Applicant	Deadline 4
Requirement 12 (Biodiversity Mitigation and Enhancement)			
26	This Requirement does not appear to include any need for approval or agreement which would trigger Requirement 4 (Requirement for Written Approval). Additionally, there does not appear to be any need to maintain the elements secured by this requirement after	Applicant	Deadline 4



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	they have been implemented. Applicant to review and respond.		
Requirement 13 (Surface Water Drainage) and Requirement 14 (Foul Water Drainage)			
27	Question concerning Requirement 13(2) and Requirement 14(2) and whether they are precise. Both of these Requirements refer to ' <i>relevant part of the outline drainage strategy</i> '. Is reference to ' <i>relevant part...</i> ' precise enough? Applicant to review and respond.	Applicant	Deadline 4
Requirement 16 (Construction Traffic Management Plan)			
28	Requirement 16(1). In addition to NR, Royal Mail should also be listed as a consultee (See SoCG with Royal Mail Paragraph 4.2.3 Bullet Point 4). Applicant to review and respond.	Applicant	Deadline 4
29	Requirement 16(3)(a) – Question about precision. - What is the definition of a 'Railway Asset'? Applicant to review and respond.	Applicant	Deadline 4
Requirement 17 (Piling)			
30	Requirement 17(2) the word ' <i>shall</i> ' has been changed to ' <i>must</i> ' with no apparent reasoning given. Whilst the word ' <i>must</i> ' is stronger, has this change in wording been agreed with Natural England, as it differs from the wording agreed with Natural England in the SoCG agreed with them (See Paragraph 4.3.6 of that SoCG). Applicant to make Natural England aware of the change and the reasoning behind it and to seek confirmation from Natural England that it is satisfied in regard to this change. Applicant and/ or Natural England to enter into the examination, evidence that Natural England is satisfied with regard to the change in wording as discussed above.	Applicant/ Natural England	Deadline 4
Requirement 21 (Procedure in cases of unexpected contamination)			
31	Consistency with other Requirements. Requirement 21(3) has no tail piece. If tail pieces are to be used, should Requirement 21(3) have a tail piece? Applicant/ NELC to review and respond.	Applicant/ NELC	Deadline 4
32	Applicant to provide an explanation of: a) the current status of the Environmental Permit sought in relation to the current DCO proposed development, including whether the applicant is anticipating any issues arising from its Environmental Permit submission;	Applicant	Deadline 4



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	<p>b) the term 'made' in relation to the submission of the application for an Environmental Permit to the Environment Agency; and</p> <p>c) anticipated timescales in regard to the issuing of the Environmental Permit, which the Applicant has sought from the Environment Agency, bearing in mind the backlog of Environmental Permit applications that the Applicant has indicated currently exist at the Environment Agency.</p>		
Requirement 33 (Decommissioning)			
33	<p>Requirement 33(2) does not specify when the decommissioning plan must be implemented. It just states it must be implemented. The Applicant and NELC to discuss and review, with a view to inserting a reference to agreeing a timetable within Requirement 33(1). Applicant and NELC to update the ExA in regard to this matter.</p>	Applicant/ NELC	Deadline 4
Requirement 35 (Combined Heat and Power)			
34	<p>The Draft SoCG with NELC at Para 14.2.5 indicates that the wording "<i>...and must remain available for connection or use.</i>" should be added to this Requirement. However, this wording is missing. Applicant to review and respond.</p>	Applicant	Deadline 4
35	<p>Applicant and NELC to agree more precise format for this Requirement to ensure it is precise (i.e. what is expected from the Requirement) and enforceable. Applicant and NELC to review and respond.</p>	Applicant/ NELC	Deadline 4
Requirement 37 (Heavy Goods Vehicle Prohibition)			
36	<p>In regard to duplication of powers, could the Applicant and Local Highway Authority provide a comment on whether a mechanically propelled vehicle is allowed to travel on a bridleway. If so, what are the circumstances were such a vehicle can travel on a Bridleway. In addition to the above, if mechanically propelled vehicles, are allowed to travel on a bridleway, are they entitled to travel over the bridleway at South Marsh Road (West of Hobson Way, also known as South Marsh Lane Bridleway) or are there any other restrictions on that particular bridleway that would prevent mechanically propelled vehicles travelling over it?</p>	Applicant/ Local Highway Authority	Deadline 4



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	Applicant and Local Highway Authority to review and respond.		
37	The Applicant to provide an explanation of the background to Requirement 37.	Applicant	Deadline 4
Agenda Item 4 – Article 25 of the DCO - Certification of Plans			
38	The Applicant is to review the documents and plans to be included within Article 25 (Certification of Plans) of the DCO and provide the ExA with an explanation of those updates. The Applicant is also to provide a list of the current documents and plans to be certified in Article 25, specifically identifying those which have been amended since the DCO application was submitted. Applicant to review and respond.	Applicant	Deadline 4
Agenda Item 5 – Consents, licences, and other agreements			
39	No Actions Arising.		