

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
 List of corrections to the Order requested by Medworth CHP Limited

Introduction

The following table lists a number of errors considered to be contained within the Medworth Energy from Waste Combined Heat and Power Facility Order 2024 ("the Order"), made on 20 February 2024, that Medworth CHP Limited ("Medworth"), the undertaker with the benefit of the Order, has identified. The table is structured as follows:

- Column (1) identifies the provision of the Order that Medworth considers to be erroneous;
- Column (2) identifies the error;
- Column (3) sets out the correction that Medworth considers to be appropriate; and
- Column (4) includes commentary on the correction.

(1) Provision	(2) Error	(3) Correction requested	(4) Commentary
Preamble, footnote (b) (on page 4)	"2008 c. 29. Section 74 was amended by the Localism Act 2011 (c. 20) section 240(2), Schedule 13 paragraph 29() and Schedule 25 Part 20."	Correct reference to Schedule 13 to read "paragraph 29(1)".	Referencing correction
Article 2(1)	"“date of final commissioning” means the date on which the commissioning of the authorised development is completed as notified as such by the undertaker to the relevant planning authority pursuant to requirement 20 of Schedule 2 (requirements);"	Replace the words “the authorised development” with “Work No. 1”.	The Decision Letter stated that amendments were made to the definition of “date of final commissioning” to make it clear that it applied to Work No. 1 to be consistent with requirement 20 in Schedule 2. However, the removal of the words “ <i>or any part of the authorised development</i> ” implies that the entire authorised development must be completed as opposed to just Work No. 1 which is not the intention.

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
List of corrections to the Order requested by Medworth CHP Limited

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			<p>This can be seen in requirement 25 of Schedule 2 (combined heat and power), which requires the undertaker to demonstrate that Work Nos. 1 and 2 have been constructed in accordance with the CHP embedded design measures, before the date of final commissioning. However, the construction of the CHP Connection itself (Work No. 3) is not required to have been completed in order to trigger this obligation.</p> <p>The amendment requested would increase clarity, which is justified in light of the importance of this date for temporary possession powers under articles 32 and 33, and for numerous requirements.</p>
Article 2(1)	<p>““Order land” means the land shown on the land plans and within the Order limits which is required for the authorised development;”</p>	<p>Add the words “or to facilitate or is incidental to” before “the authorised development”.</p> <p>Alternatively, delete the text after “Order limits” and add “to be acquired or used and described in the book of reference”.</p>	<p>The reason provided in the Decision Letter for the deletion of the words “<i>or to facilitate or is incidental to</i>” from the definition of Order land was for clarity.</p> <p>However, this change has resulted in the definition of Order land not being consistent with article 23(1) and section 122(2)(b) of the Planning Act 2008 which also refer to land required “<i>to facilitate or is incidental to the authorised development</i>” and not solely</p>

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 List of corrections to the Order requested by Medworth CHP Limited

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			<p>land “<i>required for the authorised development</i>”.</p> <p>The Applicant therefore requests that either the words are reinstated or, alternatively, the definition is further amended to refer to the Book of Reference.</p> <p>The additional words are included in the definition of Order Land in The Net Zero Teesside Order 2024.</p> <p>The Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024 uses “land to be acquired or used”.</p> <p>National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024 simply refers to the ‘land to be acquired’.</p> <p>The definition within the Order is not therefore consistent with other recently made DCOs.</p>
Article 17(1)	“Subject to the provisions of this article, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with, or in consequence of, the construction of the authorised development, temporarily—”	<p>Add the words “and operation” after “construction”.</p> <p>Delete “, temporarily”.</p>	Sub-paragraph (f), to determine that no person is to drive any motor vehicle at a speed exceeding 30 miles per hour on New Bridge Lane, is a requirement to manage the impacts of the authorised development during operation not just temporarily during construction. The

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			<p>speed restriction is therefore required to be in place for the lifetime of the authorised development.</p> <p>The Statement of Common Ground (SoCG) with Cambridgeshire County Council (CCC) [REP8-027] confirms at 6.3.1 and 6.3.2 that the Transport Assessment Team have agreed the approach in terms of the assessment including enhancements to New Bridge Lane, and that they would have no concerns over the impact of the development subject to the enhancements to New Bridge Lane. The SoCG refers to ES Chapter 6 Traffic and Transport [APP-033] which confirms at paragraph 6.6.124 that “to allow access along New Bridge Lane to the Proposed Development, the speed limit along this section of road should be reduced to 30-mph”.</p> <p>The outline Construction Traffic Management Plan [REP7-010] confirms at paragraph 7.2.10 that “CCC as local highway authority supports the Applicant’s proposal to reduce the speed limit along New Bridge Lane once the New Bridge Lane Access Improvements have been completed and the road is available to be used by</p>

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
 List of corrections to the Order requested by Medworth CHP Limited

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			<p>construction traffic. The Applicant’s DCO Article 17 gives it the ability to make traffic regulation measures and this will be updated to include a specific reference to changing the speed limit on New Bridge Lane to 30mph as suggested by CCC. Alternatively, the Applicant can apply to CCC with a request to reduce the speed limit to 30mph via a Traffic Regulation Order (S84 of the Road Traffic Regulation Act 1984). It is the intention that this speed limit is made permanent.”.</p> <p>The consent of the traffic authority for all traffic regulation measures ensures appropriate oversight for the use of traffic regulation measures on a non-temporary basis.</p> <p>The power was included within the DCO as the speed limit is required as a mitigation measure during construction and operation.</p>
Article 20(6)	“Where a notice is served under paragraph (5), the owner or occupier of the buildingor land concerned may, by serving a counter-notice within the period of ten days beginning with the day on which the notice was served, require the question of whether it is necessary or	Insert a space between “building” and “or”.	Typographical error.

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
 List of corrections to the Order requested by Medworth CHP Limited

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	expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 46 (arbitration).”		
Article 29(6)	“In section 5B (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the Medworth Energy from Waste Combined Heat and Power Facility Order 202*”.	Replace “202*” with “2024”	Correction
Article 29(9)	In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute— “(2) But see article 26 (acquisition of subsoil only) of the Medworth Energy from Waste Combined Heat and Power Facility Order 202*, which excludes the acquisition of subsoil only from this Schedule”.	Replace “202*” with “2024”	Correction

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
List of corrections to the Order requested by Medworth CHP Limited

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Article 30(2)	In section 4A(1) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the Medworth Energy from Waste Combined Heat and Power Facility Order 202**.”	Replace “202**” with “2024”	Correction
Article 43(2)	“Where the person on whom a notice or other document to be served for the purposes of tcaenthis Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.”	Insert “this” in place of “tcaenthis”	Typographical error
Schedule 1	“In connection with and in addition to Work Nos 1, 1A, 1B, 2A, 2B, 3, 3A, 3B, 4A, 4B, 5, 6A, 6B, 7, 8, 9 and 10 and, to the extent that it does not otherwise form part of those Work Nos, further associated development comprising such other works or operations as may be necessary or expedient for the purposes of or in	replace “fall within the scope of the work assessed by” with “do not give rise to any materially new or materially different environmental effects from those assessed in”	The Decision Letter states that changes were made to this part of Schedule 1 to ensure consistency with other recently made DCOs. However, the Applicant notes that the two DCOs made since this Order both include provision for other development or works “ <i>which do not give rise to any materially new or</i>

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
 List of corrections to the Order requested by Medworth CHP Limited

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	<p>connection with the authorised development, and which are within the Order limits and fall within the scope of the work assessed by the environmental statement including—"</p>		<p><i>materially different environmental effects</i>". These are The A66 Northern Trans-Pennine Development Consent Order 2024 at Schedule 1, under the heading Ancillary Works; and National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024 at Schedule 1, within 'such associated development listed above', at paragraph (t).</p> <p>The Applicant requests the reinstatement of the precedented wording as this more accurately reflects the Rochdale Envelope approach undertaken for NSIPs.</p>
<p>Schedule 2, paragraph 2(1)</p>	<p>"No part of Work Nos. 1, 1A, 1B, 2A, 2B, 3, 6A, 6B, 7, 8, 9 or 10 may commence until details of the layout, scale and external appearance for that Work No. have been submitted to and approved by the relevant planning authority."</p>	<p>Add the words "(if applicable)" after "external appearance".</p>	<p>Work Nos. 6A and 6B relate to potable and waste water connections. Work Nos. 7 and 8 relate to the underground Grid Connection cable within Cambridgeshire and Norfolk.</p> <p>These elements of the authorised development are located entirely underground meaning that there is no planning reason for their "external appearance" to be approved by the relevant planning authority.</p> <p>The additional wording ensures that it is not necessary for approval to be obtained to deal with the external</p>

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
List of corrections to the Order requested by Medworth CHP Limited

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			appearance of elements of authorised development that are to be located underground.
Schedule 2, paragraph 2(2)	“The details submitted for approval under sub-paragraph (1) must be substantially in accordance with the design principles set out in Appendix A of the design and access statement.”	Add the word “applicable” before “design principles”.	This amendment is required to ensure that the design must accord only with the design principles that are applicable to that Work No. For example, as Work Nos. 6A, 6B, 7 and 8 are located entirely underground with no visible external appearance and therefore there are no applicable design principles relating to such Work Nos.
Schedule 9, paragraph 3(2)	<p>“(2) For section 5A (relevant valuation date) of the 1961 Act, after “if” substitute—</p> <p>“(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 9 to the Medworth Energy from Waste Combined Heat and Power Order 202*;</p> <p>(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 9 to the Medworth Energy from Waste Combined Heat and</p>	Replace “202*” with “2024” in both places it occurs.	Correction

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
List of corrections to the Order requested by Medworth CHP Limited

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	<p>Power Order 202*) to acquire an interest in the land; and</p> <p>(c) the acquiring authority enters on and takes possession of that land, the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.</p>		
<p>Schedule 9, paragraph 5(7)</p>	<p>“(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 30(7) (modification of Part 1 of the Compulsory Purchase Act 1965) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, or enforce the restriction imposed, subject to compliance with that section as respects compensation.”</p>	<p>Replace “article 30(7)” with “article 30(4)”.</p>	<p>Cross-referencing correction.</p>
<p>Schedule 9, paragraph 5(8), at paragraph 1(1) and 1(2) within the text to be substituted</p>	<p>“1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 29 (application of the 1981 Act) of the Medworth Energy from Waste Combined</p>	<p>Replace “202*” with “2024” in both places it occurs.</p>	<p>Correction</p>

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
List of corrections to the Order requested by Medworth CHP Limited

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	<p>Heat and Power Facility Order 202* in respect of the land to which the notice to treat relates.</p> <p>(2) But see article 26 (acquisition of subsoil only) of the Medworth Energy from Waste Combined Heat and Power Facility Order 202* which excludes the acquisition of subsoil only from this Schedule.”</p>		
Schedule 11, Part 4	[Entire Part]	Delete Part 4 and replace with new Part 10 to include agreed form of Protective Provisions for the benefit of Eastern Power Networks, provided in response to the Secretary of State Consultation dated 10 January 2024.	The agreed form of protective provisions submitted in response to the Secretary of State’s Request for Information by the Applicant on 19 January 2024 have been omitted. There is no comment in the Decision Letter to indicate this was intentional on the part of the Secretary of State and the Applicant therefore considers this to be an error. In order to avoid amending the numbering in parts 5 to 9 of Schedule 11 we have suggested that Part 4 is omitted and the agreed form of protective provisions is included in a new Part 10.
Schedule 11, Part 7, paragraph 78	““apparatus” means:”	Replace “:” with “—“;	Typographical error

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
List of corrections to the Order requested by Medworth CHP Limited

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Schedule 12, paragraph 2(2)	“(2) Subject to paragraph (4), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.”	Replace “paragraph (4)” with “sub-paragraph (4)”	Cross referencing error
Schedule 12, paragraph 2(3)	“(3)Any application made to the relevant planning authority pursuant to sub-paragraph (1) must:”	Replace “:” with “—”; Replace “relevant planning authority” with “relevant authority”	Typographical error and incorrect use of defined term. In Schedule 12 the term “relevant authority” (as defined in paragraph 1) is used. This is wider than the definition of “relevant planning authority”. The Applicant notes that only some of the references to “relevant authority” have been changed to “relevant planning authority” and we assume this is an error.
Schedule 12, paragraph 2(4)(a)	“(a) the relevant authority does not determine the application within the period set out in sub paragraph (1) and such application is accompanied by a report pursuant to subparagraph (3) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental	Replace “subparagraph” with “sub-paragraph”	Amendment consistent with SI drafting convention.

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
List of corrections to the Order requested by Medworth CHP Limited

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	effects compared to those in the environmental statement; or”		
Schedule 12, paragraph 2(4)(b)	“the relevant planning authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,”	Replace “relevant planning authority” with “relevant authority”	Incorrect use of defined term.
Schedule 12, paragraph 2(5)	(5) At the same time as submitting an application to the relevant planning authority for any consent, agreement or approval required by a requirement, the undertaker must also give notice of such application, and provide a copy of the application, to any requirement consultee, if the provision governing or requiring the application specifies that consultation with a requirement consultee is required. As part of the notification to any requirement consultee, the undertaker must include a statement that refers to:”	Replace “:” with “—”; Replace “relevant planning authority” with “relevant authority”.	Typographical error and incorrect use of defined term.
Schedule 12, paragraph 2(5)(a)	“(a) the timeframes in which the requirement consultee can request any further information from the undertaker (via the relevant planning authority) as prescribed in paragraph 3(6)(a) and the	Replace “relevant planning authority” with “relevant authority”.	Incorrect use of defined term.

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
List of corrections to the Order requested by Medworth CHP Limited

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	consequences of the failure to meet those timescales as prescribed in paragraph 3(6)(b); and”		
Schedule 12, paragraph 2(5)(b)	“(b) the timeframes in which the requirement consultee must give notice to the relevant planning authority of its comments on the application as prescribed in paragraph 3(6)(d) and the consequences of the failure to meet those timescales as prescribed in paragraph 3(6)(e).”	Replace “relevant planning authority” with “relevant authority”.	Incorrect use of defined term.
Schedule 12, paragraph 3(6)	(6)If the provision governing or requiring the application specifies that consultation with a requirement consultee is required:	Replace “:” with “—”;	Typographical error.
Schedule 12, paragraph 3(6)(a)	“(a) A requirement consultee is required to notify the relevant planning authority in writing specifying any further information it considers necessary in order to comment on the application within 10 working days of receipt of the application pursuant to paragraph 2(5);”	Replace “relevant planning authority” with “relevant authority”.	Incorrect use of defined term.
Schedule 12, paragraph 3(6)(b)	“(b) If a requirement consultee does not give notification as specified in sub-paragraph (a) it is deemed to have sufficient information to comment on the application and is not thereafter entitled to request further information without the	Replace “relevant planning authority” with “relevant authority”. Replace “sub-paragraph (a)” with “paragraph (a)”	Incorrect use of defined term. Amendment consistent with SI drafting convention.

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
List of corrections to the Order requested by Medworth CHP Limited

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	prior agreement of the undertaker and relevant planning authority;”		
Schedule 12, paragraph 3(6)(c)	“(c) At the same time as providing any further information to the relevant planning authority pursuant to a request under paragraph (2), if the undertaker has been notified of further information requested by a requirement consultee, the undertaker must also give any further information to the requirement consultee;”	Replace “relevant planning authority” with “relevant authority”. Replace “paragraph (2)” with “sub-paragraph (2)”	Incorrect use of defined term. Amendment consistent with SI drafting convention.
Schedule 12, paragraph 3(6)(d)	“(d) A requirement consultee is required to notify the relevant planning authority in writing of any comments on the application within 15 working days of receipt of the application from the undertaker pursuant to paragraph 2(5), or the receipt of any further information pursuant to sub-paragraph (c) (where further information has been requested); and”	Replace “relevant planning authority” with “relevant authority”. Replace “sub-paragraph (c)” with “paragraph (c)”	Incorrect use of defined term. Amendment consistent with SI drafting convention.
Schedule 12, paragraph 3(6)(e)	“(e) If a requirement consultee does not give notification as specified in sub-paragraph (d) it is deemed to have no comments on the application.”	Replace “sub-paragraph (d)” with “paragraph (d)”	Amendment consistent with SI drafting convention.
Schedule 13, Table 10, row 8“environmental	“1”	Replace “1” with “2”	Correction of version number to reflect that parts of the Environmental

The Medworth Energy from Waste Combined Heat and Power Facility Order 2024
 List of corrections to the Order requested by Medworth CHP Limited

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statement", column 3 ("revision number")			Statement were updated during the Examination.
Schedule 13, Table 10, row 8 ("environmental statement"), column 4 ("date")	"June 2022"	Replace "June 2022" with "June 2023"	Correction
Schedule 13, Table 10, row 9 ("environmental statement figures"), column 4 ("date")	"March 2023"	Replace "March 2023" with "May 2023"	Correction