

Application by SSE Slough Multifuel Limited for Slough Multifuel Extension Project.

The Examining Authority's schedule of proposed changes to the draft Development Consent Order (dDCO).

Issued on Monday 5 June 2023.

This document sets out the Examining Authority's (ExA) proposed changes to the latest version of the Applicant's dDCO submitted at Deadline 3 of the Examination [REP3-003]. The suggested changes have regard to the applicant's 'discussion draft' version submitted at Deadline 5 [REP5-004].

Column 1 of the table sets out the unique reference number for each proposed change. Column 2 sets out the provision in the dDCO to which the proposed change relates. Column 3 describes the recommended change, with proposed deletions shown as ~~strikethrough~~ and proposed additions shown in **red text**. Column 4 provides the ExA's reasoning as to the recommended change and any further commentary.

There may be further changes to the dDCO which the ExA recommends to the Secretary of State to take account of other matters that have been and continue to be examined. This is particularly likely in the event that it is clear that there are fundamental differences between parties on a number of issues. These will need to be reported to the Secretary of State along with the ExA's conclusions when all the evidence has been submitted.

Should the Applicant or any other party wish to make any comments on this schedule of proposed changes then these should be submitted by **Deadline 6 (Monday 19 June 2023)**.

Abbreviations used

Art	Article	Sch	Schedule
dDCO	Draft DCO	SI	Statutory Instrument
ES	Environmental Statement	SoS	Secretary of State
ExA	Examining Authority	TCPA	Town and Country Planning Act 1990
PA2008	Planning Act 2008	the 2017 Regs	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
R	Requirement		



Ref No.	Provision	Proposed change	ExA Reasoning
DCO-PC01	Whole dDCO	<ol style="list-style-type: none">1. Please check internal references, statutory citations and references and legal footnotes and update as required.2. Please review additions to the dDCO ensuring that the titles and numbering of all provisions remains consistent throughout and with the Table of Contents. Also please undertake a check to ensure spelling and punctuation is correct throughout.3. Ensure dDCO follows best practice in Planning Inspectorate Advice Notes 13 and 15 and (as relevant) guidance on SI drafting from the Office of the Parliamentary Counsel (June 2020).	To ensure the accuracy of the final dDCO.
DCO-PC02	Art 2	Add the following definition below the definition of 'address': “approved variation” means any variations to the TCPA permission or further TCPA permission granted by the relevant planning authority pursuant to requirements 8 and 9 of this Order and section 73 or section 96A of the 1990 Act;	To ensure that the determination of any application to vary the TCPA permission or further TCPA permission is properly considered in accordance with the PA2008 and 2017 Regulations and does not give rise to any materially new or materially different environmental effects from those identified in the ES.



Ref No.	Provision	Proposed change	ExA Reasoning
DCO-PC03	Art 2	Add the following definition below the definition of 'commence': " construction environment management plan " means the document certified as the construction environmental management plan by the Secretary of State for the purposes of this Order and submitted with the application on [] including all appendices thereto;'	To ensure that the works are undertaken in accordance with the certified construction environment management plan.
DCO-PC04	Art 2	Amend the definition of 'further TCPA permission' by: <ul style="list-style-type: none">• Replacing 'other' with 'approved' in line 2;• adding 's' to 'variation' in line 2;• omitting the words '(which shall include for the avoidance of doubt any variations pursuant to Section 73 of the 1990 Act);'	To ensure that the definition is consistent with other suggested changes to the dDCO.
DCO-PC05	Art 2	Amend the definition of 'TCPA permission' by: <ul style="list-style-type: none">• replacing 'other' with 'approved' in line 2;• adding 's' to 'variation' in line 2;• omitting the words '(which shall include for the avoidance of doubt any variations pursuant to Section 73 of the 1990 Act);'	To ensure that the definition is consistent with other suggested changes to the dDCO.
DCO-PC06	Art 2	Add the following definition after the definition of 'relevant planning authority':	To ensure that the terms of the Order are properly defined.



Ref No.	Provision	Proposed change	ExA Reasoning
		“requirement consultee” means any body or authority named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement;	
DCO-PC07	Art 10	Omit this Art and its heading. Re-number subsequent Arts and references.	Having had regard to the Applicant’s response to EQ1.2.5, the ExA considers that it is not necessary for the DCO to include a defence against statutory nuisance for the Proposed Development.
DCO-PC08	Art 11	Add ‘(1)’ after ‘11’ in the first line. Note: following suggested change DCO-PC06 this would become Art 10 .	To ensure the consistency of numbering within the DCO.
DCO-PC09	Art 11 – clause 2	Add the words ‘TCPA permission or the further TCPA permission are’ and omit ‘is’ after ‘plan’ in line 2.	To ensure any variations of the TCPA permission and further TCPA permission become certified documents.
DCO-PC10	Sch 2	Amend sub-heading to read ‘Part 1 Requirements’	To reflect the sub-division of Sch 2 into two parts.
DCO-PC11	R1	Add ‘(1)’ after ‘1’ in the first line. Add ‘(1)’ after ‘11’ in the definition of condition 17 of the certified TCPA permission. Note: following suggested change DCO-PC06 this would become Art 10.	To ensure the consistency of numbering within the DCO.
DCO-PC12	R1(1)	Add the words “‘details approved’ means details approved pursuant to conditions of the TCPA permission and further TCPA	To ensure consistency and certainty.



Ref No.	Provision	Proposed change	ExA Reasoning
		permission as at 26 May 2023;’ after the definition of ‘certified construction environment management plan’.	
DCO-PC13	R3	Add ‘(1)’ after ‘1’ in the first line.	To ensure the consistency of numbering within the DCO.
DCO-PC14	R4	Omit this R. Renumber subsequent Rs.	To ensure consistency with other suggested changes.
DCO-PC15	R6 and R7	Add ‘(1)’ after the 6 and 7 in the respective first lines. Note: following suggested change DCO-PC13 these would become R5 and R6.	To ensure the consistency of numbering within the DCO.
DCO-PC16	New text after R8	<p>Add the following text:</p> <p>‘PART 2</p> <p>PROCEDURE FOR APPROVAL OF VARIATIONS AND DETAILS AND REVISIONS TO APPROVED DETAILS</p> <p>Approved Variation</p> <p>(2) The undertaker must submit to the discharging authority for approval any approved variation and following any such approval by the discharging authority the approved variation is to be taken to include the amendments approved pursuant to this sub-paragraph.</p>	<p>To ensure that any variations to, or approvals required under, the TCPA and further TCPA permissions are properly considered in accordance with the PA2008 and the 2017 Regs.</p> <p>To ensure that the approach to further approvals and requirements in the Order is consistent with other made DCOs.</p> <p>To ensure that the determination of any application to vary the TCPA permission or further TCPA permission does not give rise to any materially new or materially different environmental effects from those identified in the ES.</p>



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>(3) When submitting an application to the relevant planning authority for an approved variation, the undertaker must provide written confirmation that the application does not give rise to any materially new or materially different environmental effects to those identified in the environmental statement in respect of the authorised development.</p> <p>(4) The relevant planning authority may only positively determine an application for an approved variation if it is satisfied with the undertaker's confirmation under sub-paragraph (3).</p> <p>Approved details and revisions to approved details</p> <p>9.- (1) With regard to any details requiring approval pursuant to the TCPA permission or further TCPA permission, the undertaker must not submit to the relevant planning authority for approval any details or revisions to details approved otherwise than in accordance with this requirement.</p>	<p>To set out a procedure for the determination of approvals sought under the requirements.</p>



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>(2) When submitting an application to the relevant planning authority in accordance with sub-paragraph (1), the undertaker must provide written confirmation that the application does not give rise to any materially new or materially different environmental effects to those identified in the environmental statement in respect of the authorised development.</p> <p>(3) The relevant planning authority may only positively determine an application for approval pursuant to this requirement if it is satisfied with the undertaker's confirmation under sub-paragraph (2).</p> <p>PART 3</p> <p>DISCHARGE OF REQUIREMENTS</p> <p>Applications made under requirements</p> <p>10 Where an application has been made to the relevant planning authority for any agreement or approval required pursuant to a requirement included in this Order, the relevant planning authority must give notice to the undertaker of their decision,</p>	



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>including the reasons, on the application, within a period of 8 weeks beginning with-</p> <p>(a) the day immediately following that on which the application is received by the relevant planning authority; or</p> <p>(b) such longer period as may be agreed by the undertaker and the discharging authority.</p> <p>Further information</p> <p>11.—(1) Where an application has been made under paragraph 10 the relevant planning authority has the right to request such reasonable further information from the undertaker as is necessary to enable it to consider the application.</p> <p>(2) If the relevant planning authority considers further information is needed, and the requirement does not specify that consultation with a requirement consultee is required, it must, within 14 days of receipt of the application, notify the undertaker in writing specifying the further information required.</p>	



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>(3) If the requirement indicates that consultation must take place with a consultee the relevant planning authority must issue the consultation to the requirement consultee within 5 working days of receipt of the application. Where the consultee requires further information they must notify the relevant planning authority in writing specifying the further information required within 14 days of receipt of the consultation. The relevant planning authority must notify the undertaker in writing specifying any further information requested by the consultee within 5 working days of receipt of such a request.</p> <p>(4) In the event that the relevant planning authority does not give such notification as specified in sub-paragraph (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.</p> <p>Provision of information by Consultees</p>	



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>12.—(1) Any consultee who receives a consultation under paragraph 11(3) must respond to that request within 21 days from receipt unless sub paragraph (2) of this paragraph applies.</p> <p>(2) Where any consultee requests further information in accordance with the timescales set out in paragraph 11(3) then they must respond to the consultation within 10 working days from the receipt of the further information requested.</p> <p>Fees</p> <p>13.—(1) Where an application is made to the relevant planning authority for agreement or approval in respect of a requirement the fee for the discharge of conditions as specified in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (or any regulations replacing the same) is to be paid by the undertaker to the discharging authority in accordance with these regulations.</p>	



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>(2) Any fee paid under this Schedule must be refunded to the undertaker within 4 weeks of the application being rejected as invalidly made.</p> <p>Appeal</p> <p>14.—(1) The undertaker may appeal in the event that—</p> <p>(a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions; or</p> <p>(b) the relevant planning authority does not give notice of its decision to the undertaker within the time period specified in paragraph 10.</p> <p>(2) The appeal process is to be as follows—</p> <p>(a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any</p>	



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>consultee required to be consulted pursuant to the requirement which is the subject of the appeal (together with the undertaker, these are the “appeal parties”);</p> <p>(b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (“the appointed person”) to determine the appeal and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (2);</p> <p>(c) the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal must submit written representations to the appointed person in respect of the appeal within ten working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on</p>	



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>which they are submitted to the appointed person;</p> <p>(d) the appeal parties must make any counter-submissions to the appointed person within ten working days of receipt of written representations pursuant to sub-paragraph (2)(c); and</p> <p>(e) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within thirty working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (2)(d).</p> <p>(3) The appointment of the person pursuant to sub-paragraph (2)(b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.</p> <p>(4) In the event that the appointed person considers that further information is necessary to consider the appeal, the appointed person must notify the appeal parties in writing specifying the further information required and the date by</p>	



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>which the information is to be submitted and the appointed person must make any notification and set the date for the receipt of such further information having regard to the timescales in sub-paragraph (2).</p> <p>(5) Any further information required under sub-paragraph (4) must be provided by the appeal party from whom the further information was requested to the appointed person and other appeal parties, the relevant planning authority and any consultee required to be consulted pursuant to the requirement the subject of the appeal on the date specified by the appointed person (the "specified date"), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten working days of the specified date but otherwise is to be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (2)(e).</p>	



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>(6) On an appeal under this sub-paragraph, the appointed person may—</p> <p>(a) allow or dismiss the appeal; or</p> <p>(b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not).</p> <p>(7) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.</p> <p>(8) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case and may deal with the application as if it had been made to the appointed person in the first instance.</p> <p>(9) The decision of the appointed person on an appeal is to be final and binding on</p>	



Ref No.	Provision	Proposed change	ExA Reasoning
		<p>the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.</p> <p>(10) If an approval is given by the appointed person pursuant to this article, it is to be deemed to be an approval for the purpose of Schedule 2 as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.</p> <p>(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.</p> <p>(12) On application by the relevant planning authority or the undertaker, the appointed person may give directions as</p>	



Ref No.	Provision	Proposed change	ExA Reasoning
		to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.	