



## **Suffolk County Council (20041323)**

Post-Hearing Submission for the Second Issue Specific Hearing (ISH2) on the draft Development Consent Order and Related Matters

## **Bramford to Twinstead (EN020002)**

Deadline 4

16 November 2023

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## Glossary of Acronyms

<i>DCO</i>	<i>Development Consent Orders</i>
<i>EIA</i>	<i>Environmental Impact Assessment</i>
<i>ExA</i>	<i>Examining Authority</i>
<i>ExQ</i>	<i>Examining Authority’s Written Questions</i>
<i>ISH</i>	<i>Issue Specific Hearing</i>
<i>LHA</i>	<i>Local Highways Authority</i>
<i>PROW</i>	<i>Public Rights of Way</i>

*SuDS Sustainable Drainage Systems*

*“The Council” / “SCC” refers to Suffolk County Council; “The Host Authorities” refers to Suffolk County Council, Babergh and Mid Suffolk District Councils, Essex County Council, and Braintree District Council.*

## **Purpose of this Submission**

The purpose of this submission is to provide a written summary of representations made by Suffolk County Council at the Second Issue Specific Hearing (ISH2), on 8 November 2023, into the draft Development Consent Order and related matters. Examination Library references are used throughout to assist readers.

Item	Suffolk County Council’s Summary of Oral Case and responses to questions	References
<b>1</b>	<b>Welcome, preliminary matters and introductions</b>	
	<p>Suffolk County Council were represented by the following team in person:</p> <ul style="list-style-type: none"> <li>- Graham Gunby, National Infrastructure Planning Manager, Suffolk County Council</li> <li>- Michael Bedford KC, Barrister, Cornerstone Barristers</li> </ul> <p>Attending colleagues were supported by the following team virtually:</p> <ul style="list-style-type: none"> <li>- Callum Etherton, Project Officer (Energy Infrastructure), Suffolk County Council</li> <li>- Alastair Lewis, Partner and Parliamentary Agent, Sharpe Pritchard</li> </ul>	
<b>2</b>	<b>Purpose of the Issue Specific Hearing</b>	
<b>3</b>	<b>Review of Applicant’s Schedule of Changes to the dDCO</b>	
	Tables A1 and A2 of Annex A provide a response to this matter.	
<b>4</b>	<b>Review of the Parties’ Positions</b>	
<b>4.1.</b>	<b>Review of the Parties’ Positions on:</b>	
	<p><b>4.1.a. Considering what would constitute materially new or materially different environmental effects from those assessed in the ES</b></p> <p>SCC (Legal) does not have a concern in principle with the use of “materially new or materially different environmental effects” and has not requested any special ability to be the arbiter of whether something done under the relevant provisions of the dDCO gives rise to such effects. SCC accepts the point made by the Applicant that ultimately there is a criminal sanction, which would apply to the undertaker, were they to do things which were not in accordance with</p>	

	<p>the terms of the development consent order, including contravening any “materially new or materially different” provision.</p> <p>SCC (Legal) has raised some drafting points on the issue, one of which (in Schedule 1 as regards associated development) has been addressed. Another point which has not been addressed is in paragraph 1(4) of Schedule 3 (requirements). As drafted, it says that approval or agreement under a requirement can only be given where it has been demonstrated to the satisfaction of the relevant highway authority or the relevant planning authority that the subject matter of the approval or agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement. SCC considers this should say “does not” rather than “is unlikely to”. SCC refers to its response to DC1.6.105 [REP3-078].</p> <p>As mentioned at the hearing, some of the concerns around this topic would be more likely to be allayed if there were more clarity about the control documents and in particular the management plans referred to in requirement 4. The more detail that there is, the easier it would be for all parties to assess whether there were or were likely to be a materially new or materially different environmental effect.</p> <p>The position which SCC rehearsed, in part at ISH1, is whether the control documents in their current state provide the examining authority with sufficient information already, or whether the flexibility that the Applicant wants, because it has not appointed a contractor, means that there is not sufficient information to enable the ExA to be satisfied that all relevant matters have been appropriately assessed, such that there ought to be an opportunity or requirement for further iterations of the control documents to be provided after the DCO is made, giving the local authorities the opportunity to comment. The Applicant responded to this concern by asking SCC which documents were of concern and why. This has been followed up by the ExA in action point AP4, asking SCC for a detailed review in due course (Deadline 4 or Deadline 5) of problems perceived with the control documents/ management plans. The results of this review are set out in SCC’s response to comments on the Joint Local Impact Report Table 17 (table reference 17a).</p> <p><b>4.1.b. The case for the amendment of Article 57 / Schedule 17</b></p> <p>SCC (Legal) has not mentioned Article 57 or Schedule 17 in its comments on the dDCO [REP2-004]; however, since the ExA has raised this matter, SCC would comment as follows –</p> <p><u>Article 57 (certification of documents)</u></p>	
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<p>Article 57 of the dDCO states –</p> <p>“57.—(1) National Grid must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the documents and plans identified in Schedule 17 (Certified Documents) of this Order for certification that they are true copies of the documents referred to in this Order.</p> <p>(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.</p> <p>(3) Where any plan or document set out in Schedule 17 (Certified Documents) requires to be amended to reflect the terms of the Secretary of State’s decision to make this Order, that plan or document in the form amended to the Secretary of State’s satisfaction is the version of the plan or document required to be certified under paragraph (1).</p> <p>(4) Where a plan or document certified under paragraph (1)—</p> <p>(a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and</p> <p>(b) identifies the provision by number or combination of numbers and letters, which is different from the number or combination of numbers or letters by which the corresponding provision of this Order is identified in the Order as made;</p> <p>the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provisions (if any) corresponding to that provision in the Order as made.</p> <p>(5) The undertaker must, following certification of the plans or documents in accordance with paragraph (1), make those plans or documents available in electronic form for inspection by members of the public”.</p> <p>The Explanatory Memorandum [<b>APP-035</b>] cites the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, article 44 of the National Grid (Hinkley Point C Connection Project) Order 2016 (SI 2016/49), and article 43 of the National Grid (Richborough Connection Project) Development Consent Order 2017 (SI 2017/817) as precedents for Article 57.</p> <p>Only paragraphs (1) and (2) of Article 57 are included in the precedents and the EM doesn’t explain where the other paragraphs are precedented; however, a quick search shows the following –</p> <p>Paragraph (3) of Article 57 is precedented in Article 47(2) of the A47 Wansford to Sutton DCO 2023 (SI 2023/218)</p>	
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<p>Paragraph (4) of Article 57 is preceded in Article 82(3) of the Sizewell DCO (SI 2022/853).</p> <p>Paragraph (5) of Article 57 is preceded in Article 47(4) of the A47 Wansford to Sutton DCO 2023 (SI 2023/218)</p> <p>The drafting of Article 57 is not identical to the precedents and SCC considers it could be tidied up a little, as shown below. While none of these amendments are major, the main one is the proposed amendment to paragraph (5). This change generally reflects the preceded A47 Wansford to Sutton DCO 2023 so that plans and documents that do not require amendment before certification are made available shortly after the Order making stage and only those that will require amendment before certification can be delayed until the completion of the certification stage. This ensures that local authorities, landowners, the public, and any other interested parties have access to the documentation at the earliest practical stage.</p> <p>“57.—(1) National Grid must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the <u>plans and</u> documents <del>and plans</del> identified in Schedule 17 (Certified Documents) of this Order for certification <del>that they are</del> <u>as</u> true copies of <del>the those plans and</del> documents <del>referred to in this Order</del>.</p> <p>(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.</p> <p>(3) Where any plan or document <del>set out</del> <u>identified</u> in Schedule 17 (<del>Certified Documents</del>) <del>is requires</del> <u>required</u> to be amended to reflect the terms of the Secretary of State’s decision to make this Order, that plan or document in the form amended to the Secretary of State’s satisfaction is the version of the plan or document required to be certified under paragraph (1).</p> <p>(4) Where a plan or document certified under paragraph (1)—</p> <p>(a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and</p> <p>(b) identifies the provision by number or combination of numbers and letters, which is different from the number or combination of numbers or letters by which the corresponding provision of this Order is identified in the Order as made;</p> <p>the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provisions (if any) corresponding to that provision in the Order as made.</p> <p>(5) The undertaker must, <u>as soon as practicable following the making of this Order</u> <del>following certification of the plans or documents in accordance with paragraph (1)</del>, make <del>those the</del> plans <del>or and</del> documents <u>identified in Schedule 17</u>.</p>
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	<p><a href="#">as may be amended in accordance with paragraph (3)</a>, available in electronic form for inspection by members of the public”.</p> <p><u>Schedule 17 (Certified Documents)</u></p> <p>SCC (Legal) notes two of the documents defined in Article 2 (interpretation) do not appear in Schedule 17 and so will not be certified. These documents are the Archaeological Framework Strategy [APP-186] and Outline Written Scheme of Investigation [APP-187]. The Applicant could be asked to explain why these documents will not be certified.</p> <p>A minor drafting point: save for four exceptions, the document reference used in Schedule 17 for each document listed in that schedule is referred to in the corresponding definition of the document in Article 2 (interpretation). The four exceptions are the definitions of: the Land Plans (which does not include reference 2.3); Work Plans (which does not include reference 2.5); Special Category Land Plans (which does not include reference 2.4); and Traffic Regulation Order Plans (which does not include reference 2.6). For consistency with the way the other documents are defined, the Applicant might wish to amend these four definitions.</p> <p><b>4.1.c The need for an ‘appeal’ mechanism if agreement could not be reached on materiality</b></p> <p>SCC (Legal) does not consider there needs to be such a provision. As mentioned above under 4.1a, the question of whether the undertaker has complied with the “materiality” provisions would ultimately be a matter for the local planning authority as enforcement authority under Part 8 of the Planning Act 2008.</p>	
<p><b>4.2. Any related matters arising from the Examining Authority’s First Written Questions</b></p>		
	<p>No matters discussed.</p>	
<p><b>5 Local Authorities’ suggested amendments to dDCO</b></p>		



<p><b>5.1. Amended wording of existing Articles, Requirements and Schedules suggested by the Suffolk councils in response to ExQ1 questions DC1.6.85, DC1.6.93, DC1.6.105 and DC1.6.119 [PD-005]</b></p>	
	<p>To assist, Table B1 of Annex B provides an extract of Suffolk County Council’s response to the questions noted in this agenda item as originally submitted at deadline 2 [REP2-078].</p>
<p><b>5.2. The need for, and wording of new Requirements put forward by the Essex councils in response to ExQ1 question DC1.6.97 [PD-005]</b></p>	
	<p>SCC (Legal) note the draft requirements suggested by the Essex Councils, relating to lighting, HGV traffic, residential amenity (information dissemination and complaints handling) and external appearance of structures.</p> <p><b>Lighting</b></p> <p>SCC (Legal) is generally supportive of a requirement of the Essex councils’ request for the control of lighting during construction, particularly as the Applicant intends to carry on night time working. The requirement put forward by the Essex councils is drafted so that it would be applicable to a specific site or sites. SCC suggests an alternative more general approach, based on requirement 23 of the East Anglia THREE Offshore Wind Farm Order 2017, which says:</p> <p><i>External lighting and control of artificial light emissions</i></p> <p><i>23.—(1) No stage of the connection works may commence until written details of any external lighting to be installed in connection with that stage (which includes any relevant measures identified in the artificial light emissions plan contained in the outline code of construction practice), including measures to prevent light spillage, have, after consultation with the highway authority, been submitted to and approved by the relevant planning authority; and any approved means of lighting must be installed in accordance with the approved details and retained for the duration of the construction period for that stage.</i></p> <p><i>(2) Any means of construction lighting approved under paragraph (1) above must be removed on completion of the relevant stage of the connection works.</i></p>

<p><i>(3) Neither work No. [X] nor any other permanent work which will include permanent lighting shall be commenced until a written scheme for the management and mitigation of artificial light emissions during the operation of that work, including measures to minimise lighting pollution and the hours of lighting, has been submitted to and approved by the relevant planning authority.</i></p> <p><i>(4) The approved scheme for the management and mitigation of artificial light emissions must be implemented before and maintained during the operation of Work No. 67.</i></p> <p>For context, Work no. “[X]” in East Anglia THREE was work no. 67, which was “Works comprising onshore substations”. The equivalent (being the only substation proposed in Bramford to Twinstead would be Work No. 9 (Grid Supply Point Substation to the east of Wickham St. Paul) which is not within SCC’s area. But SCC would be concerned to ensure that there was some control over any permanent works in its area.</p> <p>In Bramford, there is no “artificial light emissions plan” in the Code of Construction Practice. Instead there appears to be one “Good Practice Measures, as follows:</p> <p><i>“GG20: Construction lighting will be of the lowest luminosity necessary to safely perform each task. It will be designed, positioned and directed to reduce the intrusion into adjacent properties, protected species and sensitive habitats.”. Therefore, the words in brackets in 23(1) of the East Anglia THREE requirement would need to be removed, if adopted.</i></p> <p><b>HGV Traffic</b></p> <p>The requirement suggested by the Essex authorities would restrict HGV movements on non-strategic roads between certain hours, unless there were exceptional and justified circumstances. SCC is supportive of this approach, which chimes with its comments on working hours (see agenda item 6 below).</p> <p>For completeness, the proposed Essex Councils requirement is set out below (with some drafting changes which mainly pick up the terminology used in the draft DCO).</p> <p><i>HGV movements</i></p>	
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	<p><i>(1) except in exceptional circumstances, which must be justified on a case by case basis by the undertaker to the relevant local highway authority, HGV movements associated with the construction phase of the development are not permitted on the local highway network at the following times—</i></p> <ul style="list-style-type: none"> <li>• <i>Sundays and Bank Holidays: all day</i></li> <li>• <i>[Insert other relevant times]</i></li> </ul> <p><i>(2) Paragraph (1) does not apply to the movement of HGVs on the strategic road network</i></p> <p><i>(3) The authorised development shall be carried out in accordance with a scheme of marking for HGVs which shall be submitted to and approved by the relevant planning authorities. The scheme shall be designed with the aim of enabling easy identification of a vehicle engaged on work on the authorised development.</i></p> <p><b>Residential amenity: information dissemination and complaints handling</b></p> <p>SCC (Legal) is generally supportive, of course, of clear communications with the community. Currently, this is dealt with in the Code of Construction Practice [REP3-027] at Good Practice Measure GG25, which says:</p> <p>GG25</p> <p><i>Members of the community and local businesses will be kept informed regularly of the works through active community liaison, for example notification of noisy activities and start and end dates of key phasing. A contact number will be provided which members of the public can use to raise any concerns or complaints about the project. All construction-related complaints will be logged by the contractor(s) in a complaints register, together with a record of the responses given and actions taken.</i></p> <p>This is an example of where further detail needs to be provided either now, or at a later iteration of the CEMP, in which the CoCP is contained. For example, details about:</p> <ul style="list-style-type: none"> <li>• Which “members of the community” and local businesses will be kept informed, and how they will be selected?</li> </ul>	
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<ul style="list-style-type: none"> <li>• What is meant by “active community liaison” apart from the one example given?</li> <li>• What sort of action will be taken by the contractor on receipt of a concern or complaint, and by when?</li> <li>• Will the contact number be available throughout all working hours and will there be someone available to action it?</li> <li>• Will the local authorities be provided with regular records of concerns and complaints and their outcomes?</li> </ul> <p>SCC (Legal) do not necessarily consider that a requirement is needed to deal with these issues, but more detail should be provided in the CoCP.</p> <p><b>External Appearance of Structures</b></p> <p>There does not appear to be any control mechanism in the draft DCO over detailed design, save for compliance with the limits of deviation in article 5 (which by reference brings in the Table of Parameters forming part of the Works Plans). This provides general restrictions on the location and height of certain works, but there appears to be no other reference in the DCO to any other control over the detailed design of structures and buildings.</p> <p>Therefore, SCC (Legal) supports in principle the idea of a design requirement of the nature put forward by the Essex Councils, whilst SCC recognises that there are no proposals for any new substations in Suffolk, unlike in Essex.</p> <p>A requirement was included in the Richborough Connection DCO (requirement 3),<sup>1</sup> which referred to “design drawings”, which are unavailable on the national infrastructure website. It would be helpful to have sight of those drawings to see what whether there was a more specific requirement in place which might be relevant to Bramford.</p> <p>Furthermore, a requirement was included in the East Anglia TWO Offshore Wind Farm Order 2022 (requirement 12: detailed design parameters onshore)<sup>2</sup> in which detail designs for certain works had to be approved by the local planning authority in consultation with SCC. SCC would support the inclusion of a similar requirement for works to</p>	
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<sup>1</sup> <https://www.legislation.gov.uk/uksi/2017/817/schedule/3/paragraph/3/made>

<sup>2</sup> <https://www.legislation.gov.uk/uksi/2022/433/schedule/1/paragraph/12/made>

	the existing Bramford Substation (particularly Work No. 1(d): the realignment of the existing Bramford Substation gantries).	
<p><b>5.3. Any related matters arising from the Examining Authority’s First Written Questions</b></p>		
	No matters discussed.	
<p><b>6 Review of Parties’ current positions on Requirement 7 – Construction hours</b></p>		
	<p>SCC’s position has not changed on this matter. SCC (Planning) are grateful for the information provided in the Applicant’s Justification for Construction Working Hours [REP3-045], however, it raises further questions.</p> <p>SCC (Planning) are seeking to secure a control mechanism to limit the HGV movements occurring on Sundays and Bank Holidays, not by reason of capacity issues but namely to avoid successive disruption of tranquillity for local users (predominantly NMU/WCH) of quiet lesser trafficked rural lanes and the public rights of way networks for example. See SCC’s comments on Agenda Item 5.2 above, and the support for the suggestion made by the Essex councils for a requirement which prohibits the use of HGVs at certain times.</p> <p>SCC (Planning) are not attempting to frustrate the delivery of the project, and completely accept that where there is no sensible workaround to avoid Sunday and Bank Holiday construction hours then SCC would be content to agree. However, SCC are not yet satisfied that there is sufficient justification. The Applicant’s Justification for Construction Working Hours [REP3-045], Scenario 2 of Table 2.1, seeks to address the effects of not allowing Sunday working hours, however, it does not address bank holidays and cannot be relied on as evidence to justify a need for bank holiday working. With regard to the stated justification for Sunday working SCC makes the following comments.</p> <p>Paragraph 2.1.3 of the Applicant’s Justification for Construction Working Hours [REP3-045] notes that modelling assumes that alternate Saturdays and Sundays in the scheduling of works. SCC notices in the Applicant’s Response to the Examining Authority’s First Written Questions [REP3-052], the Applicant’s response to CM1.5.12 refers to The National Grid (Hinkley Point C Connection Project) Order 2016 where construction hours are restricted to “limited working on a consecutive Saturday and Sunday to two of any four consecutive weekends in</p>	

<p>each relevant local authority area”.</p> <p>The Applicant confirmed that in their oral summation that where the delivery of the project misses the 2027 outages, as outlined in Table 2.1 of the Applicant’s Justification for Construction Working Hours [REP3-045], whilst it would be “complex”, there would be a “number of options”. Therefore, SCC considers that the statement made in paragraph 3.1.2 that “the next available outages would not be until 2032” is not absolute.</p> <p>Whilst this is a linear scheme, and so works will progress across a rolling area of impact, SCC considers that Requirement 7 is overly wide in its capture of powers in seeking to allow all types of construction activity and associated vehicular activity for weekend working across the whole of scheme for the whole of the time. SCC is not persuaded that there is evidence to support a need for such wide flexibility. There is also a wider point is that the Applicant is seeking blanket freedom, by reason of ensuring freedom for the contractors. Conversely, Table 2.1 of the Applicant’s Justification for Construction Working Hours [REP3-045] outlines a rigid programme of fixed date outages that the Applicant must meet so as to prevent delay the project delivery beyond 2028. SCC considers that in practice, given that programme, the Applicant will not actually have the scope for the flexibility that is sought, but if the only controls are the hours in Requirement 7 there will be unnecessary uncertainty for local communities and users of the countryside as to what they can expect in any particular location. SCC therefore considers that this is a case where targeted restrictions (limited to what are required to deliver the project) are more appropriate.</p> <p>Therefore, SCC considers that a productive solution to this matter would be, in addition to a requirement prohibiting HGVs on the local road network on Sundays and bank holidays, the Applicant providing detail in the control documents, or (in the absence of detail) the Applicant agreeing to submit outline-stage control documents, which would allow for further consideration and approvals once more detail of the construction programme is known, then SCC may consider construction hours activities to be justifiable.</p> <p>Although not directly related to working hours, the important issue of the time limits on local authorities to respond to applications for agreement, consents etc and to respond to consultations, was raised under this agenda item. SCC has proposed (see Annex B) that a number of alterations be made to the draft DCO, extending the time limits from 28 days to 56 days in the following articles: 14(5) (power to alter layout, etc. of streets); 15(9) (temporary stopping up of streets and public rights of way); 16(2) (access to works); 19(9) (discharge of water); 21(8) (authority to survey and investigate land), 47(8) (traffic regulation) and 48(5) (felling or lopping) a deemed consenting regime. A similar point applies in respect of Schedule 4 (discharge of requirements). As mentioned at the hearing, SCC considers that</p>
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	the issue relating to outages is a red herring in respect of this issue. There should be no reason why the undertaker could not plan properly around a revised decision period and meet these proposed timescales.	
<b>7</b>	<b>Highway related matters</b>	
<b>7.1.</b>	<b>Mechanism for highway authorities' recovery of costs associated with implementation of Articles 12 and 47 of the dDCO</b>	
	<p>In relation to article 12 (Application of the Permit Schemes), there are fee charging provisions within the scheme itself. SCC is content to rely on that, save that if any additional work is required to carry out its responsibilities due to the adaptations of the operation of the Scheme that are made by article 12 (particularly 12(3)), then SCC would need to be reimbursed by any such additional work. This could be dealt with in the agreements mentioned in the paragraph below.</p> <p>On article 47 and other highways matters, SCC (LHA) is engaging in constructive dialogue with the Applicant on securing a section 278 agreement with a PPA, as precedented in previous NSIPs in Suffolk. Reference was made in the hearing to SCC's reply to EXQ DC1.6.93 and the list of matters that SCC considers should be included within the scope of the agreement [REP3-078] page 40.</p>	
<b>7.2.</b>	<b>Any other dDCO highway-related matters arising from the Examining Authority's First Written Questions</b>	
	<p>To assist, SCC's answers to the ExA's first written questions relating to the dDCO highway-related matters are included in Table B1 of Annex B, as noted in response to agenda item 5.1a.</p> <p>SCC notes that the ExA mentioned Suffolk County Council's response to DC1.6.93 [REP3-078] and the Applicant's preferred approach of the three suggested options, SCC notes that this was a question directed at the Applicant. The Council agreed with remarks made by Essex County Council and the Applicant.</p>	
<b>8</b>	<b>Any other matters arising from the Examining Authority's First Written Questions</b>	
	At the hearing, article 53 (safeguarding) of the dDCO was raised specifically, and the ExA asked what are the practical implications of the article on the Councils? SCC responded to five questions about article 53 in the ExA's first written questions (DC1.6.58 to DC1.6.62) in [REP3-052].	

	<p>SCC maintains concerns in principle about this article. It is preceded in Thames Tideway, which is completely different in nature and location. Thames Tideway is an urban scheme which involves tunnelling, and it is therefore more understandable that some provision should have been made, particularly (as SCC understands it) there was opposition to the scheme in principle by some of the local planning authorities.</p> <p>SCC has also raised a concern about the detailed drafting and the imposition of a requirement on the local planning authority to “address” matters raised in any representations by the undertaker in relation to planning applications. This was not included in Thames Tideway.</p> <p>In terms of the additional administrative burden, then this would most likely fall on the district council rather than SCC. It will place an additional amount of work on the planning authority to give notice to the Applicant of relevant planning applications and then take account of and “address” matters raised by the undertaker. It is not clear on whom the burden falls of registering the requirement to consult as a land charge, presumably on every property within the safeguarding zone but SCC does not believe it should be the responsibility of a local authority. If the article is allowed to remain, then any additional costs of implementing it must be covered by the Applicant, potentially through a planning performance agreement.</p>	
<p><b>9 Any other business</b></p>		
<p><b>10 Review of actions arising</b></p>		
	<p>There were two actions points for Suffolk County Council <b>[EV-045]</b>, as noted below with resolutions:</p> <p><b>10.1.a. AP3 (Suffolk County Council and Braintree District Council) Provide a written submission to explain the implications of draft Article 53 of the dDCO for the councils</b></p> <p>The response to this action point is set out in response to agenda item 8.</p>	



	<p><b>10.1.b. AP4 (Suffolk County Council) To provide a detailed review in due course (Deadline 4 or Deadline 5) of problems perceived with the control documents/ management plans</b></p> <p>For further information, please see response to agenda item 4.1.a. The results of this review are set out in SCC's response to comments on the Joint Local Impact Report Table 17 (table reference 17a).</p>	
<b>11</b>	<b>Close of Issue Specific Hearing 2</b>	

## Annex A – SCC Response to ISH2 Agenda Item 3

Comments on the Applicant’s Schedule of Changes to the draft Development Consent Order Issue A [REP2-001] and Issue B [REP3-040]

### Background

- A.1 At deadline 2 (11 October 2023), National Grid Electricity Transmission plc (“the Applicant”) submitted, amongst other documents, Issue A of the *Applicant’s Schedule of Changes to the Draft Development Consent Order* [REP2-001] (“the Schedule of Changes”).
- A.2 The Schedule of Changes sets out, in Table 2.1, the changes made to Version A of the draft Development Consent Order (“dDCO”) [APP-034] in Version B of the dDCO [REP2-004].
- A.3 At deadline 3, the Applicant submitted a revised version (Issue B) of the Schedule of Changes [REP3-040], setting out, in Table 3.1, the changes made to Version B of the dDCO [REP2-004] in Version C of the dDCO [REP3-008].
- A.4 In this annex, SCC has taken the text from the first four columns of Tables 2.1 and 3.1 and added a new, fifth, column in which SCC has added its comments on each of the changes (SCC has not included the text or tables from Rows 16 to 18 of the Schedule of Changes in Table 2.1 because it does not have any comments on them).
- A.5 SCC notes that none of the suggestions which it made for amending requirements and as are set out in Annex B appear to have been addressed by the further amendments put forward by the Applicant at deadline 3 but it will await to see if that changes at deadline 4.

<b>Table A1: SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue A (Deadline 2)</b>				
<b>Ref</b>	<b>dDCO Ref.</b>	<b>Rationale for the Change</b>	<b>Change Made</b>	<b>SCC’s comments on changes made</b>
1.	Article 11, Street works	Article 11(3) has been amended in order to allow for the undertaker and the street authority to agree, on a case by case basis, an alternative period of time within which the street	(3) If a street authority that receives an application for consent under paragraph (2) fails to notify the undertaker of its decision within 28 days beginning with the date on which the application was	SCC does not consider the proposed drafting achieves the Applicant’s aim of allowing the undertaker and street authority to agree an alternative period

<b>Table A1: SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue A (Deadline 2)</b>				
<b>Ref</b>	<b>dDCO Ref.</b>	<b>Rationale for the Change</b>	<b>Change Made</b>	<b>SCC’s comments on changes made</b>
		<p>authority is permitted to determine an application for consent made pursuant to Article 11(2) before consent is deemed to have been given.</p> <p>This change responds to matters raised in the joint Local Impact Reports submitted by Braintree District Council and Essex County Council [REP1-039] and Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045], and is intended to provide greater flexibility to all concerned.</p>	<p>made, the authority will, <u>unless otherwise agreed</u>, be deemed to have granted consent.</p>	<p>of time within which the street authority must determine an application.</p> <p>SCC considers the proposed drafting would have the effect of allowing the undertaker and street authority to agree, at the end of the 28 day period, whether consent is deemed to have been granted. To achieve the Applicant’s aim, SCC considers paragraph 11(3) should be amended as follows –</p> <p>“(3) If a street authority that receives an application for consent under paragraph (2) fails to notify the undertaker of its decision within 28 days <u>(or such other period as agreed by the street authority and undertaker)</u> beginning with the date on which the application was made, the authority will be deemed to have granted consent”.</p> <p>In any event, SCC does not consider the Applicant’s aim is satisfactory because the extension of time is dependent on the undertaker’s agreement and if that is withheld (even if withheld unreasonably) SCC would be in the same position as if</p>

<b>Table A1: SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue A (Deadline 2)</b>				
<b>Ref</b>	<b>dDCO Ref.</b>	<b>Rationale for the Change</b>	<b>Change Made</b>	<b>SCC’s comments on changes made</b>
				<p>paragraph (3) had not been changed in the first place.</p> <p>SCC maintains its position, as set out in the LIR [REP1-045] and in its <i>Comments on Applicant’s Comments on Relevant Representations</i> [REP2-013]:</p> <p>While SCC will ensure that any application for consent will be dealt with as quickly as possible, it will be remembered that SCC will be receiving a considerable number of requests for approval across several nationally significant infrastructure projects. A 28-day decision-making period in this context is unrealistic and potentially detrimental to the effective consideration of applications.</p> <p>Given the volume of work which will arise from the number of NSIPs being delivered in Suffolk, SCC considers 28 days is too short and requests that it is replaced with 56 days. SCC also considers that this period should be paused if the highway authority considers that additional information is reasonably required to make a decision.</p>

**Table A1:** SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue A (Deadline 2)

Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
				<p>In addition, SCC considers the determination period should begin on the “date on which the application was received” rather than the “date on which the application was made”. SCC assumes this change will be uncontroversial because the determination period in the following articles already commences on receipt of the application and it would be sensible to have consistency across provisions: articles 19(9) (discharge of water); 21(8) (authority to survey and investigate the land); 47(8) (traffic regulation) and 48(5) (felling or lopping).</p>
2.	Article 14, Power to alter layout etc. of streets	Article 14(5) has been amended in order to allow for the undertaker and the street authority to agree, on a case by case basis, an alternative period of time within which the street authority is permitted to determine an application for consent made pursuant to Article 14(4) before consent is deemed to have been given.	(5) <b><u>If Unless otherwise agreed, if</u></b> a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which application was made, it is deemed to have granted consent.	For the same reason as set out in “SCC’s comments on changes made” in Row 1, SCC does not consider the proposed drafting achieves the Applicant’s aim of allowing the undertaker and street authority to agree an alternative period of time within which the street authority must determine an application.

**Table A1:** SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue A (Deadline 2)

Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
		The rationale for this change is set out above in response to Change Ref. 1.		In any event, SCC maintains its position, again as set out in “SCC’s comments on changes made” in Row 1 that the relevant period should be 56 days, beginning with the date on which the application is received.
3.	Article 15, Temporary stopping up of streets and public rights of way	<p>Article 15(9) has been amended in order to allow for the undertaker and the street authority to agree, on a case by case basis, an alternative period of time within which the street authority is permitted to determine an application for consent made pursuant to Article 15(5)(b) before consent is deemed to have been given.</p> <p>The rationale for this change is set out above in response to Change Ref. 1.</p>	(9) <b>If <u>Unless otherwise agreed, if</u></b> a street authority which receives an application for consent under subparagraph (5)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which application was made, it is deemed to have granted consent.	<p>For the same reason as set out in “SCC’s comments on changes made” in Row 1, SCC does not consider the proposed drafting achieves the Applicant’s aim of allowing the undertaker and street authority to agree an alternative period of time within which the street authority must determine an application.</p> <p>In any event, SCC maintains its position, again as set out in “SCC’s comments on changes made” in Row 1 that the relevant period should be 56 days, beginning with the date on which the application is received.</p>
4.	Article 16, Access	Article 16(2) has been amended in order to allow for the undertaker and the relevant planning authority to	(2) <b>If <u>Unless otherwise agreed, if</u></b> a relevant planning authority which receives an application for consent under	For the same reason as set out in “SCC’s comments on changes made” in Row 1, SCC does not consider the

**Table A1:** SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue A (Deadline 2)

Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
	to Works	<p>agree, on a case by case basis, an alternative period of time within which the relevant planning authority is permitted to determine an application for consent</p> <p>made pursuant to Article 16(1)(b) before consent is deemed to have been given.</p> <p>The rationale for this change is set out above in response to Change Ref. 1.</p>	<p>sub-paragraph (1)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which application was made, it is deemed to have granted consent.</p>	<p>proposed drafting achieves the Applicant’s aim of allowing the undertaker and street authority to agree an alternative period of time within which the street authority must determine an application.</p> <p>In any event, SCC maintains its position, again as set out in “SCC’s comments on changes made” in Row 1 that the relevant period should be 56 days, beginning with the date on which the application is received.</p>
5.	Article 19, Discharge of Water	<p>Article 19(9) has been amended in order to allow for the undertaker and the relevant person to agree, on a case by case basis, an alternative period of time within which the relevant person is permitted to determine an application for consent or approval made pursuant to Article 19(3) and 19(4)(a) (respectively) before consent or approval is deemed to have been given.</p> <p>The rationale for this change is set out above in response to Change Ref. 1.</p>	<p>(9) <b>Unless otherwise agreed, if</b> a person who receives an application for consent under paragraph (3) or approval under sub-paragraph (a) fails to notify the undertaker of a decision within 28 days of receiving an application, that person is deemed to have granted consent or given approval, as the case may be.</p>	<p>For the same reason as set out in “SCC’s comments on changes made” in Row 1, SCC does not consider the proposed drafting achieves the Applicant’s aim of allowing the undertaker and street authority to agree an alternative period of time within which the street authority must determine an application.</p> <p>In any event, SCC maintains its position, again as set out in “SCC’s comments on</p>

<b>Table A1: SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue A (Deadline 2)</b>				
<b>Ref</b>	<b>dDCO Ref.</b>	<b>Rationale for the Change</b>	<b>Change Made</b>	<b>SCC’s comments on changes made</b>
				changes made” in Row 1 that the relevant period should be 56 days.
6.	Article 21, Authority to survey and investigate the land	Article 21(8) has been amended in order to allow for the undertaker and the highway authority or street authority to agree, on a case by case basis, an alternative period of time within which the highway authority or street authority is permitted to determine an application for consent made pursuant to Article 21(5)(a) or (b) before consent is deemed to have been given.  The rationale for this change is set out above in response to Change Ref. 1.	(8) <b>Unless otherwise agreed, if</b> a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent –  (a) under sub-paragraph (5)(a) in the case of a highway authority; or  (b) under sub-paragraph (5)(b) in the case of a street authority, that authority is deemed to have granted consent.	For the same reason as set out in “SCC’s comments on changes made” in Row 1, SCC does not consider the proposed drafting achieves the Applicant’s aim of allowing the undertaker and street authority to agree an alternative period of time within which the street authority must determine an application.  In any event, SCC maintains its position, again as set out in “SCC’s comments on changes made” in Row 1 that the relevant period should be 56 days.
7.	Article 41, Crown rights	Sub-paragraphs (a), (b) and (c) of Article 41(1) have been amended to refer to ‘His Majesty in right of the Crown’. This change takes account of the Accession of His Majesty, King Charles III in September 2022.	Text not included.	SCC considers the change is fine.
8.	Article 42, Special	Correction of a minor typographical error in Article 42(1) noted during the first Issue Specific Hearing (at time	42.—(1) So much of the special category land that is required for the purposes of the exercising by the undertaker of the	SCC has no comments on this change.



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Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
	category land	stamp 23.21 in the transcript for Session 4 [EV-017].  The change reflects the fact that use of the word ‘must’ is not appropriate in the context of Article 42(1), notwithstanding the extant guidance at Paragraph 3.3 of Advice Note 15 (Drafting Development Consent Orders).	Order rights <del>must</del> shall be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of the Order rights.	
9.	Article 46, Defence to proceedings in respect of statutory nuisance	Correction of minor typographical errors in Article 46(1)(a)(ii) and (3) identified in the Local Impact Report submitted by Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1- 045].  The changes reflect the fact that a detailed Construction Environmental Management Plan is to be approved by the Secretary of State at the point at which the draft DCO is made rather than at a later date pursuant to Schedule 3.	(ii) relates to premises used by the undertaker for the purposes of or in connection with the construction, maintenance or operation of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with the controls and measures relating to noise as described in the Construction Environmental Management Plan <del>approved under</del> <b>Schedule 3 (Requirements)</b> or in accordance with the noise levels set out in an environmental permit relating to the construction, maintenance or operation of the authorised development; or	While SCC considers these changes correct the mismatch between former Article 46(1)(a)(ii) and (3) and Schedule 3, SCC maintains its position in respect of the management plans, as set out in paragraphs 17.57 to 17.58 of the LIR [REP1-045] and in its <i>Comments on Applicant’s Comments on Relevant Representations</i> [REP2-013].

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Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
			<p>(3) Where a relevant planning authority is acting in accordance with section 60(4) and section 61(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the local authority must also have regard to the controls and measures relating to noise referred to in the Construction Environmental Management Plan <u>approved under Schedule 3 (Requirements)</u>.</p>	
10.	Article 47, Traffic regulation	Article 47(8) has been amended in order to allow for the undertaker and the traffic authority to agree, on a case by case basis, an alternative period of time within which the traffic authority is permitted to determine an application for consent made pursuant to Article 47(2) before	(8) <u>If Unless otherwise agreed, if</u> the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2), the traffic authority is deemed to have granted consent.	For the same reason as set out in “SCC’s comments on changes made” in Row 1, SCC does not consider the proposed drafting achieves the Applicant’s aim of allowing the undertaker and street authority to agree an alternative period of time within

<b>Table A1: SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue A (Deadline 2)</b>				
<b>Ref</b>	<b>dDCO Ref.</b>	<b>Rationale for the Change</b>	<b>Change Made</b>	<b>SCC’s comments on changes made</b>
		<p>consent is deemed to have been given.</p> <p>The rationale for this change is set out above in response to Change Ref. 1.</p>		<p>which the street authority must determine an application.</p> <p>In any event, SCC maintains its position, again as set out in “SCC’s comments on changes made” in Row 1 that the relevant period should be 56 days.</p>
11.	Article 48, Felling or lopping	<p>Article 48(5) has been amended in order to allow for the undertaker and the relevant highway authority to agree, on a case by case basis, an alternative period of time within which the relevant highway authority is permitted to determine an application for consent made pursuant to Article 48(4) before consent is deemed to have been given.</p> <p>The rationale for this change is set out above in response to Change Ref. 1.</p>	<p>(5) <b>If <u>Unless otherwise agreed, if</u></b> the relevant highway authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (4), the relevant highway authority is deemed to have granted consent.</p>	<p>For the same reason as set out in “SCC’s comments on changes made” in Row 1, SCC does not consider the proposed drafting achieves the Applicant’s aim of allowing the undertaker and street authority to agree an alternative period of time within which the street authority must determine an application.</p> <p>In any event, SCC maintains its position, again as set out in “SCC’s comments on changes made” in Row 1 that the relevant period should be 56 days.</p>
12.	Schedule 1, Associated	<p>Correction of a minor typographical error in sub- paragraph (r) of the list of Associated Development in Schedule 1.</p>	<p>(r) such other works, including scaffolding, working sites storage areas, and works of demolition (which includes but is not limited to demolition of residential properties), as may be</p>	<p>SCC considers the change is fine.</p>

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Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
	Development	The inadvertent omission of the words “materially new” in sub-paragraph (r) was identified in the Local Impact Report submitted by Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045].	necessary or expedient for the purposes of or in connection with the construction of the authorised development and which do not give rise to any materially <b>new or materially</b> different environmental effects from those assessed in the Environmental Statement.	
13.	Schedule 3, Requirements (Paragraphs 1(2) and 1(3))	<p>Minor amendments have been made to paragraphs 1(2) and 1(3)) of Schedule 3 in order to reflect the fact that approval or agreement may, in certain circumstances, be provided by the relevant highway authority.</p> <p>This addresses a matter raised in the Local Impact Report submitted by Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045].</p>	<p>(2) Where under any of the Requirements the approval or agreement of the relevant planning authority <b>or the relevant highway authority</b> is required, that approval or agreement must be given in writing.</p> <p>(3) Where any Requirement requires the authorised development to be carried out in accordance or general accordance with matters including a plan, document, or details approved by the relevant planning authority <b>or the relevant highway authority</b>, those matters are to be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority <b>or the relevant highway authority</b>.</p>	SCC considers these changes are fine.

**Table A1:** SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue A (Deadline 2)

Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
14.	Schedule 3, Requirements (Requirement 4)	<p>Minor amendments have been made to sub- paragraphs (1) and (3) of Requirement 4 of Schedule 3 in order to reflect the fact that any departure from the approved Construction Traffic Management Plan will need to be agreed with the relevant highway authority.</p> <p>This addresses a matter raised in the Local Impact Report submitted by Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1- 045].</p>	<p>4.—(1) All construction works forming part of the authorised development must be carried out in accordance with the plans listed in sub-paragraph (2) below, unless otherwise agreed with the relevant planning authority or other discharging authority as may be appropriate to the relevant plan concerned, <u>and in the case of the Construction Traffic Management Plan, the relevant highway authority.</u></p> <p>(3) For the avoidance of doubt, all pre-commencement operations must be carried out in accordance with the plans listed in sub-paragraph (2) unless otherwise agreed with the relevant planning authority or other discharging authority as may be appropriate to the relevant plan concerned, <u>and in the case of the Construction Traffic Management Plan, the relevant highway authority.</u></p>	SCC considers these changes are fine.
15.	Schedule 4, Discharge of	Paragraph 3(2) (which provided for the return of fees paid pursuant to Paragraph 3(1) where an application made pursuant to Schedule 4 was	<del>(2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of—</del>	SCC considers the change is fine.

**Table A1:** SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue A (Deadline 2)

Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
	Requirements (Paragraph 3(2))	<p>rejected as having been invalidly made or was not determined within the specified period) has been deleted in its entirety.</p> <p>This is in response to comments raised in the Local Impact Report submitted by Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045].</p>	<p><del>(a) the application being rejected as invalidly made; or</del></p> <p><del>(b) the relevant planning authority failing to determine the application within 28 days from the date on which it is received;</del></p> <p><del>unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application.</del></p>	

**Table A2:** SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue B (Deadline 3)

Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
1.	Article 2, Interpretation	A new definition of ‘Public Rights of Way Management Plan’ has been included in Article 2(1). This is a consequential amendment which responds to the change made to Requirement 4 (to which see Change Ref. 6 below).	<u>“Public Rights of Way Management Plan” means the document of that description (together with its appendices) (Document 8.5.8) certified by the Secretary of State as the Public Rights of Way Management Plan for the purposes of this Order under 57 (certification of documents);</u>	See Change Reference 6 below.
2.	Article 2, Interpretation	The definitions of ‘Construction Traffic Management Plan’ and ‘Landscape and Ecological Management Plan’ have been amended to specifically reference their appendices. This change responds to Question Ref: DC1.6.116 in the Examining Authority’s First Written Questions (13 October 2023) [PD-005], and is intended to ensure consistency with the approach taken in respect of the definition of ‘Construction Environmental Management Plan’. The definition of ‘Materials and Waste Management Plan’ has not been so amended, as there are no associated appendices	“Construction Traffic Management Plan” means the document of that description <u>(together with its appendices)</u> (Document 7.6 (B)) certified by the Secretary of State as the Construction Traffic Management Plan for the purposes of this Order under article 57 (certification of documents);	SCC is content with this change.

<b>Table A2: SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue B (Deadline 3)</b>				
<b>Ref</b>	<b>dDCO Ref.</b>	<b>Rationale for the Change</b>	<b>Change Made</b>	<b>SCC’s comments on changes made</b>
3.	Article 2, Interpretation	Various changes to document references	Various changes to document references	SCC has no comments.
4.	Article 15, Temporary stopping up of streets and public rights of way	Article 15(6) has been amended to refer to ‘...temporarily <u>stopped up</u> street or public right of way...’ (as opposed to ‘...temporarily closed street or public right of way...’). This is in response to comments raised in the Local Impact Report submitted by Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045], and ensures consistency with the remainder of Article 15 and Schedule 7.	(6) Where the undertaker provides a temporary diversion under paragraph (4), the temporary alternative route is not required to be of a higher standard than the temporarily <del>closed</del> <u>stopped up</u> street or public right of way in columns (1) and (2) of Parts 1 and 2 of Schedule 7 (streets or public rights of way to be temporarily stopped up).	This amendment meets the concern raised by SCC in paragraphs 12.24 and 12.25 of the LIR but does not meet the concerns raised in paragraphs 17.20 to 17.25, and in particular SCC’s request that temporary alternative routes must be of no lower standard than the temporarily closed street or public right of way in columns (1) and (2) of Parts 1 and 2 of Schedule 7.
5.	Schedule 2, Part 2 (Land Plans)	Consequential amendment	Consequential amendment	SCC has no comments.
6.	Schedule 3, Requirements (Requirement 4)	Sub-paragraph (2) of Requirement 4 (Management Plans) has been updated to include reference to the Public Rights of Way Management Plan (Document 8.5.8) published at Deadline 3.	<i>Management Plans</i> 4. —(1) All construction works forming part of the authorised development must be carried out in accordance with the plans listed in sub-paragraph	SCC is content with the addition.  It does not address the principal concern of SCC in paragraphs 17.57 and 17.58 of the LIR in relation to the need for more detail in the



**Table A2:** SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue B (Deadline 3)

Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
		Compliance with the Public Rights of Way Management Plan is secured through Requirement 4. This change responds to comments raised, principally, in the joint Local Impact Reports submitted by Braintree District Council and Essex County Council [REP1-039] and Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045]	<p>(2) below, unless otherwise agreed with the relevant planning authority or other discharging authority as may be appropriate to the relevant plan concerned, and in the case of the Construction Traffic Management Plan, the relevant highway authority.</p> <p>(2) The plans referred to in subparagraph (1) above comprise the following—</p> <p>(a) Construction Environmental Management Plan (CEMP);</p> <p>(b) Materials and Waste Management Plan (MWMP);</p> <p>(c) Construction Traffic Management Plan (CTMP); <del>and</del></p> <p>(d) Landscape and Ecological Management Plan (LEMP); <u>and</u></p> <p><u>(e) Public Rights of Way Management Plan (PRoWMP).</u></p>	management plans and for further detailed iterations of the plans to be produced.
7.	Schedule 3, Requirements	Change of title of the requirement	<del>Implementation and maintenance of reinstatement</del> <u>Reinstatement</u> planting	SCC has no comment.

**Table A2:** SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue B (Deadline 3)

Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
	(Requirement 10)		plan – <u>implementation, compliance and replacement planting</u>	
8.	Schedules 5, 6, 7, 8 and 12	<p>Various typographical and other similar amendments have been made to Schedule 5 (Streets subject to street works), Schedule 6 (Streets subject to alteration of layout), Schedule 7 (Streets or public rights of way to be temporarily stopped up), Schedule 8 (Access to works) and Schedule 12 (Traffic regulation orders).</p> <p>These changes, which comprise the correction of street references and the addition of certain new row entries, respond to comments raised in the joint Local Impact Reports submitted by Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045] and also ensure alignment with information presented in the Access, Rights of Way and Public Rights of Navigation Plans [APP012]. (NB: the ‘Change Made’ column provides an example of the changes made in each of the</p>	See Schedules 5, 6, 7, 8 and 12 in the track changed version of the dDCO [REP3-008]	SCC will work through these detailed changes and report back as necessary at a later date.

**Table A2:** SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue B (Deadline 3)

Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
		abovementioned Schedules. All other changes to those Schedules are of an equivalent nature and are shown in the tracked version of the draft DCO (document 3.1 (C)) submitted at Deadline 3).		
9.	Schedule 6, Streets subject to alteration of layout	All references to ‘white lines’ in Column 2 of Part 1 and Part 2 of Schedule 6 have been amended to refer instead to ‘road markings’. This change responds to comments raised in the Local Impact Report submitted by Suffolk County Council and Babergh and Mid Suffolk District Councils [REP1-045], and is intended to allow the implementation, where necessary, of other road surface markings beyond simply ‘white lines’. (NB: the ‘Change Made’ column provides an example of the changes made in Schedule 6. All other changes to Schedule 6 are identical and are shown in the tracked version of the draft DCO (document 3.1 (C)) submitted at Deadline 3).	Numerous examples	SCC is content with these changes.

**Table A2:** SCC Response to ISH2 Agenda Item 3 (Review of Applicant’s Schedule of Changes to the dDCO at Deadlines 2 and 3, including any further matters arising from the Examining Authority’s First Written Questions): Response to Schedule of Changes Issue B (Deadline 3)

Ref	dDCO Ref.	Rationale for the Change	Change Made	SCC’s comments on changes made
10.	Schedule 17, Certified documents	Various changes to reference numbers of documents	Numerous examples	SCC has no comment on these changes.
11.	Schedule 17, Certified documents	Schedule 17 has been updated to include reference to the Public Rights of Way Management Plan. This is a consequential amendment which responds to the change made to Requirement 4 (to which see Change Ref. 6 above).	Public Rights of Way Management Plan added to the list of documents to be certified	See comment on Change Reference 6 above: SCC is content with this addition.

## Annex B – SCC Response to ISH2 Agenda Item 5.1a

<b>Table B1: SCC Response to ISH2 Agenda Item 5.1a (Amended wording of existing Articles, Requirements and Schedules suggested by the Suffolk councils in response to ExQ1 questions DC1.6.85, DC1.6.93, DC1.6.105 and DC1.6.119 [PD-005])</b>			
<b>Reference</b>	<b>Question to:</b>	<b>Question</b>	<b>Local Authority Answer</b>
DC1.6.85	Suffolk CC Babergh DC Mid Suffolk DC	Following on from your comment in paragraph 6.26 of your LIR [REP1-045], can you specify which Requirement(s) you consider need to be amended and suggest wording that would address your concerns?	The point here is that SCC (Legal) has concerns about the management plans and considers Requirement 4 (management plans) should provide for the preparation of more detailed management plans, which would be subject to a further approval process.  Further detail is set out in the reply to DC1.6.105.
DC1.6.93	Suffolk CC Babergh DC Mid Suffolk DC	What wording would you suggest in place of Requirement 11 as drafted?	Save for the point made in the reply to DC1.6.105, SCC (Local Highway Authority) does not necessarily seek to have Requirement 11 reworded. SCC notes that the requirement only covers construction or alteration of accesses and not the wider highway activities. SCC would suggest that either (i) Requirement 11 is amended to provide for those activities or (ii) the Applicant agrees to the inclusion of protective provisions in the dDCO which will address SCC's concerns or (iii) the Applicant and SCC enter into a highways side agreement to cover SCC's concerns.  SCC would expect any protective provisions or side agreement to include the following –  The recovery of reasonable costs including but not limited to: <ul style="list-style-type: none"> <li>• Additional costs of routine, cyclic and emergency highway maintenance resulting from the Applicants' occupation or use of the highway (if applicable).</li> <li>• Visual and structural condition surveys of the highway (A134, A1071, B1508, B1069) and contributions towards structural repairs to monitor</li> </ul>

**Table B1:** SCC Response to ISH2 Agenda Item 5.1a (Amended wording of existing Articles, Requirements and Schedules suggested by the Suffolk councils in response to ExQ1 questions DC1.6.85, DC1.6.93, DC1.6.105 and DC1.6.119 [PD-005])

Reference	Question to:	Question	Local Authority Answer
			<p>damage to the highway (in accordance with the provisions of Section 59 Highways Act 1980);</p> <ul style="list-style-type: none"> <li>• Surveys and assessment of highway structures to facilitate AIL movements.</li> <li>• Creation of temporary traffic regulation orders where not included in Schedules;</li> <li>• Issue of permits and licenses;</li> <li>• Relocating / removing street furniture and all other highway infrastructure to facilitate AIL movements;</li> <li>• Technical approval and inspection of highway accesses (Requirement11); and</li> <li>• Review of submitted materials for monitoring the final management plans(such as CTMP/ Travel Plan / PROW Strategy etc).</li> </ul>
DC1.6.105	Suffolk CC Babergh DC Mid Suffolk DC	Can you provide suggested wording of the amendments to Articles, Requirements and Paragraph 1 of Schedule 4 that you refer to in paragraph 17.87 (a to j inclusive) of your joint LIR [REP1-045]?	<p><b><u>(a). the definition of “pre-commencement operations” and, in particular, the implications arising from certain works which are drafted as falling outside that definition;</u></b></p> <p>Certain of the carve-outs from the definition of “commencement” would seem capable of giving rise to significant environmental effects including: the demolition of existing buildings, site clearance, the provision of temporary accesses and the erection of any temporary means of enclosure.</p>

<b>Table B1: SCC Response to ISH2 Agenda Item 5.1a (Amended wording of existing Articles, Requirements and Schedules suggested by the Suffolk councils in response to ExQ1 questions DC1.6.85, DC1.6.93, DC1.6.105 and DC1.6.119 [PD-005])</b>			
Reference	Question to:	Question	Local Authority Answer
			<p>In paragraph 17.7 of the LIR [REP1-045] and Row (i) of the Comments [REP-013] SCC (Legal) states it would welcome “further explanation as to which of the carveouts are <i>de minimus</i> and which have minimal potential for adverse impacts. SCC would also welcome an explanation of where each has been assessed”. SCC would still welcome that explanation and would propose to respond to that explanation in due course. The following comments are therefore subject to receiving the Applicant’s explanation.</p> <p>SCC (Legal) considers the provision of “temporary accesses” must either (i) be removed from the definition of “pre-commencement operations” or (ii) if retained, be limited to the provision of temporary accesses required to deliver the other precommencement operations and, if retained, the provision of “temporary accesses” must be subject to Requirement 11 (highway works).</p> <p>Option (i) would see the definition of “pre-commencement operations” amended as follows –</p> <p>“pre-commencement operations” means operations consisting of engineering investigations and surveys, environmental (including archaeological) investigations and monitoring, surveys and monitoring investigations for the purpose of assessing ground conditions, diversion and laying of services, demolition of existing buildings, site clearance, environmental mitigation measures, remediation in respect of any contamination or other adverse ground conditions, set up works associated with the establishment of construction compounds, <del>temporary accesses</del>, erection of any temporary means of enclosure or temporary demarcation fencing marking out site boundaries and the temporary display of site notices or advertisements;”</p>

**Table B1:** SCC Response to ISH2 Agenda Item 5.1a (Amended wording of existing Articles, Requirements and Schedules suggested by the Suffolk councils in response to ExQ1 questions DC1.6.85, DC1.6.93, DC1.6.105 and DC1.6.119 [PD-005])

Reference	Question to:	Question	Local Authority Answer
			<p>Option (ii) would see the definition of “pre-commencement operations” amended as follows –</p> <p>“pre-commencement operations” means operations consisting of engineering investigations and surveys, environmental (including archaeological) investigations and monitoring, surveys and monitoring investigations for the purpose of assessing ground conditions, diversion and laying of services, demolition of existing buildings, site clearance, environmental mitigation measures, remediation in respect of any contamination or other adverse ground conditions, set up works associated with the establishment of construction compounds, <b>temporary accesses</b>, erection of any temporary means of enclosure or temporary demarcation fencing marking out site boundaries, <b>and</b> the temporary display of site notices or advertisements, <b>and, subject to Requirement 11 (highway works) the provision of temporary accesses necessary to deliver any of these pre-commencement operations ;</b>”</p> <p>Option (ii) would also see Requirement 11 amended as follows –</p> <p>“11.—(1) No work to construct, alter or temporarily alter any new or existing means of access to a highway to be used by vehicular traffic may commence until written details of design, layout and reinstatement of that means of access has been submitted to and approved by the relevant</p>



<b>Table B1:</b> SCC Response to ISH2 Agenda Item 5.1a (Amended wording of existing Articles, Requirements and Schedules suggested by the Suffolk councils in response to ExQ1 questions DC1.6.85, DC1.6.93, DC1.6.105 and DC1.6.119 [PD-005])			
<b>Reference</b>	<b>Question to:</b>	<b>Question</b>	<b>Local Authority Answer</b>
			<p>highway authority.</p> <p>(2) The highway accesses must be constructed and reinstated in accordance with the details approved under sub-paragraph (1).</p> <p><b>(3) This requirement applies to the provision of any temporary access necessary to deliver any of the pre-commencement operations”.</b></p> <p><b><u>(b). the limits of deviation:</u></b></p> <p>SCC is finalising the drafting of this provision which will provide for amending the Limits of Deviation for Work No.2 (which will affect the Hintlesham area) so that the pylon siting remains in the locations previously agreed with SCC and Historic England.</p> <p><b><u>(c). the way in which street works are controlled under article 11 (and under the corresponding requirement, Requirement 11):</u></b></p> <p><b><u>Article 11 (street works)</u></b></p> <p><b>Article 11(2)</b></p> <p>Under several of the draft DCO articles (including article 11(2)), SCC is required to grant approval for certain street works, and provision is made to say that approval must not be “unreasonably withheld or delayed” and there is also a provision that it is deemed to be given after a short period. In several cases this appears to be unprecedented in DCOs or not well precedented.</p> <p>SCC will be receiving considerable numbers of requests for approval and will</p>

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Reference	Question to:	Question	Local Authority Answer
			<p>ensure that they are dealt with as quickly as possible. With the deeming provisions included there is no need to say that the approvals must not be “unreasonably withheld or delayed”. Moreover, by section 161(1)(b) (breach of terms of order granting development consent) of the Planning Act 2008, it is an offence for a person to fail to comply with the terms of a DCO. SCC considers it excessive for it to potentially face criminal liability in these circumstances.</p> <p>SCC notes from paragraph 3.15.1(c) of the Explanatory Memorandum [APP-035] that the cited precedent is article 11 of the Thames Tideway Tunnel DCO 2014 (S.I. 2014/2384), however the relevant provision in that Order (article 11(3)(b)) does not refer to consent not being delayed.</p> <p>In the light of the deeming provision in article 11(3), which makes the words “unreasonably withheld or delayed” unnecessary, SCC requests that article 11(2) is amended as follows –</p> <p>“Without limiting the scope of the powers conferred by paragraph (1) but subject to the consent of the street authority, <del>which consent shall not be unreasonably withheld or delayed</del>, the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes set out at sub-paragraph (1)(a) to (i) and paragraph (3) of article 8 (application of the 1990 Act) shall apply”.</p>

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Reference	Question to:	Question	Local Authority Answer
			<p>SCC requests that similar amendments are made to the following provisions: articles 14(4) (power to alter layout, etc. of streets), 15(5)(b) (temporary stopping up of streets and public rights of way), 16(1)(b) (access to works), 19(3) (discharge of water), and 47(2) (traffic regulation).</p> <p><u>Article 11(3)</u>                      By article 11(3), an application for consent under article 11(2) must be determined within 28 days of the application or consent is deemed to be granted. While SCC will ensure that any application for consent will be dealt with as quickly as possible, it will be remembered that SCC will be receiving a considerable number of requests for approval across several nationally significant infrastructure projects. A 28-day decision-making period in this context is unrealistic and potentially detrimental to the effective consideration of applications.</p> <p>Given the volume of work which will arise from the number of NSIPs being delivered in Suffolk, SCC considers 28 days is too short and requests that it is replaced with 56 days. SCC also considers that this period should be paused if the highway authority considers that additional information is reasonably required to make a decision.</p> <p>SCC (Legal) requests that 28 days is replaced with 56 days in the following provisions: 14(5) (power to alter layout, etc. of streets); 15(9) (temporary stopping up of streets and public rights of way); 16(2) (access to works); 19(9) (discharge of</p>

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<b>Reference</b>	<b>Question to:</b>	<b>Question</b>	<b>Local Authority Answer</b>
			<p>water); 21(8) (authority to survey and investigate land), 47(8) (traffic regulation) and 48(5) (felling or lopping) a deemed consenting regime.</p> <p>A similar point applies in respect of Schedule 4 (discharge of requirements), which is mentioned below.</p> <p>As explained in SCC’s Deadline 3 submission “Response to the Applicant’s Schedule of Changes to the draft Development Consent Order” SCC does not consider the Applicant’s proposed amendment to the article 11(3) in the latest version of the dDCO [REP2-005] achieves the Applicant’s aim and, in any event, maintains its position that 56 days is the appropriate timeframe. The same point applies to the Applicant’s proposed amendments to the following provisions in [REP2-005]: article 14(5), 15(9), 16(2), 19(9), 21(8), 47(8) and 48(5).</p> <p><b><u>(d). the proposals for stopping up streets and public rights of way under article 15:</u></b></p> <p><b>Article 15 (temporary stopping up of streets and public rights of way)</b> By article 15(1), the undertaker may, “for a reasonable time” divert traffic from the street or public right of way; and prevent all persons from passing along the street or PROW.</p> <p>SCC would welcome more information as to what “a reasonable time” might be. In addition, SCC considers that article 15 should provide that any temporary</p>

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<b>Reference</b>	<b>Question to:</b>	<b>Question</b>	<b>Local Authority Answer</b>
			<p>diversion specified in column (4) of Part 1 of Schedule 7 must be open for use, and in the case of a street, must be completed to the reasonable satisfaction of the street authority, before the corresponding street or public right of way in temporarily stopped up, altered or diverted.</p> <p>Moreover, paragraph 3.19.5 of the Explanatory Memorandum [APP-035] states that any alternative route under this article should be provided on a like-for-like basis. Owing to this, SCC would suggest that article 15(6) be amended as follows –</p> <p>“(6) Where the undertaker provides a temporary diversion under paragraph (4), the temporary alternative route is not required to be of a higher standard <b>and must be of no lower standard</b> than the temporarily closed street or public right of way in columns (1) and (2) of Parts 1 and 2 of Schedule 7 (streets or public rights of way to be temporarily stopped up)”.</p> <p>It would also be helpful to know how National Grid proposes (i) to inform SCC of any stopping up etc. and (ii) how it proposes to keep temporary working sites under paragraph (2) to a minimum in terms of time and area.</p> <p><b><u>(e). the proposals for constructing, altering and maintaining streets under article 17:</u></b></p> <p><b>Article 17 (construction, alteration and maintenance of streets)</b></p> <p>SCC (legal) requests that paragraphs (1) and (2) are amended as follows –</p> <p>“(1) Any street (other than any private streets) to be constructed under this</p>

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<b>Reference</b>	<b>Question to:</b>	<b>Question</b>	<b>Local Authority Answer</b>
			<p>Order must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by <b><u>and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of</u></b> the street authority.</p> <p>(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) <b><u>by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of</u></b> the street authority”.</p> <p>SCC legal notes that the bold and underlined words are included in the cited precedent, article 12 of the Thames Tideway Tunnel DCO 2014 (S.I. 2014/2384). The SCC considers that commuted sums for future maintenance might also be required.</p> <p><b><u>(f). the proposals for regulating traffic under article 47:</u></b>  <b>Article 47 (traffic regulation)</b>                      SCC requests that article 47(1) is amended as follows –                      “Subject to the provisions of this article, <b><u>and the consent of the traffic</u></b></p>

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<b>Reference</b>	<b>Question to:</b>	<b>Question</b>	<b>Local Authority Answer</b>
			<p><b><u>authority in whose area the road is situated.</u></b> the undertaker may, for the purposes of the construction of the authorised development ...”</p> <p>The precedent cited in paragraph 3.51.2 of the Explanatory Memorandum [APP035], (article 40 of the National Grid (Hinkley Point C Connection Project) Order 2016 (S.I.2016/49)), includes the bold and underlined words, as does the Network Rail (Norton Bridge Area Improvements) Order 2014 (S.I.2014/909; see article 38), which is cited in a footnote to paragraph 3.51.2. (The words are included in the corresponding provisions of other DCOs which are not cited in the Explanatory Memorandum).</p> <p>SCC requested that the same amendment be made to the final draft version of the Sizewell C (Nuclear Generating Station) Order 2022 (S.I.2022/853)) and, following the Examining Authority’s recommendation to include the words, they were included in the Order made by the Secretary of State.</p> <p>SCC is concerned that the consultation requirements under this article are insufficient and considers they should better reflect the consultation regime set out in regulation 6 of the Local Authorities’ Traffic Orders (Procedure) (England and Wales) Regulations 1996 which SCC would have to follow when making a TRO. SCC would welcome the Applicant’s explanation as to why this article departs so far from the 1996 Regulations. SCC would also like to know how any objections would be dealt with.</p>

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Reference	Question to:	Question	Local Authority Answer
			<p>For TROs in Schedule 12 which are modified or where new orders are required, SCC considers that, as a minimum, the consultation regime under regulation 6 of the 1996 Regulations should apply. SCC also requests that its costs for the associated are recoverable.</p> <p>In addition, SCC would encourage the Applicant to follow SCC's Consultation and Engagement Charter (which enshrines good practice) and would welcome discussions with the Applicant on this point.</p> <p><b><u>(g). the drafting of article 48. which concerns the felling or lopping of trees:</u></b></p> <p>SCC is finalising its proposed drafting of this article which will capture the following points –</p> <ul style="list-style-type: none"> <li>· the deletion of “or near” from article 48(1) (as these words are too vague).</li> <li>· the article cross-referencing to a plan showing the location of all trees and hedgerows that will be affected by the works, along with timings of the proposed removal. (There needs to be an assessment procedure in place ahead of any tree or shrub works with respect to bats and nesting birds, and possibly dormice in relation to hedgerows).</li> <li>· a detailed compensation planting plan, showing how any tree and hedgerow lost will be compensated, either within, or close to, the Order limits.</li> </ul>



<b>Table B1:</b> SCC Response to ISH2 Agenda Item 5.1a (Amended wording of existing Articles, Requirements and Schedules suggested by the Suffolk councils in response to ExQ1 questions DC1.6.85, DC1.6.93, DC1.6.105 and DC1.6.119 [PD-005])			
<b>Reference</b>	<b>Question to:</b>	<b>Question</b>	<b>Local Authority Answer</b>
			<p><b><u>(h). the identification of the discharging bod(ies) for Requirements:</u></b>                      SCC is content with the changes to paragraphs (1) and (3) of Requirement 4.</p> <p><b><u>(i). the drafting of certain requirements</u></b></p> <p><b>Paragraph 1 (interpretation)</b>                      Paragraph 1(4) states –                      “Where an approval or agreement is required under the terms of any Requirement or a document referred to in a Requirement, or any Requirement specifies “unless otherwise approved” or “unless otherwise agreed” by the relevant highway authority or the relevant planning authority, such approval or agreement may only be given in relation to minor or immaterial changes and where it has been demonstrated to the satisfaction of the relevant highway authority or the relevant planning authority that the subject matter of the approval or agreement sought <b><u>is unlikely to</u></b> give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement”.</p> <p>No explanation for this provision is given in the Explanatory Memorandum [APP-035]. While it is precedented, the precedents usually include “does not” instead of “is unlikely to”. (See, for example, paragraph 1(3) of Schedule 2 (requirements) of the Sizewell C (Nuclear Generating Station) Order 2022 (S.I.2022/853)). SCC considers “does not” should be included in paragraph 1(4) and, if the Applicant disagrees, SCC requests the Applicant provides an explanation.</p> <p><b><u>Requirement 4 (management plans)</u></b></p>

**Table B1:** SCC Response to ISH2 Agenda Item 5.1a (Amended wording of existing Articles, Requirements and Schedules suggested by the Suffolk councils in response to ExQ1 questions DC1.6.85, DC1.6.93, DC1.6.105 and DC1.6.119 [PD-005])

Reference	Question to:	Question	Local Authority Answer
			<p>Requirement 4(1) requires compliance with the specified management plans. SCC would support such a provision, in principle, provided that the content of the management plans was either (a) sufficiently detailed and precise at this stage so that they could be satisfied during the Examination process that the management plans would ensure that a satisfactory form of development would come forward (and that unsatisfactory ways of achieving the development were precluded) or (b) that the content of the management plans included explicit provision for the preparation of more detailed plans, which would be subject to a further approval process. However, as matters stand, the Applicant has structured the draft DCO so that there are ‘high level’ management plans that are to be certified documents but which are light on detail and leave too many matters at large and yet the draft DCO does not require any further approval process in relation to matters which are not satisfactorily specified in the management plans. SCC does not see this as acceptable and would ask the Applicant to review its approach in this regard.</p> <p><b><u>Requirement 5 (approval and implementation of Drainage Management Plan)</u></b></p> <p>Since highway authorities are responsible for, amongst other things, providing and managing highway drainage and roadside ditches, SCC considers the highway authority should grant the relevant drainage approvals under Requirement 5 and that the Requirement should be amended as follows –</p> <p>“5.—(1) No stage of the authorised development may be brought into operational use until, for that stage, a Drainage Management Plan (DMP), to address</p>

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Reference	Question to:	Question	Local Authority Answer
			<p>operational surface water management matters, has been submitted to and approved by the <b>relevant planning highway</b> authority.</p> <p>(2) The operational use of each stage of the authorised development must be carried out in accordance with the approved Drainage Management Plan (DMP) referred to in sub-paragraph (1) or with any amended Drainage Management Plan (DMP) that may subsequently be approved by the <b>relevant planning highway</b> authority.”</p> <p><b>Requirement 6 (archaeology)</b></p> <p>The justification for Requirement 6 is set out in paragraphs 8.45 to 8.52 of the LIR [REP1-045],</p> <p>SCC considers Requirement 6 should be drafted as follows –</p> <p>“(1) The authorised development must be undertaken in accordance with the Archaeological Framework Strategy and the Outline Written Scheme of Investigation (OWSI).</p> <p>(2) No stage of the authorised development may commence until either a Preservation in situ management plan, or a Detailed Written Scheme of Investigation of areas of archaeological interest relevant to that stage (if any) as identified within the OWSI or identified through evaluation work as set out in the OWSI has been submitted to and approved by Suffolk County Council.</p> <p>(3) Any Detailed Written Scheme of Investigations must be in accordance with the OWSI and must identify areas where archaeological works are required and the measures to</p>

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<b>Reference</b>	<b>Question to:</b>	<b>Question</b>	<b>Local Authority Answer</b>
			<p>be taken to protect, record or preserve any significant archaeological remains that may be found. Any Detailed Written Scheme of Investigation must include:</p> <ul style="list-style-type: none"> <li>(a) an assessment of significance and research questions</li> <li>(b) the programme of methodology of site investigation and recording</li> <li>(c) the programme for post-investigation assessment</li> <li>(d) provision to be made for analysis of the site investigation and recording</li> <li>(e) provision to be made for archive deposition of the analysis and records of the site investigation</li> <li>(f) nomination of a competent person or persons/organisation to undertake the works set out within the Detailed Written Scheme of Investigation</li> <li>(g) an implementation timetable.</li> </ul> <p>(4) Any archaeological works must be carried out in accordance with the approved Detailed Written Scheme of Investigation for that stage.</p> <p>(5) No later than three years from commencement of the authorised development, post-investigation assessment must be completed for all stages in accordance with the programme set out in the OWSI and the Detailed Written Schemes of Investigation, and provision made for analysis, publication and dissemination of results and archive deposition secured in accordance with a scheme-wide Updated Project Design and timetable that has been submitted to and approved by Suffolk County Council.”</p> <p>It will be noted that this version of Requirement 6 is slightly different from the version included in the LIR: in paragraphs (2) and (5), references to “relevant planning authority” have been replaced with “Suffolk County Council”. This is an appropriate change because SCC is responsible for archaeological services in Suffolk.</p> <p><b>Requirement 7 (construction hours)</b></p>

**Table B1:** SCC Response to ISH2 Agenda Item 5.1a (Amended wording of existing Articles, Requirements and Schedules suggested by the Suffolk councils in response to ExQ1 questions DC1.6.85, DC1.6.93, DC1.6.105 and DC1.6.119 [PD-005])

Reference	Question to:	Question	Local Authority Answer
			<p><u>Paragraph 1: the core hours</u></p> <p>Paragraph (1) of Requirement 7 states –                      “Subject to sub-paragraphs (2) and (3), work may only take place between 0700 and 1900 Monday to Friday and between 0800 and 1700 on Saturdays, Sundays and Bank Holidays (the core working hours), unless otherwise approved by the relevant planning authority”.</p> <p>While these core hours are included in other National Grid DCOs (for instance, Requirement 7 of both the National Grid (Richborough Connection Project) Development Consent Order 2017 (S.I.2017/817) and the National Grid (Hinkley Point C Connection Project) Order 2016 (S.I.2017/49)) no justification for their duration is provided in the Explanatory Memorandum [APP-035], which simply states: “Core construction hours are included at sub-paragraph (1)”.</p> <p>This approach is inconsistent with that required in Advice Note 15, which states –</p> <p>“If a draft DCO includes wording derived from other made DCOs, this should be explained in the Explanatory Memorandum. The Explanatory Memorandum should explain why that particular wording is relevant to the proposed draft DCO ... the ExA and Secretary of State will need to understand why [the wording] is appropriate for the scheme applied for”. [Paragraph 1.5].</p>

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<b>Reference</b>	<b>Question to:</b>	<b>Question</b>	<b>Local Authority Answer</b>
			<p>Owing to the lack of information in the Explanatory Memorandum, it is difficult for SCC to understand why these core hours have been chosen for this project.</p> <p>While SCC would prefer the weekday core hours to end at 1800 rather than 1900 (it will be remembered that, by Requirement 7(3), the core hours exclude start up and close down activities up to 1 hour either side of the core working hours, meaning activities could end at 2000), SCC is particularly concerned by the duration of core hours for weekends and Bank Holidays and their impact on public amenity and tourism. For instance, there are numerous residential and tourist facilities along the project route, including Polstead Heath village near to the Sealing End compound and Hintlesham Hall, which is a well-known wedding venue.</p> <p>In the light of its concerns, SCC considers Saturday hours should be between 0800 and 1300 and there should be no working on Sundays and Bank Holidays. The Secretary of State considered a similar approach appropriate in the East Anglia ONE North Offshore Wind Farm Order 2022 (S.I.2022/432). Requirement 24 of that Order states the core hours are “between 0700 hours and 1900 hours Monday to Friday and 0700 hours and 1300 hours on Saturdays, with no activity on Sundays or bank holidays”, subject to certain exceptions listed in sub-paragraph (2).</p> <p>Absent justification from the Applicant – which takes account of the SCC’s concerns – for (i) the need for Sunday and Bank Holiday working on this project and (ii) for weekend working to end at 1700, rather than at 1300, SCC considers paragraph</p>

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Reference	Question to:	Question	Local Authority Answer
			<p>(1) should be amended as follows –</p> <p>“Subject to sub-paragraphs (2) and (3), work may only take place between 0700 and 1900 Monday to Friday and between 0800 and <del>1700</del> <b>1300</b> on Saturdays, <b>with no activity on</b> Sundays <del>and</del> or Bank Holidays (the core working hours), unless otherwise approved by the relevant planning authority”.</p> <p>[Deletions shown struck-through; amendments in bold].</p> <p>While the hours are shorter than sought by the Applicant, amended paragraph (1) would still allow the SCC to approve departures from the core hours, providing flexibility in the event it is required.</p> <p><u>Paragraph 2: exceptions to the core hours</u></p> <p>Paragraph (2) of Requirement 7 lists 10 operations which may take place outside the core working hours referred to in paragraph (1). While paragraph 4.3.22 of the Explanatory Memorandum states “...sub-paragraph (2) lists a number of activities which are not subject to the core working hours”, it does not explain why each operation should be able to take place outside of core hours for this project.</p> <p>It is noted the list of operations is longer than in the equivalent provision of the Richborough and Hinkley Point C Connection Project Orders mentioned above.</p>

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Reference	Question to:	Question	Local Authority Answer
			<p>SCC would again welcome an explanation of why the operations should be able to take place outside the already extensive core hours. SCC does not consider an explanation is required in respect of exception (h): “activity necessary in the instance of an emergency where there is a risk to persons or property”.</p> <p><b><u>Requirement 10 (implementation and maintenance of reinstatement planting scheme)</u></b></p> <p>Paragraph (3) states –</p> <p>“Any trees or hedgerows planted as part of an approved reinstatement planting scheme that, within a period of 5 years after planting, are removed, die or become in the opinion of the relevant planning authority seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority”.</p> <p>The reference to “5 years” should be changed to “10 years”, which would provide greater ecological improvements.</p> <p><b><u>(i). in Schedule 4, the timeframes for determining applications by SCC after consent is granted need to be extended and the fees proposed for determining application are woefully low and need to be increased.</u></b></p> <p>Please see the reply to DC1.6.102.</p>



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<b>Reference</b>	<b>Question to:</b>	<b>Question</b>	<b>Local Authority Answer</b>
DC1.6.119	Suffolk CC Babergh DC Mid Suffolk DC	At paragraph 12.11 of your LIR [REP1-45] you refer to the need for a Requirement to address decommissioning and removal route; can you suggest the wording that you would like to see included within the DCO?	<p>SCC (Local Highway Authority) noted that the requirement is included in the granted order for East Anglia One North Offshore Wind Farm Order 2022 could form the basis of a similar requirement for this project. An extract is provided below:</p> <p><i>Onshore decommissioning</i></p> <p>30.—(1) The undertaker must notify the relevant planning authority of the permanent cessation of commercial operation of the transmission works within 14 days following the date of permanent cessation.</p> <p>(2) Within six months following the permanent cessation of commercial operation of the transmission works an onshore decommissioning plan in respect of the transmission works must be submitted to and approved by the relevant planning authority in consultation with the relevant highway authority and the relevant statutory nature conservation body.</p> <p>(3) The undertaker must notify the relevant planning authority of the permanent cessation of commercial operation of the grid connection works within 14 days following the date of permanent cessation.</p> <p>(4) Within six months following the permanent cessation of commercial operation of the grid connection works an onshore decommissioning plan in respect of the grid connection works must be submitted to and approved by the relevant planning authority in consultation with the relevant highway authority and the relevant statutory nature conservation body.</p> <p>(5) The decommissioning plans must be implemented as approved.</p>