



Suffolk County Council (20041323)

Responses to the Applicant's draft Development Consent Order and the Applicant's response to the ExA's recommended amendments to the dDCO

Bramford to Twinstead (EN020002)

Deadline 9

23 February 2024

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Glossary of Acronyms

<i>DCO</i>	<i>Development Consent Orders</i>
<i>DVNLSVP</i>	<i>Dedham Vale National Landscape and Stour Valley Partnership</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 Highway Authority</i>
<i>PROW</i>	<i>Public Rights of Way</i>
<i>SuDS</i>	<i>Sustainable Drainage Systems</i>

“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

This document includes two tables: Table 1 includes SCC’s comments on the Applicant’s *Schedule of Changes at Deadline 8 [REP8-022]* and Table 2 includes SCC’s comments on the Applicant’s *Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP8-032]*.

To avoid creating another table or another document, in Table 1, SCC has also referred to other examples of amendments which it considers are necessary to the provision under discussion. In Table 2, SCC comments on certain of the Applicant’s responses to the ExA’s recommended amendments to the dDCO. It does not comment on the Applicant’s responses which have been addressed in Table 1 above and it does not comment on responses to which SCC has no comment to make.

1 Comments on the Applicant’s Schedule of Changes at Deadline 8 (February 2024) [REP8-022]

Table 1: SCC Table of Comments on the Applicant’s Schedule of Changes at Deadline 8 (February 2024) [REP8-022]				
Ref.	dDCO ref.	Rationale for the Change	Change Made	SCC’s comment
1.	Art.2 (interpretation)	A new definition of ‘Bank Holiday’ has been included in Article 2(1). The purpose and effect of this amendment is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	<u>“Bank Holiday” means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971;</u>	The definition is fine; however, because the term “Bank Holiday” is only used in Schedule 3 (Requirements) – specifically, in Requirements 2(1), 7(1), 7(3) and 7(4)(e) – the definition should be moved from Art.2 (interpretation) to paragraph 1(1) (interpretation) of Schedule 3.
2.	Art.2 (interpretation)	Document reference numbers in respect of the Construction Environmental Management Plan (and its appendices) (Documents 7.5 (D), 7.5.1 (C) and 7.5.2 (E)), the Construction Traffic	“Construction Environmental Management Plan” means the document of that description (together with its appendices) (Document Documents 7.5 (D), 7.5.1 (C) and 7.5.2 (E)) certified by the Secretary of State as the Construction Environmental Management Plan for the purposes of this Order under article 57 (certification of documents); “Construction Traffic Management Plan” means the document of that description (together with its appendices) (Document 7.6 (CD)) certified	These changes are fine, save for the name of the final listed document. The document in the Examination Library is the “Public Right of Way Management Plan” and not the “Public Rights of Way Management Plan”.

		<p>Management Plan (Document 7.6 (D)), the Landscape and Ecological Management Plan (and its appendices) (Document 7.8 (C), 7.8.1 (B), 7.8.2 (C), 7.8.3 (B)), and the Public Rights of Way Management Plan (Document 8.5.8 (B)) have been updated in order to correlate with submissions made at Deadline 8, and to address matters raised in the Schedule of the Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP6-003].</p>	<p>by the Secretary of State as the Construction Traffic Management Plan for the purposes of this Order under article 57 (certification of documents);</p> <p>“Landscape and Ecological Management Plan” means the document of that description (together with its appendices) (Document Documents 7.8 (C), 7.8.1 (B), 7.8.2 (C) and 7.8.3 (B)) certified by the Secretary of State as the Landscape and Ecological Management Plan for the purposes of this Order under article 57 (certification of documents);</p> <p>“Public Rights of Way Management Plan” means the document of that description (together with its appendices) (Document 8.5.8 (B)) 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);</p>	
3.	Art.2 (interpretation)	<p>The definition of ‘Environmental Statement’ has been amended to include reference to the Errata List (Document 8.4.3 (B)).</p> <p>The purpose and effect of this amendment is explained in Table 2.1 of the Applicant’s</p>	<p>“Environmental Statement” means the environmental statement (Documents 6.1 to 6.4 (inclusive)) together with any supplemental or additional environmental information certified under article 57 (certification of documents), and any environmental statement submitted for the purposes of complying with and/or discharging the Requirements, <u>and any entries in the final version of the Errata List (Document 8.4.3 (B)) that relate to any of these documents;</u></p>	<p>There is no definition of “Errata List” in article 2(1) (interpretation) and SCC considers one is needed.</p>

		Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP6-003] (Document 8.10.2).		
4.	Art.2 (interpretation)	Article 2(5) has been deleted. The purpose and effect of this amendment is explained in Table 2.1 of the Applicant’s Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP6-003] (Document 8.10.2).	(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the Access, Rights of Way and Public Rights of Navigation Plans.	As stated in its Response to the ExA’s Schedule of Changes to the draft DCO [REP8-045], SCC agrees to the deletion of this provision.
5.	Art.5 (limits of deviation)	Article 5(1)(a) has been amended. The purpose and effect of this amendment is explained in Table 2.2 of the Applicant’s Response to the Schedule of the Examining Authority’s recommended	deviate <u>laterally</u> from the lines or situations <u>centreline for the linear works</u> of the authorised development shown on the Work Plans within the limits of deviation relating to a Work shown on those plans and carry out construction activities for the purpose of the authorised development anywhere within the Order limits; and	SCC considers the Applicant’s change to be fine.

		amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).		
6.	Art.5 (limits of deviation)	Article 5(3) has been amended. The purpose and effect of this amendment is explained in Table 2.2 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	(3) Subject to paragraph (4), in respect of other permanent above ground structures, erections and apparatus, including substations <u>the Grid Supply Point Substation, Bramford Substation</u> and cable sealing end compounds forming part of the authorised development:	SCC considers the Applicant's change to be fine.
7.	Art.13 (application of the 1991 Act)	Reference to Section 77 of the 1991 Act has been removed from Article 13(3) The purpose and effect of this amendment is explained in Table 2.3 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the	(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order— (a) section 56 (power to give directions as to timing of street works); (b) section 56A (power to give directions as to placing of apparatus); (c) section 58 (restrictions on works following substantial road works); (d) section 58A (restriction on works following substantial street works); (e) section 73A (power to require undertaker to re-surface street); (f) section 73B (power to specify timing etc. of re-surfacing); (g) section 73C (materials, workmanship and standard of re-surfacing); (h) section 77 (liability for cost of use of alternative route); (h) (+) section 78A (contributions to costs of re-surfacing by undertaker); and	As stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], SCC agrees to the deletion of this provision.

		<p>Applicant's Draft DCO [REP6-003] (Document 8.10.2).</p>	<p>(i) Schedule 3A (restriction on works following substantial street works).</p>	
<p>8.</p>	<p>Art.15 (temporary stopping up of streets and public rights of way)</p>	<p>Article 15(2) has been amended to make clear that the exercise of powers pursuant to Article 15(2) is subject to the street authority's consent, provided that such consent is not unreasonably withheld or delayed. Consequential amendments have also been made to Articles 15(10) and 15(11). This amendment responds to submissions made by Suffolk County Council in respect of ExQ2 DC2.6.5 and in respect of which the Applicant has provided a further detailed response in Document 8.10.3.</p>	<p>(2) Without limitation on the scope of paragraph (1), the undertaker may, with the consent of the street authority (such consent not to be unreasonably withheld or delayed), use as a temporary working site any street or public right of way which has been temporarily stopped up, altered or diverted under the powers conferred by this article.</p> <p>(10) Any application for consent under sub-paragraph (2) or (5) (b) must include a statement that the provisions of paragraph (9) apply to that application.</p> <p>(11) If an application for consent under sub-paragraph (2) or (5)(b) does not include the statement required under paragraph (10), then the provisions of paragraph (9) will not apply to that application.</p>	<p>SCC considers the words “with the consent of the street authority” should be included in article 15(2); however, the words “(such consent not to be unreasonably withheld or delayed)” should be omitted.</p> <p>As stated in previous representations, in several provisions, SCC is under a requirement to approve various documents, 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 28 days. In several cases this appears to be unprecedented in DCOs or not well preceded. For instance, the words are also included in sub-paragraph (5)(b) of article 15; however, they do not</p>

				<p>appear in the equivalent provisions of the previous National Grid DCOs cited by the applicant as precedents in section 3.19 of the Explanatory Memorandum [REP8-006] i.e. Network Rail (Ipswich Chord) Order 2012; National Grid (King’s Lynn B Power Station Connection) Order 2013 or National Grid (Hinkley Point C Connection Project) Order 2016. No justification is provided for the inclusion of both “unreasonably withheld or delayed” and a very short deeming provision.</p> <p>SCC will be receiving considerable numbers of requests for approval and will of course 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, and in some cases the deeming</p>
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				<p>provisions are unprecedented and unnecessary. 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 considers art.15(2) should state –</p> <p>“(2) Without limitation on the scope of paragraph (1), the undertaker may, <u>with the consent of the street authority</u>, use as a temporary working site any street or public right of way which has been temporarily stopped up, altered or diverted under the powers conferred by this article”.</p> <p>For the reasons set out above, as well as being</p>
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				<p>omitted from article 15(2) and 15(5)(b), the words “unreasonably withheld or delayed” should be omitted from the following articles:</p> <p>11(2) (street works); 14(4) (power to alter layout, etc. of streets); 16(1)(b) (access to works); 19(3) and 19(4)(a) (discharge of water); 21(5) (authority to survey and investigate the land); 47(2) (traffic regulation); and 52(1) (procedure regarding certain approvals etc.).</p>
9.	Art.17 (construction, alteration and maintenance of streets)	Articles 17(1) and 17(2) have been amended. The purpose and effect of these amendments is explained in Table 2.3 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	<p>17.—(1) Any street (other than any private streets) to be constructed under this 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 <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> 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) by <u>and at the expense of</u></p>	As stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], SCC agrees to these changes.

			<u>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> the street authority.	
10.	Art.46 (defence in proceedings in respect of statutory nuisance)	Articles 46(1)(a)(ii), 46(1)(b) and 46(2) have been amended. The purpose and effect of these amendments is explained in Table 2.6 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	<p>(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 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</p> <p>(b) the defendant shows that the nuisance— (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in accordance with the Construction Environmental Management Plan; or (i) (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.</p> <p>(2) For the purposes of paragraph (1) above <u>in relation to the construction of the authorised development only</u>, compliance with the controls and measures relating to noise described in the Construction Environmental Management Plan will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.</p>	As stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], SCC agrees to these changes.
11.	Art.47 (traffic regulation)	Articles 47(1) and 47(2) have been amended. The purpose and effect of these amendments is explained in Table 2.6 of the Applicant's Response to the	<p>47.—(1) Subject to the provisions of this article, the undertaker may at any time for the purposes of construction or maintenance of the authorised development or for purposes ancillary to the construction or maintenance of the authorised development—</p> <p>(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the</p>	As stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], SCC agrees to these changes.

		<p>Schedule of the Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP6-003] (Document 8.10.2).</p>	<p>consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld or delayed, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction or maintenance of the authorised development, or for purposes ancillary to it, at any time—</p>	<p>In addition, and as mentioned in previous submissions (e.g. Post-hearing Submission for ISH2 on the DCO and related matters [REP4-043]) SCC considers the powers in paragraph (1) should be subject to SCC’s consent and so should be amended as follows –</p> <p>“Subject to the provisions of this article, <u>and the consent of the traffic authority in whose area the road is situated</u>, the undertaker may at any time for the purposes of construction or maintenance of the authorised development or for purposes ancillary to the construction or maintenance of the authorised development—</p> <p>”</p> <p>The precedent cited in paragraph 3.51.2 of the Explanatory Memorandum [REP8-007], (article 40 of the National Grid (Hinkley</p>
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				<p>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. SCC considers the</p>
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				same approach should be followed here.
12.	Art.47 (traffic regulation)	A new Article 47(6) has been included. The purpose and effect of this amendment is explained in Table 2.6 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	<u>(6) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2) will cease to have effect on the expiry of the period of five years beginning with the date on which the authorised development is first brought into operational use, except where the authorised development is replacement or landscape planting in which case the period of five years shall begin with the date on which that part of the replacement or landscape planting is completed.</u>	<p>SCC notes the justification in the applicant's <i>Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP8-032]</i> for the inclusion of paragraph (6). It is not clear, however, why the period of five years has been chosen.</p> <p>It is also not clear how the applicant will inform the traffic authority of any expiration mentioned in paragraph (6) and how much notice will be given.</p> <p>Finally, paragraph (6) needs to provide for the undertaker providing, at its own expense, any replacement signage or other steps required by the traffic authority in advance of any expiration.</p>

<p>13.</p>	<p>Art.48 (felling or lopping)</p>	<p>Article 48(8) has been amended to refer to the Trees and Hedgerows to be Removed or Managed Plans. The purpose and effect of this amendment is explained in Table 2.6 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).</p>	<p>(8) The consent of the relevant highway authority is not required under paragraph (4) where the tree to be felled, lopped, pruned, cut, trimmed, coppiced, pollarded, or reduced in height or width is described or shown in the Landscape and Ecological Management Plans as '<u>affected vegetation</u>' on the Trees and Hedgerows to be Removed or Managed Plans.</p>	<p>As stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], SCC agrees to this change.</p> <p>Again, as stated in [REP8-045], to avoid any confusion, SCC considers it would be helpful if the undertaker notifies the highway authority before it fells, lops etc. in circumstances when the consent of the highway authority is not required and so article 48(8) should be further amended to state –</p> <p>“(8) The consent of the relevant highway authority is not required under paragraph (4) where –</p> <ul style="list-style-type: none"> (1) the tree to be felled, lopped, pruned, cut, trimmed, coppiced, pollarded, or reduced in height or width is described or
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				<p>shown in as 'affected vegetation' on the Landscape and Ecological Management Plan Trees and Hedgerows to be Removed or Managed Plans and <u>(2) the undertaker has notified the relevant highway authority of its intention to carry out any of the operations described in subparagraph (a)</u>".</p> <p>In addition, and as mentioned in previous submissions (e.g. Post-hearing Submission for ISH2 on the DCO and related matters [REP4-043]) SCC considers the words "or near" should be deleted from article 48(1)</p>
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				(as these words are too vague).
14.	Art.53 (safeguarding)	<p>A new Article 53(7) has been included and the (renumbered) Article 53(8) has been further amended.</p> <p>The purpose and effect of these amendments is explained in Table 2.6 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).</p>	<p><u>(7) The requirement to consult will cease to have effect upon completion of the decommissioning of the authorised development or the final part of it.</u></p> <p><u>(8) (6)</u> In this article— “exempt applications” means—</p> <p><u>(i)</u> an application for planning permission which relates to development that—</p> <p><u>(aa) (i)</u> consists of an alteration to an existing building, or the change of use of an existing building or land; and</p> <p><u>(bb) (ii)</u> does not involve, or is not likely to involve, any construction engineering or other operations below existing ground level; and,</p> <p><u>(ii) an application for planning permission which is to be determined by a relevant planning authority in the period of 21 days beginning on the day after the date on which the Order comes into force; and</u></p>	<p>SCC considers the applicant's proposed drafting in article 53(7) is unclear and would be grateful if the applicant could explain the difference between (i) completion of the decommissioning of the authorised development and (ii) completion of the decommissioning of the final part of the authorised development. Once SCC receives the explanation, it should be able to offer its final view on article 53(7). Subject to receiving that explanation, SCC considers the drafting proposed by the ExA in its <i>Schedule of recommended amendments to the Applicant's draft Development Consent Order (dDCO) [REP6-003]</i> to be preferable, because it is clearer.</p>

				<p>Regarding article 53(8)(ii), SCC considers the applicant’s proposed drafting is fine.</p> <p>SCC notes the applicant has not included the ExA’s suggested amendments to article 53(5), notes (in the applicant’s <i>Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP8-032]</i>) the applicant’s justification for this, and further notes that, despite its justification, notes the applicant would “be content to accept an amendment to Article 53(5) in the form proposed if the Examining Authority was indeed minded to make such a change”. If article 53 is to be retained, SCC considers the ExA’s amendment (i.e. the deletion of the words “and ensure that the matters raised in any such representation are addressed”) should be</p>
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				<p>made because the additional and unprecedented wording would constitute an unjustified interference with the discretion Parliament has entrusted to local authorities.</p> <p>SCC therefore considers article 53(5) should state –</p> <p>“In determining an application for planning permission, a relevant planning authority must take into account any representations received in accordance with this article and ensure that the matters raised in any such representation are addressed”.</p> <p>In any event, SCC maintains its concerns with this article (as set out in its post-hearing submissions for ISH2 [REP4-043] and ISH5 [REP6-056]) and considers it ought to be removed from the dDCO.</p>
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15.	Schedule 3, Requirements (Requirement 1)	<p>A new definition of “intrusive” has been included in Requirement 1.</p> <p>The purpose and effect of this amendment is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).</p>	<p><u>“intrusive” means an activity which requires or is facilitated by breaking the surface of the ground;</u></p>	<p>SCC considers the inclusion of the new definition is fine and notes its inclusion in the following DCOs: East Anglia ONE North Offshore Wind Farm Order 2022 and East Anglia TWO Offshore Wind Farm Order 2022.</p>
16.	Schedule 3, Requirements (Requirement 1)	<p>A new definition of “reinstatement planting” has been included in Requirement 1.</p> <p>This change responds to feedback received from the host authorities and other environmental stakeholders as to the scope of ‘reinstatement planting’ pursuant to Requirements 9 and 10. Given the late stage of the Examination, it has been agreed that</p>	<p><u>“reinstatement planting” includes, unless otherwise agreed with the relevant planning authority, embedded planting, reinstatement planting and mitigation planting as each are described in the Landscape and Ecological Management Plan;</u></p>	<p>SCC notes the Landscape and Ecological Management Plan [REP7-006] refers to “replacement hedgerow planting” and would be grateful if the applicant could explain why that term is not included in the definition of “reinstatement planting”.</p>

		clarification of this nature is appropriate and avoids cross-referencing and other similar issues which would arise if Requirements 9 and 10 were themselves renamed.		
17.	Schedule 3, Requirements (Requirement 3)	A new sub-paragraph (1) has been included, with consequential amendments also made to the (renumbered) sub-paragraph (5). The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	<p><u>3. —(1) Unless otherwise agreed with the relevant planning authority, written notice setting out the anticipated programme for the carrying out of pre-commencement operations must be given to the relevant planning authority no less than 7 days prior to the date on which those pre-commencement operations are first carried out.</u></p> <p>(2) 3. —ccc) The authorised development may not commence until a written scheme setting out all stages of the authorised development has been submitted to the relevant planning authority.</p> <p>(3) (4) Any revisions to the written scheme referred to in sub-paragraph (1)2 above must be submitted to the relevant planning authority in advance of the commencement of the stage of the authorised development to which the revisions relate.</p> <p>(4) (2) Written notice of the commencement and completion of construction of each stage of the authorised development, and the operational use of each stage of the authorised development, must be given to the relevant planning authority within 10 business days of the relevant event occurring.</p> <p>(5) (3) The authorised development must be carried out in accordance with the written scheme submitted further to sub-paragraph (1) or (2) <u>or (3) and, to the extent applicable, in general accordance with the written notice submitted further to sub-paragraph (1).</u></p>	As stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], SCC considers written notice should also be given to the relevant highway authority, which is also responsible for certain pre-commencement operations (for instance, per Requirement 11(3), all pre-commencement operations involving the construction or alteration of temporary accesses).

				<p>SCC would therefore suggest that paragraph (1) is amended as follows –</p> <p>“Unless otherwise agreed with the relevant planning authority <u>and the relevant highway authority</u>, written notice setting out the anticipated programme for the carrying out of pre-commencement operations must be given to the relevant planning authority <u>and the relevant highway authority</u> no less than 7 28 days prior to the date on which those pre-commencement operations are first carried out”.</p>
18.	Schedule 3, Requirements (Requirement 4)	Requirement 4 has been amended. The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority's	(2) The plans referred to in sub-paragraph (1) above comprise the following— (a) Construction Environmental Management Plan (CEMP); (b) Materials and Waste Management Plan (MWMP); (c) Construction Traffic Management Plan (CTMP); (d) Landscape and Ecological Management Plan (LEMP); and (e) Public Rights of Way Management Plan (PRoWMP).	As stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045] , SCC agrees to these changes.

		recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).		
19.	Schedule 3, Requirements (Requirement 5)	Requirement 5 has been amended. The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	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 operational surface water management matters, has been submitted to and approved by the relevant <u>planning authority, after consultation with the relevant</u> highway authority. (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 relevant <u>planning authority, after consultation with the relevant</u> highway authority.	As stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], SCC disagrees with the new text. The discharging authority should be the "lead local flood authority" (who should consult the "relevant planning authority" because the approval of the drainage management plan is a function of the lead local flood authority. SCC's position is supported by Mid-Suffolk and Babergh District Councils within its administrative areas and by Essex County Council and (we understand) Braintree District Council.

				<p>In the light of the above, SCC considers Requirement 5(1) and (2) 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 operational surface water management matters, has been submitted to and approved by the <u>lead local flood authority, after consultation with the relevant highway planning</u> 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</p>
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				approved by the <u>lead local flood authority, after consultation with the relevant highway planning authority</u> ".
20.	Schedule 3, Requirements (Requirement 6)	Requirement 6 has been amended. The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	6. —(1) The authorised development must be undertaken in accordance with the Archaeological Framework Strategy and the Outline Written Scheme of Investigation (OWSI) . (2) No stage of the authorised development may commence until a Detailed Written Scheme of Investigation of areas of archaeological interest relevant to that stage (if any) as identified within the OWSI <u>Outline Written Scheme of Investigation</u> or identified through evaluation work as set out in the OWSI <u>Outline Written Scheme of Investigation</u> has been submitted to and approved by the County Archaeologist. (3) Any detailed archaeological works must be carried out in accordance with the approved Detailed Written Scheme of Investigation for that stage. (4) The Detailed Written Scheme of Investigation must be in accordance with the OWSI <u>Outline Written Scheme of Investigation</u> and must identify areas where archaeological works are required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found and must include an implementation timetable.	As stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], SCC agrees to these changes. As stated in [REP8-045], SCC maintains its position in respect of the drafting of this requirement, as set out in paragraph 8.45 to 8.52 [REP1-045], DC1.6.105 [REP3-078], Table Item 1 [REP5-033].
21.	Schedule 3, Requirements (Requirement 7)	Requirement 7 has been amended. The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the	7. —(1) Subject to sub-paragraphs (2) to (4) ⁵ , 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. <u>(2) No piling operations may take place between 19.00 and 07.00.</u> <u>(3) (4) No percussive piling operations may take place on Sundays and Bank Holidays.</u>	Regarding the applicant's proposed amendments, SCC would comment as follows – Paragraph (2) – the prohibition against piling

		<p>Schedule of the Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP6-003] (Document 8.10.2).</p>	<p>(4) (2) The following operations may take place outside the core working hours referred to in sub-paragraph (1)—</p> <p>(a) trenchless crossing operations including beneath highways, railway lines, woodlands or watercourses;</p> <p>(b) the installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines or watercourses;</p> <p>(c) the jointing of underground cables (save for the cutting of underground cables);</p> <p>(d) the completion <u>continuation</u> of operations commenced during the core working hours which cannot to a point where they can safely be stopped <u>paused</u>;</p> <p>(e) any highway works requested by the highway authority to be undertaken on a Saturday, Sunday or a Bank Holiday or outside the core working hours;</p> <p>(f) the testing or commissioning of any electrical plant installed as part of the authorised development;</p> <p>(g) the completion of works delayed or held up by severe weather conditions which disrupted or interrupted normal construction activities;</p> <p>(h) activity necessary in the instance of an emergency where there is a risk to persons or property;</p> <p>(i) security monitoring; and</p> <p>(j) <u>non-intrusive</u> surveys.; <u>and</u></p> <p><u>(k) intrusive surveys, in the instance of an emergency where there is a risk to persons or property or following a request made by any third party.</u></p> <p>(5) (3) The core working hours referred to in sub-paragraph (1) exclude start up and close down activities up to 1 hour either side of the core working hours.</p>	<p>operations between 1900 and 0700 should apply to Monday and Friday and should apply all day Saturday, Sunday and on Bank Holidays.</p> <p>Paragraph (4)(d) – this amendment is fine.</p> <p>Paragraph (4)(j) – this amendment is fine.</p> <p>Paragraph (4)(k) – this amendment is fine, though SCC does not consider the words “or following a request made by any third party” is justified and should be omitted.</p> <p>In addition, SCC considers the following amendments should be made to paragraphs (1) and (3) and that new paragraphs (5) (7) and (8) should be included. Paragraphs (1), (3), (5) and (8) should be included for the reasons set out in SCC’s post-hearing submission ISH5 [REP6-056] and paragraph</p>
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				<p>(7) for the reason set out in the ExA's <i>Schedule of recommended amendments to the Applicant's draft Development Consent Order (dDCO) [REP6-003]</i>.</p> <p>“(1) Subject to subparagraphs (2) to (5), work <u>(which includes any pre-commencement operation)</u> 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>(2) No piling operations may take place between 19.00 and 07.00- <u>on Monday to Friday or on Saturdays afternoons, Sundays or Bank Holidays.</u></p> <p>(3) No percussive piling operations may take place</p>
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				<p>on Sundays and Bank Holidays <u>and no lorry deliveries may be made to site on Saturday afternoons, Sundays or Bank Holidays.</u></p> <p>(4) The following operations may take place outside the core working hours referred to in subparagraph (1)—</p> <ul style="list-style-type: none"> (a) trenchless crossing operations including beneath highways, railway lines, woodlands or watercourses; (b) the installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines or watercourses; (c) the jointing of underground cables (save
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				<p>for the cutting of underground cables);</p> <p>(d) the continuation of operations commenced during the core working hours to a point where they can safely be paused;</p> <p>(e) any highway works requested by the highway authority to be undertaken on a Saturday, Sunday or a Bank Holiday or outside the core working hours;</p> <p>(f) the testing or commissioning of any electrical plant installed as part of the authorised development;</p> <p>(g) the completion of works delayed or held up by</p>
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				<p>severe weather conditions which disrupted or interrupted normal construction activities;</p> <p>(h) activity necessary in the instance of an emergency where there is a risk to persons or property;</p> <p>(i) security monitoring;</p> <p>(j) non-intrusive surveys; and</p> <p>(k) intrusive surveys, in the instance of an emergency where there is a risk to persons or property or following a request made by any third party.</p>
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				<p><u>(5) Where any work has been delayed or held up by severe weather conditions which disrupted or interrupted normal construction activities in accordance with subparagraph (3)(g) the undertaker must, as soon as practicable, notify the local planning authority of the disruption or interruption and explain why that work could not be completed within the core working hours referred to in subparagraph (1).</u></p> <p>(56) The core working hours referred to in subparagraph (1) exclude start up and close down activities up to 1 hour either side of the core working hours.</p> <p><u>(7) No construction activity may take place between 19.00 and 07.00, or on any Sunday or Bank Holiday at:</u></p>
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				<ul style="list-style-type: none"> • <u>F-AP4;</u> • <u>Pylon PCB 64;</u> • <u>Pylon 4Y004A;</u> • <u>Pylon RB4;</u> • <u>Pylon RB7;</u> • <u>Pylon RB33;</u> • <u>Pylon RB25; and</u> • <u>Pylon 4YLA002,</u> <p><u>as shown on Figure 4.1 in the Environmental Statement Figures (document reference 6.4(B)).</u></p> <p><u>(8) In this Requirement, “severe weather conditions” means any weather which prevents work from taking place during the core working hours referred to in sub-paragraph (1) by reason of physical incapacity (whether for reasons of visibility, ground conditions, power availability, site access or otherwise) or being contrary to safe working practices.”</u></p>
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22.	Schedule 3, Requirements (Requirement 8)	<p>Sub-paragraph (3) of Requirement 8 has been amended.</p> <p>The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).</p>	<p>(3) The plan submitted under sub-paragraph (1) must be in general accordance with the LEMP Landscape and Ecological Management Plan and the Trees and Hedgerows to be Removed or Managed Plans.</p>	<p>SCC considers this amendment is fine; however, as stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], SCC considers sub-paragraph (2) should be amended to require the plan submitted under sub-paragraph (1) to include more detail, as follows –</p> <p>“The plan submitted under sub-paragraph (1) must include details of the location, species and condition of the trees, groups of trees, woodlands and hedgerows to be removed and retained during that stage of the authorised development”.</p>
23.	Schedule 3, Requirements (Requirement 9)	<p>Sub-paragraph (4) of Requirement 9 has been amended.</p> <p>The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the</p>	<p>(4) The reinstatement planting plan submitted under sub-paragraphs (1) and (2) must be in general accordance with the LEMP Landscape and Ecological Management Plan.</p>	<p>As stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], SCC agreed with the ExA's recommended amendments for the reasons given by the ExA.</p>

		<p>Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP6-003] (Document 8.10.2).</p>		<p>SCC considers this provision should state –</p> <p>“(4) The reinstatement planting plan submitted under sub-paragraphs (1) and (2) must be in general accordance with the LEMP <u>Landscape and Ecological Management Plan</u>”.</p>
<p>24.</p>	<p>Schedule 3, Requirements (Requirement 10)</p>	<p>Requirement 10 has been amended. The purpose and effect of the amendment to sub-paragraph (3) is explained in Table 2.7 of the Applicant’s Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP6-003] (Document 8.10.2). The amendment to sub-paragraph (4) responds to feedback received from the host authorities.</p>	<p><u>(3) All reinstatement planting works referred to in Requirement 9 must be implemented, monitored and maintained in accordance with the ‘Aftercare’ section of the Landscape and Ecological Management Plan.</u></p> <p><u>(4) (2) Any trees or hedgerows planted as part of an approved reinstatement planting plan that, within a period of 5 years after planting (or such other period as is specified in the Landscape and Ecological Management Plan), 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.</u></p>	<p><u>SCC requests that the applicant explains why sub-paragraph (3) does not also refer to the ‘Landscape and Ecological Reinstatement and Mitigation Planting’ section of the LEMP, which sets out (according to the LEMP) “how vegetation and features will be reinstated following construction”. Once SCC receives this explanation, it should be apply to reply fully to the proposed amendments to paragraph (3).</u></p> <p><u>In any event, and as mentioned in previous submissions, (e.g. Post-</u></p>

				<p><u>hearing Submission for ISH2 on the DCO and related matters [REP4-043]) SCC considers the reference to “5 years” in sub-paragraph (4) should be changed to “10 years”, which would provide for greater ecological improvements.</u></p> <p><u>Moreover, SCC and the other host authorities do not consider that the current proposals for landscape and visual mitigation are adequate, they consider that a strategic landscape restoration scheme for the project is required, to fully mitigate and to compensate for the adverse effects on the landscape and the communities affected by the scheme. To avoid any potential delay in the determination of the applications, the Councils would be content that this</u></p>
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				<p>could be secured by an <u>additional Requirement to Schedule 3 of the draft Development Consent Order</u>. <u>The wording for such an additional Requirement could be:</u></p> <p><u>“(1) Unless otherwise agreed with the relevant planning authority, no stage of the authorised development may commence until a strategic landscape restoration scheme for the authorised development has been submitted to and approved by the relevant planning authority.</u></p> <p><u>(2) The restoration scheme submitted under sub-</u></p>
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				<p><u>paragraph (1) must include details showing the locations of existing trees, woodlands, hedgerows, ponds, and other landscape features to be removed, and details of the Applicant's proposals to (a) mitigate and compensate for the loss of those features and (b) set out the new structures comprised within the authorised development, as well as all the proposed new planting and hard or soft landscaping, and including the arrangements for maintenance and aftercare.</u></p>
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				<p><u>(3) The approved restoration scheme must be implemented in accordance with its terms."</u></p>
25.	<p>Schedule 3, Requirements (Requirement 11)</p>	<p>Requirement 11 has been amended. The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).</p>	<p>11.—(1) No work to construct, alter or temporarily alter any highway, including 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 those highway works have been submitted to and approved by the relevant highway authority.</p> <p>(2) The highway accesses works must be constructed and reinstated in accordance with the details approved under sub-paragraph (1).</p> <p>(3) For the avoidance of doubt, all pre-commencement operations involving the construction or alteration of temporary accesses must be carried out in accordance with sub-paragraphs (1) and (2) unless otherwise agreed with the relevant highway authority</p> <p><u>(4) Unless otherwise agreed with the relevant highway authority, the undertaker must—</u></p> <p><u>(a) (3) The undertaker must carry out Stage 1 and Stage 2 road safety audits of the highway works authorised by this Order in accordance with Standard GG 119 Road Safety Audit (Revision 2) of the Department for Transport's Design Manual for Roads and Bridges or in accordance with any standard that supersedes that any superseding Standard and must, ;</u></p> <p><u>(b) agree with the relevant highway authority on a case by case basis the need for a Stage 3 and, where applicable, a Stage 4 road safety audit of any elements of the highway works authorised by this Order and, where so agreed, carry out such audit(s) in accordance with</u></p>	<p><u>SCC considers these amendments are fine.</u></p>

			<p><u>Standard GG 119 (Revision 2) of the Department for Transport’s Design Manual for Roads and Bridges or any superseding Standard; and</u> (c) to the reasonable satisfaction of the highway authority, implement any recommendations to mitigate or remove road safety problems and defects identified in any such road safety audits arising out of the authorised development.</p>	
26.	Schedule 3, Requirements (Requirement 12)	Sub-paragraph (1) of Requirement 12 has been amended. The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	12.—(1) In the event that, at some future date, the authorised development, or part of it, is to be decommissioned, a written scheme of decommissioning must be submitted for approval by the relevant planning authority <u>in consultation with the relevant highway authority</u> at least six months prior to any decommissioning works.	As stated in its Response to the ExA’s Schedule of Changes to the draft DCO [REP8-045], SCC agrees to this change.
27.	Schedule 3, Requirements (Requirement 13)	Requirement 13 has been amended. The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority’s recommended	13.— mmm) Unless otherwise agreed with the relevant planning authority, written evidence (in the form of the outputs of the biodiversity metric) demonstrating how at least ten per cent in biodiversity net gain is to be delivered as part of the authorised development must be submitted to the relevant planning authority no later than the date on which that part of the authorised development comprising the installation of new overhead and underground transmission electric line <u>forming part of the authorised development</u> is first brought into operational use.	SCC considers the applicant’s drafting is fine.

		amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).		
28.	Schedule 4, Discharge of Requirements	Paragraph 3(1)(b) has been amended. The purpose and effect of this amendment is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	(b) a fee of £116 <u>£145</u> per request.	As SCC stated in its Response to the ExA's Schedule of Changes to the draft DCO [REP8-045], it does not follow that a fee for the discharge of a condition under a planning permission is appropriate for the discharge of a requirement related to a nationally significant infrastructure project. The scale of work involved in the latter is invariably greater and the work itself more complex. Owing to the presence of deeming provisions in the DCO, the work must also be prioritised and carried out in a short time frame. The complexities and added pressures must be reflected in the fee. Owing to these factors, SCC considers the fee regime under paragraph (3) is insufficient. SCC considers

				<p>the paragraph (3) should be amended to allow the applicant and relevant authority to agree a different fee from that set out in paragraph (3). SCC considers such agreement could be included in a planning performance agreement which catered for the post-decision stage of the project. SCC would suggest paragraph 3 is amended as follows –</p> <p>“(1) <u>Subject to paragraph (2),</u> Wwhere an application is made to a relevant authority for any consent, agreement or approval required by a Requirement (including consent, agreement or approval in respect of part of a Requirement), <u>or by any other provision of this Order</u> a fee must be paid <u>by the undertaker</u> to the relevant authority as follows—</p> <p>(a) such fee as may be prescribed (under sections</p>
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				<p>303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission); or (b) a fee of £145 per request.</p> <p><u>(2) The undertaker and relevant authority may agree a different fee for determining any consent, agreement or approval referred to in paragraph (1)</u>”.</p> <p>In any event, it is essential that the words “or by any other provision of this Order” are included in paragraph (1) because several articles include provision for consent, agreements and approval and there is no reasonable argument as to why the costs of determining those should not incur a fee, particularly since they are subject to deeming provisions and tight</p>
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				timeframes for determination.																				
29.	Schedules 5, 6, 7, 8 and 12	<p>Various minor 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). These changes, which primarily comprise the correction of street references, respond to comments raised in Suffolk County Council’s Response to the Action Points arising from ISH5 and ISH6 [REP7-032].</p> <p>(NB: the ‘Change Made’ column provides an example of the changes made in each of the abovementioned Schedules. All other</p>	<table border="1"> <tr> <td>Suffolk County Council</td> <td>B1070 (Benton Street)</td> <td colspan="2">Sheet 10 of the Access, Rights of Way and Public Rights of Navigation Plans</td> </tr> <tr> <td colspan="2">B1508 (Bures Road/St Edmunds Hill)</td> <td colspan="2">At access point G-AP3 a permanent bellmouth will be created (as shown on Sheet 20) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.</td> </tr> <tr> <td>Suffolk County Council</td> <td>Brick Kiln Lane/Hill</td> <td>Between points SM-F-3 and SM-F-4 as shown on Sheet 15</td> <td>Between points SM-F-3 and SM-F-4 via line SMD-F-3 as shown on Sheets 15, 16 and Plan B</td> </tr> <tr> <td>Nyland A134 (Colchester Road)</td> <td>Access E-AP7</td> <td colspan="2">Sheet 16 of the Access, Rights of Way and Public Rights of Navigation Plans</td> </tr> <tr> <td>Suffolk County Council</td> <td>Ipswich Road and Burstall Hill</td> <td>Between points TRO-AB-2 and TRO-AB-4 as shown on Sheet 2</td> <td>No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to be restricted to 30mph.</td> </tr> </table>	Suffolk County Council	B1070 (Benton Street)	Sheet 10 of the Access, Rights of Way and Public Rights of Navigation Plans		B1508 (Bures Road/St Edmunds Hill)		At access point G-AP3 a permanent bellmouth will be created (as shown on Sheet 20) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.		Suffolk County Council	Brick Kiln Lane/Hill	Between points SM-F-3 and SM-F-4 as shown on Sheet 15	Between points SM-F-3 and SM-F-4 via line SMD-F-3 as shown on Sheets 15, 16 and Plan B	Nyland A134 (Colchester Road)	Access E-AP7	Sheet 16 of the Access, Rights of Way and Public Rights of Navigation Plans		Suffolk County Council	Ipswich Road and Burstall Hill	Between points TRO-AB-2 and TRO-AB-4 as shown on Sheet 2	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to be restricted to 30mph.	SCC is still considering these amendments and will respond on or before Deadline 10.
Suffolk County Council	B1070 (Benton Street)	Sheet 10 of the Access, Rights of Way and Public Rights of Navigation Plans																						
B1508 (Bures Road/St Edmunds Hill)		At access point G-AP3 a permanent bellmouth will be created (as shown on Sheet 20) to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface, road markings, kerbing and a suitable drainage system, where required.																						
Suffolk County Council	Brick Kiln Lane/Hill	Between points SM-F-3 and SM-F-4 as shown on Sheet 15	Between points SM-F-3 and SM-F-4 via line SMD-F-3 as shown on Sheets 15, 16 and Plan B																					
Nyland A134 (Colchester Road)	Access E-AP7	Sheet 16 of the Access, Rights of Way and Public Rights of Navigation Plans																						
Suffolk County Council	Ipswich Road and Burstall Hill	Between points TRO-AB-2 and TRO-AB-4 as shown on Sheet 2	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to be restricted to 30mph.																					

		changes to those Schedules are of an equivalent nature and are shown in the tracked version of the draft DCO (Document 3.1 (G)) submitted at Deadline 8).						
30.	Schedule 10, Land of which only temporary possession may be taken	Minor updates have been made to Schedule 10 in order to correct certain typographical errors. The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	<table border="1"> <tr> <td>16-67, 16-69, 16-72, 16-73, 16-74, 16-84, 16-88, 16-89</td> <td>Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure</td> <td>Work No. 4 and Work No. 8</td> <td></td> </tr> </table>	16-67, 16-69, 16-72, 16-73, 16-74, 16-84, 16-88, 16-89	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 4 and Work No. 8		SCC considers this deletion is fine.
16-67, 16-69, 16-72, 16-73, 16-74, 16-84, 16-88, 16-89	Temporary use for construction, mitigation, maintenance, and dismantling of redundant infrastructure	Work No. 4 and Work No. 8						
31.	Schedule 14, Protective Provisions (Part 4)	These protective provisions concern Network Rail's interests and so SCC has no comment to make in respect of them.	These protective provisions concern Network Rail's interests and so SCC has no comment to make in respect of them.	These protective provisions concern Network Rail's interests and so SCC has no comment to make in respect of them.				

32.	Schedule 14, Protective Provisions (Part 5)	These protective provisions concern Cadent Gas Limited’s interests and so SCC has no comment to make in respect of them.	These protective provisions concern Cadent Gas Limited’s interests and so SCC has no comment to make in respect of them.		These protective provisions concern Cadent Gas Limited’s interests and so SCC has no comment to make in respect of them.
33.	Schedule 15, Public General Legislation	Paragraph 3 (Town and Country Planning Act 1990) has been deleted. The purpose and effect of this amendment is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant's Draft DCO [REP6-003] (Document 8.10.2).	<p>Town and Country Planning Act 1990</p> <p>(3) For the purposes only of section 106(1) of the 1990 Act, the undertaker is to be deemed to be a person interested in the Order land or any part of its and for the avoidance of doubt section 106(3)(a) will include any transferee under article 7 (consent to transfer benefit of Order) of this Order.</p>		As stated in its Response to the ExA’s Schedule of Changes to the draft DCO [REP8-045], SCC agrees to this change.
34.	Schedule 17, Certified Documents	Schedule 17 has been updated. The purpose and effect of these amendments is explained in Table 2.7 of the Applicant's Response to the Schedule of the Examining Authority’s recommended amendments to the	Construction Environmental Management Plan	7.5 (D), 7.5.1 (C) and 7.5.2 (E)	SCC considers these amendments are fine.
			Construction Traffic Management Plan	7.6 (C D)	
			Materials and Waste Management Plan	7.7 (B)	
			Landscape and Environmental Ecological Management Plan	7.8 (C), 7.8.1 (B), 7.8.2 (C) and 7.8.3 (B)	
			Archaeological Framework Strategy	7.9	
			Outline Written Scheme of Investigation	7.10 (B C)	
			Public Rights of Way Management Plan	8.5.8 (B)	

		Applicant's Draft DCO [REP6-003] (Document 8.10.2).	Errata List	8.4.3 (B)	
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2 Comments on the Applicant’s Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP8-032]

2.1 In the following table, SCC comments on certain of the Applicant’s responses to the ExA’s recommended amendments to the dDCO. It does not include the Applicant’s comments to responses which have been addressed in Table 1 above or to responses to which SCC has no comment to make.

Table 2: SCC Table of Comments on the Applicant’s Response to the Schedule of the Examining Authority’s recommended amendments to the Applicant’s Draft DCO [REP8-032]				
Ref.	dDCO ref.	ExA’s suggested amendment	Applicant’s response to the ExA’s suggested amendment	SCC’s comments on the Applicant’s response
35.	Article 10(1) (planning permission)	<p>Deletion of paragraph (1) –</p> <p>(1) If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits that is –</p> <p>(a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and</p> <p>(b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order</p> <p>Then the carrying out, use or operation of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.</p>	<p>In addition to the justification already set out at Paragraph 3.14.1 of the Explanatory Memorandum (Document 3.1 (F)), and whilst acknowledging that there is no current intent to do so, the Applicant considers it necessary and appropriate to provide for a future eventuality whereby certain elements of the authorised development are required to be consented through other means. For example, it may be the case that express planning permission is required to be sought for certain other access or enabling works, or to facilitate future maintenance or other operations.</p> <p>Absent the inclusion of Article 10(1), there would be both legal and practical uncertainty as to whether a breach of the Order would occur pursuant to Section 161 of the 2008 Act if development was undertaken pursuant to those other permissions without compliance with, for example, the Requirements of the Order. The flexibility and certainty which Article 10(1) seeks to afford is not unusual and, indeed, the 2008 Act allows for such provision to be made.</p>	<p>SCC is not persuaded by the need for this provision because, as the Applicant acknowledges, there is no intention to do what the provision provides for.</p> <p>SCC acknowledges the existence of precedents but notes these provisions are very much the exception rather than the rule for DCO drafting.</p>

			The Examining Authority is referred in this context to Article 8 of the (Draft) National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order, Article 56 of the (Draft) A122 (Lower Thames Crossing) Development Consent Order, Article 40 of the Southampton to London Pipeline Development Consent Order 2020 and Article 7 of the A30 Chiverton to Carland Cross Development Consent Order 2020.	
36.	Article 10(2)(b) (planning permission)	Delete sub-paragraph: (2)(b) in respect of that inconsistency, no enforcement action under the 1990 Act may be taken in relation to development carried out or used pursuant to that planning permission whether inside or outside the Order limits.	Without sub-paragraph (2)(b), the Applicant considers that there is a significant risk of those other permissions being undeliverable or subject to enforcement action, particularly in light of the Supreme Court’s ruling in <i>Hillside Parks Ltd v Snowdonia National Park Authority</i> 2022 UKSC [30]. The continued inclusion of sub-paragraph (2)(b) is therefore considered necessary in order to provide express confirmation to those third parties that other forms of development or use are not prevented by virtue of the existence of powers and rights under the Order.	On reflection, SCC does not object to the inclusion of this provision.
37.	Article 11(3) (street works)	(3) If a street authority that receives an application for consent under paragraph (2) fails to notify the undertaker of its decision within 28 35 days (or such other period as agreed by the street authority and the undertaker) beginning with the date on which the application was received, that authority will be deemed to have granted consent.	The Applicant recognises the practical pressures faced by the host authorities and remains committed to working closely with those authorities to ensure that they are fully aware of when applications for consent are proposed to be submitted under Article 11(2). It is likely that the submission of a staging plan pursuant to Requirement 3 will be of particular benefit in this context. In addition, the inclusion of the words “unless otherwise agreed” in Article 11(3) is intended to allow for matters, including requests made by the local authorities for further information, to be dealt with on a case-by-case basis and in line with the terms of the Framework Highways	While SCC considers 35 days is preferable to 28 days, it maintains its position, as set out in the LIR [REP1-045] , its Comments on Applicant’s Comments on Relevant Representations [REP2-013] , and post-hearing submissions for ISH2 [REP4-043] that the period is too short and should be 56 days.

			<p>Agreement and/or any other future Planning Performance Agreement (as the case may be). However, from the Applicant’s perspective, it is equally important to have regard to the fact that the Applicant is itself bound by, and subject to, various statutory and regulatory duties, including the requirement to maintain the national electricity transmission system safely, reliably, economically and efficiently, in accordance with the Applicant's statutory duty under Section 9 of the Electricity Act 1989 to maintain ‘an efficient, co-ordinated and economical’ system of electricity transmission, and at all times to adhere to the standards set out in the National Electricity Transmission System Security and Quality of Supply Standard (NETS SQSS). Allied to the immediate and pressing national need which the project is intended to address, a period of 28 days remains proportionate, appropriate and necessary. The Applicant therefore respectfully disagrees with the Examining Authority’s recommended amendment to Article 11(3).</p>	<p>The same point applies to the time limits included in the following provisions: 14(5), 15(9), 16(2), 19(9), 21(8), 47(8), 48(5), and paragraph (1) of Schedule 4.</p> <p>It will be remembered that SCC is host authority for several DCOs. For instance, it is currently discharging requirements, or being consulted on the discharge of requirements arising from the following DCOs: East Anglia ONE North Offshore Wind Farm Order 2022, East Anglia TWO Offshore Wind Farm Order 2022 and Sizewell C (Nuclear Generating Station) Order 2022. The Secretary of State’s decision on the Sunnica Energy Farm DCO is due in March 2024 and, if consent is granted, SCC will be responsible for discharging requirements (and will be consulted on requirements being discharged by others) for that project as well.</p> <p>In addition to its ongoing work on the instant DCO application, the following DCO applications are also at their formative</p>
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				<p>Similarly, the Sunnica applicant has included the 56-day time limit in its draft order. For consistency across projects, SCC would encourage the same time limit to be included in this Order.</p> <p>If, in spite of these points, the Secretary of State considers 35 days is reasonable in article 11(3) then, for consistency in the Order, the same time limit should also be included in the following provisions: 14(5), 15(9), 16(2), 19(9), 21(8), 47(8), 48(5), and paragraph (1) of Schedule 4.</p>
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