

JOINT COUNCILS POST HEARING SUBMISSION IN RESPONSE TO ACTION 29 ARISING FROM THE DCO ISH ON THURSDAY 28TH JULY 2016

Deadline 3 SUBMISSION dated 3rd August 2016

THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010 ORDER GRANTING DEVELOPMENT CONSENT

Proposed National Grid (Richborough Connection Project) Development Consent Order

Planning Inspectorate Reference: EN020017

1.0 Action point 29

- 1.1 This written response is made further to the request of the ExA at the ISH on the DCO in relation to the wording of Requirement 1 of Schedule 3, specifically seeking further comment on the wording for exclusions in the definition of '*commence*'. TDC, DDC and CCC raised some concern with the wording as drafted in the DCO, for the reasons set out in the responses to the ExA's first written questions and as discussed at the ISH on the DCO.
- 1.2 The main concern is that the wording as drafted is too broad in scope and not sufficiently specific so as to define what is excluded. This is particularly in relation to the use of the word "*environmental*" that covers a wide range of topics areas, without further definition or clarification. Given that there are a number of plans, schemes and strategies, (as detailed in Requirement 6) and a scheme to deal with contaminated land (Requirement 13) to be submitted to the relevant planning authorities for approval post any DCO approval, the Councils seek to ensure that works that are to be set out in the plans, schemes and strategies specified within the Requirements are not excluded from the definition of commence. However the Councils do accept that there may be a need for some investigatory works to take place in order to assist with the preparation of the plans, schemes and strategies to be submitted for approval. The Councils are concerned that as drafted the interpretation of commence could allow for development to take place, that is required to be approved by the relevant planning authorities pursuant to Requirements 6 and 13, before such a time as those details have been approved.
- 1.3 It is understood that an Archaeological Mitigation Written Scheme of Investigation (Requirement 5) is being agreed between the Applicant, Canterbury City Council and Kent County Council and subject to this being agreed, and since the definition clearly identifies 'archaeology' as a specific environmental topic, it is agreed that reference to archaeological investigation and monitoring be retained.

1.4 The Joint Councils have agreed a preferred definition to provide clarity and preciseness to the interpretation of commence below, with particular reference to the deletion of 'environmental mitigation measures', which is considered too broad a definition. Further, from the comments of the Applicant during the DCO ISH it would not appear that 'environmental mitigation measures' need to be included in the definition, since the primary need for an exemption of specific works from 'commence' is to allow for site investigations and not mitigation, which may be necessary for example to finalise tower positions, and in preparation for submissions required under Requirements 6 and 13. It is also considered that the word 'temporary' be added in relation to the erection of stock fencing and demarcation fencing.

1.5 In view of this the Councils would suggest the following definition of 'commence':

"commence" means the carrying out of a material operation, as defined in section 155 of the 2008 Act (when development begins), comprised in or carried out for the purposes of the authorised development, but does not include any engineering investigation, archaeological investigations and monitoring, investigations for the purpose of assessing ground conditions, erection of temporary amphibian fencing, erection of temporary stock fencing to site boundaries or temporary demarcation fencing marking out site boundaries.

1.6 Please note that other action points for the Councils will be responded to under separate cover.