

**Richborough Connection Project  
Draft Development Consent Order (DCO)  
Second Issue Specific Hearing**

Tuesday 27 September 2016

Discovery Park, Building 500 (Lawrence Suite) Spitfire Way, Sandwich,  
CT13 9FR

9.30am for 10.00am start

**Purpose of the Second DCO hearing**

The main purpose of the second DCO hearing is focus on those areas where the Examining Authority (ExA) has further questions. It is not the intention of the ExA to focus on every individual Article or Schedule of the DCO.

**Please note:** A revised version of the draft DCO was submitted for Deadline 4 (8 September 2016). It is the tracked change version of this September draft DCO that we will work from at the hearing [REP4-003].

**Invited attendees:**

*All Interested Parties (IPs) are invited to attend the hearing. The following parties are invited attend because the ExA considers that the material they have submitted raises issues that the ExA may wish to explore at the hearing:*

National Grid, the Applicant  
Canterbury City Council  
Dover District Council  
Kent County Council  
Thanet District Council  
National Farmers Union

**Agenda**

- 1. Welcome, introductions, arrangements for the hearing**
- 2. Statements of Common Ground**

To establish any changes to the last stated positions of IPs including MMO and joint councils and the extent of those differences of opinion and whether additional work, mitigation, or changes to the DCO are proposed or required.

### **3. Articles of the draft DCO, including:**

#### ***Article 2 - Interpretation***

To further consider whether the works included in the definition of “maintain” would enable works to be undertaken that are not permitted by the DCO or assessed within the ES. In particular, to focus on whether “remove, reconstruct and replace” are maintenance works.

To consider whether the amended definition of “requirements” works in practice.

#### ***Article 3 - Development consent etc granted by the Order***

Article 3 remains largely unchanged for the reasons set out by the Applicant at Q1.5.3. To establish whether further progress has been made by the Applicant.

#### ***Article 5 - Limits of Deviation***

To hear the views of the Applicant on the potential for inclusion of the dispute resolution process as set out by NFU in their response to Q2.5.1 set out in REP4-032.

#### ***Article 30 - Temporary use of land for maintaining the authorised development***

To further understand the purpose of the article and whether as drafted, it is necessary and reasonable.

#### ***Article 47 - Amendment of local legislation***

To further understand the purpose of the article and whether as drafted, it is necessary and reasonable.

### **4. Requirements of the draft DCO, including:**

#### ***Requirement 1 - Interpretation***

To understand how the definition of “commence” interacts with the requirements. The definition excludes “engineering investigation, environmental (including archaeological) investigation and monitoring, site or soil survey, environmental mitigation measures, erection of temporary amphibian fencing, erection of stock fencing to site boundaries or demarcation fencing marking out site boundaries”. To establish whether it is acceptable for these works to take place before the discharge of any requirements that require approval before development commences.

To consider the Applicant’s response to Q2.5.3 and what the type of works referred to are; and whether they are covered by plans in the Construction Environmental Management Plan (CEMP) or the plans, schemes and strategies referred to in Requirement 6.

In their response to Q2.5.3 [REP4-014] the Applicant agreed with the inclusion of “temporary” relating to stock fencing and demarcation fencing as proposed by the joint councils. To establish how this is secured in the draft DCO.

#### ***Requirement 3 - Design drawings***

To further consider the drafting of this article and how it is intended to work, including enforcement in the event of any non-compliance with design drawings.

To further understand how “in general accordance” would be determined by the relevant planning authority.

***Requirement 4 - Stages of authorised development***

To hear the views of the local authorities in relation to the addition of new drafting at 3(2).

***Requirement 5 - Construction Environmental Management Plan***

To further consider the use of the tailpiece at 5(3) given that the contents of the CEMP are available, it is being examined as part of the examination of the application and the CEMP itself will be certified by the Secretary of State. This is in contrast to requirements where detailed matters are to be dealt with at a later point by the relevant planning authority.

To consider whether a full list of the construction mitigation plans should be included at paragraph 1.2.2 of the CEMP. Currently it refers to the Soil and Aftercare Management Plan (SAMP), and the Tree and Hedgerow Protection Strategy with a broad reference to construction mitigation plans; whereas the Pollution Incident Control Plan and other plans strategies and schemes are listed in Table 3.C.2.2 along with various other plans and procedures.

EN-1 refers to travel planning and advises at paragraph 5.13.4, that this should be secured by a specific requirement. The Applicant has provided wording in its response to Q2.5.7 which sets out an Outline Travel Plan. Notwithstanding the views of the local highway authority, does the Applicant still resist the inclusion of a separate requirement and if so, why?

***Biodiversity Mitigation Strategy***

Whether KCC’s suggestion for fencing off woodland (response to Q2.2.10 [REP4-026] when first coppiced is or should be covered in the Biodiversity Mitigation Strategy (BMS).

Further to comments such as those from the Environment Agency in response to Q2.2.38, for the Applicant to describe when it will update the BMS and submit a revised copy.

Whether KCC is content that the commitments regarding passing on the biodiversity data records are already secured as set out in the Applicant’s response to Q2.2.39 [REP4-014].

***Requirement 8 - Mitigation planting***

To understand why the Applicant considers there is no need to expand Requirement 8(2)(a) such that the planting scheme to be submitted also refers to areas to be left for natural regeneration, following responses to Q2.2.16 from Kent County Council (KCC) and the Woodland Trust and the Applicant’s response to Q2.5.10.

Should Requirement 8 be amended to name KCC as well as the relevant planning authority as requested by KCC in its response to Q2.2.36? (NB issues relating to Applicant’s briefing note LA08 [REP4-019, Appendix A] will be covered at the Landscape and Biodiversity ISH).

To understand from the Applicant how it proposes capturing the comments from Persons with an Interest in Land (PILs) such as Nethergong Camping and Finn's for clients generally and for Mr Headley to ensure those landowner preferences and requirements are considered, the views from local communities such as those from Broad Oak Preservation Society regarding screen planting, and the views of local authorities such as KCC on species mixes; at the time of detailed planting proposals coming forward for approval by the relevant local planning authority under Requirement 8 and also for inclusion in the Landscape and Habitat Enhancement Scheme (LHES).

***Requirement 9 - Implementation of landscaping and mitigation planting***

To establish whether the Councils accept the Applicant's arguments regarding the difficulties of securing advance planting in the DCO, as set out in the Applicant's response to Q2.7.25.

To understand the comments regarding difficulty of overlapping maintenance periods in the Applicant's response to Q2.7.25 and whether this means that none of the planting other than that specifically mentioned in the Embedded Mitigation Measures Schedule or the BMS will be planted until the overhead line is strung and operational.

To consider whether in light of the Applicant's response to Q2.7.25, the wording in Requirement 9(1) "*is brought into operational use*" needs further clarification, so that there is an appropriately defined time no later than which the planting related to the 132kV line removal will be implemented.

***Requirements 9, 8 and 4***

To understand the interaction between these requirements and establish how they are intended to work.

***Requirement 10 - Retention and protection of existing trees and hedgerows***

To consider whether Requirement 10(2)(b) should be amended to include reference to "*a schedule of all proposed tree and hedgerow removal and management with annotated plans*", following the Applicant's response to Q2.2.22.

**5. Additional Requirements**

***Nethergong camping***

To consider further the justification for not including a separate requirement within the DCO as proposed in Q2.5.15.

***Complaints handling***

To consider whether the outline scheme produced at Appendix D to REP3-023 needs to be included as a separate requirement in the DCO - see also response to Q2.5.14.

## **6. Schedules, including:**

### ***Schedule 9 - Deemed Marine Licence***

To establish what the views of the MMO are in relation to Condition 7 and the new definition of method statement at Deadline 4. Is the method statement the same as the River Method Statement referred to at 4.13 and agreed with MMO on 1 June 2016?

What is the difference between the river method statement at Annex 1 of the SoCG and the detailed method statement required under Deemed Marine Licence (DML) Condition 7 (Prior to the commencement of works)?

What is the status of the Annex 1 method statement and how is this secured in the DCO?

### ***Schedule 13 - Trees Subject to Tree Preservation Orders***

To request Canterbury City Council's views on the Applicant's response to Q2.2.24 [REP4-014] regarding the extent to which trees with Tree Preservation Orders (TPOs) will be removed at Westbere Compound to accommodate the translocated reptile population and the role of the Ecological clerk of works in determining the extent. Whether the description in Schedule 13 (TPO No 1, 2003/W1 and TPO No 1, 2006/W1) should make reference to the reptile mitigation.

### ***Schedule 14 - Protective Provisions***

To understand the details of REP4-013 and establish whether any updates have been made.

## **7. Consents, licences and other agreements**

### ***S106 agreement***

#### *Landscape and Habitat Enhancement Scheme*

Whether there is now agreement between parties over the inclusion of the LHES within the s106 agreement. To understand whether the content and methods of implementation of the LHES via the s106 agreement are agreed between the Applicant and the relevant local authorities.

Whether the s106 agreement or the Landscape and Habitat Enhancement Scheme (LHES) could include a requirement for the Kent Wildlife Trust to be sent copies of the LHES, any replacement LHES and the completion report at the time they are sent to the Councils. Or whether a side agreement as suggested by the Applicant in its response to Q2.2.35 is appropriate.

Whether the LHES should make reference to seeking and taking opportunities for advance planting.

#### *Agreements for LHES with PILs*

For the Applicant to give an update on responses to its Stage 1 letters generally and specifically with regard to those mentioned in relation to ancient woodland with an indication of anticipated timescales for agreeing enhancement proposals with landowners (further to Applicant's response to Q2.2.13).

**8. Action points arising from the hearing**

**9. Any other business**