



Application by National Grid for the Richborough Connection Project

Annex A - Schedule of ExA's revisions to the Applicant's draft DCO 2.1(C) [REP6-003]

2 November 2016

Reference Article	ExA's recommended amendment	ExA's commentary and notes
22	<p style="text-align: center;"><u><i>Crown rights</i></u></p> <p><u>XX. —(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—</u></p> <p><u>(a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;</u></p> <p><u>(b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or</u></p> <p><u>(c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.</u></p> <p><u>(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.</u></p> <p><u>(3) A consent under paragraph (1)—</u></p> <p><u>(a) may be given unconditionally or subject to terms and conditions;</u></p> <p><u>(b) is deemed to have been given in writing where it is sent electronically.</u></p>	<p>To reflect the wording in the recently made Triton Knoll DCO. The Article no longer reads so that Crown consent has to be obtained by the undertaker at a later date in order to exercise compulsory acquisition powers over third party interests in Crown land. See new (2) below.</p>

Requirement		
1	<p><i>“part of the authorised development”</i></p>	<p>To consider whether a definition would make the difference between stage and part clearer and easier to understand.</p>
1(3)	<p>(3) Where an approval 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 highway authority or the relevant planning authority such approval or agreement may only be given in relation to minor or immaterial changes where it has been demonstrated to the satisfaction of the 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.</p>	<p>To consider further the effectiveness of this subsection.</p>
4	<p><i>Stages of authorised development</i></p> <p>4.—(1) The authorised development may not commence until a written scheme setting out all the stages of the authorised development has been submitted to and approved by the relevant planning authority following consultation with the highway authority.</p> <p>(2) Written notice of <u>prior to and after</u> the commencement and completion of each stage of the authorised development and <u>prior to and after</u> the operational use of that part <u>stage</u> of the authorised development <u>commences and in relation to the removal of the existing 132kV overhead line after completion of the removal of that line and after the completion of the maintenance periods</u> must be given to the relevant planning authority within ten business days of the relevant event occurring.</p>	<p>To reflect the importance of the geographic extent of the written notices for the local authorities.</p> <p>To reflect the need to inform local authorities before and after commencements and completions, to add relevance for the 132kV line removal and to make reference to maintenance periods.</p> <p>What is the “relevant event”? Is it the date of completion or commencement?</p>

<p>5</p>	<p><i>EITHER</i></p> <p style="text-align: center;"><i>Construction Environmental Management Plan</i></p> <p>5.—(1) All construction works for the authorised development must be carried out in accordance with the CEMP,</p> <p>(2) The CEMP, which specifies measures to be used to minimise the impacts of construction works, includes the following plans, scheme and strategy—</p> <ul style="list-style-type: none"> (a) Outline Waste Management Plan; (b) Biodiversity Mitigation Strategy; (c) Archaeological Mitigation Written Scheme of Investigation; (d) Construction Traffic Management Plan; (e) Public Rights of Way Management Plan; and (f) Noise and Vibration Management Plan. <p>(3) Any works carried out pursuant to the plans, scheme and strategy referred to in sub-paragraph (2) must be carried out in accordance with the approved plan, scheme or strategy.</p> <p>(4) The plans, scheme and strategy referred to in sub-paragraph (2) must be implemented as approved u as may be appropriate to the relevant plan, scheme or strategy concerned and, in relation to the Biodiversity Mitigation Strategy, after consultation with Natural England.</p> <p><u>(5) A new sub clause to reflect the fact that some plans require further approval at a later stage by the relevant planning authority and others are already agreed with the relevant planning authority.</u></p> <p><i>OR</i></p> <p style="text-align: center;"><i>Construction Environmental Management Plan</i></p> <p><u>5.—(1) No development is to commence until a final CEMP has been submitted to and approved in writing by the relevant planning authority. The final CEMP must be in accordance with the CEMP.</u></p> <p><u>(2) The CEMP, which specifies measures to be used to minimise the impacts of</u></p>	<p>There are two types of plan referred to in this requirement. Those that have been agreed with the relevant planning authority and those that are in outline and further details need to be submitted to and approved by the relevant planning authority:</p> <p>As currently drafted, the tailpieces would enable the carrying out of construction works otherwise than in accordance with the CEMP and included plans. As such, any mitigation provided for by this requirement is not secured.</p> <p>To consider whether redrafting along the lines proposed would overcome the need for the use of tailpieces in this requirement.</p> <p>Whether there is a need for a final CEMP to be approved post consent.</p>
----------	--	--

	<p><u>construction works, includes the following plans, scheme and strategy—</u></p> <p><u>(a) Outline Waste Management Plan;</u> <u>(b) Biodiversity Mitigation Strategy;</u> <u>(c) Archaeological Mitigation Written Scheme of Investigation;</u> <u>(d) Construction Traffic Management Plan; and</u> <u>(e) Public Rights of Way Management Plan; and</u> <u>(f) Noise and Vibration Management Plan.</u></p> <p><u>(3) Any works carried out pursuant to the plans, scheme and strategy referred to in subparagraph (2) must be carried out in accordance with the final CEMP approved under paragraph (1).</u></p> <p><u>(4) The plans, scheme and strategy referred to in sub-paragraph (2) must be implemented in accordance with the final CEMP approved under paragraph (1).</u></p>	
8	<p style="text-align: center;"><i>Mitigation planting</i></p> <p>8.—(1) No stage of the authorised development may commence until, for that stage, a scheme for the planting of trees, hedgerows, shrubs, climbing plants, wild flower and grass seeding that accords with the Arboricultural Impact Assessment report (Document 5.4.3I) <u>and its Addendum, (Document 5.4.3I.1A)</u> and the Biodiversity Mitigation Strategy (Document 5.4.3E(B)) and reflects the Concept Mitigation Planting Plan (Document 8.11A) has been submitted to and approved by the relevant planning authority, unless otherwise agreed with the relevant planning authority.</p> <p>(2) The planting scheme submitted under sub-paragraph (1) must include details of—</p> <p>(a) the location of planting and a schedule noting quantities, species, size and planting density of all proposed planting or seeding and the location of any areas for natural regeneration where appropriate;</p> <p>(b) cultivation, importing of materials, stock provenance, protection measures for planting and other operations to ensure plant and seed establishment;</p> <p>(c) the five year maintenance <u>monitoring and management</u> regime; and</p> <p>(d) opportunities for early landscape and <u>mitigation replacement</u> planting <u>during and</u> after implementation of the authorised development.</p>	<p>(1) Updating for most recent versions of documents (which may also need subsequent updating)</p> <p>NB check other locations for naming correct versions of AIA etc.</p> <p>(2)(c) addition of management and monitoring to accord with KCC's suggestions</p> <p>(2)(d) updating to refer to mitigation planting as terminology used in Requirement 9. Updating to ensure it is clear that planting could take place during implementation of the authorised development.</p>

<p>10</p>	<p style="text-align: center;"><i>Retention and protection of existing trees and hedgerows</i></p> <p>10.—(1) No stage of the authorised development may commence until, for that stage, a Tree and Hedgerow Protection Strategy (THPS) as referred to in Requirement 6(1)(h)(g) and prepared in accordance with the Arboricultural Impact Assessment report (Document 5.4.3I) and its Addendum, Figures 3I.2a to 3I.2v of the Arboricultural Impacts Plan (Document 5.4.3I.1) and BS 5837:2012 (Trees in relation to design, demolition and construction) identifying the trees, groups of trees and hedgerows to be retained during that stage has been submitted to and approved by the relevant planning authority.</p> <p>(2) The THPS referred to in sub-paragraph (1) must include—</p> <p>(a) Tree Protection Plans detailing the alignment of temporary physical tree protection measures according to BS 5837:2012 and, where practicable, including a minimum 5 metres stand-off from hedges;</p> <p>(b) a schedule of all proposed tree and hedgerow removal and management with annotated plans;</p> <p>(c) specifications for temporary physical protection for trees and hedgerows; and</p> <p>(d) details of an auditable system of compliance with the approved protection measures; and</p> <p><u>(e) a site-specific plan and statement including details of the proposed extent of pruning of all specific trees as well as tree and shrub removal for the area to the west of Westbere Compound which accords with the BMS Site Specific Method Statements for Westbere Compound and Westbere Compound Receptor Site Habitat Creation (Annex 3E.2, sections 7, 8 and 9) and also includes an assessment which demonstrates the way in which the tree works required for reptile mitigation have been designed to minimise tree removal.</u></p> <p>(3) The trees, groups of trees and hedgerows identified in the THPS referred to in sub-paragraph (1) must not be felled or otherwise removed in connection with the construction of the authorised development.</p> <p>(4) The relevant stage of the authorised development must not commence until the approved protection measures referred to in sub-paragraph (1) are in place, and they must thereafter be maintained during the construction of the relevant stage of the authorised development.</p>	<p>NB Ensure correct reference to AIA addenda.</p> <p>An additional sub-clause to cover the tree management and removal activities west of Westbere compound.</p> <p>NB this assumes that no tree removal or management is required to enable the reptile mitigation fencing.</p>
-----------	--	---

<p>11</p>	<p style="text-align: center;"><i>Bird flight diverters</i></p> <p>11.—(1) Bird flight diverters must be fitted to the 400kV overhead line in the vicinity of—</p> <p>(a) Monkton between pylons PC41 and PC43; and</p> <p>(b) Ash Levels between pylons PC51 and PC60,</p> <p>during its construction and must thereafter be retained, unless otherwise agreed by the relevant planning authority, after consultation with Natural England.</p> <p><u>(2) A new sub-clause to secure ‘National Grid’s Protocol on Bird Diverters’ as a mechanism for triggering actions related to any future identified need for bird flight diverters.</u></p>	<p>Means of securing ‘National Grid’s Protocol on Bird Diverters’ in the DCO, so it applies beyond the specifics and beyond the construction stage.</p> <p>There would need to be a means of referring to the protocol either as the NG document reference or by its inclusion in the ES.</p>
<p>New Requirement</p>	<p style="text-align: center;"><u><i>Ancient Woodland</i></u></p> <p><u>XX.—(1) A sub clause to cover the provenance of all plant material to be used in the implementation of mitigation planting which is in local proximity (to be further defined) to ancient woodland must be locally sourced and grown.</u></p> <p><u>(2) A sub-clause to cover the future operational management of easements through ancient woodland (post-construction). This may need to refer to new wording inserted in an existing document (such as the BMS) or a new document, which describes sensitive and appropriate management methods (agreed with the Woodland Trust).</u></p>	<p>To reflect the agreed and outstanding points in the Statement of Common Ground (SoCG) [REP6-014] with the Woodland Trust.</p> <p>(1) Required because the AIA [APP-070] and the NBS specification [APP-077] caveat the need for locally sourced plant material. Consider if either of these documents also need amending.</p>
<p>New Requirement</p>	<p style="text-align: center;"><u><i>PC26 and PC27</i></u></p> <p><u>XX.—(1) For pylons PC26 and PC27 no work is to be carried out during the period from May to September inclusive on the excavation or construction of pylon foundations including piling or the assembly or erection of pylons.</u></p> <p><u>(2) For the avoidance of doubt, the following activities are permitted within normal construction hours throughout the year (unless otherwise restricted elsewhere):</u></p>	<p>To bring forward a requirement that would avoid major construction works in the immediate vicinity of Nethergong Camping during the tourist season, so as to minimise disruption to the continuing business of the campsite.</p>

	<p><u>(a) environmental mitigation;</u> <u>(b) vegetation clearance / planting;</u> <u>(c) bellmouth installation / removal;</u> <u>(d) access route installation / removal;</u> <u>(e) pylon painting;</u> <u>(f) installation of insulators and fittings;</u> <u>(g) scaffold installation / removal;</u> <u>(h) wiring of conductors;</u> <u>(i) all other construction works associated with PC25 and PC28 which are accessed from Nethergong Hill / Sandpit Hill.</u></p>	
<p>New Requirement</p>	<p style="text-align: center;"><i><u>Use of Highways near schools</u></i></p> <p><u>XX.—(1) A new sub clause that would prohibit the use of highways adjoining Chislet Church of England Primary School and Spires Academy to traffic involved in the construction of the proposed development during times when pupils are arriving at or leaving the schools. The exact times of the prohibition to be determined by the local highway authority in consultation with School management.</u></p> <p><u>(2) A new sub clause so that in the event of construction traffic generated by the development contributing to congestion at road junctions on roads providing immediate access to the works site including the A28 and surrounding highway network of Herne Bay Road, Broad Oak Road, Shalloak Road and Vauxhall Road, the local highway authority could restrict the use of these roads by construction traffic during times of peak traffic flow.</u></p>	<p>Needed to enable:</p> <p>(1) the local highway authority to determine, in consultation with the school Head the exact times at which these restrictions should apply;</p> <p>(2) gives the highway authority powers to prevent the use of affected junctions in the event of traffic congestion resulting from construction traffic.</p>