



3D Eagle
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer Services: 0303 444 5000
e-mail: Richborough@pins.gsi.gov.uk

To Interested Parties, Affected Persons
Other Statutory Parties and Other
Persons

Our Ref: EN020017

Date: 29 November 2016

Dear Sir/Madam

Planning Act 2008 (as amended)

Application by National Grid for an Order Granting Development Consent for the Richborough Connection Project

Examination timetable variation and request for further information

This letter gives notification of an examination timetable variation and a request for further information. As described in **Annex A**, a new deadline, **(Deadline 9, Tuesday 6 December 2016)**, has been added for the submission of comments from all parties in relation to the Examining Authority's (ExA's) request for further information.

Request for further information

In accordance with the published timetable for this Examination, the ExA requests further information from the Applicant, The Crown Estate, Canterbury City Council, Dover District Council, Thanet District Council and South East Water on the topics identified below, at **Deadline 9, Tuesday 6 December 2016**. All parties are also invited to make representations in respect of Item 8.

1. The Planning Act 2008 s135, does not permit the compulsory acquisition of interests in Crown land held by or on behalf of the Crown. As currently drafted, Article 21 - Compulsory acquisition of rights, purports to grant compulsory acquisition powers over all of the Order land described in the Book of Reference which includes land and interests in land held by the Crown. In line with recent Orders made by the Secretary of State, such as the Thorpe Marsh Gas Pipeline Order 2016, the ExA considers the addition of the following drafting for insertion at Article 21(7) to the Applicant's final draft Development Consent Order (DCO) [REP7-003] is necessary to ensure compliance with s135.

Nothing in this article authorises the acquisition of rights over, or the imposition of restrictions affecting, an interest which is for the time being held by or on behalf of the Crown.

The Applicant and The Crown Estate (TCE) are requested to comment on the inclusion of this additional drafting in Article 21.

2. At various stages during the course of the Examination, the Applicant has advised that it saw no issues that would prevent Crown consent being given as required by s135(1) and 135(2) and that this consent was anticipated before the end of the Examination. The final previously timetabled deadline for submissions has now passed, and the Applicant has advised that TCE has “agreed terms in principle” and that “constructive discussions continue” [REP8-001]. In view of the absence of the intended Crown consent, TCE is requested to advise of its current position on this matter, so that the position can be included in the ExA’s report. In accordance with s135(1), the DCO cannot authorise the compulsory acquisition of rights held otherwise than by or on behalf of the Crown without Crown consent. If consent is not forthcoming, further amendments to Article 21 will be required to exclude all Crown land from the scope of compulsory acquisition. The Applicant and TCE are asked for any comments on this matter.
3. Canterbury City Council, as a relevant planning authority if the Secretary of State should decide to make the Order granting development consent, is requested to confirm its position in relation to the following matters:
 - a) Whether it agrees with the Applicant and Kent County Council; as stated at the third DCO Issue Specific Hearing (ISH) [EV-073, one minute into the recording], that the Applicant’s insertion of the need for the planting scheme as submitted under Requirement 8(2)(b) - Mitigation Planting, of the draft DCO to include “stock provenance” [REP7-003] gives the relevant planning authority sufficient detail to address the concerns stated in the Woodland Trust’s SoCG with the Applicant regarding the need to use “locally sourced and grown plants” [REP7-011, ID2.4.4 to 2.4.5]. If it does not agree, to set out clearly the reasons why it is not satisfied with the drafting.
 - b) Whether it agrees with the Applicant’s proposal for notification procedures in respect of tree works to Tree Preservation Order trees in the reptile mitigation area to the west of Westbere Compound. The Applicant’s proposal was explained at the third DCO ISH [EV-074, one minute into the recording], and reported in its written summary [REP7-009, para 4.67 to 4.71] and included in its updated Biodiversity Mitigation Strategy submitted at Deadline 7 [REP7-017, para 38.1.3].
4. Proposed mitigation measures for construction noise and vibration effects are contained in the Noise and Vibration Management Plan [REP7-021] which would be secured under Requirement 5 - Construction Environmental Management Plan [REP7-018], of the draft DCO. Proposals for the mitigation of operational noise as required by EN-5 (paragraph 2.9.12) are also specified in the Environmental Statement [APP-030 Sections 11.13 to 11.16]. How would these measures be secured in the Order if so made by the Secretary of State? The Applicant is requested to provide suitable drafting either as an addition to Requirement 5 or as an addition to the Noise and Vibration Management Plan, so that the intention of the last two bullet points of Paragraph 2.9.12 of EN-5 could be secured in the draft DCO. The relevant planning authorities (Canterbury City Council; Dover District Council; and Thanet District Council) are invited to respond on this matter.

5. Notwithstanding the Applicant's stated disagreement with the need for an addition to Requirement 11 - Bird Flight Diverters of the draft DCO [REP7-003], the Applicant is requested to submit the form of words which it undertook to provide for Deadline 7 at the third DCO ISH on 9 November 2016. The Applicant is advised to listen to the audio recording of the third DCO ISH Part 4 at approximately 16 minutes into the recording [EV-074] and also to refer to Action 28 of the Action Points from that hearing [EV-070]. This requested that the Applicant provide a form of wording that could be included by the Secretary of State if so minded, to control the approach and steps to be taken in relation to future bird mortality including reference to National Grid's Protocol on Bird Diverters or other best practice. Furthermore, as requested by the ExA at the third DCO ISH, to advise whether there could be a more appropriate place to insert such potential drafting.
6. The Applicant is requested to provide a detailed response to the matters raised in the Broad Oak Preservation Society's Deadline 8 submission [REP8-029].
7. The South East Water (SEW) Deadline 8 submission [REP8-022] refers to the acceptance by the Applicant that SEW should have the opportunity to confirm whether it approves the drawings being submitted by the Applicant at Deadline 8 relating to positioning and sag levels for Pylons PC7-10. The submitted drawings [REP8-021] include options without any Pylon PC8 movement, which SEW advise were not provided to it until 24 November 2016. In view of the timing of the provision of these drawings to SEW, a further opportunity is now given to SEW to confirm whether it approves these drawings.
8. All Interested Parties, including Affected Persons, are invited to make representations on the Applicant's Deadline 8 submitted drawings relating to positioning and sag levels for Pylons PC7-10 [REP8-021].

Yours faithfully

Frances Fernandes

Frances Fernandes
Lead Member of the Panel of Examining Inspectors

Annex A – Timetable variation

Annex A - Timetable variation

Add Deadline 9

24	DEADLINE 9 Deadline for receipt of: <ul style="list-style-type: none">Information requested by the ExA under Rule 17 of the Examination Procedure Rules, as set out in its letter dated 29 November 2016	Tuesday 6 December 2016
25	The ExA is under a duty to complete the examination of the application by the end of the period of 6 months beginning with the day after the close of the Preliminary Meeting	Thursday 8 December 2016

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.