

YG-DCO-025

Yorkshire Green Energy Enablement (GREEN) Project

Volume 3

Document 3.3 Development Consent Order Advice Note 15 Checklist

Final Issue A

November 2022

Planning Inspectorate Reference: EN020024

**Infrastructure Planning (Applications: Prescribed Forms
and Procedure) Regulations 2009 Regulation 5(2)(g)**

nationalgrid

**THE PLANNING ACT 2008
THE INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS AND PROCEDURE)
REGULATIONS 2009 REGULATION 5(2)(q)
THE PROPOSED NATIONAL GRID (YORKSHIRE GREEN ENERGY ENABLEMENT PROJECT)
DEVELOPMENT CONSENT ORDER 202*
DEVELOPMENT CONSENT ORDER ADVICE NOTE 15 CHECKLIST**

Document reference No.	3.3
Regulation No.	Regulation 5(2)(q)
Author	Womble Bond Dickinson (UK) LLP
Date	1 November 2022
Version	A
Planning Inspectorate reference number	EN020024

Introduction

- 1.1 This document records National Grid's consideration and compliance with the Planning Inspectorate's Advice Note 15: Drafting Development Consent Orders¹ (**Advice Note 15**) in the drafting of the draft development consent order (**DCO**) submitted as part of the application for development consent for the Yorkshire Green Energy Enablement (GREEN) project (**Yorkshire GREEN** or the **Project**).
- 1.2 The DCO submitted as part of the Project is a statutory instrument and is required to follow statutory drafting conventions. Advice Note 15 holds no statutory status but provides advice from the Planning Inspectorate on the preparation of the DCO. Applicants submitting applications to the Planning Inspectorate for development consent are strongly advised to follow Advice Note 15 and provide justifications for any departure from this advice in compiling their application.
- 1.3 National Grid have therefore sought to explain and evidence within the below table that the DCO and Explanatory Memorandum submitted for Yorkshire GREEN is in compliance with Advice Note 15 or, where there are departures, to explain why this is necessary.

Advice Note 15 reference	Guidance	Compliance
DCO		
2.1/ 2.4	<p>A DCO must be made in the form of a validated Statutory Instrument (SI). SIs need to conform to a template which contains essential formatting for SIs.</p> <p>All copies of the DCO submitted to the Planning Inspectorate (including the Applicant's final DCO submitted towards the end of the Examination) must have been cleared through the validation process and be accompanied by a copy of the Validation Success email which evidences that the DCO is error free and on the correct version</p>	<p>Complied.</p> <p>The Draft Development Consent Order (Volume 3, Document 3.1) (DCO) is in the form of a validated SI. The Order Validation Confirmation email has been submitted with the application.</p> <p>The Applicant will continue to clear all copies of the DCO (including the</p>

¹ The Planning Inspectorate (July 2018) 'Advice Note Fifteen: Drafting Development Consent Orders' Available at: <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-15/> (Accessed: 03 November 2022).

Advice Note 15 reference	Guidance	Compliance
	of SI template. Should DCOs be submitted with errors or without a successful validation email, applicants will be asked to resolve the errors and resubmit with a Validation Success email.	Applicant's final DCO submitted towards the end of the Examination) through the validation process, and accompany all copies of the submitted DCOs with a copy of the Validation Success email.
3.2	Where Deemed Marine Licences or other deemed consents or licences are included within a DCO, they must also follow the statutory drafting conventions for SIs. However, note that they are also self-contained licences and need to not be dependent on definitions in the body of the DCO.	Complied. No Deemed Marine Licences or other deemed consents or licences are included within the DCO.
3.3	Guidance is publicly available from the National Archives website and should be followed by applicants. In particular applicants should:	Complied as set out below.
	<ul style="list-style-type: none"> provide footnotes in relation to statutory provisions referred to in the SI to provide the user of the SI with information about relevant amendments or extensions to, or applications of, enactments mentioned in the instrument; 	Complied. Footnotes are included within the DCO to provide information about relevant amendments or extensions to, or applications of, enactments mentioned in the instrument.
	<ul style="list-style-type: none"> use gender-neutral drafting (for example avoiding the use of 'he' or 'she' to refer to the Secretary of State or other persons, unless referring to a particular living individual); 	Gender neutral drafting has been used in the DCO.
<ul style="list-style-type: none"> provide an adequate preamble with recitation of powers; 	A preamble has been included in the DCO.	

Advice Note 15 reference	Guidance	Compliance
	<ul style="list-style-type: none"> avoid use of the words 'shall' or 'will' (because of ambiguity over whether they are an imperative or a statement of future intention); 	<p>These words have been avoided in the drafting of the DCO where the context permits.</p>
	<ul style="list-style-type: none"> avoid the word 'may' (to avoid ambiguity over whether it is permissive or stating that it is uncertain whether something is to occur); 	<p>This wording has been avoided in the drafting of the DCO where the context permits.</p>
	<ul style="list-style-type: none"> avoid archaisms (for example 'therewith', 'aforesaid'); 	<p>These words have been avoided in the drafting of the DCO.</p>
	<ul style="list-style-type: none"> not use obliques in operative text (because of ambiguity whether they signify 'and' or 'or'); 	<p>Obliques have been avoided in operative text.</p>
	<ul style="list-style-type: none"> spell out 'metres', 'millimetres' etc throughout (and not use 'm', 'mm' etc); and 	<p>Full spelling of measurements has been included throughout the DCO.</p>
	<ul style="list-style-type: none"> if a paragraph is included in the Interpretation Article saying that distances, directions, lengths, areas etc are approximate, make sure that in the rest of the order the word 'approximately' in conjunction with any of these dimensions does not appear. 	<p>This has been included within interpretation and so repetition avoided elsewhere in the DCO.</p>
4.1	<p>Agree Protective Provisions with the protected party(ies) prior to submitting the application for development consent. Where agreement on Protective Provisions has not been reached during the Preapplication stage, applicants should, as a minimum, submit with their application the standard Protective Provisions for all relevant protected parties with any amendments that the Applicant is seeking annotated with full justification included within the Explanatory Memorandum.</p>	<p>Negotiations are ongoing with all relevant statutory undertakers requiring protection through the DCO and corresponding Protective Provisions have been included in the DCO submitted.</p> <p>An explanation of the Protective Provisions included in the DCO is contained within the Explanatory</p>

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		Memorandum (Volume 3, Document 3.2).
4.4	Ensure that any Protective Provisions drafted by others appropriately align with the terminology and style of the DCO and are suitably drafted for use in an SI. If Protective Provisions for more than one protected party are included in a single Schedule, SI drafting requires the numbering of the paragraphs to follow sequentially throughout the Schedule and not re-start at '1' with each part (as with all textual Schedules in several parts). This approach should be adopted in the DCO submitted with the application and in each amended draft submitted during the Examination where Protective Provisions are changed.	Complied.
5.1	References to Articles in the DCO or sections of Acts should include the heading of the provision on the first occasion that the reference appears in each Article or each paragraph of a Schedule.	Complied. References to Articles include the heading of the provision on the first occasion that the reference appears in each Article or each paragraph of a Schedule.
5.2	Cross references used in the draft should be maintained and checked. Particularly important if the draft is revised during the examination.	Complied.
6.1	Definitions should be applied consistently throughout the DCO and should be in lower case.	Complied. Definitions are applied consistently throughout the DCO and are in lower case.

Advice Note 15 reference	Guidance	Compliance
6.2	Where there is more than one relevant planning authority (or other authority), this should be made clear in the definitions.	Complied. A definition of “relevant planning authority” has been included within the DCO. The definitions also make a clear distinction between the various local authority functions by the inclusion of separate definitions for “highway authority”; “relevant planning authority”; “street authority”; and “traffic authority”.
7.1	There should be clear footnotes provided for all Acts, SIs, European Union or other international legislation, or external documents referenced in a DCO, which must conform to the guidance on footnotes in SI practice (for legislation, the footnote should identify relevant amendments to specific provisions). This practice should apply throughout the DCO and its Schedules. This includes any draft Deemed Marine Licence because these also form part of an SI and must therefore meet SI standards, as mentioned above.	Complied. Clear footnotes are provided for all Acts, SIs, European Union or other international legislation, and external documents referenced in the DCO and its Schedules.
7.2	Ensure all footnotes in the final DCO are still up to date.	Complied. All footnotes have been checked and are up to date as of November 2022.
8.1	Schedules in DCOs must be given effect by an operative Article in the main body of the DCO. This may be by an express provision that the Schedule is to have effect or by clear implication (such as where the Article which grants development consent does so by reference to the Schedule which describes the Authorised Development). The Schedule should also include a shoulder reference to that operative	Complied. Each Schedule in the DCO makes reference to the operative Article(s) which mention the Schedule and include

Advice Note 15 reference	Guidance	Compliance
	Article, and such references should either be the first Article that mentions the Schedule, or all the Articles that mention the Schedule. A consistent approach should be adopted throughout the DCO.	shoulder references to the relevant Article(s).
8.2	Schedules should be numbered according to the order they are mentioned in the substantive Articles in the DCO.	Schedules are numbered according to the order they are mentioned in the substantive articles in the DCO, with the exception of Schedule 4 (discharge of requirements) which most logically follows the requirements at Schedule 3 and so has been placed out of order with its reference in the articles (Article 50).
9.1	Paragraphs in the DCO should usually consist of a single sentence and applicants should avoid the use of long sentences.	Complied.
11.2	Plans and other documents which are required to be certified such as the Land Plans and Works Plans should be specifically listed in the relevant Article. Applicants should set out the titles and numbers of such documents, either in the certification Article or, if there are a large number of documents, in a separate Schedule or Schedules to the DCO.	Complied. <i>Article 48 (Certification of plans etc.) sets out this list including document references and Schedule 2 shows specific drawing numbers for diagrammatic plans.</i>
12.1	DCOs must include a preamble, briefly setting out details of the submission, examination and determination of the application, citing relevant statutory provisions.	Complied. A preamble is provided in the DCO before Part 1. This outlines the process from submission to determination, citing relevant statutory provisions.

Advice Note 15 reference	Guidance	Compliance
12.2	DCOs must also, after the schedule, include a brief explanatory note, explaining the purpose of the DCO, and what it would permit the applicant to do if consented.	Complied. An explanatory note is provided after the Schedules to the DCO explaining the purpose of the Order, and what it would permit the Applicant to do if consented.
14.1	<p>Maintain a clear audit trail of changes made to the DCO. To achieve this, ensure that each revised DCO is accompanied by:</p> <p>Tracked Changed version highlighting any changes from the previous version.</p> <p>Tracked Changed version highlighting all of the changes made from the version originally submitted.</p> <p>Supporting explanatory document, such as drafting notes or a table of proposed changes.</p>	N/A Throughout examination, these documents will be provided for any revisions to the DCO.
17.1/ Good practice point 1	If a Requirement imposes an obligation on the Applicant to seek approval of final details in a scheme, the Requirement should not be drafted in a way which allows the discharging authority to dispense with the need for a scheme altogether. Neither should it enable the discharging authority to vary the scheme in writing such that the scheme then departs from the principles fixed by the application.	Complied. Requirements are included which impose obligations for approval of final details by the discharging authority. To allow flexibility, some Requirements are drafted so as to enable the discharging authority to vary the need to submit details or to vary details previously submitted, however, the interpretation to the Requirements Schedule (Schedule 3) makes clear that this can only be done where the discharging authority is satisfied that such approval or agreement

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		is unlikely to give rise to materially new or materially different effects from those assessed in the environmental statement. Further information in relation to this is provided in paragraph 5.3.6 of the Explanatory Memorandum (Volume 3, Document 3.2) .
18.1/ Good practice point 2	Applicants should take care to ensure that the definition of maintain (if included in the DCO) does not seek to authorise activities which may generate significant effects beyond those assessed in relevant environmental information, notably the ES.	Complied. The definition of "maintain" in the DCO includes the wording: " <i>provided such works do not give rise to any materially new or materially different environmental effects to those identified in the Environmental Statement</i> ". This ensures that all activities authorised will not generate significant effects beyond those assessed.
19.1	Requirements should generally be drafted to identify the relevant planning authority or authorities by name. This could be made clear in the definitions, for example when defining the 'relevant planning authority'.	The linear nature of the Project means that there are a number of different planning authorities who will discharge the Requirements. In addition, as a result of Local Government reorganisation, it is expected that some local authorities will combine to form a single local authority on 1 April 2023. For these reasons it is not considered appropriate to identify the relevant authorities by name. However,

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		<p>the DCO includes a definition in Article 2 (Interpretation) of “relevant planning authority” to mean “the district planning authority for the area in which the land to which the relevant provision of this Order applies is situated and any successor in function”.</p> <p>This definition ensures that the “relevant planning authority” can be identified for the purposes of the DCO.</p> <p>Additionally, the stages for construction are not yet defined and therefore, at this stage, it is not possible to determine which planning authorities will be relevant for the purposes of discharging the various requirements for the different stages. In accordance with Requirement 4 of the DCO, a written scheme setting out the stages of the authorised development is required to be submitted to the relevant planning authority prior to commencement of the development.</p>
19.2/ Good practice point 3	It is recommended that a mechanism for dealing with any disagreement between the Applicant and the discharging authority is defined and incorporated in a DCO Schedule. For example, including arrangements for when the discharging authority refuse an application made pursuant to a DCO Requirement, or approve it subject to conditions or fail to issue a decision within a prescribed	<p>Complied.</p> <p>Schedule 4 to the DCO outlines the procedure for discharge of Requirements. As explained in paragraphs 5.4.1-5.4.2 of the Explanatory Memorandum (Volume 3, Document 3.2), this sets out clear</p>

Advice Note 15 reference	Guidance	Compliance
	<p>period. The mechanism could also address the fees payable for discharging the Requirements.</p>	<p>time limits for decisions to be made and makes provision for circumstances where the discharging authority requires further information to be provided in relation to an application for the discharge of a Requirement.</p> <p>Outside of discharge of Requirements, an arbitration mechanism is included at Article 53 (Arbitration) of the DCO.</p>
20.1	<p>If it is intended to provide an updated ES with the subsequent application it must notify the discharging authority and this will trigger publicity requirements.</p>	<p>Noted. This is not intended.</p>
20.1/ Good practice point 4	<p>Requirements may trigger the need for a subsequent application (under the 2017 EIA Regulations). The procedure for considering the environmental effects of such applications is set out in the 2017 EIA Regulations and therefore applicants do not need to prescribe the way in which the discharging authority should take account of environmental effects. (For example, by confining the scope of what may be approved in a subsequent application to matters which were the subject of the original ES.)</p>	<p>Complied.</p> <p>The DCO does not prescribe the way in which the discharging authority should take account of environmental effects.</p>
22.1/ Good practice point 6	<p>Hedgerows affected by the Proposed Development should be identified in a Schedule to and on a plan accompanying the DCO. The Schedule and plan could also helpfully identify those hedgerows that are ‘important’ hedgerows (see Regulation 4 and Schedule 1 of The Hedgerows Regulations 1997 and section 97 of the Environment Act 1995). This would enable parties such as the relevant planning authority to make submissions on the appropriateness of including</p>	<p>Annex 8B.4 to the Phase 1 Report (Volume 5, Document 5.3.8B) and Figure 8.6 of the Environmental Statement (Volume 5, Document 5.4.8) includes details of all hedgerows affected by the development and identifies whether they are “important” hedgerows.</p>

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	<p>such provisions, and the ExA to consider these. The DCO should also include a relevant Schedule and plan identifying the trees likely to be affected that are protected by TPOs and/ or are otherwise protected.</p>	<p>Given this information is provided separately within the Application it has not been included as a schedule to the DCO, as is preceded with previous overhead line projects (see for example The National Grid (Richborough Connection Project) Development Consent Order 2017.</p> <p>No trees subject to a TPO (or otherwise protected) are within the Order limits or affected by the Project so it is not necessary to include a plan or schedule of such trees within the DCO. However, the Trees and Hedgerows Potentially Affected Plan (Volume 2, Document 2.11.1 – 2.11.6) submitted with the application does contain details demonstrating that all trees subject to TPOs are outside the Order limits.</p>
23.4/ Good practice point 7	<p>Where an applicant is seeking powers in the DCO to acquire land compulsorily, the drafting of the Article containing the powers should make it clear whether or not the Applicant is also seeking a power to clear the title of the land of all private rights. The Applicant should consider whether the Article should be subject to a power under a separate Article which would allow the Applicant to exclude a particular private right from the blanket extinguishment power.</p> <p>It is suggested that a procedure is set out in the relevant Article such as the giving of notice or reaching agreement with the person who</p>	<p>Complied.</p> <p>Article 26(6) (Extinguishment and suspension of private rights) of the DCO makes clear that power to clear the title of all private rights over land subject to compulsory acquisition is sought. Article 26(6)(a) provides for notice and article 26(6)(b) provides for agreement.</p>

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	<p>benefits from the right. This would ensure that only those rights which it is essential to extinguish are dealt with in this way. Any private rights, not just private rights of way, could be dealt with in this way.</p> <p>This Article could also give the Applicant a power to extinguish all private rights over land it already owns and which is required for the purposes of the development. Again, this power could be subject to the giving of notice or agreement.</p>	
Good practice point 8	<p>The changes made to Compulsory Acquisition legislation by the Housing and Planning Act 2016 has necessitated amendments to the Compulsory Acquisition provisions in DCOs. The Silvertown Tunnel Order 2018 provides an example of updated drafting which takes account of these changes, however applicants should be aware that these could be subject to further refinements and may vary depending on a department's drafting preferences.</p>	<p>Complied.</p> <p>Articles 32 (Modification of Part 1 of the 1965 Act) and 33 (Application of the 1981 Act) of the DCO have been amended accordingly to follow the approach of the Silvertown Tunnel Order 2018.</p>
24.1-24.3/ Good practice point 9	<p>Applicants should provide justification which is specific to each of the areas of land over which the power [to impose restrictive covenants] is being sought, rather than generic reasons and include a clear indication of the sorts of restrictions which would be imposed and wherever possible the power should extend only to the particular type of Restrictive Covenant required.</p> <p>DCO provisions seeking to impose Restrictive Covenants should not be broadly drafted and should identify the land to which they relate and the nature of the Restrictive Covenant.</p>	<p>Complied.</p> <p>The restrictive covenants sought are detailed in Schedule 13 (Land in which only new rights and restrictive covenants etc. may be acquired) of the DCO, together with the individual plots against which they are sought and the justification. The extent of the restrictive covenants are also specifically outlined against each relevant plot in the Book of Reference (Volume 4, Document 4.3).</p>

Advice Note 15 reference	Guidance	Compliance
25.2/ Good practice point 10	The power to apply, modify or exclude an existing statutory provision should be set out in an Article in the main body of the DCO. Those provisions that are proposed to be applied, modified or excluded by a DCO should be clearly identified, and, if extensive, identified in a Schedule or Schedules.	Complied. The express disapplication of legislative provisions is outlined in Article 52 (Amendment of local legislation) of the DCO. This Article is explained further in paragraphs 4.56.1-4.56.3 of the Explanatory Memorandum (Volume 3, Document 3.2) .
Explanatory Memorandum		
1.2	A thorough justification should be provided in the Explanatory Memorandum for every Article and Requirement, explaining why the inclusion of the power is appropriate in the specific case. The extent of justification should be proportionate to the degree of novelty and/ or controversy in relation to the inclusion of that particular power.	Complied. Section 4 and paragraph 5.3.1-5.3.18 of the Explanatory Memorandum Volume 3, Document 3.2) outline justification for each Article and Requirement, together with an explanation.
1.4	For each provision, the ExA is likely to want to be satisfied about certain matters, such as: a) The source of the provision (whether it be a previous made DCO or Transport and Works Act Order, or a novel provision). b) The section/ Schedule of the PA2008 under which it is made. c) Why it is relevant to the proposed development d) Why the Applicant considers it to be important / essential to the delivery of the proposed development.	Complied. a) the source of the provision is outlined in the text at Sections 4 and 5 of the Explanatory Memorandum (Volume 3, Document 3.2) for each Article. For example, paragraph 4.10.3 explains that " <i>Article 6 is based on the approach taken for the Southampton to London Pipeline Order (article 7) and the Richborough Order (article 6).</i> "

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		<p>b) where relevant this is explained – for example, paragraph 4.17.4 of the Explanatory Memorandum (Volume 3, Document 3.2) explains that Article 13 <i>"is necessary under section 120(5)(c) of the PA 2008 to give full effect to articles 3 (Development consent etc granted by the Order) and 4 (Maintenance of authorised development)"</i>.</p> <p>c) this is outlined in the text at Sections 4 and 5 of the Explanatory Memorandum (Volume 3, Document 3.2). Background and purpose of the Order are also outlined in Section 2.</p> <p>d) this is outlined in the text at Sections 4 and 5 of the Explanatory Memorandum (Volume 3, Document 3.2). Background and purpose of the Order are also outlined in Section 2.</p>
1.5	<p>If a DCO includes wording derived from other made DCOs, this should be explained in the Explanatory Memorandum. The Explanatory Memorandum should explain why that particular wording is relevant to the proposed DCO, for example detailing what is factually similar for both the relevant consented NSIP and the Proposed Development.</p> <p>The ExA and Secretary of State will need to understand why it is appropriate for the scheme applied for. Any divergence in wording from the consented DCO drafting should also be explained.</p>	<p>Complied.</p> <p>Where relevant, this is explained in Section 4 of the Explanatory Memorandum (Volume 3, Document 3.2) – for example, paragraph 4.25.2 explains that Article 21 (Authority to survey and investigate the land) <i>"is based on the Hinkley Connection Order (article 18). Paragraph (1)(b) includes</i></p>

Advice Note 15 reference	Guidance	Compliance
		<p><i>the power to survey and investigate land or buildings to establish the effect of the authorised development or to enable the authorised development to begin. Paragraph (1)(e) allows equipment used for ecological or archaeological investigations to be left on the land (along with other apparatus used in connection with the survey, monitoring or investigation of land). These two additional powers are adapted from the provisions of the London to Southampton Pipeline Order (Article 20) and are necessary to ensure that this Article provides authority for the types of activities that are likely to be necessary in respect of the authorised development."</i></p>
1.6	<p>Where applicants are seeking to include specific wording or apply a particular approach from a different statutory regime in a DCO, the reasons for doing so and the relevance of this to the application should also be made clear in the Explanatory Memorandum.</p>	<p>Complied.</p> <p>Whilst the Applicant has cited in the Explanatory Memorandum (Volume 3, Document 3.2) Transport and Works Act Orders which articles contained in the DCO have found precedence from, these articles are also contained in consented DCOs. Both the Transport and Works Act Orders and the consented DCOs containing the relevant article are set out in Section 4 of the Explanatory Memorandum (Volume 3, Document</p>

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		<p>3.2), for example paragraph 4.16.1 explains that in relation to Article 12 (Application of the 1991 Act) "<i>comparable provisions are commonly included in TWAOs and also appeared in Article 10 of the Richborough Order.</i>"</p>
4.1	<p>Where agreement on Protective Provisions has not been reached during the pre-application stage, applicants should, as a minimum, submit with their application the standard Protective Provisions for all relevant protected parties with any amendments that the Applicant is seeking annotated with full justification included within the Explanatory Memorandum.</p>	<p>Complied.</p> <p>Standard and, where necessary, bespoke protective provisions have been included in Schedule 15 of the DCO. Paragraph 4.51.1 of the Explanatory Memorandum (Volume 3, Document 3.2) explains how Article 47 (Protection of interests) gives effect to Schedule 15 (Protective provisions) and the progress to date regarding negotiations with statutory undertakers.</p>
6.1	<p>Care should be taken to ensure that the definitions provided in DCOs do not conflict with any of the definitions provided in s235 of the PA2008 (where there is conflict, applicants should explain and provide justification in the Explanatory Memorandum).</p>	<p>Complied.</p> <p>Paragraph 4.5.3 of the Explanatory Memorandum (Volume 3, Document 3.2) justifies and explains the wording of definitions used. This explains that the only conflict is with regards the term 'building', which is necessary to give full effect to Article 20 (protective work to buildings).</p>

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17.1	<p>Any provisions in the DCO that allow for flexibility must be thoroughly justified within the Explanatory Memorandum.</p>	<p>Complied.</p> <p>Where relevant, explanation of this is included within Sections 4 and 5 of the Explanatory Memorandum (Volume 3, Document 3.2). For example, paragraph 4.38.2 explains why flexibility was required in the drafting of Article 34 (Acquisition of subsoil or airspace only) <i>"to minimise so far as is possible the extent of interests to be acquired, with consequently less impact on affected landowners and lower payments of compensation, both of which are in the public interest"</i>.</p>
21.1/Good practice point 5	<p>In some decisions the Secretary of State has removed definitions of 'commence' and/ or 'preliminary works' which could have allowed for a range of site preparation works (such as demolition or de-vegetation) to take place before the relevant planning authority had approved details of measures to protect the environment under the Requirements.</p> <p>If applicants consider that such an approach is appropriate in the particular circumstances of their proposed NSIP, they should provide reasons in the Explanatory Memorandum.</p>	<p>Complied.</p> <p>A definition of "commence" is included in the interpretation section of the Requirements schedule and discussed at paragraph 4.5.3 of the Explanatory Memorandum (Volume 3, Document 3.2). The definition of "commence" does exclude certain pre-commencement works. However, pre-commencement works are also defined in the interpretation section to the Requirements schedule, and Requirement 5 makes clear that all pre-commencement works must be carried</p>

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		<p>out in accordance with the construction management plans listed in Requirement 5 as well as the outline soil management plan. The construction management plans are submitted as full plans which require no further approval. Requirement 5 therefore ensures that pre-commencement works would not have likely significant effects on the environment.</p>
<p>25.3/ Good practice point 10</p>	<p>Under section 120(5)(a) of the PA2008 DCOs may apply, modify or exclude an existing statutory provision which relates to any matter for which provision may be made in the DCO. In this context, applicants should also be aware of the opportunities and restrictions under section 150 of the PA2008 on removing consent requirements. Applicants should provide in the Explanatory Memorandum a clear justification for the inclusion of such provisions in the particular circumstances.</p>	<p>Complied.</p> <p>The explanation provided within the Explanatory Memorandum (Volume 3, Document 3.2) at paragraphs 4.56.1-4.56.3 alongside Article 52 (Amendment of local legislation) of the DCO provides explanation on this point. In particular, this paragraph deals with the requirement for a relevant body's consent to exclude the need to obtain a prescribed consent or authorisation under section 150 of the PA 2008. It should be noted that no consents are sought under the DCO which are prescribed consents for the purposes of section 150 of the PA 2008 and, therefore, no relevant body's consent is required for the inclusion of Article 52.</p>

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