

Further to my earlier email, please accept this reply as section 51 advice. You should note that any advice given under s.51 does not constitute legal advice upon which you (or others) can rely.

As you state, it is up to you what you include in your application as associated development and I would suggest that given the high level of uncertainty you refer to in respect of the grid connection for the project, you may wish to discuss with your legal team how this could be mitigated through the drafting of the DCO. Our advice on this to applicants is that it is not possible to make material changes to an application once it has been submitted. Your legal team should be able to advise you about what would constitute a material change based on current planning and EIA case law and its applicability to the PA2008 regime in the context of this project.

Our Advice Note 9 - Rochdale Envelope has a bearing on the degree of flexibility that may be possible in a DCO. The last paragraph of this advice note states, "*It may be possible to draft a DCO in such a way as to allow some flexibility in the project. The project should be described in such a way that a robust EIA can be undertaken.*" I attach a link to the advice note below and advise you to read it in full and absorb the principles that this advice is describing:

<http://infrastructure.independent.gov.uk/wp-content/uploads/2011/02/Advice-note-9.-Rochdale-envelope-web.pdf>

You will also be aware of regulation 6 (1) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, which requires a statement of who will be responsible for designing and building the grid connection.

I appreciate that this reply may not provide you with the clarity you sought, but as you know, it is for the applicant to determine what is in their application.

Yours sincerely

Kathrine Haddrell
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