

A14
**Cambridge to Huntingdon
improvement scheme**
Development Consent Order Application

HE/A14/EX/185

TR010018

HE/A14/EX/185

Comments on the Examining Authority's
draft Development Consent Order

October 2015

The Infrastructure Planning (Examination Procedure) Rules 2010

A14 CAMBRIDGE TO HUNTINGDON IMPROVEMENT SCHEME

COMMENTS ON THE EXAMINING AUTHORITY'S CONSULTATION DRAFT DEVELOPMENT CONSENT ORDER

1. On 13 October 2015, the Examining Authority ("**the ExA**") published its consultation draft of the Development Consent Order ("**DCO**"), highlighting amendments to Revision 4 of Highways England's proposed draft DCO (Applicant Ref: HE/A14/EX/167; PINS Ref: REP10-051) it is seeking comments on by Deadline 13 (30 October 2015).
2. In order to assist the ExA ahead of the Issue Specific Hearing on the draft DCO on 22 October 2015, Highways England has set out its initial comments on the substantive amendments in the table below. It is hoped that this will help to narrow down a number of the issues ahead of the Issue Specific Hearing. Where the ExA's draft DCO contains comments but no amendment, Highways England intends to address these orally at the Issue Specific Hearing.
3. The numbering of Schedule 2 in the ExA's draft of the DCO does not appear to be consistent. As such, each paragraph of that Schedule in this document is referred to as 'X' or 'XX' but the relevant paragraph sub-title has been included for identification purposes.
4. The ExA's draft DCO includes drafting relating to each of the 59 non-material changes accepted by the ExA to date, as listed in Table 2.1 of Highways England's *Compulsory Acquisition and Scheme Changes Update – Deadline 11* (Applicant Ref: HE/A14/EX/174; PINS Ref: REP11-009) and each of the 8 non-material changes currently capable of acceptance, but not yet accepted, by the ExA, as listed in Tables 3.1 and 3.2 of that document. The ExA's draft DCO also includes drafting relating to each of the 4 non-material changes accepted by the ExA as presented in Highways England's 'proposed provision' submitted pursuant to the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (Applicant Ref: HE/A14/EX/68; PINS Ref: REP5-030). The ExA's draft DCO does not include drafting relating to either of the two non-material changes which were withdrawn / not included in Highways England's *Consolidated Report on Proposed Non-Material Changes to the Application* (Applicant Ref: HE/A14/EX/163; PINS Ref: REP10-047), namely DR1.79 and DR1.102.

Amendment in ExA's draft DCO	Highways England comment
<p><u>Article 2 (new insertion):</u></p> <p>Outline plans as referred to in Article 41</p> <p>[ExA Comment: Definitions of the outline plans to be certified by the SoS as referred to in Article 41 and Schedule 10. Comprehensive up to</p>	<p>As stated at the Issue Specific Hearing on the DCO on 4 September 2015, Highways England is content in principle to refer to specific plan and document references within the DCO. A list of plan references is currently being collated. Given the number of references required to be included, these reference will be included in a separate Schedule, as suggested by the ExA.</p>

Amendment in ExA's draft DCO	Highways England comment
<p><i>date list to be provided by applicant]</i></p>	<p>This will be reflected in Highways England's next draft of the DCO, to be submitted at Deadline 13.</p>
<p><u>Article 11(3) (new insertion):</u></p> <p>Subject to paragraphs (7), (8) and (9), where a highway carrying pedestrian, equestrian and or cycle rights is altered or diverted under this Order along a vehicular private means of access (street), the altered or diverted part of the highway must be completed to the reasonable satisfaction of the local highway authority, and, unless otherwise agreed with the local highway authority, be maintained by and at the expense of the street authority from its completion to the reasonable satisfaction of the local highway authority</p> <p><i>[ExA Comment: Additional drafting proposed by CCC in REP3-006. At REP10-001 CCC confirm that the applicant agreed to “take on board the Council’s comments”. The ExA notes Rev4 of the applicants draft DCO does not include the proposed amendment which it assumes was a drafting oversight, Insertion proposed to satisfy the County Council. The applicant and IPs may wish to comment]</i></p>	<p>Highways England did not include the drafting suggested by Cambridgeshire County Council with respect to article 11 as Highways England was still considering the implications of this wording. Highways England is sympathetic to Cambridgeshire County Council's concerns in this regard, although it was doubtful that the drafting suggested achieves the desired result.</p> <p>Highways England has suggested an alternative form of words to deal with the Council's concerns. These centre on a new paragraph (3) of article 11, as follows:</p> <p><i>"(3) Subject to paragraphs (6), (7) and (8), where a footpath, cycle track or bridleway is altered or diverted under this Order along a vehicular private means of access, the altered or diverted part of the highway must, when completed to the reasonable satisfaction of the highway authority, unless otherwise agreed in writing, be maintained, including any culverts or other structures laid under it, by and at the expense of the person with the benefit of the vehicular private means of access."</i></p> <p>with consequential changes to other parts of article 11.</p> <p>It is anticipated that the agreed modifications will be made to the next draft of the DCO to be submitted at Deadline 13.</p>
<p><u>Article 11(9) and (10) (new insertions):</u></p> <p>In the case of a bridge constructed under this Order to carry a private right of way for vehicles, and that also carries a co-existing public footpath, cycletrack, or bridleway, the structure of the bridge must be maintained by and at the expense of the undertaker.</p> <p>In the case of a culvert or other structure constructed under or to retain a</p>	<p>Please see above.</p>

Amendment in ExA's draft DCO	Highways England comment
<p>private right of way for vehicles that also carries a co-existing public footpath, cycle track, or bridleway, the structure of the culvert or other structures must be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.</p> <p>[ExA Comment: Additional drafting proposed by CCC in REP3-006. At REP10-001 CCC confirm that the applicant agreed to “take on board the Council’s comments”. The ExA notes Rev4 of the applicants draft DCO does not include the proposed amendment which it assumes was a drafting oversight, Insertion proposed to satisfy the County Council. The applicant and IPs may wish to comment]</p>	
<p>Article 12(4) (amendment):</p> <p>OnAfter bringing the roads described in Part 3 of Schedule 3 (classification of roads, etc. –roads to be de-trunked) into a condition which is to the reasonable satisfaction of the local highway authority, and on such day as the undertaker may determine on such a day as may be agreed between the undertaker and the local highway authority and subject to the completion of all the Handover Plan as set out in the legal agreement between Cambridgeshire County Council and Highways England, the roads described in Part 3 of Schedule 3 (classification of roads, etc. – roads to be de-trunked) are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.</p> <p>[ExA Comment: The applicant and the County Council are still not in agreement over the inclusion of this commitment in the draft Order. Can the applicant and the County Council provide a further update on the position?]</p>	<p>Highways England has submitted HE-A14-EX-184 - <i>Updated Position Statement on Traffic Monitoring, Mitigation and De-trunking</i>, which is a 'position statement' setting out its position on traffic monitoring, mitigation and de-trunking. Within this document, Highways England has sought to set out how it sees the de-trunking process working, together with a proposed amendment to article 12(4) which it hopes will give Cambridgeshire County Council the comfort it requires.</p>
<p>Article 41(1) (amendment):</p>	<p>Please see Highways England's response to the proposed article 2</p>

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<p>The undertaker must, as soon as practicable after the <u>making date on which of this Order is made</u>, submit to the Secretary of State copies of the documents listed in Schedule 10 (documents to be certified) for certification that they are true copies of the plans or documents referred to in this Order.</p> <p>—</p> <ul style="list-style-type: none"> (a) the book of reference; (b) the borrow pits restoration and aftercare strategy; (c) the classification of roads plans; (d) the code of construction practice; (e) the Crown land plans; (f) the de-trunking plans; (g) the engineering drawings and sections; (h) the environmental statement; (i) the general arrangement drawings; (j) the land plans; (k) the rights of way and access plans; (l) the special category land plans; (m) the traffic regulation measures plans; (n) the variation of special road status plans; and (o) the works plans; <p>must be certified by the Secretary of State as true copies of those documents referred to in this Order.</p> <p>[ExA Comment: New Schedule inserted in line with PINS Guidance Note 15</p> <p>11.2 Plans and other documents which are required to be certified such as the land and works plans should be specifically listed in the relevant article. Applicants may wish to set out the titles and numbers of such</p>	<p>amendments above.</p>

Amendment in ExA's draft DCO	Highways England comment
<p>documents, either in the certification article or, if there are a large number of documents, in a separate schedule or schedules to the DCO]</p>	
<p>Paragraph X of Part 1 of Schedule 2 – Detailed design (amendment):</p> <p><u>(1) The authorised development must be carried out in accordance with the scheme design shown on the works plans and the engineering drawings and sections submitted with the application and certified at Article 41. unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its functions.</u></p> <p><u>(2) Sub-paragraph (1) does not apply</u></p> <p><u>(a) to the extent that any part of a plan referred to that sub-paragraph is indicative or expressly states that it does not show details for approval; or</u></p> <p><u>(b) where details in such a plan are amended with the written approval of the Secretary of State following consultation with the Design Council's Design Review Panel and such approval may be given only in relation to immaterial changes that are within the scope of the works assessed in the environmental statement and fall within the Order limits;</u></p> <p><u>(3) Where amended details are approved pursuant to this Requirement, those details are deemed to be substituted for the corresponding details previously approved.</u></p> <p><u>(4) No part of the authorised development may commence until options for the detailed design of that part of the authorised development have been submitted to the Design Council's Design Review panel and the undertaker has received and considered the advice of the Design Council's Design Review panel in respect of the detailed design of that part of the authorised development.</u></p> <p><u>(5) The undertaker must, in the course of developing the detailed design of</u></p>	<p>Highways England considers that the drafting amendments to (1) are unnecessary in respect of the plans, as the definitions in article 2 will make clear that they have been certified.</p> <p>Highways England further considers that the deletion in (1) is also unnecessary – it appears that the intention is that this is replaced with (2)(b). However, it is not considered appropriate for the Design Council to be an on-going consultee in place of the local planning authorities - Highways England would expect the local planning authorities to agree with this submission. As such, Highways England does not consider (2)(b) to be appropriate, although it does in principle accept the limitation of any changes being by reference to environmental impacts, although this should be consistent with article 7. Highways England will consider any necessary drafting changes in the next draft of the DCO. Paragraph (2)(a) is acceptable in principle, although Highways England does not consider this to be necessary, on the basis that the plans expressly state on their face where something is indicatively shown. As such, any construction in accordance with such plans would take this into account and an express provision is therefore not required.</p> <p>Highways England accepts the proposed addition of sub-paragraph (3).</p> <p>Sub-paragraphs (4) and (5) have been moved from elsewhere - Highways England will consider the appropriateness of inserting this wording into this requirement. Highways England was of the opinion that these obligations were 'neater' in a separate requirement as they are not directly related to sub-paragraphs (1) to (3), although they do come under the detailed design 'banner'.</p> <p>Highways England does not accept that sub-paragraph (6) is necessary given the wide remit of sub-paragraph (4).</p>

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<p>the authorised development, consult with the relevant planning authorities, the Parish Forums, the Community Forums, the Landowner Forums and the Environment Forum in accordance with the provisions of the CoCP.</p> <p>(6) The authorised development must not be brought into use until the detailed design of the Great Ouse viaduct to be erected as part of the scheme has been submitted to and approved by the Secretary of State following consultation with the Design Council's Design Review Panel and that structure has been constructed in accordance with the approved design</p> <p>[ExA Comment: This requirement has been redrafted to incorporate Requirement Development of Detailed Design. The applicant and IPs may wish to comment?]</p>	
<p>Paragraph X of Part 1 of Schedule 2 – Code of construction practice (amendment):</p> <p>(1)The authorised development must be carried out in accordance with the provisions of the code of construction practice “CoCP” to be certified under Article 41.</p> <p>(2) No stage of the authorised development is to commence until the Local Environmental Management Plans “LEMPs” for the districts of Huntingdonshire and South Cambridgeshire, have been submitted to and approved in writing by the highways authority and relevant planning authority, following consultation with the local communities and other stakeholders.</p> <p>(3) Consultation on the LEMPs will be carried out in accordance with the Community Engagement Strategy set out in the CoCP.</p> <p>(4) The LEMPs must be written to reflect and ensure delivery of the construction phase mitigation measures included in chapters 6 to 15 of the environmental statement and will set out site specific local control measures</p>	<p>Highways England does not consider the extra wording in paragraph (1) to be necessary, on the basis that the code of construction practice is defined in article 2.</p> <p>In respect of paragraph (2), Highways England does not consider it is appropriate to include a requirement in the DCO that the LEMPs be approved by the highway authority and relevant planning authority. This is because the CoCP sets out in Annex 1 the structure and information the LEMPs will cover. The DCO requires compliance with the CoCP, and the CoCP will be certified by the Secretary of State if the order is made. Clauses 3.2.4 and 3.2.5 of the CoCP were amended as part of the revision to the CoCP for Deadline 10 following a meeting with the local authorities on 22nd September. The clauses state that Highways England will consult with local authorities and other stakeholders and also use reasonable endeavours to agree the LEMPs with the relevant local authorities. Cambridgeshire County Council, Cambridge City Council and Huntingdon District Council have stated that they have no further issues with the CoCP and, as such, are content with this arrangement and no concerns have been raised on these amendments. Similar confirmation is anticipated from South Cambridgeshire District Council in due</p>

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<p>additional to the measures referred to in the CoCP.</p> <p>[ExA Comment: REP10-035 applicant states at 4.1.3 that SCDC and CCC are both content with the wording and no comments to the alternative have been received from HDC and CCityC.</p> <p>CCC agrees at REP10-001 but also states that it would not object to alternative drafting proposed by SCDC.</p> <p>SCDC at REP10-055 consider the inclusion of wording in the interpretation section of Schedule 2 could lead to confusion. It proposes an alternative wording of the requirement which in its view “would better inform the public and ensure the requirement is sufficiently precise”</p> <p>The ExA has considered the draft wording proposed by SCDC but is concerned that it this could still lead to confusion.</p> <p>The ExA has therefore provided alternative drafting in addition to a new draft requirement on CEMPs in the interest of greater precision and clarity.</p> <p>The applicant and IPs may wish to comment]</p>	<p>course. Therefore Highways England considers this this wording is unnecessary and inappropriate.</p> <p>As such, the wording in sub-paragraphs (3) and (4) is also not required. As alluded to above, a template for the LEMPs (Annex 1 of the CoCP), which includes the expected contents of the LEMPs was discussed with the local authorities on 20th August and 22nd September and no further comments on Annex 1 have been raised since the Deadline 10 issue of the CoCP.</p> <p>Indeed, the local planning authorities have in various submissions accepted they did not have sufficient resources or, in certain circumstances, expertise to carry out any approval roles under the DCO.</p> <p>In addition, in the context of a linear scheme, Highways England considers it imperative that a consistent approach is taken as to the approval body for requirements.</p>
<p><u>Paragraph X of Part 1 of Schedule 2 – Construction environmental management plan (new insertion):</u></p> <p>(1) Before commencement of each stage of the works, a construction environmental management plan “CEMP” for that stage of the works, drafted in accordance with the principles set out in the approved CoCP, must be submitted to and approved in writing by the Secretary of State following consultation with the highway authority and relevant planning authority.</p>	<p>In line with Highways England's previous submissions on this, it is not appropriate for the CEMPs to be secured by a requirement.</p> <p>The CEMPs will document the main contractors' Environmental Management System (EMS), which will be certified to ISO 14001 by an accredited organisation such as BSi or Lloyds Register (LRQA). Such documents provide detailed procedures and processes and are likely to refer to numerous other corporate and project processes and procedures. These may be within the main contractor's quality assurance and health and safety systems. Such systems are also dynamic and will be amended as the project</p>

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<p>(2) All remediation and construction works must be undertaken in accordance with the CoCP LEMPs and CEMP, or any variation or replacement previously approved in writing by the Secretary of State or relevant planning authority for that stage of the works.</p> <p>(3) The CEMPs must be written to reflect and ensure delivery of the construction phase mitigation measures included in chapters 6 to 15 of the environmental statement and must include but not limited to, the following matters during construction of the works:</p> <p>(a) adherence to working hours of 08:00 to 18.00 on Mondays to Fridays and 08.00 to 16.00 on Saturdays on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays, except for:</p>	<p>progresses with the aim of continual improvement of the system. For these reasons it would not be appropriate for the Secretary of State to approve the CEMPs.</p> <p>Highways England also considers that the proposed paragraph (2) is unnecessary as compliance with the terms of the CoCP (including in respect of LEMPs and CEMPs) is already secured under the requirements.</p> <p>It is considered that the proposed paragraph (3) duplicates the obligation in section 3.5 of the CoCP and also makes the CEMP requirements unclear. The purpose of the CEMP is to document the main contractors' ISO 14001 Environmental Management Systems (EMS). The main contractors' EMS are required by the CoCP to be certified by an accredited body to ISO14001. Therefore the proposed additional requirements in the draft DCO are unnecessary and potentially contradictory leading to imprecise and contradictory requirements.</p> <p>For a similar reason, the proposed sub-paragraph (1) is unnecessary as it duplicates to a large degree the CoCP, which is already secured. Indeed, in some places the wording is different to the CoCP, which may lead to imprecise and uncertainty of requirements.</p> <p>The section 61 procedures under the Control of Pollution Act 1974 will also consider working hours and should be relied upon and not duplicated as set out at paragraph 4.50 of the National Policy Statement for National Networks.</p> <p>In respect of the ExA's request for an explanation as to the relationship between the various environmental control documents, section 3.1 of the CoCP provides such an explanation.</p> <p>In summary the CoCP / LEMPs provide control and mitigation measures relating to the construction works. The CoCP applies to the whole project and the LEMPs are local authority / site / sub-area specific.</p>

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<p>i) work associated with the online sections of the new alignment that due to network constraints cannot be completed during normal working hours;</p> <p>ii) work associated with the demolition of the Huntingdon viaduct</p> <p>iii) extended working hours in the summer months for the earthworks to take advantage of the weather / daylight</p> <p>iv) certain other specific construction activities for reasons of engineering practicability cannot be completed within the standard working hours.</p> <p>v) work otherwise permitted under Section 61 of the Control of Pollution Act 1974.</p> <p>(b) management of construction site layout, appearance and security</p> <p>(c) details of emergency procedures during construction</p> <p>(d) management and mitigation of artificial light emissions</p> <p>(e) site environmental control plans to control the risk of air, water and other pollution</p> <p>(f) management of construction noise, vibration and other nuisances</p> <p>(g) archaeological management</p> <p>(h) management of soils</p> <p>(i) management of site waste</p> <p>(j) management of materials</p>	<p>The CEMP documents are the main contractors' Environmental management system (EMS). This outlines the process and procedures for ensuring compliance. It will also include the organisational structure, roles and responsibilities for implementation, training, monitoring, auditing and other control measures.</p>

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<p>(k) nature conservation</p> <p>(l) use of the local road network including a traffic management plan and construction workers travel plan</p> <p>(4) Each construction environmental management plan must incorporate the following:</p> <ul style="list-style-type: none"> i) responsibilities; ii) consent requirements; iii) client requirements; iv) general control measures; v) specific control measures; vi) monitoring and measurement; and vii) in the event of an emergency. <p>[ExA Comment: New requirement inserted for clarity and precision.</p> <p><i>The ExA notes that the hours proposed in SCDCs draft requirement differ from those in the CoCP at section 5 of REP10-045? Would SCDC please provide an explanation? The applicant and other IPs may wish to comment.</i></p> <p><i>The County Council states at REP10-001 that “it understands the CEMP ‘is primarily QA and management processes and is not for consultation. HE has agreed to supply the CEMP for information along the with daft CEMP for review and that it is content with that proposal.</i></p>	

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<p><i>Can the applicant provide a further explanation to the ExA of the relationship between the CoCP/ LEMPs and CEMP and how the detailed matters referred to in this new requirement would be secured if not in the CEMP.]</i></p>	
<p><u>Paragraph X of Part 1 of Schedule 2 – Protected species (amendment):</u></p> <p>(1) No part of the authorised development is to commence until final pre-construction survey work for that part has been carried out, reflecting that contained in the environmental statement, to establish whether European or nationally protected species are present on any of the land affected, or likely to be affected, by any part of the authorised development or in any of the trees and shrubs to be lopped or felled as part of the authorised development.</p> <p>(2) Where a protected species is shown to be, or where there is a reasonable likelihood of it being present, the relevant parts of the relevant works must not begin until a scheme of protection and mitigation measures including their design and management has been submitted to and approved in writing by the Secretary of State after consultation with Natural England and the relevant planning authority.- Except to the extent otherwise approved, the scheme of protection and mitigation measures including their design and management must be in accordance with the guidance in the Design Manual for Roads and Bridges (Volume 10, section 4).</p> <p>(3) The relevant works must be carried out in accordance with the approved scheme, and under licence where necessary, unless otherwise agreed in writing by the Secretary of State, after consultation with Natural England and the relevant planning authority.</p> <p><i>[ExA Comment: Text inserted to reflect the suggestion from County Council in SoCG REP10-049 LA01 para 5.6. Are matters in respect of County / local assets now agreed between the County and the</i></p>	<p>Highways England does not consider it appropriate for the Secretary of State to consult the relevant planning authorities on the scheme of protection and mitigation measures for protected species. This requirement relates to the protection of individuals of European and nationally protected species through the Conservation of Natural Habitat Regulations 2010 (in relation to European protected Species) and the Wildlife and Countryside Act 1981 (in relation to nationally protected species). Natural England has responsibility for licensing developments with the potential for offences and agreeing method statements to prevent offences.</p> <p>The role of relevant planning authorities in relation to species is within environmental impact assessment of the significance on the conservation status of “important” species (not “protected” species). It should be noted that the relevant planning authorities would be fully consulted on the site, species and habitat management plans that would be appended to the LEMPs, which would enable them to fulfil their responsibilities with regard to important species, including locally important species, to which their representations refer.</p> <p>Agreement between Highways England and Cambridgeshire County Council in respect of the natural environment, including protected species, is documented in the Statement of Common Ground between the two parties to be submitted at Deadline 13 which records the commitment for HE to consult with County Council on the provision for habitat mitigation in the LEMPs.</p> <p><i>Note: in respect of the requirement entitled 'Details of the establishment and management of the mitigation areas for Brampton Meadows SSSI' - The ExA commented on the Requirement: “Brampton Meadows Site of Special Scientific Interest mitigation areas” asking the question “Should this be a</i></p>

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<p>applicant?]</p>	<p><i>certified document (strategy / plan)" (but this is not repeated in this response document).</i></p> <p><i>The details of the establishment and management of the mitigation areas for Brampton Meadows SSSI are necessarily a matter for detailed design and so cannot form a certified document as the certification takes place upon making of the Order (if approved). Additionally, the plots on which the mitigation areas will be situated are shown on other plans that will be certified. The wording of this requirement has been agreed with Natural England.</i></p>
<p><u>Paragraph X of Part 1 of Schedule 2 – Implementation and maintenance of landscaping (amendment)</u></p> <p>(1) <u>No part of the authorised development must commence until a Landscaping must be carried out in accordance with an approved Landscape Maintenance and Management Plan (LMMP) in accordance with the outline LMMP has been approved in writing by the Secretary of State, following consultation with the relevant planning authority.</u></p> <p>(2) <u>The LMMP to include, including identification of special landscape areas and proposals for long term design objectives, management responsibilities and maintenance schedules, approved by the Secretary of State following consultation with the relevant planning authority.</u></p> <p>(3) No part of the authorised development must commence until a landscaping scheme applicable to that part has been submitted and approved in writing by the Secretary of State, following consultation with the relevant planning authority. <u>All landscaping schemes must comply in accordance with the landscaping maintenance and management plan LMMP.</u></p> <p>(4) The landscaping scheme must reflect the mitigation measures included in the environmental statement and set out details of all proposed hard and soft landscaping works, including—</p> <p>(a) location, number, species, size and planting density of any proposed</p>	<p>Please see Highways England's recent responses to Deadline 10 submissions, where it was stated in response to South Cambridgeshire District Council's proposal:</p> <p><i>"Highways England understands the position to now be satisfactory to South Cambridgeshire District Council. Therefore the amendments to Requirement 7 identified in South Cambridgeshire District Council's submission are no longer required. Please refer to paragraph 7.7.19 of Highways England's summary of matters arising at the Issue Specific Hearing on the draft DCO that took place on 4 September 2015 for further details (Applicant reference HE/A14/EX/151; PINS reference REP10-035)."</i></p> <p>In respect of the 10 year maintenance period sought, the Borrow Pits Restoration and Aftercare Strategy requires for each borrow pit the preparation of a Borrow Pit Restoration and Aftercare Plan. The Plan will include full details of the detailed design including landscape proposals and a 10 year aftercare programme. The Strategy does not envisage the approval of the Plans or any part thereof by the relevant planning authority; however the County Council and the District Councils will be involved in the preparation of the Plans as set out in the Strategy.</p> <p>In respect of landscaping more generally, five years is still considered appropriate. Five years is standard for both Highways England schemes and</p>

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<p>aquatic or terrestrial planting;</p> <p>(b) landscaping works associated with any noise fences and walls (as appropriate);</p> <p>(c) cultivation, importing of materials and other operations to ensure plant establishment;</p> <p>(d) proposed finished ground levels;</p> <p>(e) hard surfacing materials;</p> <p>(f) details of existing trees to be retained, with measures for their protection during the construction period;</p> <p>(g) retained historic landscape features and proposals for restoration, where relevant; and</p> <p>(h) implementation timetables for all landscaping works.</p> <p>(5) All landscaping works must be carried out in accordance with the approved landscaping scheme and carried out to a reasonable standard in accordance with the relevance recommendations of appropriate British Standards or other recognised codes of good practice.</p> <p>(6) Any tree or shrub planted as part of the landscaping scheme that, within a period of <u>five ten</u> years after planting, dies or becomes, in the opinion of the relevant planning authority, seriously diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.</p> <p>[ExA Comment: Redrafting of this requirement to reflect SCDC comments at REP10-055. Would the applicant and SCDC wish to comment?</p> <p><i>What are the Special Landscape Areas referred to and should an explanation of the phrase be included under interpretation? The applicant and IPs may wish to comment]</i></p>	<p>planning applications. Highways England also has a managing agent in place to continue management until the landscaping is established following the five years (unlike many other developments which the LPA approves)</p> <p>As such, Highways England does not consider that paragraph (6) as drafted would be practicable.</p>

Amendment in ExA's draft DCO	Highways England comment
<p><u>Paragraph X of Part 1 of Schedule 2 – Archaeology (amendment)</u></p> <p>(1) No authorised development must commence until a written scheme for the investigation of areas of archaeological interest, <u>in accordance with the outline WSI</u> -reflecting the mitigation measures included in the environmental statement, has been submitted to and approved in writing by the Secretary of State.</p> <p>(2) Prior to the submission of the written scheme to the Secretary of State for approval under paragraph (1) above, the relevant planning authority must be consulted on its content.</p> <p>(3) The authorised development must be carried out in accordance with the scheme as approved under sub-paragraph (1)</p> <p>[ExA Comment: Would the County Council and the applicant confirm whether the WSI will be issued by end of Examination as set out in the SoCG REP10-049 LA01 para 4.4.]</p>	<p>The outline Written Scheme of Investigation for Archaeological Mitigation was accepted by Cambridgeshire County Council on 09 October 2015. The outline WSI was issued to Historic England on 14 October 2015.</p> <p>As such, it is considered that the additional wording proposed by the ExA is appropriate with minor drafting amendments. Highways England's proposed approach will be discussed at the Issue Specific Hearing on the DCO on 22 October.</p>
<p><u>Paragraph XX of Part 1 of Schedule 2 – Traffic monitoring and mitigation (new insertion)</u></p> <p>(1) no part of the authorised development is to commence until written details of a traffic impact monitoring scheme has been submitted to and approved in writing by the highways authority.</p> <p>(2) The traffic impact monitoring scheme must include:</p> <p>(i) a before and after survey to assess the changes in traffic;</p> <p>(ii) the locations to be monitored and the methodology to be used to collect the required data;</p>	<p>Highways England and Cambridgeshire County Council met to discuss the proposed traffic monitoring provisions on 16 October. An agreed position was reached, such that the broad principles contained in the ExA's proposed requirement was accepted as acceptable to both parties, subject to some minor drafting amendments.</p> <p>However, Highways England maintains that the securing of traffic monitoring should be contained in the proposed legal agreement between Highways England and Cambridgeshire County Council. This is particularly in the context of the timing envisaged for the traffic monitoring - it is not appropriate for there to be restriction on commencement of development in respect of measures that will take place following the completion of the development.</p> <p>As such, Highways England contends that this requirement is not needed and</p>

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<p>(iii) the periods over which traffic will be monitored;</p> <p>(iv) the method of assessment of traffic data;</p> <p>(v) control sites to monitor background growth;</p> <p>(vi) the implementation n of monitoring no less than 3 months before the implementation of traffic management on the existing A14;</p> <p>(vii) agreement of baseline traffic levels; and</p> <p>(viii) the submission of survey data and interpretative report to the Council</p> <p>[ExA Comment: New requirement inserted if the legal agreement currently being negotiated between the County Council and the applicant fails to be in place before the close of the examination. The applicant and IPs may wish to comment?]</p>	<p>should be deleted from the DCO.</p>
<p><u>Paragraph XX of Part 1 of Schedule 2 – Borrow pits (amendment)</u></p> <p><u>(1) The operation, restoration and aftercare (including longer-term maintenance and management) of the borrow pits must be carried out in accordance with the borrow pits restoration and aftercare strategy.</u></p> <p><u>(2) No part of Work Nos. 4.1 to 4.15 must commence until written details of the borrow pits restoration and aftercare strategy has been submitted to and approved in writing by the Secretary of State, following consultation with the highway authority and the relevant planning authority. Work Nos. 4.1 to 4.15 must be carried out in accordance with the approved details.</u></p> <p>[ExA Comment: REP10-001 CCC states that it would accept the Borrow Pits Restoration Plan as a certified document in the DCO being a</p>	<p>Highways England does not accept the wording proposed by the ExA.</p> <p>In respect of paragraph (1), the Strategy does not cover the operational phase of the borrow pits and hence 'operation' should be deleted. The Strategy sets out a 10 year aftercare period for each borrow pit which will be extended in relation to essential ecological mitigation only at some borrow pits. The proposal to insert 'longer- term maintenance and management' is too open ended and would apply to all sites.</p> <p>Paragraph (2) is not required on the basis of the Strategy being a certified document. It therefore does not require any further approvals and should not restrict the commencement of any works. The Strategy is an overarching framework – it does not constitute a detailed proposal for the restoration and aftercare of any site – this detail would be provided by site based Borrow Pit Restoration and Aftercare Plans. The Strategy does not place a specific approval role upon CCC, but in table 6-1 sets out a number of responsibilities</p>

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<p><i>“binding commitment by Highways England to consult with the Council in detailed design of the development, operation and restoration of the borrow pits.” The applicant and IPs may wish to comment.</i></p> <p><i>SCDC propose minor changes to the wording of this requirement as inserted. Does the applicant and other IPs wish to comment?</i></p> <p><i>There are still outstanding matters not agreed between the applicant and SCDC in relation to the aftercare period referred to in the Borrow Pits Restoration and Aftercare strategy. SCDC are looking for 15 years not 10 in light of their experience elsewhere. Does the applicant still resist? SCDC may wish to comment?</i></p> <p><i>SCDC propose 15 years aftercare for “more sensitive and intricate areas of landscape including borrow pits. REP10-055. Where are the sensitive and intricate areas of landscape referred to by SCDC? The applicant and IPs may wish to comment.</i></p> <p><i>New requirement proposed by ExA in response to concerns raised by local authorities. The applicant and IPs may wish to comment]</i></p>	<p>for stakeholders including for CCC.</p> <p>As Highways England has previously stated in its submissions to the examination, 10 years is considered adequate and appropriate and is agreed by a number of key stakeholders.</p> <p>It is not clear whether the South Cambridgeshire District Council suggestion in respect of “more sensitive and intricate areas of landscape including borrow pits” refers to all or some borrow pits. Clarification is required.</p> <p>Comments as above.</p>
<p><u>Paragraph XX of Part 1 of Schedule 2 – Post construction monitoring (new insertion)</u></p> <p>(1) No part of the authorised development is to be opened for public use until a post construction monitoring plan has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.</p> <p>(2) The post construction monitoring plan must cover the post construction monitoring of the effects of the authorised development to be undertaken including the effects of the and their mitigation on:</p>	<p>Highways England does not consider the proposed new requirement to be justified for the reasons given in document reference HE/A14/EX/153, PINS reference REP10-036 (Appendices 4 and 7).</p>

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<p>(a) noise; and</p> <p>(b) air quality.</p> <p>(3) Post construction monitoring must be carried out in accordance with the plan approved under sub-paragraph (1).</p> <p>[ExA Comment: New requirement proposed by ExA in response to concerns raised by local authorities. The applicant and IPs may wish to comment]</p>	
<p><u>Paragraph XX of Part 1 of Schedule 2 – Noise mitigation (amendment)</u></p> <p>(1) No part of the authorised development must commence until written details of proposed noise mitigation in respect of the use and operation of that part of the authorised development, including noise barriers, <u>and very low noise surfacing (vLNS)</u> have been submitted to and approved by the Secretary of State, following consultation with the relevant planning authority.</p> <p>(2) The written details referred to in sub-paragraph (1) must either</p> <p><u>(a) reflect the mitigation measures included in the environmental statement and shall ensure that the operational noise levels and adverse environmental noise effects from the project do not materially exceed or worsen those as described and reported in the environmental statement;</u> or,</p> <p><u>(b) where the mitigation proposed materially differs from the mitigation identified in the environmental statement, the undertaker must provide evidence with the written details submitted that the mitigation proposed would not give rise to any materially new or materially worse adverse environmental effects than those reported in the environmental statement taking into account the mitigation identified in it.</u></p>	<p>Highways England accepts the proposed changes to paragraph (1).</p> <p>Further to Highways England's Response to Deadline 10 Submissions (HE reference HE/A14/EX/172) to South Cambridgeshire District Council on this point, it was stated that Highways England does not accept the proposed changes to (2)(a). The changes would effectively give 'noise limits'. Limits could not be enforced (so do not meet the requirements of National Planning Policy Framework paragraph 203). Limits could not be enforced because it would require measurement and this is not practicable (reference ExA 2.10.1 and HE/A14EX/153 Appendix 4, PINS REP10-037). As set out above and in HE/A14EX/153, in order to comply with paragraph 5.196 of the National Policy Statement for National Networks this Requirement can only require "compliance by design" with the Highways England POPE process to ensure mitigation is delivered and fit for purpose. Huntingdonshire District Council and Cambridge City Council have accepted the original wording of the requirement on this basis.</p> <p>Further, the predictions of noise levels in the environmental statement do not in themselves mark a threshold of acceptability and thus a requirement linked to them would not pass the test of necessity.</p> <p>Highways England accepts the proposed changes to paragraph (3).</p>

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<p>(3) The noise mitigation must be constructed in accordance with the approved details referred to in sub-paragraph (1) and shall be retained thereafter</p>	
<p><u>Paragraph XX of Part 1 of Schedule 2 – Highway lighting scheme (amendment)</u></p> <p>(1) No part of the authorised development must commence until a written scheme of the proposed highway lighting to be provided for that part of the authorised development has been submitted to and approved by the Secretary of State, following consultation with the local-relevant planning authority and, in the case of proposed lighting for any highway for which the undertaker is not, or will not be following implementation of article 12(4) of this Order, the highway authority, the local highway authority.</p> <p>(2) The standard of the highway lighting to be provided by the scheme referred to in sub-paragraph (1) must either reflect the standard of the highway lighting included in the environmental statement or, where the standard of the highway lighting proposed materially differs from the standard of the highway lighting identified in the environmental statement, the undertaker must provide evidence with the written scheme submitted for approval that the standard of the highway lighting proposed would not give rise to any materially new or materially worse adverse environmental effects than those reported in the environmental statement taking into account the lighting identified in it. The standard of the highway lighting should encompass the specification, level of provision, light spillage, intensity, brightness and uniformity of the lighting.</p> <p>(3) The authorised development must be carried out in accordance with the scheme approved under sub-paragraph (1).</p> <p>(4) Nothing in this requirement restricts lighting of the authorised development during its construction or where temporarily required for maintenance.</p> <p>[ExA Comment: In their representations, Natural England asked for a</p>	<p>In respect of the ExA's comment in connection with Natural England, Natural England has agreed that a lighting plan can be provided during the detailed design stage. In section 4: Matters Agreed, item 14 in the final Statement of Common Ground between Highways England and Natural England, submitted at deadline 8 (Applicant reference E/A14/EX/122, PINS reference REP8-016), it is agreed that a lighting plan will be provided during detailed design and is provided for and secured by means of the Protected Species requirement in Schedule 2 to the draft DCO.</p>

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<p><i>lighting strategy to be prepared. Are they content with the wording of this requirement and should they be consulted in addition to the relevant planning authority? The applicant, NE and other IPs may wish to comment.</i></p> <p><i>ExA's proposed insertion for clarity. The applicant and IPs may wish to comment]</i></p>	
<p><u>Paragraph XX of Part 1 of Schedule 2 – Details of consultation (amendment)</u></p> <p>With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule, the details submitted must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation. Consultation responses will be reflected in the details submitted to the Secretary of State where appropriate, reasonable and feasible to do so.</p> <p>[ExA Comment: Drafting inserted for precision. Wording taken from para 1.8 of REP10-046]</p>	<p>Highways England accepts the ExA's proposed wording in principle.</p>
<p><u>Part 1 of Schedule 8 - Protective Provisions (amendment)</u></p> <p>Title amended to remove water and sewerage undertakers.</p>	<p>Highways England query the amendments made to the title of Part 1 of Schedule 8 - they will still cover water and sewerage undertakers.</p>
<p><u>Part 7 of Schedule 8 – Protective Provisions (new insertion)</u></p> <p>Anglian Water's proposed protective provisions have been inserted.</p>	<p>Discussions between Anglian Water and Highways England are on-going, although the principle of standalone protective provisions is accepted by Highways England.</p>
<p><u>Schedule 10 – Documents to be certified (new insertion)</u></p> <p>This new schedule has been inserted so all certified documents (and their</p>	<p>Please see comments on certification above.</p>

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<p>reference numbers) can be listed out.</p> <p>[ExA Comment: New Schedule inserted in line with PINS Guidance Note 15</p> <p>11.2 Plans and other documents which are required to be certified such as the land and works plans should be specifically listed in the relevant article. Applicants may wish to 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.</p> <p>The list of documents for inclusion in this Schedule is not complete and will need appropriate referencing. The Applicant and other IPs may wish to comment.]</p>	