

A38 Derby Junctions
TR010022

8.31 Schedule of Changes to the dDCO

Planning Act 2008

Rule 8 (1)(c)(ii)

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 8

November 2019

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure) Rules 2010**

A38 Derby Junctions
Development Consent Order 202[]

Schedule of changes to the dDCO

Regulation Number	Rule 8 (1)(c)(ii)
Planning Inspectorate Scheme Reference	TR010022
Application Document Reference	TR010022/APP/8.31
Author	A38 Derby Junctions Project Team, Highways England

Version	Date	Status of Version
Version 1	05 November 2019	Deadline 1 Submission

Schedule of changes to the dDCO

Article/Requirement/Schedule number	Change	Reason
Page 1	Delete 'laid before Parliament'	This has been deleted as Highways England is not anticipating special parliamentary procedure being required.
Preamble	Update to reflect appointment of 2 panel members	This change has been made in response to the ExA's question 6 in the DCO ISH questions table. In addition, the verb in paragraph 3 has been amended to reflect the plural subject.
Preamble	Replace 'part 15 of Schedule 5' with 'Part 1 of Schedule 5'	Raised by the ExA in question 7(a) of the DCO ISH questions and changed to amend an error.
Preamble	Add in reference to sections 125, 126 and 136 of PA 2008	Raised by the ExA in DCO ISH question 7 c). Changed as these clauses should be referred to in the dDCO.
Article 2(1)	Delete the reference to associated development in the definition of "authorised development" by deleting the words "and associated development"	In response to the ExA's question 8(a) in the DCO ISH questions, Highways England agrees that it is not necessary to refer to Associated Development in the definition of "authorised development" given that authorised development is referred to in Schedule 1. As such this term has been deleted from the definition of "authorised development" in the dDCO.
Article 2(1)	In the definition of commence replace 'conditions establishment' with 'conditions, establishment'	Grammatical point and changed to reflect the ExA's question 9(a) in the DCO ISH questions.
Article 2(1)	Addition of definition: "the traffic management plan" means the traffic management plan which establishes the outline rules for the traffic management and temporary road layouts needed to construct the consented Scheme and certified by the Secretary of State as the traffic management plan for the purposes of this Order;'	With reference to the ExA's question 60 in the DCO ISH questions, this definition has been included for the sake of clarity to differentiate between the TMP as included in Application document 7.4 and the final TMP as certified by the SoS.
Article 10	Inclusion of Cadent Gas Limited in article 10(4)(b) instead of National Grid Gas plc as a statutory undertaker to whom the benefit of the DCO may be transferred	This change has been made in response to Cadent Gas's relevant representation and is to reflect the correct company responsible for the gas apparatus to be diverted as part of the authorised development.

Article/Requirement/Schedule number	Change	Reason
Article 10(4)(a)	Delete the duplication of "21" and amend it to refer to "22"	This is to amend a typo so that the correct Work Nos are listed in this entry.
Article 14 (6)	Insert 'provided there are no materially new or adverse effects to those assessed in the environmental statement'.	This change has been included in response to the ExA's suggestion at question 25 of the DCO ISH questions.
Article 14 (6)	Delete the words 'from the date' from the sub-clause	This has been amended to reflect the point noted by the ExA in question 25 of the DCO ISH questions. The deleted words are superfluous as they repeat the subsequent words 'on a date'.
Article 23(1)	Deletion of the term 'and as described in the book of reference'	This is being deleted because the sub-clause refers to the Order land and within the definition of 'Order land' in article 2(1) there is already reference to the book of reference. As such, it adds nothing to the dDCO to have this term repeated in article 23 itself.
Article 29 (2)	Change reference from 6 year period to 5 year period	This change is being made to reflect the time limit contained in article 25. Article 25 requires the compulsory purchase powers sought under the DCO to be exercised within 5 years of the date of the made DCO.
Article 29(4)	Add bracket after 'compulsorily'	This bracket has unintentionally been omitted from the drafting of the dDCO.
Article 30	Creating a new sub-clause (9) beginning with "In Schedule A1(c) (counter-notice requiring purchase of land not in general vesting declaration) for..." and amending the current sub-clause (9) so that it becomes sub-clause (10)	This amendment is being made in response to the ExA's question 34 in the DCO ISH questions.
Article 33 (7)	Amending to change the reference from paragraph (5) to paragraph (6)	This change is made to correct an incorrect cross-reference in the article. It also addresses the ExA question 37 provided in the DCO ISH questions.
Article 33 (12)	The term 'such date to be determined by the undertaker' is deleted	This is being deleted because the inclusion of this wording does not make sense in the context of the sub-clause.
Article 35 (1)	Delete reference to "paragraph 35(2)" and replace it with "paragraph (2)"	This change is made as the reference is to a paragraph within the article itself. As such, the inclusion of "35" is not necessary. This is consistent with

Article/Requirement/Schedule number	Change	Reason
		the approach taken throughout the dDCO.
Article 43(1)	Delete reference to paragraphs (d) and (fb) of the Environmental Protection Act 1990	These references are being deleted in response to question 44 raised by the ExA in the DCO ISH questions. Given that the Environmental Statement does not consider that wither of these points are likely to occur it is not necessary to include reference to paragraphs (d) and (fb) of the Environmental Protection Act 1990.
Schedule 1, Work no. 3	Replace (b) with (a)	There is only a single paragraph in this Work No and it should start with (a) and not (b). The change is made to amend this error and is in response to the ExA's question 47 in the DCO ISH questions.
Schedule 1, Work no. 9	Work No. 9e) to be amended to read "a telecoms cable by 45m" and 9f) to be amended to read "a telecoms cable by 72m"	This change has to be made as the distances referred to in Work Nos 9e) and 9f) are the wrong way round, as noted by the ExA in its question 1.4 of the FWQs.
Schedule 1, Work no. 10	Both Work Nos 10(d) and 10(e) amended to refer to Work No 17 instead of Work No 11	This change is being made as the current reference to Work No 11 is incorrect. This change reflects the ExA's question 1.4 of the FWQs.
Schedule 1, sub-heading preceding Work no. 23	The inclusion of "Derby City Council" in the reference to the administrative areas prior to Work No. 23	Derby City Council is being included as there are works at Little Eaton which will be in the administrative area of Derby City Council, as well as Derby County Council and Erewash Borough Council. This change is made in response to question 47 raised by the ExA in the DCO ISH questions.
Schedule 1, Work no. 23	The list of items referred to in Work No 23 to be amended to be (a) to (d), rather than (i) to (l)	This change is made to amend a formatting error as the sub-works should start with (a) and follow on consecutively from it. This change is made in response to the ExA's question 48 in the DCO ISH questions and question 1.4 in the ExA's FWQs.
Schedule 1, Works no. 25	Replace the term "Little Eaton Roundabout (Work No. 21(a))" with "Little Eaton Roundabout (Work No. 30(a))"	The current reference in this entry to Work No. 23(a) is incorrect and it should be to 30(a) which is the correct reference to the alteration to the Little Eaton Roundabout. This change is made in response to the ExA's question 1.4 in the FWQs.

Article/Requirement/Schedule number	Change	Reason
Requirement 1(1)	Addition of definition: "core hours" means the working hours of 7:30 to 18:00 Monday to Friday and 8:00 to 13:00 on Saturdays	This addition has been made to clarify what core hours are being referred to in Requirement 3. This change has been made in response to the ExA's question 53 in the DCO ISH questions.
Requirement 3(2)(d)	The reference to the working hours of 7:30 to 18:00 Monday to Friday and 8:00 to 13:00 on Saturdays has been replaced with "core hours"	This change has been made to reflect the introduction of a definition for "core hours"
Requirement 3(2)	The current wording "Any other work carried out outside the core hours or any extension to the core hours may be possible with the prior agreement of the relevant environmental health officer provided that the activity is not materially worse than the activities assessed in the environmental statement" is to be replaced with "Any other work carried out outside the core hours or any extension to the core hours may be possible with the prior agreement of the relevant environmental health officer provided that the activity does not result in materially new or materially worse environmental effects as reported in the environmental statement".	This change has been made to ensure that there is consistency throughout the dDCO where reference is made to ensuring that an activity does not result in materially new or materially worse adverse environmental effects compared to those identified in the Environmental Statement. It also reflects the change proposed by the ExA as part of question 53(c) in the DCO ISH questions.
Requirement 10(2)	Add in the words "in consultation with Natural England" after the words "authorised development"	This amendment is being made to ensure that Natural England is consulted as part of the written scheme for the protection and mitigation measures to be used in the event that any previously unidentified protected species or nesting birds are found during construction.
Requirement 11(1)	Delete: ' the outline traffic management plan at appendix 2.3, Volume 3 to the environmental statement, and replaced with "the traffic management plan (document reference 7.4)"	The traffic management plan that will be used and updated during the examination is Document 7.4 (Examination reference APP-254), not the environmental statement appendix 2.3.
Requirement 13(1)	On the line of this entry delete the ',' and replace with 'and'	This is simply picking up a grammatical error.

Article/Requirement/Schedule number	Change	Reason
Requirement 13	Include a new sub-paragraph (3) to read "The surface and foul water drainage system must be constructed in accordance with the approved details referred to in sub-paragraph (1) and subsequently maintained."	This inclusion is being made in response to the ExA question 62 in the DCO ISH questions.
Requirement 14	Amend the title of this requirement so that it reads: "Flood compensation and storage". Delete the wording of the current requirement and replace it to read: 14. (1) No part of the authorised development at Little Eaton is to commence until a detailed floodplain compensation scheme has been submitted to and approved in writing by the Secretary of State, following consultation with the Environment Agency. (2) No part of the authorised development at Kingsway is to commence until a detailed flood storage scheme has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority. (3) The scheme prepared under sub-paragraph (1) must provide suitable floodplain compensation for any flood waters that would be displaced by the authorised development in the 1 in 100 year event including 50% allowance for climate change. (4) The scheme prepared under sub-paragraph (2) must provide suitable flood storage for any flood waters that would be displaced by the authorised development in the 1 in 100 year event including a 40% allowance for climate change. (5) The schemes must be fully implemented as approved and subsequently maintained.	This requirement has been amended to make it clear that there are two areas being developed as part of the authorised development which will include flood mitigation works. The previous requirement did not differentiate between floodplain compensation (which is being provided at Little Eaton only) and flood storage (which is being provided at Kingsway only). As such, these changes reflect that the floodplain compensation measures are being undertaken at Little Eaton and the flood storage works are being undertaken at Kingsway. In addition, Highways England confirms that it will consult with the EA on the flood compensation measures and the local planning authority on the flood storage; this is to reflect these organisations' respective statutory functions.
Requirement 16(2)	Delete "16" from the second line of requirement 16(2)	This is to amend a typo and to ensure consistency throughout the dDCO.

Article/Requirement/Schedule number	Change	Reason
Schedule 3	The reference to Derby City Council on the top two entries for Trunk Roads at Little Eaton are amended to refer to Derbyshire County Council instead	This change is being made as the first two entries are within the administrative area of Derbyshire County Council and not Derby City Council. This change address the point raised by the ExA in its question 67 of the DCO ISH questions.
Schedule 3, part 1	The first entry for Kingsway, in the column listed as "Length of road" is to be amended so that the entry refers to the "classification of roads plans" rather than "classification of roads plan"	This is a minor typo, missing an "s" in the entry. It addresses the ExA's question 68 of the DCO ISH questions.
Schedule 4, Part 3	Remove 4th column from the table which details "Private means of access to be stopped up for which no substitute is to be provided"	This column is being removed from Schedule 4, Part 3 as it is not required for this part.
Schedule 6 (heading)	Delete "Ref" next to "Schedule 6" and in its place include "Article 26"	This change is being made as the relevant article referring to Schedule 6 (i.e. article 26) is missing.
Schedule 9	Update paragraph lettering in definition of "utility undertaker"	This is being changed because in this definition, the list starts with "e" rather than an "a" as it should. As such, this is correcting a formatting error.
Schedule 10	Include reference to the Traffic Management Plan	This reference is being included at the request of the ExA (question 60 of the DCO ISH) as it is considered that the TMP should be a certified document. See also Article 2(1) note on this point above.
Schedule 10	Update to this schedule is required to each version of DCO	In response to the ExA's ISH question 80, we will update Schedule 10 as necessary with the draft DCO
Schedule 10	Add the examination library reference to the column 2 header and for each document.	In response to ISH 1, question 81, we have added the examination reference to column 3 and will update this and revision/version numbers for deadline 6 and for the final application DCO. This will ensure that any changes to documents made during the Examination are recorded accurately.