

11 June 2020

The following table lists a number of errors considered to be contained within the Lake Lothing Third Crossing DCO made on 30 April 2019 that the applicant, Suffolk County Council ('the Council'), has identified. In each case, the table sets out the correction which is being requested under Schedule 4 to the Planning Act 2008 and the reason for the request.

The requested corrections are shown as tracked changes in the version of the made DCO accompanying this request.

Article / Paragraph	Error(s)	Commentary and correction requested	
r dragrapii			
ARTICLES			
41(8) Operation of the new bridge	Reference to Scheme of Operation; reference to 'general' direction; variation notification and typographical errors.	The Council acknowledges that the changes made by the Secretary of State in this sub-paragraph relate to the matters dealt with in paragraphs 54 to 57 of the Secretary of State's Decision Letter ('the Decision Letter') and the Council does not request a change to the intention behind those changes. However, there are points of detail which the Council considers are correctable errors which will enable the intentions of the Secretary of State's changes to be fully met. These are set out below: • It is understood from the harbour authority and from the Council's own considerations that, although the suggestion that this article should refer to a 'general' direction came from the harbour authority, it is the case that the various pieces of enabling local legislation for the Port of Lowestoff do not include power for the harbour authority to issue (sic) general directions under local legislation, as is the case with local legislation for other ports. However, the harbour authority is able to give a 'harbour direction' under section 40A of the Harbours Act 1964, pursuant to the Harbour Directions (Designation of Harbours) (No.2) Order 2015, which under section 40D, can apply either 'generally' or to specific circumstances. Under section 40A(2) such directions can be given in relation to the 'movement of ships'. In this context, it is considered that it would be appropriate for this article to be clear as to what is meant by a 'general direction', namely that it is a harbour direction that applies generally to Lowestoft Harbour under the auspices of the 1964 Act as opposed to a general direction given under local legislation (the latter being known as general directions rather than harbour directions). This would ensure that full effect is able to be given to the Secretary of State's intentions set out in paragraphs 54 to 57 of the Decision Letter. The Council has therefore suggested a change to the article to add a definition of 'general direction' in a new paragraph with a related footnote, to achieve this clarit	



Article / Paragraph	Error(s)	Commentary and correction requested	
		 The Council is concerned that the wording of the made Order will allow the harbour authority discretion as to which requirements of the Scheme of Operation are 'relevant' to be included in a harbour direction. As the Scheme of Operation is the fundamental document which will determine the operation of the new bridge and the interaction of the vessels with it, and is to be a statutorily certified document as a consequence of this article and the Order, it is considered that allowing this discretion would lessen its role that has been clear from the first draft of the Order submitted with the application for the Order. Further to the comments of the Secretary of State in paragraph 55 of the Decision Letter, it is the case that the Scheme of Operation will sit alongside the directions of the harbour authority that are given from time to time. As such, there needs to be certainty to vessel masters and to the Council that all the requirements of the Scheme of Operation which relate to vessels will apply to vessels, not just those which the harbour authority considers as relevant. The Scheme of Operation is clear as to which provisions direct vessel masters to undertake actions, so there will be no lack of clarity if all such provisions are referred to in the general harbour direction. The Council therefore requests that the word 'relevant' is removed before 'requirements' in this paragraph and that a reference to those requirements 'relating to the masters of vessels' is added. The Secretary of State's changes provide that a general direction must be issued by the harbour authority in respect of a varied or replaced Scheme of Operation as soon as practicable following a variation/replacement or with prior notice as considered appropriate by the harbour authority in consultation with the Council. In the Council with the croacil therefore suggests that the paragraph simply states 'at such times and with such prior notice as the harbour authority considers appropriate in consultation	



Article / Paragraph	Error(s)	Commentary and correction requested	
		All of these changes have been agreed with the harbour authority, and the Council understands that a letter confirming this agreement will be sent to the Secretary of State shortly following the submission of this request.	
46(5) and 46(4) Byelaws	Commencement of changes to Lowestoft Harbour Byelaws 1993 brought forward by the	As article 46(5) is currently drafted, the Order changes the existing byelaws for the Port of Lowestoft to account for the new bridge from the date the Order comes into force. However, this will lead to a situation where the byelaws would control vessels within the Port in relation to something that does not yet exist, leading to a potential lack of clarity in the meaning and enforceability of those byelaws.	
	Order	As can be seen from the wording of article 46(5), the proposed additions to the 1993 Byelaws relate to the interaction of vessels with the new bridge once it is causing a potential risk to masters navigating vessels within the Port. It would therefore be more appropriate for the commencement date for these additions to those byelaws to come into force at a date associated with the bridge beginning to cause this risk.	
		However, the Council notes the need for legal certainty as to when that commencement date would be, given the criminal sanctions associated with non-compliance with the byelaws.	
		The Council notes that there are references in the Order to the opening of the new bridge for public use, however the Council considers that such wording would not be appropriate in article 46(5), as the new bridge may affect the operation of vessels prior to its opening to vehicular traffic.	
		Furthermore, the Council recognises that the harbour authority will have an interest as to when the byelaws come into force, both in practical terms in terms of managing navigation with the Port, and from a jurisdictional sense in terms of it needing to be ready to enforce the amended byelaws. As such, any revised wording needs to provide a role for the harbour authority.	
		The Council therefore requests that article 46(5) should be replaced with the following wording:	
		(5) On a date appointed by the undertaker, which must follow—	
		(a) the undertaker having first sought the harbour authority's written consent to the proposed date not less than 28 days before the date intended to be appointed; and	
		(b) the harbour authority having consented in writing to the date intended to be appointed (such consent	



Article / Paragraph	Error(s)	Commentary and correction requested		
		not to be unreasonably withheld) not less than 21 days before that date,		
		the Lowestoft Harbour Byelaws 1993 are amended as follows—		
		Following on from this, and further to the discussion in paragraphs 54 to 57 of the Decision Letter, the Council suggests that a new article 46(6) is then added which states:		
		The harbour authority must issue a notice to mariners setting out the changes to the Lowestoft Harbour Byelaws 1993 contained in paragraph (5) and the date on which those changes will have effect, not less than 21 days before the date appointed by the undertaker under paragraph (5).		
		These changes will allow the Council and the harbour authority to agree a date which accurately reflects the arising of risks to navigation but which also gives masters of vessels sufficient notice to prepare for the changes to the byelaws coming into force.		
		Consequential changes to the cross-references within article 46 would need to be made if the above changes are accepted by the Secretary of State, which are included in tracked changes in the version of the made DCO attached to this request.		
		All of these changes have been agreed with the harbour authority, and the Council understands that a letter confirming this agreement will be sent to the Secretary of State shortly following the submission of this correction request.		
		In a similar vein, the Council notes that the wording of article 46(4) provides for the byelaws in Schedule 10 having effect from the making of the Order, which would not make sense in the absence of the new bridge actually existing. However, it is noted that the byelaws in Schedule 10 are related to controlling behaviour on the new bridge once it is open. As such, they only need to come into force when the new bridge is open to public use, not at any earlier time. As such, a proposed change has been made to article 46(4) to that effect.		



Article / Paragraph	Error(s)	Commentary and correction requested	
49(1)(a) Transfer of benefit of Order, etc.	Typographical error	A typographical error has arisen in connection with changes made to this article by the Secretary of State prior to the making of the DCO. The reference to "the under" in article 49(1)(a) should be to "the undertaker". The Council therefore requests that article 49(1)(a) is amended to read as follows: "transfer to another person (the transferee) any or all of the benefit of the provisions of this Order that apply to the undertaker;"	
SCHEDULES	4, 11 and 14 – OMISSIONS A	ND CORRECTIONS	
	Introduction	The Council refers to correspondence submitted on its behalf by Pinsent Masons to the Department for Transport by email on 22 January 2020, which included an updated version of the draft Order, a covering letter explaining the changes proposed in that updated draft Order, and revised versions of the Works Plans (Key Plan and Sheet 2 of 2) and the Rights of Way and Access Plans (Sheet 2) ("the correspondence"). A copy of the correspondence is attached in the Appendix to this request. The correspondence explains in detail the background to and reasons for the omissions and corrections, to which the following elements of this correction request relate. That detail is not repeated here. In summary, however, the correspondence included a request for the acceptance of small revisions to the plans (as referenced above and detailed in the correspondence), together with related minor drafting amendments in Schedule 4 (Stopping up and re-provision of highways and private means of access), Schedule 11 (Traffic Regulation Measures) and Schedule 14 (Certification of Documents) to the Order. The revisions to the plans sought to rectify minor drafting anomalies which had occurred during the examination of the application, when updated plans were being submitted pursuant to the Examining Authority's acceptance of an application for a small number of minor, non-material changes to the scheme. When the Order was made on 30 April 2020, the amendments requested in the correspondence were not included. Those amendments are now requested here, for the purposes of rectifying omissions, the provenance of which is set out in full in the correspondence.	



Article / Paragraph	Error(s)	Commentary and correction requested	
Schedule 4 Part 1, column (4)	Changes relating to the new turning head at the eastern-most end of Canning Road	that in column (4) of that row a new "Reference F" is added in the following terms, in order to correct an	
(new highway Reference (F))		"Reference F A length of new highway from a point on the existing Canning Road 10 metres east of the Registry Office Access for a length of 6 metres in a generally northerly direction and being the length of highway comprising the new Canning Road turning head."	
Schedule 11 Part 1, column (2), 13 th row under sub- heading for		In calculating the measurements to inform the drafting for Reference F, the Council noted that related measurements in the entry in Part 2 of Schedule 11 (Traffic Regulation Measures) proposing new 'No waiting (at any time)' restrictions in the new turning head at Canning Road (i.e. the 13 th row/entry under the subheading identifying measures relating to 'Sheet 2' of the Traffic Regulation Measures Plans (Clearways and Prohibitions)) should also be subject to a minor correction. The correction is shown in the enclosed mark-up of the made Order.	
sheet 2		If corrected, the above-mentioned entry in column (2), row 13 under sub-heading 'sheet 2', in Part 2 of Schedule 11 would read as follows:	
		"Canning Road A length of improved highway from a point on the existing Canning Road 10 metres east of the Registry Office Access for a length of 7 metres in an easterly direction and including the length of highway comprising the new Canning Road turning head".	
Schedule 14 (Documents to be certified)	Changes to the reference numbers or revision numbers identifying some of the documents required to be certified by the Secretary of State and correction of some minor	In preparing the correspondence, the Council noted that a number of the document references included in Schedule 14 to the Order contained inaccuracies. The necessary corrections are shown in the enclosed markup of the Order and are listed (correctly) below, with the changed/new text shown in bold. The corrections shown in bold below also include some minor typographical errors. The bold text is used for highlighting purposes only; it is not intended that it be replicated in the Order, in the event that the corrections requested are accepted.	



Article / Paragraph	Error(s)	Commentary and correction requested		
	typographical errors	(1)	(2)	
		Document	Description	
		book of reference	The book of reference contained in document reference [SCC/LLTC/EX/183].	
		engineering section drawings and plans	Item (i) – current text to be deleted (i.e. no reference to Sheet 8) and replaced with the amended item (j) (as below):	
			"(i) Side Roads Sheet 9 revision number P01 contained in document reference [SCC/LLTC/EX/ 148]."	
		environmental statement	Item (k) – to read as follows: "(k) Chapter 11 of the Environmental Statement contained in document reference [SCC/LLTC/EX/ 70]."	
		general arrangement plans	Item (x) – to read as follows: "(x) Sheet 2 revision number P01 contained in document reference [SCC/LLTC/ EX /123]."	
		landscaping plans	Item (dd) – to read as follows: "(dd) Sheet 2 revision number P02 contained in document reference [SCC/LLTC/EX/139]."	
		rights of way and access plans	Item (gg) – to read as follows:	



Article / Paragraph	Error(s)	Commentary and correction requested	
			"(gg) Key Plan revision number P02 contained in document reference [SCC/LLTC/EX/129]."
			Item (ii) – to read as follows:
			"(ii) Sheet 2 revision number P02 contained in document reference [SCC/LLTC/EX/131]."
		traffic regulation measures plans	Item (jj) – to read as follows:
			"(jj) Key Plan revision number P01 contained in document reference [SCC/LLTC/EX/131]."
		works plans	Item (oo) – to read as follows:
			"(oo) Key Plan revision number P02 contained in document reference [SCC/LLTC/EX/127]."
			Item (pp) – to read as follows:
			"(pp) Sheet 2 revision number P02 contained in document reference [SCC/LLTC/EX/128]."



11 June 2020

APPENDIX

THE CORRESPONDENCE

comprising:

Letter dated 22 January 2020 from Pinsent Masons (Robbie Owen) to the Department for Transport (Colin Dunn)

and enclosed plans as follows:

Plan Set	Sheet No.	Document Revision and Reference	Commentary
Works Plans	Key Plan	Revision number P02 contained in document reference [SCC/LLTC/EX/127]	Short extension to the centreline of Work No. 4 to accommodate the new turning head at the easternmost end of Canning Road Corresponding minor amendment to the limit of deviation for Work No. 4 to accommodate the new turning head at the easternmost end of Canning Road
	Sheet 2 of 2	Revision number P02 contained in document reference [SCC/LLTC/EX/128]	
Rights of Way and Access Plans	Sheet 2 of 2	Revision number P02 contained in document reference [SCC/LLTC/EX/131]	New label added to identify, as "Reference F", the short length of new highway comprising the new turning head at the easternmost end of Canning Road

Colin Dunn
Transport Infrastructure Planning Unit
Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Our Ref 108921573.3\hs06\SU0035.07002

DDI +44 121 626 5770

E robbie.owen@pinsentmasons.com

22 January 2020

Dear Sir

PROPOSED LAKE LOTHING (LOWESTOFT) THIRD CROSSING ORDER

We write with an updated version of the draft development consent order.

It contains a number of minor amendments, most of which are stylistic and intended to follow current drafting practice or address typographical errors and omissions, including those made in transcribing changes agreed with stakeholders (such as within the deemed marine licence).

None of the amendments is significant or substantive and all are, we think, self-explanatory.

Please also find enclosed the revised versions of the Works Plans Key Plan and Sheet 2 of the Works Plans (Planning Inspectorate Document References, REP10-019 and REP10-020, respectively) which we have noticed should have been submitted at Deadline 10 in response to the Examining Authority's Procedural Decision (Planning Inspectorate Document Reference PD-015) dated 9 May 2019, accepting proposed non-material change reference NMC1 (among other NMCs). NMC1 comprises a new turning head at the eastern-most end of Canning Road.

The enclosed version of the Key Plan and Sheet 2 both include two minor amendments to Work No. 4, both of which are required to give proper effect to non-material change reference NMC1 (as accepted in PD-015) and which are as follows:

a further short extension to the centreline of Work No. 4 at the easternmost end of the
east-west limb of that numbered work, to ensure that the turning head (NMC1) can be
delivered in the correct location (where Work No. 4 abuts Work No.1) – this is in
addition to the short extension included in the versions of the Key Plan and Sheet 2 of
the Works Plans (REP 10-019 and REP10-020, respectively) submitted at Deadline 10
which reflected the incorrectly drafted extension shown in Figure 5 of Suffolk County
Council's document titled 'Proposed Non-Material Changes to the Application'
(document reference SCC/LLTC/EX/69; Planning Inspectorate reference REP4-013);
and

Pinsent Masons LLP

30 Crown Place London EC2A 4ES United Kingdom

T +44 (0)20 7418 7000 F +44 (0)20 7418 7050 DX 157620 Broadgate



• a minor amendment to the lateral limit of deviation ("LoD") on the north side of the easternmost end of the east-west limb of the centreline of Work No.4, to accommodate the turning head comprised in non-material change reference NMC1.

The above-mentioned amendment to the lateral LoD was unintentionally omitted from the versions of the Key Plan and Sheet 2 of the Works Plans that were submitted to the Examining Authority at Deadline 10 of the examination (REP10-019 and REP10-020, respectively). The amendment to the lateral LoD (as well as the correct length of extension to the centreline of Work No. 4) should have been made in order to reflect the corresponding changes made to other plan sets to accommodate the turning head (NMC1) when it was accepted by the Examining Authority in the above-mentioned Procedural Decision (PD-015) by reference to document REP4-013), in which the changes to plans required to accommodate NMC1 (the turning head) are shown in:

- Figure 3 extract from Sheet 2 of the General Arrangement Plans showing the layout of the turning head;
- Figure 4 extract from Sheet 5 of the Land Plans showing the necessary increase in the area of plot 03-44 (pink land subject to compulsory acquisition powers) and the corresponding reduction in the area of adjoining plot 03-45 (blue land subject to a power to acquire new rights over land); and
- Figure 6 extract from Sheet 2 of the Rights of Way and Access Plans showing private means of access reference 8 relocated at the northern extent of the turning head (NMC1).

All of the above-mentioned plan sets were revised and submitted at Deadline 10, in accordance with the Examining Authority's Procedural Decision (PD-015).

However, whilst Figure 5 (extract from Sheet 2 of the Works Plans) in document REP4-013, and the consequentially amended Key Plan and Sheet 2 of the Works Plans submitted at Deadline 10 (REP 10-019 and REP10-020, respectively), do show a small extension to the easternmost end of the east-west limb of the centreline of Work No. 4 to accommodate the turning head (NMC1), neither of these shows the amendment to the lateral LoD which is necessary to accommodate the turning head. The LoD should be amended to follow the outline of plot 3-44 on the revised Land Plans (Sheet 5) (REP10-018) submitted at Deadline 10 as shown in the excerpt below.

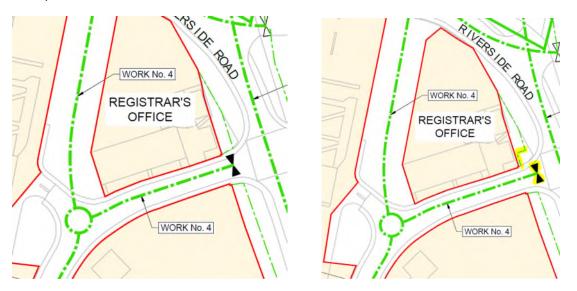


Figure 1: Sheet 2 of the Works plan as submitted to Deadline 10 (left) compared to highlighted amendments in the version appended to this letter (right).



In addition, as explained above, the centreline for the turning head element of Work No. 4 needs to be extended to match the turning head as shown in Figures 3, 4 and 6 of document REP4-013 and in the related revised plan sets submitted at Deadline 10 (General Arrangement Plans, Sheet 2 – REP10-015; Land Plans, Sheet 5 – REP10-018; and Rights of Way and Access Plans, Sheet 2 – REP10-023). We should therefore be grateful if you would please accept the enclosed revised versions of the Key Plan and Sheet 2 of the Works Plans in substitution for Planning Inspectorate Document References REP10-019 and REP10-020, as the enclosed drawings correctly give effect to the Examining Authority's Procedural Decision on the non-material changes to the scheme (PD-015).

We also enclose a revised version of Sheet 2 of the Rights of Way and Access Plans, which we should be grateful if you would also accept in substitution for the version submitted at Deadline 10 (REP10-023). The Deadline 10 version (REP10-023) includes green hatching representing new highway forming the northernmost part of the new turning head at Canning Road (NMC1), as accepted in the Examining Authority's Procedural Decision (PD-015); however, the hatched area has not been allocated a reference number and corresponding entry in the related Schedule to the DCO. This unintentional oversight has been corrected in the enclosed revised version of Sheet 2 of the Rights of Way and Access Plans, where the green hatched area of new highway comprising part of the new turning head is labelled 'Reference F'. A corresponding entry (identifying new highway Reference F) has been added to Part 1 of Schedule 4 in the enclosed mark-up of the draft DCO.

Lastly, in calculating the measurements to inform the drafting for Reference F, it was considered that related measurements in the entry in Schedule 11 (Traffic Regulation Measures) proposing new 'No waiting (at any time)' restrictions in the new turning head should also be subject to a minor amendment, as shown in the enclosed mark-up of the draft DCO.

Please do not hesitate to contact us should you have any queries in relation to the above or the enclosed.

Yours faithfully

For and on behalf of Pinsent Masons LLP

Enclosure(s): Revised draft DCO

Revised Works Plans: Key Plan and Sheet no. 2 Revised Rights of Way and Access Plans: Sheet no. 2

