

CORRECTION NOTICE

LAKE LOTHING (LOWESTOFT) THRD CROSSING ORDER 2020 (S.I. 2020 No. 474)

SCHEDULE 4 TO THE PLANNING ACT 2008 CORRECTION OF ERRORS IN DEVELOPMENT CONSENT DECISIONS

21 October 2020

The Secretary of State received a request dated 11 June 2020 from Pinsent Masons, solicitors, acting on behalf of Suffolk County Council (“the Applicant”) for the correction of errors and omissions in the Lake Lothing (Lowestoft) Third Crossing Order 2020 (“the Order”), under paragraph 1(5)(a) of Schedule 4 to the Planning Act 2008.

The Secretary of State has made the following corrections to the Order:

Corrections to the Articles

Article 41

In article 41(8), substituted article 41(8) with:

“The harbour authority must give a general direction imposing the requirements of the Scheme of Operation relating to the masters of vessels on the masters of vessels not less than 21 days prior to the new bridge opening for public use and, in relation to any variation to or replacement of the Scheme of Operation under paragraph (2), with such prior notice as the harbour authority considers appropriate in consultation with the undertaker or, in the event that prior notice cannot be given, as soon as practicable following any variation or replacement.”

Secretary of State’s rationale: To make clear the circumstances in which the harbour authority must give a general direction, and to clarify the trigger for issuing an updated general direction. To correct typographical errors.

Article 41

After article 41(9), inserted a new article 41(10) stating:

“In paragraph (8) “general direction” means a harbour direction given by the harbour authority under section 40A of the Harbours Act 1964(a) that applies generally to Lowestoft Harbour.”

In article 41(10), after “Harbours Act 1964”, added a new footnote (a) stating:

“1964 c.40. Section 40A was inserted by section 5(1) of the Marine Navigation Act 2013 (c. 23). The harbour authority is able to make such harbour directions pursuant to the Harbour Directions (Designation of Harbour Authorities) (No. 2) Order 2015 (S.I. 2015/1656).”

Secretary of State’s rationale: To make clear that the reference to “general direction” under article 41(8) means a harbour direction which applies generally to Lowestoft Harbour.

Article 46

In article 46(4), inserted “From the opening of the new bridge for public use,”, and then continuing as in the Order as made.

Secretary of State’s rationale: To make clear that the Lowestoft Third Crossing Byelaws 2020 have effect only from the opening of the new bridge for public use.

Article 46

In article 46(5), inserted:

“On a date appointed by the undertaker, which must follow—

(za) the undertaker having first sought the harbour authority’s written consent to the proposed date not less than 35 days before the date intended to be appointed; and

(zb) the harbour authority having consented in writing to the date intended to be appointed (such consent not to be unreasonably withheld) not less than 28 days before that date,

the Lowestoft Harbour Byelaws 1993 are amended as follows—” with subsequent text continuing as in the Order as made.

Secretary of State’s rationale: To ensure sufficient time periods are in place to enable notices to be issued timeously in conjunction with new article 46(6).

Article 46

After article 46(5), inserted a new article 46(5A) stating:

“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).”

Secretary of State’s rationale: To give masters of vessels sufficient notice to prepare for changes to the Lowestoft Harbour Byelaws 1993.

Article 49

In the second line of article 49(1)(a), substituted “under” with “undertaker”.

Secretary of State’s rationale: To correct typographical error.

Corrections to Schedules

Schedule 4

Part 1

At the end of the table, inserted a new row, and, in column (4) of that row, inserted:

“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.”

Secretary of State's rationale: To correct a non-material erroneous omission from the Order as made.

Schedule 11

Part 2

In the thirteenth row (the entry relating to the second reference of "Canning Road") below sub-heading "The traffic regulation measures plans (clearways and prohibitions) – sheet 2", in column (2) of that row replaced "8" with "10", "9" with "7", and "being" with "including".

Secretary of State's rationale: To correct factual errors in the description of the road.

Schedule 14

In column (2) of the table:

- In row 2 ('book of reference'), substituted "116" with "183";
- In row 5 ('engineering section drawings and plans'), in paragraph (i) substituted 'not used', in paragraph (j) substituted "149" with "148";
- In row 6 ('environmental statement') at paragraph (k), substituted "69" with "70";
- In row 7 ('general arrangement plans') at paragraph (x), substituted "[SCC/LLTC/123]" with "[SCC/LLTC/EX/123]";
- In row 14 ('landscaping plans') at paragraph (dd), substituted "[SCC/LLTC/123]" with "[SCC/LLTC/EX/139]";
- In row 21 ('rights of way and access plans') at paragraphs (gg) and (ii), substituted "P01" with "P02";
- In row 24 ('traffic regulation measures plans') at paragraph (jj), substituted "version" with "revision"; and
- (In row 26 ('works plans') at paragraph (oo), substituted "version" with "revision" and "P01" with "P02", and, at paragraph (pp), "replaced "P01" with "P02".

Secretary of State's rationale: To correct factual and typographical errors.

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118(4) of the Planning Act 2008, a decision under paragraph 1 of Schedule 4 to correct an error in an Order granting development consent can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order making the correction is published. The Lake Lothing (Lowestoft) Third Crossing (Correction) Order 2020 (as made) is being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/lake-lothing-third-crossing/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Correction Order referred to in this notice is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).