

M25 junction 28 improvement scheme

TR010029

9.28 Schedule of Changes to draft Development Consent Order

Rule 8(1)(k)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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M25 junction 28 scheme Development Consent Order 202[x]

9.28 SCHEDULE OF CHANGES TO DRAFT DEVELOPMENT CONSENT ORDER

Rule Number:	Rule 8(1)(k)
Planning Inspectorate Scheme Reference	TR010029
Application Document Reference	TR010029/EXAM/9.28
Author:	M25 junction 28 improvement scheme Highways England and Atkins

Version	Date	Status of Version
2	17 March 2021	Deadline 4
1	18 February 2021	Deadline 3a
0	4 February 2021	Deadline 2

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

**M25 junction 28 scheme
Development Consent Order 202[x]**

**TR010029/EXAM/9.28(2) SCHEDULE OF PROPOSED AMENDMENTS TO THE DRAFT
DEVELOPMENT CONSENT ORDER (dDCO) AS REVISED FOR DEADLINE 4**

Rule Number:	Rule 8(1)(k)
Planning Inspectorate Scheme Reference:	TR010029
Application Document Reference:	TR010029/EXAM/9.28(2)
Author:	M25 junction 28 scheme project team, Highways England and BDB Pitmans

Version	Date	Status of Version
Rev 0	17 March 2021	Deadline 4

The documents summaries the proposed amendments to the dDCO which were submitted at Deadline 4 (17 March 2021). These amendments are to the version of the dDCO submitted at Deadline 3A (Document reference REP3A-004). For ease of reference, text shown emboldened in red identifies insertion of new text, while text shown with a strike through are proposed for deletion.

No	Provision	Suggested amendment	Explanation for change
1.	Article 40(1)	Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 38 ³⁷ (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.	Correction
2.	Article 48(1)	Addition of a new sub-paragraph (f) and consequential amends to (d) and (e): (d) section 32 (variation of awards) of the Land Drainage Act 1991; and (e) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991; (f) the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 (bye-law making powers of the appropriate agency) to the Water Resources Act 1991.	Included with consent of the Environment Agency to ensure byelaws do not impact the Scheme unintentionally.
3.	Schedule 2 Requirement 1	New definition added: “Outline Arboricultural Method Statement” means the Outline Arboricultural Method Statement referred to in Schedule 10 (documents to be certified);	Amendment made as there is now a separate Requirement, Requirement 11, which relates to trees.
4.	Schedule 2 Requirement 1	New definition added: “Outline Traffic Management Plan” means the Outline Traffic Management Plan referred to in Schedule 10 (documents to be certified);	Amendment made as Requirement 10 updated to reflect that an Outline Traffic Management has been prepared for consideration as part of the examination.
5.	Schedule 2 Requirement 3(1)	The authorised development must be designed in detail and carried out so that it is compatible with the preliminary scheme design shown on the engineering drawings and sections unless otherwise agreed in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority and relevant highway authority on matters related to its	Added in response to TfL’s comments

No	Provision	Suggested amendment	Explanation for change
		functions, provided that the Secretary of State is satisfied that any amendments to the engineering drawings and sections showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.	
6.	Schedule 2 Requirement 4(1)	No part of the authorised development is to commence until a CEMP, substantially in accordance with the Outline CEMP, for that part has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority and relevant local highway authority to the extent that it relates to matters relevant to its functions.	Changed for consistency so that all Requirements within Schedule 2 which refer to the 'highway authority' make it clear that it is the 'relevant highway authority'.
7.	Schedule 2 Requirement 4(2)	<p>The CEMP must be written in accordance with ISO14001 and, so far as is relevant to that part of the authorised development, must reflect the mitigation measures set out in the REAC, and must include the following management plans—</p> <ul style="list-style-type: none"> (a) Pollution Prevention Plan; (b) Dust Noise and Nuisance Management Plan; (c) Ecological Habitats and Species Plan; (d) Invasive Species Management Plan; (e) Surface Water Management Plan; (f) Contaminated Land Management Plan; (g) Soil Handling Management Plan; (h) Material Management Plan; (i) Site Waste Management Plan; (j) Material, Waste Storage and Refuelling Plan; (k) Energy and Resource Use Management Plan; (l) Emergency Response Plan; and (m) Arboricultural Method Statement; (n) (m) Community Engagement Plan. 	Removed as there is now a separate Requirement, Requirement 11, dealing with Trees.
8.	Schedule 2	The authorised development must be landscaped in accordance with a landscaping scheme and LEMP which set out details of all proposed hard and soft landscaping works and 48 which has	Added in response to TfL's comments

No	Provision	Suggested amendment	Explanation for change
	Requirement 5(1)	been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority and relevant highway authority on matters related to its functions.	
9.	Schedule 2 Requirement 6(1)	In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement or in the Ground Investigation Report, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority, relevant highway authority and the Environment Agency.	Added in response to TfL's comments
10.	Schedule 2 Requirement 8(1)	No part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, reflecting the mitigation measures set out in the REAC including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation by the undertaker with the relevant planning authority and relevant highway authority on matters related to its function.	Added in response to TfL's comments
11.	Schedule 2 Requirement 10(2)	New sub-paragraph: (2) The traffic management plan prepared under sub-paragraph (1) must be substantially in accordance with the Outline Traffic Management Plan and reflect the relevant mitigation measures set out in the REAC.	Added as an Outline Traffic Management Plan has been prepared and forms part of the examination.
12.	Schedule 2 Requirement 11 (Trees)	New Requirement: Trees (1) No part of the authorised development is to commence until an Arboricultural Method Statement has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority to the extent that it relates to matters relevant to its functions.	Added in response to ExA's request for a separate Requirement for Trees and the Arboricultural Method Statement.

No	Provision	Suggested amendment	Explanation for change	
		<p>(2) The Arboricultural Method Statement must be substantially in accordance with the Outline Arboricultural Method Statement and reflect the relevant mitigation measures set out in the REAC.</p> <p>(3) The authorised development must be carried out in accordance with the approved Arboricultural Method Statement referred to in sub-paragraph (1).</p>		
13.	Schedule 2 Requirement 13(2) (Fencing)	<p>New sub-paragraph:</p> <p>(2) No part of the authorised development is to be opened for traffic until any appropriate deer fencing identified following consultation with the relevant planning authority and relevant highway authority on matters related to its function has been installed.</p>	Added in response to ExA's request that deer fencing be included as a Requirement.	
14.	Schedule 2 Requirement 18 (Details of consultation) (was previously Requirement 17)	In relation to any provision of this Schedule requiring details to be submitted to the Secretary of State for approval following consultation by the undertaker with another party, the undertaker must provide such other party with not less than 28 24 business days for any response to the consultation and thereafter the details submitted to the Secretary of State for approval must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted including copies of any representations made by a consultee about the proposed application and the undertaker's response to those representations that consultation.	Number of days changed in response to TfL's comments. Copies of representations to be sent to Secretary of State added in response to ExA's request that concerns of London Borough of Havering be addressed.	
15.	Schedule 4 Part 2 (Transport for London Road Network)	<p>(1) <i>Highway</i></p>	<p>(2) <i>Extent</i></p>	Deleted following submissions made by TfL that this was not needed as the A12 is already so designated.
		A12 Eastbound	Between points 1/1 on Sheet 1 to 1/2 on sheet 1 of the streets, rights of way and access plans	
16.	Schedule 4 Part 3 (Trunk Roads)	<p>(1) <i>Highway</i></p>	<p>(2) <i>Extent</i></p>	Plot removed
		M25 Junction 28, circulatory carriageway	Entire M25 Junction 28 circulatory carriageway linking points 1/3, 1/6, 1/7, 1/8,	

No	Provision	Suggested amendment			Explanation for change
		4/9, 1/11, 1/12 and back to 1/3 on sheet 1 of the streets, rights of way and access plans			
17.	Schedule 6	(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>	Amendments proposed following discussions with TfL and wording reviewed for consistency within the Schedule.
Land Plans – Sheet 1 of 4					
1/1a	To construct, protect, operate, access and maintain improvements to the A12 eastbound carriageway, a new private means of access and to construct, access and maintain diversion of an existing underground high pressure gas pipeline. To construct, access and maintain drainage works. To construct, operate, access and maintain diversions to existing utilities apparatus.	Work Nos 6 1,2,4,19A and 29 and other ancillary development (utilities)			
1/2	To construct, access and maintain improvements to the A12 eastbound carriageway	Work No. 1			
1/3	To construct, operate, access and maintain diversions to existing utilities apparatus. To construct and maintain a new private means of access.	Work No. 19A and other ancillary development (utilities)			
1/6	To construct, access and maintain drainage works from the new loop road.	Work No. 6			

No	Provision	Suggested amendment			Explanation for change
		1/7	To construct, access and maintain improvements to the A12 eastbound carriageway and to facilitate utility works	Work No.1 and other ancillary development (utilities)	
		1/8	To construct, protect, operate, access and maintain diversion of an existing underground high pressure gas pipeline.	Work No. 29	
		1/17	To construct, protect, operate, access and maintain the diversion underground of an existing overhead electric line.	Work No. 30	
		1/20	To construct, protect, operate, access and maintain a new drainage outfall pipe and the diversion underground of an existing overhead electric line. To construct, access and maintain a new drainage outfall pipe.	Work Nos. 22 and 30	
		1/21	To construct, protect, operate, access and maintain a new drainage outfall pipe and the diversion underground of an existing overhead electric line. To construct, access and maintain a new drainage outfall pipe.	Work Nos. 22 and 30	
		1/22	To provide maintenance working space and access to the diverted (underground) electricity line. and †To construct, access and maintain a new drainage outfall pipe.	Work Nos. 22 and 30	
		1/25	To install, access, monitor and maintain bird boxes.	Other ancillary development (bird boxes)	

No	Provision	Suggested amendment			Explanation for change
		1/27	<p>To install, access, monitor and maintain bird boxes.</p> <p>To construct, access and maintain—</p> <p>(a) improvements to the A12 eastbound off-slip (including Maylands Bridge and Grove culvert);</p> <p>(b) Grove Bridge; and</p> <p>(c) realigned stretches of Weald Brook and Ingrebourne River</p> <p>To construct, operate, access and maintain diversions to existing utilities apparatus.</p> <p>; and</p> <p>(d) apparatus of statutory undertakers.</p>	Work Nos. 2, 6, 23B, 24D and 26 and other ancillary development (bird boxes and utilities)	
Land Plans – Sheet 3 of 4					
3/15	<p>To construct, protect, operate, access and maintain the diversion underground of an existing overhead electric line.and</p> <p>To install, access, monitor and maintain bird boxes.</p>	Work No. 30 and other ancillary development (bird boxes)			
3/17	<p>To install installation, access, monitor and maintain maintenance of bird boxes.</p>	Other ancillary development (bird boxes)			
3/19	To construct, protect, operate, access and maintain the diversion underground of an existing overhead electric line.	Work No. 30			
18.	Schedule 8	(1)	(2)	(3)	Amendments proposed following discussions with TfL

No	Provision	Suggested amendment			Explanation for change
		<i>Plot Reference Number shown on Land Plans</i>	<i>Purpose for which temporary possession may be taken</i>	<i>Relevant part of the authorised development</i>	
		1/1	Construction works relating to improvements to the A12 eastbound carriageway.	Work No.1	
		1/1b	Construction works relating to improvements to the A12 westbound carriageway.	Work No.4	
		1/1c	Construction works relating to improvements to the A12 westbound carriageway and to the diversion of an existing underground high pressure gas pipeline.	Work Nos.4 and 29	
		1/1d	Construction works relating to improvements to the A12 westbound carriageway and to the diversion of an existing underground high pressure gas pipeline.	Work Nos.4 and 29	
		1/2	Construction works relating to improvements to the A12 eastbound carriageway	Work No.1	
		1/7	Construction works relating to improvements to the A12 westbound carriageway and to the diversion of an existing underground high pressure gas pipeline.	Work Nos.4 and 29	

No	Provision	Suggested amendment		Explanation for change	
		1/9	Construction works relating to the diversion of an existing underground high pressure gas pipeline.	Work No.29	
19.	Schedule 9, Part 3 (For the protection of the Environment Agency)	<p>22.—(1) Subject to sub-paragraph (67) the undertaker must from the commencement of the construction of the specified works until the date falling 12 months from the date of completion 75 (“the maintenance period”), maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.</p> <p>(2) Upon the expiry of the maintenance period, the drainage work must be maintained by the highway authority of the highway to which the specified work relates.</p> <p>(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker person liable for maintenance to repair and restore the work, or any part of such work, or (if the undertaker person liable for maintenance so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.</p> <p>(3) Subject to sub-paragraph (56), if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under subparagraph (23) on the undertaker person liable for maintenance, the undertaker person has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing will be recoverable from the undertaker that person.</p> <p>(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these Protective Provisions the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.</p> <p>(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (32), the Agency will not, except in the case of an emergency, exercise the</p>		Amendment made after further consultation with the Environment Agency. Protective provisions now agreed between Highways England and the Environment Agency.	

No	Provision	Suggested amendment			Explanation for change
		<p>powers conferred by sub-paragraph (34) until the dispute has been finally determined in accordance with paragraph 28.</p> <p>(6) This paragraph does not apply to—</p> <p>(a) drainage works which are vested in the Agency, or which the Agency or another person, including the highway authority, is liable to maintain and is not proscribed by the powers of the Order from doing so;</p> <p>(b) or any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule.</p>			
20.	Schedule 10	<i>(1)</i> <i>Document</i>	<i>(2)</i> <i>Document Reference</i>	<i>(3)</i> <i>Revision</i>	Outline Arboricultural Method Statement and Outline Traffic Management Plan Added to reflect changes made to Schedule 2, Requirements. Amends to revisions to reflect updated versions of documents or to correct document references.
	Book of Reference – Regulation 5(2)(d)	3			
	Environmental Statement – Main Report – Regulation 5(2)(a)	1			
	Environmental Statement – figures – Regulation 5(2)(a)	1			
	Environmental Statement – appendices– Regulation 5(2)(a)	1			
	Habitats Regulation Assessment Report – Regulation 5(2)(g)	2			
	Land plans – Regulation 5(2)(i)	1			
	Outline Arboricultural Method Statement	0			
	Outline Construction Environmental Management Plan – Regulation 5(2)(q)	2			
	Outline Traffic Management Plan	0			
	Register of Environmental Actions and Commitments – Regulation 5(2)(q)	2			

No	Provision	Suggested amendment			Explanation for change
		Statutory Nuisance Statement – Regulation 5(2)(f)		10	
		Water Framework Directive Assessment Compliance Report – Regulation 5(2)(a) and 5(2)(l)(iii)	TR010029/APP/2.3	10	

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