

M25 junction 28 improvement scheme

TR010029

9.29 Schedule of Changes to draft Development Consent Order

Rule 8(1)(k)

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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
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Version	Date	Status of Version
3	13 April 2021	Deadline 5
2	17 March 2021	Deadline 4
1	18 February 2021	Deadline 3a
0	4 February 2021	Deadline 2

The documents summaries the proposed amendments to the dDCO which were submitted at Deadline 5 (13 April 2021). These amendments are to the version of the dDCO submitted at Deadline 4 (Document reference REP4-002). 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 2(1)	Amendment to definition: “commence” means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations which do not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement , consisting of archaeological surveys and evaluations, ecological surveys, installation of amphibian fencing and pre-construction ecological mitigation under licenses, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, site clearance in connection with Work No. 29 and the establishment of construction compounds, and the temporary display of site notices or information, and “commencement” is to be construed accordingly;	Added in response to ExA’s WQ2
2.	Article 2(1)	New definition added: “permit scheme” means any schemes made under Part 3 of the Traffic Management Act 2004(b) in force at the date on which this Order is made” Footnote: (b) 2004 c. 18.	Added to reflect the position that there is a permit scheme in place within the Order Limits (the London Permit Scheme).
3.	Article 7(1)	(c) in respect of those parts of Work No. 6 situated between Duck Wood bridge and Grove bridge and Work No. 17 , deviate vertically from the levels of the authorised development shown on the engineering drawings and sections up to a maximum of 2 metres upwards or 2 metres downwards; (d) in respect of Work No. 18 deviate vertically from the levels of the authorised development shown on the engineering drawings and sections up to a maximum of 1.5 metres upwards or 1.5 metres downwards only ,	Added following acceptance by ExA’s of Changes 1 (removal of Work No 17) and change 2 (amendment of Work No.18 into an environmental bund).

No	Provision	Suggested amendment	Explanation for change
4.	Article 10	<p>Addition to sub-paragraph 3:</p> <p>(3) The following provisions of the 1991 Act (including any equivalent or modified provisions in any permit scheme) do not apply in relation to any works executed under the powers conferred by this Order—</p> <p>Addition of new sub-paragraphs:</p> <p>(8) Subject to paragraphs (3), (9) and (10), permit schemes will apply to the construction and maintenance of the authorised development and will be used by the undertaker in connection with the exercise of any powers conferred by this Part.</p> <p>(9) For the purposes of this Order a permit under a permit scheme may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions pursuant to the powers conferred by this Order.</p> <p>(10) Without restricting the undertaker’s recourse to any appeal mechanism which may be available under a permit scheme the undertaker may alternatively refer the matter to arbitration under article 54 (arbitration).</p> <p>(11) Any order which may be made by the Secretary of State under section 74A(2) of the 1991 Act for the purposes of the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012(a) will not have effect in relation to the construction or maintenance of the authorised development.</p> <p>Footnote: (a) S.I. 2012/425.</p>	<p>Changes added to reflect the position that there is a permit scheme in place within the Order Limits (the London Permit Scheme). The intention of Article 10 is to prevent anything under NRSWA inadvertently interfering with the scheme and is well precedented. Where there are permit schemes in place then similarly, Highways England would wish for nothing in the permit scheme to inadvertently interfere with the Scheme. The drafting makes it clear that any permit scheme still applies subject to the clarifications set out in terms of conditions. A precedent for this approach is the recently approved Southampton to London Pipeline DCO 2020.</p> <p>Article 10(11) has been added to make it clear that Highways England will not be charged for occupation of the highway in relation to the construction or maintenance of the authorised scheme.</p>
5.	Schedule 1	<p>Work No. 17 — Not used Deposit of surplus construction materials, over an area of land approximately 22,000 square metres in area, at a location situated to the west of Weald Brook as shown on sheet 3 of the works plans.</p>	<p>Added following acceptance by ExA’s of Change 1.</p>
6.	Schedule 1	<p>Work No. 18 — Deposit of surplus construction materials, Construction of an environmental bund over an area of land approximately 23,100 25,565 square metres in area, at a location</p>	<p>Added following acceptance by ExA’s of Change 2.</p>

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		situated alongside the new loop road (Work No. 6) and to the north of Work No. 19B as shown on sheet 1 of the works plans.	
7.	Schedule 1	Work No. 27 — A new pond, for environmental mitigation purposes, approximately 500 square metres in area, and situated at a location to the south of Work No. 17 north of Work No. 28 as shown on sheet 3 of the works plans.	Added following acceptance by ExA's of Change 1.
8.	Schedule 1	Work No. 32 — Accommodation works to provide replacement facilities for Maylands Golf Course, over an area of land approximately 13,521 14,598 square metres in area and situated at a location to the west of Work No. 29 as shown on sheets 1 and 3 of the works plans.	Added following acceptance by ExA's of Change 3.
9.	Schedule 1	ANCILLARY DEVELOPMENT In connection with the construction of any of the works mentioned above, such ancillary development within the e Order limits which does not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement, consisting of—	Heading removed in response to ExA's WQ GQ 2.5. Correction
10.	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 highway authority and the Environment Agency to the extent that it relates to matters relevant to its functions.	Added following a request by the Environment Agency
11.	Schedule 2, Requirement 5	(1)— 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 which 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 highway authority and the Environment Agency on matters related to its functions.	Added following a request by the Environment Agency

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12.	Schedule 2, Requirement 13	<p>—(1) Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with Manual of Contract Documents for Highway Works maintained by or on behalf for the undertaker except where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development, following consultation by the undertaker with the relevant highways authority to the extent that it relates to matters relevant to its function.</p> <p>(2) No part of the authorised development new loop road forming Work No.6 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>	<p>Change to (1) added in response to TfL's submission at Deadline 4 requesting consultation on departures from the DMRB on matters relevant to its function.</p> <p>Change to (2) added to make it clear that the timing under the requirement is linked to the opening of the new loop road. It was not correct to state 'authorised development' as this term included sections for the A12 and M25 for which traffic is already using and will continue to use.</p>
13.	Schedule 2, Requirement 14	<p>Addition of new Requirement:</p> <p>Operation of M25 Junction 28 Roundabout</p> <p>14.—(1) No part of the new loop road forming Work No. 6 is to be opened for traffic until a plan for the M25 Junction 28 roundabout containing details of the proposed operation of traffic signal timings or such other related measures as may be necessary to manage the risk of delays on the A1023 Brook Street as a result of the authorised development has been submitted to and approved in writing by the Secretary of State, following consultation with the highway authorities within the Order limits.</p> <p>(2) The authorised development must be operated in accordance with the approved plan referred to in sub-paragraph (1) or such amended plan following consultation with the highway authorities within the Order limits.</p>	<p>Added in response to TfL's suggestion at deadline 4 that a separate requirement be included to address both TfL and Havering's concerns over operation of traffic signalling at the M25 J28 roundabout. This therefore removes the need for a separate side agreement on this issue.</p>
14.	Schedule 2, Requirement 15	<p>Applications made under requirements</p> <p>(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—</p> <p>(a) the day immediately following that on which the application is received by the Secretary of State;</p>	<p>New numbering in light of new requirement 14</p>

No	Provision	Suggested amendment			Explanation for change
		(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 4416 (further information); or such longer period as may be agreed between the parties.			
15.	Schedule 2, Requirement 16	Further information (4) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 4415 (applications made under requirements) and in this paragraph.			New numbering in light of new requirement 14
16.	Schedule 2, Requirement 17	Register of requirements (1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in a form suitable for inspection by members of the public an online register of the documents to be certified under Schedule 10 and those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.			New numbering in light of new requirement. Text added in response to TfLs request at deadline 4.
17.	Schedule 8	(1)	(2)	(3)	Amendments made following acceptance by ExA to Changes 1,2 and 4
		<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>	
		Land Plans – Sheet 1 of 4			
		1/8a	Construction works relating to the diversion of an existing underground high pressure gas pipeline.	Work No. 29	
	1/11	To establish an environmental bund and construction compound and to undertake associated	Work No. 18 and, in respect of the construction compound, all works		

No	Provision	Suggested amendment			Explanation for change	
			construction activities including the deposits of surplus construction materials.			
Land Plans – Sheet 3 of 4			3/16	Construction working area for improvements to the M25 northbound carriageway, the realignment of the existing northbound on-slip, and a new private means of access and to facilitate the deposit of surplus construction materials.		Work Nos. 8; and 14 and 17
3/18	To facilitate the deposit of surplus construction materials establish an ecological mitigation area.	Work No. 17 25				
3/21	To facilitate the deposit of surplus construction materials and establish an ecological mitigation area.	Work Nos. 17 and 25				
18.	Schedule 10	Crown land plans – Regulation 5(2)(n)	TR010029/APP/2.5	0	Deleted as Forestry Commission has confirmed that there is no Crown Land within the Order limits.	

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