

CORRECTION NOTICE

A47 WANSFORD TO SUTTON DEVELOPMENT CONSENT ORDER 2023 (S.I. 2023 No. 218)

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

16 June 2023

The Secretary of State received a request dated 14 March 2023 from Womble Bond Dickinson acting on behalf of National Highways Limited (“the Applicant”) for the correction of errors and omissions in the A47 Wansford to Sutton Development Consent Order 2023 (“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 Articles

Article 2 (Interpretation)

In the definition of “maintain”, replace ““maintain”” with “maintain”,”.

Secretary of State’s rationale: to ensure grammatical accuracy.

In the definition of “traffic regulation plans”, replace “the plans of with “the documents of”.

Secretary of State’s rationale: to ensure consistency with other definitions referring to plans.

Article 32 (Acquisition of subsoil or airspace only)

In article 32(3)(a), replace “the 1965 Act)” with “the 1965 Act))”.

Secretary of State’s rationale: to ensure grammatical accuracy.

Schedule 2 (Requirements), Part 2 (Procedure of discharge of requirements)

In paragraph 14(3) (Applications made under requirements), replace “paragraph 2” with “paragraph 15”.

In paragraph 18(5) (Details of consultation), replace “sub-paragraph (1)” with “sub-paragraph (2)”.

Secretary of State’s rationale: to correct cross-referencing errors.

Schedule 3 (Classification of Roads etc.), Part 1 (Trunk roads)

Under the sub-heading “The classification of roads plans – sheets 3-4 and 6-7”, in column 2—

- renumber sub-paragraphs “(6)” and “(7)” as “(1)” and “(2)”; and
- for, “the Drift”, in both places where it appears, substitute “The Drift”.

Secretary of State’s rationale: To correct a cross-referencing error and ensure grammatical accuracy.

In the sub-heading “The classification of roads plans – sheet 2 and 3”, replace “sheet” with “sheets”.

Under the sub-heading, “The classification of roads plans – sheet 6”, in column 2, replace “the Drift” with “The Drift”.

Secretary of State’s rationale: To ensure grammatical accuracy.

Schedule 4 (Permanent stopping up of highways and private means of access and provision of new highways and private means of access), Part 1 (Highways to be stopped up for which no substitute is to be provided).

In column 1 of the table—

- after “Wansford” and “Sutton”, wherever they appear, add “CP”.
- under the sub-heading “The rights of way and access plans – sheet 7”, delete “Parish”.

Secretary of State’s rationale: to ensure consistency within Schedule 3.

Schedule 4, Part 2 (Highways to be stopped up for which an alternative is to be provided and new highways which are otherwise to be provided)

In column 1, after “Wansford” and “Sutton”, wherever they appear, add “CP”.

Secretary of State’s rationale: to ensure consistency within Schedule 3.

In column 4 of the table—

- under the sub-heading “The rights of way and access plans – sheet 3”, renumber sub-paragraphs “(15)” and “(16)” as “(1)” and “(2)”; and
- under the sub-heading “The rights of way and access plans – sheet 4” (row Sutton, column 4 references D3 and D5), renumber sub-paragraphs “(17)” and “(18)” as “(1)” and “(2)”; and
- under the sub-heading “The rights of way and access plans – sheet 4” (row Wansford, column 4 references D6 and D7), renumber sub-paragraphs “(19)” and “(20)” as “(1)” and “(2)”; and
- under the sub-heading “The rights of way and access plans – sheet 5”, renumber sub-paragraphs “(21)” and “(22)” as “(1)” and “(2)”.

Secretary of State’s rationale: to correct typographical errors.

Schedule 4, Part 3 (Private means of access to be stopped up for which a substitute is to be provided and new private means of access which are otherwise to be provided)

In column 1 of the table—

- under sub-heading “The rights of way and access plans – sheet 1”, replace “Thornaugh” with “Thornhaugh CP”; and
- after “Wansford” and “Sutton”, wherever they appear, add “CP”.

Secretary of State’s rationale: to correct a typographical error and for consistency within Schedule 4.

Schedule 4, Part 4 (Private means of access to be stopped up for which no substitute is to be provided)

In column 1 of the table—

- under the sub-heading “The rights of way and access plans – sheet 2”, after “Wansford” add “CP”; and
- under the sub-heading “The rights of way and access plans – sheet 4”, replace “Parish”, in both places where it appears, with “CP”.

Secretary of State’s rationale: to ensure consistency within Schedule 4.

Schedule 4, Part 5 (Alterations to private means of access)

In column 1, under the sub-heading “The rights of way and access plans – sheet 3”, after “Wansford” add “CP”.

Secretary of State’s rationale: to ensure consistency within Schedule 4.

Schedule 9 (Protective Provisions), Part 3 (For the protection of Anglian Water)

In paragraphs 25(4) and (5) (Removal of apparatus) and 28(3)(b) (Expenses and costs) replace “article 47”, wherever it appears, with “article 49”.

Secretary of State’s rationale: to correct cross-referencing errors.

Schedule 9, Part 4 (For the protection of NGG as gas undertaker)

In paragraph 48 (Arbitration), replace “paragraphs 40(2) and (2) (removal of apparatus) and 41(1)” with “paragraphs 40 (removal of apparatus) and 41”.

Secretary of State’s rationale: to correct cross-referencing errors.

Schedule 9, Part 5 (For the protection of National Grid Electricity Transmission PLC as electricity undertaker)

In paragraph 52, replace “paragraphs 52” with “paragraphs 53”.

Secretary of State’s rationale: to correct a cross-referencing error.

Proposed corrections not made

Article 43 (Defence to proceedings in respect of statutory nuisance)

In Article 43(1), after “section 79(1)” delete “(g)”.

Secretary of State’s rationale: It was stated in paragraph 229 of the Decision Letter for the Order that, “the Secretary of State, noting the lack of justification in the EM and that the precedents cited in it only refer to section 79(1)(g) (noise emitted from premises so as to be prejudicial to health or a nuisance) of the Environmental Protection Act 1990, is not persuaded that a need for the inclusion of subsection (1)(d) (dust), (ga) (noise emitted from or caused by a vehicle, machinery or equipment in a street) or (fb) (artificial light from premises) of that Act has been demonstrated.” The Applicant’s request for a correction does not address the lack of justification identified in the Decision Letter. It is therefore not considered that this constitutes a correctable error within the meaning of Schedule 4 to the Planning Act 2008.

Schedule 1 (Authorised Development)

In footnote (c) of Schedule 1, replace “other amendment” with “amendments”.

Secretary of State’s rationale: footnotes are not an operational part of the Order text and it is standard drafting practice that they should not be amended or modified by a subsequent instrument. It is considered that the same approach should be adopted in respect of requests for corrections and therefore it is not considered that this constitutes a correctable error within the meaning of Schedule 4 to the Planning Act 2008.

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 A47 Wansford to Sutton Order 2023 (as made) is being published on the Planning Inspectorate website at the following address:

[A47 Wansford to Sutton | National Infrastructure Planning
\(planninginspectorate.gov.uk\)](https://planninginspectorate.gov.uk/A47-Wansford-to-Sutton-National-Infrastructure-Planning)

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).