

# A12 Chelmsford to A120 widening scheme

**TR010060**

## 9.40 Schedule of Changes to draft DCO made at Deadline 3

Rule 8(1)(k)

Planning Act 2008  
Infrastructure Planning (Examination Procedure)  
Regulations 2010

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Planning Act 2008

The Infrastructure Planning  
(Examination Procedure) Rules 2010

**A12 Chelmsford to A120 widening scheme**  
Development Consent Order 202[ ]

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**Schedule of Changes to draft DCO made at Deadline 3**

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<b>Regulation Number</b>	Rule 8(1)(k)
<b>Planning Inspectorate Scheme Reference</b>	TR010060
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<b>Author</b>	A12 Project Team and National Highways

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# 1 Introduction

- 1.1.1 The submission draft Development Consent Order (DCO) (document reference TR010060/APP/3.1) was given the examination document number APP-039.
- 1.1.2 The following referencing errors were notified to the Applicant in S51 advice received at the time of acceptance of the application for development consent.
- 1.1.3 The following referencing errors were rectified in the second version of the draft DCO submitted under cover of the Applicant's letter of 21 September 2022:
- Article 12 (4) on p14
  - Article 15 (4) on p18
  - Article 22 (3) on p22
  - Article 30 (2) on p30
  - Article 31 (10) on p32
  - Article 42 (1) on p39
- 1.1.4 The revised draft DCO (version 2) is examination document number AS-020. The Applicant has since noted a number of additional revisions to the draft DCO that it proposes to make.
- 1.1.5 Rather than provide a further version of the draft DCO close to the Issue Specific Hearing on the topic of the draft DCO, scheduled for Wednesday 1 March 2023, the Applicant is submitting this list to inform the ExA and Interested Parties of the changes the Applicant proposes.
- 1.1.6 Following the ISH on 1 March the Applicant will submit a revised draft DCO, Explanatory Memorandum and validation report, together with comparisons, at Deadline 3.

## 1.2 Additional notes for Deadline 3.

- 1.2.1 This document is provided in "clean" and comparison versions, to show those changes made from the preliminary version of this document provided at deadline 2. This document will be provided as a new version with each subsequent revised draft DCO.
- 1.2.2 Following the ISH on 1 March the Applicant is now submitting a revised draft DCO, Explanatory Memorandum and validation report, together with comparisons, at Deadline 3. The dDCO is Version 3, and the Explanatory Memorandum is Version 2 of the documents. This is the first time a validation report has been submitted.
- A further updated version of this document, together with a further revised draft DCO will be provided at Deadline 4.

## 2 Summary of proposed changes to submission draft Development Consent Order

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
<b>Article 2 - definitions</b>	“maintain” in relation to the authorised development includes to inspect, repair, adjust, alter, improve, landscape, preserve, remove, reconstruct, refurbish or replace provided such works <del>do not are unlikely to</del> give rise to any materially new or materially different <del>significant adverse environmental</del> effects in comparison with those reported in the environmental statement, and any derivative of “maintain” is to be construed accordingly;	To better reflect previous precedent.	M42 Junction 6 Development Consent Order 2020 (SI 2020 No. 528)	-
<b>Article 2 - definitions</b>	“Order limits” means the limits of land to be acquired permanently or used temporarily as shown on the land plans, and the limits of land <u>within</u> which the authorised development as shown on the works plans may be carried out	Missing word	-	-
<b>Article 2 - definitions</b>	“temporary works” means those works shown on the <u>temporary</u> <del>permanent</del> works plans and described as temporary works in Schedule 1	Correction of a typographical error.	-	-
<b>Part 2, Principal Powers</b> Limits of Deviation Article 10 (3)(b)	'Undertaking' to be replaced with 'undertaker'  (3) In constructing and maintaining the— (a) flood mitigation works; and (b) borrow pits restoration works	Correction of a typographical error.	-	-

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
	shown on the permanent works plans, the <del>undertaking-</del> <u>undertaker</u> may deviate laterally within the limits of deviation for those works shown on those plans.			
<b>Article 12 (4) on p14</b> (change made following S51 Advice)	(4) The consent of the Secretary of State under this article is not required where the powers of article <b>Error! Reference source not found.</b> (compulsory acquisition of rights and imposition of restrictive covenants) are, with the consent of the undertaker given under article <b>Error! Reference source not found.</b> , proposed to be exercised by a statutory undertaker rather than by the undertaker, or are proposed to be exercised for the express benefit or accommodation of owners and occupiers of land, as identified in column (4) of the table in Part <del>3-4</del> of Schedule 4 <u>and in column (2) of the table in Part 5 of Schedule 4</u> (permanent stopping up of highways and private means of access and provision of new highways and private means of access) to this Order.	Change made following S51 Advice Additional change to reflect need to refer to Part 5 of Schedule 4	-	-
<b>Part 3, Streets</b> Classification of roads, etc. Article 15 (4)	Article 15(4) will be amended to refer to "Part 12" of Schedule 3:  (4) On such day as the undertaker may determine, the orders specified in column (3) of Part <del>8-12</del> (revocations and variations of existing traffic regulation orders) of	ExQ1, 6.0.12 states:  'Art 15 - Classification of road, (4) refers to Part 8 of Schedule 3, yet the EM [APP-040] refers to Part 12 of	-	-

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
(change made 26 September 2022 following S51 Advice)	Schedule 3 are to be varied or revoked as specified in the corresponding row of column (4) of that Part in respect of the lengths of roads specified in the corresponding row of column (2) of that Part.	Schedule 3, please clarify and update as necessary'. Change made 26 September 2022 following S51 Advice		
<b>Part 3, Streets</b> Classification of roads, etc. Article 15 (5)	(5) Unless otherwise agreed in writing with the relevant <del>highway planning</del> authority, the footpaths, cycle tracks, footways and bridleways set out in Part 13 (footpaths, cycle tracks, footways and bridleways) of Schedule 3 and identified on the streets, rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use from the date on which the authorised development is open for traffic.	Change made further to discussion at Issue Specific Hearing 2 on the draft DCO.	-	-
<b>Article 22 (3)</b>  (change made 26 September 2022 following S51 Advice)	(3) Except as provided in paragraph <b>Error! Reference source not found.</b> , on and after such day as the undertaker may determine, no person is to proceed or cause or permit any vehicle to proceed on any part of the lengths of road described in column (2) of Part <del>8</del> <u>9</u> (traffic regulation measures (prohibitions)) of Schedule 3 (classification of roads, etc.) and identified on the traffic regulation measures movement restrictions plans if they are, or the vehicle is of a type specified in the corresponding row of column (3) of that Part except	Change made 26 September 2022 following S51 Advice	-	-

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
	upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.			
<b>Part 5, Powers of Acquisition</b>  Article 30 (2)  (change made 26 September 2022 following S51 Advice)	(2) The powers of paragraph <b>Error! Reference source not found.</b> may be exercised by a statutory undertaker or by an owner or occupier of land identified in column (4) of the table in Part 3 4 of Schedule 4 (permanent stopping up of highways and private means of access and provision of new highways and private means of access) to this Order, instead of by the undertaker in any case where the undertaker has given its prior consent to that in writing, and that consent may be given subject to terms and conditions.	Change made 26 September 2022 following S51 Advice	-	-
<b>Article 31 (10)</b>  (change made 26 September 2022 following S51 Advice)	(10) From such date as the undertaker may determine, which may not be later than the date on which the private means of access listed in column 2 of Part 3 4 of Schedule 4 is stopped up, the owners and occupiers, their agents contractors and any person with the permission of the owner or occupier of the land to be accessed by the private means of access to be	Change made 26 September 2022 following S51 Advice	-	-



Article/Schedule	Change	Reason for change	Precedent	Consequential changes
	substituted or provided on the Order Land and listed in column 4 of Part <del>3</del> 4 of Schedule 4, will be entitled to take access to their land at all times with or without vehicles across or along the private means of access to be substituted or provided on the Order Land listed in column 4 of Part <del>3</del> 4 of Schedule 4.			
<b>Article 40</b>	(2) Not less than <del>14</del> 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph <b>Error! Reference source not found.</b> <b>Error! Reference source not found.</b> <b>Error! Reference source not found.</b>	Notice period extended at the request of Affected Parties and the ExA.	-	-
<b>Statutory Undertakers, Article 42(1)</b>  (change made 26 September 2022 following S51 Advice)	Reference to Schedule 10 (protective provisions) changed to Schedule 11 (protective provisions) in Revision 2 of the dDCO.  (1) Subject to the provisions of article <b>Error! Reference source not found.</b> (compulsory acquisition of rights and imposition of restrictive covenants), Schedule <del>10</del> 11(protective provisions) and paragraph	Correction to cross reference. Change made 26 September 2022 following S51 Advice	-	-

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
	<p><b>Error! Reference source not found.</b>, the undertaker may—</p> <p>(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, any Order land belonging to statutory undertakers; and</p> <p>(b) extinguish the rights of, or remove or reposition the apparatus belonging to, statutory undertakers over or within the Order land.</p>			
<p><b>Part 6, Operations</b></p> <p>Felling or lopping of trees and removal of hedgerows Article 46, 4 (b)</p>	<p>Addition of 'subject to consultation with the relevant planning authority'</p> <p>(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph <b>Error! Reference source not found.</b>—</p> <p>(a) remove any hedgerow described in Part 1 or Part 2 of Schedule 9 (hedgerows and trees); and</p> <p><b>(b) <u>subject to consultation with the relevant planning authority</u></b> remove any hedgerow within the Order limits that may be identified and that is not otherwise set out within Part 1 or Part 2 of Schedule 9.</p> <p>(5) In this article “hedgerow” has the same meaning as in the Hedgerows Regulations 1997<sup>(1)</sup> and includes important hedgerows.</p>	<p>In response to ExQ1, 6.0.6, which states 'Art 46, Felling or lopping of trees and removal of hedgerows: Parts 1 and 2 of Schedule 9 identifies those trees to be removed, however 4(b) appears to allow for the removal of any hedgerow regardless of whether it has been identified for removal or not. Please explain and justify why this element of Art 46 is required '</p>	<p>A428 Black Cat to Caxton Gibbet Development Consent Order 2022 (2022 No. 934), Article 42(4)</p>	

<sup>(1)</sup> S.I. 1997/1160 as amended by S.I. 2003/2155, S.I. 2015/1997, S.I. 2015/377, S.I. 2009/1307 and S.I. 2013/755.

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
<p><b>Part 7, Miscellaneous and General,</b> Crown Rights, Article 53 (1)(a)(i), (ii) and (iii) Paragraph renumbering.</p>	<p>Amend "Her Majesty" to "His Majesty"</p> <p><b>53.</b>—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker</p> <p>(a) to take, use, enter upon or in any manner interfere with any land or rights of any description—</p> <p>(i) belonging to <del>Her</del> <b>His</b> Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;</p> <p>(ii) belonging to <del>Her</del> <b>His</b> Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or</p> <p>(iii) belonging to a government department or held in trust for <del>Her</del> <b>His</b> Majesty for the purposes of a government department without the consent in writing of that government department.</p> <p>(b) Paragraph <b>Error! Reference source not found.</b> does not apply to the exercise of any right under this Order for the compulsory purchase of any interest in any Crown land (as defined in the 2008 Act) for the time being held otherwise than by or on behalf of the Crown.</p>	<p>Accession of King Charles III and comments made by the ExA in ExQ1 6.0.24.</p> <p>Formatting error in paragraph numbering.</p>	-	-

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
	<p>(2) A consent under paragraph <b>Error! Reference source not found.</b> may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.</p>			
<p><b>Schedule 1 – Authorised Development</b></p>	<p>Colchester Borough Council needs to be changed to Colchester City Council:</p> <p><b>In the County of Essex, in the administration areas of Chelmsford City Council, Braintree District Council, Maldon District Council and Colchester <del>Borough</del> City Council.</b></p> <p>The Works are situated as follows—</p> <p>U180A, U146A and part of Work Nos. 45a, 45b, 65b, 66a, 68a, 74a, 88a, 88b, 88c, 89a, 91b, 91c,</p> <p>76A, T39, T41, T43, T45, T46, T48, T49, U137, U140, U141, U149, U150, U154, U167, U168,</p> <p>U169, U170, U171, U172, U173 in the administrative area of Colchester <del>Borough</del> City Council.</p> <p>The authorised development is a nationally significant infrastructure project as defined in sections</p>	<p>Colchester now has City status. The change will be made at each instance in the dDCO where there is reference to the former status of the Council.</p>	<p>--</p>	<p>-</p>

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
	14 and 22 of the 2008 Act(a) and associated development within the meaning of section 115(2) of the 2008 Act, comprising—			
<b>Schedule 1 – Authorised Development</b>	The authorised development is a nationally significant infrastructure project as defined in sections 14, <b>20</b> and 22 of the 2008 Act( ) and associated development within the meaning of section 115(2) of the 2008 Act, comprising—	Change made to reflect the inclusion of the intermediate gas pipeline diversion as a second NSIP		
<b>Schedule 2, Part 1 Requirements</b> Requirement 2	The authorised development must not <del>begin</del> <u>commence</u> later than the expiration of 5 years beginning with the date on which this Order comes into force.	Changed at the request of Essex County Council.		
<b>Schedule 2, Part 1 Requirements</b> Requirement 3	The Applicant proposes to amend Requirement 3 in order to make the Environment Agency a consultee subject to it being limited to 'matters related to its function'.  3.—(1) Not to commence any part of the authorised development until the Second Iteration EMP in relation to that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning			

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
	<p><u>authority and the Environment Agency on matters related to its functions.</u></p> <p>(2) The authorised development must be constructed in accordance with the Second Iteration EMP.</p>			
<p><b>Schedule 2,</b> <b>Part 1</b> <b>Requirements</b> Requirement 4</p>	<p>The Applicant proposes to amend Requirement 4 in order to make the Environment Agency a consultee subject to it being limited to 'matters related to its function'.</p> <p>4. (1) Following completion of construction of the authorised development the Third Iteration EMP must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority <u>and the Environment Agency on matters related to its functions.</u></p> <p>(2) The authorised development must be operated and maintained in accordance with the Third Iteration EMP.</p>			
<p><b>Schedule 2,</b> <b>Part 1</b> <b>Requirements</b> Requirement 6</p>	<p>The Applicant proposes to amend Requirement 6 to include the wording contained in the made A47 Blofield to North Burlingham Order 2022 as follows:</p> <p>(2) Where the risk assessment prepared in accordance with sub-paragraph (1) determines that remediation of the contaminated land is necessary, a written scheme and programme for remedial measures to be taken to render the land fit for its intended purpose and to</p>	<p>Amendments further to consultation with the Environment Agency.</p>		

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
	prevent any impacts on controlled waters must be submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority <a href="#">and the Environment Agency on matters related to its functions.</a>			
<b>Schedule 2, Part 1 Requirements Requirement 10</b>	<p>The requirement is amended as follows:</p> <p>10. (1) The detailed design for the authorised development must accord with:</p> <p>(a) the preliminary scheme design shown on the works plans and the engineering drawings and sections; and</p> <p>(b) the principles set out in the environmental masterplan,</p> <p>(e) unless otherwise agreed in writing by the Secretary of State following consultation with the relevant local planning authority and relevant local highway authority on matters related to their functions, provided that the Secretary of State is satisfied that any amendments would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p>	Typographical error.		
<b>Schedule 2, Part 1 Requirements Requirement 11</b>	<p>Requirement 11 (2) is to be amended as follows:</p> <p>(2) The surface and foul water drainage system must be constructed in accordance with the approved details referred to in paragraph <b>Error! Reference source not</b></p>	To reflect agreement with Environment Agency	-	-

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
	<b>found.</b> unless otherwise agreed in writing by the Secretary of State following consultation with the relevant local authority on matters relating to its function <u>and the Environment Agency on matters relating to its function</u> , provided that the Secretary of State is satisfied that any amendments to the approved details would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.			
<b>Schedule 2, Part 1 Requirements Requirement 13 (5)</b>	Requirement 13 (5) is to be amended as follows: “The noise mitigation measures referred to in paragraphs (1)(a) and (1)(b) must be retained <u>and maintained</u> following their being provided.” In addition the title of the requirement has been altered – the word "Mitigation" is now "mitigation"	This change reflects the Applicant's response to 6.1.7 of ExQ1.		
<b>Schedule 3 Part 6 – Speed Limits</b>	Deletion of measure - Sheet 5	Removal of unnecessary measure	-	-
<b>Schedule 3 Part 9 – Traffic Regulation Measures (Prohibitions)</b>	Sheet 10 – Width restriction changed:  (6" 6') changed to (6' 6")	Typographical error	-	-



Article/Schedule	Change	Reason for change	Precedent	Consequential changes
<b>Schedule 9, Hedgerows and Trees,</b> Parts 1 and 2	The following hedgerows need to be moved from Part 2 'Removal of Other Hedgerows' to Part 1 'Removal of Important Hedgerows' within Schedule 9: 9, 16, 20, 23, 26, 27, 30, 33, 34, 36, 37, 38, 39, 45, 46, 48, 52, 57, 59, 66, 68, 69, 70, 78, 83, 84, 85, 88, 94, 95, 103, 133, 134, 135, 156, 159, 160, 163, 170, 185, 186, 187, 192, 194, 195, 199, 200, 205, 206, 209, 219, 230, 244, 256, 335, 994, 9161 and 23001	Change required to reflect the relevant conclusions of the Environmental Statement.  Hedgerows conforming to only the archaeology and heritage criteria of the Hedgerow Regulations 1997 were omitted from Schedule 9 Part 1 and listed in Schedule 9 Part 2 in the submission draft Order.  Additional consequential changes have been made to the tables.	-	-
<b>Schedule 9, Hedgerow and Trees,</b> <b>Part 3, Trees Subject to Tree Preservation Orders</b>	Addition of new line to Schedule 9 Part 3 Sheet 8 Column (1): Maldon District Council TPO 07/22 Blue Mills, Blue Mills Hill, Wickham Bishops, CM8 3LH Column (2): Felling pruning and lopping of branches Column (3): Work U69  This is to reflect the recent tree preservation order made by Maldon District Council	The TPO was made in July 2022, at the time the submissions documents were finalised for submission.	-	-
<b>Schedule 11, Protective Provisions, Part 5</b>	The dDCO will be amended to update the cross reference within the Cadent Protective Provisions to Paragraph 1 of Part 1 of Schedule 2 (Requirements).	In response to ExQ1, 6.0.3 which states 'Within Art 2 Interpretation of the dDCO	-	-

Article/Schedule	Change	Reason for change	Precedent	Consequential changes
<p><b>– For the Protection of Cadent as Gas Undertaker</b></p>	<p><u>"Commence" has the same meaning as in Paragraph 1 of Part 1 of Schedule 2 (Requirements).</u></p>	<p>[APP-039], there is no definition of 'commence'. Neither is this explained in the EM [APP-040]. Furthermore, the Protective Provisions for Cadent Gas define 'commence' as having the same meaning as in article 2 (1) of dDCO. Please review and provide the necessary definition.'</p>		