

Application by National Highways for an Order Granting Development Consent for the A12 Chelmsford to A120 widening scheme.

The Examining Authority's schedule of proposed changes to the draft Development Consent Order (dDCO).

Issued on Monday 22 May 2023.

This document sets out the Examining Authority's (ExA) proposed changes to the latest version of the Applicant's dDCO submitted at Deadline 5 of the Examination [REP5-004]. Column 1 of the table sets out the unique reference number for each proposed change. Column 2 sets out the provision in the dDCO to which the proposed change relates. Column 3 describes the recommended change, with proposed deletions shown as ~~striketrough~~ and with proposed additions shown in **red text**. Column 4 provides the ExA's reasoning as to the recommended change and any further commentary.

There may be further changes to the dDCO which the ExA recommends to the Secretary of State to take account of other matters that have been and continue to be examined. This is particularly likely in the event that it is clear that there are fundamental differences between parties on a number of issues. These will need to be reported to the Secretary of State along with the ExA's conclusions when all the evidence has been submitted.

It is also noted that in their Deadline 5 responses the Applicant made commitments to amend the dDCO to reflect discussions with other parties. Whilst suggested text has been included in the Deadline 5 responses, the exact wording of these additions remains to be agreed. In these instances, the ExA has noted the suggested additions, but has not provided any detailed comments on the various drafts and has not expressed a preference on the submitted draft wording. It would assist the ExA if, by the end of the Examination, the proposed amendments could be agreed between the relevant parties.

Should the Applicant or any other party wish to make any comments on this schedule of proposed changes then these should be submitted by **Deadline 6 (Monday 12 June 2023)**.

Abbreviations used;

Art	Article	NE	Natural England
CCC	Chelmsford City Council	NNNPS	National Networks National Policy Statement
dDCO	Draft DCO	R	Requirement
ECC	Essex County Council	Sch	Schedule
EMP	Environmental Management Plan	SI	Statutory Instrument
ExA	Examining Authority	SoS	Secretary of State



Ref No.	Provision	Proposed change	ExA Reasoning
DCO-PC01	Whole dDCO	<ol style="list-style-type: none">1. Please check internal references, statutory citations and references and legal footnotes and update as required.2. Please review additions to the dDCO ensuring that the titles and numbering of all provisions remains consistent throughout and with the Table of Contents. Also please undertake a check to ensure spelling and punctuation is correct throughout.3. Ensure dDCO follows best practice in Planning Inspectorate Advice Notes 13 and 15 and (as relevant) guidance on SI drafting from the Office of the Parliamentary Counsel (June 2020).	To ensure accuracy of the final dDCO.
DCO-PC02	Page 4 – first paragraph	The application was examined by a Panel of three members (“the Panel”) (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(c).	To reflect the make-up of the ExA.
DCO-PC03	Page 4 – second paragraph	The P anel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 74 (2) of the 2008 Act has	To reflect the make-up of the ExA.



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		submitted a report and recommendation to the Secretary of State.	
DCO-PC04	Page 4 – third paragraph	The Secretary of State, having considered the representations made and not withdrawn, and the report and recommendation of the Panel....	To reflect the make-up of the ExA.
DCO-PC05	Page 5 – fifth paragraph	The Secretary of State, having considered the report and recommendation of the Panel...	To reflect the make-up of the ExA.
DCO-PC06	Art 2 – Secretary of State	Given the inclusion of the NSIP in relation to the relocation of the existing gas pipeline, should this definition also include SoS for Energy Security and Net Zero?	For clarification.
DCO-PC07	Art 14 – Construction and maintenance of new, altered or diverted streets and other structures.		No specific change is proposed by the ExA at this stage on the basis that we propose the inclusion of a new Requirement in relation to de-trunking. However, should the Applicant not agree with this proposed Requirement, then the ExA welcomes submissions from both the Applicant and ECC on the final wording of this Article to address the concerns of ECC.
DCO-PC08	Art 15 – Classification of roads etc	Insert new article 15(7) between existing articles 15(6) and 15(7), as follows:	At DL5 suggested text was put forward by ECC [REP5-034] in relation to changes they consider



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		<p>(7) The undertaker may only make a determination for the purposes of paragraph (6) with the consent of the Secretary of State, who must consult the local highway authority before deciding whether to give their consent.</p>	<p>necessary. The submission also included draft text from the Applicant that was provided on a without prejudice basis to aid the ExA and ultimately the SOS.</p> <p>Notwithstanding the position of the Applicant [REP5-021], having considered the submission made by ECC, we consider that it is appropriate to add in this additional clarification.</p> <p>For the purposes of this document, the ExA has included ECC's proposed wording, however we would welcome further discussions between the parties to agree a single suggested insertion, whilst still respecting the position of the without prejudice position of the Applicant.</p>
DCO-PC09	Art 16 – Speed Limits		<p>The ExA is aware that this Article is the subject of on-going discussions between the Applicant and ECC, along with potential consequential changes to Sch3. Therefore, the ExA does not propose any changes at this stage in advance of the conclusion of those discussions.</p>



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DCO-PC10	Art 18 – Street Works	Insert new paragraph - “(3) The undertaker must not carry out works to any street under paragraph (1) for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent.”	Notwithstanding the position of the Applicant on this suggested insertion as set out at ISH4 [REP5-021], the ExA consider that such wording should be inserted into the dDCO to address the concerns expressed to the Examination by ECC.
DCO-PC11	Art 23 – Traffic Regulations		The ExA is aware that this Article is the subject of on-going discussions between the Applicant and ECC, along with potential consequential changes to Sch3. Therefore, the ExA does not propose any changes at this stage in advance of the conclusion of those discussions.
DCO-PC12	R1 – Interpretation - 'European protected Species	“European protected species” has the same meaning as in regulations 40 42 (European protected species of animals) and 44 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(b);	To ensure accuracy.
DCO-PC13	R3 – Second Iteration EMP	3.—(1) No part of the authorised development is to commence 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 EXA consider that the change to the opening line is required to improve legibility and provide clarity and precision.



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		the Secretary of State, following consultation with the relevant planning authority, and the Environment Agency, and Natural England on matters related to its their functions.	Whilst the Applicant's response to ExQ1 Q6.1.2 [REP2-025] is noted, the ExA considers that, given the nature and content of the EMP, NE should be included as a consultee.
DCO-PC14	R4 – Third Iteration EMP	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, and the Environment Agency, and Natural England on matters related to its their functions.	Whilst the Applicant's response to ExQ1 Q6.1.2 [REP2-025] is noted, the ExA considers that, given the nature and content of the EMP, NE should be included as a consultee.
DCO-PC15	R5 - Landscaping	Any —A part of the authorised development must not commence until a landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its functions.	The ExA understand that the proposed development, if granted, would be developed in parts. However, considering the Applicant's response to ExQ1 6.1.3 [REP2-025], identifying that those individual parts have yet to be determined, the ExA considers that this Requirement is not sufficiently precise, therefore requires further clarity.
DCO-PC16	R10 – Detailed design	10. —(1) Subject to the provisions of this Order,.... Insert ;and at end of (b) and insert new (c) -	The proposed insertion in the opening line is to correct a typographical error. In relation to the proposed insertion of paragraph (c), notwithstanding the



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		<p>(c) the design principles set out in the scheme design approach and design principles,</p> <p>Insert new paragraph (3) – (3) - No part of the authorised development is to commence until, for that part, a report has been submitted to, and, following consultation with the relevant local planning authority, approved by the Secretary of State, demonstrating that— (a) the undertaker has engaged with relevant stakeholders on refinements to detailed design for that part of the authorised development; (b) the undertaker has had regard to the relevant stakeholders’ comments; and (c) any refinements to the detailed design for that part of the authorised development arising as a result of that engagement should accord with the scheme design approach and design principles.</p>	<p>Applicant’s response to questions during ISH4 [REP5-021] and subsequent changes to the Design Principles [REP5-012], the ExA consider that given the importance of these principles to the detailed design and the importance of delivering good design as established in the NNNPS at paragraphs 4.28 to 4.35, it is necessary that the Design Principles should be referenced in this Requirement.</p> <p>With regards to the proposed insertion of new paragraph (3), the ExA consider this addition is required to address concerns raised by CCC and ECC, amongst others, in relation to the final design and appearance of the proposed development and, in particular, a number of the proposed structures. The proposed change is considered to be relevant to the proposed development, to add precision to the Requirement and is necessary to ensure the delivery of good design across the whole of the proposed development.</p>



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DCO-PC17	New R14 – Walking, cycling and horse-riding bridges		The ExA is aware that discussions are on-going to agree the precise wording of the new Requirement. Therefore, the ExA does not propose to suggest any changes at this stage in advance of the conclusion of those discussions. However, we would welcome further comments and discussions between the parties to agree a single suggested insertion by the close of the Examination.
DCO-PC18	New R15 – Boreham operation phase traffic mitigation measures		The ExA is aware that discussions are on-going to agree the precise wording of the new Requirement. Therefore, the ExA does not propose to suggest any changes at this stage in advance of the conclusion of those discussions. However, we would welcome further comments and discussions between the parties to agree a single suggested insertion by the close of the Examination.
DCO-PC19	New R16 – Messing operation phase traffic mitigation measures		The ExA is aware that discussions are on-going to agree the precise wording of the new Requirement. Therefore, the ExA does not propose to suggest any changes at this stage in advance of the conclusion of those discussions. However, we would



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			welcome further comments and discussions between the parties to agree a single suggested insertion by the close of the Examination.
DCO-PC20	New R17 – Operation phase local traffic monitoring		The ExA is aware that discussions are on-going to agree the precise wording of the new Requirement. Therefore, the ExA does not propose to suggest any changes at this stage in advance of the conclusion of those discussions. However, we would welcome further comments and discussions between the parties to agree a single suggested insertion by the close of the Examination.
DCO-PC21	New R18 – Pre-commencement works		The ExA is aware that discussions are on-going to agree the precise wording of the new Requirement. Therefore, the ExA does not propose to suggest any changes at this stage in advance of the conclusion of those discussions. However, we would welcome further comments and discussions between the parties to agree a single suggested insertion by the close of the Examination.
DCO-PC22	New R – Junction 21	Junction 21	At DL5 suggested text was put forward by ECC [REP5-034]. The submission also included draft text



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		<p>(1) Requirement 10 (detailed design) is to be read subject to the provisions of this requirement.</p> <p>(2) The detailed design for junction 21 must contain the revised design detail specified in sub-paragraph (3) of this requirement and submitted to the Secretary of State following consultation with the local highway authority.</p> <p>(3) Subject to sub-paragraph (5) the detailed design for junction 21 must include a two-lane exit from both the junction 21 northern roundabout to the A12 northbound slip road and from the junction 21 southern roundabout to the A12 southern slip road.</p> <p>(4) Junction 21 must be constructed in accordance with the approved details</p> <p>(5) No application for approval of the scheme under sub-paragraph (2) may be made in respect of proposals which would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p>	<p>from the Applicant that was provided on a without prejudice basis to aid the ExA and ultimately the SOS.</p> <p>For the purposes of this document, the ExA has included the Applicant's proposed wording, however we would welcome further discussions between the parties to agree a single suggested insertion, whilst still respecting the position of the Applicant.</p> <p>The ExA consider that the addition of the new Requirement would ensure that the measures outlined by the Applicant in their Letter of Intent [AS-060] in relation to Junction 21 are secured through the DCO. The Requirement adds precision and clarity to the DCO and is therefore a necessary addition.</p> <p>The ExA therefore includes the insertion of the new Requirement as a proposed change.</p>
DCO-PC23	New R – De-trunking	X.—(1) The consent of the Secretary of State pursuant to Article 15(7) must	At DL5 suggested text was put forward by ECC [REP5-034]. The



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		<p>not be sought until written details of the proposals for the roads to be de-trunked as identified in Part 14 of Schedule 3 has been submitted and approved in writing by the Secretary of State following consultation with the relevant highway authority and relevant planning authority, such scheme to include:</p> <ul style="list-style-type: none">a) drawings and plans showing the proposals;b) demonstrating how the proposals maintain a safe and reliable highway network;c) the provision made for non-car transport modes;d) demonstrating how existing accesses will retain access to the de-trunked road;e) demonstrating how existing utilities will be safeguarded; (f) landscaping and planting details;f) drainage details; andg) a timetable for implementation of the proposals. <p>(2) No application for approval of the scheme under sub-paragraph (1) may be made in respect of proposals which</p>	<p>submission also included draft text from the Applicant that was provided on a without prejudice basis to aid the ExA and ultimately the SOS.</p> <p>For the purpose of this document, the ExA has included the Applicant's proposed wording, however we would welcome further discussions between the parties to agree a single suggested insertion, whilst still respecting the position of the Applicant.</p> <p>The ExA consider that the addition of the new Requirement is necessary to address the concerns raised by ECC, amongst others, in relation to the Applicant's approach towards de-trunking. The proposed change is relevant to the proposed development, adds precision to the Requirement and is necessary to ensure the delivery of good design.</p> <p>The ExA therefore includes the insertion of the new Requirement as a proposed change.</p>



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		<p>would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p> <p>(3) The scheme approved under subparagraph (1) must be implemented by the undertaker and in accordance with the approved timetable for implementation, unless otherwise agreed in writing with the Secretary of State following consultation with the relevant highway authority.</p>	
DCO-PC24	R7,9,11,13,	Each requirement should start with - Any part, rather than A part.	At this stage the Applicant has yet to define the individual parts of the proposed development. Therefore, it is considered that these Requirements are not sufficiently precise as currently drafted and further clarity is required.
DCO-PC25	EXPLANATORY NOTE	In relation to the location of the Certified Plans, should there not also be a location closer to the Proposed Development, along with an option for the documents to be held/viewed electronically?	