

25 May 2011

Mr Paul Irving
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Our ref. TR040002

Dear Mr Irving

**NETWORK RAIL IPSWICH CHORD PROPOSAL
RESPONSE TO DRAFT DOCUMENTS**

Thank you for your letter dated 13 May 2011 regarding the IPC's response, dated 4 May 2011, to Network Rail's draft documents for the above proposal.

Experience has shown from the current examination of the application made by Covanta in respect of Rookery South and in particular from the recent issue specific hearing on the draft Development Consent Order (DCO), that it is more difficult and time consuming to address issues relating to the content of the draft DCO, ranging from substantive issues to minor drafting points, once an application is accepted for examination. We would therefore urge you to take our comments into account when preparing the final draft to be submitted with the application. We would also expect the final draft to be in a form that uses clear language, eliminates all typing errors and is consistent in the use of definitions.

The Examining authority's comments and the Secretariat's drafting points on the Rookery South draft DCO will shortly be made publicly available on the IPC's website. This will also be the case for all future DCO applications.

You will also be aware of the need, at application acceptance stage, to have complied with the pre-application procedure in Chapter 2 of Part 5 of the Planning Act 2008.

We have the following detailed comments on the points arising from your letter of 13 May.

Definition of "maintain" Article 2

We consider that this definition is too broad in scope and the words "alter, removereconstruct or replace" should be deleted.

Temporary working site Article 11(2)

We note that you will now include reference to temporary working site(s) in the description of associated development in Schedule A. You have confirmed that the whole of the area within the Order limits (apart from the access over the access roads) will be used as a working site. You may therefore wish to make reference to this in Schedule A. It may be

the case that this approach may be appropriate for a linear scheme where the working site area is a narrow confined corridor but you will need to provide an explanation and justification as to why it is necessary in the context of this particular project. You will be aware that the scope of what may be permitted should be limited by reference to the proposed development that has been assessed in the Environmental Impact Assessment (EIA) as set out in the Environmental Statement (ES).

The description of the authorised development Schedule A

We apologise for the incorrect reference to Railway Model Provision (RMP) 12 which should be RMP 15 and we note your clarification with regard to the access road.

We would suggest that the category of associated development in paragraph (b) of Schedule A is not sufficiently precise or clearly defined.

Limit of deviation Article 7(b)

The limits of deviation should be clearly shown on the works plan and be consistent with the consultation process and limits as assessed within the ES.

Compulsory Acquisition

Modification of provisions Article 18 and Schedule E

Your comments are noted. If you consider that these modifications are necessary even though the definition of land in s.1(3) includes the creation of new rights, explanation and justification for the modifications should be fully set out in the Explanatory Memorandum.

Acquisition by Statutory Undertakers Article 18(5)

We note your intention to revise the wording. Where it is proposed to include a provision which transfers any benefits of an Order, we would wish to see the inclusion of RMP 8(3) dealing with restrictions, liabilities and obligations.

Your Article 18 proposes to transfer the right of compulsory acquisition. The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 set out the documents which must accompany an application. These include a statement which explains how the proposals for acquiring any land and rights will be funded. It will need to be demonstrated to the satisfaction of the Examining authority that the acquiring statutory undertaker has available adequate financial resources to fund any compensation payments arising as a result of its exercise of these compulsory acquisition powers. We suggest that you should consider how it will be possible for the acquiring statutory undertaker, who is to receive this benefit, to give assurances on the funding position to the Examining authority.

Protective Provisions - Schedule G

We consider that the emphasis in RMP 39(2) is rather different. In this provision the emphasis is on the undertaker responding to a reasonable request from the applicant and placing the apparatus in a position which it may reasonably determine. You may wish to consider whether this might be an alternative approach to the Protective Provisions. Alternatively, explanation and justification for your approach to these requirements imposing obligations on statutory undertakers should be fully explained and justified in the Explanatory Memorandum.

Temporary use of land and permanent mitigation works Article 24

Thank you for your clarification of the fact that no permanent rights are required and we note your intention to delete the word " permanent" in Article 24 (d).

Application of the Land Compensation Act 1973 RMP 33

A full explanation of the effect of omitting this provision on compensation payments and justification for this in respect of this particular project should be contained in the Explanatory Memorandum.

Draft Requirements

In accordance with approved details- requirement 1

We suggest that "design drawings" are defined. We presume that this refers to those plans etc. which are necessary to describe the proposals that may be submitted under Regulation 5(2)(o) of the APFP Regulations. If so, this draft definition should state this in terms.

We suggest that the wording contained in the original draft "and the altered development has been assessed pursuant to environmental statement" be reinstated in (1).

Landscaping requirements 4 and 5

It is acknowledged that the ES and other supporting documents are prepared taking into account current British Standards and best practice but these can change. We think therefore that the wording in the Model Requirement should be used. We also note that the proposed wording includes the word 'reflect' in referring to the submitted landscape scheme. We consider that this is not sufficiently precise.

Contract Requirements - Environment requirement 8

We think that this requirement should be negatively worded as a Grampian type restriction. We suggest that after "must be approved" the words "by the Commission" are added in 8(5). We also note that no requirement has been included to deal with any noise impacts generally (apart from the cottages) arising during the operational phase of the proposed development. If it is considered that no such requirement is necessary then explanation for this should be fully set out in the Explanatory Memorandum.

Surface Water Drainage

This requirement has been omitted. We note that in the previous set of draft requirements it was stated that Network Rail were awaiting the outcome of consultations with the Environment Agency. The position should be clarified and a requirement dealing with surface water drainage included.

The decision of whether or not to accept an application will be taken by a Commissioner who has had no involvement in the pre-application stage for this proposal. All advice the Commission provides at this stage does not prejudice or pre-judge the decision of the Commissioner regarding acceptance or non-acceptance of an application.

Should you have any queries in relation to the above or any other matter, please do not hesitate to contact me.

Yours sincerely



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cc Colin Murphy, Network Rail
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