



Our Ref: WMI
Your Ref:

03 June 2020

Susan Anderson
Head of Transport and Works Act Unit
Department for Transport

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By e mail only:

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Dear Madam

Planning Act 2008 – The West Midlands Rail Freight Interchange Order 2020 - Corrections

I refer to the decision of the Secretary of State for Transport to make the above order, as set out in your letter of 4 May 2019. Please note that I am instructed by the promoter in this matter, Four Ashes Limited (in conjunction with Eversheds Sutherland).

Further to paragraph 1(5)(a) of Schedule 4 to the Planning Act 2008, I am writing on behalf of Four Ashes Limited to request that the errors in the Order as made, itemised in the table below, be corrected by the issuing of a Correction Order.

DCO – Article or Schedule	Correction	Reason
Art 2 – definition of “apparatus”	Replace ‘37’ with ‘36’	To correct incorrect cross referencing.
Art 2 – definition of “highway works”	Replace reference to works ‘12’ with ‘11’	To correct incorrect cross referencing.
Art 2 – definition of “relocation works”	Replace ‘37’ with ‘36’	To correct incorrect cross referencing.
Art 10 (6)	Replace ‘37’ with ‘36’	To correct incorrect cross referencing.

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Art 13 (3)	Delete 'local'	This article (and others) were amended by the Examining Authority to delete the provisions in those articles relating to Highways England which had excluded them from the deemed approval provisions. The reason for this was because it was felt by the ExA that Highways England should not be treated differently and should be subject to the deemed approval provisions (see page 246 Ex A Report, Table 11.2). However, the inadvertent retention of the word 'local' in (3) has had the opposite effect. It should be deleted so that Highways England are included in the deemed approval provision, as intended.
Art 22 (6)	Delete 'local'	As above.
Art 23(1)	Fifth line – remove 's' from 'undertakers'	To correct typographical error.
Art 30 (3)	Third line - replace 'compulsory' with 'compulsorily'	To reflect the correct title of the article concerned.
Art 31 (10)	Third line - replace 'application' with 'modification'	To reflect the correct title of the article concerned.
Art 41(4)	Third line – replace 'management and mitigation' with 'mitigation and management'	To reflect the correct title of requirement 12.
Sch 2 Part 1 Req 4(2)(d)	Replace reference to article 45(5) with 44(4)	To correct incorrect cross referencing.
Sch 2 Part 1 Req 6 (3)	Add 'under sub-paragraph (2)' after 'approved'	To make it clear that the reference in (3) to details approved refers to the details approved under Req 6 (2) and not the details approved under other requirements, such as Req 4 which it would not be necessary for Network Rail to be involved in.







Sch 2 Part 1 Req 7 (2)	Replace '(2)' with '(3)'	To correct incorrect cross referencing.
Sch 2 Part 1 Req 14 (1)(b)	Replace 'requirement 12 (ecological mitigation and management plan)' with 'requirement 13 (ground conditions – contaminated risk)'	To correct incorrect cross referencing.
Sch 2 Part 3 Para 43	Delete 'Part 1 of'	Part 3 of Sch 2 should apply to Part 1 and 2 of Sch 2, as is clear from the operative provision in Article 43 (3). The exclusion of Part 2 and reference only to Part 1 is inconsistent with Art 43(3).
Sch 10	Replace reference in the header to Article 35 with Article 34	To correct incorrect cross referencing.
Sch 13	Replace reference in the header to Article 43 with Article 42	To correct incorrect cross referencing.
Sch 13 Part2 Para 3 (5)	Fourth line – replace 'arrangements' with 'agreements'	To reflect the correct title of the article concerned.
Sch 13 Part 6 Para 3	First line delete '(1)'	There is no sub paragraph 7(1).
Sch 13 Part 6 Para 3 (f)	Replace '28' with '26'	To correct incorrect cross referencing.
Sch 13 Part 6 Para 3 (g)	Replace '29' with '27'	To correct incorrect cross referencing.
Sch 14 Para 6	Delete erroneous '(' after 'Environment Act' in header	To correct typographical error
Sch 15	In the section headed 'The highway classification plans' delete Sheet 4 and related details.	There is no Sheet 4, as advised to the Planning Inspectorate in an e mail dated 3 October 2019.







I look forward to confirmation of the action to be taken pursuant to this request.

Yours sincerely

Morag Thomson

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