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**CAMBRIDGE WASTE WATER TREATMENT PLANT**  
**Current position statement to the Examining Authority –**  
**January 2024**

on behalf of the Conservators of the River Cam

**Planning Inspectorate Reference: WW010003**

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## **1. INTRODUCTION**

- 1.1. This document has been produced by Harrison Clark Rickerbys Limited trading as HCR Hewitsons on behalf of the Conservators of the River Cam (“**the Conservators**”). It sets out the current position of the Conservators following further correspondence and discussions with the applicant, Anglian Water.

## **2. CURRENT POSITION OF THE CONSERVATORS**

- 2.1. The Conservators have had positive discussions with Anglian Water as to their concerns and issues. However, several outstanding issues remain as set out below. It is however hoped that these can be resolved with Anglian Water as part of further discussions.
- 2.2. The references below to Article 44 and the protective provisions in the draft development consent order relate to the version at Appendix 1 of this document.

### *Temporary Suspension of navigation rights post construction*

- 2.3. The Conservators acknowledge and accept that there will be a heightened level of disruption to the navigation on the river Cam during the construction of the outfall as part of the project. This may necessitate the temporary suspension of navigation rights and potentially a minor extinguishment as indicated on the revised area labelled 19a on sheet 2 of the land plans (Document 4.4.2). The Conservators and Anglian Water have had constructive discussions on how that can be managed so as to minimise disruption to the users of the river.
- 2.4. The remaining concern is however on the procedure for temporary suspension of navigation rights after construction and during the operation, use and maintenance of the outfall. At present Article 44(1) and (3) creates two different procedures for such work depending upon which part of the river is affected.
- 2.5. The first procedure, Article 44(1), allows temporary suspension without limitation as to extent and duration subject only to 42 days’ notice. There is no obligation to statutorily consult with the Conservators before exercising such powers so as to ensure minimal disruption to the river users (including organised events). The second procedure, Article 44(3) and associated paragraph 4 of the protective provisions, follows a consent by the Conservators procedure with dispute resolution provisions. The procedure is similar to the

statutory licensing procedure of the Conservators for works in the river under sections 15 and 16 of the River Cam Conservancy Act 1922.

- 2.6. As noted above, each procedure presently applies to different parts of the river. In practice river works may affect parts of the river in each of the procedures and it is unnecessary, confusing for river users and overall impracticable, for both distinctly different procedures to apply.
- 2.7. It is therefore the Conservators' position that any temporary suspensions over any part of the river post construction of the outfall should follow the procedures in Article 44(3) and paragraph 4 of the protective provisions. Such provisions requiring the consent of the Conservators as set out therein. As a consent procedure to the Conservators then express statutory consultation becomes unnecessary in such context.
- 2.8. The consent procedure allows the Conservators to require amendments to the details including the extent and duration of the temporary suspension of navigation rights. The Conservators should not be limited in such matter of amendments to only issues concerning the safe movement of traffic on the river (as recently proposed by Anglian Water). The Conservators' statutory function is much broader than 'safe movement', and their response and right to amend should be assessed by them within the whole of their functions and duties.
- 2.9. The Conservators would also seek that Anglian Water are liable to pay their standard charges as part of this consent procedure as such charges would normally apply under sections 15 and 16 licencing approvals.

*Additional expenses and indemnities*

- 2.10. The Conservators in performing its functions and duties should not be put to any additional expenses as a result of the project. In particular, the impact of the outfall on the river and the Conservators' management and maintenance of it.
- 2.11. Therefore protective provisions against additional expenses and indemnities from any liabilities that may arise is sought by the Conservators as set out in draft paragraphs 6 and 7 of the protective provisions.

Consultation

- 2.12. The Examining Authority in question 10.16 of ExQ1 raised the issue of whether the Conservators should be a mandatory/statutory consultee under Requirement 10. As previously responded by the Conservators, they agree with such proposal and request that the Conservators should be a mandatory/statutory consultee under Requirement 10 for the construction outfall management and monitoring plan and the operational outfall management plan as well as any subsequent amendments to such plans.

Draft Article 44 and Protective Provisions

- 2.13. The above remaining issues are addressed in the draft article 44 and protective provisions at Appendix 1 of this document. The Conservators seek the approval of such draft version in order to resolve their outstanding issues.

**3. FURTHER ENAGEMENT**

- 3.1. The Conservators continue discussions with Anglian Water in relation to the project and their outstanding issues. Further updates on the position will be provided to the Examining Authority as the discussions progress.

**HCR HEWITSONS**

**January 2024**

## Appendix 1

### **Rights on the river Cam**

44.—(1) Notwithstanding the licences which may have been granted pursuant to section 15 or 16 of the River Cam Conservancy Act 1922(a), the undertaker may for the purposes of the construction, ~~operation, use and maintenance~~ of the authorised development temporarily suspend any rights of navigation or any other rights over the parts of the river Cam identified with blue hatching on sheet 2 of the rights of way plans (document number 4.6.2).

(2) Notwithstanding the licences which may have been granted pursuant to section 15 or 16 of the River Cam Conservancy Act 1922(a), the undertaker may for the purposes of the construction, ~~operation, use and maintenance~~ of the authorised development permanently extinguish any rights of navigation or other rights over the parts of the river Cam identified with ~~the label 19a on pink shading on~~ sheet 2 of the ~~landworks~~ plans (document number 4.4.2) ~~permanently acquired by the undertaker~~ in connection with Work No. 32.

(3) ~~Save as provided in paragraph (1) and (2),~~ Any rights of navigation over any ~~other~~ parts of the river Cam may be temporarily suspended with the written consent of the relevant navigation authority as provided in paragraph 4 of Part 8 of Schedule 15 (protective provisions).

(4) The undertaker must not exercise the powers in paragraph (1) or (2) unless it has:

- (a) given not less than 42 days' notice in writing of its intention to do so to the relevant navigation authority; and
- (b) published notice of the temporary suspension or extinguishment and the date from which the temporary suspension or extinguishment is to have effect once in each of 2 successive weeks in a local newspaper published or circulating in the City of Cambridge; and
- (c) displayed notice of the temporary suspension or extinguishment and the date from which the temporary suspension or extinguishment is to have effect in a conspicuous position adjacent to the river Cam from the date of the first notice published under sub-paragraph (b) above, until at least 7 days after the date on which the last notice is published under sub-paragraph (b).

(5) The date that is notified, published and displayed under paragraph (4) as the date from which the suspension or extinguishment is to have effect must not be earlier than 14 days after the last date on which a notice is published under paragraph (3)(b).

(6) The River Cam Navigation Act 1851(b), the River Cam Conservancy Act 1922(c) and the Cambridge City Council Act 1985(d) are disapplied in so far as their continuance is inconsistent with the construction, operation, use and maintenance of the authorised development.

(7) The Conservators of the River Cam Byelaws 1996 are disapplied in so far as their continuance is inconsistent with the construction, operation, use and maintenance of the authorised development.

### **FOR THE PROTECTION OF THE RELEVANT NAVIGATION AUTHORITY**

1. For the protection of the relevant navigation authority the following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the undertaker and the relevant navigation authority, have effect.

2. In this Part of this Schedule—

“river work” means any works forming part of the authorised development which are in or over the river Cam or which require interference with the movement of river traffic on the river Cam;

“temporary river work” means those river works which are temporary in nature and which do not form part of the permanent works in or over the river Cam

3.—(1) Save in an emergency, the undertaker will not commence any river work until—

(a) it has supplied to the relevant navigation authority plans of that river work showing the detailed design, work programme, any temporary river works and any associated temporary or permanent

interference with rights of navigation pursuant to articles 44(1) and 44(2) (rights on the river Cam); and

(b) it has provided 42 days' written notice of the intention to commence such river work.

(3) The undertaker must carry out all river work

- (a) in accordance with such plans as have been provided to the relevant navigation authority pursuant to this paragraph 3 and amended pursuant to paragraph 4, where relevant;
- (b) so that the movement of river traffic on the river Cam is not restricted more than is reasonably practicable in order to carry out the relevant river work; and
- (c) in compliance with the reasonable requirements of the relevant navigation authority;

(4) Upon completion of any river work, the undertaker must—

(a) remove as soon as is reasonably practicable any temporary river work and associated materials; and

(b) as soon as reasonably practicable following the removal of any temporary river work pursuant to sub-paragraph 4(4)(a), to make good the site of any temporary river work including any damage to walls or banks arising from undertaking the river work so as not to cause any interference with the movement of river traffic.

(5) In carrying out any river work, the undertaker must not—

(a) deposit in or allow to fall or be washed into the river Cam any gravel, soil or other material except to the extent permitted by this Order; and

(b) discharge or allow to escape either directly or indirectly into the river Cam any offensive or injurious matter.

4.—(1) The undertaker must provide for the approval consent of the relevant navigation authority together with the plans provided pursuant to paragraph 3(1)(a) details of the extent of any temporary suspension of rights of navigation required pursuant to article 44(~~32~~) in order to carry out the relevant river work and the undertaker must not interfere with any rights of navigation pursuant to article 44(~~32~~) except in accordance with this paragraph.

(2) The relevant navigation authority must respond in writing within 42 days of the request for approval under sub-paragraph (1) to either give consent to the details as submitted or suggest amendments to the details provided, but any such amendment must not materially affect or unreasonably delay the efficient delivery of the relevant river work and must be suggested only where the relevant navigation authority considers such amendment necessary (~~acting reasonably in accordance with its functions and duties) to maintain the safe movement of traffic on the river cam.~~

(3) If the relevant navigation authority provides pursuant to sub-paragraph (2) any suggested amendments to the details provided, the undertaker must within 14 days confirm whether those amendments are accepted and in the event the undertaker agrees to the amendments, the undertaker must carry out the relevant river work in accordance with those amendments. In the event the undertaker does not agree to the amendment, the dispute may be referred to and settled by arbitration in accordance with article 52 (arbitration) and the relevant river work is to be undertaken in accordance with the terms of the final determination.

(4) If the relevant navigation authority fails to respond to the undertaker's request for consent pursuant to this paragraph (4) within 28 days, consent is deemed to have been given.

(5) The undertaker must pay on demand the relevant navigation authority a sum equal to the whole of any costs and expenses which the relevant navigation authority reasonably incurs (including general internal costs and external expenses) in relation to any consents sought under this paragraph (4).

5. The undertaker will provide to the relevant navigation authority at least 42 days' written notice of the intention to commence Work No. 31 and Work No. 32.

6. Any reasonable and proper additional expenses not otherwise provided for in this Part of this Schedule which the relevant navigation authority may incur in managing or maintaining the river under any powers existing at the making of this Order by reason of the existence of the authorised development and any river work or temporary river work must, be repaid by the undertaker to the relevant navigation authority (but subject to the submission to the undertaker, to its reasonable satisfaction, of demonstrable evidence that the additional expenses are a direct result of the construction of the specified work) so as to ensure that the relevant navigation authority has been reimbursed for all and any greater management and maintenance liability it incurs by reason of the existence of a specified work (on the proviso that there will be no double recovery).

87.(1) Subject to the provisions of this paragraph, the undertaker agrees to indemnify the relevant navigation authority from and against such charges, claims, demands, damages, expenses, liabilities and losses, (together, "losses") suffered or reasonably incurred by the relevant navigation authority to the extent that any losses are directly caused by—

(a) ~~the construction of~~ a river work or a temporary river work; or

(b) any act or omission of the undertaker or of its officers, employees, servants, contractors or agents whilst engaged in—

(i) the construction of the river work or a temporary river work; or

(ii) seeking to remedy any failure of the river work or a temporary river work.

(2) The relevant navigation authority must mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under sub-paragraph (1) and must, if requested by the undertaker, provide an explanation of how any claim under the indemnity in sub-paragraph (1) has been mitigated .

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any losses referred to in that sub-paragraph to the extent that they are—

(a) attributable to the negligence or wilful misconduct of the relevant navigation authority or of its officers, employees, servants, contractors or agents; or

(b) not within the reasonable control of the undertaker or of its officers, employees, servants, contractors or agents.

(4) The relevant navigation authority must give to the undertaker notice in writing of any losses for which the undertaker may be liable under this paragraph as soon as reasonably possible and no settlement or compromise of them may be made without the prior written consent of the undertaker which, if it notifies the relevant navigation authority that it desires to do so, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand provided that no settlement or compromise of any such claim or demand shall be made without the consent of the relevant navigation authority (which shall not be unreasonably withheld). If consent is not given by the undertaker, the relevant navigation authority shall diligently defend such claim or demand.

98. Any difference arising between the undertaker and the relevant navigation authority under this Part of this Schedule (other than a difference as to the meaning or construction of this Part of this Schedule) must be referred to and settled by arbitration in accordance with article 52 (arbitration).