



City of
Doncaster
Council

Reply to the Applicant's *Schedule of Changes to the draft Development Consent Order* [REP1-046]

Project: Fenwick Solar Farm

Applicant: Fenwick Solar Project Limited

Unique Reference: B100000053

Deadline 2: 28 May 2025

Background

This document sets out the City of Doncaster’s (“**CDC**”) reply to the Applicant’s *Schedule of Changes to the draft DCO* [REP1-046].

Reference	Change	Reason for Change	CDC’s reply
Table of Contents	Various amendments in line with new Article 8A and protective provisions added to Order.	See discussion below at substantive articles.	CDC’s comments are also set out below at the substantive articles.
Preamble	<p>Amends to preamble paragraph:</p> <p>The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and has had regard to the documents and matters referred to in section 105104(2)(c) of the 2008 Act.</p>	Amendment to correct cross reference to Planning Act 2008 per discussion at ISH1.	<p>The fourth recital refers to “section 104(2)(c) of the [Planning Act 2008]”. CDC wonders whether the reference should be to “section 104(2)” because the SoS will have had regard to all the documents referred to in sub-paragraphs (a) to (d) and not just the one mentioned in sub-paragraph (c).</p> <p>CDC notes that while recently made solar farm orders refer to section 105 in the corresponding recital, they refer to section 105(2) and not to a sub-paragraph under that provision. Examples include – the Cleve Hill Solar Park Order 2020 (SI2020/547), the Longfield Solar Farm Order 2023 (SI2023/734),</p>

			the Mallard Pass Solar Farm Order 2024 (SI2024/796), the Gate Burton Energy Park Order 2024 (SI2024/807), and the Cottam Solar Project Order 2024 (SI2024/943).
Article 2 (Interpretation)	<p>Amendment to definition:</p> <p>“authorised development” means the development described in Schedule 1 (authorised and associated development) and any other, which is development within the meaning of section 32 (meaning of “development”) of the 2008 Act, authorised by this Order and as described in Schedule 1 (authorised development).</p>	Amendment to utilise definition for authorised development from Cottam Solar Project Order 2024 as per discussion at ISH1.	CDC agrees with this amendment.
Article 2 (interpretation)	<p>Deletion and introduction of new definition:</p> <p>“draft archaeology mitigation strategy” means the plans of that name identified in the table at Schedule 12 (documents and plans to be certified), including Part 1 and Part 2, and which are certified by the Secretary of State as the archaeology mitigation strategy for the purposes of this Order;</p> <p>[...]</p> <p>“framework archaeological mitigation strategy” means the plans of that name identified in the table at Schedule 12 and which is certified by the Secretary of State as the framework archaeological mitigation strategy for the purposes of the Order;</p> <p>[...]</p> <p>“overarching written scheme of investigation” means the document of that name identified in the table at Schedule 12 and which is certified by the Secretary of State as the overarching written scheme of investigation for the purposes of this Order;</p>	Consequential amendments to definitions to align with updated Requirement 10 (Archaeology) as per discussion at ISH1.	CDC wonders whether the reference to “the plans” should be to “the strategy” or, for consistency with most definitions of control documents in art.2, to “the document”. (See, for example, the definitions of “book of reference”, “environmental statement”, “framework construction environmental management plan”, “framework construction traffic management plan”, “framework drainage strategy”, “framework landscape and ecological management plan”, “framework operational environmental management

			plan”, “framework public rights of way management plan”, “framework soil management plan”, “outline design parameters statement”, and “traffic regulation measures plan”).
Article 2 (<i>interpretation</i>)	New definition: “permit scheme” means The Traffic Management (Doncaster Borough Council) Permit Scheme Order 2012 which are made under Part 3 of the Traffic Management Act 2004, as applicable for the location of the relevant street works;	Consequential amendment to add definition confirming relevant permit scheme for the purpose of new Article 8A.	There is no definition of “relevant street works” and CDC wonders whether there should be. (This comment is subject to CDC’s comments on Article 8A below).
Article 2 (<i>interpretation</i>)	Amendments to definition: “permitted preliminary works” means all or any of— (a) environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations for the purpose of assessing ground conditions; (b) removal of plant and machinery; (c) above ground site preparation for temporary facilities for the use of contractors during construction; (d) remedial work in respect of any contamination or other adverse ground conditions; (e) diversion and laying of apparatus; (f) the provision of temporary means of enclosure and site security for construction; (g) the temporary display of site notices or advertisements; (h) site clearance (including vegetation removal, demolition of existing buildings and structures); or (i) advanced planting to allow for an early establishment of protective screening;	Amendments to definition per requests by City of Doncaster Council (CDC) to: <ul style="list-style-type: none">• In respect of (c), make it clear these facilities are only for use during construction.• In respect of (h), confirm no buildings are being removed.	CDC agrees with these amendments. CDC would welcome confirmation regarding which “existing structures” are proposed to be demolished.

<p>Article 8A (Application of permit scheme)</p>	<p>Addition of new Article: Application of permit scheme 8A.—(1) The permit scheme applies with the modifications set out in this article to street works carried out under the power conferred by article 8 (street works) of this Order. (2) For the purposes of this Order— (a) a permit may not be refused or granted subject to conditions which relate to the imposition of moratoria; (b) a permit may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions through the exercise of the powers conferred by this Order; (c) a permit may not be refused where the proposed reason for refusal is the inability to impose a condition which will not comply with paragraph (b); and (d) where a provisional advance authorisation has been granted to the undertaker in advance of the grant of a permit in relation to the construction of the authorised development, the highway authority may not grant a permit for any other works in the location during the time period to which that provisional advance authorisation relates save that nothing will restrict the ability of the highway authority to grant a permit for immediate works. (3) Irrespective of anything which is stated to the contrary within the permit schemes, where the undertaker submits an application for a permit in relation to streetworks carried out under article 8 (street works) of this Order subject to proposed conditions and the highway authority wishes for different conditions to be imposed on the permit, the highway authority must seek to reach agreement with the undertaker on the conditions subject to which the permit is to be granted and provide alternative permit conditions, as appropriate, to the undertaker within ten working days following the date on which the application for the permit is made by the undertaker and must not refuse an application for a permit before the end of the period which is five working days following the date on which the alternative permit conditions are provided to the undertaker.</p>	<p>Amendment to add new article prescribing the interaction between CDC's existing permit scheme for street works with the management of street works under the Order. This drafting is based largely on the example provided by CDC from the National Grid Bramford to Twinstead Reinforcement Order 2024, with some amendments to align to:</p> <ul style="list-style-type: none"> • Definitions in the Order for “highways authority” and “permit scheme”. • Clear linkage of the permit scheme application to the relevant power in the Order (Article 8 – Streetworks). This drafting has also been used in the recent Tillbridge Solar and Springwell Solar draft DCOs (both still in Examination). 	<p>CDC would welcome an explanation why the permit scheme is proposed to apply to article 8 (street works) only. CDC considers it should have wider application. For instance, by article 12(1) of the Bramford to Twinstead DCO (SI 2024/958) the permit schemes mentioned in that order “apply to the construction of the authorised development and will have effect in connection with the exercise by the undertaker of any powers conferred by this Part” [i.e. the powers conferred by articles 11 to 18 of Part 3 (Streets)].</p>
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	<p>(4) Where the undertaker confirms its agreement to the alternative permit conditions provided by the relevant highway authority pursuant to paragraph (3) before the expiry of five working days following the date on which any such alternative permit conditions are provided to the undertaker, the relevant highway authority must grant the permit subject to those conditions.</p> <p>(5) Any alternative permit conditions provided by the highway authority in accordance with paragraph (3) must comply with paragraph (2).</p> <p>(6) References to moratoria in paragraph () mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.</p> <p>(7) Reference to immediate works in paragraph (2)(d) means emergency works as that term is defined in section 52 of the 1991 Act and urgent works as that term is defined in regulation 3(1) of the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.</p> <p>(8) Without restricting the undertaker's recourse to any alternative appeal mechanism which may be available under the permit scheme or otherwise, the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit scheme in accordance with the mechanism set out in Schedule 15 (Discharge of Requirements) of this Order.</p>		
Article 9 (<i>Power to alter layout, etc., of streets</i>)	<p>Amendment to Article: [...]</p> <p>(4) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority and the street authority may attach reasonable conditions to any such consent.</p>	Amendment as per request in direct discussions from CDC to clarify that the street authority may attach reasonable conditions to consents under Article 9.	CDC agrees with this amendment.
Article 12 (<i>Permanent closure of public rights of way</i>)	<p>Amendments to Article: 12.—(1) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised development, close any public right of way and without prejudice to the generality of this provision the undertaker may close the</p>	Amendments to this Article arising from the discussion at ISH1, including:	(i) Art.12(1) - after “undertaker” insert “may”. (While “may” is included in the Schedule of Changes [REP1-046] , it is not

	<p>public rights of way shown on the rights of way and access plans and specified in Schedule 6, Part 6 to the extent specified and described in column (3) of that Part of that Schedule.</p> <p>(2) Public rights of way are not to be wholly or partly closed under this article unless—</p> <p>(a) the new public rights of way to be constructed and substituted for a closed public right of way have been completed to the reasonable satisfaction of the street authority and are open for use, which for those public rights of way specified in columns (1) and (2) of Schedule 6, Part 6 are diverted as specified in column (4) of that Part of that Schedule; or.</p> <p>(3)(b) Where the new permanent route for the new public right of way cannot be provided on the initial temporary closure and/or restricted use of the public right of way, a temporary alternative route for the passage of traffic as could have used the public right of way to must be closed is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the closure of the public right of way until the completion and opening of the new public right of way in accordance with sub-paragraph (a) (2).</p> <p>(4)(3) Where a public right of way has been closed under this article permanently closed and the new permanent route completed under sub-paragraph (2)—</p> <p>(a) all rights of way over or along the public right of way so closed are extinguished; and</p> <p>(b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street or private means of access as public right of way only where that public right of way is bounded on both sides by land owned by the undertaker.</p> <p>(5)(4) Following the opening for public use of a public right of way that has been permanently closed and diverted under the powers conferred by this article the undertaker must supply the surveying authority with plans showing that public right of way as permanently closed and diverted together with a statement of the modifications required to the definitive statement.</p>	<ul style="list-style-type: none"> At (1), deletion of the general power for the closure of public rights of way beyond those specified in Schedule 6. This has been accompanied by amendments to Schedule 6 to capture the minor closures of parts of PRow Fenwick 10 and Sykehouse 29. At (2) – (4), amendments to address comments from the ExA at ISH1 for clearer drafting to ensure the trigger for the final closure of a public right of way under sub-paragraph (4) cannot be met by the temporary diversion of routes as enabled under sub-paragraph (3). Amendments throughout to 	<p>included in art.12(1) of the latest versions of the draft Order [REP1-005] and [REP1-006]).</p> <p>(ii) Art.12(1) – CDC considers the formulation “Part 6 of Schedule 6 (streets and public rights of way” be used, instead of “Schedule 6, Part 6”.</p> <p>(iii) Art.12(2) and (3) – CDC considers these provisions should be recast as follows –</p> <p>“No public right of way specified in Part 6 of Schedule 6 is to be wholly or partly closed under this article unless –</p> <ul style="list-style-type: none"> (a) the new public right of way to be constructed and substituted for it, which is specified in column (4) of that Part has been completed to the reasonable satisfaction of the street authority and is open for use; or (b) a temporary alternative route for the passage of such traffic as could have used the public
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	<p>(6)(5) The plans and statement of modifications to the definitive statement referred to in paragraph (4)(5) are deemed to be an order modifying the definitive map and statement made under section 53(3)(a) (duty to keep definitive map and statement under continuous review) of the Wildlife and Countryside Act 1981.</p> <p>(7)(6) This article is subject to article 32 (apparatus and rights of statutory undertakers in closed streets).</p> <p>(8)(7) In this article “surveying authority” has the meaning given to it by section 66(1) (interpretation of Part III) of the Wildlife and Countryside Act 1981.</p>	<p>utilised consistent language in respect of “closure” vs “diversion”</p>	<p>right of way is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the public right of way until the completion and opening of the new public right of way in accordance with sub-paragraph (a).”</p> <p>CDC notes this drafting is closer to that of the precedents cited in paragraph 5.3.9 of the EM [RE1-008] (i.e. the Drax Power (Generating Stations) Order 2019 (SI2019/1315) and the A66 Northern Trans-Pennine Development Consent Order 2024 (SI2024/360)).</p> <p>(iv) Art.12(4) – since sub-paragraph (2) refers to the whole closure of PROW, rather than to the permanent closure,</p>
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			<p>CDC wonders whether article 12(4) should be recast as follows –</p> <p>“Where a public right of way has been wholly closed under sub-paragraph (2)(a) – ...”</p> <p>Alternatively, should “stopped up” be used instead of “wholly closed” or “permanently closed”? (If so, this change would need to be made elsewhere in the article).</p> <p>(v) Article 12(5) refers to “the opening for public use of a public right of way that has been permanently closed and diverted ...”. CDC does not consider this drafting works and considers it should be recast.</p>
Article 13 (<i>Use of private roads</i>)	<p>Amendment to article:</p> <p>13.—(1) The undertaker may use anythe private roadroads within the Order limits as specified on the streets, rights of way and access plans for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction or maintenance of the authorised development.</p>	Amendment per request by ExA at ISH1 for this power to be limited to scope of those roads specified on the Streets, Access and Rights of Way plans.	CDC has no comments on this amendment.

<p>Article 16 (<i>Traffic regulation measures</i>)</p>	<p>Amendments to article: [...] (4) Before exercising the power conferred by paragraph (2) the undertaker must— (a) consult with the chief officer of police in whose area the road is situated; and (b) obtain the written consent of the traffic authority and the street authority may attach reasonable conditions to any such consent. (5) The undertaker must not exercise the powers in paragraph (1) or (2) unless it has— (a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and (b) not less than 75 working days before the provision is to take effect published the undertaker's intention to make the provision in one or more newspapers circulating in the area in which any road to which the provision relates is situated. (c) displayed a site notice containing the same information at each end of the length of road affected.</p>	<p>Amendments per request by CDC in discussions:</p> <ul style="list-style-type: none"> • At sub-paragraph (4), for clarity the traffic authority can prescribe conditions when providing this consent. • At sub-paragraph (5) to utilise working day drafting. 	<p>CDC agrees with the amendments to sub-paragraphs (4)(b) and (5)(b).</p>
<p>Article 21 (<i>Time limit for exercise of authority to acquire land compulsorily</i>)</p>	<p>Amendment to article: [...] (3) The authority conferred by article 29 (temporary use of land for constructing the authorised development) must not be used after the end of the applicable period referred to in paragraph (1), save that if an application is made under section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent) the applicable period is to be extended by— (a) a period equivalent to the period beginning on the day the application is made and ending on the day it is withdrawn or finally determined; or (b) one year, where the period specified in sub-paragraph (3)(a) is shorter, than one year.</p>	<p>Amendment per discussion with ExA at ISH1 to clarify the application of this paragraph.</p>	<p>CDC considers the extension provided under art.21(3)(a) is satisfactory and there is no need for art.21(3)(b). Owing to this, CDC considers art.21(3) should be recast as follows –</p> <p>“The authority conferred by article 29 (temporary use of land for constructing the authorised development) must not be used after the end of the applicable period referred to in paragraph (1), save that if an application is made under</p>

			section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent) the applicable period is to be extended by a period equivalent to the period beginning on the day the application is made and ending on the day it is withdrawn or finally determined”.
Article 38 (<i>Felling or lopping of trees and removal of hedgerows</i>)	Amendment to article: [...] (5) The undertaker may not pursuant to paragraphs (1) and (4) fell or lop a tree or remove hedgerows within the extent of the publicly maintainable highway without the prior consent of the highway authority, and the highway authority may attach reasonable conditions to any such consent.	Amendment as per request in direct discussions from CDC to clarify that the highway authority may attach reasonable conditions to consents under Article 38.	CDC agrees with this amendment.
Article 42 (<i>Arbitration</i>)	Amendment to article: 42. —(1) Any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled in arbitration in accordance with the rules set out in Schedule 13 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 10 working days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.	Amendment as per request in direct discussions from CDC to utilise working days.	CDC agrees with this amendment.
Article 45 (<i>Procedure in</i>	Amendment to article: [...]	Removal per request from CDC raised in direct discussions, on basis this	CDC agrees with this amendment.

<i>relation to certain approvals etc)</i>	(2) Where paragraph (1) applies to any consent, agreement or approval, such consent, agreement or approval must not be unreasonably withheld or delayed .	drafting is superfluous given there is a deemed approval provision in this Article.	
Schedule 2, Requirement 1 (Commencement of the authorised development)	Amendment to requirement: 1. The authorised development must not begin commence after the expiration of five years from the date this Order comes into force.	Amendment per agreed wording change with ExA at ISH1.	CDC agrees with this amendment.
Schedule 2, Requirement 2 (Approved details and amendments to them)	Amendment to requirement: [...] (4) Within 14 10 working days of the date of final commissioning the undertaker must serve written notice of the date of final commissioning on the relevant planning authority.	Amendment to working days to align with Schedule 15, per request from CDC in direct discussions.	CDC agrees with this amendment.
Schedule 2, Requirement 10 (Archaeology)	Amendment to requirement: 10. —(1) No part of the authorised development may commence, and no part of the permitted preliminary works for that part comprising the intrusive archaeological surveys may start, until an archaeology mitigation strategy may commence, until the final Archaeological Mitigation Strategy and site-specific written scheme of investigation for that part has have been submitted to and approved in writing by the relevant planning authority. (2) The Final Archaeological Mitigation Strategy and site-specific written scheme of investigation must be substantially in accordance with the Draft Archaeology Framework Archaeological Mitigation Strategy and must be implemented as approved.	Amendments per discussion with ExA at ISH1 to clarify the relevant documents as to be submitted at Deadline 1.	As mentioned during ISH1, CDC considers R10(1) should require CDC to consult with the South Yorkshire Archaeological Service (or whichever body is CDC's archaeological adviser at the relevant time) and would suggest R10(1) is amended as follows – “No part of the authorised development may commence, and no part of the permitted preliminary works for that part may commence, until the final Archaeological Mitigation Strategy and site-specific

			written scheme of investigation for that part have been submitted to and approved in writing by the relevant planning authority, in consultation with that authority's archaeological advisers ".				
Schedule 2, Requirement 18 (Decommissioning)	Amendment to requirement: 18.—(1) Within Unless otherwise agreed with the relevant planning authority, no later than 12 months of prior to the date that the undertaker decides intends to decommission any part of the authorised development, the undertaker must submit to the relevant planning authority for approval a decommissioning environmental management plan for that part. [...]	Amendment to address CDC request for clarified wording on how this requirement would be triggered if it was unclear to CDC when the decision to decommission had been made.	CDC agrees with this amendment.				
Schedule 6 (Streets and Public Rights of Way)	Various amendments within tables to correct typos and delete incorrect row regarding use of motor vehicles on Moss 20.	Amendments throughout this Schedule to correct typos and delete the incorrect capturing of Moss 20 within the schedule enabling use of motor vehicles, as per comments received from CDC PRoW Officer in direct discussions.	CDC agrees with these amendments.				
Schedule 6 (Streets and Public Rights of Way) Part 6 –	Addition of new row for minor closure of Fenwick 10 <table border="1" data-bbox="479 1323 1232 1388"> <tr> <td>(1) Area</td><td>(2)</td><td>(3)</td><td>(4)</td></tr> </table>	(1) Area	(2)	(3)	(4)	Addition of new closure of a small part of Fenwick 10 per request from CDC PRoW Officer as part of the	CDC agrees with this amendment.
(1) Area	(2)	(3)	(4)				

<i>Permanent Closure and Diversion of Public Rights of Way</i>		PROW to be closed	Extent of closure	New PROW to be substituted / provided	tidying up of the superfluous “dogleg” arising from the diversion and stopping up of Sykehouse 29 through Bunfold Shaw.	
	City of Doncaster Council	Fenwick 10	The Public Right of Way between PRoW 04/05 and PRoW 04/09 on the streets, rights of way and access plans	The Public Right of Way between PRoW 04/05 and PRoW 04/08 on sheet 4 of the streets, rights of way and access plans.		
Schedule 12 (Documents and plans to be certified)	Various amendments to reflect updates to documents at Deadline 1.				To ensure schedule reflects latest documents. This update will be provided at each deadline.	CDC has no comments on these amendments.
Schedule 14 (Protective Provisions)	Various amendments to reflect final agreed protective provisions.				This Schedule included final agreed protective provisions between the Applicant and (i) Network Rail (ii) the Environment Agency (iii) Exolum (iv) NGET and (v) Northern Powergrid.	CDC has no comments on these amendments.
Schedule 15 (Procedure for discharge of requirements), Paragraph 2	Amendment to paragraph: 2.—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement, the undertaker will must also simultaneously submit a copy of that application to any requirement consultee.				Amendment per request from CDC in direct discussions, to make it clear when this copy is to be served on consultees.	CDC agrees with this amendment.

Schedule 15 (<i>Procedure for discharge of requirements</i>), Paragraph 4	Amendment to paragraph: [...] (2) The steps to be followed in the appeal process are as follows— (a) any appeal by the undertaker must be made within 42 30 <i>working</i> days of the date of the notice of the decision or determination, or (where no determination has been made) the expiry of the time period set out in paragraph 2(1), giving rise to the appeal referred to in sub-paragraph (1);	Amendment per request from CDC in direct discussions, to change to working days.	CDC agrees with this amendment.