

# Norwich to Tilbury DCO

## Colchester City Council's

### Post Issue Specific Hearing 2 Written Submission

**2 Use of term 'where practicable' All local authorities: Provide a response to the applicant's answer to first written question (ExQ1) NV1.6 and follow up to hearing discussion regarding use of the term 'where practicable' and whether commitment NV23 in the outline code of construction practice (CoCP) would be adequate.**

The Council would like to note that the use of 'where practicable' or other similar phraseology in the DCO and in any control document is unacceptable. Such phrasing lacks precision and is unenforceable. It is simply not possible for the enforcing authority to take action where the test is 'where practicable' as the response from the applicants or their contractors will be 'in that instance compliance was not practicable in our opinion'. Terms with ambiguity wholly undermine the relevant section of the DCO or control document and therefore render that document unenforceable and therefore ultimately pointless.

NV23 states that 'For the construction of pylon foundations, non-percussive piling methods will be used where practicable'. As above, this is wholly unacceptable and could result in percussive piling being used in all foundations for all pylons if the applicants decided this was the most practical option for them. This is not a satisfactory solution and does not provide LPAs the certainty they need to protect the amenity of their residents.

**10 Discharge period • Provide a full response in writing to the local authorities' request to further extend the period for discharge to 40 working days/ 56 calendar days. • Local authorities to provide additional justification for their request, including reasons for continuing to request additional days for discharge (with reference to experiences relating to Sea Link and Bramford to Twinstead). • Provide a response to the suggestion of a validation checklist being secured in the DCO**

Action Point 10 requests that local authorities provide further justification for seeking extended determination periods for the discharge of Requirements, including reference to experience from other NSIPs (notably Sea Link and Bramford to

Twinstead). It also invites a response to the suggestion that a validation checklist be secured within the DCO.

### **Requesting Additional Days for Discharge**

The Council has previously set out its justification for an extended determination period within its response to ExQ1.

At ISH 2, a number of host authorities raised similar concerns, noting that the scale, technical complexity, and volume of documentation associated with NSIPs necessitate realistic determination periods in order to ensure lawful, robust and defensible decision-making. The Council concurs with those submissions.

In response to the Applicant's reference to the Hinkley Point C DCO as a precedent, the Council notes that that Order provides for materially longer determination periods, allowing up to 8 weeks for more complex submissions and 5 weeks for less complex cases. This demonstrates that extended timescales are both reasonable and established practice for projects of this scale and complexity.

The Council acknowledges the Applicant's emphasis on the importance of timely delivery of nationally significant energy infrastructure and will continue to engage proactively to support this objective. However, this must be balanced against the need for proportionate scrutiny, meaningful consultation, and sound decision-making. These processes rely on input from consultees who are frequently engaged across multiple NSIPs. Unrealistic determination periods risk undermining the quality and robustness of decisions and may increase the likelihood of refusals where matters cannot be adequately resolved within the prescribed timeframe.

For these reasons, and consistent with its previous submissions, the Council maintains that a minimum 56-day determination period (or 40 working days), with flexibility to extend where necessary, remains appropriate and justified.

### **Validation Checklist in DCO**

The Council supports the inclusion of a validation checklist within the DCO. The Council is mindful of other LPA's experience of the Bramford to Twinstead project where they considered submissions to have been, on occasion, deficient in terms of either the quality or completeness of information, including reliance on documents that were not provided at the point of submission.

The inclusion of a clear validation framework would assist in ensuring that applications to discharge Requirements are accompanied by all necessary information at the outset. This would improve efficiency in the determination process, reduce the need for subsequent information requests, and provide greater certainty for all parties.

### **11 ExQ1 DCO 1.A6 and 'maintain' Local authorities to comment on the applicant's position in its response to the question.**

The definition of “maintain” includes a wide range of specified operations in relation to the authorised development which can be undertaken subject to those works not giving rise to any materially new or materially different environmental effects to those identified in the Environmental Statement.

The Applicant refers to precedent and that is not necessary or appropriate for there to be any external oversight of what is new or materially different. The Applicant also refers to its statutory duty to maintain a safe and efficient transmission network. However, it is considered this has little bearing on the whether those works covered by the definition of maintain have any new or additional environment effects.

It is acknowledged that certain works including inspect, repair, dismantle, remove, clear, refurbish, paint, surface treat, decommission, are unlikely to give rise to new or materially different environmental effects. However, works involving alteration, improvement, reconstruction or replace which are covered by the current definition do retain the potential to give rise to new or materially different environmental effects.

CCC is of the opinion that to provide clarity and avoid any dispute, the DCO should incorporate a mechanism for determining whether such maintenance works give rise to materially new/different environmental effects. It therefore considers that the definition of ‘maintain’ should be amended to include *“provided such works do not in the opinion of the local planning authority give rise to any materially new or materially different environmental effects to those identified in the Environmental Statement, and any derivative of “maintain” must be construed accordingly.”*

**16 Schedule 3 - Requirements 1 (Interpretations) Local authorities to comment on the applicants response to ExQ1 DCO 1.S5 regarding the discharging authority and the revised wording, including in relation to local government reform as set out in the Devolution and Community Empowerment Bill 2025.**

**Both the applicant and local authorities to provide further comments on the definition of ‘stage’.**

Essex County Council will be providing Counsel’s advice relating to this AP which CCC has seen and concurs with.

**17 Schedule 3 – Requirement 5 (Archaeology) Local authorities to provide comments on the applicant’s answer to ExQ1 DCO 1.S8 and the document now provided [AS-090].**

Document: 8.9.1 Applicant's Responses to First Written Questions Final Issue A April 2026 Appendix A. Supplement 1 – 1.S8 Draft Development Consent Order (additional submission)

Currently Requirement 5 (Archaeology) states:

*5 (4) All pre-commencement operations must be carried out in accordance with the outline archaeological mitigation strategy and outline written scheme of investigation, unless otherwise agreed with the relevant planning authority following consultation with the relevant county planning authority and, if relevant, Historic England.*

It was requested that changes were made to the wording of 5 (4) to:

*5 (4) Intrusive site preparation works must not take place until an archaeological or geoarchaeological written scheme(s) of investigation in accordance with the outline written scheme(s) of investigation as appropriate has been submitted to and approved by the discharging authority in consultation with Historic England. The archaeological or geoarchaeological written scheme(s) of investigation required under this sub-paragraph must be implemented as approved.*

The Applicant considers this wording “significantly and unacceptably limits the scope of pre commencement operations that can be carried out prior to commencement of the authorised development” however the outline archaeological mitigation strategy and outline written scheme of investigation (OAMS-OWSI) have not been approved and are not yet considered adequate as control documents.

The OAMS-OWSI submitted with the application (APP-328) was not considered sufficient to ensure adequate evaluation and mitigation of heritage assets following consent. A number of amendments were required and provided to the Applicants archaeological advisors. A revised OAMS-OWSI has been discussed at regular meetings and is to be submitted before Deadline 5. At present there is no agreement of the revised OAMS-OWSI, there is also no agreement as to the further scope of works in the overhead sections of the development and other areas of associated infrastructure. The agreement of an appropriate OAMS-OWSI within the determination period is critical to the undertaking of appropriate and timely archaeological and geoarchaeological mitigation post consent.

Any pre-commencement works would therefore need to take place in accordance with an agreed OAMS-OWSI which included details of scope and identification of areas for the completion of all evaluation works. This document, at present, does not exist and therefore the Requirement refers to a control document that is not yet

submitted into the DCO library nor has agreement with the local authority advisors or Historic England.

Other LPAs have noted that The Bramford to Twinstead NSIP failed to reach agreement on the OWSI and this has led to significant delays in the timetable therefore it cannot be assumed that agreement on the projects OAMS-OWSI will be achieved before determination.

A further requirement for post-excavation works and publication was requested in the Local Impact Report and at Deadline 2. The suggested wording proposed is reproduced below:

*5 (5) Unless otherwise agreed with the local planning authority.*

*(a) No later than one year following the completion of the fieldwork specified in each site-specific written scheme of investigation, a site-specific post excavation assessment (PXA) for that site must be completed in accordance with the Written Scheme of Investigation and submitted to the local planning authority for approval.*

*(b) No later than one year following the approval of the final site-specific post excavation assessment, an archaeological updated project design for all applicable sites, must be submitted to the local planning authority for approval. The archaeological updated project design must be produced in general accordance with the detailed Written Scheme of Investigation for each stage, include details of the scope of post-excavation analysis and publication and have regard to the site-specific research agendas set out in the site-specific written schemes of investigation.*

*(c) Post-excavation analysis and publication must be carried out in accordance with the approved archaeological updated project design and provision made for the full archive to be submitted to the appropriate museum.*

The Applicant's position is that the inclusion of paragraph (6)(a) of the discussion draft, together with paragraph (7), would be the clearest approach to adopt.

*6(c) Post-excavation analysis and publication must be carried out in accordance with the approved archaeological updated project design and provision made for the full archive to be submitted to the appropriate museum.*

*(7) No later than two years after the completion of the construction phase of work, an Updated Project Design must be submitted to and approved by the Local Planning Authority. The Updated Project Design must be in general accordance with the approved Outline Archaeological Mitigation Strategy and Outline Written Scheme of Investigation, and relevant Detailed Written Schemes of Investigation, and set out scope for full post excavation analysis, publication, and address the site-specific*

*research agendas. Post-excavation analysis and publication must be carried out in accordance with the approved Updated Project Design.*

This would be considered acceptable.

**19 Schedule 4 Discharge of requirements The applicant and local authorities are both to provide a response to the ExA questions and comments including an update by deadline 5 (Wednesday 10 June) regarding post-discharge functions and the involvement of the Department of Energy Security and Net Zero (DESNZ), following the related submissions at the final deadline of the Sea Link examination. Enquiries are to be made whether DESNZ has been consulted or provided comments regarding the draft wording of the relevant schedule in the Sea Link draft DCO.**

There was a discussion about Recommendation 30 of the Fingleton Review and specifically the proposal to establish a new unit within DESNZ to co-ordinate and deliver post consent discharge functions for electricity networks projects. The ExA referred to the approach taken to this in the drafting of the DCO for the SeaLink project and flagged some concerns about this. Colchester County Council understands that the Applicant will provide more detail on its evolving approach to this issue at Deadline 4 and continue discussions with local authorities. With that in mind, CCC will await the Applicant's comments and make any further representations at Deadline 5.

**20 Article 60 and Schedule 19 Local authorities to respond to the points made at the hearing.**

The question was directed to the Councils during ISH 2. The Examining Authority (ExA) referred to the Applicant's response to ExQ DCO 1.G3 and sought confirmation as to whether that response addresses concerns regarding the list of documents to be certified by the dDCO (as provided in Schedule 19 and secured by Article 60).

By way of context, ExQ DCO 1.G3 requested that the Applicant:

*Explain why the outline Code of Construction Practice (oCoCP), outline Construction Traffic Management Plan (CTMP), outline Landscape and Ecological Management Plan (LEMP), outline Materials and Waste Management Plan, outline Public Rights of Way (PRoW) Management Plan, and outline Written Scheme of Investigation (WSI) are not identified as certified control documents, as is the case in the made Bramford to Twinstead DCO. It also sought justification for the absence of a*

*Construction Environmental Management Plan (CEMP), Materials Management Plan, and Waste Management Plan within the Norwich to Tilbury dDCO.*

The Council has had regard to the Applicant's response to ExQ DCO 1.G3 (REP3-075).

In respect of the certification of documents, the Council has no substantive comments to make.

The Council notes that there is a degree of overlap between the oCoCP and the outline Landscape and Ecological Management Plan (LEMP), the latter providing additional detail relevant to the construction phase. However, it is acknowledged that BS 42020:2013 anticipates a greater level of specificity than is currently presented within the outline oCoCP and LEMP.

In any case, the Council recognises that both documents are, at this stage, outline in nature, and therefore certain detailed measures may not yet be capable of being fully specified.

The Council will defer to Essex County Council regarding the omission of a Materials and Waste Management Plan.

**22 ExQ1 GEN 1.21 and Appendix E The local authorities, highway authorities, police forces and statutory undertakers named in the Appendix E of [REP3-074] are to provide further response to ExQ1 GEN 1.21 and Appendix E, having regard to the criteria set out in s122(2) of the Community Infrastructure Levy Regulations 2010. Rosie Pearson for Pylons East Anglia and Charles Micklem to provide in writing their comments regarding clauses in agreements relating to objections to planning applications and projects.**

This Action Point requires the local authorities, highway authorities, police forces and statutory undertakers named in Appendix E of [REP3-074] to provide a further response to ExQ1 GEN 1.21 and Appendix E, having regard to the criteria set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

The Council have been mentioned in Appendix E on page 6, & and 11, both in relation to skills, employment and local business coordination.

Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 provides that a planning obligation (including a section 106 agreement) may only constitute a reason for granting development consent if it meets all of the following tests:

*(a) Necessary to make the development acceptable in planning terms*

*(b) Directly related to the development*

*(c) Fairly and reasonably related in scale and kind to the development*

These statutory tests are reinforced in national policy and guidance, which make clear that planning obligations must mitigate the impacts of development and should not be used to secure general benefits or wider aspirations.

The Council has had regard to the requirements of Regulation 122(2) in considering whether a Skills and Employment Plan, and any associated funding, could appropriately be secured through a planning obligation.

The Council considers that, where appropriately framed, such measures are capable of meeting the statutory tests. In particular, having regard to the scale, duration and geographic extent of the construction phase, together with the cumulative effects arising from other similar projects in the area, the Proposed Development would give rise to identifiable socio-economic effects within the Council area. These include disruption to existing businesses, agricultural operations and local labour markets.

A Skills and Employment Plan, targeted at supporting local workforce participation and responding to construction-related labour demands, would therefore be necessary to make the development acceptable in planning terms, directly related to the development, and proportionate in scale and kind, subject to it being appropriately scoped and evidenced.

The Council does not agree with the Applicant's position that such measures fall solely within the scope of wider "community benefits". Rather, where they are directed at addressing the socio-economic effects arising from the construction and delivery of the Proposed Development, they constitute legitimate mitigation which may be secured either through a Requirement within the DCO or, where appropriate, a separate legal agreement.

**25 Limits of Deviation 1 Local authorities to identify the most sensitive locations and specific viewpoints that they would like to see additional visuals of pylons within the limits of deviation (so as to further illustrate the worst case scenario). The list of viewpoints is to be agreed as soon as possible with the applicant, and submitted by the applicant at deadline 4 (Tuesday 12 May). The applicant is to submit the agreed visuals by deadline 5 (Wednesday 10 June).**

We request additional visualisations for the following VPs, showing the photomontages or wireframes at the limits of the LoD nearest to the VP to show the worst-case scenario:

VP 4.01 Boxted Airfield Memorial, Park Lane 601864 231238 1.2 Photomontage  
Representative of people living and moving around Langham, using the local road network and visiting Boxted Airfield Memorial.

VP 4.08 Fordham 592846 228137 0.5 Wireline Representative of people living and moving around Fordham and using the local road and PRow network within open access land. Listed buildings at Fordham including Church of All Saints Grade I listed church. Close to NCN Route 13.

VP 4.11 PRow south of Aldham (Aldham 15) 591755 225436 0.2 Photomontage  
Representative of people living and moving around Aldham and people using the local road and PRow network.

VP 4.16 Langham Playing Field off School Road, Langham 602226 231760 1.7  
Photomontage Representative of people within Langham, using local PRow network and visiting Langham Playing Field. At edge of Stour Valley Project Area.

VP 4.24 Essex Way near Fordstreet 592120 227144 0.5 Photomontage  
Representative of people living and moving around the settlement of Fordstreet and using the Essex Way Long Distance Footpath and open access land within the Colne Valley **or** VP 4.25 Essex Way, Mill Road, south of Fordham 592808 227246 0.2  
Photomontage Representative of people along PRow within the Colne Valley.

4.37 Hines Close, Aldham 591714 225720 0.3 Photomontage Representative of residents in Aldham – this is critical due to proximity to residential receptors.

4.38 Essex Way, West Bergholt 595759 227930 1.8 Wireline Representative of users of the Essex Way and residents in West Bergholt.

**The Council would also like to make brief submission regarding the following AP's:**

**34 Colne Valley Provide written response to comments made at the hearing, in particular regarding the differing characteristics of the Colne Valley in terms of topography and whether the approach to the selection of the proposed pylon route has varied given these characteristics.**

In the Colne Valley section of the landscape and visual thematic hearing, the ExA asked a question which was along the lines of 'the Colne Valley is obviously special, so how have you (NGET) responded to that in your submission and proposal'?

It is CCC's opinion that in response they skirted the matter with a policy based response of 'it's not a NL/AONB so the presumption in favour of OHL remains'.

CCC consider that the simple answer to the ExAs question is they have acknowledged the harm will be significant in visual terms but have not taken that into consideration as they have not made any attempt to limit the harm. The applicants have not made any attempt to respond to the site in this location, nor deal with the topography. As set out in CCC's LIR, this is unacceptable.

**47 CTMP and Construction Workers Travel Plan (CWTP) (and appendices) Assess the use of tailpieces and other non-committal forms of wording in the CTMP and the CWTP to make these as binding and enforceable as possible, and amend as necessary for submission of the next versions of the documents**

**AND:**

**48 Driver's information pack Provide detailed information and explanation of the proposed drivers information pack in the outline CTMP so the ExA can be satisfied that the information in the final driver's information pack will be effective.**

Non-committal wording and tailpieces are unacceptable as they are impossible for host authorities to enforce against. Clear, precise and negatively worded control documents must be used.

CCC note and agree with the ExAs concerns that relying on a Drivers Information Pack/handbook for HGV and other delivery drivers is wholly unacceptable. Expecting every HGV driver to read a detailed handbook and then expecting them to follow it to the letter every day is completely unrealistic when HGV drivers are under significant pressure to make deliveries at pace and return to their depot. This fails to acknowledge that subcontractors will be used as will deliveries arrive directly from suppliers as this is the nature of a huge and complex application such as this one. The suggested approach appears to be completely unenforceable.