

Brentwood Borough Council (BBC) – Response to ISH Action Points

Interested Party Number: F94695012

12/5/2026

Action Point (AP) Number	BBC Response
AP2	<p>BBC would like to note that the use of ‘where practicable’ or other similar terminology in the DCO and in any control documents is unhelpful. Such terminology lacks precision and is therefore unenforceable; it is not possible for the relevant enforcing authority to take action where the test is ‘where practicable’, as the default response from the Applicant or their contractors can be that ‘in our opinion in that instance compliance was not practicable’. Terms with ambiguity undermine the relevant section of the DCO or control document, and therefore render that document unenforceable and therefore ineffective for proper planning purposes.</p> <p>NV23 (ES Chapter 14: Noise and Vibration (AENC-ARC-ENV-REP-0024), p.22) states that ‘[F]or the construction of pylon foundations, non-percussive piling methods will be used <i>where practicable</i>’. In light of the above, this is unhelpful and could result in percussive piling being used in <i>all</i> foundations for <i>all</i> pylons route-wide if the Applicant decided this was the most efficient option for them. This is an unsatisfactory solution and does not provide LPAs the terminology they need for certainty that they can safeguard the amenity of their residents.</p>
AP10	<p>BBC notes that Action Point 10 requests local authorities to 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), and that it also invites a response to the suggestion that a validation checklist be secured within the DCO.</p> <p>Requesting Additional Days for Discharge</p> <p>BBC has previously set out in its Local Impact Report its justification for an extended determination period. BBC considers that the statutory processes of validation, consultation, technical review, and internal sign-off could not, in all cases, be undertaken robustly within a tightly limited determination period without placing undue pressure on the local planning authority, its consultees, and the Applicant’s project team (including contractors).</p> <p>At ISH2, 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, credible and defensible decision-making. BBC concurs with all of those submissions.</p> <p>In response to the Applicant’s reference to the Hinkley Point C DCO as a</p>

	<p>precedent, BBC 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, demonstrating that extended timescales are both reasonable and established practice for projects of this scale and complexity.</p> <p>BBC 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 and with limited and/or stretched resources. 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.</p> <p>For these reasons, and consistent with its previous submissions, BBC maintains that the current proposed determination period remains inappropriate and unjustified.</p> <p>Validation Checklist in DCO</p> <p>BBC supports the inclusion of a validation checklist within the DCO as 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.</p>
AP11	<p>BBC understands that 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.</p> <p>The Applicant refers to precedent and that it 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, BBC considers this has little bearing on whether those works covered by the definition of maintain have any new or additional environment effects.</p> <p>BBC acknowledges that certain works including inspect, repair, dismantle, remove, clear, refurbish, paint, surface treat, and decommission are unlikely to give rise to new or materially different environmental effects. However, works involving alteration, improvement, reconstruction or replace, which are also covered by the current definition, do retain the potential to give rise to new or materially different environmental effects.</p> <p>If these operations are to remain within the definition of ‘maintain’, BBC is</p>

	<p>of the view 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. BBC therefore considers that the definition of 'maintain' should be amended to include: <i>"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."</i></p>
AP16	<p>BBC acknowledges that in light of previous host authority responses, the Applicant has reframed the definition of 'relevant planning authority'. However, the substantial majority of post-consent discharge activity on the Project will occur after April 2028, by which point the two-tier structure across Essex will have ceased to exist. BBC considers that the Applicant's reframing does not fully capture that transition.</p>
AP19	<p>BBC understands from Essex Country Council (ECC) that the Applicant will provide more detail on its evolving approach to this issue at Deadline 4 and will continue discussions with local authorities. BBC consequently understands that ECC will await the Applicant's comments and make any further representations at Deadline 5.</p>
AP25	<p>BBC has communicated viewpoints to ECC and these have in turn been communicated to the Applicant.</p>