

CCC Responses to ExA's Rule 17

Letter 14/07/2026

1.1

Requirement 11: Biodiversity Net Gain At deadline 6 the applicant submitted a revised draft Development Consent Order (DCO) [REP6 030]. In Schedule 3 of [REP6-030] a new requirement 11 on biodiversity net gain has been included. Comments are sought on this additional requirement, including any alterations to any of the wording that you would recommend.

Notwithstanding CCC's opinion that NGET could be more ambitious and set the standard for other DCOs to follow with a 20% BNG uplift (also noting that the uplift will not take a baseline from the whole order limits but from land that is directly impacted) as set out in the SoCG, the Council note that the dDCO (REP6-031) has been updated to include a Biodiversity Net Gain requirement, as well as an updated wording in the "interpretation" section of Schedule 3.

The Council welcomes the inclusion of a biodiversity net gain requirement within the draft DCO. However, while the Council do not object to the Applicant's "interim/final assessment" approach, which appears pragmatic for a project of this scale, the Council is concerned that Requirement 11 does not provide any mechanism for review, approval or agreement by the relevant planning authority. As currently drafted, compliance with the requirement is capable of being determined solely by the undertaker through submission of the relevant assessments. This is not acceptable to CCC.

Given that biodiversity metric calculations require professional judgement regarding habitat classification, habitat condition, distinctiveness, temporal risk and post-development outcomes, the Council considers that the interim biodiversity net gain assessment, final biodiversity net gain assessment and any biodiversity offsetting scheme should be subject to approval by the relevant planning authority, following consultation with relevant ecological advisors where appropriate.

Without an approval mechanism, there is no means by which concerns regarding the methodology, assumptions or conclusions of the biodiversity net gain assessments can be formally addressed. Furthermore, the Council considers that the proposed drafting provides limited ability for the relevant planning authority to verify that the

biodiversity net gain calculations have been undertaken appropriately prior to any determination that the 10% target has been achieved. Noting that CCC would strongly prefer a more stretching 20% BNG uplift, if the ExA and SoS are satisfied with 10%, it is critical that it is actually delivered.

To that end, the Council considers that an approval mechanism would provide greater certainty, transparency and enforceability.

The Council therefore recommends that Requirement 11 be amended so that:

- *the interim biodiversity net gain assessment is submitted to and approved by the relevant planning authority;*
- *the final biodiversity net gain assessment is submitted to and approved by the relevant planning authority;*
- *where a biodiversity offsetting scheme is required, the scheme is submitted to and approved by the relevant planning authority before implementation; and*
- *no part of Requirement 11 is discharged solely through submission of information.*

Owing to the above, the Council consider that the requirement wording would be better suited to say:

(1) Prior to commencement of the authorised development, an interim biodiversity net gain assessment must be submitted to and approved in writing by the relevant planning authority.

(2) Within six months of the end of the construction period, a final biodiversity net gain assessment must be submitted to and approved in writing by the relevant planning authority.

(3) If the approved final biodiversity net gain assessment demonstrates that less than 10% (or 20% if the ExA is minded) biodiversity net gain has been achieved overall across the Order land, a biodiversity offsetting scheme must be submitted to and approved in writing by the relevant planning authority.

(4) The approved biodiversity offsetting scheme must be implemented in accordance with the approved details.

1.3

Validation checklists for discharge of requirement submissions/ requirement 15 of Schedule 3 (Employment and Skills Plan) The ExA draws the attention of all relevant local authorities to the applicant's response to questions 1c and 2b of [REP6-132]. Question 1c relates to the possible use of development validation checklists for the discharge of requirement submissions.

The applicant previously responded on this matter in [REP4-303], acknowledging such check lists could be helpful, noted it would be appropriate for drafting to be proposed by the host authorities for its consideration. The applicant advises "No drafting has yet been proposed however the applicant will continue discussions on this matter with the host authorities as it progresses ways of working for the discharge of requirements." All local authorities are asked to signpost where such drafting has been previously provided in examinations submissions or to enter such drafting into the examination.

Question 2b concerned the Employment and Skills Plan (ESP) and whether requirement 15 of schedule 3 of the draft DCO should be worded to require the document submitted pursuant to that requirement to be approved by the relevant discharging authorities. In the light of the applicant's comments on this matter, as set out in [REP6-132], the ExA seeks the views of all relevant local authorities on this matter, especially in relation to the tests of necessity, relevance to planning, relevance to the development sought, enforceability, precision and reasonableness in all other respects.

Regarding the validation checklist, CCC fully support the list of items suggested by Braintree DC, BMSDC, SCC and ECC:

- Accurate description
- Accurate plans and, where relying on plans already approved, full citation of these plans with link to / attached (living library of current approved plans also under discussion for compliance / enforcement)
- Full context / trail of relevant approved outline / final management plans, drawings and DCO provisions that underpin / support. To include doc ref, page numbers, para numbers for as much detail as possible.
- Full context of response to draft DOR submission and comments / decision
- Details of any relevant licensing or other agreement

Regarding Requirement 15 of Schedule 3 of the draft DCO, the ESP must be worded to require the document submitted pursuant to that requirement to be approved by the relevant discharging local authorities. This would ensure it is of a satisfactory quality and would also allow the relevant LPAs the chance to feed into it with their local expertise. This will ensure it is fully effective in practice.

1.4

Outline Code of Construction Practice Appendix E (Community Engagement and Public Information) and Appendix F (Outline Noise and Vibration Management) The applicant responded to ExQ2 questions DCO 2.S3 and DCO 2.S6 in [REP6-115]. Revisions were made to the 'Outline Code of Construction Practise Appendix E - Community Engagement and Public Information' [REP6-078] and the 'Outline Code of Construction Practise Appendix F - Outline Noise and Vibration Management' [REP6-080]. The ExA seeks a response from all local authorities who responded to ExQ2 [PD-023] DCO 2.S3 and DCO 2.S6, regarding the adequacy of the revisions submitted, bearing in mind their previous responses to ExQ2 submitted at deadline 5.

Whilst CCC does not take issue with the scheme in this regard, it supports Braintree DC (and others) with their response to the questions regarding Appendix E and F as they are pragmatic and reasonable suggestions. They are set out below for completeness:

Appendix E - Community Engagement and Public Information

The Council acknowledges that the revisions made to Appendix E substantially address a number of the concerns previously raised, including provision of a complaints register, dedicated community relations arrangements, complaint investigation procedures, escalation routes and review of recurring issues.

However, the Council notes that the revised drafting does not include all of the measures previously requested, particularly in relation to approval of the subsequent detailed complaints procedure, defined acknowledgement timescales, provision of complaints data to the relevant planning authority and identification of a named responsible officer. Whilst the revisions represent a significant improvement on the previous drafting, the Council considers that further amendments (as outlined above) could strengthen transparency and oversight during the construction phase.

Appendix F - Outline Noise and Vibration Management Plan

The Council responded at Deadline 5 (REP5-232) to ExQ DCO 2.S6. In summary, the Council considered that the CoCP should include a clear noise complaints and monitoring procedure requiring notification of sensitive receptors, investigation and noise monitoring following complaints, application of BS5228 noise thresholds, and implementation of defined trigger levels requiring mitigation measures or cessation of works where specified exceedances occur.

The Applicant acknowledged the Council's suggested noise monitoring and trigger level approach but considers that the detailed monitoring arrangements, thresholds and associated response measures should be agreed with the relevant local planning authorities through the detailed Noise and Vibration Management Plan secured under Requirement 4 of the draft DCO, rather than being prescribed within the Outline CoCP itself.

The Council continues to hold some residual concerns regarding whether the Environmental Statement has fully assessed the reasonable worst-case noise and vibration effects arising from the Project. However, the Council acknowledges that the Applicant has made a number of substantive amendments to both the Outline NVMP (REP6-080) and the Outline CoCP (REP6-072) in response to concerns raised by local authorities during the Examination.

In particular, the revised Outline NVMP now provides for monitoring proposals, monitoring locations, thresholds, trigger levels, reporting arrangements and exceedance actions to be developed and agreed with the relevant local planning authority through the detailed NVMP. The revised document also provides for complaint-led monitoring, investigation of exceedances, implementation of remedial measures and reporting of monitoring outcomes to the relevant local planning authority. The Council considers that these amendments substantially address the concerns previously raised in relation to monitoring and enforcement mechanisms.

Furthermore, through amendments to commitment NV05 and the operation of Requirement 4, the Applicant has confirmed that the detailed NVMP will be submitted to the relevant local planning authority for approval prior to commencement of the relevant stage of development. The Council considers this to be a significant improvement to the control framework, as it provides the relevant authority with direct oversight of the detailed noise and vibration mitigation, monitoring and management measures that will be implemented during construction.

This addresses one of the Council's longstanding concerns that sufficient control and approval mechanisms were not previously secured through the DCO documentation.

On balance, whilst the Council maintains its position that some uncertainty remains regarding the assessment of worst-case effects, it considers that the revisions made to the Outline NVMP and the associated approval mechanism secured through Requirement 4 have substantially addressed the concerns previously raised in relation to the management, monitoring and control of construction noise and vibration impacts.

Whilst acknowledging the progress on the matter of noise and vibration compliance, the Council wish to take this opportunity to reiterate their request, set out in REP6-139 for a comprehensive strategy, to be in the form of an appendix to the CoCP, for ongoing and regular proactive compliance monitoring and reporting, plus enforcement and regularisation procedures for all reported complaints and identified non-compliance. This is necessary for all matters in the delivery of the development, not solely limited to noise and vibration management.

3.1

Assessment of impacts on bat species and proposed mitigation In paragraphs 6.1.11 to 6.1.14 of the revised version of the outline LEMP [REP6-084], the applicant has included further details of mitigation measures for bat species.

To the applicant: For the sake of consistency clarify whether the references made within [REP6 084] to “preliminary roost features” are the same as the “potential roost features” references that are stated in the Bat Roost Report [AS-034] and amend accordingly. Furthermore, confirm that all trees that have currently been classified “further assessment required” as per [AS-034] would be assessed in order to determine the presence or absence of potential roost features. Also, justify why the use of a 10% figure for bat boxes and/ or tree veteranisation for trees with potential roost features that you have cited in paragraph 6.1.12 of [REP6-084] would provide an adequate level of mitigation.

To all local authorities and Natural England: Comment on whether the amendments made to the revised outline LEMP [REP6-084] now satisfy your concerns in relation to the assessment of impacts on bats and proposed mitigation. This should include whether you think the 10% figure, as proposed in paragraph 6.1.12, would be sufficient. If you have any remaining concerns

then please set these out, including what specific actions you consider should be undertaken by the applicant to resolve your concerns.

This does address our concerns as set out in our SoCG.

6.2

A number of IPs have made representations at deadline 6 concerning the Masterplans [REP5 199]. The ExA acknowledge that these plans have been produced in consultation with local authorities, their draft status, and that such plans are illustrative in nature. The ExA also note the applicant's point of view, as made in ISH4 and restated in [REP6-118] that the provisions within the masterplans are not necessary to make the application acceptable in planning terms. To the applicant: a) While accepting the illustrative nature of the plans, some information submitted from IPs could be usefully incorporated within the masterplans. For instance (but not limited to), Aldham Parish Council [REP6-175] identify a number of veteran trees and notable trees from the Woodland Trust Ancient Tree Inventory that do not appear on the constraints plans. Consider whether the plans should be updated and resubmit if necessary. b) The ExA would appreciate further information on the preferred method of the applicant to deal with the matter via an article in the DCO and how this was dealt with in the London Luton DCO (noting the applicant caveat that compensation for residual landscape and visual effects is not required pursuant to the legal and policy framework). To all local authorities: a) Provide your views on the potential mechanism provided by the applicant to provide funding for provision of landscape compensation (as contained in Annex of [REP6-118]).

CCC support the correct plotting of all Vetran Trees as set out in the SoCG and thank Aldham Parish Council for noting these.

With regard to the mechanism for funding, CCC will defer to ECC on this matter.

6.3

Good design and lighting controls The ExA notes the submission of the amended Design and Access Statement (DAS) [REP6-090] and Design Approach for Site Specific Infrastructure (DASSI) [REP6-092]. a) The DASSI states that the operational lighting at the proposed East Anglian Connection Node (EACN) substation will "have regard" to the Dedham Vale Lighting Design Guide. Should such wording be strengthened, and if not, why not? b)

Would similar wording as for (a) be useful for all substations, extensions and sealing end compounds? While not all are within the setting of the National Landscape, the use of dark skies principles for such lighting would seem appropriate in such rural areas. The ExA note in this respect the submissions of Burstall Parish Council at deadline 6 [REP6-143] and their existing issues of light pollution. c) In particular around the EACN and Burstall, how will potential cumulative lighting issues be dealt with given other works potentially happening in their vicinity?

d) Pylons East Anglia [REP6-229] note that the Cambridge Waste Water Treatment DCO included a requirement for a lighting design strategy. Would such a requirement be appropriate in this case, and if not, why not?

Whist not directed at CCC, very briefly we would like to suggest the following:

- a) Should state 'must comply with' for absolute clarity.
- b) It would and there is no reason the other items listed should not comply.
- c) CCC do not wish to comment.
- d) CCC suggest that such a requirement would be appropriate and thank Pylons East Anglia for the suggestion which is eminently sensible and justified.

6.4

Good design The ExA notes the design review panel (DRP) proposals contained within the DAS [REP6-090] and DASSI [REP6-092] and the provisions for local planning authorities, Dedham Vale National Landscape officials, wildlife trust representatives and North Falls and Five Estuaries project representatives to be invited to meetings where relevant. To the applicant: a) How often is the DRP likely to meet and at what stages of the process will the DRP have input into the design? b) Notwithstanding issues of safety regulation and security, what powers or control or influence will the DRP have and how will this be secured? c) The more formal inclusion of the environmental areas around the cable sealing ends for DRP review would seem useful. A similar table to table 6.1 of the DASSI should be provided in this regard to provide more certainty than currently exists within the DASSI.

To all local authorities and the Wildlife Trusts: d) Provide your views on the DRP proposals and any other final comments you wish to make on the subject of good design.

CCC consider good design to be fundamental to good planning and would rather have seen a significant greater level of detail pertaining to design matters upfront, particularly when they sit close to or within the Dedham Vale National Landscape.

With regards to the DRP proposal CCC have discussed this with ECC and will defer to them on this matter.