

CORRECTION NOTICE

THE A122 (LOWER THAMES CROSSING) DEVELOPMENT CONSENT ORDER 2025 (S.I. 2025 No. 462)

SCHEDULE 4 TO THE PLANNING ACT 2008 CORRECTION OF ERRORS IN DEVELOPMENT CONSENT DECISIONS

11 September 2025

The Secretary of State received requests dated 2 May 2025 from National Highways Limited (“the Applicant”) and 28 April 2025 from Kent Downs National Landscape Team (“KDNL”) for the correction of errors and omissions in the A122 (Lower Thames Crossing) Development Consent Order 2025 (“the Order”), under paragraph 1(5)(a) of Schedule 4 to the Planning Act 2008 (“the Act”). These two requests have been considered along with observations upon them provided by the Applicant on 2 May and 10 July 2025, KDNL on 18 July and Natural England on 11 July.

In accordance with paragraph 1(7) of Schedule 4 to the Act, the Secretary of State notified each relevant local planning authority of the two requests for corrections and additionally notified the Applicant, Essex County Council, the Greater London Authority, Kent County Council, KDNL, Natural England and Port of Tilbury London Limited.

The Secretary of State has made the following corrections to the Order. Unless otherwise stated, the corrections that have been made, or not made, relate to requests made by the Applicant:

Corrections to Articles

Article 2 (Interpretation)

In the definition of “trunk road”, replace “general provision as to” with “certain special roads and other highways to become”.

Secretary of State’s rationale: to correct a cross-referencing error.

Article 15 (Classification of roads, etc.)

In article 15(7), replace “GLD roads” with “GLA roads”.

Secretary of State’s rationale: to correct a typographical error.

Article 16 (Clearways, speed limits and prohibitions)

In article 16(7), replace “speed limits)to those Regulations” with “speed limits) to the Traffic Signs Regulations”.

Secretary of State’s rationale: to correct a typographical error.

Article 24 (Trees subject to tree preservation orders)

In article 24(3)(c), after “activity taking place” insert “, except where provision for relevant activity in relation to the tree has already been made in an environmental management plan approved under paragraph 4 of Schedule 2, or a landscape and ecology management plan approved under paragraph 5 of Schedule 2”.

Secretary of State’s rationale: to correct the unintended duplication of a requirement to consult Local Planning Authorities where consultation in relation to the tree concerned has already taken place for the purposes of the Environmental Management Plan (Second Iteration) or Landscape and Ecological Management Plan.

Article 30 (Modification of Part 1 of the 1965 Act)

In article 30(6), in the inserted paragraph 30(6) of Schedule 2A to the Compulsory Purchase Act 1965, replace “Plots 28/08, 29/253, 29/254, 29/258, 29/259, 29/260 and 29/261” with “Plots 28-08, 29-253, 29-254, 29-258, 29-259, 29-260 and 29-261”.

Secretary of State’s rationale: to correct cross-refencing errors.

Articles 31 (Application of the 1981 Act), 32 (Modifications of the 2017 Regulations) and 33 (Acquisition of subsoil or airspace only)

In article 31—

- in paragraph (4) in the inserted subsection (1), after “statutory undertaker”, in both places where it appears, insert “, public communications provider”;
- in paragraphs (10) and (11), after “statutory undertaker”, insert “, public communications provider”; and
- after paragraph (14), insert—

“(15) In this article, “public communications provider” means a public communications provider as defined in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003.”.

In article 32—

- in paragraph (2), in the inserted paragraph (1A), after “statutory undertaker”, insert “, public communications provider”; and
- after paragraph (4), insert—

“(5) In this article, “public communications provider” means a public communications provider as defined in section 151(1) of the Communications Act 2003.”.

In article 33—

- in paragraph (2)(b), after “statutory undertaker”, insert “, public communications provider”; and
- after paragraph (8), insert—

“(9) In this article, “public communications provider” means a public communications provider as defined in section 151(1) of the Communications Act 2003.”.

Secretary of State's rationale: to correct the erroneous omission of public communications providers (who do not fall within the definition of "statutory undertakers") from the list of third parties in whom the Applicant may vest rights and covenants.

Article 40 (Special category land)

In article 40—

- in paragraph (1)(a), after "are exercised;", insert "and";
- in paragraph (1)(b), delete "has approved" and "has been received from the undertaker; and";
- delete paragraph (1)(c);
- in paragraph (3)(a), after "under paragraph (1)", insert "; and";
- after paragraph (3)(a), insert—

"(b) obtain certification from the relevant planning authority that the scheme has been laid out to its satisfaction,"; and
- in the tailpiece of paragraph (3), replace "replacement land is", with "replacement land has been certified by the relevant planning authority as".

Secretary of State's rationale: to correct a drafting error which created an unintended divergence on the provision of replacement land from that recommended by the Examining Authority, with whom the Secretary of State agreed.

Article 48 (Protection of the tunnel area, etc.)

In article 48(10), in the definition of "the exempt section protection zone activities", renumber sub-paragraphs (g), (h), (i) and (j) as (a), (b), (c) and (d).

Secretary of State's rationale: to correct typographical errors.

Article 49 (Removal of vehicles)

In article 49(17), delete the definition of "owner".

Secretary of State's rationale: to remove duplication of the definition included in article 2 of the Order.

Also, in paragraph (17)—

- in the definition of "person responsible", renumber sub-paragraphs (d), (e) and (f) as (a), (b) and (c); and
- in the definition of "specified information", renumber sub-paragraphs (g) and (h) as (a) and (b).

Secretary of State's rationale: to correct typographical errors.

Article 53 (Disapplication of legislative provision, etc.)

In article 53(1)(a), replace “paragraph (5)” with “paragraph (4)”.

Secretary of State’s rationale: to correct a cross-referencing error.

In paragraph (7), after “2000 Act”, insert “(or any other enactment relating to the imposition of road user charges)”.

Secretary of State’s rationale: to correct an inconsistency within the Order.

Article 68 (interface with waste operation permits)

In article 68(4)—

- In sub-paragraph (c) replace “in relation to certain applications)” with “in relation to regulator-initiated variations)”;
- In sub-paragraph (e) replace “(applications to” with “(appeals to”

Secretary of State’s rationale: to correct cross-referencing errors.

Corrections to Schedules

Schedule 1 (Authorised development), Part 1 (Authorised Works)

- In the entry for Work No. 7, sub-paragraph (g)(iii), replace “00 metres” with “600 metres”;
- Under the heading “Utilities works – Temporary multi-utility diversion works”, in the entry for Work No. MUT10, replace “a62 metres” with “62 metres”; and
- Under the heading “Construction areas – Main works compounds”, in the entry for Work No. CA5A, replace “4,512 square metres” with “44,512 square metres”.

Secretary of State’s rationale: to correct typographical errors.

Schedule 2 (Requirements), Part 1 (Requirements)

In paragraph 9(7)(a) (Historic environment), after “authorised development”, insert “which requires the demolition of the building”.

Secretary of State’s rationale: to remove unintended ambiguity.

Schedule 2, Part 2 (Procedure for discharge of requirements)

In paragraph 21(1)(b) (Applications made to the Secretary of State under Part 1), replace “paragraph 23” with “paragraph 22”.

Secretary of State’s rationale: to correct a cross-referencing error.

In paragraph 22(4) (Further information), replace “paragraph 22” with “paragraph 21”.

Secretary of State’s rationale: to correct a cross-referencing error.

In paragraph 23(1)(a) (Details of consultation), replace “paragraph 22(3)” with “paragraph 21(3)”.

Secretary of State’s rationale: to correct a cross-referencing error.

Schedule 2, Part 3 (Amendments to be made to the control documents)

In paragraph 26(4) (Amendments to be made to the Code of Construction Practice and the REAC), in Table 2, first row (REAC ref no. “HR013”), fifth column (“Commitment”), replace “Appropriate technology and infrastructure would be installed to enable the enforcement authority to enforce a 60mph speed limit in a westbound direction between junctions 26 and 27 of the M25 to ensure that there is no Adverse Effect on Integrity (AEol) on Epping Forest SAC as a consequence of traffic emissions leading to increases in nitrogen deposition, NOx and NH3. Reasonable and appropriate funding would be provided to the enforcement authority to set a 60mph limit and to undertake enforcement activities, in addition to existing enforcement measures.” with “Appropriate technology and infrastructure would be employed to enable, if required, the enforcement authority to enforce a 60mph speed limit in a westbound direction between junctions 26 and 27 of the M25 to ensure that there is no Adverse Effect on Integrity (AEol) on Epping Forest SAC as a consequence of traffic emissions leading to increases in nitrogen deposition, NOx and NH3. Reasonable and appropriate funding would be provided to the highway and enforcement authority to set a 60mph limit and to undertake enforcement activities. Any additional”.

This proposed correction was part of a broader proposal which was opposed by Natural England in its letter dated 11 July as it does not view the wording as an error, rather the considered position of a decision-making authority following the examination process.

Secretary of State’s rationale: The text in the Order is unintentionally ambiguous and could be inferred as seeking to mandate the introduction of a 60mph speed limit in a westbound direction between junctions 26 and 27 of the M25. The correction made removes this ambiguity and makes it clear that a speed limit need only be imposed if it is required at the time, which aligns with the recommendation of the Examining Authority that was considered and accepted by the Secretary of State at paragraphs 591 to 593 of the Decision Letter. The correction also clarifies that enforcement technology and infrastructure on that part of the M25 is already in situ.

Also in paragraph 26(4), Table 2—

- in the second row (REAC ref no. “RDWE060”), ninth column (Securing mechanism in DCO), replace “EMP2 Requirement 4” with “Requirement 8”;
- in the third row (REAC ref no. “RDWE061”), fifth column, delete “or Art 20”;
- in the third row, sixth column (Achievement criteria), delete “and Art 20”; and

- in the third row, ninth column, after “EMP2 Requirement 4” insert “and Requirement 8”.

Secretary of State’s rationale: to correct cross-referencing errors.

Also in paragraph 26(4), Table 2, in the fourth row (Geology and Soils), fifth column, after “enforcement by the local planning authority” insert “, where that liability arises during and as a result of the undertaker’s possession of the land. In the case of land possessed temporarily, the indemnity ceases to have effect after the land is returned to the owner.”

Secretary of State’s rationale: to correct unintentionally ambiguous drafting.

In paragraph 31 (Amendments to be made to the SACR), Table 5, in the fourth column, replace “the same process as it set out” with “a process to be agreed between the parties, including timescales for the provision of funds, which shall be substantially in accordance with the process set out”.

KDNL, in its letter dated 18 July supported this correction.

Secretary of State’s rationale: to correct a provision that could unintentionally conflict with the procedure introduced by article 65.

Schedule 3 (Temporary closure, alteration, diversion and restriction of use of streets and private means of access)

In the column (2) of the row titled “A1089 northbound (Dock Approach Road) to A13 eastbound slip road”, replace “highwaysas shown” with “highway as shown”.

Secretary of State’s rationale: to correct a typographical error.

Schedule 4 (Permanent stopping up of streets and private means of access), Part 1 (Highways to be stopped up for which a substitute is to be provided).

In column (3) of the row titled “M25 northbound off-slip top M25 junction 29”, after “as shown on sheets” insert “42,”.

Secretary of State’s rationale: to correct a cross-referencing error.

Schedule 9 (Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants)

In paragraph 2(2), in paragraphs (a) and (b) of the substituted section 5A(5A) of the Land Compensation Act 1961, replace “2024” with “2025” in both places where it appears.

Secretary of State’s rationale: to correct typographical errors.

Schedule 14 (Protective provisions), Part 10 (For the protection of National Grid Electricity Transmission PLC as electricity undertaker)

In paragraph 92(1) (Co-operation), replace “(removal of apparatus)” with “(removal of apparatus)”.

Secretary of State’s rationale: to correct a typographical error.

Schedule 14 (Protective provisions), Part 10 (For the protection of Port of Tilbury London Limited)

In Part 10—

- in paragraph 129 (application), after “in relation to the construction of the authorised development”, delete “and the operation and maintenance of the authorised development within the Port”;
- in paragraph 130(2) (interpretation), in the definition of “specified work”, delete paragraph (e) and, after “Required Easement Width;”, delete “and”;
- in paragraph 132, delete sub-paragraph (9) and, in sub-paragraph (10), replace “sub-paragraphs (6) to (9)” with “sub-paragraphs (6) to (8)”; and
- delete paragraphs 133, 134(1)(b), (4) and (5), 136, 140 and 145.

Secretary of State’s rationale: to remove and correct erroneously included text taken from a superseded version of the protective provisions.

Proposed corrections not made

Article 2

In the definition of “statutory undertaker”, after “the 2008 Act”, insert “, except that in articles 31 to 33 “statutory undertaker” also includes a public communications provider as defined in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003”.

Secretary of State’s rationale: New paragraphs have instead been inserted into articles 31 to 33 defining “public communications provider” for the purposes of those articles. This approach is considered clearer than the caveated definition of “statutory undertaker” proposed by the Applicant.

Articles 31 and 32

Rather than the corrections to article 31 outlined above, alternative corrections were requested that would have extended the list of third parties in whom the Applicant can vest rights and covenants, by inserting the new term “specified beneficiary” into article 31(4), sections 8(4) and (11) of the 1981 Act as modified by paragraph (10), and article 32(2). The proposed new term “specified beneficiary” would have meant—

“(a) a specified person as defined by article 40 (special category land); and

(b) the beneficiary of a means of access provided under the powers conferred by this Order.”

Secretary of State’s rationale: It was intended that public communications providers be within the scope of articles 31 and 32 and so their omission was an unintended error. However, the exclusion of the additional third parties cited by the Applicant was intentional for the reasons given in the Decision Letter. The Secretary of State is not persuaded that their omission is a correctable error.

Article 65 (Financial arrangements for the Kent Downs National Landscape)

In article 65—

- replace paragraph (2) with—

“(2) The agreement referred to in paragraph (1) is to be made prior to the commencement of any part of the authorised development located south of the River Thames.”; and
- after paragraph (11), insert—

“(12) For the avoidance of doubt, in this article “commencement” has the same meaning as in paragraph 1(1) (interpretation) of Part 1 (requirements) of Schedule 2.”

KDNL’s letter dated 18 July opposed this correction request, stating that the risk of delay was considered by the Secretary of State at paragraph 436 of the Decision Letter, meaning it was not an error and so did not fall within the meaning of a “correctable error” under the Act. In its letter dated 11 July Natural England had no observations to make.

Secretary of State’s rationale: the Secretary of State agrees with KDNL that these proposals go beyond the scope of a correctable error within the meaning of Schedule 4 to the Act.

Schedule 2, Part 1, paragraph 4(8) (Construction and handover environmental management plans)

After “Any”, delete “preliminary works EMP,”.

Secretary of State’s rationale: the ExA’s recommendation at paragraph 23.4.4 of its Report, with which the Secretary of State did not demur, was “A change to include a new [sub-paragraph] (8) which provides that a mitigation route map be prepared to accompany each iteration of the EMP...”. The Secretary of State considers that the proposal goes beyond the scope of a correctable error within the meaning of the Act.

Schedule 2, Part 3, paragraph 26(4)

In addition to the corrections to paragraph 26(4), in Table 2, first row (REAC ref no. “HR013”), fifth column (“Commitment”) outlined above, further corrections were requested. If the full correction request was accepted the entry would have read:

“Appropriate technology and infrastructure would be employed to enable, if required, the enforcement authority to enforce a 60mph speed limit in a

westbound direction between junctions 26 and 27 of the M25 to ensure that there is no Adverse Effect on Integrity (AEol) on Epping Forest SAC as a consequence of traffic emissions leading to increases in nitrogen deposition, NO_x and NH₃. Reasonable and appropriate funding would be provided to the highway and enforcement authority to set a 60mph limit and to undertake enforcement activities. Monitoring should commence 2 years after commencement of construction of the A122 Lower Thames Crossing and remain in place for a minimum period of 4 years following commencement of operation to monitor levels of NO_x, NO₂ and NH₃ (which can be used to determine the vehicle emission related nitrogen deposition) compared to pre-operational values. Annual reporting should be undertaken and include a review of relevant evidence, such as monitoring, traffic data and regional pollution in consultation with Natural England (NE). The 60pmh speed limit measures are to be put in place from the commencement of operation, if NE advises (on the basis of pre-operation monitoring and any additional assessment undertaken by the undertaker) that such measures remain required at the point of commencement of operation to prevent an AEol. During the period of monitoring post-operation, the 60mph speed limit may only be imposed (or retained) if the road traffic contribution to nitrogen deposition is above pre-operation levels, and NE advises (on the basis of monitoring and any additional assessment) that speed limit control and enforcement is required to prevent an AEol.”

This proposed correction was opposed by Natural England in its letter dated 11 July as it does not view the wording as an error, rather the considered position of a decision-making authority following the examination process.

Secretary of State’s rationale: Apart from in respect of unintentionally ambiguous text concerning speed limits and enforcement technology and infrastructure, which are addressed above, the Secretary of State considers that these more extensive proposed corrections would go beyond the scope of correctable errors within the meaning of the Act.

Corrections to footnotes

Corrections were proposed to the footnotes to the following provisions—

- In the preamble, footnote 2;
- In article 2 in the definition of “street”, footnote 23;
- In article 9(5), footnotes 12 to 14;
- In article 20(12), footnote 3;
- In article 28(6), footnote 1;
- In article 56(3), footnote 1;
- In article 65(1), footnote 1;
- In Schedule 2, Part 1, in paragraph 3(2) footnote 1; and
- In Schedule 14, Part 3, in paragraph 19 in the definition of “drainage authority”, footnote 1.

Secretary of State’s rationale: Footnotes are not an operational part of the Order text and it is standard drafting practice that they should not be amended or modified by a subsequent instrument. It is considered that the same approach should be adopted

in respect of requests for corrections and therefore it is not considered that these constitute correctable errors within the meaning of the Act.

Consequential corrections

Corrections were proposed to the following provisions as a consequence of corrections made elsewhere in Part 10—

- The renumbering of paragraphs 132(10) and 134(1)(c) to (f), (5) and (6); and
- The insertion of “not used” where paragraphs 133, 136, 140 and 145 had been deleted.

Secretary of State’s rationale: the proposed consequential corrections do not accord with standard drafting practice. It is considered that the same approach should be adopted in respect of requests for corrections and therefore it is not considered that these constitute correctable errors.

Request from KDNL for the inclusion of a requirement for the replacement of the existing bridge at Park Pale with a green bridge

KDNL pointed to paragraphs 15.4.105 and 15.4.106 of the Examining Authority’s Report and paragraph 4.22 of the Secretary of State’s Decision Letter, suggesting that “The Secretary of State agrees with this conclusion” at the end of the latter paragraph indicated an intention for the Order to include a requirement for the replacement of the existing bridge at Park Pale with a green bridge.

Secretary of State’s rationale: In the sentence cited by KDNL, the Secretary of State was agreeing with the Examining Authority’s conclusion in the preceding sentences: i.e. that mitigation for the adverse landscape effects on the AONB had not gone as far as possible; that reduction in harmful effect to the AONB caused by the development of Park Pale as a green bridge had been too readily discounted; that there would be an adverse change affecting many of the special qualities in this area; and that the effectiveness of the two proposed green bridges at Thong Lane South and Brewers Road have been overstated, and that the mitigation for the harm caused to the AONB has not gone far enough. The Secretary of State was not proposing that the DCO include a requirement for the replacement of the bridge at Park Pale with a green bridge.

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118(4) of the Act, a decision under paragraph 1 of Schedule 4 to correct an error in an Order granting development consent can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order making the correction is published. The A122 (Lower Thames Crossing) Development Consent Order 2025 (as made) is being published on the Planning Inspectorate website at the following address:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR010032>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Correction Order referred to in this notice is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).