

Meeting note

File reference	TR010043
Status	Final / Draft
Date	26 February 2019
Meeting with Applicant	Norfolk County Council
Venue	Teleconference
Meeting objectives	Discuss comments on draft documents
Circulation	All attendees

Summary of key points discussed, and advice given:

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

The Planning Inspectorate provided comments on the draft application documents provided, these comments can be seen in the table below.

The Applicant asked for advice on the approach to providing personal data in the Consultation Report; the Inspectorate described other approaches which have used reference numbers to anonymise the data in this document. An example can be seen in the A585 Windy Harbour to Skipool Improvement Scheme Application, at page 171 is the [List of Land Interests](#) which uses ID numbers; the Applicant is advised to link these to the Book of Reference. The Book of Reference is withheld from publication by the Inspectorate until an Application is accepted, at which point this information is deemed to be within the public interest and is published.

The electronic submission process was discussed, and the Inspectorate agreed to provide the process to the applicant via email.

PINS comments on draft Application documents

These comments relate solely to matters raised by the documents submitted to the Inspectorate in December 2018. They are limited by the time available for consideration and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration.

Commonly used abbreviations

2008 Act	The Planning Act 2008	IPMPPR	The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015
A	Article	MP	Model Provision (in the MP Order)
AN	Advice Note	MP Order	the former Infrastructure Planning (Model Provisions)(England and Wales) Order 2009
CA	Compulsory Acquisition	R	Requirement
DCO	Draft DCO	SI	Statutory Instrument
EM	Explanatory Memorandum	SoR	Statement of reasons
ExA	Examining Authority	SoS	Secretary of State
ES	Environmental Statement		

Land Plans (Doc 2.5) and Book of Reference (Doc 4.3)

The applicant provided the Key Plan and one Sheet for review.

No.	Advice
1.	Plot 1-01 – the Applicant could consider describing the plot also in relation to Harfrey's Roundabout
2.	Plots 1-04 and 1-05 are described as on Boundary Road. However, the label for this road is on the west of A47 and these plots neighbouring plots 1-06 and 1-07 are described in relation to Queen Anne's Road.
3.	Some plot labels seem to be a long distance from the actual plot eg Plot 1-71, 1-73.

4.	The distinction on the Cut Line between Sheets 3 & 4 could be made clearer.
5.	The Key Plan includes the relevant regulation for land plans and it could also include the regulation for the Key Plan ie APFP Reg 5(4) as well as APFP Reg 5 (2)(i)
6.	There are a number of annotations for Plot references, which are not currently denoted in the legend for the plan; detail is presented in the supporting text/notes. The Applicant may wish to add this information to the legend.
7.	The Applicant may wish to consider using a different colour to the Order Limits (red) to depict plot boundaries. For example, see M20 Junction 10a as an example of where a contrasting colour has been used to depict plot boundaries. This can make it clearer to identify plots.

Draft Statement of Reasons (Doc 4.1)

No.	Section	Extract from document	Comments
8.	7.1.9	Paragraph 7.1.9 states that no negotiations have taken place to date. "It is the Applicant's intention to deal with such interests during the legal process for acquiring the freehold interest in, or the new rights over, the relevant land."	The Inspectorate would expect negotiations to have taken place prior to hearings regarding CA. The Inspectorate would like to know when these negotiations will begin.

Works Plans (Doc 2.6) and Schedule 1 of the Draft DCO Order (Doc 3.0)

The applicant provided the Key Plan and one Sheet for review.

No.	Comments
9.	The Applicant may wish to consider if more detail could usefully be provided on the plans to depict the Works or explain the approach taken eg a scheme layout layer or details related to each work package, eg Works No. 5 is work on 3 different roads which is clear although it's not immediately apparent why these are one works package.
10.	On the key plan the most northerly Works Plan is labelled 7 of 9, rather than 7 of 7.
11.	On Sheet 1 a green 'non-linear work LoD' is laid over the red 'Order Limits' line. The green line is narrower and sits inside the red OL line, the Applicant may wish to consider a different representation which more clearly shows both lines.

12.	The boxes around the Works numbers could be more generously spaced to improve readability.
13.	Work No. 6 has 2 parts (a) (b) in the DCO, on the Works Plan this is labelled as Work No. 6. These may be in the same location; however, it could be clearer to label the Works on the Plan as they appear in the DCO.

Draft DCO Order (Doc 3.0) and Explanatory Memorandum (Doc 3.1)

No.	Article	Comments
14.		<p>The Applicant will be asked to maintain a list of all plans and other documents that will require Secretary of State certification (including plan/ document references), updated throughout the examination process, and supplied to the Examining authority before the close of the examination.</p> <p>The application DCO and any subsequent versions of the submitted to the examination:</p> <ul style="list-style-type: none"> • should be supplied in both .pdf and Word formats, the latter showing any changes from the previous version by way of tracked changes. • should be accompanied by a document explaining the changes made– see eg Document explaining changes made to DCO for Deadline 5 in the A19 (Testo's Junction) DCO examination <p>The examination timetable will usually provide a deadline for receipt of the Applicant's final or preferred version of the DCO. That version should be supported by a report of the outcome of validating it through the Publishing section of the legislation.gov.uk website</p>
15.		<p>The applicant should ensure that the draft DCO follows guidance and practice for Statutory Instrument (SI) drafting (for example avoiding "<i>shall/ should</i>") and is in the SI template when submitted – see Advice Note 13. The applicant should also follow best practice drafting guidance in Advice Note 15. The DCO (and any subsequent revisions) should be in the form required by the statutory instrument template (see Planning Inspectorate AN13) and validated as such using the current SI template, including detailed footnotes to all statutory references.</p>
16.		<p>The Explanatory Memorandum (EM) should state whether each Article is based on a model provision or precedent Article. It would also be helpful if the EM clarified whether the drafting change is minor and has been made where in the applicant's view the model provision is unclear or does not follow standard/ modern SI drafting practice. Where a model provision or precedent Article is substantially changed the EM should clearly explain how that alters the effect.</p>

Draft DCO Order (Doc 3.0) and Explanatory Memorandum (Doc 3.1)		
No.	Article	Comments
		Particularly where an Article is novel, the power on which each article is based should be identified. The EM should explain the purpose and effect of each provision (explaining, for example, why it is considered necessary). See Advice Note 13 .
17.		Notwithstanding that drafting precedent has been set by previous DCOs or other orders, whether or not a particular provision in this DCO is appropriate, necessary and justified will be for the Examining Authority (ExA) to consider and examine taking account of the facts of this particular DCO application and having regard to any views expressed by the relevant authorities and Interested Parties.
18.		Before the draft DCO is finalised all internal references, including references to plans, and legal footnotes should be checked. For example, Schedule 1 should not be cross referenced to article 2(1) and eg Article 21 isn't covered in the EM and 67 is arbitration in the EM and Consents, agreements and approvals in the DCO, this seems to just have been switched with 68.
19.	Article 2 - <i>interpretation</i>	" <i>approach to detailed design</i> " –this document is not as yet identified in Schedule 16. The DCO as drafted provides for a great deal of flexibility – eg the authorised development must be designed in <u>general</u> accordance with the approach to detailed design and there is no requirement which requires submission of further detailed design. Whilst this may be a matter for examination, this approach may raise issues for acceptance if it isn't clear that the scheme has been fixed sufficiently to have allowed proper EIA of the worst-case parameters.
20.		" <i>commence</i> " - it will be necessary for the applicant to justify the flexibility created by this 'carve out' clarifying any impacts of the exempted works so that the ExA can consider whether their impacts need to be controlled by requirement. Note also that in York Potash Harbour Facilities Order the Secretary of State changed the drafting approach and didn't extend the 'exemption' to site clearance or diversion etc of services: "45. In article 2(1) (<i>interpretation</i>) the Secretary of State is replacing the definition of " <i>commence</i> " with substantive provisions in article 3 (<i>development consent, etc., granted by the Order</i>) to make clear that certain of the works referred to in that definition may be carried out once the Order comes into force and are not subject to prior approval under the requirements or the DML. However, he does not consider that it is appropriate that this exemption should extend to site clearance or the diversion and laying of services as these

Draft DCO Order (Doc 3.0) and Explanatory Memorandum (Doc 3.1)		
No.	Article	Comments
		<i>operations may have impacts that should be subject to mitigation measures that would be secured through the requirements."</i>
21.		<p>"maintain" - notwithstanding precedent in other DCOs the applicant must still justify the scope of this definition within the context of this particular draft DCO and development. Also, the limitation created here and elsewhere in the DCO and requirements (intended to prevent authorisation of works or amendments to details giving rise to new etc. environmental effects) should use consistent drafting, such as</p> <p>"would not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement "</p> <p>Various and inconsistent wording is used eg "give rise to any significant adverse environmental effects beyond those...."</p>
22.		<p>"Order land" – whilst a matter of drafting preference, the applicant may wish to consider one of the following definitions (which have been used in other DCOs) to provide a clearer indication of what is meant by the Order Land:</p> <p><i>"land shown on the land plans which is within the boundary of the land required for or affected by the proposed development, and is land in respect of which rights are to be acquired and extinguished as described in the book of reference"</i> or</p> <p><i>"Order land" means the land shown on the land plans within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference</i></p> <p>Does the annotation on the Land Plans show that it is <i>"land required for or affected by"</i> the proposed development?</p>
23.		<p>"undertaker" - further information should be provided with the application to explain the separation of functions/ powers within Norfolk County Council ie as undertaker, highway authority, county planning authority, street authority, traffic authority etc and explain any controls put in place to ensure scrutiny and accountability.</p> <p>The Applicant may choose which document to place this information within eg the Introduction to the Application or the Explanatory Memorandum.</p>
24.	Article 3 – <i>disapplication of legislation etc.</i>	It is recommended that the applicant provides extracts from the relevant legislation which is being disapplied, information about the purpose of the byelaw/ regulation/ consent, an

Draft DCO Order (Doc 3.0) and Explanatory Memorandum (Doc 3.1)		
No.	Article	Comments
		explanation as to the effect of disapplication and cross-reference to the relevant part of the protective provision which would prevent any adverse impact as a result of removing byelaw control or the necessity for consent.
25.	Article 5 – <i>development consent etc., granted by the Order</i>	Notwithstanding other precedents, the EM should explain further the effect of and necessity for Article 5(2). How much land (and how far from the DCO boundary) might be affected by the provision? What enactments are likely to be engaged?
26.	Article 6 – <i>maintenance of the authorised development</i>	Although this would be a matter for examination the applicant should consider whether the limitation to the extent of maintenance authorised in this Article 6 (and via the definition) should apply to maintenance authorised through Article 51(1).
27.	Article 7 – <i>limits of deviation</i>	As noted in the draft EM, the applicant will need to provide full justification for the flexibility created by this article having regard to the Rochdale principle, and in particular the ability to deviate from the approved new bridge design subject to being “in general accordance” with the Approach to Detailed Design. It is also noted that the lateral corridor will need to be confirmed in final documents (7(4)).
28.	Article 9 – <i>consent to transfer benefit of the order</i>	Article 9 (4) (no consent required where transfer is made to the GYPA or the harbour master) will require further justification.
29.	Article 10 – <i>power to alter layout etc. of streets</i>	Notwithstanding precedent in the NDR Order, the applicant should still provide full justification for the wide power to alter layout etc. of <u>any</u> street. See above – the applicant should explain in what circumstances the undertaker <u>would not</u> be the relevant street authority and who the street authority would be.
30.	Article 11 – <i>street works</i>	As above, notwithstanding precedent, the applicant should explain why the wide power is necessary in this particular case. How do the works within streets identified in Schedule 1 (and authorised through article 5 (1)) relate to the works authorised through articles 10 and 11?
31.	Article 13 – <i>construction, maintenance of new altered or diverted streets etc</i>	It’s noted that Highways England is the highways authority for the A47. In relation to this article and other powers relating to streets, it would be helpful if the applicant could provide a document setting out who is the highway authority and streets authority.

Draft DCO Order (Doc 3.0) and Explanatory Memorandum (Doc 3.1)		
No.	Article	Comments
32.	Article 16 – <i>temporary stopping up and restriction of use of streets</i>	Notwithstanding the precedents, it will be for the ExA to consider depending on the facts of this particular DCO application whether it is necessary/ appropriate to authorise the use of streets as temporary working sites. Further justification in the EM would be helpful.
33.	Article 17 – <i>access to works</i>	Why is this power necessary?
34.	Article 18 – <i>agreements with street authorities</i>	As above, in what circumstances would the undertaker (being the County Council) not be the street authority? Who might the street authority be?
35.	Article 19 – <i>use of private roads for construction</i>	Notwithstanding precedent, justification for this power will be required. Has the applicant identified and consulted persons with a right in every private road within the Order limits and are those persons identified in Part 1 and/ or Part 3 of the Book of Reference? If not, why not? Is there any overlap/conflict with the power (in article 16) to use streets for temporary working sites? Further justification and explanation in the EM would be helpful.
36.	Article 21 – <i>disapplication of requirements etc</i>	See above. An explanation as to why there are different street authorities should be provided. Using the word “requirement” may lead to confusion with requirements to which the DCO is subject and which are listed at Schedule 2
37.	Article 23 – <i>protective works to buildings</i>	Notwithstanding drafting precedent in other DCOs, the EM should explain why this power is necessary in the circumstances of this particular NSIP
38.	Article 24 – <i>authority to survey and investigate land</i>	Notwithstanding drafting precedent in other DCOs, the EM should explain why this power is necessary in the circumstances of this particular NSIP
39.	Article 26 – <i>removal of vessels</i>	On what power in section 120 of the Planning Act 2008 is this article based? The precedents referred to are not DCOs.
40.	Article 30 – <i>compulsory acquisition of rights</i>	Full justification should be provided for the power to impose restrictive covenants. The applicant should note paragraph 26 of Advice Note 15 : “Before deciding whether or not the power is justified the Secretary of State will need to consider issues such as proportionality; the risk that the use of land above or below a structure could be sterilised if it has to be acquired outright in the absence of a power to impose restrictive covenants”.

Draft DCO Order (Doc 3.0) and Explanatory Memorandum (Doc 3.1)		
No.	Article	Comments
		Note also the Secretary of State's decision (paragraph 62 of the M4 Motorway (Junctions 3 to 12) (Smart Motorway) DCO) " <i>to remove the power to impose restrictive covenants and related provisions as he does not consider that it is appropriate to give such a general power over any of the Order land as defined in article 2(1) in the absence of a specific and clear justification for conferring such a wide-ranging power in the circumstances of the proposed development and without an indication of how the power would be used</i> ".
41.	Article 32 – <i>power to override easements and other rights</i>	The applicant should note paragraph 62 of the Secretary of State's decision on the M4 Motorway (Junctions 3 to 12) (Smart Motorway) DCO " <i>to delete article 23 (power to override easements and other rights) as these provisions have now been superseded by sections 203 to 205 of the Housing and Planning Act 2016</i> ". The applicant should consider the implications of the Housing and Planning Act 2016 on the need for this DCO power.
42.	Article 39 – <i>statutory undertakers</i> , and Article 40 – <i>apparatus and rights of statutory undertakers in stopped up streets</i>	The applicant should note that where a representation is made under s127 of the PA2008 and has not been withdrawn, the Secretary of State will be unable to authorise Article 39 unless satisfied of specified matters set out in s127. The Secretary of State will also be unable to authorise removal or repositioning of apparatus unless satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates in accordance with s138 of the PA2008. The applicant should provide relevant justification for these articles either in the EM or Statement of Reasons.
43.	Articles 45 to 50	On what power in section 120 of the Planning Act 2008 are these articles based? In particular, what is the power for charging (article 50)? The EM should provide more explanation about charges.
44.	Article 51 – <i>subsidiary works and operations in the river Yare</i>	What is the relationship between the dredging etc. (authorised by Article 51(a) (b)) and the activities which will be subject to the Deemed Marine Licence? Is there overlap? How do the multiple works authorised by this article relate to the wide range of works listed in Schedule 1 and described as being "ancillary or related development"? The applicant should provide further explanation in the EM.
45.	Article 52 – <i>protection against dredging</i>	On what power in section 120 of the Planning Act 2008 is this article based? This does not appear to be an operative provision. Is it more properly a condition of the protective provisions for GYPA?

Draft DCO Order (Doc 3.0) and Explanatory Memorandum (Doc 3.1)		
No.	Article	Comments
46.	Article 55 – <i>felling or lopping of trees</i>	This may be an article which is frequently used but it still requires justification in the circumstances of this particular NSIP.
47.	Article 58 – <i>application of landlord and tenant law</i>	This may be an article which is frequently used but it still requires justification in the circumstances of this particular NSIP.
48.	Article 60 – <i>planning permission</i>	Notwithstanding precedent, this article requires further justification. Why would the applicant need to secure planning permission for development within the Order limits? Why would development required to complete or enable use/operation of the authorised development not have been authorised through the DCO?
49.	Article 61 – <i>undertaker's highway, road traffic and planning functions</i>	On what section 120 power is this article based? Why is it necessary? Is there precedent?
50.	Article 62 – <i>defence to proceedings in respect of statutory nuisance</i>	The applicant should explain why this article is necessary in the circumstances of this NSIP.
51.	Schedule 1 <i>authorised development</i>	The “ancillary and related development” is wide and the works will require justification. The pre-amble to the schedule refers to “associated development” (as does the definition of “authorised development”) but the associated development is not identified. Eg are the offices, staff mess rooms and welfare facilities associated development? Is every item listed within the works actually development for which development consent is required? Eg stopping up of part of Fish Wharf
52.		The term ‘improvement’ is used within a number of works; the Applicant may wish to consider if it would be useful to describe or define this term.
53.	Schedule 2 <i>requirements-general</i>	There should be clarity/consistency in drafting. Eg the CoCP is described as both “outline” and “interim”. “Preliminary” is used in relation to the navigation risk assessment. The requirements should (by analogy) meet the legal and policy requirements for planning conditions. Requirement 4 – see above regarding justification for flexibility. Also, shouldn't the “approach to detailed design “come before “the general arrangement plan” to reflect the order of “designed and implemented”?

Draft DCO Order (Doc 3.0) and Explanatory Memorandum (Doc 3.1)

No.	Article	Comments
		Also, as noted above, consistent language should be used in relation to the likelihood of environmental effects.
54.	<i>Requirement 20 and Part 2 procedure for discharge</i>	Requirement 20 – amendments to approved details – this requirement appears to use novel drafting. There appears to be no limitation (within the envelope of environmental effects assessed) on the details which can be submitted in order to discharge the actual requirements. So why does this requirement impose limitations on the ability to approve <u>amendments</u> to approved details? Why does this requirement need to express the county planning authority's obvious discretionary power to approve amendments "at any time if it thinks fit"? The applicant should consider the necessity for and drafting of this requirement, having particular regard to the regulations relating to subsequent applications in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 Is Part 2 based on a precedent? Has the applicant considered the drafting of similar procedures for discharge in recent highways DCOs? What is the reason for not following the <i>Standard drafting for Article dealing with procedure for discharge of certain approvals</i> in Advice Note 15 . ? Why is "adjudicator" used not "appointed person"?
55.	Schedule 1 – Work No.7	A maximum height of control tower structure is not given in the DCO (20m max. height is listed in the ES Chapters).

Draft Funding Statement (Doc 4.2)

No.	Section	Extract from Document	Comments
56.			The Applicant may wish to review the Funding Statement to ensure that timings for the availability of funding is included
57.	2.1.1	<i>For the avoidance of duplication...</i>	This approach is welcomed.
58.	3.1.1	<i>Scheme Cost</i>	The resource implications of the proposed scheme are set out, but it is not clear how they have been arrived at. It is not necessary to break down, for example, the land cost; but

		some information about the manner in which the capital costs have been calculated may be useful.
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Draft Consultation Report (Doc 5.1)

No.	Section	Extract from CR (for ease of reference)	Comments
59.			The Inspectorate does not release personal details until an application is accepted, therefore, the Applicant may wish to remove personal details from the consultation report, particularly if the Applicant would like the documents published on the Inspectorate's website during the Acceptance period. Alternatives methods have included the use of unique reference numbers tied to the BoR.
60.	6.1.3	Due to its size the PEIR has not been included as an appendix to this report. However, a copy of this can be viewed on the Applicant's project webpage at www.norfolk.gov.uk/3rcconsultation .	The Applicant is advised that documents must be submitted in electronic or hard copy, and links to websites are not accepted as a submitted document eg the PIER.
61.	-		The Inspectorate advises that the applicant clarifies whether a s48 notice was placed in an appropriate fishing trade journal and in the Lloyd's list.
62.	Table within 9.2.2		The Applicant might want to consider whether the 'no' in the row header is ambiguous as meaning 'no' or 'number'.
63.	6.12.2		The Applicant is advised to include this notification and within this paragraph the location of the notification.
64.	-		The Applicant may want to check their s42 Prescribed Consultees list against the Inspectorate's Regulation 11 list, bearing in mind any Order Limit amendments since it was issued.
65.	Glossary		There appears to be a PDF error where formatting has been affected eg 'Order Land' & 'Scheme Boundary'.

Draft Environmental Statement (chapters 1-5 submitted) (Doc 6.1)

No.	Section	Reference from ES	Comments
66.	ES Chapters	<i>General</i>	<ul style="list-style-type: none"> Inconsistencies have been noted in the use of acronyms throughout the text. Acronyms should be introduced and explained in full, prior to their usage. Similarly, some references are not fully detailed in the ES text. Some typographical, grammatical and punctuation errors identified but it's presumed that QA procedures would ensure this is addressed when the documents are finalised.
67.	Document 6.1 ES Cover Sheet		<ul style="list-style-type: none"> It is noted that the draft documents are dated January 2018 rather than January 2019. Notwithstanding this, QA procedures would ensure this is amended when the documents are finalised.
68.		Table 1.3	<ul style="list-style-type: none"> This table details the relevant competent experts in the project team. However, some of the draft documents submitted have other persons listed in their associated QA tables. The Inspectorate suggests that these parties are listed/ detailed in the competent experts list, to provide a comprehensive list.
69.		Paragraph 1.5.17	<ul style="list-style-type: none"> Paragraph outlines format of chapters – accordingly, the resultant ES will need to replicate this format throughout its chapters.
70.	Chapter 2 - Description of Scheme	Paragraph 2.1.1	<ul style="list-style-type: none"> The paragraph states that this chapter refers to 'DCO Documents' – hence why there are no Appendices for this chapter. These DCO Documents are separate docs to the ES and relevant plans and figures should be included for ease of reference.
71.			<ul style="list-style-type: none"> The Inspectorate notes that the s.46 notification was dated the 5th but wasn't received by the Inspectorate until shortly after the start of the consultation period.

Draft Environmental Statement (chapters 1-5 submitted) (Doc 6.1)

No.	Section	Reference from ES	Comments
72.		Paragraph 2.3.2	<ul style="list-style-type: none"> Bullet list includes 'Revised access arrangements for existing businesses onto the local highway network including, potentially, a new structure to allow vehicular access under the proposed crossing on the eastern bank subject to agreement with affected businesses and landowner'. At this stage, the DCO does not specifically mention this 'potential new structure on the eastern side of the River Yare. Consistency between the description of the development and the works requested in the DCO is a key area for consideration and well worth setting out. Ensuring consistency between the Description of the Development and the works requested in the DCO is imperative. The description provided should be defined in reference to the works numbers proposed in the DCO. Efforts should be made to maintain consistency between application documents. For example, the proposed control tower is listed as being constructed to a maximum height of 20m however; this is not reflected in the DCO.
73.		Paragraph 2.3.24	<ul style="list-style-type: none"> The names 'Perenco' & 'ASCO' require further explanation ie Oil & Gas Companies located in proximity to the scheme.
74.		Paragraph 2.3.28	<ul style="list-style-type: none"> See General comment above re use of acronyms eg 'NCC'.
75.		General	<ul style="list-style-type: none"> The Inspectorate considers that a detailed description and provision of an indicative plan for the 'Areas of Consideration' in the proposed development (ie Areas 1, 2 & 3) should be provided. This would minimise confusion when considering the different aspects of the proposals. For example, in Paragraph 2.2.29, mentions 'Area 1' however, this has not been clearly depicted on any plan.
76.		Paragraph 2.3.30	<ul style="list-style-type: none"> This paragraph should direct the reader to relevant plans.

Draft Environmental Statement (chapters 1-5 submitted) (Doc 6.1)			
No.	Section	Reference from ES	Comments
77.		Paragraph 2.4.8	<ul style="list-style-type: none"> 'western side of River Yare' – The relevant area designation should be provided in the ES, for clarity.
78.		Paragraph 2.4.9 & 2.4.11	<ul style="list-style-type: none"> These sections state that there will be provision of vehicular access only for embankment maintenance. The relocated allotments and Mind Space are listed to be accessible by the 'Green' non-motorised users. Therefore, the ES suggests that there will be no vehicular access to the allotments for deliveries, equipment etc. Is this the correct interpretation? As such, The Inspectorate requests further clarification/ explanation on this aspect.
79.		Paragraph 2.5.4	<ul style="list-style-type: none"> The Applicant may wish to provide further detail in the ES to explain the process and chronology regarding this paragraph. Eg that specific works areas will be released once further investigations/ mitigation secured; as detailed in archaeology & Environmental Chapters (ensuring to provide chapter reference), where this is the case.
80.		Paragraph 2.5.10	<ul style="list-style-type: none"> The timings of the earthwork operations given are stated to be subject to agreement with the Local Authority Environmental Health Officer prior to commencement. The Inspectorate requests explanation (within the ES) providing detail of the engagement(s) with consultation bodies; and whether requirements are necessary to ensure these actions take place and give confidence to the ExA that what is committed to in the ES will be delivered.
81.	Chapter 3 - Considerations of Alternatives	Cover Sheet	<ul style="list-style-type: none"> January 2018 given rather than January 2019. Notwithstanding this, QA procedures would ensure this is amended when the documents are finalised.
82.		3.1.7, 3.2.9, 3.3.53, 3.5.13, 3.5.20 and 3.6.3	<ul style="list-style-type: none"> See General comment above with respect to the use of acronyms and references.
83.	Chapter 4 - Approach to EIA	Cover Sheet	<ul style="list-style-type: none"> January 2018 given rather than January 2019. Notwithstanding this, QA procedures would ensure this is amended when the documents are finalised.

Draft Environmental Statement (chapters 1-5 submitted) (Doc 6.1)

No.	Section	Reference from ES	Comments
84.		4.4.48 and 4.4.58	<ul style="list-style-type: none"> The sensitivity of the receptors or receiving environments to change has been determined in part by professional judgement. Also, it is stated that the significance of effect is assessed by the 'professional judgement of the technical specialist' with respect to the value/sensitivity of receptors and the resulting magnitude of effect, based on experience of 'similar schemes'. Where this has been done, it is stated that this has been 'qualified, giving explanation as to how it has been applied'. This aspect is considered imperative to ensure an adequate assessment. Accordingly, The Inspectorate considers that where professional judgement has been used in the assessment this should be explicitly stated.
85.		4.4.61	<ul style="list-style-type: none"> Reference given to Significance Matrix in Table 4.3. However, Table 4.3 details 'consideration to future baseline'. The Inspectorate presumes this reference is intended to state Table 4.6.
86.		4.4.61 and Table 4.6	<ul style="list-style-type: none"> Paragraph 4.6.61 states that "Unless otherwise stated in the individual assessment, effects deemed to be of moderate, large or very large significance are deemed to be significant effects." It is noted that Table 4.6 Significance of Effect Matrix also includes some 'moderate/slight' combinations. It is unclear whether the term 'moderate/slight' will be used and whether such effects would be deemed significant. The ES should clearly state which effects are deemed to be significant.
87.	Chapter 5 - Consultation	Cover sheet	<ul style="list-style-type: none"> January 2018 given rather than January 2019. Notwithstanding this, QA procedures would ensure this is amended when the documents are finalised.
88.		5.2.12	<ul style="list-style-type: none"> See General comment above with respect to the use of acronyms and references.

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No.	Paragraph	Comments
89.	Footnote 1 in paragraph 1.2.1; paragraphs 2.1.4 and 2.1.5	The report interchangeably refers to the Conservation of Habitats and Species Regulations 2017 and the previous version dated 2010. It is recommended that the assessment refer to the current Habitat Regulations, being those of 2017 rather than those of 2010 (as stated in Paragraph 2.3.7).
90.	Paragraph 2.1.6	The Offshore Maine Conservation Regulations 2007 have been replaced by The Conservation of Offshore Marine Habitats and Species Regulations 2017. The HRA report should include reference to the current legislation.
91.	Paragraph 2.1.7	<p>The Applicant should note that the National Planning Policy Framework (2018) at paragraph 176 sets out the Government's policy in respect of other sites to be afforded the same protection as European sites, and which should be considered in the assessment, where relevant.</p> <p>Those being: a) potential Special Protection Areas (pSPAs) and possible Special Areas of Conservation (pSACc); b) listed or proposed Ramsar sites; and c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, pSPAc, pSACs, and listed or proposed Ramsar sites.</p> <p>To make clear the sites being considered in the report, the Applicant may wish to consider using a single term such as European site and defining this in the report.</p>
92.	Paragraph 2.2.1	See also above. This paragraph is referring to a superseded version of the NPPF. It is also duplicating paragraph 2.1.7. The Applicant may wish to consider including policy requirements in this section rather than legislative context in Section 2.1.
93.	Paragraph 2.3.6	In accordance with the Habitats Regulations, this sentence should read that an <i>...appropriate assessment is required...</i> , as oppose to an HRA is required.
94.	Paragraph 2.3.7	It is assumed this Paragraph is referring to Regulation 63(5) of the 2017 Habitats and Species Regulations here, although it has not correctly quoted the regulations. Rather than stating that competent authorities only approve projects where impacts have been ascertained, it is recommended this be amended to clarify that <i>'the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).'</i>

95.	Paragraph 4.1.2	The HRA report does not justify or explain why a distance of 2km has been chosen as the study area for identifying European sites. It is recommended that the HRA report fully explain the study area, with reference to potential impact pathways.
96.	Section 5	The Inspectorate notes the statement that the project description is currently under review and further refinement will occur. The Applicant should ensure that the description used for the HRA is the same as that described in the ES and as included in the DCO for which development consent is sought.
97.	Paragraph 5.2.2	It would be helpful to state the precise DCO Requirement(s) being referred to in the HRA report, with reference to the DCO to be submitted with the application.
98.	Paragraph 5.3.1	The Inspectorate notes the intention for a standalone lighting assessment to be produced, which will be used to assess the impacts of light spill on the channel (amongst others). The Inspectorate recommends this information be used to inform the findings of the HRA report and is appropriately cross referenced.
99.	Paragraph 5.5.1	There is no reference to any maintenance activities in this section. The HRA report should include reference to the likely maintenance activities and identify whether or not these could lead to a likely significant effect on European sites.
100.	Paragraph 6.1.1	The Inspectorate understands that the Southern North Sea is now designated as a Site of Community Importance (SCI) (as of 12 December 2017). Reference is also included to the Outer Thames Estuary extension pSPA, which is later identified as the Outer Thames Estuary SPA. The Applicant should ensure the most up to date status of European sites are included in the HRA report.
101.	Paragraph 6.4.2; 6.4.3	Breydon Water SPA and Ramsar – unlike previous European sites in this section, the HRA report does identify vulnerabilities for these sites
102.	Section 7	It would assist the reader if specific paragraph references were included in the footnotes to direct the reader to where information supporting the statements made in the footnotes can be found in the HRA report and/or other reports (eg the ES). The Applicant is directed to the advice contained in Advice Note 10 in this regard (see pages 10 and 11)
103.	Section 7	The Inspectorates notes that the screening and integrity assessment information is presented in matrix form only, with no additional assessment text in the HRA report. It is unclear whether the Applicant intends to provide further text in the HRA report. Advice Note 10 identifies that the matrices are a helpful summary and signposting tool. Whilst it is possible to present the assessment entirely in matrices form, the HRA report should ensure it provides sufficient information for the competent authority's appropriate assessment (should one be required).

104.	Section 7	There is limited cross-referencing from the HRA report to the surveys and modelling used to inform the HRA (as indicated in Table 1: responses to consultation) and where specific supporting information can be found. The HRA report should include clear cross-references to relevant information including; the ES and other relevant documents submitted with the DCO application. It would be helpful if the HRA report described/ summarised the survey and modelling results up front.
105.	Section 7, Table 3	The Inspectorate recommends that more specific detail be included in the HRA report. For example, at footnote g, reference is made to " <i>Air, noise and lighting pollution would affect only the immediate vicinity of construction works...</i> " – can the 'immediate vicinity' be more accurately defined? Footnote d states: " <i>It is unlikely that there will be any interaction between the Scheme construction activities and harbour porpoise due to their known marine habitats requirements and distribution in the North Sea</i> " and provides a link to other publicly available documents (no specific paragraphs mentioned) – it is recommended that the HRA report be more specific so that relevant information can be easily accessed and identified.
106.	Section 7.12 – in-combination	The information in this section is very limited. The report suggests that other projects will be subject to their own HRA. However, there is a lack of detail supporting this justification and it is essential that the assessment includes consideration of impacts, which occur in-combination with other plans and projects where significant effects may occur.
107.	Section 9	The assessment of likely significant effects identifies 'pollution' matters in relation to air quality and lighting, however, the footnotes of the integrity matrices appear to only address water pollution, specifically in terms of run-off from construction and operation of the Proposed Development. All impacts that are carried forward to the appropriate assessment stage should be addressed in the matrices.
108.	Sections 7 & 9	Table 1 (consultation on the PEIR) indicates that Natural England raised a number of potential effects for consideration, including air quality, noise and visual disturbance and changes to water levels and water quality. The HRA report does not explicitly respond to these points and identify where they have or have not been considered. It is recommended that the report provide further detail on these matters.
109.	General - Mitigation	The HRA report should explain where and how mitigation measures are relied upon for the purposes of the assessment, have been secured. Where necessary this should include cross reference to relevant information contained within the application. The Inspectorate notes a number of mitigation measures identified in the footnotes to the integrity matrices in Section 9 associated with water pollution. The Applicant should demonstrate how measures relied upon for the purposes of the HRA will be delivered and explain the efficacy attached.

110.	General – figures	The Inspectorate notes the draft status and further work to be completed but recommends that appropriately scaled figures be included with (or referenced within) the HRA report to present the European sites in relation to the Proposed Development. In any event, a plan (and accompanying information) showing any statutory or non-statutory sites or features of nature conservation is a requirement of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
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General Comments

No.	Comments
111.	The use of left justification for text will provide accessibility for an increased number of users.
112.	The Applicant may wish to consider whether the different colours increase users understanding of the Key Plans and whether the paler colours eg lime green and the two pale blues are sufficiently readable for all users.
113.	The Applicant may wish to consider grouping documents into folders eg all DCO documents in folder 4, rather than separate folders. We note that the naming convention used in the Consultation Report documents is particularly useful, where documents are grouped by letter eg Appendix E contains 3 SOCC documents, E1, E2, E3.
114.	The Applicant may want to submit the s35 direction as part of the submitted application.
115.	The Applicant may wish to provide hyperlinks in document contents pages to aid navigation.