

HEARING AGENDAS

**Proposed Ipswich Rail Chord - North Of Ipswich Goods Yard –
IPC Case Ref: TR040002**

**(OPEN FLOOR AND ISSUE SPECIFIC): Infrastructure Planning (Examination
Procedure) Rules 2010**

Each interested party is entitled to make oral representations at the hearings below (subject to the Examining authority's powers of control over the hearings), those who have indicated their wish to do so are listed below. Any further interested parties who wish to make oral representations at **these hearings must give notice to the Examining authority in writing by 12noon on Monday 13th February 2012.**

Any Interested Party or Affected Person intending to make representations orally at the Hearing is requested to bring three copies of any speaking note(s) to assist the Examining authority in keeping a record on the day and for the benefit of others taking part.

OPEN FLOOR HEARING

10am on Tuesday 14 February 2012 at the IP City Centre, Bath Street, Ipswich.

The following interested parties indicated they wished to make oral representations about the application at an Open Floor Hearing:

- the applicant, Network Rail
- East of England Co-operative Society
- Felixstowe Dock and Railway Company
- Peter Colby Commercials
- Mr Francis Beaumont
- Omnicorp
- Global Self Drive
- National Health Blood Transfusion Service
- Freightliner
- Nicoll and Smith
- Environment Agency
- Hutchison Ports (UK) Ltd
- East of England Co-operative Society

The above are requested to confirm **to the Examining authority in writing by 12noon on Monday 13th February 2012 that they wish to take part in this**

Hearing and if so, indicating the subject matter on which oral representations will be made.

AGENDA

1. WELCOME AND INTRODUCTION

2. ORAL REPRESENTATIONS (IF ANY)

HEARING ON THE SPECIFIC ISSUE OF THE DRAFT DEVELOPMENT CONSENT ORDER, ORDER PLANS, DRAWINGS AND DOCUMENTS

2pm on Tuesday 14th, and 10am on Wednesday 15th February 2012 at the IP City Centre, Bath Street, Ipswich.

The following interested parties have indicated they may wish to make oral representations about the specific issue of the draft DCO and related documents:

- the applicant, Network Rail
- East of England Co-operative Society
- Felixstowe Dock and Railway Company
- Peter Colby Commercials
- Mr Francis Beaumont
- Omnicorp
- Global Self Drive
- National Health Blood Transfusion Service
- Freightliner
- Sustrans (Representations withdrawn)
- Nicoll and Smith
- Environment Agency
- Hutchison Ports (UK) Ltd
- East of England Co-operative Society

In addition the Examining authority would particularly welcome the participation of the following interested parties at this Hearing:

- Suffolk County Council
- Ipswich Borough Council
- Environment Agency

Where agenda items refer to amendments to the draft Development Consent Order this is without prejudice to the decision on whether or not the draft Order should be made.

AGENDA

1. WELCOME AND INTRODUCTION

Representations and Examining authority's questioning

2. GENERAL MATTERS RELATING TO THE GRANTING OF A DEVELOPMENT CONSENT ORDER

2.1 LIKELIHOOD OF OBTAINING A PROTECTED SPECIES LICENCE

2.2 LIKELIHOOD OF OBTAINING OTHER LICENCES REQUIRED

3. ARTICLE 2: INTERPRETATION: DESIGN DRAWINGS: ENVIRONMENTAL MANAGEMENT PLAN DRAWING

Paragraph (1):

In the paragraph beginning "the design drawings", after the words "Regulations 2009" insert the words:

"and the Environmental Management Plan drawing showing key features of landscaping and environmental mitigation submitted by the applicant to the Commission"

Paragraph (2):

Delete:

"and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in Network Rail's railway undertaking".

4. ENVIRONMENTAL MANAGEMENT PLAN DRAWING

Consideration of adding proposed access ramps up the embankments and any major earthworks to the drawing and the indication of temporary works with a dashed or dotted line explained in the legend.

Consideration of adding details of existing embankment trees adjoining the housing on Riverside Road to the drawing.

5. DESIGN DRAWINGS: DESIGN OF PROPOSED BRIDGE 404

Consideration of adding detailed design improvements to the Design Drawings and/or see agenda item: Potential New Requirement 18 below.

6. DESIGN DRAWINGS: TEMPORARY CANTILEVER CYCLE PATH

Consideration of adding outline of proposed temporary cantilever cycle path to the Design Drawings and/or other methods of securing the delivery of the cantilever cycle path. (See also item 16 amendment proposed by the applicant which authorises this and consideration of whether this secures it also).

7. ARTICLE 3: INCORPORATION OF THE RAILWAY CLAUSES ACTS

Paragraph (1):

Line 3 Delete "*level crossings*"

Line 8 after "*section 68*" insert the words "*gates, bridges, etc.-*"

8. ARTICLE 4: DISAPPLICATION OF LEGISLATIVE PROVISIONS

Paragraph (1)

Delete sub-paragraph (a) and re-letter accordingly.

And Paragraph (1) Sub-paragraph (c) before the number "5", insert "2"

9. ARTICLE 9: STREET WORKS

Consideration of the following amendment vis-à-vis the definitions of "apparatus" and "in" set out in s105 of the 1991 Act:

Paragraph (2):

At end insert the words: "*except that no apparatus shall remain over, across, along or upon the street surface after the completion of the works except with the consent of the street authority.*"

10. ARTICLE 11: TEMPORARY STOPPING UP OF STREETS: RESTORATION OF STREET USED AS A WORKSITE

Paragraph (2):

Consideration of whether any amendment to Article 11 is necessary to secure the restoration of a street used as a worksite or whether this would be covered by s58 of the Railway Clauses Consolidation Act 1845 or by which section of Part 3 of the New Roads and Street Works Act 1991 or by Article 23.

Paragraph (8)

Consideration of amendment as follows.

After the word "*decision*" insert:

"or refuses consent without giving any grounds for its refusal",

And at end insert new paragraphs:

"(9) In the event of any refusal including grounds for refusal Network Rail may resubmit a revised application and in that event, if the authority has not intimated its refusal or disapproval including the grounds for its refusal or disapproval within 28 days of the revised application being submitted, it shall be deemed to have given its consent or agreement to, or its approval of, them.

(10) Network Rail shall not carry out the proposal until such plans have been approved or settled by arbitration.”

11. ARTICLE 16: COMPULSORY ACQUISITION OF LAND: AMENDMENT TO CLARIFY LAND SUBJECT TO OUTRIGHT ACQUISITION

Consideration of whether amendment is necessary to identify land that is subject to outright acquisition.

12. ARTICLE 16: COMPULSORY ACQUISITION OF LAND: AMENDMENT TO CLARIFY SECRETARY OF STATE AS RELEVANT AUTHORITY

Paragraph (5):

Replace the word “*Commission*” with “*Secretary of State*”

13. ARTICLE 19: PRIVATE RIGHTS

Paragraph (2)

After “*shall be*” insert

“extinguished in so far as their continuance would be inconsistent with the exercise of the right or the burden of the restrictive covenant-”.

[NR Amdt. 1]

14. ARTICLE 23: TEMPORARY USE OF LAND FOR THE CARRYING OUT OF THE AUTHORISED PROJECT: AMENDMENTS TO SECURE THE REMOVAL OF TEMPORARY WORKS

Paragraph (4)(b) (Temporary use of land for carrying out the authorised project) before “*works*” insert “*permanent*”.

[NR Amdt 2]

See also item 20.

15. POTENTIAL NEW ARTICLE 36

Insert after Article 35:

“36. Right of Appeal on Discharge of Requirements

Provision as to approvals, etc, under Schedule A Part 2

—(1) Where an application is made for a consent, agreement or approval required by a requirement under Schedule A Part 2, the following provisions apply, so far as they relate to a consent agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission, as if the requirement was a condition imposed on the grant of a planning permission—

(a) sections 78 and 79 of the 1990 Act (right of appeal in relation to planning decisions)

(b) any orders, rules or regulations which make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission.

(2) For the purposes of paragraph (1), a provision relates to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission in so far as it makes provision in relation to an application for such a consent, agreement or approval, or the grant or refusal of such an application, or a failure to give notice of a decision on such an application.”

16. SCHEDULE A: PART 1: AUTHORISED DEVELOPMENT: ASSOCIATED WORKS

After “*within Order limits*” insert:

“which is within the scope of environmental impact assessment recorded in the Environmental Statement or an updated environmental statement supporting a subsequent consent granted by a relevant planning authority in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009,”;

And in paragraph (j) delete “*which are within the scope of the environmental information assessment recorded in the Environmental Statement*”.

[NR Amdt 3]

After paragraph (i) delete “*and (j)*” and insert-

*“(j) a temporary structure secured to the north bank of the River Gipping to support a footpath and cycleway for use as a temporary replacement for any part of the existing footpath and cycleway while that part is stopped up under article 11; and
(k)”*

[NR Amdt 4]

17. SCHEDULE A: PART 2: REQUIREMENTS

18.1 REQUIREMENT 2: STAGES OF AUTHORISED DEVELOPMENT

Insert new sub-paragraph

“(2) The written scheme setting out all the stages of the authorised development shall include within the first stage of the authorised development the provision of junction improvements at the Hadleigh Road site access and an appropriate road base to the existing main access road within the land.”

18.2 REQUIREMENT 3: IN ACCORDANCE WITH APPROVED DETAILS: WITHIN PARAMETERS OF AUTHORISED DEVELOPMENT

Paragraph 3 Sub-paragraph (1)

Delete “*Commission*” and insert

“local planning authority and any such alternative approved details shall be within the parameters of the authorised development set out in this Order.”

18.3 REQUIREMENT 4: LANDSCAPING

After paragraph (c) delete “and” and at end insert–

*“(e) measures relating to the removal of rabbit protection provided for trees and shrubs and to the checking, adjusting and repairing of all stakes, ties, shelters and fencing used in accordance with the scheme; and
(f) proposals to take account of the presence of trees with trunks of a diameter of 100 mm or more and to minimise the loss of such trees.”*

[NR Amdt 5]

18.4 REQUIREMENT 8: CONTRACT REQUIREMENTS – ENVIRONMENT: POLLUTION CONTROL INCIDENT PLAN

Sub-Paragraph (2)(b)

After the words “which shall include” insert the words:

“the minimum measures set out in Statement of Common Ground agreed between the applicant and the Environment Agency and contained within Schedule H”

And insert the Statement of Common ground agreed between the applicant, the Environment Agency and Natural England submitted to the Commission on 9th January 2012 into a new “Schedule H.”

[NR Amdt 6 relates]

18.5 REQUIREMENT 8: CONTRACT REQUIREMENTS – ENVIRONMENT: NORMAL WORKING HOURS

Consideration of whether any amendment is required in relation to working hours given that working on the new chord is likely to be within normal working but work on the existing railways will need to occur outside railway operating hours.

Sub-Paragraph (4)

Insert at the end of the first sentence the words:

“which shall stipulate, unless otherwise agreed by Ipswich Borough Council, that normal working hours on site shall be between the hours of 08:00 and 17:00.”

18.6 REQUIREMENT 10: NOISE MITIGATION

Delete “1.6.9” and insert “1.6.10”;

And insert “,” after “Railway Cottages” and after “Noise Insulation (Railways and other Guided Transport Systems) Regulations 1996”

And delete “the final commissioning of the authorised development” and insert

“the opening of the authorised development to rail traffic”.

[NR Amdt 7]

18.7 REQUIREMENT 10: NOISE MITIGATION/WHEEL SQUEAL

Consideration of wheel squeal and any potential mitigation measures to be secured by the DCO.

18.8 REQUIREMENT 12: ECOLOGICAL MANAGEMENT PLAN

For “*this*” substitute “*the*”.

[NR Amdt 8]

18.9 REQUIREMENT 13: PEDESTRIAN/CYCLE ACCESS TO RIVER GIPPING

Paragraph (1)

Delete “*in perpetuity*” and at the end insert “*and shall dedicate such access as a private right of way*”;

Paragraph (2)

After “*The provision*” insert “*and dedication*”.

[NR Amdt 9]

18.11 REQUIREMENT 14: FINISHES OF BRIDGES AND GRAFFITI

Before “*planning authority*” delete “*local*”.

[NR Amdt 10]

18.10 POTENTIAL NEW REQUIREMENT 18: DETAILED DESIGN OF BRIDGE 404

Consideration of amendment relating to detailed design of Bridge 404

“18. No part of the authorised works shall commence until revised design drawings of the proposed replacement bridge 404, have been submitted to and approved in writing by Ipswich Borough Council.”

18.12 REQUIREMENTS 2 – 8 AND 10 – 15 INCLUSIVE

Consideration of the appropriate authority to discharge Requirements, and the replacement of the words “*the Commission*” with the words “*Ipswich Borough Council*” in Requirements 2 to 8 and 10 to 15 inclusive.

19. SCHEDULE E

Insert in title after “*RIGHTS*” the words:

“AND IMPOSITION OF RESTRICTIVE COVENANTS”

Paragraph 1

After the words “*the creation of a new right*” insert:

“or the imposition under this Order of a restrictive covenant”

20. SCHEDULE F: LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

For the entry in column (3) relating to land number 1 substitute–

“Land use:
Worksite”

For the entry in column (3) relating to land numbers 2, 5, 7, 9, 9a substitute–

“Land use:
Worksite and access for construction of the authorised project”

For the entry in column (3) relating to land numbers 14, 15 and 16 substitute–

“Land use:
Worksite and construction
Permanent Works:
Diverted utility apparatus”

For the entry in column (3) relating to land numbers 20, 20a, 22, 24, 26, 27 and 31 substitute–

“Land use:
Worksite and access for construction of the authorised project”

For the entry in column (3) relating to land number 35 substitute–

“Land use:
Worksite, access for construction of the authorised project and construction
Permanent Works:
Underpinning”

For the entry in column (3) relating to land number 38 substitute–

“Land use:
Worksite and construction
Permanent Works:
Works to block-up existing sewer outfall, to raise level of land and to alter guardrail heights”

For the entry in column (3) relating to land number 39 substitute–

“Land use:
Worksite and access for construction of the authorised project”

For the entry in column (3) relating to land number 40 substitute–

“Land use:
Worksite”

For the entry in column (3) relating to land number 41 substitute–

“Land use:
Worksite and construction
Permanent Works:
Works Nos. 1, 2 and 3”

For the entry in column (3) relating to land numbers 42, 44, 44b, 45 substitute–

“Land use:
Worksite and access for construction of the authorised project”

For the entry in column (3) relating to land numbers 49, 51 and 55 substitute—
“Land use:
Worksite and access for construction of the authorised project”

For the entry in column (3) relating to land numbers 53 and 54 substitute—
“Land use:
Worksite and construction
“Permanent Works:
Environmental mitigation”

For the entry in column (3) relating to land numbers 57, 58, 61, 62, 63, 64, 65a, 68, 69, 71, 73, 72, 76 and 77 substitute—
“Land use:
Worksite and access for construction of the authorised project”
[NR Amts 11 to 23]

21. SCHEDULE G: PROTECTIVE PROVISIONS

Part 1 (Protection for electricity, gas, water and sewerage undertakers)

Paragraph 8(1)

At end insert:

“apparatus (including costs or compensation payable in connection with the acquisition of land for that purpose) which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).”

[NR Amdt 24]

Paragraph 9(1)

After “or there is any” insert

“interruption in any service provided or in the supply of any goods by any undertaker Network Rail shall—”

[NR Amdt 25]

Part 3 (For the protection of the Environment Agency)

Paragraph 1(2)–

(a) at the end of the definition of “*drainage works*” insert “*and any ancillary works constructed as a consequence of works carried out for drainage purposes*”; and

(b) in the definition of “*the fishery*” after “*any waters containing fish*” insert “*and fish in such waters*”.

Paragraph 2(3)(b)

After “*submission of the plans*” insert “*or receipt of further particulars if such particulars have been required by the Agency*”.

Paragraph 3–

(a) after “*paragraph 2*” insert “*(3)(c) but subject always to the provisions of that paragraph as to reasonableness*”; and

(b) after “*temporary or permanent,*” insert “*before or*”.

Paragraph 4–

(a) in sub-paragraph (2) delete “brought into use” and insert “completed”; and

(b) after sub-paragraph (2) insert–

“(3) If the Agency shall reasonably require, Network Rail shall construct all or part of the protective works so that they are in place prior to the construction of any specific work.” ,

and renumber sub-paragraphs (3), (4) and (5) as (4), (5) and (6).

Paragraph 5

After sub-paragraph 3 insert–

“(4) If there is any failure by Network Rail to obtain consents or comply with conditions imposed by the Agency in accordance with the Protective Provisions the Agency may serve written notice requiring Network Rail to cease all or any part of the specified works and Network Rail shall cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.”

Paragraph 8

After sub-paragraph (1) insert–

“(2) Consent under paragraph (1) shall not be unreasonably withheld or delayed and Network Rail shall be deemed to have given its consent if it has not refused consent within 2 calendar months of a written request by the Agency.”

Paragraph 9

After sub-paragraph (b) insert–

“(c) the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.”

[NR Amdts 26-32]

Part 4 (For the protection of Hutchison Ports (UK) Limited and the Felixstowe Dock and Railway Company)

New Part. After Part 3 insert:

“Part 4

FOR THE PROTECTION OF HUTCHISON PORTS (UK) LIMITED AND THE FELIXSTOWE DOCK AND RAILWAY COMPANY

1.—(1) The following provisions shall apply for the protection of the Felixstowe operator, unless otherwise agreed in writing between Network Rail and the Felixstowe Dock and Railway Company.

(2) In this part of this Schedule–

“access agreement” has the same meaning as section 83(1) of the Railways Act 1993(2);

“the Felixstowe operator” means Hutchison Ports (UK) Limited and the Felixstowe Dock and Railway Company; and

“Network Code” means the common set of rules and industry procedures, regulated by the Office of Rail Regulation, that apply to all parties who have a contractual right of access to the network owned and operated by

Network Rail as having effect from time to time, and includes any document (whatever called) that replaces the Network Code.

2. At the same time as Network Rail consults persons with an access agreement in accordance with its obligations under Part D of the Network Code, Network Rail shall consult the Felixstowe operator in writing about the timetable for Network Rail's taking possession of the East Suffolk Line railway for the purposes of this Order.

3. As part of the consultation under paragraph 2 Network Rail shall provide the Felixstowe operator with written particulars of the proposed timetable.

4. Network Rail's initial written approach to the Felixstowe operator under paragraph 2 shall specify the latest date by which the Felixstowe operator is required to respond.

5. Network Rail shall have regard to any response to the consultation from the Felixstowe operator which is received in writing on or before the date specified in accordance with paragraph 4, or such later date as may be agreed in writing between the parties.

6. For the purposes of this Schedule any written document sent by Network Rail to the Felixstowe operator under this Schedule shall be duly sent to both Hutchison Ports (UK) Limited and the Felixstowe Dock and Railway Company if it is addressed to either or both those companies at the registered office of either of those companies or such other address as either company may have specified to Network Rail."

[NR Amdt. 33]

22. SCHEDULE H: STATEMENT OF COMMON GROUND AGREED BETWEEN NETWORK RAIL, THE ENVIRONMENT AGENCY AND NATURAL ENGLAND

Insert Statement of Common Ground agreed on 9th January 2012.

23. ANY OTHER REPRESENTATIONS

Breaks for morning coffee, for lunch and for afternoon tea will be taken at convenient times during the Hearing.

NB. This agenda should be considered as provisional to be confirmed and/or revised at the opening of the Hearing taking into account, amongst other matters, the responses to the Requests for Further Information or Written Comment issued under Rule 17.