

September 10th 2013

Our Ref: 2700.131  
Your Ref: F/TH/13/0144 and DOV/13/00143

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Dear Cherry

**TOWN AND COUNTRY PLANNING ACT 1990: HYBRID APPLICATION FOR FULL AND OUTLINE PLANNING PERMISSION FOR PROPOSED UK ONSHORE ELEMENTS OF THE NEMO LINK**

**RESUBMISSION OF APPLICATION**

**INSTALLATION OF 3.1KM UNDERGROUND HIGH VOLTAGE DIRECT CURRENT (HVDC) CABLE FROM PEGWELL BAY TO FORMER RICHBOROUGH POWER STATION, BRING PART OF A 130KM HVDC ELECTRICAL INTERCONNECTOR WITH AN APPROXIMATE CAPACITY OF 1000 MEGAWATTS (MW) EXTENDING FROM ZEBRUGGE (BELGIUM) TO RICHBOROUGH POWER STATION, TOGETHER WITH OUTLINE APPLICATION FOR THE ERECTION OF A CONVERTER STATION BUILDING (MAX HEIGHT 30.8M), SUBSTATION BUILDING (MAX HEIGHT 15M), OUTDOOR ELECTRICAL EQUIPMENT FOR SUBSTATION (MAX HEIGHT 12.7M) AND FOR CONVERTER STATION (MAX HEIGHT 11.8M), UNDERGROUND CABLES FROM SUBSTATION AND CONVERTER STATION AND CONSTRUCTION OF INTERNAL ROADS, INCLUDING ACCESS AND LANDSCAPING. ORIGINAL APPLICATION REFERENCES: F/TH/13/0144 and DOV/13/00143.**

Please find enclosed a new hybrid planning application for the Nemo Link.

On August 19<sup>th</sup> 2013 Thanet District Council (TDC) and Dover District Council (DDC) received further information regarding planning applications references F/TH/130144 (TDC) and DOV/13/00143 (DDC). The additional information included changes to the planning application red line boundary based in part on addressing representations received from the Environment Agency<sup>1</sup> and others. Other amendments were 'tidying' the application so that temporary working areas shown on other planning drawings and where the effects of activities were assessed in the Environmental Statement were also included in the amended planning application boundary.

Following exchanges made by email and telephone, TDC has expressed its opinion that '*the original planning application did not include the level access areas or compound areas, and that the site area is significantly extended around the former Power Station site and at the sports ground there is no*

<sup>1</sup> 'Representations Received from Statutory Consultees for Planning Application Reference F/TH/13/0144 and DOV/13/00143 and TEP Document Reference 2700.131 contained document titled 'Previous Correspondence for Planning Application Reference F/TH/13/0144 and DOV/13/00143'



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PLANNING DESIGN ENVIRONMENT

provision within the Act for the Local Planning Authority to accept such an amendment to the existing planning application<sup>2</sup>.

The Applicant notes that whilst there is no mechanism in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended) for amending planning applications prior to determination, there is case law that supports local planning authority (LPA) discretion to accept changes<sup>3</sup>. The High Court (Elias J) stated that '*It is inevitable in the process of negotiating with officers and consulting with the public, that proposals will be made or ideas emerge which will lead to a modification of the original planning application. It is plainly in the public interest that proposed developments should be improved in this way*'<sup>4</sup>.

In deciding whether changes to an original application are so substantial to require a fresh application to be made, Elias J stated that '*...[in] many, and perhaps most, cases I would not have thought that it is necessary for the planning authority, or the officer to whom the power to accept amendments is delegated, formally to ask whether or not a fresh application is required...the question remains whether the change is so substantial that the application can only be considered fairly and appropriately, bearing in mind both the interest of the applicant and potentially interested members of the public, by requiring a fresh application to be lodged*'<sup>5</sup>.

The Applicant accepts that the temporary construction compounds to the west of the former Richborough Power Station and within the Bay Point sports complex are not shown on all of the original planning drawings. However these are shown on some of the originally submitted drawings particularly Planning Drawing 13 (TEP Drawing Reference D2700.045G) and the activities which would occur in these areas have been considered as part of the environmental impact assessment reported in the Environmental Statement (ES). It is the Applicant's opinion that the amended planning drawings submitted in August 2013 present no substantial change to the original application on the basis of including the temporary construction compounds in the planning application boundary or amending the planning application boundary within the Pegwell Bay Country Park to include the revised method of cables installation.

TDC has also stated that there is no mechanism to accept additional fees which would be required on the basis of including the temporary construction compounds within the planning application boundary. The Applicant has recalculated the fees for the Nemo Link (attached to this letter) hybrid application and identified that there would be no change in the fees submitted for the original application and a fresh application.

The above explains why the Applicant felt it acceptable to submit the information including amendments to the planning application boundary. However in the interests of expediency, the Applicant accepts TDC's opinion that a new application should be submitted to include the amendments to the planning application boundary. I enclose the planning application documents set out in Table 1 and 2 below which form a fresh hybrid application for the onshore elements of the Nemo Link.

A new planning application form with land ownership certificates is also included as part of the fresh application as well as revised planning drawings showing labelled temporary construction compounds.

The ES, supporting figures and appendices enclosed remain unchanged and have not been amended since the original application as the effects on the areas included in the revised planning drawings have been considered in the ES. All supporting documents for the planning application are unchanged from the original applications F/TH/13/0144 and DOV/13/00143 and have been resubmitted.

<sup>2</sup> Email dated 19/08/13 from Cherry Aplin to Krishanthi Gill

<sup>3</sup> *British Telecommunications plc v Gloucester City Council* (2001) ([2001] EWHC Admin 1001, [2002] 2 P. & C.R. 33) High Court (Elias J) held (at paragraphs 26 to 41) that a pragmatic approach was appropriate when a local planning authority were considering amendments to a planning application which had not yet been determined.

<sup>4</sup> *British Telecommunications plc v Gloucester City Council* (2001) Paragraph 33

<sup>5</sup> *British Telecommunications plc v Gloucester City Council* (2001) Paragraph 36 and 37

There are two particular items to which attention is drawn and which are addressed in this letter:

#### *Surface Installation of Cables in Pegwell Bay Country Park*

The previous applications considered the installation of the Nemo Link underground cables on the surface of part of Pegwell Bay Country Park with subsequent covering with appropriate backfill. Following representation from the Environment Agency subsequently endorsed by others (see earlier reference, Nemo Link proposes to carry out the same technique for all of the land area of the former landfill in Pegwell Bay Country Park. This will have the beneficial effect of avoiding risk of disturbing contaminated land which is the advantage envisaged by the Environment Agency. It will also result in different effects with regard to transport because additional fill will need to be imported.

Nemo Link proposes an amended cables trough design for surface installation from the previous applications and this is shown at Planning Drawing 9 and 10. This would require less fill to achieve secure burial and in turn minimises the additional fill required and the transport movements needed. The revised transport assessment taking account of the additional fill required is presented in document Traffic and Transport Addendum (Curtins Consulting Document Reference: TPLO1034).

The principal effect anticipated from this change is the avoidance of risk as outlined above and the further benefit to biodiversity from the establishment of chalk grassland above the cables, as identified for the other part of the Pegwell Bay Country Park where this method of cables installation is proposed.

#### *Substation and Converter Station Laydown Area*

The temporary working compound (also known as laydown area) adjacent the substation and converter station site is now expressly included in the application boundary. This is not a substantive change from the previous applications where it was clearly shown in drawings as a laydown area (meaning an area to be used temporarily during construction of the substation and converter station for storage, fabrication and for temporary compounds). This area is distinct and separate from land which is designated a site of Special Scientific Interest (SSSI) to the north and there would be no effects on the SSSI arising from the temporary use of this land. This temporary use was shown in the previous application and was assessed in the Environmental Statement and no concerns were expressed in representations received.

#### **Habitats Regulations Assessment (HRA)**

In relation to the original application, Natural England in its letter of 10<sup>th</sup> June 2013 set out an objection to the application and its advice that the competent authorities undertake appropriate assessment under the *Conservation of Habitats and Species Regulations 2010* (as amended) (this concern did not relate to the temporary working area described above). In response to this letter the Applicant has prepared a report titled *Nemo Link: Effect on Integrity of European Nature Conservation Interests – Applicant's Submission* (TEP Document Reference 2700.142) which provides information that TDC and DDC will require to undertake an appropriate assessment.

#### **Representations Received from Statutory and Non-Statutory Consultees for Planning Application References F/TH/13/0144 and DOV/13/00143**

In addition to the representation received from the Environment Agency and Natural England, representations were received on the previous applications from Kent County Council (several departments), Thanet District Council's Conservation Officer, National Trust and the Royal Society for the Protection of Birds and Kent Wildlife Trust. Some of these representations duplicate the concerns of the Environment Agency and Natural England addressed above. Many others were subjects of discussion at the meeting between the Councils and the Applicant on 21<sup>st</sup> May 2013. A document has been produced which comprises all representations made by statutory and non-statutory consultees<sup>6</sup>

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<sup>6</sup> For continuity, the original representations received for the planning application references F/TH/13/0144 and DOV/13/00143 have been compiled and are included with the supporting information for this fresh application.

for the above application references with the 'Applicant's Response' to these representations (TEP Document Reference: 2700.136).

I hope that this information is helpful. I understand that the two Councils will need to advertise the submission of these revised applications and will invite further representations.

Should you have any queries on any of the matters to which this letter and its enclosures relate, please contact me using the details at the head of this letter.

Yours sincerely,

Krishanthi Gill  
Environmental Planner CMLI MRTPI  
TEP

**Table 1: Planning Application Documents Register**

Document Title	Revised?
Environmental Statement Non-Technical Summary	As submitted March 2013
Environmental Statement Volume 1 Main Report	As submitted March 2013
Environmental Statement Volume 2 Appendices Part 1	As submitted March 2013
Environmental Statement Volume 3 Appendices Part 2	As submitted March 2013
Arboricultural Impact Assessment	As submitted March 2013
BREAM Assessment	As submitted March 2013
Design and Access Statement	As submitted March 2013
Outline Waste Management Plan	As submitted March 2013
Owners Notification	New Document
Phasing Plan and Draft Planning Conditions	Revised draft planning conditions to address representations received for application F/TH/13/0144 and DOV/13/00143
Previous Planning Application Correspondence Letters	New Document
Planning Application Cover Letter	New Document
Planning Application Forms	New Document
Planning Statement	As submitted March 2013
Sustainability Appraisal Report	As submitted March 2013
Representations Raised as part of the consultation process for F/TH/13/0144 and DOV/13/00143	New Compiled Document
Reponses to Representations Reference F/TH/13/0144 and DOV/13/00143	New Document
NGNLL Effect on Integrity of European Conservation Interest Applicant's Submission Final Aug 2013	New Document

**Table 2: Planning Application Drawings Register**

TEP Drawing Reference	Drawing Title	Revised?
D2700.017B	Planning Drawing 01B Site Location Plan - Overview	Revised Redline Boundary
D2700.018	Planning Drawing 02 Site Location Plan - Inset 1	Revised Redline Boundary
D2700.019	Planning Drawing 03 Site Location Plan - Inset 2	Revised Redline Boundary
D2700.020A	Planning Drawing 04A Site Location Plan - Inset 3	Revised Redline Boundary
D2700.021A	Planning Drawing 05A Site Location Plan - Inset 4	Revised Redline Boundary
D2700.022B	Planning Drawing 06B Site Location Plan - Inset 5	Revised Redline Boundary
D2700.023A	Planning Drawing 07A Site Location Plan - Inset 6	Revised Redline

TEP Drawing Reference	Drawing Title	Revised?
		Boundary
D2700.027A	Planning Drawing 08A Proposed Cable Route Construction Methods Plan - Overview	Revised Redline Boundary
D2700.051C	Planning Drawing 09C Cable Construction Methods Plan - Inset 1 North of Country Park	Revised Redline Boundary
D2700.026B	Planning Drawing 10B Proposed Cable Construction Methods Plan - Inset 2 Country Park	Revised Redline Boundary
D2700.028A	Planning Drawing 11A Proposed Cable Construction Methods Plan - Inset 3 Conventional Trenching	Revised Redline Boundary
D2700.010B	Planning Drawing 12B Proposed Cable Construction Methods Plan - Inset 4 Horizontal Directional Drilling HDD	Revised Redline Boundary
D2700.045K	Planning Drawing 13K Proposed Working Compound Areas and Access	Revised Redline Boundary
D2700.064A	Planning Drawing 14A Existing Site Topography - Converter Station and Substation Site	Revised Redline Boundary
D2700.065A	Planning Drawing 15A Existing Site Topography - Cable Route South	Revised Redline Boundary
D2700.066A	Planning Drawing 16A Existing Site Topography - Cable Route Central	Revised Redline Boundary
D2700.067A	Planning Drawing 17A Existing Site Topography - Cable Route North	Revised Redline Boundary
D2700.068B	Planning Drawing 18B Existing Site Sections - Converter Station and Substation Site	Revised Redline Boundary
D2700.080B	Planning Drawing 19B Proposed Site Sections - Converter Station and Substation Site	Revised Redline Boundary
D2700.089C	Planning Drawing 20C Planning Design Framework	Revised Redline Boundary
D2700.082H	Planning Drawing 21H Proposed Converter Station and Substation Site Layout Plan	Revised Redline Boundary
D2700.047K	Planning Drawing 22K Converter Station and Substation Isometric	Revised Redline Boundary
D2700.046I	Planning Drawing 23 Converter Station and Substation External Elevations	No change – submitted for completeness
D2700.084E	Planning Drawing 24 Proposed Converter Station Building Elevations Floor Plans and Roof Plan	No change – submitted for

TEP Drawing Reference	Drawing Title	Revised?
		completeness
D2700.085C	Planning Drawing 25 Proposed Substation Elevations Floor Plans and Roof Plan	No change – submitted for completeness
D2700.052D	Planning Drawing 26D Proposed External and Internal Fence Details	Revised Redline Boundary
D2700.086D	Planning Drawing 27D Proposed Landscape Masterplan	Revised Redline Boundary

Encs:

- Drawings as set out in Table 1
- Traffic and Transport Addendum (Curtins Consulting Document Reference: TPLO1034)
- Nemo Link: Effect on Integrity of European Nature Conservation Interests – Applicant’s Submission (TEP Document Reference: 2700.142); and
- Response to representations (TEP Document Reference: 2700.136).

Copy: Adrian Fox, Dover District Council