

## CORRECTION NOTICE

### HINKLEY POINT C (NUCLEAR GENERATING STATION) ORDER 2013 (S.I. 2013 No 648)

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

19th November 2013

The Secretary of State received requests dated 28 March 2013 from NNB Generation Company Limited, 3 April 2013 from West Somerset District Council and 5 April 2013 from Sedgemoor District Council for the correction of errors in the Hinkley Point C (Nuclear Generating Station) Order 2013 (“the Order”), under section 119 of and Schedule 4 to, the Planning Act 2008.

The Secretary of State has made the following corrections to the Order:

#### **Corrections to the Articles**

##### **Article 8(3)**

Replace “section 106A” with “section 106(14)”.

*Secretary of State`s rationale:*

The correction of an erroneous legal reference.

##### **Article 16**

Replace “the footpath implementation plan” with “a footpath implementation plan”.

*Secretary of State`s rationale:*

The implementation plan is not yet defined and, therefore, the indefinite article should be used.

##### **Article 25(4)**

Replace the whole paragraph with “Subsection (2) of section 10 of the 1965 Act applies to paragraph (2) as it applies to section 152(3) of the 2008 Act by virtue of section 152(5) of that Act.”.

*Secretary of State`s Rationale:*

The original reference to the 1965 Act applying `by virtue of section 152(5) of the 2008 Act` was erroneous, as section 152(5) only applies the 1965 Act to section 152(3) of the 2008 Act. The substituted paragraph ensures that the 1965 Act applies to this Order in the same way as it applies to section 152(3) of the 1965 Act.

## **Article 27(1)**

Replace “the new rights” with “the rights”.

*Secretary of State`s Rationale:*

The reference in article 27(2) acquisition of “existing rights over land under paragraph (1)” reads oddly when paragraph (1) refers to the acquisition of “new” rights. The word “new” has, therefore, been omitted.

## **Article 38(2), definition of “restricted land”**

Replace “sheet no. 3” with “sheet no. 5”.

*Secretary of State`s Rationale:*

The correction has been made to provide a reference to the correct land plan.

## **Article 49, definition of “general direction”**

Replace “article 72” with “article 71”.

*Secretary of State`s Rationale:*

The correction of an incorrect reference.

## **Corrections to Schedule 1**

### **Part 1, description of Work No. 1A, paragraph (c)**

Replace “listed at 1(a)” with “listed at (a)”.

*Secretary of State`s Rationale:*

The paragraph referred to is not numbered.

### **Part 1, description of Work No. 1A, paragraphs (d)(i) and (e)(i)**

Replace “Safeguard; Buildings;” with “Safeguard Buildings;”.

Replace “Fuel Building; Hall;” with “Fuel Building Hall;”.

*Secretary of State`s Rationale:*

In each case, the phrases should be combined as they refer to single items.

### **Part 3, list of plans for Conventional Island (Unit 2), Hydrazine and Ammonia Storage**

For drawing number HINK-A2-SIR-02-GA-001, no scale is listed in the third column and no paper size in the fourth column. Therefore, insert “1:100” in the third column and “A1” in the fourth column.

*Secretary of State`s Rationale:*

Clarification of scale of the drawing to help readers/viewers scrutinising it and to provide consistency with other similar plan descriptors.

### **Part 3, list of plans for Remaining Balance of Plant and other Plant (Shared Between both Units), Attenuation Pond**

Replace “HINK-A2-01-HXO-00-GA-001” with “HINK-A2-HXO-00-GA-001”.

*Secretary of State`s Rationale:*

The correction of an incorrect reference – deletion of an erroneous number (“01”).

### **Part 3, list of plans for Junction 24**

The last two rows under the heading “Warehouse Building” should be deleted.

*Secretary of State`s Rationale:*

The plans were submitted to the Planning Inspectorate as being “not for approval”. They should not, therefore, have been included in the Order.

### **Part 3, list of plans for Highway improvements to A38 Bristol Road/The Drove Junction**

The scale of drawing number 900 is given as 1 : 1000. The reference to “1 : 1000” should be replaced with “1 : 1500”.

*Secretary of State`s Rationale:*

The correct drawing scale reference is inserted to assist readers/viewers.

### **Part 3, list of plans for Highway improvements to A38 Bristol Road/Wylds Road Junction**

The paper size for drawings numbers 1000 and 1002 is given as A1. The reference to “A1” should be replaced by “A2”.

*Secretary of State`s Rationale:*

Insertion of correct paper size to assist readers/viewers.

## **Corrections to Schedule 2**

### **Paragraph 1(1), definition of “permanent buildings or structures”**

Replace “C3, J23-3, J24-2 and WP2” with “C5, J23-4, J24-3 and WP3”.

*Secretary of State`s Rationale:*

The insertion of the correct requirement references.

### **Paragraph 1(1), definition of “start-up and shut-down”**

Replace “22 (start-up) means the periods of 30 minutes before the opening up of sites of those works and” with “22 means the periods of 30 minutes before the opening up of sites of those works (start-up) and”.

*Secretary of State`s Rationale:*

Insertion of corrected text provides a clearer definition of “start-up”.

### **Paragraph 2, first sentence**

Replace “PW1 to PW36” with “PW1 to PW24”.

*Secretary of State`s Rationale:*

The insertion of the correct Order reference.

### **Paragraph 3, requirement P15, paragraph (b)**

Replace “PW31” with “PW20”.

*Secretary of State`s Rationale:*

The insertion of the correct Order reference.

### **Paragraph 4, requirement MS7, paragraph (2)**

Delete existing paragraph (“Notwithstanding paragraph (1) any means of enclosure of the site shall only be installed after it is safe to erect and maintain an appropriate means of marking the boundary of the site which is the subject of the Hinkley Point C Nuclear Site Licensing Condition Arrangements – Assessment Report: ONR-CNRP-AR-12-129 revision 0 (20<sup>th</sup> September 2012)”) and replace it with “Notwithstanding paragraph (1) any additional means of enclosure of that part of the site which is the subject of the Hinkley Point C Nuclear Site Licensing Licence Condition Arrangements – Assessment Report: ONR-CNRP-AR-12-129 revision 0 (20<sup>th</sup> November 2012) shall only be installed after it is safe to erect and maintain an appropriate means of marking the boundary of that part.”.

*Secretary of State`s Rationale:*

To avoid ambiguity as to which site was being referred to.

**Paragraph 4, requirement MS8, paragraph (1)**

Replace “Office of Nuclear Regulation” with “Office for Nuclear Regulation”.

*Secretary of State`s Rationale:*

The correction of an incorrect title.

**Paragraph 4, requirement MS9, paragraph (1)**

Replace “from the site” with “from the HPC Development Site”.

*Secretary of State`s Rationale:*

To be consistent with the definition in “Interpretation” and other references in the Order.

**Paragraph 4, requirement MS11, paragraph (1)(a) and (d)**

Replace “MS10” with “MS9”.

*Secretary of State`s Rationale:*

The insertion of the correct Order reference.

**Paragraph 4, heading of requirement MS16**

Replace “Building Design” with “Interim Spent Fuel Store”.

*Secretary of State`s Rationale:*

To better reflect the provision made by this requirement.

**Paragraph 4, requirement MS28, paragraph (1)(h)**

Delete the words “and the HPC Accommodation Campus (Work No. 3)”.

*Secretary of State`s Rationale:*

There is a specific reference in subsection (k) of paragraph 1 to the HPC Accommodation Campus (Work No. 3). Deletion, therefore, is made to avoid repetition and provide greater clarity.

**Paragraph 4, requirement MS36, paragraph 1**

Delete the words “and shall be kept for a minimum of two years from the date of the flight” in the second sentence.

*Secretary of State`s Rationale:*

Removal of wording which is repeated later in the paragraph.

**Paragraph 4, requirement MS38**

Replace “relevant planning authority” with “West Somerset District Council”.

*Secretary of State`s Rationale:*

The Secretary of State agrees with Sedgemoor District Council and West Somerset District Council that the correction is in the interests of internal consistency within these requirements.

**Paragraph 5, requirement J2, paragraph (1)**

Replace “relevant planning authority” with “West Somerset District Council”.

*Secretary of State`s Rationale:*

The Secretary of State agrees with Sedgemoor District Council and West Somerset District Council that the correction is in the interests of internal consistency within these requirements.

**Paragraph 12, requirement C9, paragraph (1)**

Replace “C4” with “C5”.

*Secretary of State`s Rationale:*

The insertion of the correct Order reference.

**Paragraph 13, first sentence**

Replace “refers to the Order limits” with “refers to the land within the Order limits”.

*Secretary of State`s Rationale:*

Clarification to assist the reader.

**Paragraph 13, requirement J23-2, paragraph (1)**

Replace “chapter 16” with “chapter 14”.

*Secretary of State`s Rationale:*

The correction of an erroneous reference.

### **Corrections to Schedule 14**

#### **Paragraph 3, sub-paragraph (2)(c)**

Replace “square metres of gross floorspace” with “square metres of gross floor space”.

*Secretary of State`s Rationale:*

To provide consistency with other similar references within the Order.

#### **Paragraph 4, sub-paragraph (2)(a)**

Replace “the undertaker shall submit the appeal documentation to the Secretary of State” with “the undertaker shall submit to the Secretary of State”.

*Secretary of State`s Rationale:*

Duplication of another reference within the paragraph.

#### **Paragraph 5, definition of “major detailed requirements”**

Replace “J23-4, J24-3, and WP3” with “J23-5, J24-4, and WP4”.

*Secretary of State`s Rationale:*

The insertion of the correct references.

### **Other corrections**

In addition, the Secretary of State has taken the opportunity to correct the following typographical and grammatical errors:

#### **Articles**

Article 2(1), definition of “undertaking” - replace “mean” with “means”.

Article 12(2) – replace “Sections 61(9)” with “Section 61(9)”.

Article 44(6) - replace “A may serve or sending” with “A may serve or send”.

Article 52(6)(b) - replace “First Schedule of” with “First Schedule to”.

## **Schedule 1**

Part 1, description of Work No. 1A, paragraph (o) - replace “a sea walls” with “a sea wall”.

## **Schedule 2**

Paragraph 4, requirement MS2, paragraph (1) - replace “has been submitted” with “have been submitted”.

Paragraph 4, requirement MS2, paragraph (1)(e) – replace “200 µg/m<sup>3</sup>” with “200 µg/m<sup>3</sup>”.

Paragraph 4, requirement MS9, paragraph (2) – replace “West Somerset district Council” with “West Somerset District Council”.

Paragraph 4, requirement MS11, paragraph (2) – replace “West Somerset district Council” with “West Somerset District Council”.

Paragraph 4, requirement MS26, paragraph (2) – replace “have been be completed” with “have been completed”.

Paragraph 6, requirement CW2, paragraph (1)(d) – replace “Second Issues Specific Hearing” with “Second Issue Specific Hearing”.

Paragraph 10, requirement CB7, paragraph (1) - replace “has been submitted” with “have been submitted”.

Paragraph 13, requirement J23-13, paragraph (2) – replace “engineering detail” with “engineering details”

## **Corrections which the Secretary of State has not made**

### **Article 11(1)**

Sedgemoor District Council proposed that the words “the authorised development” should be replaced with “the temporary associated development works and the temporary jetty works”. The Council was concerned that the effect of the provision was to exempt even the permanent parts of the development from the Community Infrastructure Levy, when the intention had been to exempt only temporary elements.

*The Secretary of State`s view:*

The Secretary of State is satisfied that Article 11 achieves the intention of exempting only the temporary parts of the development from the Community Infrastructure Levy.



## **Schedule 2, Paragraph 4, requirement MS26, paragraph (1)**

West Somerset District Council suggested that we should replace the reference in this provision to requirement MS15 with a reference to MS25.

### *The Secretary of State`s View*

The reference in requirement MS26 is to “the area marked `advanced landscape works brought forward pursuant to MS15` on HPC Development Site Works Plan.....(submitted on 6<sup>th</sup> August 2012)”. Although landscape work requirements are set out in requirement MS25 in the Order as made, requirement MS26 is cross-referencing to a label on a plan, in which the numbering used reflects the numbering in the draft Development Consent Order as it stood at the time the plan was submitted.

### Schedule 2, paragraph 8, requirement BRIC15

BRIC15 requires the demolition of buildings and removal of the resulting materials from the site. Sedgemoor District Council asked whether planning permission under the Town and Country Planning Act 1990 for an alternative legacy use would be sufficient to remove the need to comply with this requirement in its entirety or whether an application for a minor variation to the Order requirement would also be required. If that were the case, then the Council suggested that the requirement should be amended to read:

“Unless planning permission has previously been granted by Sedgemoor District Council for the retention and change of use of the proposed buildings on the site of Work No.5A, all proposed buildings shall be demolished, and all materials resulting from the demolition shall be recovered from the site, within 12 months of the completion of the HPC construction works.”

### *The Secretary of State`s view:*

The Examining Authority`s changes to the suggested draft requirement were clear and concise –

### **“Post-operation**

All proposed buildings on the site of Work No. 5A shall be demolished and all materials resulting from their demolition shall be removed from the site, within 12 months of the completion of the HPC construction works.”

The Secretary of State accepts the Examining Authority`s requirement. He does not think it would be appropriate to treat such a change as a “correctable error”.

### Schedule 3

In the view of West Somerset District Council, Schedule 3 should not reference Site Preparation Permission conditions FP14 or FP7 as these are not pre-

commencement conditions under Site Preparation and, therefore, should not be subject to deemed consent.

Secretary of State`s view:

The Examining Authority made it clear that FP14 and FP7 were necessary to allow a smooth transition from the temporary planning permission works to the Development Consent Order.

“After service of the transitional notice, site preparation works would be authorised by the DCO. It is clearly important that these works should be regulated by requirements which reflect certain of the existing planning conditions.”

“The requirements for site preparation works listed in Table 1 below [not included here] are not controversial. We consider them to be necessary, relevant, precise, enforceable and reasonable; and we support their inclusion in the DCO. However, we do not discuss them in detail in this report.”

The Secretary of State considers that there does not seem to be any evidence that the reference to these two conditions was included inadvertently and it was present in the versions produced during the examination period. He does not consider it is appropriate to treat it as a correctable error – if indeed it is necessarily to be regarded as an error in any event.