

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

**Application by RWE Renewables UK Solar and Storage Limited for an Order granting
Development Consent for the Tween Bridge Solar Farm**

Planning Inspectorate Reference Number: EN010148

Written Representation and Summary submitted on behalf of National Highways Limited

1. Introduction

- 1.1 This is the written representation of National Highways' ("NH") in respect of the application ("**Application**") by RWE Renewables UK Solar and Storage Limited ("**Applicant**") for an order granting development consent ("**DCO**") for the Tween Bridge Solar Farm Project. The Applicant seeks development consent for the Tween Bridge Solar Farm project ("**Authorised Development**").
- 1.2 This written representation is being submitted by NH in its capacity as a statutory consultee in the planning process, and as Strategic Highways Authority appointed under the provisions on the Infrastructure Act 2015 with responsibility for operating, maintaining and improving the Strategic Road Network ("**SRN**"). It builds on the representations made by NH in its Relevant Representation [**RR-022**], which appended the form of NH's template protective provisions (the "**NH PPs**") which NH requires to be secured on the face of the DCO.

2. Summary

- 2.1 NH is an arms-length government owned company responsible for the ownership, management and improvement of England's motorways and major A-roads, collectively referred to as the SRN.
- 2.2 NH is appointed pursuant to section 1 of the Infrastructure Act 2015 to act as the highway authority, traffic authority and street authority for the SRN. The effect of this appointment is to make NH the statutory custodian of this national asset, conferring on it the status and legislative functions of a strategic highways company. As a strategic highways company, NH must comply with a number of general and specific statutory duties.
- 2.3 NH has no desire to stymie development or to impose requirements on the Applicant which are disproportionate to the potential harm that could be caused to the SRN. NH is legally obliged to cooperate with third parties exercising planning or highways functions, which includes the Applicant in the statutory process. NH is prepared to engage fully and assist in whatever way is reasonable to ensure that the Authorised Development proceeds as quickly and efficiently as possible.
- 2.4 At this stage, NH maintains its objection to the DCO and the Authorised Development for the reasons set out below:
 - (a) NH objects to powers of compulsory acquisition being granted in respect of NH's operational land, and to any extinguishment of rights enjoyed by NH for the purposes of carrying on its undertaking. NH considers that there is no compelling case in the public interest for the exercise of compulsory acquisition powers over such land without the inclusion of the NH PPs in the DCO.
 - (b) NH understands that the Applicant proposes to undertake cabling works beneath the SRN as part of the Authorised Development. No provision is made in Schedule 4 (Streets subject to Street Works) of the draft DCO [**AS-002**] for these works, despite them being street works for the purposes of the New Roads and Street Works Act 1991 ("**NRSWA**"). In the absence of any authorisation under the DCO or a street works licence granted by NH, these works would be in contravention of section 51 of NRSWA.
 - (c) NH understands from discussions between the parties that the Applicant may seek to rely on highway drainage apparatus for outfall from the Scheme. Government policy on this is clear – no third party schemes are permitted to drain into existing highway drains. It is for the Applicant to design, procure and build

any new drainage infrastructure required to mitigate the impacts of its development.

- (d) NH has engaged further with the Applicant on the omissions within the Application regarding assessment of impacts on the SRN. NH is now satisfied that construction and operational movements associated with the Authorised Development are unlikely to result in a severe impact on the SRN. However, this is subject to NH's review of the updated Outline Construction Traffic Management Plan ("oCTMP") [APP-182] to be submitted by the Applicant at Deadline 1.
- (e) NH requests approval rights in respect of the discharge of certain Requirements, including Requirements 5 (approved details and amendments to them), 8 (landscape and ecology management plan), 9 (fencing and other means of enclosure), 11 (surface and foul water drainage), 16 (construction traffic management plan) and 19 (decommissioning and restoration), to the extent that the phase which is the subject of the relevant discharge application affects the SRN.
- (f) The protective provisions for the benefit of NH as presented in the draft DCO [AS-002] are not agreed. In NH's view, they represent a much-reduced standard of protection than that which NH expects with respect to a development of this nature. This written representation provides detailed justification for the provisions contained within the NH PPs.
- (g) The Authorised Development has the potential to impact on NH's proposed renewal works to the M180 which are currently programmed to commence in 2028/2029 with completion in 2030. It may be necessary, to the extent that the two sets of works interact, that the Applicant agrees to cooperate with NH in the delivery of the Authorised Development.

3. National Highways

- 3.1 NH is an arms-length government owned company responsible for the ownership, management and improvement of England's motorways and major A-roads, collectively referred to as the SRN. The SRN comprises over 4,500 miles of road sitting at the core of the national transport system, connecting all major economic and resource centres with key markets and conurbations. The SRN is the most heavily used part of the national road network, carrying a third of all traffic and two-thirds of all freight totalling approximately 4 million journeys a day. It provides businesses with the means to get products and services to their customers, gives access to labour markets and suppliers, and encourages trade and new investment. It is also a complex network of highway structures, drainage and attenuation apparatus and telemetry and electronic communication assets. In short, the SRN is a critical piece of economic infrastructure, vital to the nation's connectivity and the means for generating economic growth.
- 3.2 NH is appointed pursuant to section 1 of the Infrastructure Act 2015 to act as the highway authority, traffic authority and street authority for the SRN. The effect of this appointment is to make NH the statutory custodian of this national asset, conferring on it the status and legislative functions of a strategic highways company.
- 3.3 As a strategic highways company, NH must comply with a number of general and specific statutory duties¹, including to:
 - (a) *"co-operate in so far as reasonably practicable with other persons exercising functions which relate to highways or planning"*;

¹ Infrastructure Act 2015, s.5

- (b) *“have regard to the effect of the exercise of its functions on the environment”;*
and
- (c) *“have regard to the effect of the exercise of its functions on the safety of users of highways”.*

3.4 The Secretary of State for Transport may from time to time give a strategic highways company directions or guidance as to the manner in which it is to exercise its statutory duties and functions. For the purposes of directing the functions as regards the SRN, these directions are contained within the 2015 Licence.² The directions contained in the 2015 Licence are mandatory³ and are regulated by the Office of Road and Rail. They include:

- (a) Paragraph 4.1 – *“The network for which the Licence holder is responsible is a critical national asset, which the Licence holder must operate and manage in the public interest, in respect of both current activities and needs and in providing effective stewardship of its long-term operation and integrity.”*
- (b) Paragraph 4.2 – *“Without prejudice to the general duties on the Licence holder under section 5 of the Infrastructure Act 2015, the Licence holder must, in exercising its functions and complying with its legal duties and other obligations, act in a manner which it considers best calculated to:*
 - (i) *ensure the effective operation of the network;*
 - (ii) *ensure the maintenance, resilience, renewal and replacement of the network;*
 - (iii) *ensure the improvement, enhancement and long-term development of the network;*
 - (iv) *ensure efficiency and value for money;*
 - (v) *protect and improve the safety of the network;*
 - (vi) *co-operate with other persons or organisations for the purposes of co-ordinating day-to-day operations and long-term planning;*
 - (vii) *minimise the environmental impacts of operating, maintaining and improving its network and seek to protect and enhance the quality of the surrounding environment;*
 - (viii) *conform to the principles of sustainable development.”*
- (c) Paragraph 5.37 – *“The Licence holder must hold and manage land and property in line with, and as a function of, the Licence holder’s legal duties as a highway authority, and solely for the purposes of operating, managing and improving the highway, unless otherwise approved by the Secretary of State for Transport.”*

3.5 More particularly sections 41 and 130 of the Highways Act 1980 contain respectively a statutory duty for NH to ensure it maintains the SRN to the appropriate/sufficient standard, free from any hazards so it is safe to use, and a statutory duty to *assert and protect* the rights of the public in use and enjoyment of the SRN. Section 16 of the

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/431389/strategic-highways-licence.pdf (accessed 5 May 2026)

³ Infrastructure Act 2015, s.6(3)

Traffic Management Act 2004 contains a statutory Network Management Duty for NH to manage the SRN with a view to achieving, so far as may be reasonably practicable having regard to NH's other obligations, policies and objectives, securing the expeditious movement of traffic on the SRN and facilitating the same on roads where another authority is the traffic authority. In order to achieve this, the action NH may take in performing that duty includes that which NH considers will contribute to securing the more efficient use of the SRN or avoidance, elimination or reduction of disruption to the above relevant roads and may involve the exercise of any power to regulate or co-ordinate the uses made of any road (or part of a road) in the road network (whether or not the power was conferred on them in their capacity as a traffic authority). Section 17 of the Traffic Management Act 2004 requires that NH shall make such arrangements as they consider appropriate for planning and carrying out the action to be taken in performing its Network Management Duty and has to establish processes to, as far as reasonably practicable, identify things (including future occurrences) which are causing, or have potential to cause SRN congestion or other disruption to the movement of traffic on it and consider any possible action that could be taken in response to (or anticipation of) anything so identified, e.g. in the event NH considers this particular statutory duty may not be met. Supplementary to this, 4.2 of NH's statutory licence requires NH to act in a manner which it considers best calculated to ensure the effective operation of the SRN. To comply with this, Paragraph 5.1 states that NH should seek to minimise disruption to road users that might reasonably be expected to occur as a result of planned or unplanned disruption to the network, as well as proactively and reactively provide relevant, accurate and timely information about traffic and conditions on the SRN to road users, including when there is disruption. This range of duties demonstrates that NH must always protect road users/the SRN and ensure the SRN retains its integrity, is free from hazard/safe to use and is available for continual uncongested use all year round subject to precise terms of its Network Management Duty which means NH is duty bound to consider carefully any activity that has the potential to impact on any of NH's statutory duties.

- 3.6 Under section 5(2)(b) of the Infrastructure Act 2015, NH is under a duty to have regard to the safety of highway users. Safety is at the heart of NH's function as a statutory undertaker – the safety of the travelling public, the safety of NH staff and the safety of third party contractors on the network.
- 3.7 The SRN is inherently a dangerous network to operate on, over and under – given the very limited control that NH has on road users operating at high speeds. The potential for catastrophic damage or injury from collision is prevalent – which is precisely why NH has strict procedures for contractors operating on, over or under the SRN, particularly those which it does not itself control.

4. **Protecting the SRN**

- 4.1 Unlike other statutory consultees involved in the consenting of nationally significant infrastructure projects, NH is a very active promoter of development consent orders and understands keenly the pressures and requirements placed on applicants to balance the delivery of the scheme with the protections afforded to statutory consultees. NH has been at the vanguard of DCO-consented development since the Planning Act 2008 was introduced and has offered many commitments for the protection of electricity and gas apparatus, water and drainage infrastructure, railway undertakings and other infrastructure owned by statutory consultees as a consequence of its own development consent orders. The SRN deserves the same measure of protection, proportionate to the extent of interference caused by the Authorised Development.
- 4.2 NH understands the need for proportionality in the context of such protections and considers that a proportionate level of protection in all cases and as a minimum standard where there is the potential for impact to the SRN should be the following:
 - (a) that NH be held harmless from the impact of third party development;

- (b) that NH's procedures – put in place for the protection of property and persons – are adhered to in accordance with NH's strict requirements;
- (c) that any works carried out to the highway, on NH land, underneath the highway, above the highway and to apparatus forming part of the highway estate should be certified by NH and approved by NH on completion of the works;
- (d) that financial provision should be put in place to ensure that in the event of the Applicant commencing works which may impact the SRN (including for example, underground works beneath the SRN or oversailing above it) and falling into financial difficulty or defaulting on completion of the works, NH has the resources needed to put the SRN and the highway estate into the position it was in before the Applicant commenced works;
- (e) that NH be indemnified for any loss or damage to the SRN or the highway estate as a result of the works;
- (f) that the Applicant requests approval from NH before exercising any powers under the DCO in relation to the SRN or the highway estate (such approval not to be unreasonably withheld) to enable proportionate rights and reservations to be secured for the protection of the SRN through private treaty; and
- (g) that emergency procedures be agreed for NH to access the SRN to carry out works or remove dangerous obstacles resulting from the Authorised Development which pose a risk to life.

4.3 These proportionate controls are included in the NH PPs.

4.4 NH considers that without the NH PPs, there is a considerable risk of serious detriment to the SRN, as any damage or injury to the SRN or wider highway estate would require funding to rectify that is not within NH's budget. There is no recourse to public funding for emergency works of this nature and a reserve of funding is not available. Without prejudice to whether the Authorised Development would cause a serious detriment to the SRN, it remains the case that the public purse should not be left to meet or subsidise costs of impacts caused by third party development to the SRN.

4.5 Further, NH's estate comprises more than just the corpus of the highway (the 'top two spits'). Unlike local roads, where the local highway authority typically controls only the highway strata and sufficient vertical limits above and beneath the highway to maintain necessary apparatus and street furniture, in most cases NH controls the freehold of the land beneath the highway and to the airspace above. This estate is held for the benefit of the statutory undertaking, to ensure that the SRN is not compromised and that maintenance or improvement works at any required depth can take place free from risk of trespass or ransom. Where apparatus is co-located in the highway (which is commonplace), that apparatus has been authorised by NH or has been installed through industry standard processes (such as under NRSWA), where statutory protection is afforded to NH as the highway or street authority. Whilst NH may be prepared to grant a sub-surface interest or right to co-locate apparatus in the highway, where it is geotechnically possible and respecting other apparatus that is in, on, under or over the highway – the interest must be proportionate and necessary and cannot be to the detriment of NH, the SRN or other undertakers. It cannot be acceptable that apparatus is placed in, on, under or over the SRN through a DCO by disapplying statutory protections that NH has and not accepting to acquiesce to the terms which are required by NH to manage its network in accordance with regulatory requirements.

4.6 For the sake of clarity and transparency, NH has no desire to stymie development or to impose requirements on the Applicant which are disproportionate to the potential harm that could be caused to the SRN. NH is legally obliged to co-operate with third parties exercising planning or highway functions, which includes the Applicant in this statutory

process⁴. NH is prepared to engage fully and assist in whatever way is reasonable to ensure that the Authorised Development proceeds as quickly and efficiently as possible.

5. Compulsory Acquisition

- 5.1 The Applicant's draft DCO **[AS-002]** includes powers of compulsory acquisition, temporary possession and the acquisition of rights in respect of 25 plots of land owned by NH or over which NH has an interest (the "**NH Plots**").
- 5.2 NH notes however that in various places in the Book of Reference **[APP-021]** NH is identified as "National Highways Limited" in error. NH has been advised by the Applicant that the Book of Reference will be updated at Deadline 1 to correct this typographical error and to remove plot 11/26.
- 5.3 Although NH therefore reserves its position, pending review of the updated Book of Reference, NH's understanding of the NH Plots as reflected in the Book of Reference prior to Deadline 1 is summarised in the table below. Plots falling within the extent of the SRN are shown with blue shading.
- 5.4 To safeguard NH's interests and the safety and integrity of the SRN, NH objects to powers of compulsory acquisition being granted in respect of NH's operational land, and to any extinguishment of rights enjoyed by NH for the purposes of carrying on its undertaking. The relevant NH Plots constitute land or rights acquired/obtained by NH for the purpose of maintaining its statutory undertaking and, accordingly, this representation is made under sections 127 and 138 of the Planning Act 2008. NH considers that there is no compelling case in the public interest for the exercise of compulsory acquisition powers over these NH Plots without the inclusion of the NH PPs in the DCO, and that the grant of the DCO without such provisions would result in serious detriment to the SRN.
- 5.5 Notwithstanding this position, NH has been approached by the Applicant regarding the possibility of a voluntary agreement to acquire the necessary land rights from NH. NH is open to reaching a voluntary agreement with the Applicant, on appropriate terms, and discussions are continuing in this regard. This does not alter the position that, to the extent that the DCO seeks powers of compulsory acquisition over NH's operational land or associated rights, these powers will need to be regulated by the NH PPs.
- 5.6 It is also noted that certain NH Plots relate to former parts of the SRN which have now been de-trunked, or areas of highway transferred to the local highway authority under a Side Roads Order – in both cases, the relevant land (albeit not the subsoil) now falls within the purview of the local highway authority, rather than NH. There are also certain plots in respect of which NH has no record of holding any interest, and this is similarly noted in the table below.
- 5.7 Further details of the NH Plots are set out in the following table:

⁴ Section 5(1) Infrastructure Act 2015

Plot	Nature of NH Interest	Acquisition Category	Works Proposed	Detriment to NH
7/7	Category 2	Permanent Acquisition and Temporary Possession	Work Nos. 1D, 2, 3 and 8	Although in third party ownership, this plot contains an NH drainage asset which will need to be protected. This can be achieved through the NH PPs.
7/13	Category 2	Permanent Acquisition and Temporary Possession	Work Nos. 1D, 2, 7 and 8	This plot is subject to restrictive covenants granting NH maintenance and repair rights. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.
7/14	Freeholder and occupier	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	Although identified as freeholder in the Book of Reference, NH is not the registered owner and does not consider that this plot forms part of the SRN. NH currently benefits from an easement over this land. Any proposed extinguishment of this easement must be subject to NH's consent in accordance with the NH PPs.
7/17	Category 2	Permanent Acquisition and Temporary Possession	Work Nos. 1D, 2 and 8	This plot is subject to restrictive covenants granting NH maintenance and repair rights. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.
9/24	Freeholder and occupier	Permanent Rights and Temporary Possession	Work No. 2	NH understands that the works to this plot involve cabling beneath the SRN (within the subsoil beyond the vertical extent of the highway). Any works within this plot will need to be controlled by the NH PPs (refer to section 10 for further details). Any existing infrastructure will also need to be protected.
10/12	Freeholder	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This part of the highway has been de-trunked, meaning it has been vested in and is the responsibility of the local highway authority pursuant to section 265 of the

				Highways Act 1980. NH therefore has no further comments or concerns in respect of this plot at this stage and would request that the Book of Reference is updated to remove reference to NH having an interest in this plot. The Applicant should contact the local highway authority.
10/15	Freeholder and occupier	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This part of the highway has been de-trunked, meaning it has been vested in and is the responsibility of the local highway authority pursuant to section 265 of the Highways Act 1980. NH therefore has no further comments or concerns in respect of this plot at this stage and would request that the Book of Reference is updated to remove reference to NH having an interest in this plot. The Applicant should contact the local highway authority.
10/21	Freeholder and occupier	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	NH understands that the works to this plot could involve cabling beneath the SRN. Any works within this plot will need to be controlled by the NH PPs (refer to section 10 for further details). Any existing infrastructure will also need to be protected.
10/33	Freeholder	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	NH is not aware of any interest it holds in this plot and therefore has no further comments or concerns at this stage.
10/35	Freeholder	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This plot was acquired by NH with the highway transferred to the local highway authority under a Side Roads Order and is part of the highway owned and maintainable by the local highway authority. NH retains title to the subsoil only pending the administrative task of transferring ownership which, unlike in the case of de-trunking, does not happen

				automatically. NH therefore has no further concerns in respect of this plot at this stage. The Applicant should contact the local highway authority for non-subsoil works.
10/36	Freeholder	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This plot was acquired by NH with the highway transferred to the local highway authority under a Side Roads Order and is part of the highway owned and maintainable by the local highway authority. NH retains title to the subsoil only pending the administrative task of transferring ownership which, unlike in the case of de-trunking, does not happen automatically. NH therefore has no further concerns in respect of this plot at this stage. The Applicant should contact the local highway authority for non-subsoil works.
10/39	Freeholder	Highway Land Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This plot was acquired by NH with the highway transferred to the local highway authority under a Side Roads Order and is part of the highway owned and maintainable by the local highway authority. NH retains title to the subsoil only pending the administrative task of transferring ownership which, unlike in the case of de-trunking, does not happen automatically. NH therefore has no further concerns in respect of this plot at this stage. The Applicant should contact the local highway authority for non-subsoil works.
11/22	Category 2	Permanent Acquisition and Temporary Possession	Work Nos. 1E, 2, 4G, 4H, 5D, 7 and 8	This plot is subject to rights in favour of NH. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.
11/24	Category 2	Permanent Acquisition and	Work Nos. 2 and 8	This plot is subject to rights in favour of NH. Any interference with these rights

		Temporary Possession		must be subject to NH's consent in accordance with the NH PPs.
11/25	Freeholder	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	NH understands that the works to this plot could involve cabling beneath the SRN. Any works within this plot will need to be controlled by the NH PPs (refer to section 10 for further details). Any existing infrastructure will also need to be protected. NH further understands that the Applicant may seek to rely on highway drainage apparatus for outfall from the Authorised Development in this plot. This cannot be accepted – see section 8 below.
11/26	Category 2	Permanent Acquisition and Temporary Possession	Work Nos. 2 and 8	This plot is subject to rights in favour of NH. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.
12/6	Category 2	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This plot is subject to rights in favour of NH. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.
12/8	Category 2	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This plot is subject to rights in favour of NH. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.
12/9	Category 2	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This plot is subject to rights in favour of NH. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.
12/10	Category 2	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This plot is subject to rights in favour of NH. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.

12/11	Category 2	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This plot is subject to rights in favour of NH. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.
12/12	Category 2	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This plot is subject to rights in favour of NH. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.
12/13	Category 2	Permanent Rights and Temporary Possession	Work Nos. 2 and 8	This plot is subject to rights in favour of NH. Any interference with these rights must be subject to NH's consent in accordance with the NH PPs.
12/14	Category 2	Permanent Acquisition and Temporary Possession	Work No. 3	NH is not aware of any interest it holds in this plot and therefore has no further comments or concerns at this stage.
12/15	Category 2	Permanent Rights and Temporary Possession	Work Nos. 3 and 8	NH is not aware of any interest it holds in this plot and therefore has no further comments or concerns at this stage.

6. Traffic Management

- 6.1 The key interfaces between the Authorised Development and the SRN are in respect of the M180 and the M18. The M180 runs east-west towards the southern extent of the Authorised Development site, whilst the M18 runs north-south to the west. PV module areas and associated infrastructure will directly border stretches of the M180 mainline between Junctions 1 and 2. It also appears that cabling will cross underneath the mainline to connect the Authorised Development's module areas. NH additionally anticipates that M180 Junctions 1 and 2, and M18 Junctions 5 and 6, may be used for vehicular access to the site of the Authorised Development.
- 6.2 NH's concerns regarding impacts on the SRN and how / the extent to which these have been addressed within the Application documents are set out below.

Scope of assessment

- (a) The Transport and Access chapter of the Environmental Statement **[APP-049]** states that the SRN was not assessed on the basis that the number of vehicle movements associated with the temporary construction period are considered to be comparable to typical daily variation on the SRN. Similarly, the Baseline Traffic Survey Report **[APP-113]** indicates that no data was collected for the SRN, and the information provided at Appendix A of the Transport Statement **[APP-111]** indicates that M18 Junction 6 and M180 Junction 2 were not included in the study area. The Transport Statement also states that personal injury

collision (“**PIC**”) data has been obtained for the most recent five-year period (Jan 2020 to Jan 2025 for City of Doncaster Council, and May 2020 to May 2025 for North Lincolnshire Council). NH has previously requested that PIC data covering the most recent five-year period, excluding 2020 and 2021, should be considered in the assessment (including for the relevant SRN junctions).

- (b) NH has engaged further with the Applicant on these omissions, and the Applicant has provided more information in the form of a Technical Note dated March 2026 (the “**Technical Note**”). The Technical Note addresses the collection of PIC data, traffic flow data for the SRN, and further information on the number, type and impact of construction vehicle and worker movements associated with the Authorised Development on the SRN.
- (c) Having reviewed the PIC data provided within the Technical Note, NH is satisfied that, in relation to additional projected traffic movements flowing from the Authorised Development, there is no highway safety pattern or problem at any of the SRN junctions within the study area.
- (d) NH has reviewed the additional information provided by the Applicant to assess likely impacts of the Authorised Development on the SRN. Although NH would in the ordinary course expect a much more detailed assessment of the SRN to be undertaken for a development of this type, having regard to the specific circumstances of the Authorised Development and noting NH’s desire to take a proportionate approach, NH is satisfied at this stage that construction and operational movements associated with the Authorised Development are unlikely to result in a severe impact on the SRN. However, this is subject to the implementation of satisfactory securing mechanisms within the oCTMP [**APP-182**]. In this context, it is essential that NH has approval rights over the detailed CTMP to the extent that it relates to matters concerning the SRN (please refer to section 9 below).

oCTMP [APP-182]

- (e) As outlined above, NH is now satisfied in principle that construction traffic associated with the Authorised Development is capable of being controlled such that it will not have a severely adverse impact on the SRN. However, NH reserves its position on the adequacy of the measures proposed to secure this, pending review of the updated oCTMP to be submitted by the Applicant at Deadline 1.

Outline Decommissioning Environmental Management Plan [APP-178]

- (f) NH requests that it is included in the list of identified stakeholders and understands that this will be reflected in the updated draft DCO to be submitted at Deadline 1.

Glint and Glare Assessments [APP-122 & 123]

- (g) The assessments state that proposed vegetation planting is expected to screen panels once sufficiently matured, such that views of reflecting panels are not expected to be possible. However, NH seeks further clarity as to how long the proposed vegetation planting will take to reach sufficient maturity to mitigate glint and glare, and the extent to which glint and glare issues may arise in the intervening period.
- (h) NH also expects the DCO to make appropriate provision for the ongoing retention and maintenance of vegetation screening to ensure that any glint and glare issues cannot reoccur. NH notes that the Outline Landscape Ecological Management Plan [**APP-181**] does not make any reference to mitigation planting

for glint and glare effects (only landscape screening) and also does not appear to make any provision for failed planting to be replaced.

- (i) NH invites the Applicant to provide details of the location of planting proposed to mitigate glint and glare effects.

7. Proposed cabling beneath the SRN

- 7.1 As noted in section 5 above, NH understands that the Applicant proposes to undertake cabling works beneath the SRN as part of the Authorised Development. No provision is made in Schedule 4 (Streets subject to Street Works) of the draft DCO [AS-002] for these works, despite them being street works for the purposes of NRSWA.
- 7.2 Section 51 of NRSWA provides that it is an offence for a person other than the street authority to “*tunnel or bore under a street, for the purpose of placing ... apparatus*” otherwise than in pursuance of a statutory right or street works licence. For these purposes, any works undertaken below a street (whether within the vertical extent of the highway, or the subsoil below) constitute street works and require authorisation.
- 7.3 As such, in the absence of any authorisation under the DCO or a street works licence granted by NH, any such works would be in contravention of section 51 of NRSWA.
- 7.4 This is notwithstanding NH’s position that any works proposed beneath the SRN constitute a potential operational and safety risk to the SRN and must be subject to the controls within the NH PPs.

8. Drainage

- 8.1 NH understands from discussions between the parties that the Applicant may seek to rely on highway drainage apparatus for outfall from the Scheme. NH would draw the Applicant’s attention to paragraph 59 of the Government’s policy on the SRN and the delivery of sustainable development⁵ which mandates that no new connections into highway drainage systems from third party developments and proposed drainage schemes will be accepted.
- 8.2 Government policy on this is clear – no third party schemes are permitted to drain into existing highway drains. It is for the Applicant to design, procure and construct new drainage apparatus to manage its requirements.

9. Draft DCO

- 9.1 NH requests approval rights in respect of the discharge of certain Requirements, including Requirements 5 (approved details and amendments to them), 8 (landscape and ecology management plan), 9 (fencing and other means of enclosure), 11 (surface and foul water drainage), 16 (construction traffic management plan) and 19 (decommissioning and restoration), to the extent that the phase which is the subject of the relevant discharge application affects the SRN. The table below sets out further detail and justification for our request.

⁵ <https://www.gov.uk/government/publications/strategic-road-network-and-the-delivery-of-sustainable-development/strategic-road-network-and-the-delivery-of-sustainable-development> (accessed 5 May 2026)

Provision	NH's Request	NH Proposed Amendments	Justification supporting NH's request
Article 2	NH proposes that a definition of "National Highways" is inserted into article 2.	<i>"National Highways" means National Highways Limited (Company No. 09346363) of Three Snowhill, Snow Hill Queensway, Birmingham, England, B4 6GA</i>	<p>Given that NH will need to be named in the various Requirements referred to below, NH would suggest that a definition of "National Highways" is included in the draft DCO.</p> <p>This is a typographical change that will not result in any additional burden on the Applicant, so detailed justification is not required. However this definition is precedented, for example in the London Luton Airport Expansion Development Consent Order 2025.</p>
Requirement 5 (approved details and amendments to them)	NH requires an approval right in respect of any amendments to approved details which are related to its undertaking.	<p><i>5(1) With respect to the plans and documents certified under article 43 (certification of plans and documents, etc.) and any plans, details or schemes which have been approved pursuant to any requirement (together the "approved documents, plans, details or schemes"), the undertaker may submit to the relevant planning authority or both relevant planning authorities (as applicable) or National Highways in respect of matters related to the strategic road network for approval any amendments to any of the approved documents, plans, details or schemes and, following approval by the relevant planning authority or both relevant planning authorities (as applicable) or National Highways, and the relevant approved documents, plans, details or schemes is to be taken to include the amendments as so approved pursuant to this paragraph.</i></p> <p><i>5(2) Approval under paragraph (1) for the amendments to any of the approved documents, plans, details or schemes must not be given except where it has been demonstrated to the satisfaction of the relevant</i></p>	<p>Given that NH requires approval rights in respect of various Requirements as set out below, it is logical that NH should similarly have approval rights in respect of any amendments to documents approved pursuant to those Requirements.</p> <p>More generally, NH approval is required where amendments to approved details relate to SRN safety, particularly given the potential for works beneath the M180. Development under and in close proximity to an operational motorway presents inherent safety risks. The impacts of any such amendments could therefore be severe (including risk to the public) where NH approval is not secured.</p>

		<i>planning authority or both relevant planning authorities (as applicable) and National Highways (if relevant) that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.</i>	
Requirement 8 (landscape and ecology management plan)	NH requires that Requirement 8 is amended to include NH as an approving body for the LEMP, with regard to specific elements relevant to the SRN.	<i>8(1) No phase of the authorised development may commence until a written landscape and ecology management plan for that phase has been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable) and National Highways in respect of any phase adjacent to the strategic road network.</i>	<p>Please refer to section 6.2 above.</p> <p>The residual effects of glint and glare can have substantial impact on the safety of road users and it is of critical importance to NH that the mitigation applied in the LEMP is satisfactory and suitably maintained to enable establishment. The Applicant is also proposing additional planting in existing planting areas in close proximity to the SRN, which would require the approval of NH's environmental team due to the sensitive ecosystem at these locations.</p> <p>Given the alignment of the proposed landscaping mitigation in proximity to the SRN, it is not sufficient for the approving body to be the relevant planning authority alone. Nor is it acceptable for NH to be listed as a consultee. If NH were a consultee, there is no guarantee that any consultation response would be taken account of by the Applicant and implemented. Moreover, Schedule 2, Part 2, Paragraph 1(3) provides, in respect of the procedure for discharge of requirements, that:</p> <p><i>"in the event that the relevant planning authority does not determine an application within the period set out in subparagraph (1)⁶, the relevant planning authority is deemed</i></p>

⁶ Eight weeks

			<p><i>to have granted all parts of the application (without any condition or qualification) at the end of that period”</i></p> <p>This means that even if NH were a consultee, there is a material risk that if the relevant local planning authority do not respond to the Applicant in time, NH’s consultation response will not reach the Applicant and will not have been suitably addressed.</p> <p>Given the potential for impact to NH, it is reasonable and proportionate for NH to be expressly included as an approving body in the terms of Requirement 8.</p>
Requirement 9 (fencing and other means of enclosure)	NH requires that Requirement 9 is amended to include NH as an approving body with regard to fencing to be erected adjacent to the SRN.	<p><i>9(1) No phase of the authorised development may commence until written details of all proposed temporary fences, walls or other means of enclosure, including those set out in the outline construction environmental management plan, for that phase have been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable) or National Highways in respect of fencing to be erected adjacent to the strategic road network.</i></p> <p><i>9(2) No phase of the authorised development may commence until written details of all permanent fences, walls or other means of enclosure for that phase have been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable) or National Highways in respect of fencing to be erected adjacent to the strategic road network.</i></p>	<p>NH is the strategic highway authority for the SRN and has overarching responsibility for its management. NH requires oversight of any fencing to be erected adjacent to the SRN in order to ensure that any fencing meets the required design standards. Safety and security are of utmost importance for operational motorways and it is not acceptable for a party other than NH to be responsible for determining the adequacy of fencing and boundary arrangements.</p> <p>In the circumstances, nor is it sufficient for NH to be listed as a consultee only, for reasons equivalent to those set out in respect of Requirement 8 above.</p> <p>Given the significant interface with the SRN, it is reasonable and proportionate for NH to be expressly included as an approving body in the terms of Requirement 9.</p>
Requirement 11 (surface)	NH requires amendments to Requirement 11 to ensure any details	<i>11(1) No phase of the authorised development may commence until details of the surface water drainage strategy and (if any) foul water</i>	As outlined above, NH has overarching responsibility for management of the SRN. This includes a complex network of drainage infrastructure. As such NH must

and foul water drainage)	submitted by the Applicant which are relevant to the SRN are approved by NH.	<i>drainage system (including means of pollution control) for that phase have been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable) and National Highways if the relevant phase is adjacent to the strategic road network and includes existing highway drainage infrastructure, such approval to be in consultation with the relevant internal drainage board, the relevant lead local flood authority, the Environment Agency, Yorkshire Water (in respect of its water undertaker functions) and Severn Trent Water (in respect of its sewerage undertaker functions).</i>	<p>have approval rights in respect of any drainage arrangements for the Authorised Development which could interact with SRN drainage. This is particularly the case given that the Applicant has indicated its intention to rely on highway drainage apparatus for outfall from the Scheme (refer to section 8).</p> <p>Again it is not sufficient for NH to be listed as a consultee only, for reasons equivalent to those set out in respect of Requirement 8 above.</p> <p>Given the potential impact on the SRN, it is reasonable and proportionate for NH to be expressly included as an approving body in the terms of Requirement 11.</p>
Requirement 16 (construction traffic management plan)	<p>NH requires that Requirement 16 is amended to include NH as an approving body for the CTMP, with regard to specific elements relevant to the SRN.</p> <p>The Applicant has provided confirmation that approval rights will be granted to NH in accordance with the above request and NH reserves its position pending review of the next iteration of the dDCO.</p>	<p><i>16(1) No phase of the authorised development may commence until a construction traffic management plan for that phase has been submitted to and approved by the relevant highway authority including National Highways in respect of matters which relate to the strategic road network.</i></p> <p>NH notes that, alternatively, the definition of “relevant local highway authority” in article 2 could be amended to include explicit reference to NH, but would suggest that this amendment (combined with a new definition of “National Highways”, as referred to above) is preferred given the need to refer to NH in various other Requirements.</p>	<p>An approval right over the CTMP in respect of matters concerning the SRN is required to ensure traffic management is signed off by the relevant authority (i.e. NH for the SRN) and to ensure proper traffic coordination during any overlapping construction period between the Authorised Development and the M180 renewal works.</p> <p>This approval right is well precedented for example in the Viking CCS Carbon Dioxide Pipeline Order 2025 and the East Midlands Gateway Phase 2 application (PINS ref. BC0410001).</p> <p>Given the potential impact on the SRN, it is reasonable and proportionate for NH to be expressly included as an approving body in the terms of Requirement 16.</p>
Requirement 19 (decommissioning)	NH requires amendments to Requirement 19 to include an express approval right for NH in	<i>19(1) Subject to paragraph (2), not less than 6 months before the 40th anniversary of the date of final commissioning for each part of the authorised development approved under requirement 3, a decommissioning</i>	NH requires approval rights in respect of the DEMP to ensure that traffic management for the decommissioning phase of the Authorised Development is signed off by the relevant authority (i.e. NH for the SRN). The future condition of the SRN and surrounding development

<p>ning and restoration)</p>	<p>respect of matters relevant to the SRN.</p>	<p><i>environmental management plan in respect of the relevant part must be submitted to the relevant planning authority or both relevant planning authorities (as applicable) and National Highways for approval.</i></p> <p><i>19(5) No decommissioning works for any relevant part must be carried out until the relevant planning authority or both relevant planning authorities (as applicable) and National Highways have approved the decommissioning environmental management plan submitted under paragraph (1) in relation to that part.</i></p> <p><i>19(7) Within 28 days of ceasing operations at any part of the authorised development the undertaker must notify the relevant planning authority or both relevant planning authorities (as applicable) and National Highways in writing of the date it ceased operations for that part.</i></p>	<p>context cannot be known at the point of consent, so it is important that NH is in a position to approve management measures at the appropriate time. NH approval in respect of matters relating to the SRN is sought to ensure that decommissioning can be coordinated safely to the extent that reliance on the SRN is required.</p> <p>Given the potential impact on the SRN, it is reasonable and proportionate for NH to be expressly included as an approving body in the terms of Requirement 19.</p>
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9.2 NH understands that the Applicant intends to update the draft DCO [AS-002] at Deadline 1 and will therefore provide any further comments following its review of the updated drafting.

10. **Protective Provisions**

10.1 The protective provisions for the benefit of NH as presented in the draft DCO [AS-002] are not agreed. In NH's view, they represent a much-reduced standard of protection than that which NH expects with respect to a development of this nature, which has the potential for substantial impacts on the SRN. As set out elsewhere in this written representation, NH requests that the Applicant includes the NH PPs in the draft DCO at the next Deadline.

10.2 A full justification for each of the key provisions and definitions is set out below:

Para	Heading	Justification
1	Application	This provision has effect to preserve the statutory powers and duties of NH except where expressly amended by the Order.
2	Interpretation	<p>Key provisions:</p> <p><i>“as built information”</i> – contains the relevant information required by NH in order to issue the provisional certificate, certifying that works in, on under or over the SRN are satisfactorily complete and safe from NH’s perspective.</p> <p><i>“bond sum”</i> – this provides that a bond sum required is 200% of the cost of the specified works in, on under or over the SRN. The bond required is not the total cost of the works but rather the section of works specifically impacting the SRN. Much in the same way as a section 278 agreement, bonding is required to protect NH from financial liability in the event that the Applicant defaulted on the works which impact the SRN.</p> <p><i>“commuted sum”</i> – provision of financial security to NH for any assets which require ongoing maintenance. Where the authorised development includes works which will require ongoing maintenance, this should be funded by the Applicant and not become a burden on the public purse.</p> <p><i>“detailed design information”</i> – contains the relevant information required by NH in order to approve the commencement of the specified works affecting the SRN. In the experience of NH’s highway engineers, this definition includes all necessary drawings, specifications and calculations required for signing off works in, on, under or over the SRN but may need to be supplemented depending on the nature of the project.</p> <p><i>“road space booking”</i> – NH has a strict procedure for managing network occupancy to ensure that they are aware of who is working on the SRN at any given point. It also</p>

		<p>ensures that sections of the SRN are not subject to conflicting or multiple sets of maintenance work.</p> <p><i>“specified works”</i> – any work authorised by the order (including maintenance) which is on, in, under or over the strategic road network. Importantly, this covers the highway estate as well as the operational highway land to ensure that works beneath the highway or above it are subject to the same requirements as work to the highway stratum itself. Critically, works which occur under or over the SRN can still have a detrimental operational impact to the functioning of the undertaking and can result in significant safety impacts.</p> <p><i>“strategic road network”</i> includes all operational land of NH within the order limits and also the highway estate itself to protect the safe functioning of the SRN.</p>
3	General	<p>Parts of the SRN are routinely managed by design build finance and operate contractors, who have primary responsibility for managing the asset. The purpose of these provisions is to ensure that, where the road subject to the specified works is managed under a DBFO contract, the highway operations and maintenance contractor can take the benefit of the protective provisions. Otherwise, any claim that the highway operations and maintenance contractor had against the Applicant by virtue of its stewardship of the asset would need to be through a claim made by National Highways and sub-recovered by the DBFO contractor. This is unnecessary, inefficient and creates a contractual risk to National Highways, as the DBFO contract does not cater for risks occasioned by third party development.</p>
4	General	<p>To ensure that routine maintenance work to the highway does not compromise the integrity of any assets co-located in the subsoil.</p>
7	Prior approvals and security	<p>To ensure that the specification of the specified works and all associated processes inc. traffic management, financial provision for ongoing maintenance liabilities, scope of maintenance, condition surveys and road safety audits are addressed prior to commencement of works affecting the SRN. All of this information is required whether the specified works comprise of works to the highway or not. For example, scaffolding erected either side of the highway to install overhead lines would require a scheme of traffic management, as it would not be safe to carry out such dangerous works over an online part of the SRN. Likewise, undergrounding a pipeline or cable via horizontal directional drilling could not take place without condition surveys of the SRN taking place prior to commencement of works, as without this it would be impossible to know whether the specified works had caused subsidence or displacement in the carriageway.</p> <p>NH also requires collateral warranties from any contractor and designer of the specified works affecting the SRN, to ensure appropriate contractual liabilities are recoverable.</p>

		No exercise of any article set out in 7(2) should take place without the express consent of NH, to ensure that NH is aware of the progress of the specified works affecting the SRN, the scope of those operations, the potential impact to road users and to ensure that compulsory acquisition is managed appropriately and proportionately.
8	Construction of the specified works	The construction of the specified works must be carried out in accordance with NH's road space booking procedures to ensure the safety of road users and other contractors on the network. They must also be carried out in accordance with the relevant technical standards where relevant to the works, to ensure consistency with the SRN. Emergency access is to be granted to NH in the event of or to prevent the occurrence of danger to the public.
9	Payments	The reasonable costs incurred by NH in the administration of the design approval process, the transfer of land, supervision of works, legal costs and VAT should be payable by the Applicant. But for the Applicant's scheme, NH would not have to expend resources on the specified works.
10	Provisional Certificate	Where any specified work is proposed to the SRN, on, over or under the highway, the requirements of NH's design checking and approval process is required to be discharged. Works underneath the highway or oversailing it have significant potential to cause damage both to the highway itself and to road users and it is critical to the safe and efficient operation of the SRN that works are signed off by NH engineers as safe, where there is an interface with the SRN. This provision is also required for the purposes of the Applicant as it has the effect of reducing the bond sum to 20% on the issue of the provisional certificate.
11	Opening	This is relevant only where the SRN has been subject to traffic management orders or temporary closure as a result of the Authorised Development.
12	Final Condition Survey	Where specified works include horizontal directional drilling, as part of the approval of works and prior to commencement, a condition survey of the highway is required. A final condition survey is required on completion of the horizontal directional drilling works, to identify any settlement of the carriageway in accordance with the threshold levels set out in technical standard DMRB CD622. If any settlement beyond tolerance is identified, this would pose a safety risk to road users, as part of the carriageway would have collapsed to unsafe levels. NH would require this defect to be remedied. This provision also applies to works to the SRN itself as any final condition survey would inform the decision on issue of the final certificate.
13	Defects Period	On the issue of the provisional certificate, the Applicant will be required to remedy any defect in the SRN caused by the specified works for a period of 12 months. Where NH's

		network is damaged by works carried out pursuant to the DCO, it is for the Applicant to remedy that damage.
14	Final Certificate	This provision is required in order to release the bond in full, to ensure that the NH costs are paid by the Applicant and to ensure that NH is given a final opportunity to inspect the SRN and be satisfied that the specified works have not resulted in damage to the statutory undertaking.
15	Security	<p>The Applicant is proposing to carry out works beneath the highway in land owned by NH. These works may be commenced and not completed, may be constructed contrary to the approved design or may be suspended due to the dissolution of the Applicant. In such cases, NH is exposed to a potentially significant financial burden in removing the works from the highway estate.</p> <p>Outside the Planning Act 2008, payment for any works which an authority are authorised to execute (i.e. not just works to the highway itself) may be secured under a section 278 agreement, with such a payment being secured through a bond or cash deposit. In the absence of any commitment by the Applicant to enter into a section 278 agreement containing provisions to put security in place for the benefit of NH, the NH PPs require security in a manner which is consistent with the measures applying to developments carried out under the Town and Country Planning Act 1990, applying the provisions of the Highways Act 1980. The NH PPs are an appropriate mechanism to assure security such as a bond and without this, NH would be faced with potentially significant financial liabilities for which it is not funded and has no budget.</p>
16	Commuted Sum	Where the Applicant proposes to install apparatus on the highway, a commuted sum is required to contribute to the maintenance of the apparatus. It is not for the public purse to pay for maintenance of apparatus that is added to the highway estate as a consequence of third party development, without contribution.
17	Insurance	Insurance is required of all contractors working on the SRN and this should extend to operations carried on over and under the highway due to the potential for damage to infrastructure, highway assets and road users.
18	Indemnity	NH must be held harmless for the construction, maintenance and operation of the Authorised Development and any resultant impacts and it is common practice for statutory undertakers to be indemnified in such circumstances. It should not be for the public purse to cover instances of loss or damage occasioned by third party works.
19	Maintenance of the specified works	To ensure that where maintenance to a specified work is required, the relevant road space booking procedures are complied with to ensure the safety of contractors and road users.

20	Land	To ensure that matters of compulsory acquisition are directed to the legal team at NH and to ensure that powers are not exercised by way of GVD circumventing NH's ability to impose restrictions and controls on the use of the land in a way which would impact on the SRN or be detrimental to safety.
21	Expert Determination	Expert determination is preferred due to the speed of the process and the often technical nature of the points in dispute being more suited to determination by an Engineer or other highway professional.

10.3 NH would also draw the Applicant and the ExA's attention to the ongoing Fosse Green Solar (PINS ref. EN010154), Great North Road Solar (PINS ref. EN010162), Green Hill Solar (PINS ref. EN010170) and Lime Down Solar (PINS ref. EN010168) Examinations where in all cases works are proposed on, under or over the SRN and the relevant applicant concerned has accepted the inclusion of NH protective provisions within the Order, making provision for all of the matters specified above. In addition, protective provisions on substantially the same terms have been accepted for a range of other projects for which the undergrounding of a cable was necessary beneath the highway – for example, Sheringham and Dudgeon Extension (PINS ref. EN010109) and Medworth Energy from Waste (PINS ref. EN010110).

11. M180 Renewal Works

11.1 The Authorised Development has the potential to impact on NH's proposed renewal works to the M180 (between Junctions 2 and 3 in both directions) which are currently programmed to commence in 2028/2029 with completion in 2030. It may be necessary, to the extent that the two sets of works interact, that the Applicant agrees to cooperate with NH in the delivery of the Authorised Development. NH understands that the Applicant is open to discussing this interface and appropriate protections further, which is welcomed by NH. NH anticipates that these matters can be satisfactorily addressed either through the NH PPs or through a separate interface agreement.

12. Summary and conclusions

12.1 For the reasons given above, NH objects to the DCO and the Authorised Development and requests that the NH PPs are included on the face of the DCO.

12.2 Should it assist the ExA, NH will respond to any written questions that the panel may have and is willing to attend an appropriate hearing to detail the impacts of the Authorised Development on NH and the SRN.

National Highways Limited

5 May 2026