

Planning Act 2008
The Infrastructure Planning (Examination Procedure) Rules 2010

Application by Frodsham Solar Limited for an Order granting Development Consent for the Frodsham Solar Project

Planning Inspectorate Reference Number: EN010153

Deadline 1: Written Representation and Summary submitted on behalf of National Highways Limited

1 INTRODUCTION

- 1.1 This written representation is made on behalf of National Highways ("**NH**") in respect of an application by Frodsham Solar Limited ("**Applicant**") for an order granting development consent for the Frodsham Solar Project ("**DCO**"). The Applicant seeks development consent for the proposed authorised development described in Schedule 1 of the draft DCO ("**Authorised Development**").

2 SUMMARY OF NH'S WRITTEN REPRESENTATION AND STEPS REQUIRED TO ENABLE NH TO REMOVE ITS OBJECTION

- 2.1 NH (being the statutory successor to the Highways Agency) 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 strategic road network ("**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 duties¹.
- 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 co-operate with third parties exercising planning or highway functions, which includes the Applicant in this statutory process.² 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 NH currently objects to the DCO and the Authorised Development for the reasons set out below:
- A)** NH requires additional information regarding the proposed works no. 6A, specifically regarding details of the proposed green infrastructure works where they involve improvements to existing tracks, creation of internal access routes, and any works that could affect land adjacent to the SRN. NH will also require sufficient access to be maintained to NH fence structures to enable inspections and maintenance to take place. NH will additionally need to be satisfied that any planting proposed near

¹ Infrastructure Act 2015, s.5

² Section 5(1) Infrastructure Act 2015

to the boundary would not have an impact on the integrity of any NH asset or have safety implications for motorway users, and that a maintenance regime is in place to ensure that any risk associated with the planting is negated, in perpetuity.

B) In relation to the Skylark Habitat Creation, NH will require sufficient access to be maintained to NH fence structures to enable inspections and maintenance to take place. Additionally, NH will need to be satisfied that any planting proposed near to the boundary would not have an impact on the integrity of any NH asset or have safety implications for motorway users, and that a maintenance regime is in place to ensure that any risk associated with the planting is negated, in perpetuity.

C) NH requires additional information regarding the proposed works no. 8, specifically detailed information on the scope and impact of these works, including general arrangements and design specifications. All works affecting the SRN must be carried out in accordance with permanent design standards and designed to full compliance with the DMRB and the Manual of Contract Documents for Highway Works.

D) NH require a review of land adjacent to the M56 motorway to be undertaken and confirmation is required that this is to be done or that there are no works proposed that would require a review under CD622 Management of Geotechnical Risk.

E) Any proposed change of use of the restricted byway overbridge (Brook Furlong Bridge) and Weaver Lane overbridge would require structural reviews/assessments to ensure that the bridge structures can accommodate the proposed changes of use. If those reviews/assessments indicate that works are required to enable the change of use, the Applicant would need to undertake those works before the change of use can be pursued.

F) In relation to the Acquisition of Rights over NH plots, it is unclear whether the new rights sought can co-exist with the existing NH interests in the plots or whether it is intended NH's interests will be extinguished. NH require further understanding of how the acquired rights proposed by the Applicant will co-exist with NH interests.

G) In relation to plots 4-20, 5-10 and 5-17 due to the plans being 2D currently, it appears that the SRN beneath the bridges and over the underpass is included within the red line boundary. NH therefore requests that the Applicant either amends the plans to provide clarity on this or provides wording within the DCO to clarify the position and provide comfort to NH that the SRN beneath the bridge structures and over the underpass is not included within the Order Limits.

H) NH relies on the comments made in its Relevant Representation in relation to the drafting of the DCO at this stage. NH acknowledges that the Applicant submitted a further draft DCO at Procedural Deadline B but unfortunately, due to workload

pressures, NH has been unable to review the updated draft DCO ahead of this Deadline 1 and will look to provide a full response at a future Deadline.

I) The protective provisions currently included in the draft DCO are not agreed by NH. Inclusion of NH's full protective provisions are required to ensure that NH is adequately protected in the event that works are required to the bridge structures, NH is appropriately indemnified, the necessary information is provided at the relevant stages and that NH's consent is obtained wherever access or works are to take place over any part of the SRN or land in which NH has an interest.

3 NATIONAL HIGHWAYS AND PROTECTION OF THE SRN

3.1 In NH's Relevant Representation, NH's role as 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 general and specific statutory duties NH has to comply with and the directions contained within the 2015 Licence³ were explained at length. It was also noted that the directions contained in the 2015 Licence are mandatory⁴ and are regulated by the Office of Road and Rail.

3.2 It was also explained that:

- (a) 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.
- (b) Section 16 of the 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. I
- (c) 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,

³ Highways England: licence (publishing.service.gov.uk)

⁴ Infrastructure Act 2015, s.6(3)

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.

- (d) 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.

3.3 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.

3.4 As a minimum, therefore, where there is the potential for impact to the SRN the following needs to be secured:

- (a) that NH be held harmless from the impact of third party development;
- (b) that NH procedures put in place for the protection of property and persons are adhered to in accordance with NH's strict requirements on network occupancy;
- (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 dDCO 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;

- (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.

3.5 These provisions are included in the NH protective provisions.

3.6 NH considers that without the NH protective provisions, 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.

3.7 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 to the centre of the earth and to the heavens 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.

4. The Proposed Works

4.1 The Authorised Development is located adjacent to the M56 motorway between Junctions 12 and 14, in proximity to the Weaver Viaduct, and containing multiple crossing points of the motorway via overbridges for local active travel movements. The SRN in this location is a critical corridor for regional and national connectivity and any works in close proximity to the SRN and change of use to the overbridges must be carefully considered to ensure their continued safe use. The Authorised Development includes Works no 6A, 6B and 8 in the DCO which will interface with the SRN and are therefore of interest to NH:

Works No 1

4.2 NH are content with the contents of the glint & glare assessment (APP-056) and remove its objection in relation to Works No1.

Works No 6A

- 4.3 NH requires details of the proposed green infrastructure works where they involve improvements to existing tracks, creation of internal access routes, and any works that could affect land adjacent to the SRN. This includes confirmation of any physical changes to existing routes and surfacing specifications. All works must comply with DMRB to ensure the safety and integrity of the SRN. NH will require sufficient access to be maintained to NH fence structures to enable inspections and maintenance to take place. NH will additionally need to be satisfied that any planting proposed near to the boundary would not have an impact on the integrity of any NH asset or have safety implications for motorway users, and that a maintenance regime is in place to ensure that any risk associated with the planting is negated, in perpetuity.

Works No 6B

- 4.4 NH is now content that the Skylark Habitat Creation will not adversely impact the SRN. However, NH will require sufficient access to be maintained to NH fence structures to enable inspections and maintenance to take place. NH will additionally need to be satisfied that any planting proposed near to the boundary would not have an impact on the integrity of any NH asset or have safety implications for motorway users, and that a maintenance regime is in place to ensure that any risk associated with the planting is negated, in perpetuity.

Works No 8

- 4.5 Work No. 8 comprises access and highway improvements, including works to create, improve, repair, or maintain streets, roads, haul roads, and access points. NH requires detailed information on the scope and impact of these works, including general arrangements and design specifications. All works affecting the SRN must be carried out in accordance with permanent design standards and designed to full compliance with the DMRB and the Manual of Contract Documents for Highway Works.
- 4.6 The Applicant previously suggested that the proposed use of Brooks Furlong bridge (which is currently a Restricted Byway) and Weaver Lane bridge (which is a footpath) would be for emergency access only. However, NH now understands that in addition to emergency access, a car park may be authorised on Moorditch Lane and vehicular access to and from that car park would be permitted under the DCO via Brooks Furlong Bridge. Article 12 of the Draft DCO has been updated to reflect this. In relation to Weaver Lane bridge, in addition to use as an emergency access, the Applicant has confirmed its intention to upgrade the footpath to a Bridleway. This is of concern to NH as the parapets currently in place on Weaver Lane Bridge are not of a height that can accommodate a Bridleway and without those parapets' heights being increased, the safety of the SRN beneath Weaver Lane Bridge is at risk. There may be other structural issues with the upgrading of Weaver Lane Bridge

to accommodate a bridleway which would come to light as part of a structural review/assessment. In light of the above, due to the proposed changes of use outlined, the Applicant must undertake structural reviews/assessments in accordance with the DMRB. The results of those reviews/assessments must be shared with NH for review and approval prior to any change of use in these structures.

- 4.7 NH are content that there will be no drainage implications for the M56 motorway and any concerns previously held have now been addressed. NH is also content that concerns relating to geotechnical matters on the skylark mitigation land have also been addressed due to there being no proposals that would impact the motorway its embankments. A review of other land adjacent to the M56 motorway has not yet been undertaken and confirmation is required that this is to be done or that there are no works proposed that would require a review under CD622 Management of Geotechnical Risk.

5. Compulsory Acquisition

- 5.1 The Applicant's draft DCO includes powers of compulsory acquisition and the acquisition of rights in respect of the land interests owned by NH as set out in the table below and referred to in the Book of Reference. NH are carrying out checks internally to ascertain whether NH have any other interests impacted by the acquisition that are not mentioned in the book of reference and will update the Examining authority if necessary.
- 5.2 It is noted there is one proposal to permanently acquire the freehold interest of NH land. The remainder of the proposals are to acquire rights over NH's plots. It is unclear whether the new rights can co-exist with the existing NH interests in the plots or whether it is intended that NH's interests will be extinguished. NH require further understanding of how the acquired rights proposed by the Applicant will co-exist with NH interests. If NH interests can co-exist with the rights proposed by the Applicant, NH can withdraw its concern in this regard however if NH interests are to be extinguished by the order NH would maintain its objection.
- 5.3 The title to some plots of land in the table below (where this paragraph is referred to) were acquired for the Local Highway Authority's (**LHA**) network and are maintainable at public expense. They were acquired as part of a Side Roads Order and NH does show as holding title to them. However, by virtue of Section 14 of the Highways Act 1980 the highway interest passed to the LHA. NH retains title to the subsoil, whilst maintenance and responsibility for the zone of ordinary use, surface title is vested in the LHA. The administrative process to transfer the subsoil interest to the LHA has not yet taken place. The LHA should be consulted to confirm they are happy with the requirements. The book of reference should be updated at the next iteration to reflect this.

- 5.4 Any proposed change of use of the Brook Furlong Bridge and Weaver Lane Bridge would require structural reviews/assessments to ensure that the bridge structures can accommodate the proposed changes of use. If those reviews/assessments indicate that works are required to enable the change of use, the Applicant would need to undertake those works before the change of use can be pursued.
- 5.5 In relation to plots 4-20, 5-10 and 5-17, whilst the Applicant may not have intended to include the SRN underneath the bridge structures and over the underpass within the order limits, due to the plans being 2D it currently appears that the SRN is included. NH therefore requests that the Applicant either amends the plans to provide clarity on this or provides wording within the DCO to clarify the position and provide comfort to NH that the SRN is not included within the Order Limits.

Plot	Owner	Acquisition Category	Works Proposed (taken from the Land and Rights Negotiation Tracker (APP-021))	NH Comments and actions required
4-14	Owner	Acquisition of access, use and improvement rights	Required for the improvement, maintenance, repair and use of existing streets, private tracks and access roads.	Our comments at paragraph 5.3 of this representation apply to this plot. The LHA should be consulted to confirm they are happy with the requirements.
4-17	Owner	Acquisition of access use rights	Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the authorised development.	This plot of land is an approach to a NH bridge structure which carries local highway over the SRN. NH owns the bridge structure across the SRN and the current status of the highway passing over this bridge is "restricted byway". The Applicants proposed access use rights would mean that rights would be granted

				<p>over the bridge “to, for the purposes of the authorised development and in connection with the authorised development, pass and repass on foot and cycle, or pass by motor and mechanically propelled vehicles where such use of land is authorised by article 13(9) of the Order; and to temporarily remove impediments to such passage”.</p> <p>NH comments at paragraph 4.6, 5.2, 5.3 and 5.4 of this representation apply to this plot.</p> <p>The LHA should also be consulted to confirm they are happy with the requirements.</p>
4-19	Owner	Acquisition of access use rights	<p>Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the authorised development</p>	<p>This plot of land is an approach to a NH bridge structure which carries local highway over the SRN. NH owns the bridge structure across the SRN and the current status of the highway passing over this bridge is “restricted byway”. The Applicants proposed access use rights would mean that rights would be granted over the bridge “to, for the purposes of the authorised</p>

				<p>development and in connection with the authorised development, pass and repass on foot and cycle, or pass by motor and mechanically propelled vehicles where such use of land is authorised by article 13(9) of the Order; and to temporarily remove impediments to such passage”.</p> <p>NH comments at paragraph 4.6, 5.2, 5.3 and 5.4 of this representation apply to this plot.</p> <p>The LHA should also be consulted to confirm they are happy with the requirements.</p>
4-20	Owner	Acquisition of access use rights	<p>Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the Authorised Development</p>	<p>This plot of land is a NH bridge structure which carries local highway over the SRN. NH owns the bridge structure across the SRN and the current status of the highway passing over this bridge is “restricted byway”. The Applicants proposed access use rights would mean that rights would be granted over the bridge “to, for the purposes of the authorised development and in connection with the authorised development, pass and repass on foot and cycle, or pass by motor</p>

				<p>and mechanically propelled vehicles where such use of land is authorised by article 13(9) of the Order; and to temporarily remove impediments to such passage”.</p> <p>NH comments at paragraph 4.6, 5.2, 5.3, 5.4 and 5.5 of this representation apply to this plot.</p> <p>The LHA should also be consulted to confirm they are happy with the requirements.</p>
4-21	Owner	Acquisition of access use rights	<p>Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the Authorised Development</p>	<p>This plot of land is an approach to a NH bridge structure which carries local highway over the SRN. NH owns the bridge structure across the SRN and the current status of the highway passing over this bridge is “restricted byway”. The Applicants proposed access use rights would mean that rights would be granted over the bridge “to, for the purposes of the authorised development and in connection with the authorised development, pass and repass on foot and cycle, or pass by motor and mechanically propelled vehicles where such use of land is</p>

				<p>authorised by article 13(9) of the Order; and to temporarily remove impediments to such passage”.</p> <p>NH comments at paragraph 4.6, 5.2, 5.3 and 5.4 of this representation apply to this plot.</p> <p>The LHA should also be consulted to confirm they are happy with the requirements.</p>
4-22	Owner	Acquisition of access use rights	<p>Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the Authorised Development</p>	<p>This plot of land is an approach to a NH bridge structure which carries local highway over the SRN. NH owns the bridge structure across the SRN and the current status of the highway passing over this bridge is “restricted byway”. The Applicants proposed access use rights would mean that rights would be granted over the bridge “to, for the purposes of the authorised development and in connection with the authorised development, pass and repass on foot and cycle, or pass by motor and mechanically propelled vehicles where such use of land is authorised by article 13(9) of the</p>

				<p>Order; and to temporarily remove impediments to such passage”.</p> <p>NH comments at paragraph 4.6, 5.2, 5.3 and 5.4 of this representation apply to this plot.</p> <p>The LHA should also be consulted to confirm they are happy with the requirements.</p>
5-8	Owner	Acquisition of access use rights	<p>Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the Authorised Development</p>	<p>This plot of land is an approach to a NH bridge structure which carries local highway over the SRN. NH owns the bridge structure across the SRN and the current status of the highway passing over this bridge is “footpath”. The Applicants proposed access use rights would mean that rights would be granted over the bridge “to, for the purposes of the Authorised Development and in connection with the Authorised Development— pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any surface) and to temporarily remove impediments to such passage”.</p>

				<p>NH comments at paragraph 4.6, 5.2, 5.3 and 5.4 of this representation apply to this plot.</p> <p>The LHA should also be consulted to confirm they are happy with the requirements.</p>
5-9	Owner	Permanent Acquisition	Required for the improvement, maintenance, repair and use of existing streets, private tracks, public rights of way and access roads.	<p>NH comments at paragraph 5.3 of this representation apply to this plot.</p> <p>The LHA should be consulted to ensure that they are happy with the requirements.</p>
5-10	Owner	Acquisition of access use rights	Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the Authorised Development	<p>This plot of land is a NH bridge structure which carries local highway over the SRN. NH owns the bridge structure across the SRN and the current status of the highway passing over this bridge is "footpath". The Applicants proposed access use rights would mean that rights would be granted over the bridge "to, for the purposes of the authorised development and in connection with the authorised development, pass and repass on foot and cycle, or pass by motor and mechanically propelled vehicles where such use of land is</p>

				<p>authorised by article 13(9) of the Order; and to temporarily remove impediments to such passage”.</p> <p>NH comments at paragraph 4.6, 5.2, 5.3, 5.4 and 5.5 of this representation apply to this plot.</p> <p>The LHA should be consulted to confirm they are happy with the requirements.</p>
5-11	Owner	Acquisition of access use rights	<p>Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the Authorised Development</p>	<p>This plot of land is an approach to a NH bridge structure which carries local highway over the SRN. NH owns the bridge structure across the SRN and the current status of the highway passing over this bridge is “footpath”. The Applicants proposed access use rights would mean that rights would be granted over the bridge “to, for the purposes of the authorised development and in connection with the authorised development, pass and repass on foot and cycle, or pass by motor and mechanically propelled vehicles where such use of land is authorised by article 13(9) of the</p>

				<p>Order; and to temporarily remove impediments to such passage”.</p> <p>NH comments at paragraph 4.6, 5.2, 5.3 and 5.4 of this representation apply to this plot.</p> <p>The LHA should also be consulted to confirm they are happy with the requirements.</p>
5-12	Unregistered	Acquisition of Rights	<p>Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the authorised development</p>	<p>This plot of land is an approach to a NH bridge structure which carries local highway over the SRN. NH owns the bridge structures across the SRN and the current status of the highway passing over this bridge is “restricted byway”. The Applicants proposed access use rights would mean that rights would be granted over the bridge “to, for the purposes of the authorised development and in connection with the authorised development, pass and repass on foot and cycle, or pass by motor and mechanically propelled vehicles where such use of land is authorised by article 13(9) of the Order; and to temporarily remove impediments to such passage”.</p>

				<p>The Book of Reference states that this plot of land is unregistered but NH considers that it is the Registered Owner. Please can the Book of Reference be updated to reflect this.</p> <p>NH comments at paragraph 4.6, 5.2, 5.3 and 5.4 of this representation apply to this plot.</p> <p>The LHA should also be consulted to confirm they are happy with the requirements.</p>
5-13	Frodsham & District Wildfowlers Club Limited	Permanent acquisition	Required to create, enhance existing and maintain green infrastructure including access tracks.	<p>Paragraph 5.2 applies here and the Applicant is required to provide further information to help NH understand how the acquired rights proposed by the Applicant will co-exist with NH rights.</p>
Plots which NH have an interest in which is not listed in the Book of Reference				
5-17	National Grid Electricity Transmission PLC	Acquisition of rights	Required for the installation, laying down, maintenance and replacement and use of above ground and underground 132kv electrical cables and communication cables and	<p>NH comments at paragraph 5.5 of this representation apply to this plot.</p> <p>Paragraph 5.2 applies here and the Applicant is required to provide further information to</p>

			pylons. Required to create, enhance existing and maintain green infrastructure including access tracks. Required for the construction, maintenance, use and decommissioning of temporary construction and decommissioning laydown areas and compounds.	help NH understand how the acquired rights proposed by the Applicant will co-exist with NH rights.
5-20	National Grid Electricity Transmission PLC	Acquisition of rights	Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the authorised development	Paragraph 5.2 applies here and the Applicant is required to provide further information to help NH understand how the acquired rights proposed by the Applicant will co-exist with NH rights.
5-23	National Grid Electricity Transmission PLC	Acquisition of rights	Required for use of existing access roads and tracks for construction, maintenance and decommissioning access for the authorised development	Paragraph 5.2 applies here and the Applicant is required to provide further information to help NH understand how the acquired rights proposed by the Applicant will co-exist with NH rights.

6. Draft DCO

6.1 NH is reviewing the updated draft DCO submitted by the applicant at Procedural Deadline B and is unfortunately not in a position to provide a detailed response at as part of this Written Submission. Subsequently, at this stage, NH continues to rely on the Relevant Representation it submitted in August 2025 and does not propose to regurgitate that Relevant Representation

at this Deadline. However, the Applicant and NH have entered into constructive dialogue and NH will be in a position to provide a detailed update in relation to the draft DCO to the ExA at a subsequent deadline.

7. Additional Interface

7.1 The Authorised Development will also interface with the SRN in the following way:

A) Traffic and Transport – Construction Phase

- 7.2 NH has reviewed the Transport Assessment (APP-134) and Outline Construction Traffic Management Plan (APP-135). NH is content with the Applicant's assessment and acknowledges that the Authorised Development will not result in a severe impact on the SRN during the operational phase. However, the construction phase will generate the highest level of traffic associated with the Authorised Development, and it is essential that this is managed effectively to minimise disruption. This is particularly important given the number of other developments proposed in the area, which could lead to cumulative impacts on the M56 and M53 junctions and corridors.
- 7.3 It is for the reason above that NH is undertaking a study of the cumulative traffic generation for the major development proposals in the area to understand where the likely impacts will be, the scale of those impacts, and their likely timings. This tool is not intended to be a definitive view of how the network will operate, but its intention is to better enable NH and developers to understand and plan works to minimise the impact to the Network and the safety of those travelling on it. NH will be sharing the results of this work with developers once complete, expected by Deadline 2. We would ask that the Applicant considers the cumulative impact of all construction traffic when planning their works.
- 7.4 The Applicant has made a commitment to establish a Construction Traffic Management Working Group, which is welcomed. To ensure the continued safe operation of the SRN during the construction period, NH makes a request to be a member of this group. It should also include engagement with Cheshire Oaks retail park and consideration of their existing Peak Traffic Management Plan in order to minimise construction impacts during known periods of peak traffic relating to Cheshire Oaks. NH recommends that the group is led by the Local Authority so that it may continue beyond the construction period of this development and take in any future relevant sites.
- 7.5 NH is aware of the following developments which are either approved, proposed or in planning, this list is non-exhaustive. It is the cumulative impact of these sites and any others which may come forward that have led to concerns regarding the

construction traffic impact. NH requests that these sites are included in the future working group and any other relevant sites that may come forward, as required:

- Hynet North West Hydrogen Pipeline (EN060006);
- HyNet Carbon Dioxide Pipeline (EN070007);
- Intermodal Logistics Park North (TR0510001);
- Mersey Tidal Power Project (EN0110006);
- Connah's Quay Low Carbon Power Project (EN010166);
- Peak Cluster CCS Pipeline (EN0710001);
- Stanlow Hydrogen Ready Modular Combined Heat and Power Project (EN0110007);
- Hob Lane Solar Farm (also known as Rake Lane Solar Farm) (CW&C app 25/01339/FUL);
- Runcorn Spur Pipeline (SW&C app 25/02108/FUL);
- Mynydd Mawr Windfarm (pre-app); and
- Protos (various applications expected under 2019 planning consent for site).

B) Traffic and Transport – Operational Phase

- 7.5 Once operational, the Authorised Development will generate minimal traffic and the level of activity is not expected to result in any material impact on the SRN.

C) Traffic and Transport- Decommissioning Phase

- 7.6 NH notes that vehicle movements associated with the decommissioning phase are not expected to exceed those generated during the construction period. NH would expect to be involved in discussions prior to the decommissioning phase.

D) Abnormal Loads

- 7.7 NH understands that the project may require the movement of abnormal loads for specific equipment and materials, such as transformers. The Applicant is encouraged to engage with NH at an early stage to establish an appropriate movement strategy. Please note that Special Orders, outside of what the DCO will authorise, will be required for loads exceeding 150 tonnes pursuant to section 44 of the Road Traffic Act 1988.

E) Glint and Glare

- 7.8 NH is satisfied that the Applicant's glint and glare assessment (APP-056) demonstrates no adverse impact on the safety of SRN users.

8. Protective Provisions

- 8.1 The protective provisions currently contained within the draft DCO at Schedule 27 are not agreed by NH. NH's template form for Protective Provisions was provided to the Applicant on 20th May 2025 and return comments were received on 24th June. That mark-up was quite substantive.
- 8.2 A number of provisions from NH's standard form of Protective Provisions have been omitted from the current drafting of Schedule 27, including, but not limited to, indemnity and insurance provisions, which is unacceptable to NH. NH require a full indemnity which should be unconditional and unequivocal. National Highways must be held harmless from the impact of third-party development.
- 8.3 An updated set of protective provisions which included justifications as to why each of the provisions were required was sent to the Applicant on 21st August 2025.
- 8.4 NH notes that whilst the draft DCO, submitted by the Applicant at Procedural Deadline B contains an updated set of Protective Provisions for the benefit of NH, they need to go further before they can be agreed. NH will continue to discuss the protective provisions with the Applicant in an effort to reach agreement and will update the ExA further at a subsequent deadline.

9. Statement of Common Ground

- 9.1 NH has entered into discussions with the Applicant in relation to a statement of common ground and the up to date version will be submitted by the Applicant at Deadline 1.

National Highways Limited

19th December 2025(1)(2)