



Deadline 3 response for the Application by Frodsham Solar Ltd for an Order granting Development Consent for the Frodsham Solar Farm Project Planning Inspectorate Reference Number: EN010153

Deadline 3: National Highways' comments on the Procedural Deadline B, deadline 1 and deadline 2 submissions

1. INTRODUCTION

1.1 This written submission 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 Farm ("DCO"). The submission responds to submissions made by the Applicant at Procedural Deadline B (PDB) and deadlines 1 and 2.

2. COMMENTS ON APPLICANT'S PROCEDURAL DEADLINE B SUBMISSION

2.1 This part of the submission responds to the Applicant's PDB submission (PD2-027).

PDB Ref.	Comment from Relevant Representation	Applicant's response	NH's response
NH1	National Highways raise concerns in respect of various provisions in the DCO and their applicability to the SRN and in relation to the bridges over the M56.	<p>The Applicant's starting point is that it is not changing the user profile for the Weaver Lane and Brooks Furlong bridges such that the Protective Provisions need to incorporate National Highways' preferred drafting around detailed works approvals, securities, and preworks surveys and potential remedial action to be taken.</p> <p>The Applicant has specifically committed in its Management Plans to not allowing for any construction or maintenance vehicles to use either of these</p>	<p>NH has set out in detail at previous Deadlines why it considers that there is a change in use over Weaver Lane and Brook Furlong Bridges and therefore does not propose to repeat its previous submissions here but would confirm that its position has not changed.</p> <p>NH needs to be satisfied that any additional use of the bridges, including the proposed use of the bridges for emergency access by emergency vehicles, can be</p>

		<p>bridges – only emergency vehicles if required. Whilst it is also the case that the Applicant has provided for a potential car park to be put in place on Moorditch Lane (if agreed with CWaCC to resolve parking issues), this would be a small car park for potential walkers around the Site. Given that this bridge is already used by visitors to the area to park on verges of Moorditch Lane, the Applicant’s proposals are not considered to engender such a change of usage so as to necessitate surveys/remedial action.</p> <p>Further to the commentary of National Highways, the Applicant has sought to make this starting point clearer within the DCO by:</p> <ul style="list-style-type: none"> • amending article 13 to provide clarity on the regulation of vehicular use for PRoW statuses that currently do not permit them where that is necessary; and • amending Schedule 7 to restrict the land powers previously sought, 	<p>accommodated and does not pose a safety risk to the bridge structures themselves and the SRN beneath. A structural Review is required to inform NH of the risks and would highlight whether a further, Structural Assessment is required.</p> <p>In relation to the emergency service vehicles which the Applicant is seeking to authorise using the bridges, it would be helpful to understand, alongside the structural review/assessment, what type of emergency vehicles would be using the bridges and the associated loadings they will exert onto the bridges as this will further assist NH in determining whether the bridges can accommodate such use.</p> <p>The change in use requires the securities NH’s protective provisions contain to ensure that, should any incidents occur on the SRN as a result of the</p>
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		<p>to ensure they match to what the Applicant has proposed.</p> <p>The Applicant also notes that the ProWs on the bridges are not referenced in Schedule 5 as it does not intend to generally provide for motor vehicular uses on them for the Proposed Development, and the amended article 13 deals with the exceptions to this.</p> <p>With these changes, the Applicant does not consider that the Protective Provisions need to deal with the interaction of the Proposed Development with the bridges.</p> <p>More broadly, to reflect what has always been the intention in terms of the interaction with the SRN, the Protective Provisions have been amended to:</p> <ul style="list-style-type: none">• provide that the various generic and streets powers raised as concerns by National Highways cannot be utilised on the SRN; and• updated the land powers consent restriction in the Protective Provisions to be specific to the	<p>Authorised Development (including the change of use/intensification of use over the bridges), NH is protected. Any associated costs need to be borne by the Developer and not the public purse.</p> <p>NH provided its response to the amended Article 13 as part of its Deadline 2 Response (REP2-010) and its position remains the that without the necessary Structural Review/Assessments taking place, NH cannot accept the amended wording in Article 13.</p> <p>In relation to Schedule 7, NH's comments above apply here. Furthermore, as mentioned at previous deadlines, NH need certainty that its interests can co-exist with the rights proposed by the Applicant. NH cannot accept the extinguishment of any of its rights and therefore wording to clarify this is required within the</p>
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		<p>articles referenced that require National Highways' consent to be utilised, where they are proposed to be used on the SRN.</p> <p>With these amendments, it is considered that detailed Protective Provisions are not required for National Highways. The Applicant would not be agreeable to any suggestion that detailed Protective Provisions are required just because the Proposed Development is in the vicinity of the SRN.</p> <p>Finally, in light of these changes, the Applicant has not made any amendments to article 46, as the only 'consent' that the Applicant would be seeking from National Highways would be in respect of land powers, not works/street powers and as such there are no safety considerations which could suggest that the deemed consent provision in article 46(4) is not appropriate.</p>	<p>DCO and/or the Book of Reference.</p> <p>In relation to the non-motorised (and motorised where authorised) rights, an additional point NH would query is why the Applicant needs to seek non-motorised rights as the routes over the bridges are already Public Rights of Way.</p> <p>NH provided details as to why it requires its full Protective Provisions within its Deadline 2 Response (REP2-010). The reason NH requires its full Protective Provisions is not simply because the proposed development is within the vicinity of the SRN. There is a change of use which will result in an intensification in the use of the NH bridge structures crossing the SRN. For NH to be satisfied that the bridges can accommodate the changes proposed, it requires Structural Reviews and potentially Structural Assessments to be</p>
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			<p>carried out by the Applicant. Without those Reviews/Assessments, NH cannot be satisfied that the bridges can accommodate the change of use and requires the full PP's to ensure that the safety and integrity of the SRN (including the bridges and the motorway beneath them) is protected.</p>
NH2	<p>National Highways raise concerns about the Applicant's proposals for each plot of land in which it holds an interest as identified in the Book of Reference, as well as plot 5/17 where it is not currently said to hold an interest.</p>	<p>In respect of National Highways' queries about plots:</p> <ul style="list-style-type: none"> • it is hoped that the changes discussed in response to NH1 should alleviate National Highways concerns about (a) controls on the use of powers and (b) the nature of the powers sought for the plots on Weavers Lane/Brooks Furlong; • the Book of Reference has been updated alongside this submission to remove reference to National Highways structures in plots 04-20 and 05-017; and • it has signposted National Highways to more information on what is proposed in plots 4-014 and 05-008. 	<p>NH provided comments as part of its DL1 response (REP1-055) and continues to rely on those comments at this stage.</p>

NH3	National Highways request confirmation that the Applicant's green infrastructure proposals (including the skylark mitigation area) will not impact on the SRN, including its ability to maintain accesses.	The Applicant has confirmed to National Highways that the works to create green infrastructure, including the skylark mitigation area would not affect the SRN or National Highways' ability to access fencing. The latter point is also now dealt with in the updates to the Protective Provisions in the draft DCO updated alongside this submission.	NH is content with the Applicant's response in relation to point NH3.
NH4	National Highways request confirmation that the Applicant's drainage proposals will not affect the SRN.	The Applicant has confirmed to National Highways that no part of the drainage proposals will involve drainage to the SRN (as set out in the Flood Risk Assessment and Drainage Strategy (as updated alongside this submission)).	NH has confirmed that it is content with the Applicant's response in relation to drainage.
NH5	National Highways request to be added as a consultee to various DCO Requirements	<p>The Applicant has updated the draft DCO alongside this submission to add National Highways as a consultee to Requirement 13(OEMP), and notes that it is already a listed consultee for the DEMP (Requirement 20).</p> <p>However, the Applicant has not added National Highways as a consultee to the following requested Requirements (with</p>	Requirement 6 – as mentioned in NH's DL2 Response (REP2-010), NH's interest isn't confined solely to Works No 8. For example (but not limited only to this example), if the positioning of the solar panels is altered in any way, this would require a new glint and glare assessment to satisfy NH that there will be no impact to users of the SRN. For reasons such as

		<p>reference to the reasoning given by NH in their representation):</p> <ul style="list-style-type: none"> • Requirement 6 (detailed design): there are no new accesses being built directly from the Weaver Lane/Brooks Furlong bridges – the nearest extent of Work No. 8 is some distance away from the bridges and so National Highways does not need to be a consultee; • Requirement 7 (fire safety): the Applicant does not see why National Highways should be a consultee to this requirement. The Outline Battery Safety Management Plan (APP-139) has been submitted with reference to NFCC Guidance and the fire and rescue service will be consulted. There is therefore no need for National Highways to be consulted on this plan; • Requirement 11 (drainage) – as no part of the drainage proposals will involve drainage to the SRN, National Highways do not need to be a consultee on the detailed drainage design; • Requirement 12 (CEMP) – the Applicant do not consider NH need 	<p>this, NN considers that it needs to be involved in the detailed design process.</p> <p>Requirement 7 – NH can confirm it does not need to be consulted on Requirement 7.</p> <p>Requirement 11 – NH can confirm it does not need to be consulted on Requirement 11.</p> <p>Requirement 12 – The Applicant has agreed to add NH as a consultee in relation to Requirement 12 and NH looks forward to this being reflected in the dDCO.</p> <p>Requirement 15 - Unless and until a Structural Review and, if necessary, Structural Assessment is carried out for each of the bridges, it is not known whether physical works are required to the bridges to facilitate the changes of use, including emergency access. Accordingly, NH considers that the PRowS crossing Weaver</p>
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		<p>to be a consultee on this plan given the distance of the works from the SRN, noting, for example, that given the conclusions of the Construction Dust Assessment (APP-055), there is low risk to the SRN from the dust; and</p> <ul style="list-style-type: none"> • Requirement 15 (PRWOMP) – the Applicant’s proposals in terms of managing impacts to PRowS from Proposed Development works relate to PRowS that are some distance away from the bridges which pass over the SRN. National Highways there do not need to be a consultee for this plan. 	<p>Lane and Brook Furlong Bridges do need to be covered by the PROWMP and NH needs to be a consultee.</p> <p>In addition to the above mentioned requirements; as mentioned in NH’s DL2 response (REP2-010), upon further review, it has come to light that NH ought previously to have set out that it will need to be involved in the approval of the Landscape and Ecology management Plan under Requirement 9 and would therefore ask the Applicant to update Schedule 2, Requirement 9, to this effect. This is due to the Landscape and Ecology Management Plan dealing with the provision for the car park which will impact upon the usage of Brook Furlong Bridge.</p>
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3. COMMENTS ON APPLICANT’S RESPONSE TO ExA FIRST WRITTEN QUESTIONS

3.1 This part of the submission responds to the Applicant's response to the ExA's first written questions (REP2-003).

ExA Q1 Ref.	ExA Q1 Question	Applicant's response	NH's response
Q9.3.2	<p>BESS National Highways (RR-031):</p> <ul style="list-style-type: none"> • expressed caution regarding BESS proposals due to the lack of UK-specific safety and design standards • said that it could not verify the safety of BESS installations near the strategic road network (SRN) • recommended that any BESS application be assessed against the National Fire Chiefs' Council (NFCC) Guidance, especially regarding access for emergency services and fire suppression capabilities • said that it would expect to be involved in the approval of the battery safety management plan and for this to be included in Requirement 7 of the dDCO [PD2-005] The applicant [PD2-027] replied that the Outl 	<p>The Outline Battery Safety Management Plan [APP-139] identifies the M56 as a sensitive receptor in relation to the proposed BESS locations in paragraph 2.3.3. Appendix 7-1 provides a plume study that assesses the battery fire emission impact in worst case fire locations. It finds that there is no impact to M56 motorway for any toxic gas or visibility impairment for any wind condition. Considering the findings of the assessment and the fact that the Cheshire Fire and Rescue Service would be consulted on the Battery Safety Management Plan, the Applicant did not consider it was necessary for National Highways to be a consultee. It is understood that National Highways are considering this position – if they remain of the view that it should be a consultee notwithstanding the above, the Applicant will amend Requirement 7 to include National Highways accordingly.</p>	<p>NH is grateful for the Applicant's confirmation on this point and removes its objection in this regard.</p>

	<p>The applicant [PD2-027] replied that the Outline Battery Safety Management Plan [APP-139] had been submitted with reference to NFCC Guidance and the fire and rescue service would be consulted. It saw no need for National Highways to be consulted on this plan.</p> <p>i) Please could the applicant set out the consideration given to SRN safety issues in relation to the BESS? ii) Please could the applicant justify why there would be no need for National Highways to be consulted on the Outline Battery Safety Management Plan [APP-139]?</p>		
Q9.5.3	<p>Public rights of way management plan – National Highways approval Referring to Requirement 15 of the dDCO [PD2-005], National Highways [RR-031] said that it required an approval role in relation to any public rights of way management plan as it is the highway authority for the SRN and the SRN fell within the definition of a “street”. The applicant [PD2-027] said that its proposals in</p>	<p>The Applicant is not proposing any physical works, nor any on-going management, to the public rights of way, that pass over National Highways land i.e. Brook Furlong overbridge and Weaver Lane overbridge. The DCO will only change the status of the public right of way of Weaver Lane.</p>	<p>NH continues to rely on the response provided in its DL2 submission (REP2-010) and the Applicants submissions do not change NH’s position.</p> <p>It is also important to clarify that unless and until a Structural Review and, if necessary, Structural Assessment is carried out, it is</p>

	<p>terms of managing impacts to public rights of way related to public rights of way that were some distance away from the bridges which pass over the SRN. It therefore considered that National Highways did not need to be a consultee for the plan.</p> <p>i) Please could the applicant clarify how public rights of way on the bridges that pass over the SRN would be managed if they are not to be included in the public rights of way management plan?</p> <p>ii) Does National Highways have any remaining concerns?</p>	<p>The PROWMP primarily deals with impacts of construction activities of the Proposed Development to users of PROWs. There will be no impacts to PROW users on this bridge and so the measures in the plan are of no relevance to these bridges. It is also noted that following discussions with National Highways, the Applicant has agreed to update the DCO and associated documentation to alter the status of Weaver Lane to a cycle track instead of a bridleway, meaning the public right of way will not be available for use by horse riders. On the basis that no works are proposed to the bridges and that the DCO controls their status, the Applicant does not believe that National Highways requires an approval role in relation to the final public rights of way management plan.</p>	<p>not known whether physical works are required to the bridges to facilitate the changes of use, including emergency access.</p>
Q9.6.2	<p>Cumulative effects, including abnormal loads and decommissioning National Highways [RR-031] said that the construction phase would generate the highest level of traffic</p>	<p>(i) No specific consideration has been given to potential cumulative traffic impacts during major replacement activities during the operational phase at this stage. As set out in the Technical Note on</p>	<p>NH's position remains as set out in its DL2 response (REP2-010).</p>

	<p>and it was essential to manage this effectively to minimise disruption, particularly given the number of other developments proposed in the area, which could lead to cumulative impacts on the M56 and M53 junctions and corridors. It said that it was studying the cumulative traffic generation for the major development proposals in the area to understand where the likely impacts would be, the scale of those impacts, and their likely timings.</p> <p>CWCC [RR-037] said that the proportion of the total cumulative impact that would be a direct result of the proposed development would be minimal.</p> <p>The applicant [APP-134] considered cumulative effects with other proposed infrastructure projects. It considered that there was the potential for significant traffic impacts if the construction periods of these projects should overlap with that of the proposed development. The oCTMP [PD2-013] includes a commitment for the</p>	<p>Major Replacement Works [REP1-034], major replacement activities involving the replacements of 50% of the solar panels would only occur once every 1015 years. As such, it is not possible to determine the likely nature of any development sites that may result in significant cumulative traffic impacts in that timescale. Furthermore, paragraph 11.1.2 of Technical Note on Major Replacement Works [REP1-034] describes how the level of movements associated with a major replacement campaign would be significantly less than during construction, with a 50% replacement campaign expected to only result in 5-7.5% of the construction related movements. On this basis, as significant cumulative effects were not anticipated during the construction phase, it is unlikely that significant cumulative effects would arise during a major replacement campaign given this level of traffic movements.</p>	
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	<p>applicant to maintain ongoing communications with other major developments to liaise on managing any potential cumulative impacts and, if there was a significant overlap, to establish a Construction Traffic Management Plan Working Group. The applicant assumed that the other developers would work pro-actively with it. The oCEMP [PD2-015] includes that the programme for the works would be prepared cognisant of other nearby developments which could result in cumulative construction effects.</p> <p>i) Please could the applicant set out the consideration has been given to potential cumulative impacts in relation to the traffic from any major replacement activities during the operational phase?</p> <p>ii) Please could the applicant comment on the sensitivity of the Transport Assessment [APP-134] to assumptions of timing in relation to the construction of the proposed development and other major development proposals in the area?</p>	<p>Nonetheless, in order to ensure that appropriate traffic management is in place, the outline Operational Management Plan (oOEMP) [REP1-022] includes a provision that a notification must be provided to CWCC for approval detailing management measures that will be put in place for any replacement activities which involve replacement of more than 50% of the solar panels within the Proposed Development. This would include consideration of relevant cumulative traffic impacts at the time of replacements.(ii)</p> <p>The Transport Assessment [APP-134] considered as a worst-case the peak of construction activities associated with each of the major cumulative developments identified by CWCC occurring simultaneously with the peak of construction of the Proposed Development. As such, there is no sensitivity associated with the timing of the construction of the Proposed Development in relation to the other major developments,</p>	
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	<p>How can the ExA be satisfied that it has considered as reasonable worst case?</p> <p>iii) Please could National Highways provide its study of the cumulative traffic generation for the major development proposals in the area and set out the proportion of traffic generation that would result from the proposed development?</p> <p>iv) When National Highway's study is available, please could the applicant set out any implications for its Transport Assessment [APP-134] and mitigation proposals?</p> <p>National Highways [RR-031] encouraged the applicant to engage with NH at an early stage to establish an appropriate movement strategy for abnormal loads. CWCC [RR-037] said that impacts of abnormal traffic movements relating to the proposed development and considered cumulatively with other projects needed consideration. The applicant updated the oCTMP [PD2-013] to clarify that it would be a</p>	<p>as the worst-case scenario assessed in the TA will remain the worst-case scenario regardless of timing.</p> <p>(iii) The Transport Assessment [APP-134] included within Appendix G an appraisal of the potential cumulative impacts during the highway AM and PM peak hours at the M56 J14 and M53 J10 roundabouts in the worst-case scenario whereby the peak construction periods of all of the identified cumulative developments occurred simultaneously. This is considered highly unlikely, as demonstrated by the announcement from HyNet of the delay to the hydrogen pipeline project, but does present a conservative and robust assessment. The results in Appendix G demonstrate that the Proposed Development would comprise a relatively small proportion of the cumulative flow, representing approximately 6% of the total additional cumulative traffic at the M56 J14, and</p>	
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	<p>responsibility of the proposed Construction Traffic Management Plan Working Group to co-ordinate the planning of abnormal load movements across the identified cumulative developments.</p> <p>v) Do National Highways or CWCC have any outstanding concerns about the applicant's proposed mitigation measures for abnormal loads?</p> <p>The applicant [APP-134] considered that a reasonable worst case of impacts during the decommissioning phase was those for the construction phase. For the construction phase it considered that there was a potential for significant traffic impacts cumulatively with other proposed infrastructure projects.</p> <p>vi) What reasonable worst case of cumulative traffic impacts during the decommissioning phase does the applicant suggest for the purposes of the planning balance?</p>	<p>approximately 17% of the total additional cumulative traffic at the M53 J10.</p> <p>(iv) When the National Highway cumulative study is available the Applicant will determine if there are any implications for the Transport Assessment and associated mitigation.</p> <p>(v) AIL movements are controlled by the Road Vehicle Authorisation of Special Types Order 2003. This requires routes to be agreed with NH pursuant to these regulations. NH will therefore have full control of the timings of such movements to ensure that there are no significant cumulative impacts.</p> <p>(vi) As the decommissioning would be undertaken up to 40 years from the date of commencement it is not possible to anticipate with any degree of certainty what projects may exist that could lead to cumulative effects. As established by Finch (R (on the application of Finch on behalf of the Weald Action</p>	
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		<p>Group) v Surrey County Council and others) there needs to be sufficient evidence available to make a reasoned conclusion that a possible environmental effect is likely. Nonetheless, it is reasonable to expect that traffic during decommissioning will be lower than during construction and the oDEMP [REP1-024] requires the production of a Decommissioning Traffic Management Plan (DTMP), which must consider traffic levels and network conditions at the time of decommissioning. This plan would specify traffic management measures deemed necessary by the local highway authority and National Highways to mitigate impacts on highway safety and function. As such, on the basis that controls are included in the DCO to control traffic impacts during construction within acceptable levels, the Applicant suggests that limited weight should be given to cumulative traffic impacts during decommissioning.</p>	
Q11.1.10	Article 16- Traffic regulation measures	The Applicant updated the draft DCO at Procedural Deadline B to	The Applicant has included a definition of the strategic road

	<p>Can the applicant respond to NH relevant representation [RR-031] that this article should include NH consent for any works affecting its network.</p>	<p>provide that this article cannot be used on the SRN, which is considered to deal with NH's concerns.</p>	<p>network (SRN) within the dDCO (REP1-004) that is not in line with the definition provided in NH's template protective provisions provided most recently in its Response to The Examining Authority's First Written Questions (REP2-010). The Applicant's definition does not include wording to include any structures that form part of the strategic road network. Any structure would include any bridges NH own that form part of the highway network namely, Brook Furlong Bridge and Weaver Lane Bridge. NH must have control over the operations being carried out on these structures. This is critical from a safety perspective and to maintain the integrity of the asset.</p>
<p>Q11.1.13</p>	<p>Article 17- Discharge of water Can the applicant clarify if this article applies to NH's drainage system as drafted or whether this applies to public drains only? If not, can you please respond to NH</p>	<p>The Protective Provisions for the protection of National Highways were updated at Procedural Deadline B to exclude this article from applying to the strategic road network, which is considered to deal with NH's concerns.</p>	<p>The Applicant has excluded this article from applying to the SRN within the dDCO (REP1-004) however this does not go far enough as it does not exclude any land that NH has an interest in. Paragraph 7(2) of NH's</p>

	<p>concerns related to this article in its relevant representation [RR-031].</p>		<p>template protective provisions provided most recently in its Response to The Examining Authority's First Written Questions (REP2-010) also exclude any land NH has an interest in. This drafting would protect any drainage infrastructure NH has outside of the highway boundary for reasons set out within its relevant representation (RR-031).</p>
<p>Q11.1.14</p>	<p>Article 18. Protective works to buildings Can the applicant respond to NH concerns raised in its relevant representation [RR-031] regarding the need for NH consent for access/work.</p>	<p>The Applicant has addressed NH's concern in the Protective Provisions for National Highways, which were updated at Procedural Deadline B. The Protective Provisions now explicitly require NH's written consent before the undertaker exercises certain powers over the strategic road network (SRN) or in respect of NH's existing rights or apparatus, including powers under Article 18(4) (protective works to buildings).</p>	<p>NH response at Q11.1.10 above applies here, in that the Applicant's definition of SRN does not include structures.</p> <p>In addition, as noted in NH's response to Q11.1.13 above, the updates do not go far enough as it does not exclude any land that NH has an interest in. Without such wording to exclude land NH has interest in, the Applicant may exercise the power to enter land within NH's ownership which is adjacent to the building to carry out the protective works. NH must have</p>

			<p>control over the operations being carried out on land it has an interest in. NH may hold land for purposes of supporting the function of its network. This is critical from a safety perspective and to maintain the integrity of the asset.</p> <p>Furthermore, NH seeks the wording used in its own Protective Provisions which were submitted as part of its DL2 response (REP2-010) as it does not consider the wording proposed by the Applicant to be sufficiently clear and unambiguous.</p>
Q11.1.15	<p>Article 19. Authority to survey and investigate the land Can the applicant respond to NH concerns raised in its relevant representation [RR-031] regarding the need for NH consent for access/work.</p>	<p>The Applicant has addressed NH’s concern in the Protective Provisions for National Highways, which were updated at Procedural Deadline B. The Protective Provisions now explicitly require NH’s written consent before the undertaker exercises certain land related powers over the strategic road network (SRN) or in respect of NH’s existing rights or apparatus, including powers under Article 19.</p>	<p>NH response at Q11.1.10 above applies here, in that the Applicant’s definition of SRN does not include structures.</p> <p>In addition, as noted in NH’s response to Q11.1.13 above, the updates do not go far enough as it does not exclude any land that NH has an interest in. Without such wording to exclude land NH has interest in,</p>

			<p>the Applicant may exercise its power to survey and investigate land NH has an interest in without its consent. NH must have control over the operations being carried out on land under its control. NH may hold land for purposes of supporting the function of its network. This is critical from a safety perspective and to maintain the integrity of the asset.</p> <p>Furthermore, NH seeks the wording used in its own Protective Provisions which were submitted as part of its DL2 response (REP2-010) as it does not consider the wording proposed by the Applicant to be sufficiently clear and unambiguous.</p>
Q11.1.21	<p>Article 23- Compulsory acquisition of rights Can the applicant respond to NH relevant representation [RR-031] and the concerns it has raised regarding the lack of NH consent, and extinguishment of its rights.</p>	<p>The Applicant has addressed NH's concern in the Protective Provisions for National Highways, which were updated at Procedural Deadline B. The Protective Provisions now explicitly require NH's written consent before the undertaker</p>	<p>NH response at Q11.1.10 above applies here, in that the Applicant's definition of SRN does not include structures.</p> <p>Furthermore, NH seeks the wording used in its own</p>

		exercises certain powers over the strategic road network (SRN) or in respect of NH's existing rights or apparatus, including powers under Article 23 (compulsory acquisition of rights).	Protective Provisions which were submitted as part of its DL2 response (REP2-010) as it does not consider the wording proposed by the Applicant to be sufficiently clear and unambiguous.
Q11.1.22	<p>Article 24. Private rights</p> <p>Can the applicant respond to NH relevant representation [RR-031] and the concerns it has raised regarding any land within the OL limits to be temporarily possessed and the effects upon NH</p>	The Applicant has addressed NH's concern in the Protective Provisions for National Highways, which were updated at Procedural Deadline B. The Protective Provisions now explicitly require NH's written consent before the undertaker exercises certain powers over the strategic road network (SRN) or in respect of NH's existing rights or apparatus, including powers under Article 24 (private rights).	<p>NH response at Q11.1.10 above applies here, in that the Applicant's definition of SRN does not include structures.</p> <p>Furthermore, NH seeks the wording used in its own Protective Provisions which were submitted as part of its DL2 response (REP2-010) as it does not consider the wording proposed by the Applicant to be sufficiently clear and unambiguous.</p>
Q11.1.24	<p>Article 27. Power to override easements and other rights</p> <p>Can the applicant respond to NH relevant representation [RR-031] and clarify whether there will be a temporary interference or</p>	The Applicant is discussing this with NH as it will depend on the exact nature of NH's interests in the relevant plots. However, NH will be able to manage all impacts under this article pursuant to its Protective Provisions (which will be	<p>NH response at Q11.1.10 above applies here, in that the Applicant's definition of SRN does not include structures.</p> <p>Furthermore, NH seeks the wording used in its own</p>

	<p>permanent extinguishment of NH's interests?</p>	<p>updated at Deadline 3) to move article 27 to be considered in the same way as article 24.</p>	<p>Protective Provisions which were submitted as part of its DL2 response (REP2-010) as it does not consider the wording proposed by the Applicant to be sufficiently clear and unambiguous.</p>
<p>Q11.1.25</p>	<p>Article 29. Rights under or over streets Can the applicant respond to NH relevant representation [RR-031] and the concerns it has raised that NH consent would not be required.</p>	<p>The Applicant has addressed NH's concern in the Protective Provisions for National Highways, which were updated at Procedural Deadline B. The Protective Provisions now explicitly require NH's written consent before the undertaker exercises certain powers over the strategic road network (SRN) or in respect of NH's existing rights or apparatus, including powers under Article 29</p>	<p>NH response at Q11.1.10 above applies here, in that the Applicant's definition of SRN does not include structures.</p> <p>Furthermore, NH seeks the wording used in its own Protective Provisions which were submitted as part of its DL2 response (REP2-010) as it does not consider the wording proposed by the Applicant to be sufficiently clear and unambiguous.</p>
<p>Q11.1.28</p>	<p>Article 30. Temporary use of land for constructing the authorised development Can the applicant respond to NH relevant representation [RR-031] and the concerns it has raised that NH consent would not be required.</p>	<p>The Applicant has addressed NH's concern in the Protective Provisions for National Highways, which were updated at Procedural Deadline B. The Protective Provisions now explicitly require NH's written consent before the undertaker</p>	<p>NH response at Q11.1.10 above applies here, in that the Applicant's definition of SRN does not include structures.</p> <p>Furthermore, NH seeks the wording used in its own</p>

		exercises certain powers over the strategic road network (SRN) or in respect of NH's existing rights or apparatus, including powers under Article 30.	Protective Provisions which were submitted as part of its DL2 response (REP2-010) as it does not consider the wording proposed by the Applicant to be sufficiently clear and unambiguous.
11.1.30	<p>Article 31. Temporary use of land for maintaining the authorised development</p> <p>Can the applicant respond to NH relevant representation [RR-031] and the concerns it has raised that NH consent would not be required.</p>	The Applicant has addressed NH's concern in the Protective Provisions for National Highways, which were updated at Procedural Deadline B. The Protective Provisions now explicitly require NH's written consent before the undertaker exercises certain powers over the strategic road network (SRN) or in respect of NH's existing rights or apparatus, including powers under Article 31.	<p>NH response at Q11.1.10 above applies here, in that the Applicant's definition of SRN does not include structures.</p> <p>Furthermore, NH seeks the wording used in its own Protective Provisions which were submitted as part of its DL2 response (REP2-010) as it does not consider the wording proposed by the Applicant to be sufficiently clear and unambiguous.</p>
11.1.38	<p>Article 46- Procedure in relation to certain approvals etc.</p> <p>Can the applicant respond to NH relevant representation [RR-031] and advise whether article 46 could be disapplied in the context of any consent relating to the strategic road network</p>	The Applicant's position remains as in Response to Local Planning Authority and Statutory Environmental Body Relevant Representations [PD2-027], namely that following the changes to NH's PPs, the only 'consent' that the Applicant would be seeking from	For the reasons set out in 11.1.22 - 11.1.30, above, NH concerns remain in relation to Article 46.

		National Highways would be in respect of land powers, not works/street powers, and as such there are no safety considerations which could suggest that the deemed consent provision in article 46(4) is not appropriate.	
11.3.2	<p>R6. Detailed design approval</p> <p>Can the applicant respond to NH relevant representation [RR-031] and advise if this requirement can be expanded to also include NH approval?</p>	<p>The Applicant has considered National Highways' relevant representation and does not consider it necessary or appropriate to amend Requirement 6 to include National Highways as an approving body. No new accesses are proposed to be constructed directly from the Weaver Lane or Brooks Furlong bridge structures, and the nearest extent of Work No. 8 is located some distance from those bridges. Importantly, the bridges themselves are not subject to alteration under the Development Consent Order, as no powers in Schedule 1 apply to them, nor do the street works powers. While the bridge structures fall within the red line boundary, their inclusion does not in itself give rise to powers to undertake works to those assets.</p>	<p>NH comments above at Paragraph 2 (NH5), which deals with the Requirements is applicable here.</p>

		As drafted, the Order does not authorise physical works to the bridges, and therefore there is no basis on which National Highways' approval of detailed design would be required under Requirement 6.	
Q11.3.12	R11. Surface and ground water management Can the applicant respond to NH relevant representation [RR-031] and advise if this requirement can be amended to also include NH approval?	The Applicant has considered National Highways' relevant representation and does not consider it necessary to amend the requirement to include National Highways' approval. No part of the proposed drainage strategy involves discharges to the Strategic Road Network or connection to National Highways drainage assets. Given that the drainage proposals do not affect the SRN or National Highways' infrastructure, there is no basis for National Highways' approval to be required under this Requirement.	NH can confirm it does not need to be added as a consultee to Requirement 11.
Q11.3.15	R15. Public rights of way Can the applicant respond to NH relevant representation [RR-031] and advise if this requirement can be amended to also include NH approval?	The Applicant has considered National Highways' relevant representation and does not consider it necessary to amend the requirement to include National Highways' approval. The Public Rights of Way Management Plan (PRoWMP) is primarily concerned	As set out in its response at Q9.5.3, NH continues to rely on the response provided in its DL2 submission (REP2-010) and the Applicants submissions do not change NH's position.

		<p>with managing the impacts of construction activity on Public Rights of Way. Although it does set out where changes to the PRoW are proposed, it does not deal with the management of those changes. The legal mechanism for upgrading the PRoW is secured through the DCO, rather than through the PRoWMP. As there are no proposed works to the bridge or the public rights of way upon them, there are no impacts on National Highways assets and therefore the Applicant does not consider it necessary to include National Highways approval in this requirement. Please also see response to question 9.5.3</p>	<p>It is also important to clarify that unless and until a Structural Review and, if necessary, Structural Assessment is carried out, it is not known whether physical works are required to the bridges to facilitate the changes of use, including emergency access.</p> <p>Resultantly, NH does not consider that the position has changed and therefore will require involvement in Requirement 15.</p>
Q11.3.16	<p>R17. Ground conditions Can the applicant respond to NH relevant representation [RR-031] that it expects to be involved in the approval of the ground conditions investigations, the assessments strategy should accord with CD622 – Managing Geotechnical Risk, and where construction is close to the network, geotechnical risks to the</p>	<p>The Applicant has considered National Highways’ relevant representation and does not consider it necessary to amend the requirement to include National Highways’ approval or consultation at this stage. The Proposed Development is not located sufficiently close to the Strategic Road Network (SRN) for construction activities or</p>	<p>NH can confirm it does not need to be added as a consultee to Requirement 17.</p>

	strategic road network would need to be considered	groundworks to reasonably give rise to geotechnical risk to National Highways' assets. The completed ground conditions assessments do not identify any mechanisms by which the works would affect the stability or operation of the SRN. As such NH do not need to be consulted on this strategy.	
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4 ADDITIONAL COMMENTS ON dDCO

4.1 As set out in NH's written representation (REP1-055), we had not previously had the opportunity to review the updated dDCO submitted by the Applicant at procedural deadline B (REP1-004). We have now had the opportunity to review the updates to the dDCO and provide a response on those updates within this representation.

4.2 In addition to those points raised at paragraphs 2 and 3 above, NH would also raise the following:

- a) In paragraph 3, above, at points Q11.1.10 and Q11.1.13 NH raises concerns in relation to the wording of paragraph 3 of the PP's currently contained within the dDCO in respect of Articles 16 and 17. We explain how the wording proposed by the Applicant does not go far enough and why NH requires the specific wording it has provided within its preferred PP's at paragraph 7(2) which were submitted as part of NH's DL2 response (REP2-010). Please note that whilst not explicitly covered in paragraph 3, the comments NH makes are also applicable to Articles 6, 9, 10, 11, 12 and 14. The inclusion of NH's set of preferred PP's as submitted within its DL2 response (REP2-010), would deal with these issues to NH's satisfaction.

- b) It is noted that Article 13 has been removed from paragraph 3 of the PP's the Applicant submitted as part of the dDCO and NH considers that reference to Article 13 needs to be reinserted. The inclusion of NH's set of preferred PP's as submitted within its DL2 response (REP2-010), would deal with this issue to NH's satisfaction.

- c) In paragraph 3, above, from point Q11.1.14 to point Q11.1.38, NH raises concerns in relation to the wording of paragraph 4 of the PP's currently contained within the dDCO in respect of Articles 18, 19, 23, 24, 27, 29, 30 and 31. We explain how the wording proposed by the Applicant does not go far enough and why NH requires the specific wording it has provided within its preferred PP's at paragraph 7(2) which were submitted as part of NH's DL2 response (REP2-010). Please note that whilst not explicitly covered in paragraph 3, the comments NH makes are also applicable to Articles 21 and 26. The inclusion of NH's set of preferred PP's as submitted within its DL2 response (REP2-010), would deal with these issues to NH's satisfaction.

4.3 As set out in detail as part of NH's DL2 response (REP2-010), as the Applicant is unwilling to carry out the Structural Reviews/Structural Assessments that NH has requested, NH is unable to confirm that no works to the SRN are required. Resultantly, in order to protect the integrity of the SRN and ensure the safety of the travelling public, NH seeks the inclusion of its full PP's, as set out in its DL2 response (REP2-010), in the DCO.

NATIONAL HIGHWAYS LIMITED

28 January 2026