



Deadline 4 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 4: National Highways' comments on Deadline 3 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 Deadline 3 (DL3) and the query asked of NH by the ExA at ISH2.

2. COMMENTS ON OUTLINE PUBLIC RIGHTS OF WAY MANAGEMENT PLAN (REP3-029)

2.1 This part of the submission responds to the Applicant's Outline Public Rights of Way Management Plan (**OPROWMP**).

2.2 Paragraph 4.1.4 of the OPROWMP refers to the replacement of damage to the surfacing of PROW's resulting from construction activities. It is noted that NH is still not referenced in the document or in Requirement 15 of the dDCO as a consultee, despite the PROW's spanning the length of Brook Furlong and Weaver Lane overbridges. Whilst it is acknowledged that the surfacing of the PROW's are the responsibility of the Local Highway Authority, any resurfacing of a bridge may impact the structure beneath, including the waterproofing layer which sits just below the surface layer. The waterproofing layer is the responsibility of NH and should the applicant need to resurface the bridge for any reason, there is a risk that the waterproofing layer may become damaged and also need to be replaced. NH should therefore be included as a consultee in the OPROWMP and named in Requirement 15 of the dDCO as a consultee.

2.3 As stated above, NH is not mentioned in the OPROWMP as a consultee despite owning two structures over which PROW's are located. Whilst we understand that it is not the intention of the applicant to close these bridges, closures or diversions (temporary or otherwise) made to PROW's within other parts of the site may lead to the need to close access to the bridges to divert users elsewhere. This may also impact NH's ability to access the bridges for maintenance. We therefore request again that NH is included as a consultee in the OPROWMP and requirement 15 of the dDCO to enable NH to ensure that its access to the structures remains unimpeded.

3. COMMENTS ON OUTLINE BATTERY SAFETY MANAGEMENT PLAN (REP3-027)

3.1 This part of the submission responds to the Applicant's Outline Battery Safety Management Plan (**OBSMP**).

3.2 Para 4.2 of the OBSMP, states that the UK National Fire Chiefs Council BESS planning guidance document stipulates that suitable facilities for safely accessing and egressing the BESS compound should be provided. Both Brook Furlong Bridge and Weaver Lane Bridge are named in the OBSMP as being emergency access points and para 4.2.7 of the OBSMP goes on to state that a site plan will be provided at the detailed design stage that may include main access routes for fire engines and any alternative access. Para 1.5.1 of the OBSMP, identifies that pre-application discussions were held with the Local Fire and Rescue Service, it is expected that this dialogue will continue as the detail Battery Safety Management Plan is agreed, including the Emergency Response Plan, NH considers that it needs to be aware of such dialogue and involved, if the plan is for Brook Furlong Bridge and Weaver Lane Bridge to be used as the emergency access routes.

3.3 NH has previously set out in detail why, without the correct structural reviews/structural assessments having been undertaken and any works required following the outcomes, undertaken, it cannot accept the use of the bridges as an emergency access, and does not propose to go into detail on that again here. However, another concern that the wording in the OBSMP raises, is that the Applicant considers that NH does not need to be involved in the detailed design approval. The wording in the OBSMP wording suggests otherwise, and NH considers that it is important to be involved in the detailed design in order that it can be involved in the decisions taken for the main/alternative access routes for fire engines especially if those decisions involve the bridge structures. Additionally, a Risk management Plan is to be developed as part of the detailed design stage which will deal with safe access to and within the facility for emergency vehicles and responders. This matter is sufficiently important to NH and the safety of the travelling public that it considers it ought to have an approval role in the detailed design as detailed within Schedule 2 Requirement 6 and Requirement 7 of the draft Development Consent Order (**dDCO**) and would request that it is given an approval role.

4. COMMENTS ON APPLICANT'S DL3 SUBMISSIONS

4.1 This part of the submission responds to the ExA's Action Points from ISH2.

Action Point	NH Action	NH's response
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13	Provide weight limits of the bridges.	<p>Brook Furlong Bridge was assessed as having a 40T load capacity in 1995. 30 years has passed since the last assessment and therefore it is almost certain that the condition of the bridge would have changed since then and this change in condition is likely to have had an impact on the load-carrying capacity of the bridge. NH's position remains that it cannot accept use of Brook Furlong Bridge either as an access to the potential car park or as an emergency access unless and until the appropriate Structural Review/Structural Assessments have been carried out and the outcomes known.</p> <p>Weaver Lane Bridge was designed to accommodate an approximately 7.5T modern vehicle load capacity. A google search suggests that typically, a UK fire engine weighs between 12T and 18T. Resultantly, the risks here are clear to see. Google Earth pictures from May 2022 suggest that there was signage at one end of the bridge specifying that it was "<i>unsuitable for motor vehicles</i>". NH's position therefore remains that it cannot accept use of Weaver Lane Bridge as an emergency access unless and until the appropriate Structural Review/Structural Surveys have been carried out and the outcomes known.</p> <p>The site, undeveloped presently, is unlikely to experience emergencies that would require the emergency services to need to access it, however, the proposals for a solar farm significantly increase the risk. In the absence of the local fire and rescue service confirming that they would use a different route, it is reasonable for NH to require the necessary structural reviews/assessments to satisfy it that the bridges can accommodate the increased risk. In the event of a life and death situation, the fire service is going to use the route which gains them the quickest and easiest access to the site, in the absence of the DCO expressly specifying the emergency routes. If that is found to be via</p>
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		<p>Brook Furlong Bridge or Weaver Lane Bridge, NH needs the appropriate work to have been undertaken to ensure the safety of the travelling public on the SRN beneath the bridge and to ensure that attending one emergency does not create another.</p> <p>Additionally, at ISH2 the Applicant raised s34(4) of the Road Traffic Act 1988 which states that in relation to restricted byways, “<i>A person shall not be convicted of an offence under this section with respect to a vehicle if he proves to the satisfaction of the court that it was driven in contravention of this section for the purpose of saving life or extinguishing fire or meeting any other like emergency</i>”. NH does not agree with the position that the Applicant takes in relation to this section and instead considers that s34(4) is a defence when there is no other option than to use a restricted byway in an emergency. NH considers this situation falls outside of that section as there has been ample time throughout this examination process and beforehand to consider emergency access to the site and to carry out the reviews/assessments required to ensure that, if Brook Furlong and Weaver Lane Bridges were considered to be the most appropriate emergency access routes, they could be used safely and legally. NH does not consider that the legislation was built to protect in the way that the Applicant is suggesting, by using a defence to create a right. NH considers that if the Applicant carries out the reviews/assessments it has requested and subsequently ensures that the bridges are used safely and by right, the Applicant wouldn’t need to rely on the defence set out in s34(4).</p>
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4.2 This part of the submission responds to the Applicant's comments on Interested Party ExAQ1 Submissions (REP3-043).

Table Ref	Applicant's Comments	NH's Response
9.5.3	<p>The Applicant is unclear as to why NH needs to be a consultee on Requirement 6 and will continue to discuss with NH.</p> <p>It is not clear why NH should be consulted on the LEMP.</p> <p>Weaver Lane – The Applicant has accepted that horse provision is unacceptable without structural alteration and had subsequently been discussing whether cyclist provision could be acceptable. If cycle track status is not agreed, then the Applicant would likely need to revert to changing its plans to not change the status of the public right of way on the bridge.</p> <p>Brooks Furlong – The Applicant was awaiting a response from NH to its queries arising from the submission made at ISH and in its post hearing submissions in relation to the structural/operational information NH has on the bridge.</p>	<p>NH has previously suggested that it needs to be involved in the detailed design in the event that anything dealt with at detailed design stage will impact upon NH. NH understands that the OBSMP refers to a site plan and Risk Management Plan being dealt with at detailed design. Both documents would deal with the proposed emergency access across Brook Furlong Bridge and Weaver Lane Bridge and therefore NH consider this to be an additional reason as to why it ought to be involved in the detailed design stage. Please see paragraph 3, above, for further detail.</p> <p>In relation to the LEMP, the Applicant has now agreed to add NH as a consultee and we look forward to seeing this reflected in the dDCO.</p> <p>In relation to Weaver Lane Bridge, NH would require the Applicant to undertake a structural review and, if necessary, a structural assessment to determine whether the bridge structure could accommodate a cycle track and an emergency access. The Applicant has proposed additional wording to the NH Protective Provisions which go some way assist NH in that if Weaver Lane Bridge is intended to be used as a cycle track, this change of use could not proceed until the Applicant has carried out structural review/assessment and if works are required, until such works have been carried out. The precise wording would need some work, however, NH is still concerned that in the eventuality that the bridges are to be used as an emergency access, the PP's as currently drafted would not bite and therefore the route could be used as an emergency access without any structural review/assessment. Therefore, the PP's as currently drafted do not give NH the comfort it needs and in the absence of any provisions to deal with the emergency use of the bridges, NH will</p>

		<p>require in full protective provisions being included within the DCO. These concerns are also applicable to the Brook Furlong Bridge.</p> <p>NH considers that it has now responded to the requests made by the Applicant in respect of Brook Furlong bridge.</p>
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4.3 This part of the submission responds to the Applicant's response to Written Representations (REP3-041).

Table 2-3 Ref	Comment	Applicant's Response	NH Response
NH-A	<p>NH concerns in respect of:</p> <ul style="list-style-type: none"> • Work No. 6A • Skylark habitat Creation • Work No. 8 • The bridges • Geotechnical risks • Property matters • PPs 	<p>All of these issues are still under discussion with National Highways and the Applicant's position remains as it was in its Response to National Highways Relevant Representation. The Applicant considers that Work No. 6A, skylark mitigation, and Work No. 8 will not impact upon National Highways assets or access to them, and there are no geotechnical risk to the SRN and it has explained why to National Highways in a meeting. Once a response is received from National Highways to that, further consideration will be given as to whether any further drafting is required in the DCO. On the bridges (and from that, the Protective Provisions), discussions are still on-going with National</p>	<p>NH continues to rely on its DL3 submission in relation to these points (REP3-049).</p>

		<p>Highways as to the Applicant's proposals. In particular, it is noted that National Highways has not yet agreed with the Applicant's change of approach to the Weaver Lane bridge for it to be converted to a cycle track rather than a bridleway. As such, the Applicant has not yet changed the DCO and associated documentation until an agreed position can be reached (noting that if cycle track status is not agreed, then the Applicant would have to revert to changing its plans to not change the status of the public right of way on the bridge). The Applicant considers that there should be no issues in relation to property matters with National Highways, but notes in any event that its compulsory acquisition proposals on the SRN are subject to National Highways consent under their Protective Provisions.</p>	
NH-B	<p>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</p>	<p>Such a change is not required. The Book of Reference was amended at Procedural Deadline B to make clear that these plots do not include the bridges or underpass. No further changes are required.</p>	<p>No further comments.</p>

	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.		
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ADDITIONAL COMMENTS ON dDCO

5.1 At this stage, NH continues to rely on the submissions in respect of the various Articles of the dDCO that it made in its DL3 submission (**REP3-049**). Negotiations continue in relation to the Protective Provisions and we hope to be in a position to give a positive update in relation to those at a future deadline.

5.2 It is noted that in its DL3 response, NH confirmed that it did not need to be involved in Requirement 7 (Battery Safety Management), however, upon further review NH can confirm that it will need to be involved in Requirement 7 and the reasons as to why are detailed in paragraph 3 above.

NATIONAL HIGHWAYS LIMITED

5th March 2026