

**THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010**

**FOSSE GREEN ENERGY DEVELOPMENT CONSENT ORDER**

**PINS REFERENCE EN010154**

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**DEADLINE 3: NATIONAL HIGHWAYS'  
RESPONSES TO EXQ2**

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- 1.1 This is a written submission made on behalf of National Highways Limited (NH) in response to the Examining Authority's Written Questions 2 (ExQ2) issued on the 27<sup>th</sup> February 2026 (PD-016)
- 1.2 NH has extracted from the Examining Authority's Written Questions 2 (PD-016) those questions which are addressed to NH. NH has used the same format table as issued by the ExA with its response provided in the last column to each relevant question.

<u>Question number</u>	<u>Question to</u>	<u>Question</u>	<u>National Highways response</u>
DCO.2.15	National Highways	<p><b>Requirement 9 (Fencing and other means of enclosure)</b></p> <p>In [REP2-052] you have advised further information is required on the proposed fencing and other means of enclosure before you can confirm your position with respect to Requirement 9.</p> <p>On pages 35 and 36 of its post hearing summaries in [REP2-032], the applicant signposts the fencing details and identifies that the FCEMP was updated at Deadline 1 to confirm that any fencing would be located behind existing hedgerows adjoining the A46.</p> <p>a) Does the information provided in [REP2-032] address your concerns about fencing and other means of enclosure?</p> <p>b) If not, would you want the applicant to submit further details during the examination (and if so what) or would being added as a consultee to Requirement 9 address any remaining concerns about fencing and other means of enclosure you have?</p>	<p>NH has reviewed the documentation submitted by the Applicant at deadline 1 and is now satisfied with the proposed fence locations.</p> <p>These appear consistent with Strategic road network and the delivery of sustainable development Circular 01/2022 requirements. Therefore, NH no longer seeks to be consulted on Requirement 9.</p> <p>It is noted that the proposed fence line does sit directly behind the existing hedgerow adjacent to the A46. It is possible during installation, damage could be caused to the roots of the hedgerow due to the close proximity. Should damage be caused to the hedgerow to insecurely root the plant, NH may seek to remove the hedgerow under its powers under the Highways Act 1980 should it become a safety concern and threat of falling down on the adjacent A46.</p> <p>This further support NH's request to be a named consultee on Requirement 8 Landscape and Ecological Management Plan (LEMP) of the draft DCO, which states that existing hedgerows are being relied upon for glint and glare mitigation. Therefore, any damage to these hedgerows during the installation of the fence may effect the glint and glare mitigation measures proposed in the LEMP. This would be of interest to National Highways.</p>
DCO.2.21	Applicant, LCC and National Highways	<p><b>Requirement 14 (Construction traffic management plan)</b></p> <p>National Highways has confirmed in [REP2-052] that it is seeking an approval role for the Construction Traffic Management Plan (CTMP) rather than a consultee role.</p> <p>a) Suggest wording for Requirement 14 where National Highways would be the discharging authority for the A46 in consultation with LCC (insofar as the A46 has interfaces with the local highway network) and where LCC would be the discharging authority for the local highway network in consultation with National Highways where there is an interface with the A46.</p> <p>b) Applicant - if National Highways is added to Requirement 14 as a discharging authority, amendments should be made to Schedule 15 to accommodate National Highways role as a discharging authority.</p>	<p>NH propose the following wording for requirement 14:</p> <p><i>(1) No part of the authorised development may commence until a construction traffic management plan for that part has been submitted to and approved by the relevant planning authority, and in respect of effects on the strategic road network National Highways and in respect of effects on the local road network, the local highway authority</i></p> <p><i>(2) The construction traffic management plan must be substantially in accordance with the framework construction traffic management plan.</i></p> <p><i>(3) The construction of any part of the authorised development must be carried out in accordance with the approved construction traffic management plan for that part.</i></p> <p>Similar wording proposed at sub-paragraph 1 was adopted on the The Viking CCS Carbon Dioxide Pipeline Order 2025.</p>
DCO.2.30	Applicant, LCC, NKDC, Historic England, Environment Agency, National Highways, Natural England	<p><b>Schedule 15 – deemed approval provisions</b></p> <p>a) <b>Applicant:</b> Paragraphs 2(3) and 2(4) appear to allow for a situation where an application to discharge a requirement could give rise to materially new or materially different environmental effects compared to those in the ES. Explain how such a situation could arise, given that the ES adopts a 'Rochdale Envelope' approach which, as paragraph 3.3.2 of ES Chapter 3 [REP1-015] advises, seeks to ensure the likely significant effects of the proposed development would not exceed the reasonable worst-case scenario presented in the ES.</p> <p>b) <b>All:</b> Paragraph 2(2) provides that a deemed approval would be granted to an application for the discharge of a requirement if the relevant planning authority did not give notice of its decision prior to the expiry of the time periods</p>	<p>As set out in NH's deadline 2 response (REP2-052), NH does have concerns about the inclusion of deemed approval provisions at schedule 15 paragraph 2(2) of the DCO (REP1-007) in relation to the discharge of requirement 14 if the Local Planning Authority (LPA) do not give notice of its decision within a ten week period.</p> <p>NH is concerned it will be caught by these deemed approval provisions over which NH have no control when the LPA responds. As currently drafted, applying deemed consent would mean that the opportunity for NH to be consulted on the CTMP could be bypassed if the LPA do not consult with NH and reply to the discharge application outside of the ten week time frame. This is not considered appropriate given the safety issues at play. There are safety implications if NH are not able to comment and approve the CTMP and consider the impacts on the road users of the SRN, particularly in light of the construction programme for the A46 Newark Bypass scheme which is yet to be finalised. This is a fundamental issue of public safety that should not be compromised to enable a private developer to achieve a quicker build programme. The potential implications from a safety perspective</p>

		<p>specified in paragraph 2(1). The exception to this is where the subject matter of the discharge application would be likely to give rise to any materially new or materially different environmental effects. In such cases, where the relevant planning authority did not determine the application within the specified period, then the application would be deemed to have been refused at the expiry of the time periods specified in paragraph 2(1).</p> <p>Comment on whether a deemed refusal would or would not be a more appropriate approach for all discharge applications if the relevant planning authority did not give notice of its decision prior to the expiry of the time periods specified in paragraph 2(1).</p>	<p>of something going wrong far outweigh the Applicant's case for such a provision. NH has statutory obligations as a public body to behave reasonably and support sustainable development and so it should not be forced to work under the pressure of deemed consent.</p> <p>If NH remain as a consultee on the CTMP, NH would support a deemed refusal approach</p>
TT.2.05	Applicant, LCC, National Highways	<p><b>Framework Construction Traffic Management Plan (FCTMP) – conditions surveys</b></p> <p>a) <b>Applicant and LCC</b> - While noting the responses to ExQ1 TT.1.17, comment on whether the wording in paragraph 7.3.2 of the FCTMP [REP2-023] is sufficiently clear to identify who would be responsible for any necessary reinstatement work.</p> <p>b) <b>Applicant</b> - Explain the decision-making process for determining whether a separate road condition survey “may” be carried out for the abnormal indivisible load route for the transformer to the Principal Site, as set out in paragraph 7.3.4 in the FCTMP [REP2-023]. <b>LCC and National Highways</b>: Do you consider the proposed wording to be adequate?</p>	<p>b) National Highways considers the wording adequate. Not every AIL movement will require a road condition survey, as the applicant has outlined. This will be determined on a case-by-case basis, depending on current road conditions, any existing concerns regarding the roads used in the route, or if the applicant wishes to ensure they can demonstrate no damage has occurred during the AIL movement.</p> <p>When a formal Special-Order application (abnormal load that exceeds the limits set out the Special Types General Order (STGO) is received we will consult the relevant road owners. The road and structure owners will then advise whether they require pre- and post-movement inspections, and this will be included as a condition of the move within the permit and agreed route. For the heavier loads this is common, but at this stage it is too early to for definite whether this would be needed.</p> <p>For further information please see annexed notification requirements for the movement of Abnormal Indivisible Loads.</p>