

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

FOSSE GREEN ENERGY DEVELOPMENT CONSENT ORDER

PINS REFERENCE EN010154

**DEADLINE 4: NATIONAL HIGHWAYS'
COMMENTS ON SUBMISSIONS MADE BY THE
APPLICANT AT DEADLINE 3 and 3A**

1. This is a written submission made on behalf of National Highways in response to the Applicant's response to deadline 2 submissions (REP3A-025)
2. National Highways has extracted from the Applicant's response to deadline 2 submissions (REP3A-025) those responses which are addressed to National Highways that remain outstanding. Those matters which National Highways confirmed are resolved within its deadline 3A submission (REP3A-034) are not repeated here. National Highways has used the same format table as issued by the Applicant with its response provided in the last column to each relevant point.

<u>Comments from National Highways deadline 2 submission</u>	<u>Applicant's Response to National Highways</u>	<u>National Highways response</u>
<p>b. It is noted from the Applicant's comment and the updated dDCO (REP1-007), requirement 14 of Schedule 2 has been updated to include NH as a consultee to the Construction Traffic Management Plan (CTMP). As set out within NH's Relevant Representation (REP-201) NH are seeking to be an approving body to the CTMP and not just a consultee on this matter. NH seek the approval of the CTMP to ensure construction traffic and vehicle movements is managed safely and efficiently, minimising disruption and potential hazards to the strategic road network (SRN).</p> <p>It is noted at paragraph 2(2) of Schedule 2 to the dDCO (REP-1-007) deemed approval is granted to an application to discharge a requirement if the Local Planning Authority (LPA) do not give notice of its decision within a ten week period. NH is concerned it will be caught by these deemed approval provisions over which NH have no control when the LPA responds. 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 of something going wrong far outweigh the Applicant's case for such a provision. NH has statutory obligations to behave reasonably and support sustainable development and so it should not be forced to work under the pressure of deemed consent.</p>	<p>In relation to Requirement 14 (CTMP) of Schedule 2 to the draft DCO [REP2-005], the Applicant considers that the inclusion of National Highways as a consultee is sufficient and as such, does not agree to add National Highways as an approving body for this Requirement. The Applicant considers that it would be highly unusual for National Highways to be named as a discharging body for a DCO Requirement in place of or in addition to the relevant local authority. Whilst the draft DCO includes two separate discharging bodies split between the county's and district's functions, this is in respect of separate Requirements, and further, it is likely that the forthcoming local government reorganisation will result in one discharging body for these DCO requirements in due course.</p> <p>Further, Local authorities are well versed in discharging DCO Requirements (as well as conditions of planning permissions) and have a number of processes and procedures in place to do so, including engaging statutory consultees prior to making a discharge decision. Lincolnshire County Council will also be interested to ensure that construction of the Proposed Development does not have adverse impacts on the strategic network, because such impacts are likely to have knock-on effects to their own local highway network. In these circumstances, it is highly unlikely that a local authority would fail to discharge a Requirement (as suggested by National Highways) such that deemed approval would apply.</p> <p>In contrast, National Highways would not normally discharge matters under a DCO, and the Applicant is not aware of any made DCOs for solar schemes which name National Highways as a discharging authority. To add in a further discharging authority to a single plan would add unnecessary complexity and the potential for delay, especially in circumstances where one discharging authority is content to approve the CTMP but the other is not. In addition, National Highways would have no enforcement powers in the event of any breach of the Requirement.</p> <p>Accordingly, the Applicant does not propose to include any amendments to Requirement 14 of the draft DCO in relation to National Highways request.</p>	<p>National Highways maintains its position on requirement 14, in that it seeks an approval role to the Construction Traffic Management Plan (CTMP) as opposed to being a consultee.</p> <p>NH have been granted an approval role to the CTMP on both The Viking CCS Carbon Dioxide Pipeline Order 2025 and The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015. Therefore, there are internal processes and procedures in place to deal with the discharge of such requirements.</p> <p>As set out within previous deadline responses, NH has concerns about deemed consent provisions applying to the LPA who may fail to respond. As a consultee NH have no control over when the LPA responds as discharge authority. There are a number of safety implications to road users of the SRN if NH are unable to comment on the on CTMP. National Highways has a statutory obligation to behave reasonably, which would apply when responding to a discharge application. In addition, National Highways is not opposed to the deemed consent provisions at paragraph 2 of schedule 15 of the dDCO (REP3A-004) also applying to National Highways. This should address the Applicant's concern about any delay.</p>
<p>NH accepts the proposed landscaping mitigation for glint and glare effects adjacent to the A46 trunk road.</p> <p>However, given the timeframe between now and the commencement of construction of the solar sites, which share a direct boundary with the A46 Trunk Road, NH considers ongoing involvement to be essential. Whilst proposed mitigation may be acceptable now, factors such as climate change and climate events introduces uncertainty regarding</p>	<p>Post construction, following the expiry of the defects period, responsibility for routine maintenance of the SRN reverts to National Highways. Routine maintenance of soft landscaping works (including glint and glare mitigation) must already be established and thereafter be maintained for a period of 3 years by the undertaker. This provision is secured under paragraph 13 of the Protective Provisions (Defects period) and ensures</p>	<p>National Highways note the Applicant has updated the dDCO (REP3A-004) to include National Highways as a consultee to requirement 8 Landscape and ecological management plan (LEMP) limited to the mitigation works being within 15m of the A46.</p> <p>National Highways seek to understand from the Applicant how the distance of '15m' has been established as appropriate to NH</p>

<p>potential impacts on hedgerow density which could affect what mitigation is acceptable when the authorised development is built out.</p> <p>The principal purpose of the SRN, and of NH licence from the Secretary of State, is to enable safe and reliable journeys for people and goods. Therefore, managing glint and glare is paramount to achieving this objective.</p> <p>As set out in the Framework LEMP (AS-122), maintenance measures will be defined and implemented through the detailed LEMP, alongside the establishment of a post-construction monitoring programme, which will be formalised and agreed as part of that process. For reasons set out above, NH would seek the opportunity to review this information to ensure a suitable monitoring programme is included. NH therefore wishes to be named as a consultee under Schedule 2, Requirement 8(1) (Landscape and Ecological Management Plan) of the Draft DCO [APP-016].</p>	<p>that if climate change or climate events impact hedgerow density, the undertaker will be required to remedy it.</p> <p>Prior to construction, the undertaker is required to seek approval of detailed designs from National Highways. The definition of “detailed design” in the Protective Provisions includes landscaping and “other such information that may be required to be used to inform the detailed design of the specified works”.</p> <p>The Applicant is agreeable to including National Highways as a consultee on Requirement 8 (LEMP) with the caveat that National Highways’ consultation on the detailed LEMP is to be limited to mitigation works within 15m of the A46. The Applicant has amended the wording of the requirement accordingly. This will be reflected in the updated draft DCO to be submitted at Deadline 3A (24 March 2026).</p>	<p>interests. An explanation of the proposed ‘15m’ is required from the Applicant to demonstrate there are no LEMP mitigation works beyond that distance with the potential to affect NH interests.</p> <p>A clear drawing illustrating how the ‘15 m’ measurement from the A46 is taken would greatly assist our understanding. The diagram should indicate where the measurement begins and where it ends. Providing this will help ensure clarity and avoid any misunderstandings in the future when we are consulted on LEMP matters.</p>
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