



Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

**Application by Lime Down Solar Ltd for an order granting Development
Consent for the Lime Down Solar Project**

Planning Inspectorate Reference Number: EN010168

**Deadline 1: Written Representation 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 Lime Down Solar Ltd ("Applicant") for an order granting development consent for the Lime Down Solar Project ("DCO"). The Applicant seeks development consent for proposed authorised development described in Schedule 1 of the draft DCO ("Authorised Development").
- 1.2. NH and the Applicant are engaged in ongoing negotiations and continue to work constructively together with a view to resolving and/or narrowing the outstanding issues between them as far as possible. To the extent that any issues remain unresolved at this stage, NH does not seek to rehearse those matters in this Written Representation but instead continues to rely on the positions advanced in its Relevant Representation [RR-3426], which are maintained in full. This Written Representation supplements and updates NH's Relevant Representation in light of the Applicant's comments thereon [PDA -009].

2. Protective Provisions — Overarching Position

- 2.1. The Protective Provisions on the face of the order are not yet agreed, and an updated draft of the Protective Provisions is awaited. NH has provided a full set of proposed protective provisions at Appendix 1 to its Relevant Representation and has set out detailed justifications for each provision (paragraphs 1 through to 21 of the proposed protective provisions). The Applicant's response to NH's Relevant Representations indicates that it is "progressing discussions" on the Protective Provisions and that draft Protective Provisions are already included in the DCO (Part 5 of Schedule 15). In response, and whilst discussions are progressing, NH maintains the draft Protective Provisions included in the Order are not agreed and that its own proposed Protective Provisions (at Appendix 1 of NH's Relevant Representation [RR- 3426]) should be adopted.

3. Land and Book of Reference Issues

Technical Works (Works Nos. 5a and HDD under M4) and plots 09-018, 09-019, 09-020 and to 09-021) (subsoil to the M4)

- 3.1. In relation to the cable route crossing beneath the M4 via Horizontal Directional Drilling (HDD), the Applicant has confirmed the M4 crossing is proposed as a fully trenchless HDD installation at a minimum depth to cover of 11.6 metres below the M4 carriageway and refers to NH to ES Volume 1: Chapter 3 [APP-055]. Work No 5a affects plots 09-018, 09-019, 09-020 and 09-021) (subsoil to the M4).
- 3.2. Discussions with National Highways technical teams about the geotechnical specification for directional drilling are still underway. Any proposed directional drilling under NH's network will require compliance with The Design Manual for Roads and Bridges ("DMRB") Chapter CD622 (Managing Geotechnical Risk).

Detrunked Roads (Plots 13-005 to 13-016, 20-001 to 20-003)

- 3.3. There are a significant number of plots where NH originally noted that the roads had been detrunked and transferred to the Local Highway Authority (LHA). The Applicant has confirmed it will update the Book of Reference to remove NH's listed interests.

Side Roads Order Plots (Plots 21-004 to 21-007)

- 3.4. For plots forming part of a Side Roads Order for the M4 scheme, NH confirms that the LHA is responsible, not NH, given the Side Road Order. Accordingly, for these plots, provided works are not in subsoil, NH have no interest. If works are in the subsoil then agreement is required from NH. The Applicant is requested to provide NH details confirming the depth of the works.

Outstanding Information Requests

- 3.5. Several plots are included in the Book of Reference as a consequence of drainage and gully apparatus, easements, and conveyances. In relation to these plots, NH's position is that the additional information requested is still required. NH asked the Applicant for copies of the following to evaluate how the scheme affects its interest:

- Plot 13-003 (Conveyance dated 14 February 1958)
- Plot 09-018 (Drainage and gully apparatus) (easement/private right)
- Plot 09-020 (Drainage and gully apparatus) (easement/private right)
- Plot 09-021 (Drainage and gully apparatus) (easement or private right)
- Plot 13-003 (Conveyance dated 14 February 1958 — Part 3 interest)

4. Draft DCO Articles

- 4.1. NH's extensive concerns regarding individual DCO articles (Articles 8, 10, 11, 12, 16, 17, 19, 20, 21, 24, 25, 27, 29, 30, 31, 32, 33, 34, 38, 40, 41, 42, and 47) as set out in its Relevant Representations [RR-3426] remain outstanding. NH's concerns are re-iterated in summary below. The Applicant's response to NH's Relevant Representations [PDA -009] consistently refers to ongoing discussions on the Protective Provisions. Whilst this is the position, the Protective Provisions on the face of the order are not yet agreed and an updated draft of Protective Provisions is awaited.

- **Article 8** – Street Works: NH has received no information regarding the nature and scope of proposed works beneath the M4 at points 9i and 9j on the Streets Plan. NH seeks confirmation that any apparatus installed under the SRN will be carried out by HDD rather than open cut method, and the programme for the cable works has not been provided. The Applicant must obtain NH's prior approval for any works undertaken in connection with the SRN. Such consent should not be subject to deemed consent under article 47.

- **Article 10** – Power to Alter Layout etc. of Streets: NH has no interest in the streets specified in Schedule 5. However, subsection (2) contains non-street-specific powers that may affect NH's interests. Consent under article 10(4) should not be subject to deemed consent under article 47. The Applicant must obtain NH's prior approval for any works undertaken in connection with the SRN.
- **Article 11** – Construction and Maintenance of Altered Streets: NH objects to the deemed adoption mechanism under this article. Article 11 should expressly exclude the SRN. NH does not agree that works on its network should be subject to deemed adoption provisions. The Applicant must obtain NH's prior approval for any works undertaken in connection with the SRN.
- **Article 12** – Temporary Closure, Restriction or Prohibition of Use of Streets and Public Rights of Way: NH has no interest in the streets or public rights of way listed in Schedule 6. However, subsection (1) contains a general power that may affect NH's interests. NH is concerned that the article only requires the Applicant to consult NH, not obtain its consent. Applicant should be required to obtain NH's consent in the event the activities affect the SRN or any land in which NH has an interest.
- **Article 16** – Traffic Regulation Measures: NH has no interest in the roads specified in Schedule 8, but subsection (1) contains a wider power which may affect NH's interests. NH requires that consent from the traffic authority should not be subject to deemed consent under article 47. The draft order also allows the Applicant to exercise powers under article 16(1) with deemed approval under section 65 of the Road Traffic Regulation Act 1984, which NH opposes — NH must have control over the placing of signage on its network. All signage must be designed in accordance with the Traffic Signs Manual Chapter 8 and the DMRB, and NH seeks clarity on why the Applicant seeks wording deeming compliance with the Traffic Signs Regulations and General Directions 2016. The Applicant must obtain NH's prior approval for any works undertaken in connection with the SRN. Such consent should not be subject to deemed consent under article 47.

- **Article 17** – Discharge of Water: NH's drainage system is not a public drain, and it is unclear whether the article is intended to apply to NH's drainage infrastructure. NH requires the Applicant to confirm the scope of this article in relation to NH's drains. Although the article requires consent from the owner of the watercourse, drain or sewer, that consent is subject to deemed consent under article 47, which National Highways considers inappropriate in respect of its drainage infrastructure. In addition, if the article is intended to apply to NH's drainage infrastructure this would conflict with government policy. Paragraph 59 of DfT Circular 01/2022 (with which National Highways must comply) provides that no new connections into the highway drainage system from third party development will be accepted. Existing connections may continue only where flow, rate and quality of discharge remain unaltered or are bettered, and may be subject to a drainage management and maintenance agreement in perpetuity. National Highways' objection would be addressed by incorporating paragraph 7(2) of its proposed protective provisions (Appendix 1), which requires the Applicant to obtain National Highways' consent before exercising the right under this article.
- **Article 19** – Protective Works to Buildings: NH does not have any buildings within the order limits. However, sub-paragraph (4) provides the Applicant with the power to enter land adjacent to a building to carry out protective works, and such adjacent land may form part of the SRN or land in which NH has an interest. The Applicant is requested to clarify whether Article 19(5) includes obtaining the consent of an owner of adjacent building. NH requires that the Applicant obtain NH's consent before exercising any access or works under this article affecting the SRN. Such consent should not be subject to deemed consent under article 47.
- **Article 20** – Authority to Survey and Investigate Land: Whilst consent is required from the highway authority for trial holes, boreholes and trenches within the highway boundary, consent is not required for the wider use of the powers (e.g., access to land for surveys). Consent is also not required for any land NH owns outside the highway boundary, and the right extends beyond the order limits. The Applicant should be required to obtain NH's consent in the event any access or works under this article affect the SRN or any land in which NH has an interest. Such consent should not be subject to deemed consent under article 47.
- **Article 21** – Compulsory Acquisition of Land: This article enables the Applicant to compulsorily acquire so much of the Order land as is required for the authorised development. If any part of the SRN is included, NH must have control over operations on its network. The Applicant should be required to obtain NH's consent in the event any access or works under this article affect the SRN or any land in which NH has an interest.

- **Article 24 – Compulsory Acquisition of Rights/Article 25 – Private Rights:** NH object to the power to compulsory acquire rights/private rights without its consent. NH must have control over operations on its network for safety purposes. The Applicant should be required to obtain NH's consent in the event any access or works under this article affect the SRN or any land in which NH has an interest.
- **Article 27 – Power to Override Easements and Other Rights:** NH is unclear whether the effect of this article would be a temporary interference with or a permanent extinguishment of NH's existing interests. The Applicant should confirm how this article is intended to operate in relation to NH's rights. The Applicant should be required to obtain NH's consent in the event any access or works under this article affect the SRN or any land in which NH has an interest.
- **Article 30 – Rights Under or Over Streets:** NH would not permit uncontrolled oversailing or works underneath its network, which would ordinarily have the protection of a section 50 notice under the New Roads and Street Works Act 1991. NH requires an approval role and control over both the subsoil vested in it and airspace over the SRN. The Applicant must obtain NH's prior approval for any works undertaken in connection with the SRN.
- **Article 31 – Temporary Use of Land for Constructing the Authorised Development:** Schedule 11 does not include land in which NH has an operational interest, but the article also applies to other Order land. The Applicant should be required to obtain NH's consent before taking temporary possession of any land affecting the SRN or land in which NH has an interest.
- **Article 32 – Temporary Use of Land for Maintaining the Authorised Development:** This article grants the Applicant the right to take temporary possession of any land within the order limits without NH's consent during the maintenance period (five years from final commissioning). NH must have control over operations on its network. The Applicant must obtain NH's consent in the event the activities affect the SRN.
- **Article 33 – Statutory Undertakers:** NH maintains that the Applicant should be required to obtain NH's consent in the event the activities affect the SRN or any land in which NH has an interest.
- **Article 34 – Apparatus and Rights of Statutory Undertakers in Closed or Restricted Streets:** This article cross-refers to articles 8, 10, 11 and 12. NH's requires further information to assess the impact of the scheme on its interests in relation to those articles. The Applicant should obtain NH's consent before exercising any powers that affect the SRN.

- **Article 38** – Application of Landlord and Tenant Law: NH does not have sufficient information to assess whether this article is likely to affect its interests and has asked the Applicant to clarify the position
- **Article 40** – Felling or Lopping of Trees and Removal of Hedgerows: NH has environmental mitigation commitments that may be affected by this article and which may put NH in breach of its own statutory obligations. Hedgerows CRH170, CRH173 and CRH172 are located on or near the boundary of the network. NH requires further clarity on the works within Works No. 5a that may impact these hedgerows so it can assess the cumulative impact. If works affect NH's BNG commitments, replacement trees must be provided at a location to be agreed. NH notes the Applicant's response to NH's Written Representations which relate to this Article. NH is unable to locate the information referred to (ES Volume 2 Appendix 3-2 Cable Installation Method [APP-183] and the Ecological Protection and Mitigation Strategy [APP-284]) and therefore is unable to comment further at the moment. Please also see NH's comments in relation to Requirement 7 and 8.
- **Article 41** – Trees Subject to Tree Preservation Orders: NH notes a potential reference error (Part 4 of Schedule 12 is cited but only Parts 1–3 exist). TPO42 is in close proximity to NH's network and NH's comments on cumulative impact apply. TPO7 is not referred to in Schedule 12 but is adjacent to the SRN, and the Applicant is requested to review Schedule 12 in light of the TPO and Hedgerow Plan (sheet 9 of 23). NH also has environmental mitigation commitments that may be affected. NH notes the comments on the reference error and will confirm agreement once NH has considered the updated Draft Development Consent Order submitted at Deadline 1.
- **Article 42** – Certification of Plans and Documents: NH reserves the ability to request the addition of any required plans or documents to those identified in Schedule 12. The Applicant's position is that the list in Schedule 13 is fixed and cannot be amended unilaterally. NH may have comments on those certified documents during the course of the examination, and the matter is to be kept under review.
- **Article 47** – Deemed Consent:- NH objects to the principle of deemed consent applying to any works on or under the SRN, given the safety implications of unreviewed works affecting the strategic road network.

5. Schedule 2 Requirements

- 5.1. NH's position is that it should be given the opportunity not merely to be consulted, but to review and agree the relevant documents and plans before they are discharged, to ensure that any changes do not adversely impact the Strategic Road Network (SRN). NH maintains that inclusion of its proposed drafting (shown in red in its Relevant Representations) would address its concerns in each case.

5.2. The Applicant's overarching response is that NH will already be a consultee where it is the relevant highway authority for the discharge of certain Requirements (namely Requirements 15 and 16), and that NH's involvement where its interests may be affected will be controlled by the Protective Provisions for its benefit contained in Part 5 of Schedule 15 to the draft DCO. The Applicant has stated that the management plans with the potential to impact the SRN are already captured. As set out above, the parties are progressing discussions in respect of the form of Protective Provisions.

5.3. **Requirement-Specific Positions**

- Requirement 3 (Approved Documents and Plans): Requirement 3 permits the undertaker to submit any amendments to any approved document to the relevant planning authority for approval and, following approval, the relevant approved document is to be taken to include the amendments approved under that Requirement.

The relevant planning authority must not approve any amendments to any approved document unless it has been demonstrated to the satisfaction of the relevant planning authority that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement. Sub-paragraph (3) indicates that "approved document" means any document certified under article 42 (certification of plans and documents, etc.) and any plans, details or schemes which have been approved pursuant to any requirement.

This could involve changes to the work plans and it is left to the planning authority to determine whether those changes will give rise to a materially new or materially different environmental effect. National Highways would expect to be consulted on that decision. This issue was raised in the Green Hill Solar Farm dDCO examination (Planning Inspectorate DCO Reference EN010170) which closed on 13 April 2026 and for which the Applicant is the same as for the Lime Down DCO. During the Green Hill Farm dDCO examination, the Applicant agreed to update Paragraph 1 of Schedule 16. The revised text of Schedule 16 is provided in **Appendix 1** to this Written Representation. The revised wording means that in relation to an application made under requirement 3 to amend an approved document, any body or authority that was required to be consulted in relation to the approval of that approved document is required again to be consulted.

NH require the same amendment to the Lime Down dDCO. The inclusion of such wording would mean that should an application be made to amend the Construction Traffic Management Plan, highway authorities are consultees and would need to be consulted on any application to amend. This change alone, however, does not meet NH's concerns regarding certified documents being amended and hence NH also require to be listed as a consultee in Requirement 3 itself.

5.4. Additionally, NH seeks to be consulted on the discharge of a wide range of Requirements, including Requirements 3, 7, 8, 10, 11, 13, 14, in relation to matters relating to NH's statutory function.

- Requirement 5 (Details of Works Nos. 1, 2, 3 and 5a). NH requires amendments to Requirement 5 as set out in its Relevant Representations.
- Requirement 7 (Landscape and Ecological Management Plan)- NH requires the opportunity to review the landscape and ecological management plan, arboricultural assessment/tree protection measures, and any replanting proposals in respect of NH's soft estate.
- Requirement 8 (Ecological Protection and Mitigation Strategy): NH requires the opportunity to review the details proposed in the ecological protection and mitigation strategy.
- Requirement 10 (Means of Enclosure): NH requires the opportunity to review the details of any proposed fences, walls, or enclosures if within the vicinity of the SRN, for reasons of safety, liability, and maintenance, and to ensure compliance with paragraph 57 of DfT Circular 01/2022.
- Requirement 11 (Surface Water Drainage Scheme): NH requires the opportunity to review the details of the surface water and foul water drainage system to ensure the integrity of the SRN drainage infrastructure is not interfered with, and that plans accord with DfT Circular 01/2022. NH emphasises that no surface water run-off from the development shall be discharged into the SRN drainage systems and no new third-party drainage connections will be permitted.
- Requirement 13 (Construction Environmental Management Plan): NH requires the opportunity to review the CEMP to ensure appropriate safeguards are implemented and maintained, with consideration of potential impacts on the SRN.
- Requirement 14 (Operational Environmental Management Plan): NH requires the opportunity to review the operational environmental management plan to ensure the management of long-term environmental risks associated with the site and ongoing protection of the SRN.
- Requirement 15 (Construction Traffic Management Plan): NH requires the opportunity to review the details of the construction traffic management plan. The Applicant notes that NH was involved as a consultee during the preparation of the outline Construction Traffic Management Plan [APP-287]. NH's position is that it also needs to be a consultee on the final Construction Traffic Management Plan, rather than just the outline, as matters may change. It is understood this has now been agreed with the Applicant.

- Requirement 16 (Public Rights of Way and Permissive Paths): Whilst not included in NH's Relevant Representation, it has been agreed with the Applicant that NH as relevant highway authority will be consulted on the discharge of this requirement.
- Requirement 20 (Decommissioning Plan): NH requires the opportunity to review the decommissioning plan, including a transport assessment and construction environmental impacts, to ensure the decommissioning process will not adversely affect the SRN. The Applicant referred to its position on NH's involvement as a consultee on the various management plans, including the outline Decommissioning Strategy. NH's position is that it also needs to be a consultee on the final Decommissioning Strategy, rather than just the outline, since matters may have changed. It is understood this has now been agreed with the Applicant.

6. Schedule 16 (Discharge of Requirements)

- 6.1. NH's concerns in relation to Schedule 16 as set out in its Relevant Representation remains.

7. Traffic and Transport

- 7.1. NH note and accept that no further capacity assessment of the SRN is required. However, NH maintain the need for the Construction Traffic Management Plan (CTMP) under Requirement 15 and the rationale for changes to that requirement which NH considers necessary.

8. Statement of Common Ground

- 8.1. A draft Statement of Common Ground has been provided by the Applicant. NH have reviewed the same and have responded to the Applicant noting where matters are and are not agreed. Further discussions are ongoing.

Appendix 1

SCHEDULE 16

Article 47

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation

1. ~~(1)~~ In this Schedule—

“discharge” means any consent, agreement or approval required by—

- (a) a requirement;
- (b) a document referred to by a requirement; or
- (c) a document that has been approved pursuant to a requirement;

“requirement consultee” means—

(a) any body or authority named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement; and

(b) in relation to an application made under requirement 3 to amend an approved document (as defined in requirement 3), any body or authority that was required to be consulted in relation to the approval of that approved document; and

“start date” means the date of the notification given by the Secretary of State under paragraph 4(2)(b).

(2) In the event an application is made to discharge more than one consent, agreement or approval, this must be treated as though separate applications were made for the discharge of each consent, agreement or approval.