

**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 2: Comments on the Applicant's Comments received at Deadline 1A on National  
Highways Relevant Representations submitted on behalf of National Highways Limited**

---

## 1 INTRODUCTION

- 1.1 This document is submitted for Deadline 2 on behalf of National Highways ("NH") in respect of an application by Lime Down Solar Ltd (the "**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**"). This document sets out NH's comments on Document **PDA-009** entitled The Applicant's Response to Relevant Representations (Part 1) (EXAM/9.1) submitted by the Applicant at Deadline 1A in so far as those responses relate to NH's Relevant Representations [RR-3426].

## 2 NH'S COMMENTS ON THE APPLICANT'S COMMENTS ON NH'S RELEVANT REPRESENTATIONS (TABLE 3-5 PAGES 633- 749 OF PDA-009)

- 2.1 Where it was considered appropriate to do so, NH's comments on the Applicant's comments on NH's Relevant Representations have already been set out in NH's Written Representation [REP1-154]. The position is, therefore, just summarised below to assist the ExA on where matters stand. NH's Written Representation [REP1-154] should be referred to for full details of the outstanding matters. NH does not seek to respond to all matters at this stage, given that negotiations are ongoing. However, NH reserves the right to respond further should issues remain unresolved following discussions.
- 2.2 NH's comments on the Applicant's Comments on NH's Relevant Representations can broadly be divided into three key areas: (1) technical matters, (2) land and book of reference issues (3) response on DCO (including Articles, Requirements, Discharge of Requirements and Protective Provisions).

### Technical Matters

- 2.3 Discussions with National Highways technical teams about the geotechnical specification for directional drilling in relation to Works 5a 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).

### Land and Book of Reference Issues

- 2.4 Detrunked Roads (Plots 13-005 to 13-016, 20-001 to 20-003):- 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 however the latest Book of Reference [REP 1-012] still shows NH's interest but in orange font.
- 2.5 Side Roads Order Plots (Plots 21-004 to 21-007): 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 the subsoil, NH have no interest. If works are in the subsoil then agreement by way of an easement is required from NH. The Applicant is requested to provide NH details confirming the depth of the works.
- 2.6 Outstanding Information Requests: 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. Full details are set out in NH's Written Representations [REP1-154].

### DCO

- 2.7 **Protective Provisions:-** 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.

- 2.8 **Articles:-** 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 in section 4.1 of NH's Written Representations [REP1-154]. In relation to Article 41 it is noted that the cross referring error to Part 4 of Schedule 12 has not been corrected in the latest draft of the DCO [REP1-007]. Reference should be made to Part 3 not Part 4. In addition, it is noted that TPO7 is not referred to in Schedule 12 but is adjacent to the SRN. The Applicant is requested to review Schedule 12 in light of the TPO and Hedgerow Plan (sheet 9 of 23). It is noted that the Applicant has not responded on these points and has not updated the latest draft of the DCO [REP1-007].
- 2.9 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.
- 2.10 **Requirements:-** NH seeks not merely to be consulted but to review and agree the relevant documents and plans before Requirements are discharged, to ensure no adverse impact on the Strategic Road Network (SRN). The Applicant's response is that NH will already be a consultee where it is the relevant highway authority (Requirements 15 and 16), and that the Protective Provisions in Part 5 of Schedule 15 adequately protect NH's interests. The Applicant has stated that the management plans with the potential to impact the SRN are already captured. Discussions on the form of Protective Provisions are ongoing. NH's position is, however, as follows:
- 2.11 Requirement 3 (Approved Documents and Plans):- NH raises a specific concern that amendments to approved documents are left to the planning authority to assess, without NH being consulted. NH points to a precedent from the Green Hill Solar Farm DCO examination (same Applicant), where it was agreed that any body consulted on the original approval must be re-consulted on amendments. NH seeks the same amendment for the Lime Down DCO which would mean 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. The inclusion of such wording would mean that should an application be made to amend the CTMP, highways authorities are consultees and would need to be consulted. This change alone however does not meet NH's concerns regarding certified documents being amended and hence NH also require to be a named consultee in Requirement 3 itself.
- 2.12 Other Requirements Where NH Seeks Consultee Status: NH seeks to be consulted on a wide range of Requirements relating to its statutory function, including:
- Requirement 5 – Details of Works Nos. 1, 2, 3 and 5a (amendments as per 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.

- Requirement 10 – Means of enclosure near the SRN - NH requires the opportunity to review the details for reasons of safety, liability, maintenance, and compliance with DfT Circular 01/2022).
- Requirement 11 – Surface Water Drainage Scheme – NH requires an opportunity to review to protect SRN drainage infrastructure, ensure plans accord with DfT Circular 01/2022, to prevent any discharge into SRN systems and to ensure no new third party drainage connections are permitted.
- Requirement 13 – CEMP, to ensure safeguards for 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 – Final Construction Traffic Management Plan (not just the outline). NH's consultee role as relevant highway authority is understood to have been agreed however we are unable to identify the corresponding change in the latest dDCO **[REP1-007]**.
- Requirement 16 – Public rights of way and permissive paths. NH's consultee role as relevant highway authority is understood to have been agreed however we are unable to identify the corresponding change in the latest dDCO **[REP1-007]**..
- Requirement 20 – Final Decommissioning Strategy (not just the outline). NH's consultee role as relevant highway authority is understood to have been agreed and a change has been made to the dDCO **[REP1-007]**.in this regard.

2.13 Schedule 16 (Discharge of Requirements): It is noted that the latest dDCO **[REP1-007]** includes the change NH requires.

2.14 Traffic and Transport: NH accepts that no further capacity assessment of the SRN is required but maintains its position on the need for the CTMP under Requirement 15 and the rationale for its proposed changes to that Requirement.