



Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

Application by The Drovers Solar Farm Limited for an Order granting Development Consent for The Drovers Solar Project

Planning Inspectorate Reference Number: EN0110013

SUMMARY OF ORAL REPRESENTATIONS MADE ON BEHALF OF NATIONAL HIGHWAYS AT COMPULSORY ACQUISITION HEARING 1

1 INTRODUCTION

- 1.1 This document is a summary of the oral representations made on behalf of National Highways ("NH") at CAH1 held on Wednesday 9th September 2026 at 2.15pm.
- 1.2 In preparing the summary below, as neither the transcript nor the recording of the hearing is available online prior to the required submission deadline, NH has sought to rely on its recollection of the discussion at CAH1. Accordingly, NH respectfully reserves the right to amend or supplement the above summary of oral submissions, if appropriate, at Deadline 5.

Agenda Item		NH's Response
Item 3C	Statutory Undertakers Any Statutory Undertaker or other relevant body in attendance and wishing to speak in relation to an objection or issue raised that is relevant to the effects of the proposed development on its undertaking, apparatus or land will be invited to put oral submissions to the ExA.	The Applicant seeks temporary possession powers over eight National Highways plots which form part of the Strategic Road Network (SRN) near the A47 junction with the A1065. National Highways' position is that these powers are neither necessary nor proportionate, and the NH plots should be removed from the Book of Reference. The Applicant has confirmed that powers sought are limited to temporary rights to facilitate AIL movements during construction. – specifically, the removal of street furniture, verge reinforcement, or temporary widening. While the highway would be reinstated after delivery, the precise extent of works will not be known until post-consent, when a contractor is appointed and the specific vehicles to be used is known. The Applicant is therefore seeking compulsory powers over the SRN without being able to identify the specific works for which those powers are said to be needed. Alternative to CA/TP NH maintains that an available alternative exists. Works of this kind are routinely managed through National Highways' standard AIL notification processes - ESDAL (Electronic Service Delivery for Abnormal Loads) and can be authorised by agreement under NH's protective provisions (PPs) or via a mini section 278. This is how such works are ordinarily dealt with on the SRN. National Highways does not object to the Applicant obtaining

		access by this means, and for the required temporary works to be implemented once understood and agreed. There is therefore no impediment to the development proceeding without temporary possession powers in the DCO. This approach has been adopted in practice. In the Hornsea Project Three Offshore Wind Farm DCO, the Applicant did not acquire temporary possession rights over the SRN for AIL. Instead, it entered into a mini section 278 agreement to secure AIL movements, with the works carried out by National Highways' maintenance contractor, which is NH's preferred approach for what is essentially maintenance activity. Necessity and Proportionality There is no express statutory test for temporary possession equivalent to sections 122 and 123 of the Planning Act 2008 for compulsory acquisition. However, paragraph 5.8 of the DCLG guidance, <i>Guidance on Preparing an Application: Part 2 — Application Contents</i>, is clear: the Statement of Reasons should explain why temporary possession powers are <i>necessary and proportionate</i> to enable the development to proceed without impediment. The Applicant fails that test on both limbs. The powers are not <i>necessary</i>, because a well-established alternative mechanism exists and National Highways is willing to facilitate access through it. They are not <i>proportionate</i>, because the works are — on the Applicant's own account — limited, temporary, and confined to the construction phase. Seeking compulsory powers over the SRN for works of this character, when they can be authorised by agreement, is clearly disproportionate. A preference for compulsory powers on a precautionary basis, where the Applicant cannot identify the works requiring them, does not satisfy the threshold. Conclusion
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		Whilst PPs are being negotiated between the Applicant and NH, NH maintains that even with the PPs in place, TP powers are still not justified. The works are limited, temporary, and deliverable through National Highways' established processes — as was done in the Hornsea Three DCO. The Applicant has noted that once Protective Provisions are agreed between the Applicant and National Highways, National Highways will be in a position to withdraw its objection. That is not the case. National Highways' position will remain that it considers that the temporary possession powers sought, for the reasons set out above, do not meet the statutory tests. National Highways therefore invites the Examining Authority to conclude that the temporary possession powers are neither necessary nor proportionate and should not be included in the Book of Reference. In response to the ExA's query regarding whether the removal of National Highways' plots from the Book of Reference would also necessitate a corresponding amendment to the Land Plans to remove the relevant National Highways plots (being the A47 junction with the A1065), NH confirmed that this would be the case. In response to the above, the Applicant suggested that there are a number of other DCOs in which National Highways has agreed to temporary possession powers over the SRN, and the Applicant provided a list of examples. In response, NH confirmed that the DCO examples provided by the Applicant would need to be considered further to ensure parity. However, in the first instance, NH noted that certainly the London Luton Airport Expansion DCO is not comparable, as it did not involve temporary maintenance-type works and did not relate to AILs, instead concerning access to NH land to construct permanent SRN mitigation works. <u>Post Hearing Note:-</u> Notwithstanding the comment above in relation to reviewing the Applicant's list of examples of other projects where NH has agreed to temporary possession, it is noted that the Applicant referred to both the proposed Lime Down Solar DCO (currently at examination) and the Yorkshire Green Energy Enablement Project DCO. In relation to Lime Down Solar the only works affecting the SRN relate to a crossing of the M4 with an underground cable. There is no other NH operational land involved.
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		Accordingly, the DCO is therefore for the construction of permanent works under the SRN and is therefore not comparable with the situation at the Drovers. In relation to the Yorkshire Green Energy Enablement DCO, the works affecting the SRN all relates to access for permanent over head line works, which again, is not comparable with the proposals relating to the Drovers. None of the examples quoted provide a suitable comparison as they relate to permanent works on NH operational land, as opposed to temporary works of a maintenance nature, with scope unknown pre-consent, and where an alternative established mechanism exists.
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