

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

**NORWICH TO TILBURY DEVELOPMENT CONSENT ORDER**

**PINS REFERENCE EN20027**

---

**WRITTEN SUBMISSION OF ORAL  
REPRESENTATIONS MADE ON BEHALF OF  
NATIONAL HIGHWAYS LIMITED AT CAH2**

---



## INTRODUCTION

This is a written submission made on behalf of National Highways Limited in respect of oral submissions made at the Compulsory Acquisition Hearing 2 Day 2 on Thursday 30 April 2026.

| <b>Individual Site Representations</b> |   |
|--|---|
| <b>Agenda Item 3</b>                   | <p>Each affected person (AP) who has indicated a wish to speak will be invited in turn by the ExA to speak. Following each submission the applicant will be provided with a right of reply and the ExA may wish to ask the speaker and/ or applicant questions. The ExA will ask the following from each affected person:</p> <p>a) For an outline of the current scope of objections, taking account of any progress in negotiations with the applicant.</p> <p>b) Whether compulsory acquisition (CA) and or temporary possession (TP) powers (or both) are objected to and (with reference to the statutory tests and applicable guidance) why?</p> <p>c) What relief is sought?</p> <p>d) Whether there are any issues of hardship or requests for non-statutory relief, and if so, the basis for these and any practice precedents.</p> <p>e) Where relevant, whether the Human Rights Act and/ or the Public Sector Equalities Duty are engaged and what considerations emerge from this?</p> |
|  | <p><b>Taking items a) and b) of this agenda item together:</b></p> <p>The current scope of National Highway's objection as strategic highway authority can be outlined as follows:</p> <p>The current Book of Reference includes approximately 154 plots of land owned or occupied by NH for the purposes of its undertaking in respect of which compulsory acquisition powers are sought.</p> <p>The compulsory acquisition powers sought are described in the book of reference as</p> <ul style="list-style-type: none"><li>• Permanent Acquisition of Land,</li><li>• Acquisition of Rights: for Overhead Line, Underground Cable Systems and separately for Drainage and Temporary Use</li></ul>   |

The land plots which are operational land constitute land acquired by National Highways for the purpose of maintaining its statutory undertaking. These plots are therefore subject to section 127 of the Planning Act 2008 which provides that:

An order granting development consent may include provision authorising the compulsory acquisition of statutory undertakers' land *only to the extent that the Secretary of State is satisfied that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking*, or if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.

National Highways object to the compulsory acquisition of operational land which is required by National Highways to ensure that the safe and efficient operation of the Strategic Road Network can be maintained. If such land were to be compulsorily acquired it could cause serious detriment. NN need to be in control of its highway and subsoil. As will also be explained compulsory acquisition is, however, not in fact necessary.

A detailed review of the plots has been undertaken by National Highways and this has been provided to National Grid. It is apparent from that review that the proposed permanent land take plots fall into the following categories:

First, land which is currently National Highway's managed highway and required for highway works to the SRN or widening works as part of the Applicant's proposals – such works are authorised by the DCO subject to protective provisions which ensures that National Highways approve the detail of those highway works and National Highway's road space booking requirements are followed.

Second is land which is not highway but is owned by National Highways and is required for Strategic Road Network widening as part of the Applicant's proposals. This land does not need to be acquired only to be transferred back to National Highways. Again, access to this land can be granted by National Highways through the protective provisions and by agreement.

There is no need for the plots in these 2 categories to be compulsorily acquired – they are either part of the SRN or land which National Highways own that will become part of new SRN. The inclusion of these plots in the Book of Reference is not necessary or proportionate as required by the Planning Act Compulsory Acquisition Guidance. National Highways will set out the particular plot numbers in its further written representations so that the ExA have these.

In terms of the Acquisition of rights, National Highways understand that there is a single plot relating to undergrounding of cabling, the other rights are for overhead lines. Again the majority of the plots relate to operational highway which forms part of the Strategic Road Network. Rights are not in fact required for the overhead lines over highway land or for undergrounding of cabling as the National Grid have statutory powers under section 50 of the New Roads and Street Works

Act to install, maintain and repair apparatus in a public highway (which includes carriageway, verge and footway). Section 105 of the New Roads and Street Works Act confirms that references to "in" a highway include a reference to works, apparatus or other property under, over, across, along or upon it.

National Grid can undertake the overhead line works without compulsory acquisition and so again the inclusion of these plots is not necessary or proportionate as required by the CA guidance.

Depending on the depth of the single underground cable that may require an easement but again National Highways are prepared to grant that easement by consent and is willing to negotiate terms.

Within the land over which rights are to be secured, there are plots where National Highways' ownership is historic. The relevant roads have been detrunked which means that ownership has in fact passed to the local authority but the transfer of that ownership has not been registered at the Land Registry. The Applicant is to update the Book of Reference accordingly. As this land is non-operational land National Highways can agree to transfer any interest it does retain by agreement. Compulsory acquisition is not necessary.

When it comes to temporary possession National Highways would expect to permit access subject to its usual arrangements for permitting works on the highway having followed the procedures in its template protective provisions.

**Item c relates to the relief National Highways is seeking**

National Highways would like to see the Book of Reference updated to remove land which is operational highway. The protective provisions included in the dDCO at part 5 of Schedule for the benefit of National Highways at least need to be revised so that paragraph 7 headed "prior approvals and security" requires National Highway's consent before any powers of compulsory acquisition or temporary possession under Articles 24, 25, 26, 27 and 28 are exercised.

National Highways must have control over the operations being carried out on its network. This is critical from a safety perspective and to maintain the integrity of the asset. Therefore, the applicant should be required to obtain NH's consent in the event the activities affect the strategic road network or any land NH has an interest in. As a public body, NH is under a duty to act reasonably in providing such consent and this is expressly provided for in the protective provisions.

**In terms of items d) issues of hardship or requests for non-statutory relief and item e) Human Rights and the Public Sector Equality Duty:**

National Highways do not raise any issues under these items.

|  |   |
|--|---|
|  | <p>In response to NH's above submission, the Applicant confirmed that there have been detailed discussions between the parties on each of the plots and that the Applicant and NH are seeking to agree a way forward via protective provisions and a side agreement. The Applicant also indicated that there is also a point outstanding regarding an easement for the underground crossing of the A12 and in relation to the use of the powers in S50 of the New Roads and Street Works Act and that further discussions are required.</p> <p>NH also confirmed that negotiations in relation to Protective Provisions are progressing well but that matters remain to be concluded between the Parties. NH confirmed it would be maintaining its objection until satisfactory Protective Provisions and a side agreement were in place.</p> |
|--|---|