



Norfolk County Council

ISH3 post-hearing submission

Norwich to Tilbury

(EN020027)

Table 1: NCC's post hearing summary of oral submissions at ISH3

Issue	NCC comment
4 Change Requests	NCC has no comment on the change request.
5 DCO	<i>5.1 Articles and Schedules of the draft DCO</i> <i>Use of the term 'unreasonably withheld or delayed'</i> NCC agrees with the applicant's contention in their written summary of oral submissions for ISH2 [REP4-302] that the delivery of the authorised development should not be held up unreasonably. In paragraph 3.5 of NCC's relevant representation, the County Council noted that if deemed consent provisions are included, then NCC considers the requirement for consent not to be 'unreasonably withheld or delayed' is redundant. Besides which, NCC is already prevented from making decisions in an 'unreasonable' way by the ordinary principles of public law. However, its redundancy means that it is not particularly objectionable. <i>Article 10: What differentiates the DCO being sought from other DCOs, Additional sub-paragraph on the prevention of enforcement action for the purposes of Article 10(2)</i> NCC defers to South Norfolk District Council on matters relating to enforcement because part 8 (enforcement) of the Planning Act 2008 specifies that, for the purposes of that part, the relevant local planning authority is the district planning authority. <i>Part 5 (Acquisition and Possession of Land) Articles 24-46</i> NCC has no comment to make on this item and defers to relevant authorities. <i>Article 48 (Defence to proceedings in respect of statutory nuisance)</i> NCC has no comment to make on this item and defers to relevant authorities. <i>Article 50 (Felling and Lopping)/ Article 51 (Trees subject to TPOs)</i> NCC has no comment to make on this item and defers to relevant authorities. <i>Article 56 (Safeguarding)</i> NCC has no comment to make on this item and defers to relevant authorities.

Schedule 16 Protective Provisions

Paragraph 3.11 of the Relevant Representations outlined that NCC notes the inclusion of protective provisions for the protection of drainage and flood authorities (in part 3) and for the protection of the highway authorities (in part 4). Neither set of protective provisions have been agreed with NCC.

In the case of the flood authority provisions, negotiations had been ongoing with the developer since August 2025. In April 2026, we communicated to the applicant's legal team that due to remaining disagreements, we consider that it would be more appropriate to use the existing statutory regime under section 23 of the Land Drainage Act 1991.

Section 150 of the Planning Act 2008 provides that a DCO "may include provision the effect of which is to remove a requirement for a prescribed consent or authorisation to be granted, **only if the relevant body has consented** to the inclusion of the provision", "the relevant body" being the person or body which would otherwise be required to grant the prescribed consent or authorisation (emphasis added).

Schedule 17 (and article 58) of the draft DCO have the effect of removing the requirement for consent included in section 23 of the Land Drainage Act 1991. Since NCC is the body which would otherwise be required to grant that consent, our consent to remove that requirement is necessary.

Because we are content with the existing statutory regime, and we do not consider that sufficient progress has been made on the significant outstanding drainage issues, we do not consent to the disapplication of section 23 of the Land Drainage Act 1991, and the need for protective provisions falls away. This position was communicated to the applicant in April 2026.

Following ISH3, NCC and the applicant resumed discussions on our outstanding issues. The applicant has provided NCC and the other LLFAs with a draft of the protective provisions which seeks to address our issues. NCC is hopeful that these can be agreed by deadline 7.

In relation to the highway authority protective provisions, The local highways authorities are negotiating with the applicant on a 'twin-track' basis, with SCC and NCC working on protective provisions and ECC and Thurrock Council working on a Framework Highways Agreement. In NCC's view, either legal form is acceptable and we are hopeful that agreement on one or both form can be reached by deadline 7.

5.2 Schedules 3 and 4 of the draft DCO – (Schedule 3 – Requirements and Schedule 4 (Discharge of requirements))

Schedule 3: Requirements

Requirement 5 (Archaeology)

NCC is broadly content with the changes to requirement 5 introduced by the applicant at deadline 5.

Requirement 7 (Construction Hours)

NCC has no comment to make on this item and defers to relevant authorities.

Requirement 12 (Design of Permanent Building)

NCC has no comment to make on this item and defers to relevant authorities.

Requirements related to: i) Management Plans and Commitments ii) Management Plans to be approved iii) Mitigation of intra-project cumulative effects iv) The provision of as built details to relevant local authorities

NCC has requested that a construction surface water management plan should be secured by a new requirement (with text proposed in NCC's LIR), but NCC would also be content for the construction surface water management plan to be added as a relevant plan under requirement 4 (Construction management plans). Currently, the applicant suggests that the outline code of construction practice requires the production of a surface water management plan (commitment GG22 of [\[REP5-139\]](#)). NCC is not content with this because the drainage strategy (with which the surface water management plan must be substantially in accordance) is not suitable in its present form.

Schedule 4 (Discharge of Requirements)

NCC agreed with submissions made by

Update Regarding Validation Checklists for Submissions

NCC has no comment to make on this item and defers to the discharging authorities.

5.3 Article 60 and Schedule 19 of the draft DCO- Certification of plan

Update on Plans and/or documents to be certified

NCC has no comment to make on this item and defers to the relevant authorities.



Issue	NCC comment
	<i>5.4 Consents, Licences and Other Agreements</i> Please see discussion of highways and LLFA protective provisions at agenda item 5.1. The need for a highways agreement may be satisfied by suitable protective provisions if these can be agreed by deadline 6. NCC will consent to the disapplication of § 23 of the Land Drainage Act 1991 only if suitable protective provisions can be agreed.



Table 2: NCC's response to the ISH3 action points.

Action Point		NCC comment
9	Schedule 4 (discharge of requirements): - as referred to by Suffolk CC, noting its response to the Sea Link DCO (Sea Link examination library reference [REP7-366]), the applicant and all local authorities are to provide a revised draft of Schedule 4 (Discharge of Requirements). This must include provisions enabling the secretary of state to call in any submissions made to a relevant discharging authority which seek to discharge requirements either in whole or in part. - it would assist the examining authority if a collaborative approach could be undertaken by all local authorities with a view to providing a single preferred set of revised wording to Schedule 4 for deadline 6.	NCC has discussed the approach to Schedule 4 with SCC and we are content that their proposed approach is the clearest way forward. We agree with them that the 'call-in' provision should be included as a new article in the DCO and we agree with the wording proposed by SCC.