

A46 Newark Bypass

TR010065

Applicant's Summary of the Issue Specific Hearing 3 (ISH3)

Rule 14(3)

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Infrastructure Planning (Examination Procedure)
Rules 2010

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(Examination Procedure) Rules 2010**

A46 Newark Bypass
Development Consent Order 202[]

Applicant's Summary of the Issue Specific Hearing 3

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Issue Specific Hearing 3: The Water Environment – 4 December 2024

Applicant's responses to Representations made at Issue Specific Hearing 3 (ISH3) held on Wednesday 4 December 2024 at 14:00

1.1 INTRODUCTION

The ISH3 for the A46 Newark Bypass Scheme (DCO) application was held at The Great Hall, The Renaissance at Kelham Hall, Main Street, Newark NG23 5QX on Wednesday 4 2024, commencing at 14:00. Participation was possible virtually on Microsoft Teams as well as by attendance in person.

This document summarises the responses made at ISH3 by the Applicant and addresses the representations made by Affected Parties, Interested Parties and other parties attending.

The Applicant has responded to the topics raised by each of the attending parties in the sequence that the Examining Authority (ExA) invited them to speak. It provides cross references to the relevant application or examination documents in the text below.

At the conclusion of the hearing the ExA confirmed the following list of actions:

1. The Applicant to, in context of the meaning of reducing flood risk overall confirm National Highways remit to address existing problems and flood risk overall.
2. The Applicant to clarify if the increased water levels affecting Nottingham to Lincoln railway line would affect its operation.
3. The Applicant and Host Authorities to review the Defra Asset management website that appears to show other flood defences maintained privately or by Councils and confirm whether these are affected by the scheme and if not explain why not relevant.
4. The Applicant to confirm consultees in relation to Requirements 13 and 15.

The Applicant's responses to each action point are detailed at Appendix 1.

1.2 POST-HEARING SUBMISSIONS IN RESPONSES TO MATTERS RAISED AT ISH3

Item	Comment/Representation by:	Questions/Issues Raised at the ISH3	Applicant's summary written Response at ISH3
Agenda # 1 Welcome, introductions and arrangements for the Hearing			
1.1	Applicant	Introductions	<p>The Applicant was represented by the following individuals:</p> <ul style="list-style-type: none"> • Sarah Holmes – Legal Director at Womble Bond Dickinson (UK) LLP and legal advisor to the Applicant • Emma Harling-Phillips – Partner at Womble Bond Dickinson (UK) LLP and legal advisor to the Applicant • Olly Evans - Flood Risk Specialist, Mott MacDonald • Clare Postlethwaite – Water Environment Specialist, Mott MacDonald • Mark Sutton – Project Technical Director Skanska – speaking to agenda items 3(c) and (e) on the agenda • John Bowes – Chartered Civil Engineer, Mott MacDonald
1.2	<i>Other appearances</i>		
1.3	<p>Newark and Sherwood District Council (NSDC) was represented by the following individuals:</p> <ul style="list-style-type: none"> • Lindsay Preston – speaking mainly on the timing of delivery of floodplain compensation and impacts on Tolney Lane • Matthew Tubb – speaking to agenda item 3(f) 		
1.4	<p>Nottinghamshire County Council (NCC) was represented by the following individuals:</p> <ul style="list-style-type: none"> • Sue Jakes – Flood risk manager • Ross Marshall – Lead Local Flood Authority (LLFA) • Kevin Sharman – Transport Lead Officer 		

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1.5	The Environment Agency (EA) was represented by the following individuals: <ul style="list-style-type: none">• Alex Hazel – Planning specialist in the EA's National Infrastructure Team and Project Lead for the EA's involvement in the A46 Application• Sian Holland – flood risk specialist in the EA's National Infrastructure Team• Phillip Sale – Flood Risk Modelling Specialist in the EA's National Infrastructure Team		
1.6	Martin Shapley – Think Again Winthorpe Action Group – confirmed that he does not wish to speak as there are no agenda items that relate to his issues.		
1.7	Christopher Cook – representing Peridot solar – issue to raise on agenda item 3(a).		
Agenda #2 Purpose of the ISH3 and ExA Opening remarks			
2.1	The application for development consent includes matters that will directly and indirectly impact on various elements of the water environment, these include: potential flood risk, surface water management, and interaction with existing flood defences. The purpose of the hearing is to enable the ExA to hear and probe the Applicant's case in respect of the water environment including examining whether the policy tests in the National Planning Policy Framework (NPPF) have been met. The ISH3 will focus on technical matters relating to the water environment. The ExA confirmed that they have read all the Deadline 3 submissions but that they may have missed some of the detail. The ExA are content for the party being questioned to direct them to written submissions if they sufficiently answer the questions raised.		
Agenda # 3 The Water Environment			
Agenda Item 3(a) - The potential for an increase in fluvial flood risk considering the positions of both the Environment Agency (EA) and the Lead Local Flood Authority (LLFA).			
3(a).1	Examining Authority	The ExA sought clarification and explanation on the potential for an increase in fluvial flood risk considering the position of both the Environment Agency (EA) and the Lead Local Flood Authority (LLFA)	The Applicant confirmed that there is ongoing consultation with the EA and noted that there has been positive collaboration between the parties to date. Two technical notes have been produced by the Applicant for the EA and both were submitted at Deadline 3:

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Item	Comment/Representation by:	Questions/Issues Raised at the ISH3	Applicant's summary written Response at ISH3
		<p>The Applicant is requested to provide an update on discussions with the EA with respect to the Hydraulic Modelling Technical Note [REP3-034] submitted at Deadline 3.</p>	<ul style="list-style-type: none"> Hydraulic Modelling Technical Note [REP3-034]: this provides additional details on the fluvial hydraulic modelling to support the Flood Risk Assessment (FRA) [APP-177]. Floodplain Compensation Areas Technical Note [REP3-035]: provides further information on the Floodplain Compensation Areas (FCAs) assessment and design. <p>The Applicant noted that the purpose of these documents is to provide additional detail and context to the FRA [APP-177] and confirmed that the information provided in both Technical Notes does not change the conclusions of the FRA [APP-177].</p> <p>The Applicant confirmed that at this time further investigations are ongoing with regards to increases above the 10mm modelling tolerance in certain lower return period flood events, which the Applicant believes are due to modelling uncertainty. The results will be consulted on with the EA. . The Applicant will provide an update to the Examining Authority by Deadline 5 in relation to this.</p>
3(a).2	Lindsay Preston on behalf of NSDC and Kevin Sharman on behalf of NCC.	<p>NSDC advised that its main concern is surface water flooding, as seen during the flood event in 2023. NSDC requested to be involved in the progression of the discussions with the EA and the LLFA on the issues raised by the EA in the Technical Notes.</p> <p>NCC confirmed they would also like to be involved in the technical details and have forwarded the Technical Notes onto their</p>	<p>The Applicant agrees to work collaboratively with the EA, NCC and NSDC and to include a summary of this engagement to date with these parties in the Deadline 5 update.</p>

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Item	Comment/Representation by:	Questions/Issues Raised at the ISH3	Applicant's summary written Response at ISH3
		consultants to review. LLFA want to work with the EA to ensure the response of the EA and the LLFA is consistent.	
3(a).3	Lindsay Preston on behalf of NSDC	NSDC advised that if there should be any substantial changes to the flood compensation schemes (particularly around Kelham and Averham), or additional compensation measures being proposed or changes in run-off or degrees of impact then they would want to be involved in those discussions.	The Applicant confirmed that it is not anticipating any fundamental changes to the outcomes of the FRA [APP-177]; including no changes to the flood mitigation requirements. The Applicant anticipates that there will be no new significant effects and in the fluvial flood design event of 1% Annual Exceedance Probability (AEP) plus 39% Climate Change allowance there will be no increase beyond the 10mm modelling tolerance for vulnerable receptors.
3(a).4	ExA	Referred to FRA [APP-177] page 60, and queried increases in water levels shown in the FRA at certain locations.	The Applicant confirmed that there would be no increases greater than the 10mm modelling tolerance at vulnerable receptors for the design event (1% AEP plus Climate Change). Localised modelled changes greater than 10mm to less vulnerable receptors are itemised in Paragraphs 8.2.3 to 8.2.14 of the FRA [APP-177], which, other than at FCA locations, are attributed to modelling uncertainty. The Hydraulic Modelling Technical Note [REP3-034] provides more context and details of the sensitivity testing undertaken to demonstrate issues relating to modelling uncertainty. Paragraph 3.3.1 and Figure 6.1 of the Hydraulic Modelling Technical Note [REP3-034] further clarifies the location of the 0.02m (20mm) modelled increase in flood depth in the vicinity of Cattle Market. There is ongoing engagement between the Applicant and the Environment Agency in relation to localised sensitivity testing and modelling uncertainty.
3(a).5	Phillip Sale on behalf of the EA	The EA confirmed that they agree with the Applicant that in the design event (1 in 100 year plus Climate Change allowance) the Scheme does not increase flood risk to receptors outside of the order limits.	The Applicant agreed with the ExA that the Deadline 5 submission will make significant progress in reaching agreement with the EA, NCC and NSDC.

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Item	Comment/Representation by:	Questions/Issues Raised at the ISH3	Applicant's summary written Response at ISH3
		<p>The EA clarified that the 10mm figure quoted relates to the Design Manual for Roads and Bridges (DMRB) but also relates to the precision or capability of the hydraulic model to forecast impacts effectively as a result of the Scheme.</p> <p>The EA's key concerns are in regard to more frequent flood events than the design event e.g. the 1 in 100 present day scenario and also the 1 in 20 and 1 in 30-year scenarios. The EA's concerns relate to offsite impacts as a result of the Scheme.</p> <p>The EA confirmed that the Hydraulic Modelling Technical Note [REP3-034] provided useful detail and extra context on flood risk in the more frequent events but the EA have sought further clarity from the Applicant on the 1 in 100 present day event. In particular, the EA is seeking further detail and evidence to support the case that the issues are caused by uncertainties in the hydraulic model.</p> <p>The EA have also requested further details on other off-site increases in the 20 and 30-year events that do not affect vulnerable receptors but do affect third party land</p>	

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Item	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's summary written Response at ISH3
		<p>which in the EA's view may require further mitigation or landowner engagement.</p> <p>NSDC and NCC confirm that they agree with the EA.</p>	

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Agenda Item 3(b) - How the Proposed Development satisfies the Sequential and Exception Tests in the NPPF.			
3(b).1		<p>The ExA sought clarification and explanation on how the Proposed Development satisfies the Sequential and Exception Test in the NPPF.</p> <p>The ExA confirmed that the focus of ISH3 is the Exception Test and requested the Applicant to summarise how the application meets the Exception Test.</p>	<p>The Applicant provided a cross-reference to the Applicant's response [REP3-036] to the matters raised in the EA Written Representation [REP2-043] which related specifically to flood risk elsewhere for the life of the Scheme.</p> <p>The Applicant confirmed that it undertook an assessment of reasonable alternatives (Assessment of Alternatives, Chapter 3 of the Environmental Statement [APP-047]). Five potential route options were assessed. Although there were route options that performed better for flood risk, the selected route was the best scoring for the Scheme objectives. The Applicant noted that, taking into account wider sustainability objectives, there are no other reasonably available alternatives to route the Scheme in areas of lower flood risk and this is why flood mitigation is proposed.</p> <p>As part of the Scheme design development, the requirement for floodplain compensation was minimised where possible, for example by implementing steeper embankment slopes to reduce encroachment in the floodplain, The Applicant confirmed that the FCAs have been designed in accordance with CIRIA C624 (FCA design best practice).</p> <p>The resulting FCAs provide more than the floodplain storage volume lost as a consequence of the Scheme with the overall gain being approximately 75% greater than the volume lost. The flood storage gain is provided by the three FCAs (Kelham and Averham, Farndon East and Farndon West). With the inclusion of these flood mitigation measures, the Applicant confirms that there are no flood depth increases greater than the 10mm modelling tolerance at vulnerable receptors for the fluvial design event as already agreed with the EA. The Applicant therefore considers that the Scheme passes the Exception Test with regards to not increasing flood risk elsewhere.</p> <p>The Applicant acknowledges the ongoing discussions with the EA and other risk management authorities in relation to the lower order return</p>

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			<p>period fluvial events with investigations ongoing at this stage into modelling uncertainties.</p> <p>In relation to flood risk for the life of the Scheme, the Applicant confirmed that due to the Scheme being raised, this ensures that it will not be impacted directly. The Applicant has performed a check event on an exceedance time period and can confirm in a 1% AEP event that the main carriageway remains operational, however some of the ancillary roads that are not raised could still potentially suffer localised flooding.</p>
3(b).2	ExA	The ExA requested that the Applicant explain how paragraph 170(a) of the NPPF is satisfied. i.e. that "the development would provide wider sustainability benefits to the community that outweigh the flood risk",	<p>The Applicant directed the ExA to the Case for the Scheme [APP-190] and advised that this sets out the case for the scheme and wider sustainability benefits to the community that it will bring. The Case for the Scheme [APP-190] includes reference to the Exception Test and the factors within the case that support that test.</p> <p>The Applicant acknowledges that the ExA will raise a written question on this point should they require any additional detail.</p>
3(b).3	ExA	<p>The ExA asked the Applicant to explain how paragraph 170(b) of the Exception Test is met, i.e. that the development will be:</p> <ol style="list-style-type: none"> safe for its lifetime taking into account the vulnerability of its users; without increasing flood risk elsewhere; and where possible will reduce flood risk overall. 	<p>Safe for the lifetime of the Scheme</p> <p>The Applicant refers to the FRA [APP-177] which details the impacts to the Scheme for the fluvial design event (1% AEP plus 39% climate change allowance). The Applicant confirmed that the main carriageway will not be impacted by fluvial flood risk and will be safe for the lifetime of the Scheme. The EA confirmed that it agrees with the Applicant that this part of the Exception test is satisfied.</p>
3(b).4	Lindsay Preston on behalf of NSDC	NSDC expressed their concerned that if there are local roads in the area which could be at increased flood risk as a result of the Scheme.	The Applicant confirmed that there will be no discernible change in the flood risk to the existing highway network as a result of the Scheme. There are no changes anticipated in the flood hazard receptors or no significant increases for the design fluvial event. The Applicant agreed to record this point in the Statement of Common Ground with NSDC [REP2-026] and NCC [REP2-036].

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3(b).5	ExA	<p>In response to Sue's Wright concern over whether the Applicant has considered the impacts to homes and businesses, the ExA explained that the Applicant looks at this. The Applicant is looking at the lifespan of 125 years and, as the ExA understands it, there will not be an increase of more than 10mm at those vulnerable receptors.</p> <p>The ExA clarified that reference to vulnerable receptors is reference to homes and businesses.</p>	<p>The Applicant explained that due to the scale and the size of the catchment area, it has developed a large-scale tool (approved by the EA) to assess flood risk impacts to several forms of receptors, including homes and businesses and within that model there's an accepted modelling tolerance of 10mm.</p> <p>The tool was developed to test extreme events (1 in 100 year plus climate change event). Looking at recent events in the area by way of comparison, Storm Henk was assessed by the Applicant as a 1 in 15 year flood event).</p>
3(b).6	ExA	<p>The ExA noted that the Limits of Deviation referenced in the Requirements is 1 metre upwards. The ExA asked the Applicant to confirm that the worst-case scenario has been assessed the in ES.</p>	<p>The Applicant has considered the Limits of Deviation and the hydraulic model tool used assessed the worst-case scenario.</p>
3(b).7	ExA	<p>Part 2 of the Exception Test requires the Scheme to not increase flood risk elsewhere.</p>	<p>The Applicant confirmed that, regarding the fluvial design event scheme, assessment of the potential impacts as a consequence of the Scheme focussed on the volume lost in the floodplain. The volume lost has been fully mitigated plus an additional 75% volume provided through the three FCAs. This is standard practice in flood mitigation when displacing fluvial flood water and therefore it is the Applicant's position that the flood impacts of the Scheme have been fully accommodated.</p> <p>The modelling tool used covers a large area and has been stress tested for extreme fluvial flood events in this catchment. As a result, the Applicant's position is that the modelled increases of flood depths up to 10mm are due to modelling tolerance rather than an actual increase in flood risk.</p> <p>The Applicant confirmed that in relation to page 60 of the FRA [APP-177], and those locations where small increases to flood risk are shown, the Applicant will provide a written response to the ExA's to confirm that this part of the Exception test can be met for Deadline 5.</p>

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			The Applicant confirmed that it will provide a response to the EA's comments on the Hydraulic Modelling Technical Note at Deadline 5.
3(b).8	ExA	<p>Part 3 of the Exception Test requires that where possible will reduce flood risk overall. The ExA noted the Applicant's response to the Written Questions but has not seen details of what measures have been considered and discounted. The ExA queried whether there are more local matters e.g. making existing culverts bigger, that could be looked as part of the scheme to alleviate local areas of flooding. The ExA also queried whether it is reasonable for the Scheme, considering the wording of the Exception Test, to take existing infrastructure and fix those existing problems.</p>	<p>The Applicant noted that whilst flood risk reduction is a desirable component of the Exception Test, it is not a mandatory requirement and confirmed that Appendix G of FRA [APP-177] provides the detail of the screening of 29 potential FCA sites. There was an extensive effort to optimise the locality of the FCAs. The Applicant (in the FRA Technical Note [REP3-034]) has undertaken an assessment of oversizing the Farndon FCAs for 1% AEP. However, this assessment showed negligible betterment to vulnerable receptors, with betterment only achieved in the area already benefiting.</p> <p>The Applicant is providing betterment as part of the Scheme, including the creation of wetland habitat located in Farndon West and in Farndon East as shown on the Environmental Masterplan [AS-025]. Figure 8.1 in the FRA [APP-177] shows areas where some form of betterment will be provided to more vulnerable receptors upstream and downstream of Windmill Viaduct, as a byproduct of the proposals.</p> <p>In the context of the meaning of "reducing flood risk overall", the Applicant considers that the purpose of the National Policy Statement (NPS) is what an Applicant can propose as part of a proposed development. . The extent to which the Applicant lawfully could seek to mitigate existing flooding problems over and above the predicted effects of the proposed Scheme involves several strands. It involves the question as to what measures the Secretary of State could lawfully take into account in the determination of the application and also National Highway's own functions and duties as a public body. However, the Applicant agreed to provide (at Deadline 5) a written response on this.</p> <p>The Applicant agreed to clarify if the increased water levels affecting the Nottingham to Lincoln railway line would affect its operation. This is to be provided at Deadline 4.</p> <p>The Applicant's response to this point can be found in Appendix 1 to this document.</p>

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3(b).9	Christopher Cook on behalf of Peridot Solar	Peridot Solar has an application for a solar farm and Battery Energy Storage System under consideration by NSDC which interacts with the Scheme. The EA has submitted a holding objection against the solar farm application regarding its concern as to the proposed culvert size which is being installed by the Applicant under the access track to the solar farm to ensure there is no increased risk of flooding onto the A617. Peridot Solar would like to ask the Applicant to address the EA's concern.	
3(b).10	Sian Holland on behalf to the EA	The EA noted that since the National Infrastructure team have been considering the application for the Scheme, they have raised concerns where the culverts and flood compensation areas overlap with the solar farm scheme. The EA's concerns relate to water flow in times of flood, both in terms of where water flows to the road but also whether there will be an increased risk to the solar farm going forward. Because of the overlap, the solar farm may need to be raised to a certain level to reduce the risk of inundations which is why the holding objection was placed.	<p>The Applicant is working with the solar farm developer regarding the overlap with the FCA. The Applicant's position is that the Kelham and Averham FCA 's function must not be compromised by the solar farm development, i.e. there must be 1) no loss of the flood volume capacity to accommodate water and 2) there should be no impediment to flows. The Applicant's position is that dual use should be achievable.</p> <p>The Applicant explained that there are five culverts enabling connectivity to the FCAs and these culverts have the ability to become wetted in a 5% AEP event with the flows discharging into the connecting ditch. The Applicant noted that there are three elements to the Kelham and Averham FCA:</p> <ol style="list-style-type: none"> 1. Land at Averham situated towards the Southwest; 2. Interconnected ditch which provides both conveyance and online capacity and online storage; and 3. Land at Kelham which provides additional flood compensation. <p>The Applicant confirmed that the connecting ditch would start to fill with water in a 3.33% AEP.</p> <p>In relation to the access track, the proposals are for an access track directly off the A617 that will crossover the interconnecting ditch section of the FCA and run in parallel to the A617 – this access track is proposed to have eventual dual use for the landowner and the solar farm developer to</p>

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			access. There would need to be a culvert under the access track and the Applicant will need to ensure the culvert is appropriately sized so that flows are not impeded as the FCA fills.
3(b). 11	NSDC	NSDC confirmed that they have received the application for the solar farm and the holding objection from the EA. Before the holding objection, the solar farm application was due to go to committee. NSDC confirmed that they have now received an amended plan that removes some solar panels from the FCA. NSDC confirmed that the EA will be consulted as part of that amended plan.	<p>The Applicant referred to Sheet 7 of the Works Plans [REP3-002] which shows the works areas in question as follows:</p> <ol style="list-style-type: none"> 1. Culvert under the A617 is Work no. 124. This provides hydraulic connectivity between the FCA and the existing ditch network towards the River Trent. 2. The Channel between A617 and works area 123 is the access road. 3. Works no. 122 is the access of A617 which provides access to the FCA and also provides an access to the solar farm. The culvert underneath Works no. 122 being referred to provides the free flow beneath both of the FCAs.
3(b). 12	Peridot Solar	<p>Peridot Solar confirmed that they are no longer proposing to deploy any solar in the FCA at all. Peridot Solar have also set solar development back from the culvert and have submitted a revised plan.. Seemed to be the most straightforward solution. Peridot Solar requested that the Applicant respond to the EA's concerns as soon as possible.</p> <p>The ExA thinks this is moving in the right direction.</p>	The Applicant agrees this is an evolving process but is leading to being resolved. The Applicant will respond to the EA's comments submitted at Deadline 3 and will also address phasing, however with the updated plans that are referred to by Peridot solar, it may be that the interface between the schemes has now been removed.
3(b). 13	EA	The EA noted that it is pleasing to see the progress being made on this issue and noted it is in dialogue with local sustainable places scheme. The EA agrees that the removal of solar panels will simplify this. The EA still require some clarity but once this has been received will be happy to move forward.	

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Agenda item 3(e) - Timing of the delivery and subsequent maintenance of the Flood Compensation Areas (FCAs).			
3(e).1	ExA	The ExA sought clarification and explanation on the timing of the delivery of the Flood Compensation Areas (FCAs).	<p>The Applicant confirmed that in its high level programme and what has been identified as pre-commencement works, the Applicant has identified that the culvert under the A617 is a key piece of infrastructure to be installed ahead of the main construction works and therefore has been identified in the Pre-Commencement Plan [APP-188].</p> <p>The Applicant confirmed that the requirement to ensure that there is no net loss to the floodplain during construction sits within commitment RDWE10 of the REAC table of the First Iteration Environmental Management Plan (FIEMP) [REP3-022] secures this. The Applicant will ensure that this is clarified in the response to the EA's written representation to be submitted at Deadline 4.</p> <p>Sheet 2 of the Works Plans [REP3-002] identifies two other FCAs (Farndon East and Farndon West). The Pre-Commencement Plan [APP-188] details construction accesses which will allow the Applicant to utilise the first earthworks season. The materials coming out of there will have beneficial reuse within the Scheme. The Applicant intends to utilise this material to construct the earthworks and prevent ever going into a deficit during construction. Any material that requires secondary storage will be stored in the area with the landscape bunds at Winthorpe. The Applicant is not storing material for long periods at the FCAs.</p>
3(e).2	ExA	The ExA acknowledged that this has been resolved	
3(e).3	ExA	The ExA referred to Figure 2.8 in NCC's LIR which relates to the red route and the roundabout connecting into the existing highway close to the FCA. NCC issue is whether the Scheme which includes the FCA might affect the delivery of the relief scheme. The ExA asked the Applicant to provide a response in relation to flood risk and whether NCC's aspirations can be accommodated.	The Applicant confirmed that the relief scheme would require additional flood compensation storage, and the roundabout would be within the Scheme's flood compensation storage area. The Applicant would expect the water storage volume to be displaced elsewhere as part of the NCC relief scheme. The Applicant agrees that there would be collaboration with NCC and the Scheme would not prejudice the relief scheme coming forward. The Applicant does not think there would be any constraints. The Applicant agreed to document these discussions in the Statement of Common Ground with NCC.

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Agenda Item 3(c) - How the proposal will interact and operate with the EA's flood defences.			
3(c).1	ExA	<p>The ExA requested further clarification and explanation on how the proposal will interact and operate with the EA's flood defences.</p> <p>The ExA noted several written responses have been received including from the EA, at Deadline 3 which describes the existing flood defences and how the scheme is interacting</p>	<p>The Applicant referred to the EA's most recent written representation submitted at Deadline 3. The EA would like to see cross-sections and drawings as to how the Scheme will interact with the existing flood defences. The Applicant appreciates the need to see those cross-sections and confirmed that these are being produced to provide comfort and clarity to EA at the proposed works at the two locations – Crees Land (Windmill Viaduct) and Cattle Market Roundabout.</p> <p>The Applicant will respond to EA's written representation and will set out what cross-sections can be provided. The Applicant will make these available to the EA for Deadline 5. Furthermore, the NCC SoCG will be updated for Deadline 5 in relation to the Scheme's interaction with flood defences.</p>
3(c).2	Sian Holland on behalf of the EA	<p>The EA need to see the detailed plans together with additional clarity as to why it will not be compromising existing structures</p>	<p>The Applicant will provide those plans to the EA to show how these structures will not be compromised.</p>
3(c).3	ExA	<p>The ExA referred to a number of flood defences along the A46 route within the Order Limits which are listed as being privately owned and maintained. The ExA asked the Applicant to clarify this and what the other flood defences mean for the scheme and whether they have been considered.</p> <p>The ExA requested the parties to look at the Defra asset management map on the website and those listed as flood defences and if not provide commentary on why not.</p>	<p>The Applicant explained that two key features within the Scheme relate to EA maintained embankments. The Scheme interacts with two EA flood defence bunds at Crees Lane (Windmill Viaduct) and the second at Cattle Market Roundabout. The Applicant understands these features are maintained by the EA. These have been included in the hydraulic model.</p> <p>The Applicant noted that the Defra asset management map has been updated in the last 4 weeks and there Defra been changes to entries on the webpage.</p>
3(c).4	ExA	<p>The ExA asked the LLFA whether it needs to check that there is any maintenance of any</p>	<p>The Applicant agreed and noted that they would review the early discussions of the Flood and Drainage steering Group regarding existing assets.</p>

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		active defences. NSDC are not aware of any structures.	There is an action on the Applicant (and the host authorities) to review the DefraAsset management website that appears to show other flood defences maintained privately or by Councils and confirm whether these are affected by the Scheme and if not explain why not relevant.
Agenda Item 3(d) - Surface water and groundwater quality monitoring through construction and operation through the life of the development.			
3(d).1	ExA	<p>The ExA asked for further clarification and explanation on surface water and groundwater quality monitoring through construction and operation through the life of the development.</p> <p>The ExA noted that this relates to matters raised by the EA and asked whether this is the agreed position.</p>	The Applicant confirmed that it has agreed the position with the EA. As detailed in the updated First Iteration of the Environment Management Plan (FIEMP) [REP3-022] there will be monthly monitoring of groundwater and surface water during construction and quarterly monitoring post-construction for one year.
Agenda Item 3(e) - Timing of the delivery and subsequent maintenance of the Flood Compensation Areas (FCAs).			
3(e).4	ExA	The ExA requested further clarification and explanation on the timing of the delivery and subsequent maintenance of the Flood Compensation Areas (FCAs).	<p>The Applicant will have maintenance responsibility during construction and operation. The Principal Contractor appointed by the Applicant will be responsible for maintenance during construction.</p> <p>The Applicant will be responsible for the implementation of the maintenance plans covering all aspects of the Scheme as well as FCAs. The maintenance plans will from part of the Third Iteration Environment Management Plan (EMP).</p>
3(e).5	Lindsay Preston on behalf of NSDC	NSDC noted that the FCAs would be installed prior to the start of construction in the flood plain and asked whether this is for both FCAs and asked whether those two sites are optimum for the land to be constructed in and whether this has that been considered. NSDC cannot see why the other 29 sites had been discounted and these are the best places for the FCA.	<p>In relation to the timing, the Applicant referred to Table 3-2 in the REAC of the FIEMP [REP3-022] and RDWE10. The Applicant will excavate before commencing works and these works will form part of the pre-commencement works.</p> <p>The Applicant confirmed that Appendix G of the FRA [APP-177] detailed the matrix in relation to all 29 sites and the various considerations and provided a scoring. That information was developed and finalised the three</p>

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			<p>selected sites. Further details are provided in Chapter 3 of the ES (Alternatives) [APP-047] which provides more context.</p> <p>The purpose of The Floodplain Compensation Areas Technical Note [REP3-035] is to provide more clarity and contains details in relation to the volume metric loss from a permanent and temporary perspective. It also provides some details regarding direct flood compensation for the higher bands. The proposals always ensure that the floodplain areas are in credit.</p>
3(e).6	NSDC	NSDC confirmed it is satisfied with the Applicant's response and will review the documentation	
Agenda item 3(f) - Flood compensation measures around Tolney Lane as referenced in the Newark and Sherwood District Council's (NSDC) Local Impact Report.			
3(f).1	ExA	The ExA requested further clarification and explanation on flood compensation measures around Tolney Lane as referenced in the Newark and Sherwood District Council's (NSDC) Local Impact Report.	
3(f).2	NSDC	NSDC explained that Tolney Lane is an area of substantial flood risk and is home to the Gypsy Roma Traveller Community who have 317 pitches across 18 sites with a single point of access and egress, which is within the floodplain. Due to a lack of reasonable alternatives elsewhere, NSDC are proposing GRT community pitches in the local plan. NSDC are developing a project called the Tolney Lane Flood Alleviation Scheme which is currently at high level design and is a named scheme within the funding. The scheme involves raising a section by 1m. The intention is to provide a dry access and egress. In addition to raising a section of the road, there would be the introduction of a flood wall, a culvert under the raised section, surface water drainage system and significant	<p>The Applicant confirmed that, as discussed in steering group meetings in 2022/2023, the Tolney Lane Flood Alleviation Scheme is not anticipated to be impacted by the Scheme proposals. The FCA proposed for the A46 is located away from the flood alleviation scheme.</p> <p>The Applicant will update the NSDC SoCG in relation to Tolney Lane for Deadline 5.</p>

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		<p>amount of floodplain compensation storage. The excavated volume and design will be confirmed once it is in more detailed stages</p> <p>NSDC noted that it is important that this can be delivered and NSDC anticipate it taking 3 years to complete including 12 months for construction.</p> <p>NSDC confirmed that it is currently looking to undertake the more detailed work leading into the planning consent process and is focusing on getting the strategy through the planning examination process.</p> <p>NSDC agreed to provide a briefing note setting out full details.</p>	
3(f).3	ExA	<p>The ExA asked the Applicant to comment on how the two might operate together.</p>	<p>The Applicant explained that there is a Statement of Common Ground [REP2-026] being progressed with NSDC. This will set out that the works to reduce the flood risk to the Tolney Lane community will not be not impacted by the Scheme. Investigations are ongoing into lower order level fluvial flood events, one of which is at Tolney Lane for the 5% AEP event. The Applicant suspects the increase in predicted flood levels for the 5% AEP is due to modelling uncertainty. The Applicant confirms that for the Design Fluvial event (1% AEP plus climate change allowance) from a change of flood risk perspective the Applicant has not made any impacts to Tolney Lane community.</p> <p>The FCAs do not prevent the ability for the proposed Tolney Lane scheme to proceed. The Applicant looked at the possibility of aligning the schemes during the early steering group meetings. However, owing to the locations of the two schemes and the different construction periods this was not feasible.</p>

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3(f).4	ExA	The ExA confirmed that this is a matter best dealt with through the SoCG process noting that this is difficult as the detailed design is not in place for the Applicant to respond.	
Agenda #4 Any other matters			
4.1	ExA	The ExA requested an update on discussions with EA about the Slough Dyke.	The Applicant confirmed that in the Hydraulic Modelling Technical Note [REP3-034], in relation to the realigned watercourse, it has undertaken a sensitivity test which included the realignment of Slough Dyke and the outcome demonstrated a15mm change in flood levels but within the watercourse itself. This is the only change as a result of the Scheme.
4.2	Sian Holland on behalf of the EA	The EA agreed that it is satisfied in relation to the flood risk sensitivity test but is looking for further detail. The EA is satisfied from a Hydraulic Modelling point of view that the realignment will not have any adverse effect on flood risk. The EA is requesting more detailed designs as to how to tie into existing channels.	The Applicant has confirmed that it is compiling more cross-sections to show tie in points to existing Slough Dyke. Once these have been consulted on with the EA they will be submitted into the Examination.
4.3	ExA	The ExA noted that during ISH1, Requirement 15 and the exclusion of the LLFA as consultee was discussed. The Applicant explained at the ISH1 hearing that this due to the definition of the LLFA functions. However the ExA noted that Requirement 13 refers to the EA and not the LLFA and sought clarity from the Applicant on this.	The Applicant will review the consultees listed in Requirements 13 and 15 and will respond in writing. Any changes will be reflected in the draft DCO for Deadline 4.
4.4	NCC	NCC would welcome being included on this list.	
	ExA	The ExA asked if there are any significant or fundamental outstanding drainage matters.	Pursuant to Requirement 15 in relation to the clarification the EA had provided on the 10mm flood risk threshold, the Applicant confirmed that no further amendments are required. The10mm flood risk threshold is in relation to the next phase of design and to ensure there is allowance of up to 10mm for that next stage.

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ISH3 concluded at 16:53.			

APPENDIX 1 – POST-HEARING RESPONSE TO ACTION POINTS ARISING FROM ISH3

Item	For	Action	Applicant's Response
1	Applicant	To, in the context of the meaning of reducing flood risk overall, confirm National Highways' remit to address existing problems and flood risk overall.	The Applicant will respond to this at Deadline 5 in line with the timetable provided by the ExA.
2	Applicant	To clarify if the increased water levels affecting Nottingham to Lincoln railway line would affect its operation.	<p>The Applicant confirms that the Scheme would not have a significant effect on the Nottingham to Lincoln railway line for any event, up to and including the 1%AEP plus climate change event.</p> <p>For lower order events (up to and including the 1%AEP), the railway does not flood in either the baseline or with-Scheme scenarios. For the 1%AEP plus climate change event, the railway section south of Cattle Market shows modelled flood depths of up to 0.60m (60cm) in the baseline, indicating that the railway would be unlikely to be operational in this event. However, changes in modelled flood depth as a result of the Scheme in this event are less than 0.01m (10mm) which is considered a negligible impact in accordance with DRMB LA 113 guidelines.</p>
3	Applicant and Host Authorities	To review the Defra Asset management website that appears to show other flood defences maintained privately or by Councils and confirm whether these are affected by the scheme and if not explain why not relevant.	The Applicant will respond to this at Deadline 5 in line with the timetable provided by the ExA.
4	Applicant	To confirm consultees in relation to Requirements 13 and 15.	The Applicant has updated Requirements 13 and 15 to include the Lead Local Flood Authority in the draft

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			Development Consent Order [REP3-003] and the amended document will be submitted into the Examination at Deadline 4.
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