



SUBMISSION AS THE LOCAL PLANNING AUTHORITY

1. Introduction

1.1. The following information is submitted in response to the information submitted at Deadline 4 by the Applicant (National Highways) for the A46 Newark Bypass for an Order granting Development Consent. Our comments follow the Council's Local Impact Report (REP1-035), Written Representations (REP2-051), response to ExQ1 (REP2-050), comments on Deadline 2 submission documents (REP3-046), namely the Historic Environment and Visual Impact Assessment (REP2-020) and our representations at Deadline 4 REP4-045 (Written summaries from the hearings) and REP4-046, 047 and 048 (Responses to further information).

1.2. The comments made for Deadline 5 are made by Newark and Sherwood District Council in their statutory role as the Local Planning Authority (LPA) and not as landowner. Newark and Sherwood District Council, in their landowner responsibility will not be making any comments for this deadline and it is understood that discussions on land acquisitions are still ongoing.

2.2 Comments on submission at Deadline 4

2.1. *Draft Development Consent Order (REP4-003)*

2.2. Construction Hours – The Council at ISH1 stated that Requirement 5 regarding the working hours does not accord with the Council's standard working hours for construction and that the early hours, especially at the depot sites, would give rise to noise and nuisance complaints to the Council. Subsequent conversations following the ISH sought an agreement to the working hours and for the Applicant to submit a list of activities that would and would not take place at those depot sites to ensure they would not be 'noisy' activities between 07:00 – 07:30hrs Mon – Fri. Whilst this information is explained within the SoCG (Issue no. 34), it is the Council's opinion that this should also be captured in the Requirement to ensure enforceability. It is also noted that in the SoCG the hours on a Saturday are stated at 08:00 – 13:00 but in the Requirement it is listed at 08:00 – 14:00. The Council is agreed up to 14:00 but clarity on which time the Applicant is seeking would be required to ensure consistency. This



is also noted as 08:00 to 14:00 in para 1.1.7, 2.1.8, 2.4.16, 2.5.13 and 2.6.6 of the Pre-commencement Plan (REP4-012)

- 2.3.** Langford Hall Estate (noted it is stated as Langham Hall Estate which is incorrect) – It is stated within Schedule 2 Requirements) Part 1 para 19.1 of the dDCO that *“The construction of the new entrance at Langford Hall estate contained within Work No. 110 cannot commence until the Applicant has submitted to the Secretary of State for its approval in writing, following consultation with the relevant landowner of Langford Hall Estate and Historic England, the proposed design of the new entrance.”* Given the significance of the siting of the entrance and the local impact it would cause, the District Council (with its Conservation function) wishes to be a consultee on the proposed design of the entrance and therefore should be named within the Order.
- 2.4.** Requirement 5(3e) is worded broadly and whilst this was discussed in ISH1 (dDCO) and NSDC understands why this is required, unlike other elements in this Requirement, it does not allow for consultation or notification with the LPA that such potentially noisy activities have overrun and will be continuing out of ‘normal’ permitted hours. NSDC has a duty to investigate noise complaints so this could lead to unnecessary work for us if we are not aware of such activities.
- 2.5.** Requirement 5(6) is acceptable to NSDC however as the Council only considers (generally) Monday – Friday to be working days, a request is made that the reference to 14 days is clarified to be either working days or calendar days. Our preference would be working days in all cases. This is not clarified in the list of Interpretations under Part 1 (Preliminary) section of the dDCO.
- 2.6.** REP4-039 Additional Visual Effects Information following Issue Specific Hearing 4
- 2.7.** Para 1.4.1 of the document provides a narrative as to why a more open structure could not be proposed at Cattle Market Junction. One reason was that the overall depth of an open structure would be 300mm – 500mm deeper which would increase the height of the structure and cause impacts to the surrounding network. Further justification is provided for failure of planting to establish under the ‘arches’, antisocial behaviour issues relating to general behaviour, arson and litter as well as stating views of Newark Castle and St Mary Magdalene church not being visible from Smeaton’s



Arches approach. However it is the additional cost of an open structure which is also stated at £6.5m and £8.0m due to the construction which could also be an additional factor in the decision making on the final design, as the Scheme must deliver value for money given it is a Government funded project.

- 2.8.** The increase width of the structure would be a concern given the contrived land the Scheme is working to and an increase in consequential height would also be a concern, however a more open structure with the barriered parapet, engineered frame and pillars would be less harsh in visual appearance than as now proposed, even with an increased height. From reviewing the dDCO documents and from ISH1, it is written in to the agreement that there is tolerance within the design (Part 2 Principal Powers - Limits of Deviation) to make the flyover lower in height than shown in the visuals by up to 2.5m downwards. Whilst this shows some tolerance in the design and from our perspective a reduced height would still not be the best scenario, it would still seek to contribute to reducing some level of the harm to its appearance.
- 2.9.** Opening up the structure would not only have benefits on visual impact, it would also seek to open up views along Great North Road and the alignment of Smeaton's Arches. Whilst the LPA has mainly focussed on the visual aspect of the flyover and cutting the views of the designated heritage assets, we also have to consider the cultural harm the flyover would cause in its proposed design. As we have stated previously in our submissions, the infrastructure is secondary to the green infrastructure and this whole green approach is what contributes the heritage gateway approach into Newark and users overall experience. Historic England in their 'The Setting of Heritage Assets'¹ guidance states: *The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places.* The NPPF defines the setting of a heritage asset (within

¹ <https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/heag180-gpa3-setting-heritage-assets/> Last accessed 30.01.2025



the Glossary) as: *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.* Viewpoint 25 and the additional wireframe from Great North Road looking towards the Cattle Market only shows this apparent impact acutely and how the flyover will be seen as a large-scale barrier which impacts on the views of the high-grade heritage assets and separates three of Smeaton's Arch designations from the other eight. The information from the applicant and our subsequent discussions does not change our position in that the proposal would still be on the highest end of less than substantial harm. National Highways own document LD117 states at para A7 (within the Appendix A) *It is important for the design to respect the cultural and historic character of the landscape or historic settlements or urban environment. Maintaining and enhancing historic views and vistas should be a priority and may be possible by appropriate alignment, earthworks, planting and vegetation management.* It is the views that we would appear to differ on, but it is for the Examining Authority to determine this in the planning balance.

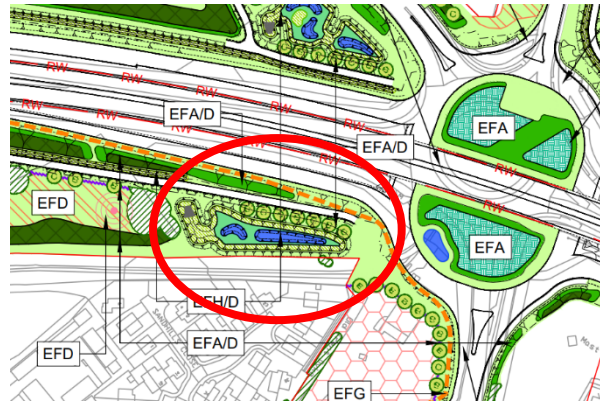
- 2.10.** The update to Viewpoint 25 to show the amended layout to Smeaton's Arches is welcomed and we have no further comments to make on this point.
- 2.11.** The LPA's concerns of the design of the flyover are not alleviated by the Applicant's additional information within REP4-040. Within this they state in response to our comments at Deadline 3 (REP3-046) at para 3.7 & 3.8, when we raised concerns of the impact on the Newark gateway the Applicant has stated that the *"finish and colouring of the structure with the red hued band sitting along the bottom (of) the structure providing a nod to the red brick finish of the neighbouring Smeaton's Arches"*. Whilst this 'nod' is appreciated, given the scale of the structure, a band of red brick would do very little, in our opinion to compensate for the stark appearance of the flyover. In addition, if the band is a low level, this would be, eventually, covered over by low level landscaping on the roundabout. If they wanted to give a nod to the finish of Smeaton's Arches, then more of the structure would be finished in red brick.



Action No.3 – additional wireframe at Viewpoint 24

2.12. The wireframe produced would seem acceptable to the LPA as an accurate representation, without evidence to the contrary from us to corroborate this. The absence of vegetation or mitigation planting allows us to see the full extent of the structure as proposed, accepting that this is not its fully designed out form.

2.13. The wireframe was produced from the first floor bedroom window of no.2 Sandhills Close which shows the visual impact at a higher level. Whilst this does not show any intervening features in the landscape it shows almost a worse



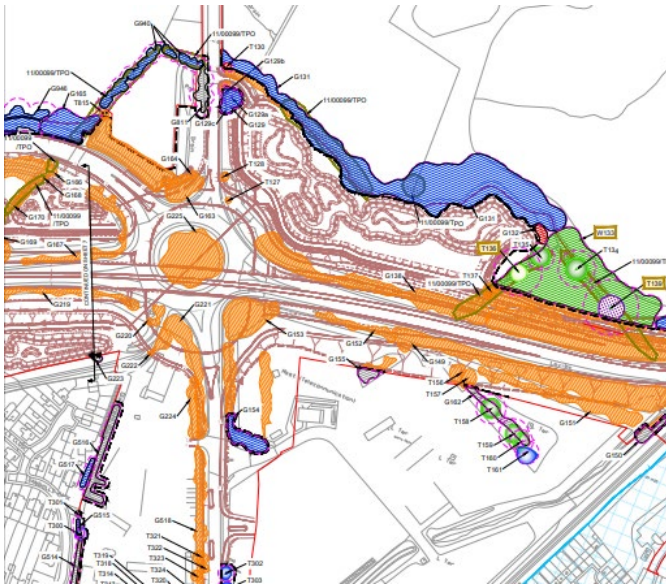
case for the occupiers at that property. However the Council's concern as the LPA would also consider that the impact within gardens (no.22-27 Sandhills Close) would be the most severe given the increased elevations and this would be most acute through noise the oppressive nature of the infrastructure. AS-026 shows the Environmental Masterplan for the Scheme which we don't believe has been changed since the first submission. Whilst NSDC understands that the need for drainage for the Scheme and that planting cannot be provided for on existing bunding there to protect existing residents from flooding, why can the 'wet area' illustrated below, not be located further south-west so additional tree planting or denser block planting of trees (which are shown to be able to be planted in this area), not be clustered together to create a woodland effect of two rows of trees. We appreciate that the Applicant has previously stated that the planting scheme has been maximised to the constraints available however we can only see this option being suitable to improve the outlook for residents which is in the control of the DCO Scheme.

2.14. Turning now to the Smeaton's Arches approach, south on the A616. It is accepted that the viewpoint and visual representation is most likely not taken at the most appropriate position in order to illustrate how the Scheme would make use of the existing vegetation. Instead a position further north-west would have shown the bank

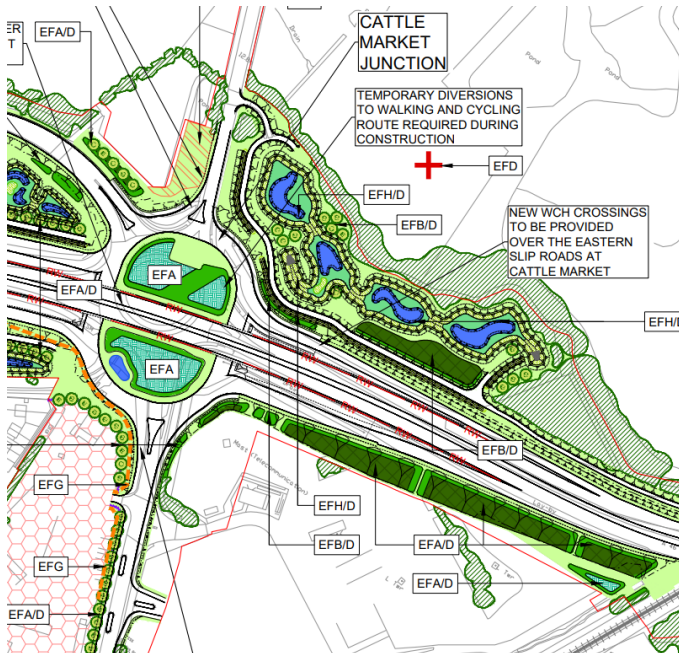


of trees, outside of the Order limits, being retained. However, we were fully aware of this area remaining when we have raised our previous comments, and it has therefore not been ignored. Our main concern, as reiterated previously, has been the land adjacent to the highway and around the edges of the roundabout. The applicant has stated that the scheme has been designed in full accordance with the information within LD117 (version 0.1.0) which is a National Highways document for the design manual for roads and bridges. However, at its heart this document states that *Integration and minimising the impact of disturbance of new roads within the rural or urban landscapes and improving the landscape character of existing roads is the basis for good environmental landscape design*. Stated within this document are the principles and purpose to the design which includes enhancing and improving the landscape quality and environment and creating opportunities to conserve and enhance the landscape character. In addition it states that excellence in landscape design should also be inclusive in respect of places, people's needs and **views**. Within this document also it states that designs should take account of the maintenance, management and operational requirements where shrubs are planted within 4.5m of the edge of carriageway, medium sized trees no closer than 7m (girth less than 450mm) and climax trees (girth greater than 600mm) not within 9m, **unless otherwise agreed by the Overseeing Organisation** (para 3.4.1) (emphasis added). Who is this Overseeing Organisation and if they can override the document then this must be for valid reasoning. In our opinion additional planting adjoining the A616 is necessary to frame those views on the approach to the Cattlemarket roundabout, even despite the trees remaining beyond the Order limits.

- 2.15.** As can be seen from the extracts below, the amount of trees lost within and around the Cattlemarket roundabout (shown in orange on AS-088) is vast which opens up those views and removes that green infrastructure which makes this area so typically rural in character. AS-026 (below) shows the proposed planting and whilst replacements are proposed, it is our belief that this is not in the correct place or type in which for the applicant to adhere to their own document principles as stated above.



Extract from AS-088



Extract from AS-026

2.16. Para 136 of the NPPF (2024) states that *Trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change.* Emphasis is given in the NPPF to ensure trees are incorporated along new streets (where appropriate) and that measures are in place to secure long term maintenance, and the right trees are in the right places, compatible with highways standards and needs of users. Whilst this mainly relates to new housing development, the direction of travel at a national level is that trees are important and should be given due consideration in the delivery of the Scheme and this should be achieved by



lining trees along new streets and opportunities for other improvements where appropriate.

- 2.17.** Within our answers to Examiners Questions (2) we have provided greater detail on the landscape character within answers to Q.10.0.1 (National Character Area) so we do not seek to reiterate any further comment on this.

Kelham and Averham Solar Farm (23/01837/FULM)

- 2.18.** The EXA will recall from ISH3 that we stated that an amended plan was to be submitted for the above application in order to satisfy the objection of the Environment Agency. This amended plan was submitted by the applicant and consulted on by the Council (DRWG no. HC1002/05/03 Rev 4 Site layout) with the



Environment Agency (EA). The EA stated that they were “*pleased to see that the area of the solar farm which overlapped with the flood compensations area (FCA) has been amended and no longer contains solar panels. We withdraw our holding objection.*” They have provided further advice on the bridge design following best practice but note that these discussions should be through the DCO process of

which we are informed by the applicant that they are taking place.

- 2.19.** Following a review of all the information the LPA recommended approval of the application, however Members of the Planning Committee resolved to refuse the application for reasons of loss of best and most versatile agricultural land, cumulative effect with other renewable energy developments in the locality causing unacceptable harm to landscape appearance and causing less than substantial harm to designated heritage assets of Kelham Conservation Area and Kelham Hall. The applicant has 6months in which to submit an appeal (from 31 January 2025) but this will be beyond the end of the examination. However, the panels are now outside of the FCA so it is our opinion that the application should not be in conflict with the DCO



and discussions on the design of the FCA have been pursued separately to the planning application of the solar panels.

Conclusion

- 2.20.** The Council as the host local authority has throughout this process always provided our utmost support for the Scheme in providing substantial benefits for the District, such as improved journey times and connectivity and the ability to unlock land to improve the local economy and increase job prosperity. However, we have also raised concerns throughout on the visual impact to the Cattle Market junction and flood risk. The A46 improvements nonetheless are pivotal to the delivery of our Local Development Framework and allocated development and ensuring Newark as a tourist destination is not tainted by poor connectivity. Newark's tourism offer is being vastly improved and recognised not just at a local level but also nationally. The Newark Civil War Museum has won the Best Small Museum at the Kids in Museums Family Friendly Museum Awards 2024 which only seeks to heighten its significance when the event was in such company as the V&A in London and the Turner Contemporary in Margate. In addition to this, and as stated in the Council's LIR (REP1-035 para 11.20), the Gatehouse project at Newark Castle has been granted planning consent (and substantial funding from the Government's Town Fund initiative and the National Lottery Heritage Fund) to restore the Castles original Gatehouse structure and to enable visitors to access a large viewing platform. This is a large-scale project for the town and one which is to commence later this year. Newark already experiences around 100,000 visitors to the town per year with trips to the Palace Theatre, the Castle and all the other events which take place in the town, and then with the Gatehouse project complete, this figure is expected to increase footfall by around 24,000-28,000 a year. This coupled with all the other events within the town for now and in the future, will put immense pressure on the local infrastructure and thus making the delivery of the Scheme for the A46 even more vital in our opinion. Newark as a destination is being put on the map for its heritage tourism as well as its cultural tourism and to deliver our objectives as a District Council for the benefit of our



residents and those who visit us and work within our District, having a secure infrastructure network is crucial.