

Date: 04 February 2025
Our ref: 500554
Your ref: TR010065



The Planning Inspectorate

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The Examining Authority's second written questions (ExQ2) and the Report on the Implications for European Sites (RIES) in respect of the A46 Newark Bypass

Examining Authority's submission deadline with a date of 04 February 2025

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England is pleased to provide our answer to the Examining Authority's Second Written Questions (ExQ2) and the Report on the Implications for European Sites (RIES) within the annexes appended to this letter.

Natural England hopes our Deadline 5 answers are helpful, and we will continue to work collaboratively with the Applicant to try and resolve the matters provided below.

For any further advice on this consultation please contact the case officer Rachel Navin [REDACTED]@naturalengland.org.uk) and copy to consultations@naturalengland.org.uk.

Yours faithfully

Rachel Navin
Senior Sustainable Development Officer – NSIPs & High Risk Casework
East Midlands Area Team

Annex 1: Natural England comments in response to ExQ2

Natural England's response to the Examining Authority's (ExA's) second written questions and requests for information (ExQ2) with a deadline of 04 February 2025

Table 1: Natural England's response to ExQ2			
ExA ref.	Addressed to	Question	Natural England Response
Q1.0.1	The Applicant, Host Authorities and all other IPs	National Planning Policy Framework A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. All Parties confirm whether there are any changes to your case resultant from changes to the Framework and if so, set out the amended policy and how this changes your case. Furthermore whether you consider this changes the scope of any of the Applicant's Assessments or the basis for the Secretary of State's conclusions.	The revisions to the National Planning Policy Framework in December 2024 do not alter the advice provided by Natural England in respect of the A46 Newark Bypass.
Q1.4.1	NSDC, NCC, LLFA, Natural England, the EA	Mitigation – Pre-commencement Plan a) Do you have any unresolved comments on the Pre-commencement Plan (PCP) [REP4- 012]? b) Are there any matters which you consider should be included in the PCP which have not yet been included? c) Where relevant, does the PCP satisfactorily reflect the provisions on the First Iteration EMP so that there would be a consistent approach to mitigation across all stages of development?	Natural England has no unresolved comments on the Pre-Commencement Plan (PCP) and is satisfied with the topics that have been included in the document.
Q7.0.3	Natural England	Outline Soil Management Plan and Register of Environmental Actions and Commitments Do the changes that have been made to the OSMP and REAC (both in [REP4-010]) address the comments that you made in relation to the handling of soils?	The changes made to the OSMP and REAC satisfactorily address the previous comments made by Natural England regarding soil handling.
Q7.0.4	The	Clarifications – Agricultural Land	It is noted that this clarification is directed towards the Applicant. However, Natural England has the

Table 1: Natural England's response to ExQ2			
ExA ref.	Addressed to	Question	Natural England Response
	Applicant	<p>a) Do references in [REP3-016] to the “main Scheme alignment” relate to the area occupied by the alignment of the proposed road or to all of the land within the Order Limits apart from the Kelham and Averham Flood Compensation Area (FCA)?</p> <p>b) On page 61 of [REP3-009] it is noted that there would be a “Permanent loss of 16.7ha of grade 3a land (1.1ha in Kelham and Averham FCA and 15.6ha in the main Scheme alignment)”. Farm IDs 4 and 7 on PDF page 123 of 130 in [REP2-037] appear to be in the Kelham and Averham FCA but the total amount of grade 3a land to be permanently removed from all parcels on PDF page 123 of 130 appears to total 15.56 ha. Furthermore, section 9.2 of the ES NTS [REP3-020] states that there would be a permanent loss of 15.6 ha of grade 3a land and “less than 1 hectare” of grade 2 land – this does not appear to be consistent with [REP3-009]. Please confirm whether the figures for agricultural land are consistent throughout [REP2-037], [REP3-009], [REP3-013], [REP3-016] and [REP3-020] (and in any other documents which refer to agricultural land) and, if necessary, update documents as relevant.</p> <p>c) For clarity, please provide a summary of agricultural land changes in the following form:</p>	<p>following comments to make:</p> <p>Since submission of Written Representations, the Applicant has informed Natural England about some data gaps that were noted in the original submission relating to the ALC grade for an area of temporary land acquisition within the Order Limits in Land Plot 3 and an area of permanent land acquisition in Plot 16. The Applicant advised that extrapolated data (survey borehole data from an adjacent area and desktop information) had been used to assign an ALC grade to these areas, and that the ES had been updated accordingly, to reflect the small change to the areas of Grade 2, 3a and 3b agricultural land.</p> <p>Natural England notes the data gaps in the ALC survey. Whilst the extrapolated data is welcomed, we advised the Applicant that, due to the nature of works in the un-surveyed areas, an ALC survey will be required to inform soil management and reinstatement. Natural England recommends this is undertaken pre-consent, to enable any avoidance measures to be taken within the design, before relying upon mitigation (soil management plan and reinstatement commitments, in line with the mitigation hierarchy.</p> <p>The Applicant has since agreed to undertake the ALC surveys on the plots where data is absent. Timescales for this data will be dependent on</p>

Table 1: Natural England’s response to ExQ2																																								
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		<table><tr><td></td><td colspan="2">Temporary Loss – to be returned to agricultural use</td><td colspan="2">Permanent Loss</td></tr><tr><td></td><td>Kelham and Averham FCA (ha)</td><td>Rest of Order Limits (excluding Kelham and Averham FCA) (ha)</td><td>Kelham and Averham FCA (ha)</td><td>Rest of Order Limits (excluding Kelham and Averham FCA) (ha)</td></tr><tr><td>Grade 2</td><td></td><td></td><td></td><td></td></tr><tr><td>Grade 3a</td><td></td><td></td><td></td><td></td></tr><tr><td>BMV Total</td><td></td><td></td><td></td><td></td></tr><tr><td>Other Grades</td><td></td><td></td><td></td><td></td></tr><tr><td>Grand Total (BMV Total + Other Grades)</td><td></td><td></td><td></td><td></td></tr></table>				Temporary Loss – to be returned to agricultural use		Permanent Loss			Kelham and Averham FCA (ha)	Rest of Order Limits (excluding Kelham and Averham FCA) (ha)	Kelham and Averham FCA (ha)	Rest of Order Limits (excluding Kelham and Averham FCA) (ha)	Grade 2					Grade 3a					BMV Total					Other Grades					Grand Total (BMV Total + Other Grades)					<p>access being granted for the surveys; however, it is understood that the intention is that the data will be available before the end of examination, if possible. Natural England advise that, if complete ALC surveys cannot be obtained within the examination period, their requirement is secured via the DCO.</p> <p>Further information is set out in the Applicant’s Statement of Common Ground (SoCG) with Natural England, Issue No.30. This topic remains under discussion between Natural England and the Applicant.</p>
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Q9.0.1	The Applicant, Natural England, the EA	<p>Report on Implications for European Sites (RIES)</p> <p>Please respond to the questions raised in the RIES published alongside these further written questions.</p>			Natural England has responded to the questions raised in the RIES; please refer to Annex 2 of this document.																																			

Annex 2: Natural England comments in response to the Report on Implications for European Sites (RIES)
Natural England's response to the RIES with a deadline of 04 February 2025

Table 2: Natural England's response to the Report on Implications for European Sites (RIES)			
ExA ref.	Addressed to	Question	Natural England Response
QR1	Natural England	<p>In-combination effects</p> <p>NE are requested to confirm that they are in agreement with the non-NSIPs that have been included in the in-combination effects assessment within the updated HRA Report [REP3-024]?</p>	Natural England is satisfied with the scope of the in-combination effects assessment within the updated HRA Report.
QR2	The Applicant, Natural England	<p>Construction silt management measures</p> <p>The applicant is requested to confirm that the measures proposed to protect the water environment during construction are not specifically intended to avoid or reduce significant adverse effects of the proposed development on the European sites. The applicant should signpost to relevant information within the HRA Report and supporting documents.</p> <p>NE are requested to confirm that they are content that the measures proposed by the applicant are not necessary to avoid or reduce adverse significant effects of the proposed development on the European sites and are satisfied that potential construction impacts on the water environment are not required to be considered in the applicant's assessment of effects on integrity.</p>	Natural England are content that the measures proposed by the Applicant are not necessary to avoid or reduce adverse significant effects of the proposed development on the European sites. Our position on this matter remains as agreed with the Applicant within the SoCG (Issue No.9, Applicant's position).
QR4	Natural England	<p>Prevention of light spill impact on migrating lamprey – mitigation hierarchy</p> <p>NE are requested to provide any further comments in relation to this matter and/ or state agreement of the applicant's conclusions of no adverse effects on integrity (AEol).</p>	Natural England is content that the requested updates have been made and that our previous concerns have been addressed. Natural England agrees with the Applicant's conclusions of no adverse effects on integrity.

Table 2: Natural England's response to the Report on Implications for European Sites (RIES)			
ExA ref.	Addressed to	Question	Natural England Response
QR5	Natural England	<p>Prevention of light spill impact on migrating lamprey – commitment to mitigation</p> <p>NE are requested to provide any further comments in relation to this matter and/ or state agreement of the applicant's conclusions of no adverse effects on integrity (AEoI).</p>	Natural England is content that the requested updates have been made and that our previous concerns have been addressed. Natural England agrees with the Applicant's conclusions of no adverse effects on integrity.
QR6	Natural England	<p>Terminology</p> <p>NE are requested to provide any further comments in relation to this matter and/ or state agreement of the amended terminology used in the updated HRA Report [REP3-024].</p>	Natural England is content that the requested updates have been made and that our previous concerns have been addressed.
QR7	The Applicant, Environment Agency, Natural England	<p>Mitigation to prevent entrapment/ isolation of lamprey during flooding</p> <p>The ExA note the comments from the EA in relation to the dimensions of the fish escape passage option presented in the Technical Note. The ExA therefore request the following:</p> <p>The applicant is requested to confirm that the dimensions of the proposed fish escape passage option have been taken into account in the assessment of effects on lamprey within the HRA Report and signpost to this information.</p> <p>The applicant is also requested to provide a response to the comments made by the EA [REP3-044 and REP4-044].</p> <p>The EA is requested to confirm their position that this matter remains unresolved and set out how the dimensions of the fish escape passage selected could result in adverse effects on integrity (AEoI).</p> <p>NE is requested to provide a view on the concern</p>	<p>Natural England have reviewed and considered the Environment Agency's comments made at DL4 (REP4-044) and agree with their concerns that further detailed design and assessment regarding the fish escape passages is required in joint consultation with both the Environment Agency and Natural England. We acknowledge that this is a change in our position.</p> <p>Natural England note that there is a commitment recorded in the HRA narrative (REP3-024) which states that "the specific number, location and design of fish escape passage will be finalised during detailed design". We advise that this commitment is made within the latest version of the First Iteration EMP (register of environmental actions and commitments, reference B9), including a requirement for the Applicant to consult both the Environment Agency and Natural England on the detailed design.</p>

Table 2: Natural England's response to the Report on Implications for European Sites (RIES)			
ExA ref.	Addressed to	Question	Natural England Response
		expressed by the EA and set out whether your position has changed as a result of the fish escape passage option selected. Where possible, discussion between parties, to agree matters and provide a joint response is encouraged.	Natural England do not have any further comments to make in addition to those already submitted on this matter at DL2 [REP2-045]. Working with all parties, Natural England would be happy to provide advice where appropriate on further design and assessment work.
QR9	Natural England	Fish escape passage design NE are requested to provide any further comments in relation to this matter and/ or state agreement of the amended wording used in the updated HRA Report [REP3-024].	Please refer to Natural England's response to QR7 for our position on the fish escape passage design.