

## **A46 Newark Bypass**

**Scheme Number: TR010065**

### **7.62 Comments on submissions received at the previous deadline**

**8(1)(c)(ii)**

**Planning Act 2008**

**Infrastructure Planning (Examination Procedure)  
Rules 2010**

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Planning Act 2008

**The Infrastructure Planning (Examination  
Procedure) Rules 2010**

**The A46 Newark Bypass**  
Development Consent Order 202[#]

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<b>Regulation Number:</b>	<b>8(1)(c)(ii)</b>
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# **1 Introduction**

## **1.1 Purpose of this document**

1.1.1 The Development Consent Order (DCO) application for the A46 Newark Bypass (the “Scheme”) was submitted by National Highways (the “Applicant”) on 26 April 2024 and accepted for Examination on 23 May 2024.

1.1.2 This document has been prepared by the Applicant to set out its Comments on submissions received at Deadline 4 issued on 13 December 2024. This document is submitted at Deadline 5 of the Examination.

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## Applicants Responses to Comments received at Deadline 4

## 2 Applicant's Responses to the Deadline 4 Submissions

## 2.1 Table 2-1 below documents the Applicant's responses to the Deadline 4 Submissions.

## 2.1.1 Applicant's responses to Deadline 4 Submissions

Newark and Sherwood District Council's Comments		The Applicant's Response
<b>SUBMISSION AS THE LOCAL PLANNING AUTHORITY</b>		
2.1.	<b>Article 2</b> Our position on this matter is that we would wish this matter to be more clearly defined given the differing functions between the definition of the Local Planning Authority. The specific LPA in any given requirement should either be defined or the 'relevant planning authority' definition tightened up.	The Applicant confirms the definition of "relevant planning authority" was updated in the draft Development Consent Order at Deadline 4 of the Examination [REP4-003]. The amendment names each of the relevant planning authorities and makes it clear that the relevant planning authority means either or both local planning authorities to the extent that is relevant to their planning functions. It would not be practical for the Applicant to name the specific local planning authority in each article and requirement throughout the draft Development Consent Order [REP4-003] and the current approach adopted by the Applicant has precedent in a number of made Development Consent Orders including the A428 Black Cat to Caxton Gibbet Development Consent Order 2022 and the A66 Northern Trans-Pennine Development Consent Order 2024.
2.2.	<b>Article 10</b> There is no scheme and/or work specific justification provided in the Explanatory Memorandum or otherwise for the proposed limits of deviation (particularly vertical deviations). The proposed limits of deviation are also out of step with such limits consented on other DCO road schemes, including, for example, the Wisley (M25 junction 10/A3 interchange) DCO which has a deviation of 0.5m upwards. Article 10(2), as drafted, provides for consultation with the local planning authority, this should include the local highway authority as well. Moreover, Article(2) should include requiring the Secretary of State to provide a certification. The limits of generous deviation would be acutely relevant at the Cattlemarket roundabout where our concerns on the heritage impact are more acute. We consider that the justification of these limits should be minimal. If the limits can be reduced then this should be explored through the detailed design.	The Applicant updated Article 10 of the draft Development Consent Order [REP4-003] at Deadline 4 of the Examination to reflect the agreed amendment with Newark and Sherwood District Council and Nottinghamshire County Council to include the local highway authority as a consultee. The updated Explanatory Memorandum [REP4-005] submitted at Deadline 4 of the Examination contained additional justification for the proposed limits of deviation.
2.3.	<b>Requirement 3</b> – Generally this is vaguely worded at the moment and need tightening up. The pre commencement works plan - it is noted that the current scope and methods labelled on the plan states it is indicative whereas the applicant states it is finalised and to be approved in the DCO. Reg 3 (1) states 'substantially in accordance with' whereas we consider this it too loose and should just be 'in accordance with'. Reg 3(2) states 'must reflect mitigation measures' whereas a better wording would be 'must accord with mitigation measures'. In addition there's no mention of construction site artificial lighting and we would encourage this to be on the list of management plans and method statements for the Second Iteration EMP in Reg(3)(2).	Requirement 3: Requirement 3(1) of the draft Development Consent Order [REP4-003] submitted at Deadline 4 of the Examination purposefully uses the phrase 'substantially in accordance with' instead of "in accordance with", in order to allow for flexibility in the development of the Second Iteration Environmental Management Plan to allow for changes in circumstances. Flexibility is justified in this case as like any major infrastructure project proceeding through consenting, detailed design has yet to be undertaken and as such, some detailed design-related environmental surveys would still need to be undertaken (e.g. protected species confirmation surveys). As a result, some measures identified in the First Iteration Environmental Management Plan [REP4-010] may not be necessary or may require revision (e.g. if surveys for bats found the presence of a previously unidentified roost) at the time that the Second Iteration Environmental Management Plan is being prepared. This wording therefore provides a way for updates to be made if necessary. Equally some provisions of the First Iteration Environmental Management Plan [REP4-010] may need to be made more specific to the circumstances of the detailed design to effectively deliver the mitigation that they are designed to achieve. The Environmental Management Plan, like any Code of Construction Practice or similar document, is designed to be a living document that is central to the mitigation of environmental effects of the Scheme. To be effective it must be flexible enough to ensure clarity for contractors in how it applies to the detailed design while at the same time delivering the mitigation that it is designed to achieve. such as updated information regarding conditions 'on the ground', species that may be present and to allow for updated mitigation techniques to be used. This allows for innovation that can improve the mitigation to be provided, which would not be possible where the language suggested by Newark and Sherwood District Council NSDC to be used. The Applicant has provided detailed responses to Newark and Sherwood District Council regarding Requirement 3(2) of the draft Development Consent Order [REP4-003] and the use of the term "must reflect mitigation measures" in the Applicant's Response to the Examining Authority's First Written Questions (ExQ1) [REP2-037] (Q6.2.2) and in the Applicant's Summary of the Issue Specific Hearing 1 (ISH1) [REP4-031] at Reference 4.1.9. The Applicant maintains that the current wording of Requirement 3(2) of the draft Development Consent Order [REP4-003] is well precedented and appropriate for the reasons already given. The Applicant maintains that there is no need for a construction site lighting plan to be included in Requirement 3(2) of the draft Development Consent Order [REP4-003] as such provisions are already provided for in the First Iteration Environmental Management Plan [REP4-010] and to do so would amount to a duplication which is not required. The Applicant refers to the Applicant's Summary of the ISH1 [REP4-031] at Reference 4.10.2 for its detailed response. The pre-commencement plan: The Applicant explains in section 1.2.1 of the Pre-Commencement Plan [REP4-013] submitted at Deadline 4 of the Examination why the measures are stated to be indicative: "As the detailed design of the Scheme has not completed at the time of producing this document, the construction programme and methods have not yet been fully determined. Therefore, the scope and methods described in this document are provided on an indicative basis only, to give an indication of the types and magnitude of the operations. The scope and methods described have therefore been determined as a best estimation using all information available at the time of preparing the pre-commencement plan and are considered to be representative of the worst case. This means that while the specific details of each method may change,

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		the overarching tasks would not." However, the Pre-Commencement Plan [REP4-013] goes on to explain at section 1.2.2-1.2.3 why this is acceptable: "In any event, all pre-commencement works be subject to the general mitigation measures set out in Section 3 of this document and, to the extent they are relevant, to the specific mitigation measures for each pre-commencement work set out in Section 2 together with the controls contained in the Archaeological Mitigation Strategy (AMS) and associated Written Schemes of Investigation (WSIs)(to be developed based on the principles contained in Chapter 6 of the Archaeological Management Plan (AMP) [REP2-062]. The final design of the pre-commencement works would not give rise to materially greater environmental effects than those outlined indicatively in this pre-commencement plan."
2.4.	<b>Requirement 5</b> – 5(1) Our concern is that the start time is too early given the location of works to existing receptors. 5(2) The list of essential activities carried on outside of general times, these are broadly drafted and could enable the applicant to continue works which could give rise to noise. NSDC would wish to be notified of the occasions when these would be carried on. The construction hours are adhered to in other schemes in the District notably the Southern Link Road and prior consent is gained from NSDC where works are due to take place outside of the approved hours. It was suggested by the ExA that where there are areas which are less sensitive, these could have differing start times, however this may prove an issue for NSDC in managing this when the site is operational. NSDC will engage with the applicant through the SoCG on an appropriate resolution to this. 5(3) NSDC would wish to be consulted and have prior written consent of such activities to assess the impact of noise to key receptors. 5(4) There are no time limits stated as to when consent would be gained for those activities outside of approved hours. Our suggestion is 28days but is flexible.	The Applicant has amended Requirement 5 of the draft Development Consent Order to be submitted at Deadline 5 of the Examination. This change has been made to ensure the working hours for the Scheme remain within those specified in BS5228 (Code of practice for noise and vibration control on construction and open sites). The Applicant and Newark and Sherwood District Council have agreed the construction hours as recorded in the SoCG between the Applicant and Newark and Sherwood District Council [REP4-026]. These changes will be reflected in Requirement 5(1) of the draft Development Consent Order to be submitted at Deadline 5 of the Examination. The Applicant therefore believes this point has been addressed. The Applicant has amended Requirement 5(2) and added in Requirement 5(4) in the draft Development Consent Order [REP4-003] submitted at Deadline 4 of the Examination to reflect Newark and Sherwood District Council's request that these activities are subject to their prior written consent. The Applicant therefore believes this point has been addressed. Other activities outlined at Requirement 5(3) of the draft Development Consent Order [REP4-003] may need to be undertaken urgently, or they are not noise generating activities; therefore, it would be inappropriate to delay in order to obtain prior consent. The Applicant therefore does not propose to amend this Requirement further. The Applicant has included Requirement 5(6) to the draft Development Consent Order [REP4-003] submitted at Deadline 4 of the Examination to include reasonable time limits for providing consent as requested by Newark and Sherwood District Council. The Applicant therefore believes this point has been addressed.
2.5.	<b>Requirement 6</b> – A piecemeal method and approach to considering and discharging the landscaping requirement would make it difficult for NSDC (as consultee) to take a holistic view on the landscaping proposals. 6(2), as drafted, the Scheme would not have to accord with any plans, and consideration should be given here to requiring accordance with scheme layout plan. 6(5) the term 'reasonable' is loose and is subject to disagreement and should be more particularly defined maybe in accordance with a relevant British Standard.	The Applicant refers to its written summary of ISH1 [REP4-031] at References 4.3.6 and 4.3.7 which explain why the Applicant does not consider it necessary or appropriate to amend the wording of either Requirements 6(2) or 6(5) to require that the Scheme accords with a scheme layout plan or to replace the word "reasonable" with a British Standard on the basis that references are already made to the Scheme's Environmental Masterplan and the British Standard Code of Practice respectively.
2.6.	<b>Requirement 8</b> – This seems incomplete as drafted. It relates to unknown contamination but does provide for or regulate known contamination. This should be expressed in the next iteration of the dDCO and reflect the contaminated land risk assessment. Requirements (which may be individually discharged by NH) should be clear on their face and if overlapping with or cross referencing to other requirements and/or approved documents then this should be express and clear. Moreover, as to the unknown contamination drafting, NSDC would also require suitable provision being included to require- in terms- a verification report to be included for any unknown contamination.	The Applicant maintains that no amendments or additions to Requirement 8 are required for the reasons detailed in the Applicant's written summary of ISH1 [REP4-031] at References 4.1.1 - 4.1.3. The additions sought by Newark and Sherwood District Council, namely, to provide for or regulate known contamination and the requirement of a verification report for any unknown contamination are already provided for by the REAC. To add additional Requirements under the DCO would be to duplicate controls already provided for.
2.7.	<b>Requirement 10</b> – This requirement should be bolstered to include that a final pre- construction survey should be undertaken. There is provision for a written scheme but no mention of who to submit it to for consent and should be in consultation with Natural England. It currently reads as if NH are marking its own homework. Moreover, there is no express provision regulating the recommencement of works.	The Applicant has provided detailed responses regarding Newark and Sherwood District Council's proposed amendments to Requirement 10 in the Applicant's written summary of ISH1 [REP4-031] at References 4.5.1 - 4.5.1 and in the Applicant's Response to the ExA's First Written Questions [REP2-037] (Q6.2.13). The Applicant maintains that no amendments to Requirement 10 are required for the reasons previously given.
2.8.	<b>Requirement 13(2)</b> – consultation with the LLFA and Drainage Boards should be provided for in the terms of the DCO. This is the case for Requirement 15 too.	The Applicant amended Requirement 13(2) and Requirement 15 of the draft Development Consent Order [REP4-003] submitted at Deadline 4 of the Examination to include the lead local flood authority as a consultee. The Applicant held a meeting with the Internal Drainage Board (IDB) on 31 January 2025. The IDB has confirmed that it is content that it will approve the design of the fish escape passage features relevant to its function as part of the Land Drainage Act consent process. The discussions with the IDB are reflected in the updated SoCG with the IDB submitted at Deadline 5. The Applicant therefore maintains that there is no reason to duplicate consultation of the IDB under Requirement 13 and Requirement 15(2) of the draft Development Consent Order [REP4-003]. As such, no further changes are required.
2.9.	<b>Other Issues</b> (a) NSDC requested (in its response to Q6.2.20 on EXQ1) further details and amendments to be made to the pre commencement works plan which NH are to be update; (b) Generally, the wording of requirement 17 needs to be fleshed out; (c) there is no current requirement in the dDCO as currently drafted providing for the restoration and/or landscaping of any land used temporarily for construction purposes (d) as with other DCO road schemes, provision should be included in the DCO for a management plan/method statement relating to	The Applicant can confirm that an updated Pre-Commencement Plan [REP4-013] was submitted at Deadline 4 of the Examination. Further detail has been provided in the updated Pre-Commencement Plan [REP4-013] submitted at Deadline 4 of the Examination. As such, the Applicant is of the view that no further amendment is needed in relation to Requirement 17 of the draft Development Consent Order [REP4-003], which simply requires the pre-commencement works (as defined in Article 2(1) to be carried out in



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	<p>construction site artificial lighting (e) Art.46 provides very wide ranging powers to lop and fell trees and sub- para (5) seeks to provide for deemed approval. These excessively wide and applicant friendly set of provisions are not supported by NSDC and go well beyond other DCO road schemes (e.g. Art.40 of the MS Junction 9 DCO). <i>ISH2 Transport Wednesday 4th December 2024 (AM)</i></p>	<p>accordance with the Pre-Commencement Plan [REP4-013].</p> <p>The Applicant can confirm in relation to restoration and/or landscaping of any land used temporarily for construction purposes that such a requirement is already provided for within the draft Development Consent Order [REP4-003]. The relevant provision is Article 40(4), which states:</p> <p><b>40 Temporary use of land for carrying out the authorised development</b></p> <p>(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—</p> <p>(a) replace a building removed under this article;</p> <p>(b) restore the land on which any permanent works have been constructed under paragraph (1)(d);</p> <p>(c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;</p> <p>(d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development;</p> <p>(e) remove or reposition any apparatus installed for or belonging to statutory undertakers;</p> <p>(f) remove or reposition any necessary mitigation or accommodation works; or</p> <p>(g) remove any temporary works where this has been agreed with the owners of the land.</p> <p>The Applicant is also required, under Commitment L1 within the Register of Environmental Actions and Commitments of the First Iteration Environmental Management Plan [REP4-010] to restore "land used temporarily to construct the Scheme, as soon as practicable."</p> <p>The Applicant maintains that there is no need for a construction lighting plan to be listed under Requirement 3(2) as provisions in relation to construction lighting are already provided for in the main body of the First Iteration Environmental Management Plan [REP4-010] and therefore will be included in the Second Iteration Environmental Management Plan. See for example Commitments L1, L6, B1, B2, B8 and B9 within the Register of Environmental Actions and Commitments in the First Iteration Environmental Management Plan [REP4-010] Adding the requirement suggested by Nottinghamshire County Council would amount to a duplication under the Development Consent Order, which is not required.</p> <p>The purpose of Article 46 (Trees subject to tree preservation orders, etc.) of the draft Development Consent Order [REP4-003] is to enable the Applicant to fell or lop any tree, cut back its roots or undertake any other works as set out in that article, to any tree which is subject to a tree preservation order. This article is based on the made M54 to M6 Link Road Development Consent Order 2022. The Applicant disagrees with Newark and Sherwood District Council that the powers sought in Article 46 are wide ranging. The powers sought are limited to only removing any tree or shrub where it is necessary to prevent them from interfering with the construction, maintenance or operation of the authorised development or where the tree or shrub constitutes a danger to persons using the authorised development. In addition, these powers are limited by Article 46 paragraph (2) whereby the undertaker must not do unnecessary damage and must pay compensation to any person for any loss. Furthermore, the Applicant also notes that as a strategic highway company it has similar powers to lop or cut back trees which cause danger, obstruction or interference on a highway under section 154 of the Highways Act 1980 and the powers sought in Article 46 are therefore proportionate and extend these powers to the construction phase of the Scheme. Paragraphs (4) to (9) of Article 46 have been included as there is potential for some trees subject to a tree preservation order to also be located within a conservation area. These additional paragraphs are necessary for the Applicant to be able to manage any trees in these areas which may interfere with the construction, maintenance or operation of the Scheme. The power to fell or lop trees subject to a tree preservation order within a conservation area is limited by the requirement to provide written notice to the relevant planning authority and for the relevant planning authority to have 6 weeks to respond to the notice.</p>
2.10.	Item 3 a ii) NSDC is in receipt of the forecast year VISSEM model for the Cattle Market and it is NSDC's opinion that the junction would still operate satisfactorily. Lorry Park – The works to the Lorry Park would result in a 30% reduction in capacity which is being explored separately with the applicant for adequate compensation. The whole of the lorry park is being replanned as a result of the A46 works to ensure adequate provision and it is our opinion that a solution to the loss of land can be achieved.	No response required from the Applicant.
2.11.	<b>Planning Policy – Item 3 bi)</b> The Allocations and Development Management DPD is currently being examined by the Inspectorate and the hearing sessions have been completed. Other matters are being dealt with via written exchange, which includes Transport. NSDC assumes Spring for the conclusion of those matters with expected adoption by NSDC in Summer 2025. The Plan period finishes in 2033. NSDC is committed to doing a new plan	No response required from the Applicant.


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	as soon as possible. The allocations document reviews all existing housing and employment allocations and some have planning permission or are no longer deliverable. Some sites are no longer deliverable such as Old Stable Yard as this was assessed as having noise implications, so as such was recommended not to be carried forward. NSDC has no concerns on the modelling of the Scheme in regard to the Allocations DPD.	
2.12.	<b>Item 3 bii)</b> NUA MU1 (Lindum) The requirement in the current plan is too onerous so in the proposed amendments to the DPD this has been changed to state the following "Until appropriate improvements have been made to the A1/A46/A17 Junction, any proposed development will need to demonstrate that it will not generate significant a.m. and p.m. peak traffic as part of any planning application." This is a matter to be explored through the Development Management process.	No response required from the Applicant.
2.13.	<b>Item 3 biv)</b> Employment site 3 is the former Nottinghamshire County Council depot building is being used by the Scheme as a temporary land use, however this would not prejudice the bringing forward or deliverability of that land as part of the Allocations DPD.	No response required from the Applicant.
2.14.	<b>Item 3 bv)</b> Lindum site, Phase 1 of the development (23/01283/OUTM) is being heard by Members of the Planning Committee on 05 December 2024 with Phase 2 (23/02281/OUTM) behind this.	No response required from the Applicant.
2.15.	<b>Item 3 ei)</b> NSDC would defer to NCC on the matter of LTN 1/20 however we would wish for those standards to be included where reasonably possible.	The Applicant confirms that all new walking and cycling routes are designed to Local Traffic Note 1/20 compliant, which sets out guidance for cycle infrastructure design, unless environmental or physical constraints prevent this. This is detailed in point 6 of the Statement of Common Ground with Newark and Sherwood District Council [REP4-026] and Point 15 in the Statement of Common Ground with Nottinghamshire County Council [REP4-023].
2.16.	<b>Air Quality Item 4 a)</b> NSDC confirms that it doesn't matter about the subdivision of the categories on receptors.	No response required from the Applicant.
2.17.	<b>4 b)</b> Further information is required on the combined effects associated on the combined effects – It was felt that within the Environmental chapter within the ES, that the applicant had assessed individual matters but not cohesive. It was acknowledged that the applicant has responded to NSDC's LIR and we are satisfied with this response that the combined effects have been looked at. The Dust Management plan has been briefly reviewed and the mitigation measures proposed are satisfactory and there needs to be more information on what monitoring is proposed. There are lots of references to visual inspections and then doing more quantitative monitoring but the reference to 'as required' 'as necessary' is not acceptable and we would expect more certainty and commitment within the Management plan. In the higher risk areas to dust impacts, there should be more quantitative monitoring undertaken so we'd look for a dust management plan to be submitted with locations identified. There is a reporting requirement and this should state that the Council's will be told when a complaint is made and the measures taken to resolve those complaints.	The Applicant has updated the Outline Air Quality and Dust Management Plan (an appendix to the First Iteration Environmental Management Plan [REP4-010]) to take account of the comments made by Newark and Sherwood District Council and submitted at Deadline 5 of the Examination.
2.18.	<b>4 c)</b> On further review of the air quality scheme and that as a result of the Scheme the effects are not significant then the damage costs are not required and nor would the additional monitoring stations. <i>ISH3 Water Environment Wednesday 4th December 2024 (PM)</i>	No response required from the Applicant.
2.19.	<b>Item 3a)</b> NSDC would wish to be involved in the flooding discussions and how those matters are being addressed (maybe not on the technical matters). This maybe in terms of summary of the impacts and the progression of the Scheme as our main concern is the impact of surface water flooding from the Scheme. If there are any substantial changes to the Scheme in terms of flood alleviation, then we would wish to be told of that even in an observational role.	NSDC's involvement is secured through draft DCO Requirement 15: 1. the detailed design must be in accordance with the FRA that is currently under examination and on which NSDC is consulted as part of that process. In addition, NH has held a meeting on 29 January 2025 to update NSDC on the details being discussed with the EA; and 2. post DCO, where NSDC would be a consultee on any development to be undertaken other than in accordance with the FRA.
2.20.	<b>Item 3b)</b> NSDC are concerned if, as a result of the Scheme, that existing roads in the area are at greater risk from flood risk. An update on the Kelham solar farm development (NSDC ref: 23/01837/FULM) is that an amended plan has been received from the applicant (Peridot Solar) which removes panels from land within the FCA, this will be reconsulted on by the Council with all parties including the Environment Agency and we will inform the ExA of its progression.	The Applicant has reviewed Scheme impacts to the existing road network for all modelled flood events and confirms that the Scheme does not materially alter flood risk to existing roads. The Applicant continues to engage with the Environment Agency on flood risk to vulnerable receptors and has provided an update to the Hydraulic Modelling Technical Note at Deadline 5 (7.40, Rev 2). The Applicant held a meeting with NSDC on 29/01/2025 to discuss flood risk to vulnerable receptors and provide NSDC with an update on the recent discussions with the Environment Agency held on 27/01/2025. The Applicant notes a revised site layout plan (Drawing HC1002/05/03 revision 4) for the Kelham Solar Farm was published on the 23 December 2024 on the Newark and Sherwood District Council's planning portal. The revised plan shows that solar panels have been removed from the eastern area of the Flood Compensation Area (FCA), Work No. 125 as shown on sheet 7 of the Works Plans [REP3-002]. The Applicant is aware that the



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		Environment Agency removed their holding objection to the Solar Farm Planning Application (23/01837/FULM) on the 19 December 2024. The Planning Application 23/01837/FULM was refused at the Newark and Sherwood District Council's Planning Committee held on the 16 January 2025.
2.21.	<b>Item 3e)</b> NSDC sought clarification on the timing of the FCA delivery and why the FCA areas were chosen and do they offer optimum compensation in these locations for flood compensation for the development in the flood plain as they are not directly adjacent to the flood plain areas. Also the applicant stated 29 sites were considered for FCA and these are the most deliverable. Where is this information and why were the other sites discounted?	The Applicant has provided this information at Appendix G and Section 3.3 of the Flood Risk Assessment [APP-177].
2.22.	<b>Item 3f)</b> Tolney Lane – The Council provided an update on the Tolney Lane Flood Alleviation Scheme which is referenced in the Council's LIR (REP1-035). This is currently being taken forward as part of the Amended Allocations and Development Management DPD. No design for this has yet been finalised and this has not been applied for planning permission as yet. It is estimated that this process would be 9months for design and 4 months for planning consent. This alleviation is vital for the delivery of the Council's Gypsy and Traveller requirement as part of the DPD. The Council is just seeking assurances that the applicants Scheme for flood compensation would not have an impact on the deliverability of the Tolney Lane Alleviation and this is a matter which can be explored through the SoCG. <i>ISH4 Environmental Matters Thursday 5th December 2024 (AM)</i>	The Applicant confirms 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. The flood risk impacts from the Scheme in the vicinity of Tolney Lane were further discussed in a flood risk meeting with Nottinghamshire County Council and Newark and Sherwood District Council on 29/01/2025. The FCA proposed for the A46 is located away from the flood alleviation scheme. Meetings have been held with Newark and Sherwood District Council to determine that their works to reduce flood risk to the local community in Tolney Lane are not impacted by the Scheme. This matter is further detailed in the Statement of Common Ground with Newark and Sherwood District Council [REP4-026].
2.23.	<b>Item 3a)</b> Great North Road LWS – After the desk study had been done (within the Environmental Statement) the boundary of the site had become contracted and the potential loss of this site is reduced. The Council has no concerns on the impact to LWS.	No response required from the Applicant.
2.24.	<b>Item 3b)</b> BNG – BNG should not be slavishly followed whereby other opportunities and more creative approaches for habitat creation and enhancement could be explored. BNG has in somewhat taken away that approach generally but as it is not yet mandatory for NSIP schemes, it should not be the only approach to follow here. The applicant has attempted to maximise their credits here where there are constraints. The creation of wetland areas, especially around the Cattle Market area will have a impact on the character of this area, whereby the approach to this roundabout from the Sugar Beet Factory is mainly enclosed by highway/boundary trees. This wetland creation could be to boost BNG credits where it is not wholly necessary, at the expense of landscape enhancements. The Council considers there is more of a review required on the landscaping areas of Sandhills Park and the Cattle Market where the enhanced quality provided may not be necessary and landscaping provision should be made of what is necessary for mitigation to existing occupiers of properties and the landscape character.	<p>The Applicant confirms that the environmental design has been developed holistically to provide essential mitigation for the Scheme in the context of providing a linear blue green corridor along the Scheme extents. The approach to BNG has been to integrate biodiversity into features required within the Scheme rather than to create habitats purely for biodiversity value (except where required for essential mitigation). Where there has been a choice in the mitigation/enhancement to be provided, the Applicant has chosen the most ecologically appropriate solution and the one that provided the greatest ecological benefit. The uplift in biodiversity units delivered by the Scheme reflects and validates the Applicant's approach to providing biodiversity enhancement. With regards the area around Cattle Market, as discussed at Issue Specific Hearing 4, the areas of 'wetland' are not created for the purposes of BNG but are instead a Nature Based Solution to provide essential highways drainage for the Scheme. The surface drainage solution offers numerous environmental co-benefits compared to that of a traditional piped system. In this case there is a need for a drainage attenuation area in this location and the design focused on including a range of beneficial habitats within and around the required infrastructure.</p> <p>The use of surface water drainage is also not considered at odds with the character of the immediate area as seasonally flooded grassland.</p> <p>The requirement for mitigation in terms of visual screening from Sandhills Park has been maximised wherever feasible when accounting for offsets for planting in relation the carriageway, drainage assets, utilities and structures, as demonstrated on the General Arrangement Plans (Sheet 3) [AS-007] and Figure 2.3 (Environmental Masterplan) of the Environmental Statement Figures [AS-026]. Consideration has also been given to the offset of planting from the existing flood bund around Sandhills Park as well as the need to provide priority habitat replacement in the form of lowland meadow creation/enhancement in this location.</p>
2.25.	<b>Item 3d) Veteran trees</b> - The Council is concerned on how the construction around veteran trees will be monitored during the construction phase specifically and if there are any impacts to their longevity or if the trees show signs of deterioration, are there measured in place for dealing with replacements? In addition have all possible avoidance measures been explored to avoid the RPA of the veteran trees or can changes be made at the detailed design stage to encompass this. The Council would wish to be included in any provisions to discuss any mitigation measures if necessary.	<p>The Applicant has provided a response at section 3.4.4of the "Applicant's Summary of the Issue Specific Hearing 4 (ISH4)" [REP4-034], submitted at Deadline 4 of the Examination.</p> <p>The Applicant confirmed in that response that this would be an Arboricultural Consultant appointed by the Principal Contractor who reports on the health of the trees as part of the submission of the Arboricultural Audit, which is a transparent process. The Arboricultural Consultant will supervise works carried out within the Route Protection Area (RPA) of the veteran trees and will also inspect the health of the veteran trees throughout the duration of the works to ensure that protection measures are in place, works are carried out in accordance with the relevant standards and to monitor the health of the veteran trees during construction. Reporting in the form of an Arboricultural Audit will be required to capture the results of any supervision and inspection works carried out and will be made available to Newark and Sherwood District Council. These measures are secured in commitment L2 of within the Register of Environmental Actions and Commitments of the First Iteration Environmental Management Plan [REP4-010]</p>
2.26.	<b>Item 4a)</b> Cattle Market junction – The Council reiterates that the landscaping around this junction is insufficient to respond to the character or to provide sufficient mitigation to the impact of the flyover. At present the landscape is dominating with the infrastructure low lying in most places (especially on this roundabout section). To create	The Applicant confirms that at the location of representative viewpoint 25, as assessed within Chapter 7 (Landscape and Visual Effects) of the Environmental Statement [APP-051], roadside vegetation does frame views of the highway looking south to Cattle Market Junction and will continue to do so during the operation of the Scheme, as it will be sufficiently retained during construction

Newark and Sherwood District Council's Comments	The Applicant's Response
SUBMISSION AS THE LOCAL PLANNING AUTHORITY	
<p>an elevated flyover would see the landscape dominated by it without sufficient landscape mitigation as a result. (REP2-020) VP25 currently has a framed view towards the junction with vegetation on either side. At Year 1 (VP25) the vegetation has been removed and at year 15 there is not a lot of difference. With reference to BNG and the direct reference to NCA46 (National Landscape Character) and Section 4.2 which makes direct reference to boundary features within this landscape area and in particular wet willow boundary features. The existing baseline shows the framing of the approach and the character of moving along the A616 is fairly consistent in that there is a mature boundary treatment for some distance on a straight road with long distant views. However where there has been a loss of that vegetation the Council would like to see some confidence that that vegetation can reestablish again overtime and we feel that looking at that baseline position it seems a rational position.</p> <p>REP3-046 which is the Councils response to visuals (REP2-020), asks for explanation of why this design is the only design before us and why a lighter structure would not be more acceptable.</p>	<p>to continue its function. This is shown on Figure 2.3 (Environmental Masterplan) of the Environmental Statement [AS-026] and on Sheet 8 of the Tree Protection Plans contained within Appendix E.2 of Appendix 7.4 (Arboricultural Impact Assessment - Part 4) of the Environmental Statement Appendices [AS-088]. A screenshot from Sheet 8 of Appendix E.2 is provided below for ease of reference, noting that the areas for removal are depicted in orange and retained vegetation in blue and green. A screenshot from the Environmental Masterplan [AS-026] is also provided showing the habitats present post-construction of the Scheme.</p>  <p>As discussed in Issue Specific Hearing 4, the subsequent visualisation produced from the perspective of users of Great North Road is positioned slightly further south on Smeaton's arches, as requested; and as such the retained vegetation framing the view from VP25 would be retained but would be immediately behind the viewer in this location. For the vast majority of the length of Great North Road, existing roadside vegetation would be retained aiding the framing of views south as is currently the case. Whilst it is appreciated that in the most part the approach to Cattle Market Junction is enclosed by roadside vegetation, it does open up, particularly from Smeaton's arches southwards where vegetation is generally focused on the embankments of the east bound A46. The Applicant also recognises that a small number of trees and shrubs are growing immediately adjacent to the Great North Road footway which do not comply with DMRB offsets for planting from edge of carriageway. Only two small trees along Great North Road would be removed to accommodate the Scheme (T128 and T127), with small sections of groups G131 and G129b being removed adjacent to the existing access track. T120 a small tree set within G131 is suggested for removal on health and safety grounds given its categorisation as Category U tree. Beyond Great North Road, there would be no vegetation removal within the land parcel to the northeast of the junction. Existing highways planting along the A46 heading east from Cattle Market junction would be removed, however this would be replaced in the most part by proposed planting on the realigned embankment and also within the filed boundary to the north of the new access track where there is insufficient room to plant closer to the A46. Planting has been included wherever feasible when accounting for constraints associated with the safe operation of the highway. In respect to the final query as to why the design of the Cattle Market Junction takes its proposed form, rationale for this design decision were presented at Issue Specific Hearing 4 and within the "Applicant's Summary of the Issue Specific Hearing 4 (ISH4)" [REP4-034] submitted at Deadline 4 of the Examination.</p>
2.27. <b>Item 4b) Viewpoint 24 Sandhills Park</b> (REP2-020) – The Council does not consider that the visual representation is sufficient to represent how those residents of Sandhills Park would experience the levels change from the Cattle Market flyover. Given the intervening buildings on the plan it was suggested that a view from the A617 could show the full extent of the impact for those residents, without having to enter residents gardens or properties if this was not possible. Comments on this have been submitted by the Council as REP3-046.	The Applicant has provided a response in "Additional Visual Effects Information following Issue Specific Hearing 4 - Rev 1" [REP4-039] submitted at Deadline 4 of the Examination.
2.28. <b>Item 4c) Lighting</b> The Council is satisfied that there would be no lighting columns on the raised sections of the A46.	No response required from the Applicant.



## Applicants Responses to Comments received at Deadline 4

Newark and Sherwood District Council's Comments		The Applicant's Response
<b>SUBMISSION AS THE LOCAL PLANNING AUTHORITY</b>		
2.29.	<b>Item 5a) Winthorpe Conservation Area</b> – The flyover over the A1 is a concern as it results in the infrastructure being closer to the conservation area and listed buildings contained within the village. We were concerned with regards to the visual, however the latest submission does demonstrate that it is highly green and landscaped so does address some of those concerns. The experience of the conservation area would still be impacted upon by increased noise and that would be partially mitigated by the noise barriers but again these would themselves have an impact. The Council does not request any further information on this matter.	No response required from the Applicant.
2.30.	<b>Item 7 Old Stable Yard (adjacent to Bridge House Farm).</b> The Council made the ExA aware of the recent planning developments to the site whereby Members approved the site for 6 Gypsy and Traveller pitches under 24/00548/FUL. This was against officer recommendation which was to refuse based on noise concerns. The ExA will also be aware that the Council recommend this site to be deallocated based on a noise assessment taking place for the plan which required substantial noise mitigation to make the site deliverable. The Council will forward the committee report, committee minutes and objection letters to the ExA for consideration. <i>ISH5 Other ES Topics Thursday 5th December 2024 (PM)</i>	No response required from the Applicant.
2.31.	<b>Item 3d)</b> The Council considers that the Carbon Management Plan in draft form would be acceptable and is outlined in our response the EXQ1 at REP2-050 Q4.0.19.	The Applicant confirms that an Outline Carbon Management Plan has been submitted at Deadline 4 of the Examination, as Appendix B.6 of the First Iteration Environmental Management Plan [REP4-010]. The Outline Carbon Management Plan provides a high level approach to mitigation that will be developed further into a Carbon Management Plan upon consent of the Development Consent Order.
2.32.	<b>Item 4a) Contaminated Land Strategy</b> The updated Strategy has been updated following the guidance changes from 2012. No massive changes to the guidance other than those updates following the guidance change. This updated Strategy will be going to Cabinet on 10th December 2024. Updates will be provided following this adoption.	No response required from the Applicant.
2.33.	<b>Item 4c) Contaminated Land Risk Assessment</b> The Council does not envisage changes to the baseline data providing the safeguards are met as stated by the Applicant. The Council is satisfied with the way that any unexpected contamination is dealt with however the Council would wish to ensure that a verification report is carried out and submitted to the Council for acknowledgement and review and this process should be captured in the Environmental Management Plan.	<p>The Applicant confirms that commitment GS6 within the Register of Environmental Actions and Commitments of the First Iteration Environmental Management Plan (which was last submitted at Deadline 4 of the Examination [REP4-010]) has been updated with the following text:</p> <ul style="list-style-type: none"> <li>A verification report will be produced on completion of site earthworks and submitted to Newark &amp; Sherwood District Council for acknowledgement and review. The verification report will follow the Environment Agency's Land Contamination Risk Management (LCRM) guidance and will include; <ul style="list-style-type: none"> <li>- Details of any materials brought onto site including their source location, nature and any testing data obtained to demonstrate suitability for use,</li> <li>- Confirmation that no unexpected contamination was encountered</li> <li>- All locations, methodology and testing undertaken to investigate unexpected contamination (if encountered)</li> <li>- Details on any mitigation measures implemented for unexpected contamination</li> <li>- Confirmation that no excavation works have taken place at the location of the contamination hotspot, and to confirm the fate of contaminated material identified at the location of BH11 (Nether Lock viaduct).</li> </ul> </li> </ul> <p>The updated First Iteration Environmental Management Plan will be submitted at Deadline 5 of the Examination.</p>
2.34.	<b>Item 6a)</b> Agricultural Holdings The Council acknowledges that the compensation to farmers/land owners is outside of the DCO process however it is stated that the amount of land used for the development is substantial and would be keen to ensure those affected are appropriately compensated. It is understood those discussions are ongoing. The Council does not wish to raise any other matters on this but will review the updated documents submitted at Deadline 3 related to the ES Chapter of Population and Human Health and respond by Deadline 4 if required.	No response required from the Applicant.

## Applicants Responses to Comments received at Deadline 4

SUBMISSION AS THE LAND OWNER		
2. Council's Position		
2.1	The Council's concerns as landowner remain the same as those set out in their relevant representations dated 22 October 2024, save to confirm that the Applicant is now positively engaging with the Council and discussions are moving forward.	The Applicant agrees that matters are progressing in a positive manner and there has been positive engagement between the parties. Discussion with Newark and Sherwood District Council I to reach an agreement will continue.
2.2	The affected land remains the same as that described within the Council's relevant representations dated 22 October 2024.	No response required from the Applicant.
2.3	The impact of the Proposed Order remains the same as that described within the Council's relevant representations dated 22 October 2024, but discussions are on- going between the Council and the Applicant to determine how the parties can work together to facilitate appropriate reconfiguration of the lorry park sequentially with the proposed works coming forward.	No response required from the Applicant.
2.4	Similarly, the extent of land subject to temporary possession and compulsory acquisition is subject to on-going discussion between the Applicant and the Council and whilst the Council's previous relevant representations still stand, some positive progress is being made in this regard with discussions taking place between parties on 11 November 2024.	The extent of the land subject to temporary possession and compulsory acquisition has been subject to discussion between the Applicant and Newark and Sherwood District Council and ; these discussions have been positive. The Applicant has agreed to acquire the land and rights by agreement and this has been set out in draft Heads of Terms. The Applicant and their appointed valuer attended a site meeting with Newark and Sherwood District Council I and their agent on the 20November 2024 to discuss the land requirements and compensation principles. Heads of Terms were drafted 4 December 2024, and a further meeting took place between the Valuers on the 18 <sup>th</sup> December 2024. The Heads of Terms were updated by the Applicant's valuer and reissued on 6 January 2025. A response is currently awaited from Newark and Sherwood District Council. The Applicant's appointed valuer contacted Newark and Sherwood District Council's agent 28 January 2025 for an update on progress, it is understood that Newark and Sherwood District Council had an internal meeting to discuss 29 January 2025. A follow up call was made by the Applicant's appointed valuer 31 January 2025 with a view to agreeing land value subject to the provision of evidence supporting the claim. The Applicant is committed to working with Newark and Sherwood District Council and its representatives to agree matters.
2.5	The Council confirmed in their relevant representations dated 22 October 2024 that it is well established that an authority seeking compulsory acquisition powers should seek to acquire the land required for its scheme by agreement where possible. Furthermore, the Council outlined that it would be to the benefit of both parties if an agreement were reached between the Applicant and the Council which would allow for the voluntary transfer/leasing of land to the Applicant and for the Council to be consulted on detailed design of the proposed facility and allow for the reconfiguration of the lorry park in advance of the exercise of powers. As part of this agreement the Council also needs to ensure continued unimpeded access to their main Council offices at Castle House which is subject to temporary possession.	The Applicant acknowledges Newark and Sherwood District Council's concerns around access to their main offices at Castle House during the construction of the works along the Great North Road, Work No. 49 as shown on sheet 3 of the Works Plans [REP3-002]. The access to offices will be open during the construction of the Works with specific measures included within the Traffic Management Plan. The Outline Traffic Management Plan [REP3-026] identifies that nighttime road closures will be required on the Great North Road, where these occur specific communication and mitigation measures will be made.
2.6	As noted in earlier relevant representations the Council took the initiative to send an outline agreement to the Applicant on 27 September, in advance of the first Open Floor Hearing and CAH1 taking place. In brief the proposed agreement includes the following provisions: <ul style="list-style-type: none"> <li>The Applicant to provide the Council with its draft detailed design of works that affect the Council's land before finalising that design and to have reasonable regard to the Council's comments.</li> <li>The Applicant not to serve any temporary possession or compulsory acquisition notices for a period of time (to be agreed) after finalisation of the detailed design to allow for the lorry park to be reconfigured</li> <li>Arrangement for the costs of the lorry park reconfiguration to be reimbursed</li> </ul>	The Applicant has not included in the draft undertaking any restriction on the use of the compulsory acquisition powers. The applicant has provided provisions on the detailed design that is reflected in the proposed undertaken to be given to Newark and Sherwood District Council. <ul style="list-style-type: none"> <li>1.1 The Applicant will provide Newark and Sherwood District Council with its draft detailed design in relation to the proposals that directly impact Newark and Sherwood District Council land (the Draft Detailed Design) at least 3 months before finalising that Draft Detailed Design.</li> <li>1.2 Once in receipt of the Draft Detailed Design, Newark and Sherwood District Council will provide the Applicant with any comments it may have within 28 days.</li> <li>1.3 In the event that Newark and Sherwood District Council provide the Applicant with comments on its Draft Detailed Design, the Applicant shall have reasonable regard to such comments when finalising the detailed design in relation to the proposals that directly affect Newark and Sherwood District Council land (the Final Iteration Detailed Design).</li> <li>1.4 The Applicant will provide the Newark and Sherwood District Council with the Final Iteration Detailed Design within 14 days prior to the conclusion of the Applicant's detailed design process in relation to the Newark and Sherwood District Council land.</li> </ul>
2.7	A positive meeting was held between the Applicant and the Council on 11 November 2024 in which the basis of the agreement was agreed. The Applicant said that they would provide a draft agreement for the Council's consideration before CAH2. A draft letter of undertaking dealing with the first of the above bullet points (detailed design of the Applicant's works) was provided on 2 December 2024. We are disappointed to note that a draft agreement dealing with the other points has not yet been received despite a month having passed since the heads of terms were broadly agreed.	The Applicant acknowledges the Newark and Sherwood District Council's concerns on this issue, . The Applicant will continue to work with the Newark and Sherwood District Council to secure the agreement as soon as possible.
2.8	Although the Council is pleased that a positive dialogue has been established, it is concerned that the Applicant is not dealing with the proposals quickly enough to allow for an agreement to be reached before the end of the examination.	The Applicant acknowledges the Newark and Sherwood District Council's concerns on this issue. As stated in response to 2.7 above the Applicant is actively working to review the draft agreement from Newark and Sherwood District Council. The Applicant is also actively progressing Heads of Terms which are currently with Newark and Sherwood District Council to progress. The Applicant is committed to continue to work with Newark and Sherwood District Council to work through their concerns as landowners and to work towards agreement.

Newark and Sherwood District Council		The Applicant Responses
<b>2. Actions from ISHS.</b>		
2.1.	<p><u>ISH1 – Draft DCO</u></p> <p>Requirement 5 - Review working hours and activities that can commence within first 30 minutes. This matter has been added to the Statement of Common Ground with the applicant and it is understood that the applicant will submit details to NSDC on matters that will occur within the 30minutes of 07:00-07:30 Monday to Friday and specifically what activities will not occur. It has also been agreed to date with the applicant, that Saturday workings will be from 08:00 to 14:00 as opposed to the suggested 07:00-13:00.</p>	<p>The Applicant has amended Requirement 5 of the draft Development Consent Order to be submitted at Deadline 5 of the Examination so that Saturday working hours are now 08:00-13:00. This change has been made to ensure the working hours for the Scheme remain within those specified in BS5228 (Code of practice for noise and vibration control on construction and open sites). Details of the activates that would be permitted and not permitted to occur between 07:00 and 07:30 on weekdays have been detailed in the Statement of Common Ground with NSDC [REP4-026] which has been updated for Deadline 5.</p> <p>Activities permitted between 07:00 and 07:30 are as follows:</p> <ul style="list-style-type: none"> <li>i. Staff and workforce personnel arriving to the main offices and satellite offices.</li> <li>ii. Activities associated with personnel welfare and safety, including washing, changing into PPE.</li> <li>iii. Activity briefings, safety briefings, including toolbox talks.</li> </ul> <p>Activities precluded between 07:00 and 07:30 are:</p> <ul style="list-style-type: none"> <li>i. Start up or use of construction plant.</li> <li>ii. Loading and unloading of construction vehicles</li> <li>iii. Material deliveries</li> </ul>
2.2.	<p><u>ISH2 – Transport and Transport related matters</u></p> <p>Item 3b 1 - Provide clarity on the degree of dependence of various sites in the adopted and emerging development plan on the Proposed Development, and whether the Proposed Development could have physical impacts that may hinder or help the delivery of those sites. NSDC has carried out a review of this action and it should be noted that this is just the opinion of NSDC as the local planning authority and not as the highway authority which is Nottinghamshire County Council. The Council's Amended Core Strategy (2019) and Allocations and Development Management DPD (adopted and emerging) have both made the assumption that the Proposed Development of the A46 carries some weight in the delivery of new development including allocated sites. This is demonstrated in Appendix D 'Public Transport and Highway Infrastructure Required for Delivery of the Newark and Sherwood Core Strategy' (Amended Core Strategy 2019) which includes the Proposed Development. Without the Proposed Development going ahead those sites already allocated and proposed to be allocated would be reliant on other means of transport/junction improvements to successfully mitigate the highways impact of those new developments in the Newark Urban Area. In particular it should be noted that Allocations at NUA/E2, NUA/E4, NUA/MU1 and NUA/MU3 (proposed opportunity site 2) because of their close proximity to the Proposed Development could specifically be negatively impacted by the failure of the Proposed Development to occur.</p>	<p>The Applicant has provided a response in "Applicant's summary of the Issue Specific Hearing 2" [REP4-032]. Submitted at Deadline 4 of the Examination.</p>
2.3.	<p>Item 3b 2 - Provide clarity on the relevance to the ExA's recommendation of the list of policies and allocations in the <u>Local Impact Report</u>. See Appendix 1 of this submission.</p>	<p>No response required from the Applicant.</p>
2.4.	<p>Lindum site (23/01283/OUTM) – As stated within the examination, NSDC stated they would provide an update on the progression of this application through the Development Management process. The application was approved by Newark and Sherwood District Council elected Members on 5th December 2024, however as the application is subject to a S106 agreement for the monitoring of the Travel Plan and therefor a formal decision has not yet been issued.</p>	<p>No response required from the Applicant.</p>
2.5.	<p>Item 3f ii) Communications Plan (ES Volume 6.5 First Iteration Environmental Management Plan Rev 3 REP3-022): The Council NSDC welcomes National Highway's commitment to produce a Communications Plan. This document helpfully sets out National Highways approach to communication prior to, and during the construction phase of the A46 Newark Bypass scheme. In order to maximise communication with as many people affected by the scheme as possible, the Council would welcome the inclusion of the following Parish and Town Councils (NB. some are already included in the Communications Plan):</p> <ul style="list-style-type: none"> <li>• Averham, Kelham and Staythorpe Parish Council</li> <li>• Balderton Parish Council</li> <li>• Coddington Parish Council</li> <li>• Collingham Parish Council</li> <li>• Farndon Parish Council</li> <li>• Fernwood Parish Council</li> <li>• Hawton Parish Council</li> </ul>	<p>The Applicant thanks Newark and Sherwood District Council for their comments following a review of the Outline Construction Communications Management Plan (appended to the First Iteration Environmental Management Plan [REP4-010]). The comments on the inclusion of the full list of Parish Councils has been addressed and the revised Outline Construction Communications Management Plan was submitted at Deadline 5 of the Examination.</p>



## Applicants Responses to Comments received at Deadline 4

Newark and Sherwood District Council		The Applicant Responses
	<ul style="list-style-type: none"> <li>• Newark Town Council</li> <li>• Rolleston Parish Council</li> <li>• South and North Muskham Parish Councils</li> <li>• Winthorpe with Langford Parish Council</li> </ul>	
2.6.	<p>ES Volume 6.5 First Iteration Environmental Management Plan Rev 3 REP3-022 (and within Chapter 12 Population and Human Health REP3-011 para 12.10.7): The Council strongly supports National Highway's commitment to produce an Education, Employment and Skills Plan, and an Inclusion Action Plan in the First iteration Environmental Management Plan. The Employment and Skills Plan, from NSDC's perspective, should make special regards to include employees and apprentices from across Newark and Sherwood District. The Council could assist in this process as we already have links with the local job seekers market, employers and schools/colleges. We would like to be informed of data that is captured through the monitoring process. It is noted within the FIEMP (REP3-022) PHH5 that the Plan 'will increase diversity of the workforce for the Scheme and ensure that local people benefit from jobs created <i>for the Scheme</i>'. This is something the Council would encourage as a benefit of the Scheme and as stated above are happy to provide any assistance on this. The Inclusion Action Plan, in the opinion of the Council, should include those with protected characteristics and make special regard to engage with those residents of the District who are most affected by the development, notably those of the Gypsy and Traveller community who may not benefit from standard community consultation events or online information. No one should be discriminated from engaging in the process or from being unaware of the scheme due to who they are or due to their background or socio-economic status. As stated in the Council's response to ExQ1 (REP2-050) Q13.0.8b, we consider it necessary that an outline of the proposed commitment and details of parties who would be subject of the Inclusive Action Plan, be provided before the decision on this application is made, to enable the decision maker to discharge their duty as part of the Public Sector Equality Duty (within the Equality Act 2010).</p>	<p>The Applicant will be producing an Employment and Skills Plan and Inclusion Action Plan within the second iteration of the Environmental Management Plan as stated in item PHH5 in table 3.2. of the First Iteration Environment Management Plan [REP4-010]. We welcome NSDC's offer of support in the development of this process, and we can confirm that we have already employed the Social Value Lead for the scheme who has commenced engagement with local collages and further education establishments in the area.</p> <p>The Applicants Social Value Lead is in contact with NSDC's Senior Lead Business and Skills Officer within the Economic Growth Team.</p> <p>The Applicant has responded to Q13.0.8 providing an outline of the proposed IAP commitments and a list of parties who would be the subject of the IAP</p> <p>Item 49 has been agreed in the Statement of Common Ground with NSDC [REP4-026], updated for Deadline 5.</p>
2.7.	<p>Dust Management Plan (ES Volume 6.5 First Iteration Environmental Management Plan Rev 3 REP3-022) This has been reviewed by the Council's consultee (AECOM) and verified by the Council's own Environmental Health Officers and their agreed comments are appended to this submission at Appendix 2.</p>	<p>The Applicant confirms that Newark and Sherwood District Council's comments as provided in Appendix 2 of their submission have been responded to and an updated Appendix B.5 Outline Air Quality and Dust Management Plan of the updated First Iteration Environmental Management Plan [REP4-010] has been submitted at Deadline 5 of the Examination. Further details are provided in Appendix 2 below.</p>
2.8.	<p>Air monitoring stations – In accordance with Q2.0.5 of the Council's response to Examiner questions (REP2-050), NSDC have requested additional monitoring stations to be installed by the applicant to enable the Council to monitor ongoing air quality as a result of the development. Whilst this would be an aspiration of the Council to have this ability, we acknowledge that there are no significant effects caused by the development to warrant such a request, and this will be updated as part of the Statement of Common Ground. The Council has also stated within their LIR (REP1- 035) paragraph 14.25 that the Scheme warranted air quality damage costs. However again as the Scheme does not result in significant harm, these damage costs would not be required. The Council would however still reiterate that additional mitigation would be required as a result of the Scheme to mitigate the harm identified by the Council upon heritage and landscape.</p>	<p>The Applicant has provided a response in the "Applicant's summary of the Issue Specific Hearing 2" [REP4-032] and the "Applicant's Summary of the Issue Specific Hearing 4 (ISH4)" [REP4-034] submitted at Deadline 4 of the Examination.</p>
2.9.	<p><u>ISH3 - Water Environment</u></p> <p>2.9.Action 3 (EV9-001) 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. From reviewing the information it is the belief of the Council that it does not maintain any assets.</p>	<p>The Applicant has reviewed the <i>Defra Asset Management dataset</i> (<a href="#">Asset Information and Maintenance Programme</a>). This consists of information on water related assets such as;</p> <ul style="list-style-type: none"> <li>• locations of watercourse channels,</li> <li>• Flood and Coastal Risk Management (FCRM) assets such as control structures and outfalls,</li> <li>• locations of flood defences with information on their upkeep – these are split into two categories: <ul style="list-style-type: none"> <li>○ those to "Include in Floodmap" which feature in the Environment Agency's flood map for planning. [Discussions with the Environment Agency on the Scheme tying into these maintained assets are ongoing, as detailed in the Environment Agency; written hearing summary "REP4-044"]</li> <li>○ those not to "Include in Floodmap" which do not feature in the Environment Agency's flood map for planning. These are engineered high ground river embankments, with which the Scheme does not interface.</li> </ul> </li> </ul> <p>Further detail on the Applicant's response to Action point 3 is provided in the Applicant's 'Responses to points arising from Issue Specific Hearing (ISH) 3' submitted at Deadline 5 of the Examination. As indicated by the Council's update to item 2.9, the Council does not maintain any assets.</p>

## Applicants Responses to Comments received at Deadline 4

Newark and Sherwood District Council					The Applicant Responses
2.10.	<div><div><div>24/00548/FUL</div><div>The Old Stable Yard Winthorpe Road Newark On Trent NG24 2AA</div><div>Change of use of land to residential Gypsy/Traveller caravan site comprising 6 pitches each providing 1 static and 1 touring caravan and dayroom.</div><div>Approved by Members of the Planning Committee on 11th November 2024 (decision issued on 14.11.2024)</div></div><div>Action 7 (EV10-001) Provide details of the recent decision for the Bridge House Farm traveller site including the Officer's Report and details of the Members' decision. At the request of the ExA the Council has provided the Committee Report, Minutes of the Committee Meeting and a copy of the objection letter received during the consideration of the application. Due to the size of this information, this will be appended separately.</div></div>				No response required from the Applicant.
2.11.	<div><div>ISH5 – Other ES Topics</div><div>Item 4 a) Contaminated Land Strategy – As agreed with the ExA the Council would provide an update to the Strategy and an explanation of the differences between the existing and proposed Strategy. The revised Strategy went to the Council's Cabinet meeting on 10th December 2024 and was approved as an adopted document for the Authority.</div></div>				No response required from the Applicant.
2.12.	<div><div>The strategy has been simplified a lot and reflects the changes to the statutory guidance from 2012 (which introduced categories 1-4, 1 being high risk and 4 low risk). It also introduces the updated Land Contamination Risk Management (LCRM) guidance which was provided by the Environment Agency in the last couple of years, this describes how someone should go about investigating a site etc. is much simplified and now all in the one place. The updated report is appended separately to this submission.</div></div>				No response required from the Applicant.
2.13.	<div><div>Item 6a) Agricultural Holdings – The ExA have asked NSDC to review the updated Agricultural Land Classification Report (REP3-016) and the Population and Human Health Report (REP3-011). It was stated within the Council's LIR (REP1-035) that the Council is concerned of the loss of agricultural land as a result of the scheme (see para 15.21). The figures have been amended, which is understood due to the original report being carried out prior to the finalised design thus the Order area/land area is smaller. Of concern is that the BMV land (grade 1-3a) total appears to have been increased from 22% to 34% and the land of lower value has been reduced from 72% to 59%. One matter the Council would seek clarification on from the Applicant is how much of the land (as a %), especially the BMV land, is of permanent loss either through the FCAs or construction of the Scheme. Para 12.9.3 of REP3-012 states that “the construction of the Scheme will require both permanent and temporary use of agricultural land, potentially impacting on the functioning and viability of agricultural holdings and enterprises.” It is accepted that the compensation scheme is a separate process, however the Council would not wish for the productivity of those largely arable farms to be so severely compromised as a result of the Scheme that it would impact them in the longevity. Nottinghamshire and especially the Newark area is heavily reliant on the rural economy and its farmers and if the 14 holdings and enterprises as identified in the Scheme, are detrimentally impacted in terms of their food/crop production capacity, then Newark would suffer economically. In some cases farms will have 61% of land permanently acquired (Farm 9), 36% (Farm 01), 31% (Farm 10) (table 12-11).</div><div><div>The Applicant confirms that it has provided information on the amount of BMV land impacted in Appendix C (ALC Grade Survey and Agricultural Land Impact Plans) of the “Applicants Responses to ExAs First Written Questions” [REP2-037]. This information is also presented in Chapter 9 (Geology and Soils) of the Environmental Statement [REP3-009]. The increase in grade 3a land is due to the addition of an area of land to be permanently acquired but only temporarily removed from agricultural use on Farm 3. Therefore, there is no overall increase in the permanent removal of agricultural land from agricultural use. The table below shows the breakdown of the hectares of land permanently or temporarily removed from agricultural use and indicates that across the scheme, the amount of BMV land permanently removed from agricultural use amounts to 15.8 ha or 14.3%. The permanent removal of BMV land from agricultural use comprises 14.45ha of the main scheme alignment (excluding all FCAs) and 1.4ha from the Kelham and Averham FCA.</div><div>With regard to the impact on arable farms, the land at Farms 9 and 10 is used for grazing and the majority of land required permanently by the Scheme is non-BMV.</div><div>The Applicant is having conversations with a number of the landowners of the affected farmland to discuss and agree the acquisition of the land (either through permanent or temporary acquisition). This is to minimise the amount of land to be permanently acquired and allow for adequate compensation to the landowner of land affected. These conversations continue to be positive and continue to work towards agreement. Details of congoing land conversation can be found in the Lands Rights Tracker [REP4-015].-</div></div></div>				

## Applicants Responses to Comments received at Deadline 4

Newark and Sherwood District Council		The Applicant Responses																																																	
		<table><tr><td></td><td>Permanent acquisition of agricultural land to be permanently removed from agricultural use (hectares, percentage of holding)</td><td>Permanent acquisition of agricultural land to be temporarily removed from agricultural use</td><td>Land to be used temporarily</td><td>Land to be used temporarily and rights to be permanently acquired</td></tr><tr><td>Land in hectares</td><td></td><td></td><td></td><td></td></tr><tr><td>Grade 2</td><td>0.26 (0.2%)</td><td>4.75 (4.3%)</td><td>0 (0%)</td><td>0.91 (0.8%)</td></tr><tr><td>Grade 3a</td><td>15.56 (14.1%)</td><td>15.41 (14%)</td><td>0.29 (0.3%)</td><td>0.1 (0.1%)</td></tr><tr><td>Total BMV</td><td>15.82 (14.3%)</td><td>20.16 (18.3%)</td><td>0.29 (0.3%)</td><td>1.01 (0.9%)</td></tr><tr><td>Grade 3b</td><td>59.7 (54.1%)</td><td>3.48 (3.1%)</td><td>4.06 (3.7%)</td><td>0.06 (0.05%)</td></tr><tr><td>Grade 4</td><td>5.27 (4.8%)</td><td>0.45 (0.4%)</td><td>0 (0%)</td><td>0 (0%)</td></tr><tr><td>Total non-BMV</td><td>64.97 (58.9%)</td><td>3.93 (3.5%)</td><td>4.06 (3.7%)</td><td>0.06 (0.05%)</td></tr><tr><td>Total agricultural land</td><td>80.79</td><td>24.09</td><td>4.35</td><td>1.07</td></tr></table>						Permanent acquisition of agricultural land to be permanently removed from agricultural use (hectares, percentage of holding)	Permanent acquisition of agricultural land to be temporarily removed from agricultural use	Land to be used temporarily	Land to be used temporarily and rights to be permanently acquired	Land in hectares					Grade 2	0.26 (0.2%)	4.75 (4.3%)	0 (0%)	0.91 (0.8%)	Grade 3a	15.56 (14.1%)	15.41 (14%)	0.29 (0.3%)	0.1 (0.1%)	Total BMV	15.82 (14.3%)	20.16 (18.3%)	0.29 (0.3%)	1.01 (0.9%)	Grade 3b	59.7 (54.1%)	3.48 (3.1%)	4.06 (3.7%)	0.06 (0.05%)	Grade 4	5.27 (4.8%)	0.45 (0.4%)	0 (0%)	0 (0%)	Total non-BMV	64.97 (58.9%)	3.93 (3.5%)	4.06 (3.7%)	0.06 (0.05%)	Total agricultural land	80.79	24.09	4.35	1.07
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2.14.	Finally para 12.13.4 states that the Scheme would have an overall adverse impact on agricultural land as a result of both permanent and temporary land take and reduced access during construction, which is of concern. However providing holdings are well communicated with and appropriate access arrangements are made in advance, then this is a matter which, from the Council's perspective, should be pursued outside of the DCO process.	No response required from the Applicant.																																																	
Appendix 1																																																			
LIR (REP1-035) Page 14 - Sites in the Allocations and Development Management DPD Adopted in July 2013, the Allocations & Development Management DPD (ADMDPD) forms part of the current Local Development Framework and accords with the 2011 Newark and Sherwood Core Strategy and its approach to settlement growth in identifying specific sites where new homes and employment sites should be built. The DPD illustrates the location and extent of the allocated land on the Policies Map and provides guidance on how and when the sites should be developed. This DPD has been subject to review in recent months as part of the Amended Allocations and Development Management DPD to ensure its policies accord with the Amended Core Strategy (2019) and National Planning Policy Framework. At the request of the ExA NSDC has reviewed the information submitted in its LIR and can provide clarification on the relevance of the policies listed therein. This is outlined below.  Relevant policies:		No response required from the Applicant.																																																	

## Applicants Responses to Comments received at Deadline 4

Newark and Sherwood District Council			The Applicant Responses
Policy	Summary	NSDC Clarification on relevance	
Policy NUA/MU/1 Newark Urban Area - Mixed Use Site 1	Land North of the A17 has been allocated on the Policies Map for mixed use development. The site will accommodate a Hotel/Conference Facility, restaurant facilities to support the wider showground uses, and employment uses.	Site directly adjoins the A46. It would be affected by the proposed footpath route dissecting the site.  The upgrade of the A46 would support economic growth / local businesses (as discussed under the <a href="#">Socio Economic</a> section of NSDC's LIR).	
Policy NUA/MU/2	Land at the current Brownhills Motor Homes site has been allocated on the Policies Map for mixed use development. The site will accommodate employment (B1/B2/B8) development, roadside services including a hotel (which currently has outline Planning Permission), and the continued sui generis use of the site for the sale of Motor Homes.  NB. This site is proposed for deallocation following review of the Allocations and DM DPD (2013) - in the AADMDPD.	The upgrade of the A46 would support economic growth / local businesses (as discussed under the <a href="#">Socio Economic</a> section of NSDC's LIR).	
Policy NUA/E/2	Land west of the A1 on Stephenson Way has been allocated on the Policies Map for employment development. The site is 12.24 hectares in size.	The upgrade of the A46 would support economic growth / local businesses (as discussed under the <a href="#">Socio Economic</a> section of NSDC's LIR).	
Policy NUA/E/3	Land off Telford Drive has been allocated on the Policies Map for employment development. The allocation is in three parcels, a total of 1.54 hectares in size.	The upgrade of the A46 would support economic growth / local businesses (as discussed under the <a href="#">Socio Economic</a> section of NSDC's LIR).	



Newark and Sherwood District Council			The Applicant Responses
NUA/E/4	Land at the former Nottinghamshire County Council Highways Depot on Great North Road has been allocated on the Policies Map for employment development. The site is 2.07 ha in size and B1/B2/B8 is appropriate in this location.	The upgrade of the A46 would support economic growth / local businesses (as discussed under the <a href="#">Socio Economic</a> section of NSDC's LIR).  NB. This site is to be used by National Highways as a compound when construction works commence on the A46 Newark Bypass. As such, there would be a temporary affect on the delivery of employment development.	
NUA/Ho/2	Land south of <a href="#">Quibells Lane</a> has <a href="#">been allocated</a> on the Policies	<a href="#">Just for</a> information – site located within the Local Impact Area as defined by AS-066 6.2	
	Map for residential development providing around 86 dwellings.  NB. The site has been reallocated for 25 dwellings in the AADMDPD due to the lack of available land.	Environmental Statement, Figure 12.1	
NUA/Ho/3	Land on Lincoln Road has been allocated on the Policies Map for residential development providing around 24 dwellings.  NB. This site is proposed for deallocation in the AADMDPD plan review.	Just for information – site located within the Local Impact Area as defined by AS-066 6.2 Environmental <a href="#">Statement</a> , Figure 12.1	
NUA/Ho/4	Yorke Drive Estate and Lincoln Road Playing Fields have been identified in the Bridge Ward Neighbourhood Study as locations for regeneration and redevelopment. The area has been identified on the Policies Map as the NUA/Ho/4 - Yorke Drive Policy Area.  It is anticipated that approximately 230 net additional dwellings will be developed.	Just for information – site located within the Local Impact Area as defined by AS-066 6.2 Environmental <a href="#">Statement</a> , Figure 12.1	
Appendix 2			
<b>Purpose of this Outline Air Quality and Dust Management Plan</b> This Section sets out the purpose of the Outline AQDMP and states that the measures to manage dust and emission of pollutants to air generated by the construction of the Scheme will be implemented by the Principle Contractor (PC). This Section confirms that the PC will update the Outline AQDMP into a Final Management Plan prior to the commencement of works in accordance with the Requirements in Schedule 2 of the draft Development Consent Order (dDCO) [REP3-003] and must be substantially in accordance with the First Iteration Environmental Management Plan (FI EMP) [REP3-022] and the Second Iteration Environmental Management Plan (SI EMP). It is requested that the word 'substantially' is removed from this paragraph. There are no further comments in relation to this Section.			The Applicant has retained the word 'substantially' in paragraph 1.1.2 of the Outline Air Quality and Dust Management Plan of the First Iteration Environmental Management Plan [REP4-010] which was last submitted at Deadline 5 of the Examination as it reflects the wording contained within the Schedule 2 (requirements) of the draft Development Consent Order [REP4-003] relating to Environmental Management Plans. "7.63 The Applicant's Response to Examining Authority's Second Written Questions" question 6.1.2 submitted at Deadline 5 of the Examination explains the need for the flexibility that the language 'substantially in accordance with' provides.



Newark and Sherwood District Council	The Applicant Responses
<p><b>Responsibilities</b></p> <p>The Outline AQDMP states that in relation to the control and management of dust and emissions to air, the PC shall establish the appropriate roles and responsibilities for site staff in accordance with the roles and responsibilities set out in Section 2 of the FI EMP [REPS-022].</p> <p>There are no comments in relation to this Section.</p>	<p>No response required from the Applicant.</p>
<p><b>Consent Requirements</b></p> <p>This Section confirms that the construction of the Scheme must be undertaken such that:</p> <p>a) The works comply with the provisions of the DCO as made by the Secretary of State; and</p> <p>b) Data can be recorded, reviewed and provided to the Environmental Health Officer (EHO), when requested.</p> <p>With regards to b), further information is provided within the 'reporting' Section of this report in relation to this however NSDC consider a revision to the wording of this should be that information <u>'will be provided'</u> and should align with the reporting section (see our final point on reporting requirements below).</p>	<p>The Applicant confirms that section 1.3.1b of Appendix B.5 Outline Air Quality and Dust Management Plan ) of the First Iteration Environmental Monitoring Plan [REP4-010] submitted at Deadline 5 of the Examination has been revised to amend '<i>can</i>' to '<i>will</i>' along with other structure changes to incorporate details included in the '<i>Reporting</i>' section of Appendix 2 of Newark and Sherwood District Council's Written summaries of oral submissions made at the previous Hearings [REP4-044]. Further comment on '<i>Reporting</i>' is made in response to the '<i>Reporting</i>' section below.</p>
<p><b>General Control Measures</b></p> <p>Within this Section, the applicant provides a list of dust mitigation control measures in Table 1-1 which will be required for all works undertaken, where there is a potential for adverse effects on sensitive receptors. Table 1-2 provides a list of receptors which are at a higher risk of dust impacts, with a list of specific control measures which should be applied in these areas in Table 1-3.</p> <p>With regards to Tables 1-1, 1-2 and 1-3, the following comments are provided.</p> <ul style="list-style-type: none"><li>• In Tables 1-1 and 1-3, each measure assigned to an activity should be reviewed as several are assigned to the incorrect activity. For example, the use of water-assisted dust sweepers on access and local roads is listed as a measure to mitigate the potential dust effects during demolition works. This mitigation measures should be listed as a mitigation measure for trackout activities.</li><li>• In Table 1-1, it states that 'a maximum speed limit will be imposed and signposted on surfaced and unsurfaced haul roads and works areas (if long haul roads are required, these speeds may be increased with suitable specific control measures provided)'. The applicant should be specific what these speed limits will be within the AQDMP.</li><li>• In Table 1-3, it states, 'if applicable, hold regular liaison meetings with other high-risk construction sites within 500m of the site boundary, to ensure plans are coordinated and dust and particulate matter emissions are minimised'. The Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction (2024) says that these meetings should be held with high-risk construction sites within 250m of the site boundary, rather than 500m.</li><li>• Table 1-3 the mitigation measures concerning 'preparation and maintaining the site' are repeated.</li><li>• A figure would be useful to illustrate the locations of the higher risk areas as detailed in Table 1-2. It is acknowledged that in Environmental Statement, Figures 5.3 [TR010065/APP/6.2], receptors are identified which are located within 100 m of the site boundary; however, it appears more information is now available to identify receptors within 100 m of specific works. Therefore, an updated figure would be helpful to understand where additional specific control measures will be implemented.</li></ul>	<p>The Applicant confirms the points below are reflected in the Appendix B.5 Outline Air Quality and Dust Management Plan of the updated First Iteration Environmental Management Plan [REP4-010] submitted at Deadline 5 of the Examination.</p> <ul style="list-style-type: none"><li>• The Applicant confirms that the general control measures included in Table 1-1 of the Outline Air Quality and Dust Management Plan have been updated to assign each measure to the relevant 'IAQM activity' where appropriate.</li><li>• The Applicant confirms that a maximum speed limit is now specified in Table 1-1 Outline Air Quality and Dust Management Plan.</li><li>• The Applicant confirms that the text '<i>hold regular liaison meetings with other high-risk construction sites within 500m of the site boundary</i>' has been updated to '<i>hold regular liaison meetings with other high-risk construction sites within 250m of the site boundary</i>'.</li><li>• The Applicant confirms that the duplicated text in Table 1-3 has been deleted.</li><li>• The Applicant confirms that a figure illustrating specific works areas has been provided in the Outline Air Quality and Dust Management Plan</li></ul>
<p><b>Monitoring</b></p> <p>Throughout the First Iteration Environment Management Plan, including the Outline AQDMP, there is a lack of clarity and consistency to the approach to monitoring during the construction phase with regards to dust and PM10.</p> <p>Table 1-1 of the Outline AQDMP states:</p> <ul style="list-style-type: none"><li>• Monitoring may include monitoring of dust deposition, dust flux, real-time PM10 continuous monitoring and/or visual inspections.</li><li>• Undertake regular inspections, as will be set out in the SIEMP, where receptors are nearby, to monitor dust, record inspection results, and make the log available to the relevant local planning authority upon request.</li></ul> <p>Table 1-2 which details the mitigation and monitoring for higher risk areas, states:</p> <ul style="list-style-type: none"><li>• Carry out regular site inspections to monitor the effectiveness of mitigation measures, record inspection results, and make an inspection log available to the relevant planning local authority as soon as reasonably practicable upon request.</li><li>• Increase the frequency of site inspections by the person accountable for air quality and dust issues on site when activities with a high potential to produce dust (e.g. demolition works or large earthworks) are being carried out and during prolonged dry or windy conditions.</li><li>• Undertake dust monitoring where necessary and after risk-assessing the activities/receptors</li></ul> <p>Table 3-2 Register of environmental actions and commitments, reference AQ1</p> <ul style="list-style-type: none"><li>• No ambient monitoring is required for dust or particulates; however, visual inspections will be undertaken daily for dust deposition on and off site.</li></ul>	<p>The Applicant confirms that the Appendix B.5 Outline Air Quality and Dust Management Plan of the updated First Iteration Environmental Management Plan [REP4-010] submitted at Deadline 5 of the Examination has been updated in line with Newark and Sherwood District Council's comments. This includes updating the text 'regular inspections' to 'regular visual inspection' in the general control measures set out in Table 1-1 of the Outline Air Quality and Dust Management Plan and quantitative real-time dust (PM<sub>10</sub>) monitoring in the specific control measures set out in Table 1-3 of the Outline Air Quality and Dust Management Plan.</p> <p>Table 1-3 of Appendix B.5 Outline Air Quality and Dust Management Plan of the updated First Iteration Environmental Management Plan [REP4-010] submitted at Deadline 5 of the Examination has been updated to include reference to IAQM 'Guidance on Monitoring in the Vicinity of Demolition and Construction Sites' (2018) when undertaking real-time dust monitoring which contains best practice on how dust monitoring should be undertaken in the vicinity of construction sites. However, as the current version of the Air Quality and Dust Management Plan is currently only in outline form, detailed information regarding the type of equipment/analysers to be used, locations, baseline monitoring, frequency of monitoring, alert thresholds, action protocols and other detailed monitoring specifications have not yet been defined. Paragraph 1.1.3 of the updated First Iteration Environmental Management Plan [REP4-010] submitted at Deadline 5 of the Examination explains that '<i>This First Iteration EMP contains several outline management plans to be developed into full management plans, and also identifies additional plans and method statements that will need to be developed by the Principal Contractor (PC) prior to construction commencing to be incorporated into the Second Iteration EMP.</i>' The Applicant will update the Outline Air Quality and Dust Management Plan with technical monitoring detail, including locations of real-time dust monitoring, when submitted in its 'full management plan' form as part of the Second Iteration Environmental Management Plan prior to construction.</p>

Applicants Responses to Comments received at Deadline 4

Newark and Sherwood District Council	The Applicant Responses
<p>There appears to be a lack of certainty as to where visual inspections and quantitative monitoring would be undertaken. NSDC and NCC would expect the AQDMP to include visual inspections in all areas and quantitative monitoring in high risk areas. With regards to quantitative monitoring, the AQDMP should set out indicative locations, type of equipment/analysers to be used and frequency of monitoring. Alert thresholds should also be identified and information on the protocol which will be adhered to if elevated concentrations of PM10 or amounts of dust deposition/soiling were recorded within e.g. 10% of the threshold and if exceeded. No reference is made to set out what baseline monitoring will be undertaken prior to construction works.</p>	
<p><b>Reporting</b> NSDC and NCC request the following reporting requirements to be included in the AQDMP:</p> <ul style="list-style-type: none"><li>• Both Councils will be informed within 48 hours if National Highways or its PC receives a dust complaint. Information will be provided regarding the nature of the complaint, how it was investigated and actions taken to resolve the issue.</li><li>• Both Councils will be informed within 48 hours if there is an exceedance of the alert thresholds. Information will be provided regarding the location where the exceedance was monitored and actions taken.</li><li>• A monitoring report will be provided to the Councils every 6 months outlining the data gathered from the monitoring sites and NSDC and NCC should have the option to request information inbetween these periods when required to for investigation/reporting purposes or as requested to by the regulators.</li></ul>	<p>The Applicant confirms that the planning authority's Environmental Health Officer will be informed within 48 hours of receipt of a dust complaint or exceedance of an alert threshold and a written report including the investigations, exceedance locations and actions taken will be provided within the 10 days following the initial 48-hour period. A summary report will also be provided every 6 months during the construction phase and the relevant planning authority may request information more frequently when required for investigation. These reporting procedures have been added to Section 1.3 of Appendix B.5 Outline Air Quality and Dust Management Plan of the updated First Iteration Environmental Management Plan [REP4-010] submitted at Deadline 5 of the Examination.</p>

## Applicants Responses to Comments received at Deadline 4

Adrian Hatton		The Applicant's Response
1	The applicant response in 7.10 ref: RR-002 (see below) states that I put forward land for negotiation for use as FCA. When considering options the Interested Party themselves proposed the areas now being progressed as the most preferable solution minimising the impacts on the proposed solar farm development on the Interested Party's property. The Applicant has tailored the design significantly during the pre-application stage to suit the Interested Party's requirements and minimise the impact on their property and operations.	Please see the Applicant's response under issue 2 below.
2	This is only partially correct in that, to accommodate the scheme, I engaged in negotiation with the Applicant to see if we could agree a way to use land of mine that was not to be required for solar deployment. However, the Applicant elected to include additional land that was needed for solar deployment, against my wishes, on the stated basis of FCA works not interfering with solar deployment.	The Applicant has engaged with the Interested Party and the Solar Farm developer during the development of the design, to minimise the extent of the Order Limits. While significant reduction of Order Limits has been achieved since Statutory Consultation there is still a requirement to use land that was identified by the Interested Party as an area for part of the proposed solar farm development. The Applicant provided a letter of comfort for the planning application and engaged with the Environment Agency to agree that there was no material objection to the solar farm and the FCA occupying the same location.
3	The northern part of Plot 7/4e i.e. part of field SK7655 8525, (approx. 8 acres) was put forward for negotiation towards agreement for FCA use on basis that the solar developer was not intending to deploy PV on that area – the south end of SK7655 8525 (approx. 5 acres) was always required for solar deployment by developer. During negotiation with the Applicant it was made plain that land required for solar deployment would not be put forward voluntarily by myself for use as FCA. However Applicant took the whole field, including that land required for solar deployment and embodied it within plot 7/4e for FCA use. This has increased the burden on the solar developer to adapt their PV planning Application 23/01837/FULM to accommodate FCA/PV dual use and has significantly delayed progression toward grant of Planning Permission by NSDC.	The Applicant confirms the land requirements for the flood compensation area have been developed in consultation with the Interested Party and the solar farm developers. The Applicant provided the developer with a letter of comfort which was included within their planning application. The Applicant has been in negotiations with the Interested Party prior to Statutory Consultation to minimise land take requirements and to seek purchase of land by agreement. The Applicant does not agree with the statement that this has significantly delayed progression of the planning permission by the local planning authority. This is confirmed by the solar farm developer, Peridot Solar within the transcript of Issue Specific Hearing 3 [EV9-005] in which the Peridot Solar Representative states that their application "was due to be considered some while ago, but that slipped for a variety of reasons."
4	Delays and poor communication lines between the Applicant and EA (for example - Annex 1) have cost significant amount of time and lost business opportunity to myself and the solar developer. This is ongoing - EA still require information to be supplied by the Applicant to enable them to withdraw their Holding Objection to 23/01837/FULM - that information should be made available without delay.	The Applicant has been in consultation with the Environment Agency throughout the development of the Scheme. The holding objection raised by the Environment Agency on the planning application 23/01837/FULM stated that further information was required, this information was not solely that of the Applicant to provide. The holding objection was not raised by the Environment Agency until November 2024 therefore the Application was not the reason for the claimed delays regarding this application. This is confirmed within the transcript of Issue Specific Hearing 3 [EV9-005] in which the Peridot Solar Representative states that their application "was due to be considered some while ago, but that slipped for a variety of reasons.". The solar farm developer made the decision to remove solar panels from the eastern area of the FCA, Work No. 125 as shown on sheet 7 of the Works Plans [REP3-002] and a revised site plan (Drawing HC1002/05/03 revision 4) was published on the 23 December 2024 on Newark and Sherwood District Council's planning portal. Planning Application 23/01837/FULM was refused at the Newark and Sherwood District Council Planning Committee held on the 16 January 2025 on grounds not associated with the Scheme
5	The above delay in delivering the solar project is a direct consequence of the A46 scheme taking land for FCA that was not offered by myself and is adversely affecting delivery of critical power generating infrastructure.	The Applicant does not agree that this is an accurate reflection of the situation, as per its response to issue 4 above.
<b>Additional Points to consider relating to land on Plan 7:</b>		
i	The proposed FCA at Kelham is against normal EA principles of FCA being directly adjacent existing watercourses and as discussed by EA in their response to ExQ1, using culverts beneath A617 creates potential blockage and ongoing maintenance requirement. It also creates reliance on the connecting drainage system across land between the Trent and the FCA.	The Applicant confirms that whilst a preferable solution would be to avoid the use of culverts, the screening process carried out by the Applicant identifies that there are no reasonably suitable alternatives to the option proposed. Cross section representations of the culvert options were presented to the Environment Agency at a meeting on the 27 January 2025; the Applicant awaits feedback from the Environment Agency on this aspect, as detailed in the Statement of Common Ground with the Environment Agency submitted at Deadline 5 [TR010065/7.21].
ii	For the Kelham FCA to work, in addition to culvert work beneath the A617, it requires suitable enhancement of existing drainage system on land East of A617 to ensure free flow of water to and from the FCA with no adverse effect on that land. For example, neither General Arrangement Drawing TR010065, sheet 7 of 7 nor works plan Sheet 7 (REP 3-002) show the presence of the bridge and location of the single (c.250mm?) diameter culvert passing beneath a farm access within Land plot 7/2d – this would have to carry a good proportion of flood water to and from FCA East of A617 – I would welcome details of how it is proposed to upgrade that ditch and culvert to cope with expected volumes of water.	The Applicant confirms enhancement of the existing drainage system on land East of the A617 is not considered necessary. Maintenance of the existing assets is all that is required for FCA functionality. FCA operation is partly achieved by the preexisting flood flow mechanism across the land east of the A617, not just the ditch itself. This is evidenced in Section 3.3 of Appendix 13.2 (Flood Risk Assessment) of the Environmental Statement Appendices [APP-177].
iii	The DCO plans omit the presence of field access o_ A617 at SE corner of Red House Field SK7655 8525 (within plot 7/4e) – there is no depiction of the existing gateway and access track on Applicant General Arrangement Drawing TR010065, sheet 7 of 7 (see Annex 2 below), nor is there recognition of preserving existing access points and providing appropriate bridges to afford safe pedestrian and vehicular passage over the Applicant's proposed hydraulic link channel at all times. Other access points depicted are incorrectly located on drawings.	The Applicant has reviewed the plans with the Interested Party during a site walk over in December 2024 and are being revised as part of a legal agreement. This will include the introduction of an access to the southern end of the culvert under the A617 as well as maintaining the existing field access on the north side of the A617. The Applicant will ensure the revised plans are included in the legal agreement; the Applicant does not intend on amending the plans as part of the application documents.



Applicants Responses to Comments received at Deadline 4

Adrian Hatton		The Applicant's Response
iv	General Arrangement Drawing, sheet 7 (see Annex 2) and Works Plan sheet 7 do not show the required new access to be constructed to East of A617 to provide access for construction and ongoing maintenance access of the A617 culverts and drainage system on East side of A617 to the Trent.	The Applicant has reviewed the plans with the Interested Party during a site walk over in December 2024 and are being revised as part of a legal agreement. This will include the introduction of an access to the southern end of the culvert under the A617. The Applicant will ensure the revised plans are included in the legal agreement; the Applicant does not intend on amending the plans as part of the application documents.
v	There must be a robust maintenance programme in place, not just for FCA, but also for all the affected land drainage system above and this must be implemented at the Applicant's cost for the duration of the A46 project.	The Applicant will be developing a maintenance strategy for the Flood Compensation Areas. Article 4 (Maintenance of drainage works) in the draft Development Consent Order [REP4-003] provides that nothing in the Order affects the existing responsibility for the maintenance of any works connected with the drainage of land unless otherwise agreed in writing between the Applicant and the person responsible. The Applicant will provide a blockage related maintenance plan for culverts into the Kelham & Averham Floodplain Compensation Area as part of the Third Iteration Environmental Management Plan, which is secured by Requirement 4 of the draft DCO [REP4-003] and on which the Environment Agency will be consulted.
vi	Plot 7/2i on Land Plan 7 shows as TPO with Permanent Rights to be acquired: This is the entrance to my private dwelling and the acquisition of Permanent Rights by the Applicant is not justifiable as there will be a dedicated new permanent access to be constructed on E side of A617 to enable access to NH infrastructure (see above).	The Applicant has discussed the issue with the Interested Party during the site visit in December 2024. The Applicant agrees that the new access from the southbound A617 will be used for the construction and maintenance of the culvert. Access will be required during the start of the works from Plot 7/2i as shown on the Land Plans [AS-004] to facilitate the construction of the new access. The Applicant will ensure the revised plans are included in the legal agreement; the Applicant does not intend on amending the plans as part of the application documents.
Negotiation towards Heads of Terms and Option Agreement – Current position		
	<ul style="list-style-type: none"><li>My land subject to potential grant of Compulsory Acquisition and Permanent Rights powers by the Applicant is subject to ongoing negotiations to avoid the need for Compulsory Acquisition.</li><li>Draft HoT are not yet ready for legal scrutiny and agreement is not likely to be complete within the foreseeable future.</li><li>Discussion relating to HoT is progressing very slowly with frequent long delays occurring before responses from the Applicant/DV</li></ul> To illustrate, the timeline of meeting/actions regarding Heads of Terms thus far is below: <ul style="list-style-type: none"><li>Initially advised by project team that HoT were required by December 2022.</li><li>Applicant's solicitors issued (skeletal) working document HoT on 21/4/2023</li><li>Returned amended by my Agent on 22/6/2023</li><li>Next response on behalf of Applicant was received on 16/5/24 (11months turn- around time).</li><li>Meetings held to discuss: 2/7/24, 19/9/24, 13/11/24</li><li>Amended draft version HoT received 18/11/24 (7 months turn-around time).</li><li>Discussions ongoing.</li></ul>	<p>Discussion and engagement have been ongoing with the Interested Party and his representatives in advance of the DCO submission. Outline Heads of Terms progressed based on discussions during late 2022 and 2023 during the Scheme development phase. This included consideration and accommodation of the potential solar development and the Interested Party's position that the FCA should not be subject to permanent land acquisition. The Applicant's valuer was instructed on 19 January 2024 to progress the Heads of Terms and the valuation/compensation related elements ahead of the Application submission. A meeting took place on 6 February 2024 to discuss the case and the principles underlying the draft Heads of Terms. A further meeting took place on 12 March 2024 to progress matters. The Heads of Terms were updated and issued by Applicant's valuer on 16 May 2024 together with a plan to reflect "by agreement" land requirements and discussions.</p> <p>Further Teams meetings took place on 2 July 2024, 15 July 2024, 18 September 2024 and 13 November 2024. The Heads of Terms were updated by the Applicant's valuer on 18 November 2024. The Interested Party's agent revised these on 25 November 2024 with an additional request for revised plans and Scheme minerals data. A Teams meeting was held on 27 November 2024 to discuss the amendments and the Applicant supplied the minerals data requested on 29 November 2024. Following discussion at CAH2 a site meeting was held 17 December 2024 to include Mr Hatton, his agent, and key members of the project team to try and agree all outstanding matters. The Applicant has agreed to all the Interested Party's additional requests regarding reduced land requirements and access and has agreed to reflect these on revised plans to inform the Heads of Terms and final agreement. Revised plans were issued 20 December 2024 by the Applicant with further amendments requested by the Interested Party on 30 December 2024. The plans are currently being revised and finalised for issue as part of the legal agreement. The Applicant does not intend on amending the plans as part of the application documents.</p>
Objection to grant of Compulsory Acquisition and/or Permanent Rights of my land by the Applicant		
	<p>It is important to note that I and my agent have actively engaged for in excess of two years with the Applicant regarding progressing to signed HoT, with the aim of having an Option Agreement in place in good time – this must equally be engaged with by the Applicant in order to be concluded in good time to allow for legal scrutiny by both parties and signing ahead of grant of DCO.</p> <p>It is not reasonable to force this to the wire with DCO granted and affording the Applicant Compulsory Acquisition and Permanent Rights powers before a legal agreement can be in place.</p> <p>Until the matters above are resolved I object to the grant of Compulsory Acquisition powers, Permanent Rights acquisition and grant of DCO for the A46 scheme.</p>	<p>The Applicant considers that there has been a significant amount of engagement with the Interested Party and his agent to resolve issues and to progress matters. The Applicant has acted upon the Interested Party's concerns and the draft Heads of Terms reflect that an alternative to compulsory acquisition has been pursued and that the flood compensation works will be carried out under a licence agreement with the landowner retaining ownership of the land subject to any obligations or management requirements associated with the flood compensation use. Discussions continue to refine the Heads of Terms subject to ongoing changes requested by the Interested Party / his agent with a view to reaching an overall agreement before the end of the Examination. In terms of expediting matters the Applicant would be content to receive a set of revised Heads of Terms that the Interested Party would be content to agree and sign up to, subject to finalised and agreed land plans. The Applicant accepts that it has been an evolving process to agree matters, which has been influenced by other considerations such as the proposed solar development. The Applicant has reflected the changes that the Interested Party has requested at various points. The Applicant considers that the draft Heads of Terms are substantially progressed and can be agreed within the Examination window with sufficient time to conclude the option agreement thereafter.</p>

## Applicants Responses to Comments received at Deadline 4

Canal and River Trust		The Applicant Responses
1	<p><u>Issue 3</u> <u>Article 58 Temporary Suspension of Navigation</u></p> <p>The Canal &amp; River Trust (the Trust) confirmed that significant progress had been made in respect of Article 58 and protective provisions for the Trust. New wording for Article 58 has recently been agreed with the applicant and the Trust confirmed that we understood this would be included in the draft DCO at Deadline 4.</p>	The agreed wording for Article 58 was included in the draft Development Consent Order [REP4-003] at Deadline 4 of the Examination
2	<p><u>Issue 5</u> <u>Update on Protective Provisions</u></p> <p>The Trust confirmed that there were only a few points outstanding between the applicant and the Trust on the draft protective provisions. As soon as the draft protective provisions have been agreed and included in the draft DCO, the Trust will be happy to confirm that there are no outstanding issues.</p>	The parties have now agreed the wording for the protective provisions, and they have been included in the draft Development Consent Order [REP4-003] submitted at Deadline 5 of the Examination.
3	<p><u>Issue 5</u> <u>Update on Protective Provisions</u></p> <p>The Trust confirmed that there were only a few points outstanding between the applicant and the Trust on the draft protective provisions. As soon as the draft protective provisions have been agreed and included in the draft DCO, the Trust will be happy to confirm that there are no outstanding issues.</p>	As above.
4	<p><u>Other Comments</u></p> <p>In response to the ExA's question about whether the Trust was in a position to withdraw its objection to compulsory acquisition powers to acquire land and rights from the Trust, the Trust confirmed that there had recently been significant progress in negotiations for land and rights. Accordingly, the Trust would maintain its objection on the basis that the applicant will be unlikely, by the end of the examination, to need compulsory acquisition powers in respect of Trust land.</p>	No response required from the Applicant.
Environment Agency		The Applicant Responses
<b>3.1 draft Development Consent Order (dDCO) - Rev 4 [REP3-003]</b>		
We wish to confirm that we are satisfied with the updated dDCO (Rev 4), as submitted.		The Applicant acknowledges the Environment Agency's comments on the draft Development Consent Order [REP4-003]
<b>6.1 Environmental Statement - Chapter 9 Geology and Soils - Rev 2 [REP3-009]</b>		
We have reviewed the updated Chapter 9 Geology and Soils of the Environmental Statement, insofar as it relates to remit on groundwater protection and contaminated land impacts on controlled waters, and we are satisfied with the document as submitted.		The Applicant acknowledges the Environment Agency's comments on Chapter 9, Geology and Soils of the Environmental Statement [REP3-009]
<b>6.5 Environmental Statement First Iteration Environmental Management Plan - Rev 3 [REP3-022]</b>		
We note the revisions to item B9 concerning the protection of fish in Table 3-2: Register of environmental actions and commitments (REAC) and we are satisfied with the updates.		The Applicant acknowledges the Environmental Agency's comments regarding item B9 within the Register of Environmental Actions and Commitments of the First Iteration Environmental Management Plan [REP4-010]
<b>6.6 Environmental Statement - Habitat Regulations Assessment - Rev 2 [REP3- 024]</b>		
<p>We note that the updated Habitat Regulations Assessment (HRA) includes in the appendices the Fish Escape Passages Technical Note, which we were previously consulted on, together with Natural England, in draft form, and our respective consultation responses.</p> <p>We agree with Natural England's comments raised on this issue (Relevant Representations [RR-044] and Written Representations [REP2-045]), and we would also welcome agreement between with ourselves and the Applicant on this issue.</p> <p>It has been previously stated that the Environment Agency suggested the width of 0.5m and depth 0.3m for fish passage. However, this was in relation to direct passage including a culvert through the flood defence, yet the new design is a considerable distance further. We agree with Natural England for the provision of a naturalised channel shape, but would like inclusion in the detailed designs of an extended channel length to be reassessed, consulting both Environment Agency and Natural England.</p>		As detailed on page 80 of the updated HRA [REP3-024], the southern branch of the River Trent is only available to migratory lamprey when Nether Lock is open and therefore is considered semi-permeable to migratory lamprey. The northern branch, considered the main route for migratory lamprey, provides more favourable conditions for migration, given the permeability and reduced lighting along the northern stretch of the River Trent. As detailed on page 51 of the updated HRA [REP3-024], the likelihood of river lamprey being swept up by flood water is considered low, as they would likely take refuge until suitable conditions resumed for their migration. The assessment also reports negligible potential for larvae (ammocoetes) to become entrapped in the Farndon FCAs, as high flows during spates are likely to wash eggs and larvae downstream before they would become trapped in the Farndon FCAs. There is a minor risk that during flood events eggs and larvae could be held within backwaters within the Order Limits, such as within the Farndon FCAs or Old Trent Dyke. Furthermore, if a future independent development upstream of the Scheme resulted in the disturbance of silt beds/nurseries upstream of Farndon, then the entrapment of these lamprey life stages cannot be ruled out. As such, whilst it is considered unlikely that lamprey would be entrapped in the Farndon FCAs following flood water recedence (incidental individuals only), measures were proposed in agreement with the Environment Agency to mitigate the remaining uncertainty of the implications for the site in view of that Humber Estuary SAC/ Ramsar conservation objectives through design of generalist fish escape passages. The dimensions of the proposed fish escape passage option have been taken into account in the assessment of effects on lamprey within the HRA [REP3-024]. Dimensions of the fish escape passages are detailed



Environment Agency	The Applicant Responses
	<p>in paragraph 5.2.3 of the HRA [REP3-024] “<i>The design of the fish escape passages incorporates the Environment Agency’s recommendations for them to be a naturalised shape and measure a minimum of 0.5 metres wide and 0.3 metres deep</i>” and in Section 2.2 and 4.3.1 of Appendix G (Fish Escape Passage Technical Note) of the HRA [REP3-024]. As detailed in Section 1.4 of Appendix G (Fish Escape Passage Technical Note) of the HRA [REP3-024] “<i>The size, depth and riparian planting of the Farndon FCAs were designed to also reduce mortality of entrapped fish species, from various predatory piscivorous birds and mammals.</i>”</p> <p>The fish escape passages are an integral part of the Farndon FCAs, designed to be mutually successful for both flood defence function (storage and discharge functions) and biodiversity, and so are included in this assessment. The Applicant responded to Natural England’s query whether there was scope to widen and deepen the channels (in regards to the difficulty fish may have actively identifying the escape passage route), as detailed in Table 1, paragraph 2.1.1.1 of Appendix I (Natural England’s response following a review of the Fish Escape Passage Technical Note and Applicant’s Response to Comments) of the HRA [REP3-024]. In summary, the fish escape passages which also function as overspill channels cannot be deepened, however, widening of these channels could be explored further at detailed design to determine if the fish escape passages can be widened whilst also providing safe passage to multiple riverine fish species. The Applicant’s response to the comments made by the Environment Agency in <i>Comments on any submissions received at the previous deadline</i> [REP3-044] are detail in The Applicants Responses to Comments Received at Previous Deadlines of the Environmental Statement [REP4-040] submitted at Deadline 4 of the Examination. The Applicant’s response to the Environment Agency’s <i>Written summaries of oral submissions made at the previous Hearings</i> [REP4-044] are detailed in ‘7.62 Comments on any submissions received at the previous deadline’ submitted at Deadline 5 of the Examination. The Applicant confirms that both Natural England and the Environment Agency will be consultees on the Second Iteration Environmental Management Plan, including provision of future iterations of the fish escape passage design. Following continued consultation, the specific number, location and design of fish escape passages would be finalised during detailed design.</p> <p>A meeting between the Environment Agency and the Applicant was held on 23 January 2025. A draft version of the Applicant’s response to this question was shared with the Environment Agency.</p> <p>The Environment Agency confirmed via email on 30 January 2025 that they have no further comments on the Applicant’s draft response to RIES QR7 (to be submitted as document “7.64 Responses to the Report on the Implications for European Sites (RIES) and any associated questions” at deadline 5) on the fish escape passage dimensions. They confirmed that whilst the original indicative design of the Farndon FCA fish escape passages which connected the FCAs to the River Trent would be the ideal situation, they understand the designs are restricted, with managing flood risk being a priority. They also agreed the escape routes are low priority in terms of stranded life stages of fish.</p> <p>The Applicant also set out the details of the maintenance of the Farndon FCA fish escape passages to the Environment Agency in the meeting on the 23 January 2023. A summary of these maintenance measures are provided below:</p> <p>The Farndon FCA fish escape passages (and the FCAs themselves) are to be maintained by the FCA maintainer (as default this is the Applicant unless agreement is reached with a third party).</p> <p>Commitment RDWE 10 of the First Iteration Environmental Management Plan states the FCAs will require maintenance for the lifetime of the Scheme. RDWE10 will be updated for Deadline 5 to state the following: <i>The FCAs will require maintenance for the lifetime of the Scheme, to include clearing, inspecting and upkeep of the FCAs and associated culvert systems and fish escape passages (at the Farndon FCAs). However, at this stage, further details on the maintenance regime are not known. These details will be defined at the next stage of design. However, the fish escape passages at the Farndon FCAs will be maintained to a minimum of 0.3m depth – 0.5m width.</i></p> <p>The Old Trent Dyke will continue to be maintained by the internal drainage board (IDB) which will include:</p> <ul style="list-style-type: none"><li>• Grass and hedge cutting</li><li>• Weed/debris removal where necessary and access allows, and</li><li>• Less frequently, tree works when inhibiting access.</li><li>• </li></ul> <p>It has been agreed with the Trent Valley Internal Drainage Board (see TVIDB SOCG) that the design of the discharges from the fish escape passages into the Old Trent Dyke and ensuring that these will not be impeded by the IDB’s maintenance activities will be addressed as part of the Land Drainage Act consenting process.</p> <p>Further details on this are provided in the Thames Valley Internal Drainage Board SOCG with the Applicant to be updated and submitted at Deadline 5.</p>
<b>7.40 Hydraulic Modelling Technical Note [REP3-034]</b>	
<p>This document includes the same content as a draft version we previously reviewed and referred to in our Written Representation (WR). As such, our position on flood risk remains as per our WR at this time. The technical note goes some way to addressing our issues regarding increases in flood risk elsewhere, but we are awaiting further information</p>	<p>The Applicant has updated the Hydraulic Modelling Technical Note (TR010065/7.40) submitted at Deadline 5 of the Examination with the results of sensitivity testing. This technical note was submitted in draft form to the Environment Agency prior to a meeting held between the Applicant and the Environment Agency on 27/01/2025 where the contents of the technical note were discussed.</p>

Applicants Responses to Comments received at Deadline 4

Environment Agency	The Applicant Responses
from the Applicant, which we understand will be submitted for Deadline 5 (4 February 2025). Please also refer to our comments below on the Applicant’s response to our WR. We will engage with the Applicant prior to Deadline 5 on resolving the remaining issues.	The Applicant welcomes the Environment Agency’s comments on the Hydraulic Modelling Technical Note (TR010065/7.40) submitted at Deadline 5 of the Examination.
7.41 Floodplain Compensation Areas Technical Note [REP3-035]	
This document includes the same content as a draft version we previously reviewed and referred to in our Written Representation (WR). As such, our position on flood risk remains as per our WR at this time. The technical note goes some way to addressing our issues on compensatory flood storage, but we are awaiting further clarification from the Applicant, which we understand will be submitted for Deadline 5 (4 February 2025). Please also refer to our comments below on the Applicant’s response to our WR. We will engage with the Applicant prior to Deadline 5 on resolving the remaining issues.	At a meeting between the Applicant and the Environment Agency on 27/01/2025 additional information was provided by the Applicant to the Environment Agency. Additional points were also raised which will require the Flood Compensation Areas Technical Note [REP3-035] to be revised. This will be completed for Deadline 6 of the Examination.
7.42 Responses to Written Representations [REP3-036]	
<p>We have reviewed the Applicant’s responses to our Written Representations [REP2- 043] and we have the following comments.</p> <p><u>EAFR-001 Flood risk exception test (part 2) – fluvial flood risk</u></p> <p>We acknowledge the Applicant’s comments and the submitted Hydraulic Modelling Technical Note [REP3-034] goes some way to addressing our concerns regarding increases in flood risk elsewhere, however further information is required. We will engage with the Applicant on this issue prior to Deadline 5.</p> <p>Please also refer to the comments below regarding EAFR-002. <u>EAFR-002 Increase in fluvial flood risk elsewhere</u></p> <p>The Hydraulic Modelling Technical Note as referred to in our WR has now been submitted into the Examination at Deadline 3 [document ref. REP3-034].</p> <p>We agree that there are no increases greater than 10mm during the design event (1 in 100 years plus climate change (39%)) with the proposed scheme in place. The Applicant has demonstrated that any variation between baseline and with-scheme water levels for the design event is within modelling tolerances. As such, we are satisfied that the scheme does not increase flood risk during the design flood event.</p> <p>However, for more frequent events than the design event, there are increases in water level above 10mm in areas outside of the Order Limits for the development.</p> <p>For example:</p> <ul style="list-style-type: none"><li>On the left bank of the River Trent to the north of Farndon East Flood Compensation Area increases of 0.025m (2.5cm) and 0.029m (2.9cm) in the 3.3% (1 in 30) and 5% (1 in 20) annual exceedance probability (AEP) scenarios respectively are observed, although there are no receptors in this area.</li><li>There is an area of increase around Fosse Road in the 1 in 100 year flood scenario. The Hydraulic Modelling Technical Note [REP3-034] describes how the increases in water level around Fosse Road are due to modelling uncertainties and boundary effects which are occurring within the hydraulic model. We have sought further clarity from the Applicant with regards to the increases around Fosse Road and have suggested some approaches to them.</li><li>There are quite widespread increases in water level of 0.03m (3cm) around the Cricket Ground in the 5% (1 in 20) AEP scenario. No property is affected in these locations, but these do reflect increases to third party land outside of the Order Limits of the development.</li></ul> <p>Given the extent of water level increases, particularly for the Cricket Ground, we consider it would be difficult to attribute this entirely to modelling tolerances.</p> <p>Overall, the scheme does show a reduction in flood risk to more receptors than an increase, but there are off-site increases which, if they are being attributed to modelling tolerances, need to be clearly explained as to why this is the case. Alternatively additional mitigation or landowner engagement should be undertaken in these areas.</p> <p>We are awaiting the Applicant’s response in relation to these increases and expect further engagement prior to Deadline 5.</p> <p><u>EAFR-003 Overall reduction in fluvial flood risk</u></p> <p>We welcome that Applicant has reduced the detrimental impacts of the scheme where possible. Specifically, the example given of implementing steeper embankments to reduce encroachment on to the floodplain. However, we require the Applicant to show which options were taken forward through this design phase which had an overall betterment/ minimise impact.</p> <p>The issue was also discussed at ISH3 and it is noted that there is an action for the Applicant in this regard (Action item 1.). We will provide an update on this issue when the Applicant has submitted further information.</p> <p><u>EAFR-004 Compensatory flood storage</u></p>	<p>Please see responses to items 7.40 and 7.41 for responses on the Applicant’s general position with the Environment Agency. To specifically draw on the Environment Agency’s comments made under heading ‘EAFR-006 Compensatory flood storage – maintenance’, the Applicant can confirm that commitment RDWE 10 within the Register of Environmental Actions and Commitments of the First Iteration Environmental Management Plan [REP4-010] has been updated to outline FCA maintenance measures as requested. The First Iteration Environmental Management Plan has been re-submitted at Deadline 5 of the Examination.</p>

Applicants Responses to Comments received at Deadline 4

Environment Agency	The Applicant Responses
<p>The Floodplain Compensation Areas Technical Note as referred to in our WR has now been submitted into the Examination at Deadline 3 [document ref. REP3-035].</p> <p>Our comments made in our WR on this issue remain applicable. We still require more information about the culverts connecting the FCAs to the River Trent. This will need to show their location and provide clarity of the conveyance of flood water in and out of the FCAs.</p> <p>Additionally, our previous comments about the proposed Kelham solar farm which overlaps the Kelham and Averham FCA still apply. Please refer to ISH3 agenda Item 3b comments above in regard to this issue. We acknowledge that revised layout plans have been submitted to the LPA, which remove solar panels from within the FCA, but we still have outstanding concerns which need to be addressed. We will engage with the Applicant on resolving this issue and provide an updated in due course.</p> <p>The access crossing from the A617 is a key potential barrier to flow within the compensatory storage area. Careful consideration will need to be given to the design of the access crossing from the A617 to the solar farm to ensure this does not impede flood flows within the compensatory storage area. The access crossing from the A617 should be set above the 1 in 100 year plus higher central (plus 39% for climate change) flood level with an allowance for freeboard. The flood storage area also included a bund within the hydraulic model, which is in a similar location to an access track for the proposed solar farm. Careful consideration will need to be given to the design of the flood bund and solar farm access track to ensure both can be delivered.</p> <p><u>EAFR-005 Compensatory flood storage – phasing of works</u></p> <p>We acknowledge the Applicant’s comments and note that this issue was discussed at ISH3 in agenda Item 3e, where the Applicant referenced item RDWE10 in Table 3-2: Register of environmental actions and commitments (REAC) in the First Iteration Environmental Management Plan (FIEMP) [REP3-022 / REP3-023].</p> <p>We note that RDWE10 states that “Prior to commencing any above ground works (including above ground pre-commencement works) there must be sufficient replacement floodplain storage in place to compensate for those works”. However, we still require clarity and information on how the construction of the solar farm will be phased in with the construction of the Kelham and Averham FCA.</p> <p><u>EAFR-006 Compensatory flood storage – maintenance</u></p> <p>We acknowledge the Applicant’s comments and note that this issue was discussed at ISH3 in agenda Item 3e. We are pleased to see that the Applicant intends to provide a blockage maintenance plan as part of the Third Iteration Environmental Management Plan, however appropriate commitment to providing this is required.</p> <p>We also require the Applicant to add clarity to the REAC table in the FIEMP. Currently, RDWE10 states the following: “The FCAs will require maintenance for the lifetime of the Scheme however at this stage maintenance details are not known”. We require the Applicant to clarify that this maintenance will need to include clearing, inspecting and upkeep of the FCAs and culvert systems.</p> <p><u>EAFR-007 Slough Dyke (main river) realignment</u></p> <p>The Hydraulic Modelling Technical Note as referred to in our WR has now been submitted into the Examination at Deadline 3 [document ref. REP3-034]. This satisfactorily demonstrates that the realignment of Slough Dyke has been tested within the hydraulic model and confirms no impact on flood risk. However, we are still awaiting further detailed plans to clarify the proposed realignment.</p> <p>We acknowledge the Applicant’s comments in response to our WR on this issue. However, the issue has since been covered at ISH3 (agenda Item 4 – please see above comments) and note the Applicant intends to provide us with the details we require as part of the DCO, which differs from their proposed approach in their response to our WR. We are satisfied the resolution of this issue is moving forward and we will provide an update following further engagement with the Applicant.</p> <p><u>EAFR-008 Interaction with Environment Agency flood defences</u></p> <p>We acknowledge the Applicant’s comments in response to our WR on this issue. However, the issue has since been covered at ISH3 (agenda Item 3c – please see above comments) and note the Applicant intends to provide us with the details we require as part of the DCO, which differs from their proposed approach in their response to our WR. We are satisfied the resolution of this issue is moving forward and we will provide an update following further engagement with the Applicant.</p> <p><u>EAFR-009 Climate change allowances sensitivity test</u></p> <p>Following the submission of the Hydraulic Modelling Technical Note [REP3-034], we are satisfied that this issue is now resolved. We acknowledge that the Applicant intends to append all additional flood risk related evidence submitted during the DCO Examination to the flood risk assessment before the close of the Examination.</p> <p><u>EAREQ-005 Requirement 14 – Flood compensatory storage</u></p> <p>We acknowledge the Applicant’s response, and we are satisfied with the proposed wording of this Requirement, as amended in draft DCO (Rev 3) [REP2-002 / REP2- 003].</p> <p><u>EAREQ-006 Requirement 15 – Flood risk assessment</u></p>	



## Applicants Responses to Comments received at Deadline 4

Environment Agency		The Applicant Responses
We are satisfied with the Applicant's response in relation to our request for clarification as to whether the 10mm is on top of what is presented in the FRA or compared to baseline levels. There are no outstanding queries regarding this DCO Requirement.		
Nottinghamshire County Council		The Applicant Responses
Issue Specific Hearing 1 – Draft Development Consent Order		
Agenda Item 3	<p>Nottinghamshire County Council welcome the applicant's comments to review the definition wording of 'relevant planning authority' within the draft DCO and provide further clarity regarding LA functions and responsibilities, so that the relevant consultees are clearly defined in relation to Schedule 2 of the dDCO. NCC note this was also taken as an action point at ISH2.</p> <p>The Council confirmed its current position would be that permits are required for any works that affect Nottinghamshire County Councils network. National Highways already submit permits to NCC for works on Nottinghamshire's network. However, the Council expressed that it is open to dialogue on this matter and will consider it in light of the applicant's comments to ExQ1 Q6.1.3 [REP3-037]. It was agreed that the Council would continue to engage with the applicant on the issue regarding the disapplication of legislative provisions through the Statement of Common Ground process.</p>	<p>The definition of "relevant planning authority" was updated in the draft Development Consent Order [REP4-003] submitted at Deadline 4 of the Examination. The amendment names each of the relevant planning authorities and makes it clear that the relevant planning authority means either or both local planning authorities to the extent that is relevant to their planning functions.</p> <p>It would not be practical for the Applicant to name the specific local planning authority in each article throughout the Development Consent Order and the approach currently adopted by the Applicant has precedent in a number of made development consent orders including the A428 Black Cat to Caxton Gibbet Development Consent Order 2022 and the A66 Northern Trans-Pennine Development Consent Order 2024.</p> <p>In respect of Nottinghamshire County Council's permitting scheme, The Applicant and Nottinghamshire County Council have agreed to use the Street Manager (the County Council's permit scheme) as confirmed in the Statement of Common Ground between Nottinghamshire County Council and the Applicant [REP4-029] submitted at Deadline 5 of the Examination. The Applicant also confirms that Article 3 of the draft Development Consent Order [REP4-003] submitted at Deadline 5 of the Examination has been updated to reflect this agreement.</p>
Agenda Item 4	<p>The County Council requested to be a named consultee on Requirement 10 of the dDCO during the hearing.</p> <p>Although requirement 12 requires the detailed design to be in accordance with mitigation principles set out within the environmental masterplan, Requirement 10 still leaves a hole for species which are not classed as protected species or nesting birds.</p> <p>We recommend that the wording for this requirement is changed to encompass all wildlife, namely other mammals and amphibians which could also be impacted by the works and not necessarily fall under the "protected species" bracket.</p> <p>In addition, a clause on the timing of vegetation clearance should also be added into requirement 10, to protect all species of nesting birds, as all nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended). Vegetation clearance should only be undertaken outside of the nesting bird season with nesting bird season considered to be from March until the end of September. It is known that some species such as feral pigeon can nest all year round, and therefore checks should be undertaken prior to the start of any vegetation works (mainly buildings and structures – if any are to be impacted).</p> <p>The Council also put forward a request to be a named consultee on Requirement 15 as the Lead Local Flood Authority.</p>	<p>The Applicant refers to its written summaries of oral submissions made at ISH1 [REP4-031] at Ref 4.5.1 which explains why the Applicant does not consider it necessary or appropriate for amendments to be made to Requirement 10 and specifically draws the Examining Authority's attention to the Applicant's reference to Natural England's position on this matter, which the Applicant sets out in that response.</p> <p>However, the Applicant has amended Requirement 10(1) in the draft DCO submitted at Deadline 5 as follows:</p> <p>10.— (1) In the event that any protected or notable species which were not previously identified in the environmental statement or are found at any time when carrying out the authorised development the undertaker must—</p> <ul style="list-style-type: none"> <li>(a) cease the relevant parts of the relevant works and report it immediately to the Ecological Clerk of Works; and</li> <li>(b) prepare a written scheme for the protection and mitigation measures of such protected or notable species when carrying out the authorised development.</li> </ul> <p>The above amendments are agreed to provide clarity that appropriate measures are implemented for notable species (as well as those that are protected by law) in order that good practice is followed on site. However, the Applicant does not agree to the further amendments proposed in relation to vegetation clearance. Measures managing the timing of vegetation for nesting birds is covered within the First Iteration Environmental Management Plan (REAC Commitment B8) (REP4-010). As such, it is not necessary to duplicate those requirements within Requirement 10 of the draft DCO.</p> <p>The Applicant amended Requirement 15 of the draft Development Consent Order [REP4-003], as submitted at Deadline 4 of the Examination, to include the lead local flood authority as a consultee.</p>
Agenda Item 6	<p>As per the Council's LIR, NCC recommended that the scheme design principles contained within the scheme design report APP-194 should be a separate document and secured through the DCO. It is a technical matter, and the County acknowledges that the document is to be certified but it would provide for better comprehension and ease of access for the layperson.</p> <p>NCC acknowledged that the majority of matters regarding Tables 2.6 through to 2.9, and 2.18 -2.20 of its LIR have been addressed by the applicant. We don't expect any further comments on this, but any outstanding issues will be picked up in the SoCG process.</p>	<p>The Applicant refers to its written summaries of oral submissions made at ISH1 [REP4-031] at Ref 6.2.1 which explains that it is the Applicant's view that this Annex does not need to be a separate document and this approach is well preceded in other schemes such as the A428 Black Cat to Caxton Gibbet Development Consent Order 2022. Additionally, the Applicant notes that the Examining Authority has stated a preference that all documents be consolidated, and that duplication be avoided where possible. The Applicant therefore confirms that it does not intend to separate the documents.</p> <p>The Applicant notes the comments regarding Tables 2.6 to 2.9 and 2.18 to 2.20 and will continue to engage as required.</p>
Issue Specific Hearing 2 – Transport		
Agenda item 3a	<p>The ExA addressed Nottinghamshire County Council's request within its Local Impact Report [Table 2.11, REP1 -038] and response to Q14.0.9 in ExQ1 [REP2-052] for additional junction modelling to assess impacts to junction capacity in the wider area.</p> <p>The County Council confirmed it had received the additional modelling technical note and A46 Cattle Market / Kelham Road forecast Microsimulation Modelling just prior to Deadline 3. Further to this, the ARCADY input sheets were provided by the applicant December 5th.</p> <p>The NCC Transport Programme Delivery team has commenced its review of the ARCADY modelling files and</p>	No response required from the Applicant.

## Applicants Responses to Comments received at Deadline 4

Nottinghamshire County Council			The Applicant Responses		
	associated Technical Note. The Council does not envisage there will be a capacity issue based on the modelling outputs and now just need to verify the junction model inputs for each junction. The Council will be commissioning Via East Midlands to review the Vissim model but this review will not take place until January 2025 because of existing work commitments.				
Agenda item 3b	The Examining Authority enquired whether the scheme would have any physical effects on any site allocations. In relation to the former NCC Depot Site, the council's understanding is that this is to be the applicant's main compound and as can be seen on the Land Plans [page 12, AS-004] in conjunction with the General Arrangement Plans [AS-007] the northern and western boundary towards cattle market junction requires permanent acquisition for the scheme and will be impacted in order to accommodate the junction upgrade. Conversations with the Council's property and estate team are ongoing, but the County Council does not anticipate that works to be undertaken by the applicant will prejudice any future development.		No response required from the Applicant.		
Agenda item 3c	The County Council acknowledged the applicant's comments regarding the update to the OTMP [REP3-026], as submitted at Deadline 3. The inclusion of Farndon Road as a route where construction vehicles are not permitted, is certainly welcomed [Table 2-3 Proposed access restrictions]. The OTMP is being examined by NCC's Highway Network Management team and is being considered in reference to ExQ1 Q14.0.27 and Q14.0.16 [PD-007]. Any further issues will be picked up in the Statement of Common Ground and the County's position updated for Deadline 5.		No response required from the Applicant.		
Agenda item 3d	The Council expressed that public transport operators will inevitably be impacted during the construction phase. It notes that the applicant has stated in the OTMP that bus operators will be given advanced warning of closures impacting routes. It is the council understanding that details on this will be forthcoming in the Second Iteration EMP via the Construction Communications Management Plan, for which the Council is a consultee via Requirement 3 of the dDCO.		No response required from the Applicant.		
Agenda item 3e	<table><tr><td>i. LTN 1/20 standards.</td><td>The <u>ExA</u> raised NCC's response to ExQ1 Q14.0.42 [REP2-052] concerning proposed cycling and walking routes and LTN 1/20 standards. The Council confirmed that the issue had been discussed with the applicant and closed out</td></tr></table>		i. LTN 1/20 standards.	The <u>ExA</u> raised NCC's response to ExQ1 Q14.0.42 [REP2-052] concerning proposed cycling and walking routes and LTN 1/20 standards. The Council confirmed that the issue had been discussed with the applicant and closed out	In response to item 3e ii). The Applicant notes this item was raised in Q13.0.1 of the ExA's written questions and requests for information (EXQ2) [PD-009]. Farndon FP3 is located to the south of Farndon Harbor, between Walter's Close and The Meadows. Newark FP3 is located between Farndon Road and Newark BW2 and is referenced correctly in table 2-11 of the Outline Traffic Management Plan [REP3-026]. The Applicant has corrected the typo in line 10 of table 2-11 of the Outline Traffic Management Plan [REP3-026] in which Farndon FP5 has been named Newark FP5 and submitted at Deadline 5 of the Examination.
i. LTN 1/20 standards.	The <u>ExA</u> raised NCC's response to ExQ1 Q14.0.42 [REP2-052] concerning proposed cycling and walking routes and LTN 1/20 standards. The Council confirmed that the issue had been discussed with the applicant and closed out				



## Applicants Responses to Comments received at Deadline 4

Nottinghamshire County Council			The Applicant Responses											
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In relation to Newark BW2, the council doesn't have any issues with the route proposed but as cyclists are being diverted onto existing footpaths the applicant will need permission from the relevant landowners.</p><p>The Council has no issues with the removal of the mounting blocks at Farndon underpass <del>post</del> temporary diversion.</p><p>Overall, the Council is content with the proposals in Table 2-11 and has no further comments.</p></td></tr><tr><td>iii. Proposed diversion at Farndon including use of temporary horse-rider route by cyclists and pedestrians</td><td>The hearing discussed the temporary diversions at Farndon including use of the temporary horse-rider route by cyclists and pedestrians. The council confirmed it had reached agreement on the proposed route as part of discussions directly with the applicant regarding Issues 5 and 6 in the <del>SoCG</del> [REP2-036] and there are no further requests from NCC at this stage.</td></tr><tr><td>iv. Clarification of 'stopping up' illustrated along route of Newark FP3 in [APP-174] (response to ExQ1 13.0.1 (b))</td><td>In relation to ExQ1 Q13.0.19 [REP2-052] NCC confirmed that there were no proposals from the County Council for closures to Newark F14 outside the A46 Bypass Scheme. The applicant acknowledged the misunderstanding at the hearing.</td></tr><tr><td>v. Existing route between Winthorpe FP2 and Winthorpe FP3.</td><td>NCC has accepted the proposal from the applicant and there are no outstanding matters regarding Winthorpe FP2 and Winthorpe FP3 at this stage, discussions were held directly with the applicant on this matter in relation to Issue 8 in the <del>SoCG</del>, which is now agreed [REP2-036].</td></tr><tr><td>vi. Newark Active Travel Partnership's comment</td><td></td></tr></table>		within the latest submission of the <del>SoCG</del> at Deadline 3, with no further requirements from NCC. 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Agenda item 3	<p>NCC expressed that the Council would like to be involved with technical discussions taking place between the applicant and the Environment Agency. We welcome the applicant's comments for wider engagement with the local authorities and extension of an invite to attend the relevant steering group meetings.</p> <p>NCC will continue to work closely with the applicant to ensure that the options and the deliverability of the Kelham Bypass Scheme is complementary to the A46 Newark Bypass NSIP and does not have any further concerns at this stage.</p> <p>The County Council has noted Action point 3 for provision by Deadline 5: 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.</p>	<p>The Applicant held a meeting with Nottinghamshire County Council on 29 January 2025 to provide them with an update on the discussions held with the Environment Agency on 27 January 2025.</p> <p>The Applicant has reviewed the Defra Asset Management dataset (<a href="#">Asset Information and Maintenance Programme</a>). This consists of information on water related assets such as;</p> <ul style="list-style-type: none"><li>• locations of watercourse channels,</li><li>• Flood and Coastal Risk Management (FCRM) assets such as control structures and outfalls,</li><li>• locations of flood defences with information on their upkeep – these are split into two categories:<ul style="list-style-type: none"><li>○ those to “Include in Floodmap” which feature in the Environment Agency’s flood map for planning. [Discussions with the Environment Agency on the Scheme tying into these maintained assets are ongoing, as detailed in the Environment Agency’s written hearing summary [REP4-044”]</li><li>○ those not to “Include in Floodmap” which do not feature in the Environment Agency’s flood map for planning. These are engineered high ground river embankments, with which the Scheme does not interface.</li></ul></li></ul> <p>Fluvial hydraulic modelling for the Scheme includes representations of existing flood defences, together with proposed Flood Compensation Areas and the Scheme itself. Fluvial hydraulic modelling demonstrates that the Scheme has no significant effect on flood risk in the 1%AEP plus climate change event. Therefore, the Applicant considers there to be no further fluvial hydraulic modelling action required in relation to this dataset. The Applicant will however continue to engage with the Environment Agency through Detailed Design on physical tie-in of the Scheme with flood defence structures.</p> <p>Further detail on the Applicant’s response to Action point 3 is provided in the Applicant’s ‘Responses to points arising from Issue Specific Hearing (ISH) 3’ submitted at Deadline 5 of the Examination.</p>												

Applicants Responses to Comments received at Deadline 4

Nottinghamshire County Council		The Applicant Responses
Issue Specific Hearing 4 – Environmental Matters		
Agenda Item 3	<p>The Council confirmed at the hearing that it was content with the applicant’s comments to Newark and Sherwood District’s submitted response to ExQ1 Q3.0.4 [REP3-037] in relation to habitat severance and did not have any further comments to make. The Council can also confirm that it is satisfied with the comments to Q3.0.6 and Q3.1.1 [REP3-037] in conjunction with comments made by the applicant at the hearing regarding the approach to BNG, site selection and offsite compensation at Doddington Hall, and the ‘trading down’ in compensation for river units. Therefore, does not have any further comments to add at this stage in regard to agenda items 3a to 3c.</p> <p>Regarding agenda item 3d, the County Council holds concerns around the monitoring of the three veteran trees, T038, T136 and T139, that will experience a direct impact to their root protection areas. Will an arboriculture audit report be submitted to the local planning authority? Frequency and further details on mitigation and remedial measures should be provided.</p>	<p>The Applicant has provided a response in the ‘Applicant’s Summary of the Issue Specific Hearing 4 (ISH4)’ [REP4-034] submitted at Deadline 4 of the Examination.</p>
Agenda Item 5	<p>The applicant has submitted an Archaeological Mitigation Plan (REP2-062) (AMP).</p> <p>The main assessment report (Trial Trenching Assessment Report) that was missing from the original application documentation has been appended to the Archaeological Mitigation Plan. Methodologies for the other assessments undertaken prior to examination (geophysical survey, metal detecting, fieldwalking, GI monitoring and geoarchaeology coring) have also been appended, although the actual reports are appended to an earlier document, the updated Desk-based Assessment (AS-099). The results of these latter assessments have also been summarised in the AMP.</p> <p>We would normally expect the assessment reports to be submitted individually rather than being appended to the AMP. The AMP is a document presenting the strategy for post-consent works and may require revision as the scheme evolves, whereas the assessment reports present the body of evidence on archaeological remains and impact for consideration at Examination.</p> <p>We would also suggest that the presentation of the completed assessment methodologies (described as WSIs) in the AMP only serves to confuse matters where future and differing methodologies will be required for the mitigation phase of works. The AMP is not the appropriate place for them, although this is a technical point.</p> <p>The AMP presents a sound overall approach to mitigation work for the scheme. However, it does include a phase of additional assessment where it has not been possible to access some parts of the scheme prior to Examination. While this is not ideal, NCC accept the limitations of access encountered by the applicant and given the high level of quality assessment work and engagement to date, and the relatively small scale of the remaining assessment required, we are confident that the applicant will be able to complete any outstanding assessment work at a post-consent stage and incorporate the results into an updated AMP.</p> <p>The phasing of this work (further assessment, updating the AMP and then implementation of the archaeological work) can be secured through appropriate wording in the archaeological requirement at Schedule 2.</p> <p>The following is recommended to bring the archaeological submission in line with expected parameters and other NSIP schemes and to ensure the AMP is an appropriate document (83 pages focused on post-consent work rather than 839 pages with somewhat confusing appendices):</p> <ol style="list-style-type: none"><li>1. The assessment report (Trial Trenching Assessment Report) should be separated from the AMP and submitted in its own right as supporting evidence to Chapter 6 of the ES or appended with the other assessment reports in the Desk-based Assessment;</li><li>2. The methodologies (WSIs) associated with the completed assessment work (Appendices B to G) be removed from the AMP. These would normally be appended to the assessment reports themselves, if necessary at all;</li><li>3. The current wording for archaeological requirement (Schedule 2, Part 1, 9) in the draft DCO (REP3-003) should be revised to accommodate an enforceable phased programme of archaeological work that includes a further phase of assessment and subsequent revision to the AMP. The following is based on a recently approved scheme by the SoS with similar circumstances and also incorporates the suggested wording for this scheme (submitted at the last deadline):</li></ol> <p><i>9.—(1) The authorised development may not commence until—</i></p> <p><i>(a) a written scheme of investigation for additional trial trenching has been submitted to and approved by each relevant planning authority, in consultation with Historic England;</i></p> <p><i>(b) additional trial trenching has been carried out in accordance with the scheme approved under sub-paragraph (a); and</i></p> <p><i>(c) updates are made to the Archaeological Mitigation Plan to account for the results of the additional trial trenching carried out, and the updated Archaeological Mitigation Plan is submitted to and approved in writing by</i></p>	<p>In response to points 1 and 2:</p> <p>The Applicant confirms the Trial Trenching Assessment Report was appended at Appendix H of the Archaeological Management Plan [REP2-062] rather than submitted as a standalone document, as it directly informed the development of the Phase 3 Archaeological Mitigation Strategy outlined within Chapter 6 of the Archaeological Management Plan [REP2-062]. The findings detailed within the Trial Trenching Assessment Report did not inform Appendix 6.1, Cultural Heritage Desk-Based Assessment of the Environment Statement Appendices [AS-099] and as such the Applicant does not feel it would be appropriate for the Report to be appended to this assessment].</p> <p>he Written Schemes of Investigation (WSI’s) are appended at Appendix A to G of the Archaeological Management Plan [REP2-062] as they provide evidence that the Phase 1 preliminary Surveys and Phase 2 Archaeological Evaluation works were undertaken in line with the approved methodology and guidance outlined within Chapters 4, 5 and 7 of the Archaeological Management Plan [REP2-062].</p> <p>The Applicant has undertaken further consultation with Nottinghamshire County Council, and it has been agreed that the Archaeological Management Plan [REP2-062] is in an acceptable format to inform the Examination. However, the Applicant has agreed to share separated copies of the Archaeological Management Plan [REP2-062] and its Appendices with Nottinghamshire County Council to assist with archiving and the upload of this data on to the Nottinghamshire Historic Environment Record.</p> <p>In response to point 3:</p> <p>The additional assessment work referenced by Nottinghamshire County Council comprises 11 trial trenches located in two discreet areas illustrated within Figures 1 and 3 contained within Appendix A of the Archaeological Management Plan [REP2-062]. Further detail including the scope, aims and objectives and methodology for the trial trenching is contained within Section 6.5 of the Archaeological Mitigation Strategy, which forms Chapter 6 of the Archaeological Management Plan [REP2-062].</p> <p>The additional assessment work defined within Section 6.5 of the Archaeological Mitigation Strategy will be carried out by an appointed Archaeological Contractor in advance of the pre-commencement stage of the Scheme. The additional assessment work will be carried out in accordance with the Written Scheme of Investigation, contained within Appendix G of the Archaeological Management Plan [REP2-062]. This WSI has been approved by heritage stakeholders from Nottinghamshire County Council and Newark &amp; Sherwood District Council.</p> <p>Upon completion of the additional assessment work defined within Section 6.5 of the Archaeological Mitigation Strategy contained within Chapter 6 of the Archaeological Management Plan [REP2-062], consultation will be undertaken with Nottinghamshire County Council to determine the need (if any), for further archaeological investigations and protection measures in the location of the additional assessment work during the pre-commencement and construction stages of the Scheme.</p> <p>In consultation with Nottinghamshire County Council, it has been agreed that if further archaeological investigation is required in the location of the additional assessment work, the Archaeological Mitigation Strategy contained within Chapter 6 of the Archaeological Management Plan [REP2-062], will be updated to include the scope of any further investigation required. This update alongside Site-Specific WSIs for any further investigations in the location of the additional assessment, must be submitted in writing and approved by Nottinghamshire County Council, prior to any other works forming part of the authorised development being started in the location of the additional assessment.</p> <p>In response to the agreement above, the Applicant has amended the wording within 6.5 of the Archaeological Mitigation Strategy contained within Chapter 6 of the Archaeological Management Plan [REP2-062] and submitted at Deadline 5 of the Examination</p> <p>The agreed wording for Requirement 9 of the draft Development Consent Order [REP4-003] has also been updated and submitted at Deadline 5 of the Examination.</p>

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	<p><i>each relevant planning authority, in consultation with Historic England</i></p> <p><i>(2)The authorised development must be carried out, operated and maintained in accordance with the updated Archaeological Mitigation Plan approved under sub-paragraph 1(c) and, as set out in that strategy, the undertaker must submit individual Site Specific Written Schemes of Investigation for each phase of mitigation work to each relevant planning authority for approval. Any archaeological works must be carried out by a suitably qualified and competent person or body previously notified to each relevant planning authority.</i></p>	
Issue Specific Hearing 5 – Other ES Topics		
Agenda items 3 and 4	<p>The County Council confirmed it accepts that a Carbon Management Plan is not a mandatory requirement as part of the DCO submission for the scheme as its assessment is subject to the NPSNN 2015. It is not envisioned to provide significant additional benefit and as stated in the County’s LIR, NCC noted that the Applicant has committed to a construction Carbon Management Plan being provided as part of the Second Iteration Environmental Management Plan (paragraph 14.10.10 of ES Chapter 14).</p> <p>The examining authority requested that the applicant update the following:</p> <ul style="list-style-type: none"><li>• Chapter 14 Climate of the Environmental Statement in line with updated guidance PAS 2080:2023.</li><li>• The Outline Soil Management Plan in line with updated guidance in The Institute of Quarrying’s Good Practice Guide for Handling Soils in Mineral Workings (2021).</li></ul> <p>The County Council welcomes the applicant’s response to provide these updates.</p>	<p>The Applicant will update Chapter 14 (Climate) of the Environmental Statement [APP-058] in line with updated guidance PAS 2080:2023 and submit at Deadline 6 of the Examination.</p> <p>The Applicant has made updates to the Outline Soil Management Plan (appended to the First Iteration Environmental Management Plan [REP4-010] in line with the updated guidance in The Institute of Quarrying’s Good Practice Guide for Handling Soils in Mineral Workings (2021) and this was submitted at Deadline 4 of the Examination.</p>
Agenda item 5	<p>Nottinghamshire County Council (NCC) is the Minerals Planning Authority for the County and we have commented on the minerals and waste implications arising from the proposed project. At the Hearing NCC confirmed its broad level of content on the minerals sterilisation that would arise from the project and that it was not significant, that the case had been made to justify this and for the most part the mineral that would be sterilised would be unlikely to ever be commercially worked in the absence of the Project. The Council highlighted that prior extraction of minerals should be pursued if practicable and highlighted that this would be eminently possible at the proposed borrow pits which would provide both sand and gravel deposits as well as general fill materials for embankments. Potentially any incidental sand and gravel could be utilised and processed on site for the project. It is assumed the materials management plan would manage the extraction of the borrow pits so that useful minerals can be recovered and not be needlessly sterilised.</p> <p>At the hearing the Council also confirmed that the use of borrow pits was supported by Policy DM15 of the Nottinghamshire Minerals Local Plan given the link to the highway project which they would directly serve. Clause e) of the policy however requires proposals to provide for appropriate restoration measures. The Council queried the restoration details that were available and an apparent lack of detail regarding contours and types of planting/habitats on the general arrangement plans. Subsequently the Environmental Masterplan (figure 2.3) [AS-026] was highlighted by the applicant which upon review helpfully contains much more detail regarding the outline restoration proposals for the three borrow pits.</p> <p>Sheet 5 of the Environmental Masterplan now show that the Brownhills borrow pit would be restored to the ‘previous land use’- which is agricultural. The extent of any materials excavation remains unclear at this stage however. Also unclear is whether the land could be economically/practicably farmed again. In particular the plan is not clear where farm access would be provided from. Would an access be re-provided from the remnant section of Winthorpe Road? If it is not likely to be reused for agriculture, then an alternative restoration should be proposed- i.e for biodiversity such as woodland.</p> <p>Sheet 2 of the Masterplan shows the two Farndon Borrow pits. The eastern pit is primarily to be open water (floodplain compensation) with marginal areas for biodiversity including some ponds. The western pit is to be restored to an area of reedbed, marsh/wet grassland and ditches/scrapes. Details are indicative but sufficient for now.</p> <p>Additionally, in reviewing the First Iteration Environmental Management Plan (Rev 3) [REP3—022] the Council has noted reference B4 (page 39) refers to the creation of the Farndon West wetlands and planting the borrow pits in Farndon East to improve biodiversity of the lake. Ponds at Kelham and Averham are also mentioned here. Some details are provided for the management arrangements for the said ponds but there is no equivalent statement setting out any management details for the borrow pits.</p> <p>The Council has reviewed requirement 6 in the draft DCO order regarding landscaping. Whilst this is a fairly generic form of wording clearly more aimed at typical landscaping works NCC consider it will also require full landscaping details for the borrow pits. The Council considers the requirement however to be substandard in relation to details of aftercare and long-term management for the borrow pits- and in particular we would highlight that reedbeds are technically a lot more complicated to successfully deliver and require longer than 5 years of aftercare than would be typically put in place for tree planting for example. In the Council’s experience aftercare</p>	<p>The Applicant held discussions with Nottinghamshire County Council following the ISH4 on the 5 December 2024. The Applicant drew Nottinghamshire County Council attention to Figure 2.3 Environmental Masterplan of the Environmental Statement Figures [AS-026] in which the restoration and landscaping details for the borrow pits were contained and the link between the Environmental Masterplan [AS-026] to Requirement 6 of the draft Development Consent Order [REP4-003] and item G3 within the Register of Environmental Actions and Commitments of the First Iteration Environmental Management Plan [REP4-010].</p> <p>Access to the land to the west of Winthorpe Road is provided from the access track identified as Work No. 75 on sheet 5 of the Works Plans [REP3-002].</p> <p>In relation to Requirement 6 of the draft Development Consent Order [REP4-003] the Applicant has provided a response in the ‘Applicant’s Summary of the Issue Specific Hearing 4 (ISH4)’ [REP4-034] submitted at Deadline 4 of the Examination.</p>



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	<p>between 10- 15 years is required to establish reedbed to a ‘good condition’. Therefore, a small amendment is proposed below to strengthen the requirement and NCC would want to be consulted on such details as the relevant planning authority for minerals development.</p> <p>Amendment to subparagraph (4) of requirement 6 through an additional clause (f):</p> <p><b>Landscaping</b></p> <p>6.—(1) No part of the authorised development can come into use until a landscaping scheme for that part which sets out details of all proposed hard and soft landscaping works is submitted to the Secretary of State for approval in writing following consultation with the relevant planning authority on matters related to its functions.</p> <p>(2)The landscaping scheme for each part must reflect the applicable mitigation measures set out in the First Iteration EMP and the landscaping principles set out in the environmental masterplan.</p> <p>(3)The authorised development must be landscaped in accordance with the approved landscaping scheme for that part.</p> <p>(4) A landscaping scheme prepared under sub-paragraph (1) must include details of landscaping works, including—</p> <p>(a) location, number, species, mix, size and planting density of any proposed planting;</p> <p>(b) cultivation, importing of materials and other operations to ensure plant establishment;</p> <p>(c) proposed finished ground levels;</p> <p>(d) existing trees to be retained, with measures for their protection during the construction period; and</p> <p>(e) implementation timetables for all landscaping works.</p> <p><b>f) details of aftercare and thereafter the long-term management arrangements for the restored borrow pits</b></p> <p>(5) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.</p> <p>(6) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the Secretary of State, following consultation with the relevant planning authority, gives consent to a variation.</p> <p>We consider that aftercare and management details need to be secured in order to ensure the restoration is achieved to the required standard to improve biodiversity, and to restore landscapes and to meet the requirements of policy DM12 of the Nottinghamshire Minerals Local Plan, which requires proposals for minerals working to include appropriate details for restoration, aftercare and long term after use to enhance the environment. We consider this is best secured through a small addition to requirement 6 in the interests of clarity and enforceability.</p> <p>The applicant's response to Action Point 2 taken at ISH4 (in respect to agenda item 3), regarding the separation, within the order limits, of matters that require maintenance over different periods of time may prove relevant here given the preferred 10–15year aftercare period mentioned above for reedbeds. NCC will review once published.</p>	
Agenda item 6	<p><u>ExQ1 Q13.0.24</u></p> <p>The Council confirmed that it had reached agreement with the applicant through the statement of common ground process regarding its submitted comments to ExQ1 Q13.0.24. It accepted that the wider network improvements are not able to be delivered through this scheme, however, the applicant has indicated it will assist the Council with considering a potential alternative source of funding for delivery outside of the A46 Newark Bypass Scheme.</p> <p><u>IAP</u></p> <p>Regarding the Inclusion Access Plan and Q13.0.8 within ExQ1, the County Council acknowledges the applicant's response that in order to provide the detailed plan, engagement with the contractor, suppliers and wider supply chain is required and that stage has not yet been reached. However, the request from the Examining Authority to the applicant to produce a Framework IAP is welcomed as it will provide better understanding of the overall parameters to be included and reassurance in regard to the Public Sector Equality Duty. The council notes that Requirement 3 of the dDCO does require consultation with the local authority on the IAP prior to commencement of construction. However, again additional comfort is provided having a framework IAP for review at this point given the second iteration EMP will be produced ‘substantially in accordance with the First Iteration EMP’.</p>	<p>The Applicant will work with Nottinghamshire County Council to identify alternative funding sources for wider improvements to the Public Right of Way Networks outside of the Scheme.</p> <p>The Applicant will be producing an Employment and Skills Plan and Inclusion Action Plan within the second Iteration of the Environmental Management Plan as stated in item PHH5 in table 3.2 of the First Iteration Environment Management Plan [REP4-010]. The Applicant has responded to Q13.0.8 [PD-009] providing an outline of the proposed IAP commitments and a list of parties who would be the subject of the IAP.</p>



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Peridot Solar Ltd		The Applicant Responses
1	<p>A46 Newark Bypass – Development Consent Order Application.</p> <p>Deadline 4 – The Examining Authority’s written questions and requests for information.</p> <p>Following the Examining Authority’s (ExA) ISH3 on 4th December 2024, please take this as confirmation that the proposed Solar Scheme 23/01837/FULM with Newark &amp; Sherwood DC, has removed proposed solar module array deployment in the Applicant’s FCA. This is entirely due to the A46 scheme.</p> <p>The Applicant has confirmed to Peridot Solar that their proposed culverts under the access track to the West of the A617, South of Kelham will reflect their flood risk modelling and be fit for purpose.</p> <p>Peridot Solar has also informed the Environment Agency to this effect and requested that they lift their current holding objection as this is causing us undue commercial harm.</p> <p>Peridot reserve a position to claim compensation against financial loss due to withdrawal of PV deployment within Plot 7/4e, which adversely affects delivery of Critical Infrastructure and compromises business activity for both Peridot and the landowners as delivery partners in the solar scheme.</p>	<p>The Applicant notes a revised site layout plan (Drawing HC1002/05/03 revision 4) was published on the 23 December 2024 on Newark and Sherwood District Council’s planning portal. This plan (included in Appendix A of this response) shows that solar panels have been removed from the eastern area of the Flood Compensation Area (FCA), Work No. 125 as shown on sheet 7 of the Works Plans [REP3-002]. The decision to remove the solar panels from this area was solely that of the developer. The Applicant did not request that the developer undertake this action and holds by their position that the solar panels and the FCA can occupy the same land within Plot 7/4e (as shown on the Land Plans [AS-004]) as per the letter issued to the developer by the Applicant in November 2023. A copy of this letter was included in Appendix B of the Applicant’s Response to ExAs First Written Questions [REP2-037]. The Planning Application 23/01837/FULM was refused at the Newark and Sherwood District Council’s Planning Committee held on the 16 January 2025. The Applicant does not accept that the withdrawal of the PV deployment within Plot 7/4e (as shown on the Land Plans [AS-004]) was as a consequence of the Scheme Notwithstanding this point, in the absence of any planning permission for the solar array it is not clear how there would be any loss. Subject to the details of any future approval for the solar development in this location then the issue of whether there would be a claim for financial loss would have to be assessed on the facts at that time having regard to the provisions of the statutory compensation code Compensation claims should be made directly to the Applicant following National Highway process [<a href="#">Your property and compulsory acquisition</a>]<sup>1</sup></p>

<sup>1</sup> Your property and compulsory acquisition [online] available at [nationalhighways.co.uk/media/yxvbrg2w/your-property-and-compulsory-acquisition.pdf](https://nationalhighways.co.uk/media/yxvbrg2w/your-property-and-compulsory-acquisition.pdf) (last accessed January 2025)  
Planning Inspectorate Scheme Ref: TR010065

Appendix A: Revised Kelham Solar Farm and Bess Site Layout Plan

