

Date: 24 March 2025
Our ref: 500554
Your ref: TR010065



The Planning Inspectorate

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NSIP Reference Code: TR010065

The Examining Authority's third written questions (ExQ3) in respect of the A46 Newark Bypass

Examining Authority's submission deadline with a date of 25 March 2025

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

Natural England is pleased to provide our answer to the Examining Authority's Third Written Questions (ExQ3) within the annex appended to this letter.

Natural England hopes our Deadline 7 answers are helpful, and we will continue to work collaboratively with the Applicant on the matters discussed below.

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

Yours faithfully

[REDACTED]
Senior Sustainable Development Officer – NSIPs & High Risk Casework
East Midlands Area Team

Annex 1: Natural England comments in response to ExQ3

Natural England's response to the Examining Authority's (ExA's) third written questions and requests for information (ExQ3) with a deadline of 25 March 2025

Table 1: Natural England's response to ExQ3			
ExA ref.	Addressed to	Question	Natural England Response
Q3.0.3 (f)	Natural England	<p>Barn Owl, Kestrel and Bat Boxes</p> <p>In respect of Requirements 21 and 22 [REP6-004] of the dDCO which propose that offsite boxes will be installed in advance of the commencement of development per [EV-002]:</p> <p>f) Is Natural England satisfied with the proposed means of securing the boxes?</p>	<p>Natural England is satisfied that bat boxes and their management, required as part of the bat license, would be secured by a Section 253 agreement or similar, to be confirmed at the time of formal licence submission. Natural England has no comments to make on the wording of Requirement 22 of the draft DCO and is satisfied with the proposed means of securing the bat boxes.</p> <p>In addition, the Applicant has produced a draft Bat Box Specification, which was received by Natural England on 21/03/2025 (Rev. 1, March 2025, Deadline 7 Submission). The bat box proposed in this document is acceptable to Natural England and is considered suitable for the species of bat and roost type being impacted.</p> <p>Natural England is not responsible for licencing impacts to barn owl from development proposals; therefore, we have no comments regarding the proposed means of securing the barn owl boxes.</p>
Q3.0.4 (b)	The Applicant (a), NSDC and Natural England (b)	<p>Compensatory Habitat Provision</p> <p>Please provide an update on the agreements to secure the lowland meadow compensation that is subject to a separate discussion with Natural England and the agreement to provide the woodland works at Doddington Hall.</p>	<p>It should be noted that in the absence of mandatory Biodiversity Net Gain for NSIPs, there is not currently a mandatory requirement for the Applicant to secure a bespoke agreement with Natural England regarding the lowland meadow compensation and woodland works at Doddington Hall. Whilst Natural England welcomes the Applicant's commitment to securing a compensation strategy, due to the lack of mandatory requirement we have no further comments.</p>

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ExA ref.	Addressed to	Question	Natural England Response
		<p>a) If these are not secured by the end of the examination how will this affect the conclusions of ES Chapter 8 [APP-052]?</p> <p>b) Should the compensation not be secured by the close of the examination, how might this alter the responses from NE and NSDC?</p>	
Q7.0.1	The Applicant, Natural England	<p>Agricultural Land Classification (ALC) Surveys</p> <p>Please provide an update on the further ALC survey noted in [REP5-066]. In the event that acceptable/ agreed ALC survey information is not available before the close of the examination, is proposed R23 [REP6-004] satisfactory to Natural England?</p>	<p>Natural England welcomes the Applicant's commitment to undertake further ALC surveys to address the data gaps. It is understood that these surveys are planned for May 2025 (see Statement of Common Ground with Natural England, issue ref. 30, Applicant's response) and a requirement has been added in the draft DCO (Requirement 23) to ensure no works are undertaken on the land prior to the survey being undertaken, which is welcomed.</p> <p>Natural England has requested that Requirement 23 of the draft DCO is updated as follows (email sent to Applicant 12 March 2025):</p> <p><i>"Prior to any works commencing on the land shown hatched green on the agricultural land plan the undertaker must carry out agricultural land classification surveys on that land and update the Soils Management Plan accordingly based on the new data".</i></p> <p>This requirement to update the SMP (as opposed to sending the survey data to Natural England) is designed to ensure the data is used to inform soil management during construction, ensuring appropriate handling, reuse and, where applicable, effective reinstatement.</p> <p>If Requirement 23 is updated in line with our recommendation, Natural England has no further comments on this matter.</p>

Table 1: Natural England's response to ExQ3			
ExA ref.	Addressed to	Question	Natural England Response
Q9.0.1	Natural England	<p>Fish Escape Passages</p> <p>NE's response to the REIS QR7 [REP5-066] stated that it agrees with the EA's previous concerns [REP4-044] and acknowledged that this was a change to its earlier position.</p> <p>The EA's DL5 submission [REP5-065] confirms it is content with the fish escape passages insofar as their statutory function is concerned. The applicant has confirmed in the First Iteration EMP REAC RDWE10 [REP6-012] that the passages will be 500mm wide x 300mm deep naturalised channels. There will be two from each of the FCAs at Farndon discharging to the Old Trent Dyke allowing for fish to escape to the River Trent. This is detailed in the most recent Fish Escape Channel Technical Note in the Habitat Regulations Assessment [REP5-075]. A commitment to the design and number of fish escape passages, with the precise location being agreed in consultation with the EA and NE, is captured through First Iteration EMP REAC B9 [REP6-012].</p> <p>Please update your position on this matter and confirm any outstanding information or concerns you may have</p>	<p>Natural England is content with the commitment to consult both Natural England and the Environment Agency on the Second Iteration EMP (including future iterations of the fish escape passage design). At detailed design, the specific number, location and design of fish escape passages will be finalised. Natural England welcomes the opportunity to be involved in this process to ensure the fish escape passages are fit for their intended purpose. Therefore, Natural England has no further comments.</p>

Table 1: Natural England's response to ExQ3			
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		from your initial response [REP2-045] . If the location of the passages remains the only outstanding issue, please detail why this cannot be resolved via the applicant's commitment in the First Iteration EMP REAC B9.	
Q9.0.2	Natural England	<p>Fish Escape Passages</p> <p>In light of the comments provided by the EA at DL5 in response to QR7 [REP5-065], can NE provide an update to their position on this matter and, if necessary, set out how the design of the fish escape passage selected by the applicant could result in adverse effects on integrity (AEol).</p>	<p>The mitigation measures set out in the Appropriate Assessment (Section 5 of the HRA report) to prevent entrapment/ isolation of lamprey during flooding of the Farndon East FCA and Farndon West FCA include provision of fish escape passages. Without this mitigation, or if the mitigation is not appropriately designed, managed or maintained, an adverse effect on integrity (AEol) may occur due to entrapment/ isolation of lamprey, which are a designated feature of the Humber Estuary SAC/ Ramsar.</p> <p>At present, Natural England consider the fish escape passages to be broadly acceptable but small (0.5 m width and 0.3 m depth). As a result of the small dimensions, poor vegetation management may affect their use, for example if the fish passages were to become blocked with vegetation. This may cause fish difficulty in actively identifying the escape passage routes, especially given the relatively large flood plain area. If the fish passages become too small, lamprey may become trapped and die whilst attempting to pass through the passages, and this risk would increase if vegetation is not appropriately maintained. Whilst the maintenance of the Fish Escape Passages is secured (First Iteration EMP, REAC Reference RDWE10), the implementation of wider fish escape passages would be advantageous.</p> <p>Natural England acknowledge the risk of lamprey becoming trapped is low due to the distance between the Humber Estuary SAC/ Ramsar and the Farndon FCAs and the presence of existing barriers along the River Trent. Nonetheless, we welcome the Applicant's commitment to involve</p>

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			<p>both Natural England and the Environment Agency in the detailed design stage to ensure the mitigation measures are designed and managed appropriately to minimise risk.</p> <p>Natural England does not have any further comments to make in addition to those already submitted on this matter.</p>