

A46 Newark Bypass

Scheme Number: TR010065

7.72 Applicant's Responses to Examining Authority's Third Written Questions

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

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

The A46 Newark Bypass
Development Consent Order 202[x]

Applicant's Responses to Examining Authority's Third Written Questions

Regulation Number:	APFP Regulation 5(2)(q)
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1 Introduction

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

This document has been prepared by the Applicant to set out its responses to the Examining Authority's (ExA) Third Written Questions issued on 12th March 2025 [PD-011]. This document is submitted at Deadline 7 of the Examination.

Applicant's Responses to Examining Authority's Third Written Questions

ExQ3	Question to:	Question:	The Applicant's Responses
1. General overarching matters including Policy, Need and alternatives			
Q1.0.1	The Applicant	Application Document Updates In providing the final set of updated application documents, please ensure that: a) any references to the 2023 draft NPSNN are updated to reflect the designation of NPSNN in 2024. b) any other changes to policy documents are reflected in the submission, for example the updated NPPF. c) all errata have been addressed in the application documentation such that the need for an errata document has been eliminated.	The Applicant confirms all Application documents, where relevant, have been updated to include reference to the 2024 NPSNN and associated accordance tables, as well as the updated 2024 NPPF and any other relevant updated policy documents. The Applicant can confirm that all errata have been addressed in the application documentation such that the need for an errata document has been eliminated.
2. Air Quality and Emissions			
Q2.0.1	The Applicant, NSDC	First Iteration EMP NSDC says [REP5-068] that the Pre-commencement Plan and the Air Quality and Dust Management Plan align with each other, but that the First Iteration EMP seems to contradict both of these plans. Please ensure that the EMP aligns with the aforementioned documents and submit an agreed and updated version of the EMP.	The Applicant confirms that the First Iteration Environmental Management Plan [REP6-012] was updated at Deadline 5 of the Examination and now aligns with the Pre-commencement Plan [REP6-014] and the Air Quality and Dust Management Plan contained within Appendix B.5 of the First Iteration Environmental Management Plan [REP6-012]. The content of the Air Quality and Dust Management Plan [REP6-012] was agreed with Newark and Sherwood District Council at a meeting on the 22 January 2025 and is recorded within issue number 51 of the Statement of Common Ground with Newark and Sherwood District Council [REP6-032].
3. Biodiversity, Ecology and Natural Environment			
Q3.0.1	The Applicant	First Iteration EMP Does all planting and habitat creation in the Environmental Masterplan [AS-026] contribute to BNG and will be monitored and maintained for a 30-year period per REAC commitment B12 [REP6-012]? If not, please illustrate the relevant areas on a drawing and include a reference to that drawing in the REAC entry B12.	The Applicant confirms all habitat creation in the Environmental Masterplan [AS-26] will contribute to Biodiversity Net Gain (BNG) and will be subject to the 30-year management and monitoring commitment set out at Register of Environmental Actions and Commitments at commitment B12 in the First Iteration Environmental Management Plan [REP6-012].
Q3.0.2	The Applicant	First Iteration EMP Given that REAC commitments B12 and B13 [REP6-012] only cover the period up to 15 years post-completion, how would monitoring of the full 30-year BNG period be secured? How would any shortfalls identified through monitoring be addressed through the dDCO?	The Applicant confirms a BNG Management and Monitoring Plan would be implemented for 30-years from the end of construction as shown in table 7-1 of the Biodiversity Net Gain Technical Report [APP-159] and as stated in the 'action or commitment' column of commitment B12 of the Register of Environmental Actions and Commitments within the First Iteration Environmental Management Plan [REP6-012]. The detailed monitoring frequency would be proposed in the initial production of the BNG Management and Monitoring Plan but would span the 30 year timescale. Commitment B13 of the Register of Environmental Actions and Commitments within the First Iteration Environmental Management Plan [REP6-012] provides for the completion of a Biodiversity Net Gain Audit and Report at the end of construction and at the end of a 5 year aftercare period. The purpose of these audits is to review the predictions in habitat type to be created through the Scheme at these milestones and update the Scheme biodiversity net gain metric as necessary. The timing of these audits was selected to coincide with when there will be greater certainty of the habitats that will result from the Scheme. This complements the commitment in Commitment B12 of the Register of Environmental Actions and Commitments within the First Iteration Environmental Management Plan [REP6-012] which relates to monitoring of habitat type and condition. The BNG Management and Monitoring Plan will include target habitat types and conditions and the monitoring and management measures to achieve them. The Scheme is not subject to the requirement placed on applications made under Part 3 of the Town and Country Planning Act 1990 to legally secure BNG for 30 years. However, the BNG Management and Monitoring Plan for the Scheme will set out the management and monitoring measures to be adopted by the Applicant for 30 years. BNG will be well established during the period of the Register of Environmental Actions and Commitments. Monitoring and management measures during and after that period would be undertaken as part of the Applicant's routine management of the land within its ownership and responsibility.
Q3.0.3	The Applicant (a) – (e), Natural England (f)	Barn Owl, Kestrel and Bat Boxes 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]: a) how are R21 and R22 consistent with the relevant paragraphs of the National Planning Policy Framework and associated Planning Practice Guidance (PPG)	a). The Applicant confirms Requirements 21 and 22 of the draft Development Consent Order [REP6-004] provide the Examining Authority and Secretary of State with the certainty of a 'back-stop' which ensures that the required mitigation will be put in place before the works that trigger the need for the mitigation are commenced. The Applicant is confident that it will be able to secure the necessary agreements to put the mitigation in place imminently, but for the purposes of providing more certainty and a legally binding mechanism to secure the provision of the necessary mitigation, the Applicant has included these requirements in the draft Development Consent Order [REP6-004].

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		<p>concerning conditions in that they should be:</p> <ul style="list-style-type: none"> • precise • enforceable • necessary • relevant to the development • relevant to planning • reasonable in all other respects. <p>Please set out how these Requirements meets each of these tests. In particular but not limited to:</p> <p>i. how would non-compliance with these Requirements be enforceable if the DCO development has not yet been commenced (and therefore the DCO is not in operation)?</p> <p>ii. how the Requirements are enforceable if the applicant does not have control over the land to which they relate?</p> <p>iii. how the Requirements are reasonable when they could prevent any development from taking place when it may be possible that some works could proceed without affecting protected species and their habitats?</p> <p>iv. how the Requirements are precise in the absence of measurable time periods to allow the nesting boxes to become established?</p> <p>b) is it appropriate to control land outside of the Order limits by Requirement? Please give examples of where this has been done in other DCOs and provide a justification as to why such an approach is appropriate in this instance, including the consideration of paragraph 010 of the PPG on the use of planning conditions.</p> <p>c) would installation of offsite boxes need to take place before any activities set out in the Pre- Commencement Plan [REP6-014] occur? If so, R21 and R22 should be amended to make the timescale for installation clearer so they are more precise. You should also update the Pre-Commencement Plan as relevant. If not, please detail how species will be protected during any works that are undertaken prior to the naturalisation of the boxes.</p> <p>d) Please provide details of the timing of installation of onsite boxes and how any prior works might affect the relevant species. The Pre-Commencement Plan may need to be updated to reflect this.</p> <p>e) are any other agreements needed to enable the boxes to be installed? If yes, what is the status of those agreements?</p> <p>f) Is Natural England satisfied with the proposed means of securing the boxes?</p>	<p>Both requirements are precise as they require clear steps to be taken: written details must be submitted to the Secretary of State for approval and the mitigation must be provided and managed in accordance with the relevant specifications, which are certified documents. This is required before specific works are undertaken, which are themselves defined in Article 2(1) and Schedule 1 of the draft Development Consent Order [REP6-004]. The requirements are enforceable as the Applicant is required to obtain the approval of the Secretary of State before specific works are undertaken, as is the case with many of the requirements in the Development Consent Order. Failure to do so would amount to a clear breach of the Development Consent Order and would therefore be subject to the enforcement provisions under Part 8 of the Planning Act 2008. The requirements are necessary to allow for a circumstance in which the Applicant has not submitted completed legal agreements to the Examination or the Secretary of State demonstrating that it secured the provision of the necessary mitigation before the Development Consent Order is made. If those agreements are submitted before the Development Consent Order is made, then the requirements will no longer be necessary and need not be included in the made Development Consent Order by the Secretary of State. The requirements relate to the development and are relevant to planning as the bat and barn owl boxes are required to be provided in order to mitigate the effects of the authorised development, for which development consent is required. As detailed more fully below, the requirements are also reasonable in all other respects.</p> <p>i). Both Requirements 21 and 22 must be complied with before site clearance works or demolition works (respectively), which form part of the pre-commencement works (as defined under Article 2(1)), are begun. Despite the fact that requirements 21 and 22 relate to pre-commencement works, they can still be enforced under the Development Consent Order, as it is the Development Consent Order which granted development consent for the pre-commencement works to be undertaken. Even if the authorised development has not yet commenced under the Development Consent Order i.e. the Applicant has not 'implemented' the development consent, the Development Consent Order is still a valid Statutory Instrument the terms of which must be complied with.</p> <p>ii. The relevant requirements are enforceable as they are linked to the carrying out of the works specified under each requirement, which is within the control of the Applicant. The Applicant will not be able to carry out the specified works within the Order Limits under each requirement until the mitigation has been put in place in accordance with the details approved by the Secretary of State. Whilst the barn owl and bat box specifications list the criteria with which the location of the boxes needs to comply, they do not specify any one individual location. This means that if discussions with one landowner should fail, an alternative location can be found that would still meet the terms of the specifications and therefore the requirements. This means that no one landowner could effectively hold the Scheme to ransom.</p> <p>iii. The requirements are drafted so as to prevent the carrying out of specified works i.e. pre-commencement site clearance (requirement 21) and the demolition of the Mint Leaf restaurant (requirement 22). This drafting has been adopted as it is these specific works which trigger the need to provide the mitigation to which the requirements relate. All other works under the Development Consent Order can take place before the obligations requirements 21 and 22 have been discharged.</p> <p>iv. The requirements are sufficiently precise as they are also secured via the First Iteration Environmental Management Plan [REP6-012] which requires annual monitoring of the bat boxes during year 2 and 3 of construction and thereafter annually for 5 years post-construction and annual monitoring surveys of the barn owl nestboxes during construction and for a minimum of 5 years post-construction. In addition, the requirements secure management regimes which must be substantially in accordance with the barn owl box specification and the bat box specification which are certified documents in Schedule 12 of the draft Development Consent Order [REP6-004], of which drafts have been submitted at Deadline 7 of the Examination.</p> <p>b). As explained in response to (a)(ii) above, what the requirements control is the Applicant's ability to undertake the specified works. The mechanism for controlling the land outside the Order Limits, are the s.253 agreements which the Applicant is entering into with the relevant landowners, and which are already the subject of negotiation between the Applicant and those landowners.</p> <p>As such, the requirements do not conflict with the terms of para. 010 of the PPG which notes that <i>"a positively worded condition which requires the applicant to enter into... an agreement under other powers, is unlikely to pass the test of enforceability."</i> This is because requirements 21 and 22 do not require the Applicant to enter into the necessary s.253 agreements. Rather they prevent the Applicant from undertaking specified works if the s.253 agreements are not entered into.</p> <p>Para. 010 of the PPG goes on to note that whilst <i>"a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases... in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes). In such cases the 6 tests should also be met."</i></p> <p>Whilst the Applicant is of the view that the relevant s.253 agreements will be in place before development consent is granted for the Scheme, it is necessary to provide for the unlikely circumstance of that not being the case to enable this complex nationally</p>

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			<p>significant infrastructure project to progress. How the requirements meet the 6 tests referred to in the PPG has been explained in the response under part (a) above.</p> <p>Para. 010 of the PPG goes on to state: <i>"Where consideration is given to using a negatively worded condition of this sort, it is important that the local planning authority discusses with the applicant before planning permission is granted the need for a planning obligation or other agreement and the appropriateness of using a condition. The heads of terms or principal terms need to be agreed prior to planning permission being granted to ensure that the test of necessity is met and in the interests of transparency."</i></p> <p>The need for requirements 21 and 22 have been discussed during the course of the Examination and the Applicant has set out in this submission why they are appropriate for inclusion in the Development Consent Order in this case. The principal terms of the s.253 agreements to which requirements 21 and 22 relate are provided in the barn owl box specification and the bat box specification which are certified documents in Schedule 12 of the draft Development Consent Order [REP6-004], of which drafts have been submitted at Deadline 7 of the Examination.</p> <p>The Secretary of State accepted the same approach when granting consent for the A303 (Amesbury to Berwick Down) Development Consent Order 2023. Requirement 12 of that Order secured stone curlew breeding plots outside of the Order Limits of that scheme. The Secretary of State's decision letter in that case records as follows:</p> <p><i>"204. ...Towards the end of the examination, the Applicant included a new requirement (requirement 12) in the draft DCO to secure the provision and maintenance of the proposed replacement and additional stone curlew breeding plots. The ExA also recommended proposed changes to requirement 12 in its recommended draft DCO, which the Secretary of State has since also further consulted on and NE have agreed."</i></p> <p><i>205. In conclusion on the Salisbury Plain SPA, the ExA is satisfied that the Applicant has put in place mechanisms that would be secured in the DCO to provide certainty beyond reasonable doubt that the land for the proposed plots can be delivered and that suitable management and monitoring measures will be put in place in order for the Secretary of State to conclude no adverse effects on the integrity of the Salisbury Plain SPA alone and in combination with other plans and projects during the construction and operation of the Proposed Development [ER 7.4.4 and ER 7.4.6]."</i></p> <p>The Applicant is of the view that in adopting the same approach as that used on the A303 scheme, the ExA can be satisfied that the Applicant has put in place mechanisms that would be secured in the Development Consent Order to provide certainty beyond reasonable doubt that the required mitigation will be provided in this case.</p> <p>c). Installation of the barn owl box under requirement 21 and the bat box under requirement 22 would be required to take place before any site clearance as part of the pre-commencement works or demolition of the existing Mint Leaf restaurant (as set out in each requirement), under the Pre-Commencement Plan can take place. This is specified in the drafting of the requirements and by reference to the definition of pre-commencement works in Article 2(1) of the draft Development Consent Order [REP6-004].</p> <p>Further detail is provided in sections 2.1.1 and 2.1.3 of the barn owl box specification, compliance with which is secured under requirement 21 and which is a certified documents in Schedule 10 of the draft Development Consent Order [REP6-004], a draft of which has been submitted at Deadline 7 of the Examination. The Applicant can confirm that it has also updated the Pre-Commencement Plan at Deadline 7 to make this clear.</p> <p>It should be noted that the barn owl boxes have already been installed on the relevant land, in accordance with the barn owl box specification, pursuant to a licence. The outstanding s.253 agreement which is currently being negotiated therefore only relates to the on-going management and monitoring of those boxes, rather than the installation of them.</p> <p>Further detail of the installation of the bat box is provided in section 2.1.4 and section 4 of the bat box specification, compliance with which is secured under requirement 22 and which is a certified document in Schedule 10 of the draft Development Consent Order [REP6-004], a draft of which has been submitted at Deadline 7 of the Examination.</p> <p>By reference to the drafting of the requirements themselves and the details provided in the two specification documents, compliance with which is secured under the requirements, the Applicant is of the view that the timescales for installation of the barn owl and bat boxes is sufficiently clear and precise.</p> <p>Works that are capable of being undertaken by the terms of the Development Consent Order prior to the naturalisation of the boxes are not works which could impact the protected species under discussion and therefore not to require mitigation in the form of replacement boxes to be provided. All other mitigation of protected species required by the Scheme is secured via the First Iteration Environmental Management Plan [REP6-012] and the Pre-Commencement Plan [REP6-014], that requires mitigation to be in place for the relevant species.</p>

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			<p>d). These details are set out in the barn owl box specification and the bat box specification, which are certified documents in Schedule 10 of the draft Development Consent Order [REP6-004], of which drafts have been submitted at Deadline 7 of the Examination. See in particular, section 2.1.4 and section 4 of the bat box specification and sections 2.1.1, 2.1.3 and section 4 of the barn owl box specification.</p> <p>e). In addition to the s.253 agreements which are the subject of Requirements 21 and 22, a protected Species licence under the Conservation of Habitats and Species Regulations 2017 from Natural England will be required as part of the provision of the offsite bat box. This is explained in the bat box specification which has been submitted at Deadline 7 of the Examination. Natural England provided a letter of no impediment (2024-67159-EPS-AD1- LONI) (see Appendix A of the Statement of Common Ground between the Applicant and Natural England [REP6-031]) in response to the draft bat mitigation licence application submitted in March 2024. Should the Development Consent Order be granted, then the mitigation licence application must be formally submitted to Natural England, as explained in the Consents and Agreements Position Statement [REP4-008].</p> <p>The barn owl box specification and bat box specification has been submitted to Natural England for their comment. Natural England confirmed via email on 24 March 2025 that the bat box proposed is acceptable and they have no comments to make on the bat box specification document. Natural England also confirmed that as Natural England isn't responsible for licencing impacts to barn owl from development proposals, they would not be providing comments on the barn owl nest box specification.</p> <p>This is captured under issue 6 of the Statement of Common Ground with Natural England [REP6-031] submitted at Deadline 7 of the Examination.</p>
Q3.0.4	The Applicant (a), NSDC and NE (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>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>	<p>The Applicant confirms lowland meadow compensation is located within the Order Limits as shown on Figure 2.3 (Environmental Masterplan) of the ES Figures [AS-026]. The Environmental Masterplan is secured through Requirement 6 of the draft Development Consent Order [REP6-004]. Therefore, the conclusions reported in Chapter 8 (Biodiversity) of the Environmental Statement [APP-052] will not change.</p> <p>As detailed in Appendix 8.14 (Biodiversity Net Gain Technical Report) of the Environmental Statement Appendices [APP-159] lowland meadow is classed as a habitat of very high distinctiveness within the Biodiversity Metric 3.1. Any losses prevent a Scheme wide prediction of BNG. To allow BNG to be considered in relation to the remainder of the Scheme a Bespoke Compensation Agreement was sought with Natural England in relation to the loss. An outline compensation agreement is included in Appendix A.6 of Appendix 8.14 (Biodiversity Net Gain Technical Report) of the Environmental Statement Appendices [APP-159]. Natural England considers the compensation proposed to be appropriate in principle, subject to appropriate ongoing management, but they do not consider a bespoke compensation agreement to be mandatory (as detailed in the Statement of Common Ground between the Applicant and Natural England [REP6-031]). Natural England acknowledged BNG is not mandatory for Nationally Significant Infrastructure Projects (NSIPs) until November 2025, therefore Natural England's comments at this stage should be considered as advisory only.</p> <p>In relation to the offsite compensation to be provided for at Doddington Hall, the Applicant can confirm that the s253 agreement is now agreed between it and the landowner and the parties are in the process of executing and completing the document. A copy of the completed agreement will be shared with the ExA following its completion. On the basis that the s253 agreement has now been agreed and its completion is imminent the Applicant is of the view that it is appropriately secured and therefore does not propose to include any additional requirement into the draft Development Consent Order [REP6-004] securing the offsite mitigation which is the subject of the agreement.</p> <p>b) This question is directed to Natural England and Newark and Sherwood District Council. However, on the basis that the compensation referred to in the question has been secured, the Applicant expects that there should be no change to the responses from Natural England and Newark and Sherwood District Council.</p>
Q3.0.5	The Applicant, NCC, NSDC	<p>Habitat Severance</p> <p>During ISH 4 [EV10-002] it was confirmed that NSDC no longer had any concerns relating to habitat severance. NCC commented that it is still in discussion on this point and would address this through the SoCG.</p> <p>Can all parties please ensure the matter of habitat severance is included in their SoCG and confirm if they are content that this issue has been resolved. If NCC continues to have concerns, please detail these and how might they be reasonably addressed.</p>	<p>The Applicant confirms that following a meeting with Nottinghamshire County Council on 18 February 2025 and the provision of additional clarification on the proposed seed mixes by the Applicant, Nottinghamshire County Council are in agreement with the indicative seed mixes to be used for creation of species rich grassland. The Statement of Common Ground between the Applicant and Nottinghamshire County Council [REP6-030] was updated on 07.03.2025 and included the following additional information the Applicant supplied to Nottinghamshire County Council:</p> <p><i>The Applicant directed NCC to Note 12 of Figure 2.3 (Environmental Masterplan) of the ES Figures [AS-026] which shows indicative seed mixes to be used for creation of species rich grassland. The Applicant acknowledged concerns from NCC that the originally proposed seed mix EM3 Special General Purpose Meadow Mixture was very diverse and agreed to update Note 12 of the Environmental Masterplan to reference indicative seed mixes as either EM2 (changed from the previously proposed EM3 mix) or EM7. The Environmental Masterplan will be resubmitted at Deadline 7 of the Examination. The specification will be finalised as part of detail design, as noted in L3 of the REAC within the FIEMP and Requirement 6 of the draft DCO.</i></p>

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			<i>The Applicant also noted that the areas shown on the Environmental Masterplan as Lowland Meadow Creation / Enhancement near Cattle Market Roundabout will use green hay rather than a seed mix as described in Appendix A.6 of Appendix 8.14 Biodiversity Net Gain Technical Report.</i>
Q3.0.6	The Applicant	Species Rich Grassland [REP6-001] states that the ES will be updated to include the removal of approximately 0.13ha of proposed species rich grassland planting from within the Order limits. Please provide the justification for this reduction and how this affects the BNG calculations. Please update any plans and/ or documents as relevant.	The Applicant confirms the removal of proposed species rich grassland has occurred because engagement with Network Rail has redefined the boundary of their operational land within the Scheme Order limits. This was demonstrated in the updated Lands Plans [REP6-002] and Book of Reference [REP6-008] provided at Deadline 6 of the Examination. It will not be possible to create or maintain any habitat on Network Rail operational land, and for the purposes of the Scheme construction these small areas of land are now shown as being temporarily acquired during construction only. As a result of this amendment, the predicted change in habitat units has been updated from an increase of 4.99% in habitat units to an increase of 4.95%. The Biodiversity Net Gain Technical Report [APP-159] has been updated to include changes in the biodiversity metric and an update to Figure A.2 which shows post-development habitat. Chapter 8 (Biodiversity) of the Environmental Statement [APP-052] has also been updated but there is no change in the conclusions reported.
4. Climate and Carbon Emissions			
No further questions at this stage.			N/A
5. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations			
Q5.0.1	Applicant, Belal Ahmed and Monjur Rahman Choudhury	Land Rights – Tracker URNs 009 and 029 These are identified as linked and it is stated these are agreed but conveyance not yet occurred, with completion expected before the end of March, please update. Also confirm any necessary update to BoR and land plans and CA request.	The Applicant confirms the acquisition of property and land is currently still to be completed. During the property search, the Applicant was made aware of an existing issue around formal access to the property which needs to be resolved before the sale can be finalised. The Applicant's appointed valuer and the landowner's solicitors are still in discussion to try and find a resolution to this issue. The completion is not expected to occur before the end of March 2025. However the Applicant is confident that once this main issue is resolved the completion of the sale can be achieved fairly quickly. The land has not exchanged between Applicant and landowner, and as discussions are still ongoing there are currently no changes required to either the Book of Reference [REP6-008] or Land plans [REP6-002], for Deadline 7 of the Examination.
Q5.0.2	Applicant Canal and River Trust	Land Rights – Tracker URN 012 It appears that Protective Provisions are agreed, Article 58 in the DCO is also agreed and close to agreeing acquisition by agreement. Can CRT provide, or can the applicant obtain, a letter withdrawing objection to CA from CRT.	The Applicant and the Canal and River Trust have agreed Protected Provisions. An email was sent from the Applicant on 20 March 2025 to enquire if the Canal and River Trust would provide a letter withdrawing its objection to compulsory acquisition..
Q5.0.3	Applicant, Edmund George William Thornhill, Francis Michael Hare 6th Earl of Listowel	Land Rights Tracker URN 018 and 020 It appears both of these landowners are close to finalising, confirm if acquisition will be/ is completed and if the individuals are in a position to remove their objection to CA / TP and provide confirmation of such, if appropriate.	The Applicant confirms compensation figures and Heads of Terms for an option agreement have been agreed in respect of Edmund George William Thornhill (URN 018) and Francis Michael Hare 6 th Earl of Listowel (URN 020). Once signed and returned both cases will be passed to solicitors to complete the legal formalities. The Applicant's understanding is that the agent for the landowners will confirm shortly whether the individuals will withdraw their objections.
Q5.0.4	Applicant	Land Rights Tracker URN 021 It is stated acquisition completed, please confirm the BoR and Land plans have been updated as appropriate.	The Applicant confirms there are no changes required to the Land Plans [REP6-002] . The Book of Reference [REP6-008] has been updated to include the Applicant's pending registration of the land to National Highways, however Gascoines Group Limited is still mentioned on the backdated Land Registry title and will remain in the Book of Reference [REP6-008] until the pending Land Registry application has been fully processed. The updated Book of Reference [REP6-008] will be submitted at Deadline 8 of the Examination.
Q5.0.5	Applicant, John James Miller	Land Rights Tracker URNs 024 and 025 Applicant's comments reference s253 management agreement and acquisition by agreement with HoTs issued and Applicant confident of reaching agreement within the examination window. Please update and ensure any necessary changes to the Land Plans and requests for CA / TP are captured in updated documents and any consequent agreements (s253) are provided or fully detailed.	The Applicant confirms the land agreement has not exchanged between the Applicant and the landowner. Discussions are still ongoing. There are currently no changes required to either the Book of Reference [REP6-008] or Land Plans [REP6-002]. There has been ongoing engagement between the parties' valuers to agree matters and it is expected that agreement will be reached before the end of the examination. The parties have agreed that the land will be acquired by agreement and there is now no requirement for a S253 management agreement.
Q5.0.6	Applicant, Kevin Briggs-Price, Royston Briggs-Price	Land Rights Tracker URNs 26 and 41 It is confirmed that contact has been made and discussion about acquisition by agreement is on-going. Please update on progress.	The Applicant confirms a meeting was held on 27 February 2025 between the Applicant's appointed valuer and the agent for the landowner. Discussions on acquisition by agreement are proceeding and draft heads of terms are to be sent by 28 March 2025.

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ExQ3	Question to:	Question:	The Applicant's Responses
Q5.0.7	Applicant, Latham Farms Limited (Including Diana Gay Latham, Tessa Caroline Rentoul & Zoe Elizabeth Latham)	Land Rights Tracker URN 027 It appears agreement reached for management of land rather than acquisition – confirm position and ensure any necessary changes to CA / TP request and land plans is made.	The Applicant confirms provisional agreement has been reached in respect of the compensation figures and Heads of Terms have been issued. The land will remain within the ownership of the landowner subject to a management agreement in respect of the Flood Compensation Area (FCA). The agent for the landowner is currently undertaking a final review before confirming agreement. As such no amendments are proposed to the CA/TP request as agreement has not yet been concluded.
Q5.0.8	Applicant, Lindum Developments Ltd, NDC Group	Land Rights Tracker URN 028 and 032 1) Please update the ExA on progress of the proposed draft agreement and your intentions with regard to the CA request and whether changes to the land plans will be forthcoming if that agreement is concluded. As CA is a course of last resort and there appears to be an alternative solution to providing a footway cycleway connecting route either by the proposed agreement or other public routes as referenced by other IPs, in the event an agreement is not reached, how does this affect the applicant's position on the necessity of the CA of this land for the provision of the connection, as it appears a connection can be made on other land. The applicant should use its best endeavours to conclude this position as a matter of urgency. 2) It is stated NDC Group hold a 50% share of the land with Lindum; are NDC to be a party to the agreement being discussed with Lindum. Has the applicant reached separate agreement with NDC? How is this to be progressed?	1) The Applicant confirms discussions have continued to provisionally agree the land value. These figures were set out in an e-mail 18 March 2025 by the Applicant's appointed Valuer. Subject to landowner agreement those figures will be included in the overarching agreement that is being progressed by the solicitors in relation to acquisition of the land with NDC Group being a party to that agreement. The parties have both shared various rounds of comments on the overarching legal agreement and the points in principle have been narrowed. The parties had a further meeting on 6 March 2025 and the Applicant shared a revised draft agreement on 10 March 2025 seeking to address the points raised during that meeting. The Applicant received a response from Lindum on 24 March 2025 and will review and return any comments as quickly as possible. The parties are working collaboratively in order to finalise the agreement and are both working towards reaching agreement prior to completion of the Examination. As stated by the Applicant in its response in the Applicant's Summary of the Compulsory Acquisition Hearing 2 – Rev 1 [REP4-030] at Deadline 4 of the Examination, it is not proposing to amend the application for the Scheme to reflect the Alternative Route for the footpath/cycletrack as suggested by Lindum. Further as the land transfer has not yet been agreed the Applicant is not proposing to amend the Land Plans or Book of Reference at this stage. In relation to the Applicant's compulsory acquisition case, it is the Applicant's view that the fact that an alternative route could potentially exist does not undermine its case because the original design was based around the needs of this landowner, as the Applicant understood them based on feedback from Lindum when the preliminary design of the application was fixed. It is subsequent design changes by Lindum that have resulted in the perceived conflict. Further, and more importantly, the alternative route proposed by Lindum is, however, not available to the Applicant unless and until agreement is reached with the landowner and the necessary steps have been taken by the parties, including securing any additional consents to allow the Alternative Route to be used for the footpath/cycletrack. At that stage the Applicant will have no need to exercise its compulsory acquisition powers over the route applied for. Such consents include, Lindum securing planning permission for the Alternative Route, as well as the Applicant obtaining the consent required from the local highway authority pursuant to Article 15 of the draft Development Consent Order [REP6-004]. Therefore, the need exists to ensure that an appropriate solution to the loss of the footway, by way of re-provision, is provided by the Scheme over the route applied for in the Application. The Applicant continues to engage as a matter of urgency with Lindum with a view to seeking to reach agreement for the replacement footpath/cycletrack to be secured over the Alternative Route including the actions that would need to be undertaken by Lindum and the Applicant to achieve this as set out above. 2) The Applicant confirms that NDC Group are a party to the agreement in addition to Lindum Group Limited. While the Applicant's discussions have been primarily held with Lindum Group it is the Applicant's understanding that this is in line with the agreement between Lindum and NDC Group, i.e. Lindum are authorised to lead the discussions and as such we do not envisage any difficulties arising from this arrangement.
Q5.0.9	Applicant, Motor Fuel Group, Shell UK Ltd, St Albans Operating Company.	Land Rights Tracker URNs 030, 042 and 043 The applicant indicates matters are awaiting detail of signage strategy and access / egress which is being progressed as part of detailed design. If the detailed design is not going to be progressed until after the examination closes and the agreement is dependent on the provision of this information, how are matters to be progressed and how are you moving things forward to ensure that all effort is being pursued to avoid CA?	The Applicant's appointed Valuer has discussed alternatives to compulsory acquisition with the parties and matters will be progressed by agreement with Heads of Terms for an option agreement in respect of the permanent land acquisition.
Q5.0.10	Applicant, National Grid	Land Rights Tracker URN 031 It is identified as no objection to CA / TP however [RR-043] refers to it as a holding objection whilst discussions are on-going so should be noted as objecting to CA / TP. Update on PPs and once agreed (if agreed) seek/ provide letter of withdrawal of objection from National Grid.	The parties have been working towards an agreed set of protective provisions with an updated version of the agreement and draft protective provisions shared by the Applicant with National Grid on 18 March 2025. The parties are close to agreement with only a few outstanding points to resolve. As such the Applicant is of the view that agreement prior to the close of Examination is possible, and in any event, agreement will be reached before the time a decision has to be made on the development consent application. As soon as agreement is reached the Applicant will liaise with National Grid to seek a letter of withdrawal from them.

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ExQ3	Question to:	Question:	The Applicant's Responses
Q5.0.11	Applicant, National Rail	Land Rights Tracker URN 033 It is stated permanent land acquisition reduced to permanent rights by agreement only. Please ensure necessary changes to land plans are made. Update on progress of bridge easement and with PPs and if to be agreed, obtain letter from NR withdrawing objection.	The Applicant confirms the Book of Reference [REP6-008] and Land plans [REP6-002] were amended and submitted at Deadline 6 of the Examination. The Applicant agreed to make some minor changes to the Book of Reference to rights to airspace, this will be done at Deadline 8, 3rd April 2025. The Applicant's Valuer is currently awaiting a response from Network Rail in respect of the bridge easement compensation proposal. The protective provisions in the draft Development Consent Order [REP6-004] reflect the agreed protective provisions between the parties.
Q5.0.12	Applicant, Newark & Nottinghamshire Agricultural Society	Land Rights Tracker URN 034 It appears that acquisition by agreement has been agreed and negotiations are on-going. Please update any progress and, if agreement reached, ensure land plans / BoR updated if necessary.	Both the Applicant and Newark & Nottinghamshire Agricultural Society have agreed acquisition by agreement. There are ongoing discussions between Applicant and Newark & Nottinghamshire Agricultural Society around the Outline Traffic Management Plan [REP3-026] and Heads of Terms to finalise the terms of the agreement. However, the land agreement has not exchanged between Applicant and landowner. As discussions are still ongoing, there are currently no changes required to either the Book of Reference [REP6-008] or Land Plans [REP6-002].
Q5.0.13	Applicant, NSDC	Land Rights Tracker URN 035 It is stated parties to agree HoTs within Examination window, this suggests an agreement will not be finalised or concluded by the close of the examination and matters will therefore not be resolved by the close of the Examination. Please ensure there is a clear statement of the applicant's and NSDC's position in relation to the CA / TP of the affected land so that this can be adjudicated in the recommendation report and a recommendation put to the SoS.	The Applicant and Newark and Sherwood District Council have made significant progress on a letter of undertaking which it is anticipated will be concluded shortly. Whilst that undertaking deals with the interaction of the Applicant's Scheme and the existing Newark Lorry Park it would not prevent the Applicant from exercising compulsory acquisition powers or taking temporary possession of Newark and Sherwood District Council land in accordance with the terms of the undertaking.
Q5.0.14	Applicant, Newark Branch Line Co Ltd	Land Rights Tracker URN 036 1) Has any further progress been made? 2) If the proposal amends the nature of the interest to be taken by agreement, does this reduce the necessity of CA / TP and will this require amendment to the Land Plans and CA / TP request? 3) As this is identified as open space, is this consistent with your assessment in respect of open space in the SoR?	1) The Applicant confirms the land to be needed for the Scheme is to be used temporarily and rights to be permanently acquired. This has been agreed between the Applicant and Newark Branch Line. 2) The Applicant is only acquiring rights over this land, and not full compulsory acquisition, of the interest, therefore no changes are needed to the Book of Reference [REP6-008] or Land plans [REP6-002]. 3) The Applicant has addressed the nature of plots 4/3a in paragraph 7.2.7 of the Statement of Reasons [REP5-006]. The plot " <i>is required for access during construction with permanent rights being acquired for the purposes of inspecting and maintaining structures on adjoining land. The public will be able to continue to use the land as recreational space in the same way as before the acquisition. Therefore, when burdened with the new rights, the land will be no less advantageous than it was before it was acquired. The Applicant therefore considers that the exception in Section 132(3) of the 2008 Act applies and that development consent can be granted in respect of these plots without reference to SPP.</i> " The Applicant considers that the approach is consistent with the assessment of open space.
Q5.0.15	Applicant, Newark Ransome and Marles Cricket Club (Including Luc Chignell, Patrick John Burke & Robert Doncaster in association with Newark Ransome & Marles Cricket Club)	Land Rights Tracker URN 037 and 004 An intention to enter into agreement is identified and cross reference to URN004 where it is stated agreement to licence and easement in principle subject to resolution of practical matters such as drainage and fencing. Has any further progress been made and does this change the nature of interest sought and require amendment to land plans?	The Applicant confirms there are no amendments required to the Land Plans [REP6-002] with regards to the ongoing discussions for the agreement. The Applicant's appointed Valuer has committed to issue Heads of Terms for an easement and a licence by 24 th March 2025. The land requirement is for temporary possession with permanent rights over the existing access road to the cricket club. The nature of the interest being sought remains the same and it is expected that it will be secured by agreement.
Q5.0.16	Applicant, NCC	Land Rights Tracker URN 038 It is stated a further meeting is being arranged for February to discuss acquisition by agreement, did this take place? Please ensure information provided as to the nature of any outstanding issues and the positions of the parties, as in the event agreement is not reached by the conclusion of the examination, the Panel will need to adjudicate and provide a recommendation to the SoS.	The Applicant can confirm a meeting took place between the Applicant's appointed valuer and the landowner on 4 March 2025. The acquisition of land by agreement was discussed and it was agreed that the offer and draft heads of terms will be provided by the Applicant's appointed valuer by 28 March 2025. There are two open issues that Nottinghamshire County Council have raised and these are being considered by the Applicant. These issues are not related to the Applicant's proposal for compulsory acquisition or temporary possession.
Q5.0.17	Applicant, Philip Freer	Land Rights Tracker URN 040 Objected to the scheme and subsequently confirmed [REP2-061] that a package of mitigation has been agreed but these have not yet been formally captured so the objection in effect is outstanding. Can you confirm how the package of mitigation is to be secured, the progress towards any required agreements being	The Applicant confirmed the accommodation work requirements with Mr Freer within our response to [REP2-061] within the Responses to Written Representations [REP3-036]. The Applicant has agreed that the following items will be provided as accommodation works: <ul style="list-style-type: none"> Installation of a new 2.4m high closed board timber fence along the highway boundary of Bridge House Farm.

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ExQ3	Question to:	Question:	The Applicant's Responses
		completed and confirmation that Mr Freer does not object to CA / TP of land or interests?	<ul style="list-style-type: none"> Planting to the front of the new fence. Construction of an inner compound area, via means of an internal fence and gate, to provide a secure drop off area for customers. Installation of a pump or positive drainage solution at the A1 underpass to provide an alternative access to the property in the event of a situation during the operation of the new Brownhills junction that impedes access or egress to the property. <p>The Applicant is not proposing to enter into a separate agreement with Mr Freer. However, there are many instances where accommodation works are proposed and agreed between the Applicant and the relevant landowner which will occur in due course without the need for these works to be specifically secured in an agreement. The Applicant can confirm that it has secured the appropriate rights and powers within the draft Development Consent Order and relevant application documents to carry out the list of works set out above.</p> <p>The Applicant has reached out to Mr Freer to confirm his position as to withdrawing his objection to compulsory acquisition and temporary possession of his land and/or interest.</p>
5.1 Funding			
Q5.1.1	Applicant	General funding position As a standing request, please provide any update to the funding position should matters change during the remaining time of the Examination.	Interim funding for the 25/26 financial year has been agreed with the Government and the Applicant. The Applicant confirms that the position remains as that set out in our response to ExA Q5.2.1 [REP2-037]. The Government has said that it is determined to build the transport infrastructure to drive economic growth and opportunities in every part of the country, and to deliver value for money for taxpayers. Road's investment in 2025-26 will be funded through an interim roads' settlement, and the third Road Investment Strategy will be set out in the next phase of the Spending Review. The Spending Review is expected to complete in late Spring 2025. Whilst the Spending Review is ongoing, the Road Investment Strategy commitment to deliver the Scheme remains in place. The Applicant will update if this position formally changes after the conclusion of the Spending Review.
5.2 Special Considerations			
Q5.2.1	Applicant	Crown land plot 2/6a Please provide an update on progress in respect of plot 2/6a which remains identified as Crown land. <i>The Land Rights Tracker [REP6-022] notes "Part of the existing A46 carriageway, following liquidation and dissolution of the existing registered owner, which was a registered company, it is presumed that the interest in land now vests in the Crown as bona vacantia land. The Applicant is in the process of making an adverse possession claim for the land in tandem with a Bona Vacantia application. The land was to be transferred to the SoS for Transport under an historical agreement dated 16/04/1991, which is still subsisting on the title."</i> a) Confirm the nature of the application you have made to the Bona Vacantia division, as to its precise type and nature. b) Is this something the Bona Vacantia division would entertain if the Land Registry is dealing with a simultaneous application for adverse possession? c) Has the Crown Estate, or is there a potential for the Crown Estate, to disclaim (or maybe already has disclaimed) the land in question, then it could become subject to "escheat" (ownerless and capable of being compulsorily acquired without the need for s135 PA 2008 consent). Because land subject to escheat is not Crown Land, the restrictions regarding compulsory acquisition of an interest in Crown Land under PA 2008 do not apply. Please comment. d) Confirm progress with getting Crown authority for inclusion of Crown Land for CA if either application referred to above is not concluded. e) Confirm if neither position is concluded by the end of the Examination how the Applicant intends to proceed, including whether it will remove the land parcel from the CA request and any effect this would have on the implementation of the proposed development. And if it is removed from the CA request, whether the	<p>The Applicant confirms plot 2/6a currently forms part of the existing adopted highway. The Applicant has not been able to progress its application with the Land Registry and so has reverted to focus on the application to the Crown to acquire the Bona Vacantia land. The Applicant's response is as follows:</p> <ol style="list-style-type: none"> An application was made on 2 May 2024 to the Government Legal Department (GLD) to request a transfer of the land subject to payment of consideration. Following appointment of external legal advisers by GLD the Applicant is making the necessary payment for the external legal advisers' legal fees before matters can progress. The Applicant is focused on the application to the Bona Vacantia division for the transfer of the land and not through an application to the Land Registry. The Applicant has been informed by GLD that "as the freehold in this matter has been disclaimed, the freehold title will be extinguished, and the property will "escheat" to the Crown Estate". The Applicant has not yet concluded the necessary transaction with the Crown although as noted in the question, where land is disclaimed and can become subject to escheat it is capable of being acquired compulsorily without the need for Section 135 of the Planning Act 2008 consent. The Applicant has not sought consent under section 135 of the Planning Act 2008 on this basis. As it is considered that there is no need for Section 135 of the Planning Act 2008 consent, it is possible to acquire the interest compulsorily and there is no need to remove the plot from the order land. The Applicant would wish to see Article 52 (Crown Rights) retained in the event that any subsequent interests belong to the Crown are created across the order land.

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ExQ3	Question to:	Question:	The Applicant's Responses
		Crown rights Article should remain in the DCO.	
5.3 Other Agreements			
Q5.3.1	Applicant	Other Agreements Update the Consents and Agreements position statement. Confirm if it is the applicant's intention to submit the agreements into the examination once completed or how it intends to inform the ExA of the completion and the matters secured in the various agreements.	The Applicant has submitted an updated Consents and Agreements Position Statement at Deadline 7 of the Examination. Where agreements have been finalised and completed, the Applicant will confirm this with the ExA. If at that stage the ExA or Secretary of State requests to see a copy of any of the agreements, the Applicant will share such agreements on the basis that they will not be made public.
6.Draft Development Consent Order (dDCO)			
6.0 Articles			
No further questions at this stage.			N/A
6.1 Requirements - Schedule 2			
No further questions at this stage.			N/A
6.2 Other Schedules			
No further questions at this stage.			N/A
7. Geology and Soils			
Q7.0.1	The Applicant, Natural England	Agricultural Land Classification (ALC) Surveys 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?	The Applicant has received a request from Natural England to update the wording of Requirement 23 of the draft Development Consent Order [REP6-004] to state the following: <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> The Applicant has agreed to this amendment, and this updated wording will be provided in the draft Development Consent Order submitted at Deadline 7 of the Examination. This is also reflected in the Statement of Common Ground between the Applicant and Natural England submitted at Deadline 7 of the Examination.
8. Cultural Heritage			
Q8.0.1	NSDC and NCC	Archaeology Following a review of the most recent SoCGs [REP6-032] and [REP6-030], are the host authorities content that the applicant has undertaken sufficient ground investigations to inform the most recent Archaeological Management Plan (AMP) [REP5-026] and are they in agreement with this document? Are all parties content with those matters included in the First Iteration EMP REAC CH1 to CH10 [REP6-012]? Does any party have any outstanding concerns relating to archaeology? If so, please provide details and reasonable actions to address them.	The Applicant confirms that the archaeological investigation undertaken to date has adhered to the scope set out in Chapters 4 and 5 of the Archaeological Management Plan [REP6-030]. This scope was developed in consultation with heritage stakeholders from Nottinghamshire County Council, Newark and Sherwood District Council and Historic England and is sufficient to inform the Archaeological Mitigation Strategy for the pre-commencement and construction stages of the Scheme as set out in Chapter 6 of the Archaeological Management Plan [REP6-030]. Where heritage stakeholders from Nottinghamshire County Council and Newark and Sherwood District Council have requested amendments to the Archaeological Mitigation Strategy, particularly in reference to the outstanding archaeological trial trenching and Requirement 9 wording, further consultation with the heritage stakeholders was undertaken at Deadline 5 of the Examination to agree these changes and approve any new wording which appeared in the updated Archaeological Management Plan [REP6-030] and draft Development Consent Order [REP6-004], submitted at Deadline 6 of the Examination.
8.1 Non-Designated Heritage Assets			
No further questions at this stage.			N/A
9. Habitats Regulation Assessment (HRA)			

Applicant's Responses to Examining Authority's Third Written Questions

ExQ3	Question to:	Question:	The Applicant's Responses
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 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.</p>	The Applicant has received communication from Natural England that they are content with the commitment to consult Natural England and the Environment Agency on the Second Iteration Environmental Management Plan (including future iterations of the fish escape passage design). This is reflected under issue 19 within the Statement of Common Ground between the Applicant and Natural England.
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>	The Applicant has received communication from Natural England that they are content with the commitment to consult Natural England and the Environment Agency on the Second Iteration Environmental Management Plan (including future iterations of the fish escape passage design). This is reflected under issue 19 within the Statement of Common Ground between the Applicant and Natural England submitted at Deadline 7 of the Examination.
10. Landscape and Visual Effects			
Q10.0.1	The Applicant	<p>Finishing Materials of Cattle Market Grade Separated Junction</p> <p>In [REP4-040] 3.6, page 19 the applicant confirms that the material finish of the Cattle Market grade separated junction will include a banding of red brick material and that this, coupled with landscaping, will assist in reducing the potential adverse impacts on views towards Newark travelling south along the Great North Road. How is this secured through the dDCO and are there any drawings and/ or documents that require to be certified to be updated to reflect this? Does this need to be captured in the Requirements and if so, should NSDC be a consultee?</p>	<p>The Applicant confirms the inclusion of the red brick banding layer within the Cattle Market grade separated junction retaining walls is described within section 9.1.6 of the Scheme Design Report [APP-194], which states as follows:</p> <p><i>"9.1.6 At Cattle Market junction the split block facing would have a red coloured lower section to link in with the adjacent Smeaton's red brick parapet walls, with the introduction of local artwork to the walkway/cycleway route abutment wall being considered (STR.06)."</i></p> <p>The Applicant has amended Design Principle STR.06 referred to in the text quoted above to make the inclusion of the red brick banding at the Cattle Market grade separate junction an express requirement. Design Principle STR.06 has been amended as follows:</p> <p><i>"STR.06 Structures - The detailed design for structures should seek to minimise their impact on the local environment. This should be achieved through use of a muted material palette and incorporating the structure into the local character context through earthworks and planting. At Cattle Market Junction the split block facing would have a red band to lower section of retaining walls to link in with the adjacent Smeaton's red brick parapet walls."</i></p> <p>The amended Design Principles (Annex A to the Scheme Design Report [APP-194]) have been submitted at Deadline 7 of the Examination.</p> <p>Requirement 12(1)(c) of the draft DCO [REP6-004] requires the detailed design of the Scheme to accord with the Design Principles. The Design Principles are a certified document in Schedule 12 of the draft Development Consent Order [REP6-004] and therefore the Applicant is of the view that, with the amendment to the Design Principles proposed above, this commitment is now secured by the terms of the draft Development Consent Order [REP6-004].</p>
11. Material Assets and Waste			
No further questions at this stage.			N/A
12. Noise and Vibration			

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ExQ3	Question to:	Question:	The Applicant's Responses
Q12.0.1	The Applicant	Figure 11.11 Please update Figure 11.11 [AS-065] with a label showing the location of 95146.	The Applicant confirms Figure 11.11 (Operational Noise Study Area) of the Environmental Statement Figures [AS-055] has been updated to include a label for assessment location ID 95146. The updated Figure is submitted at Deadline 7 of the Examination.
12.1 Construction Noise			
No further questions at this stage.			N/A
12.2 Operational Noise			
No further questions at this stage.			N/A
13. Population and Human Health			
Q13.0.1	The Applicant, NCC	LTN Standards a) Why is there a difference in opinion on LTN standards between the Applicant and NCC? b) Can anything be done to address NCC's concerns expressed in response to ExQ2 13.0.5 [REP5-069].	<p>a) Nottinghamshire County Council informed the Applicant that they wish to have segregated footway/cycle tracks. However, LTN/ 1/20 permits a 3 metre wide shared use footway/cycle track which is what the Applicant has proposed.</p> <p>Section 6.5 of LTN 1/20 defines when shared use facilities are acceptable - where pedestrian and cycle flows are <300 per hour - which is the case for all routes on the Scheme. Section 6.5.2 states that segregation using a white line is not preferred as users do not always adhere to their lane and 6.5.3 states that white line segregation is not recommended for shared use facilities. However, nothing in LTN 1/20 states that segregation cannot be done by white line if required. The routes provided by the Scheme could be segregated by a white line with additional signage in the future should this become necessary.</p> <p>Section 6.5.6 states that shared use is acceptable alongside interurban and arterial roads where there are few pedestrians and at and around junctions where cyclists are generally moving at a slow speed including in association with Toucan facilities.</p> <p>The Applicant continues to uphold its position regarding the suitability of the combined footway and cycle track design provided by the Scheme and its compliance with LTN/ 1/20. The Applicant notes Nottinghamshire County Council identifies a concern regarding path routing, but the location and details of such concerns have not been identified to the Applicant, on which basis the Applicant is unable to comment further.</p> <p>a) The Applicant's position is that all new facilities comply with LTN 1/20 and that shared facilities proposed to be provided are acceptable due to low usage. As stated previously in the Statement of Common Ground between the Applicant and Nottinghamshire County Council [REP5-050] and Q13.0.24 in the Applicant's Responses to the Examining Authority's First Written Questions (ExQ1) [REP2-037], the routes could be segregated within the 3 metre corridor by providing a white line and additional signage. This is a low cost solution should Nottinghamshire County Council wish to implement it at a later date but the Applicant's view is that providing this is a preference of Nottinghamshire County Council and not a requirement of LTN 1/20. The direction sign on the A617 referred to by Nottinghamshire County Council in their response to ExQ2 13.0.5 [REP5-069] is one of multiple constraints and obstacles that any future scheme to extend a combined footway and cycle track west along the A617 would need to take consideration of. This includes, but is not limited to; local signage along the A617 northern verge, a large electronic variable message sign, the presence of the telecommunications duct and cable in the verge, the existing vegetation, the location of the existing drainage ditch and culverts, the pinch point at the Kelham bridge and the need for embankment widening to the existing verge to provide the width for the widened footway. It is the Applicant's position that any relocation of directional signage (along with the other considerable infrastructure along the A617) should be undertaken as part of any future scheme, in the event that Nottinghamshire County Council wish to pursue this. The Applicant has extended the 3 metre wide shared footpath and cycle track onto the A617 such that any future scheme can tie into it without changing the infrastructure on the new Cattle Market junction. The combined footway/cycle track ties into the existing footway at point F-3A, which is east of the existing direction sign, as shown on Sheet 3 of the Streets, Rights of Way and Access Plans [REP4-002].</p>
Q13.0.2	The Applicant, Canal & River Trust, Mr Miller	Fishing Rights Please provide an update in relation to fishing rights on Canal & River Trust and Mr Miller's land.	The Applicant met with representatives from the Canal and River Trust on 27 November 2024 and it has been provisionally agreed that on Plot 4/2f a 3-metre-wide strip of riverbank is to be retained by the Canal and River Trust to accommodate fishing rights. The Applicant is clear on Mr Miller's position on keeping his fishing rights. The Applicant will continue to look into how to accommodate Mr Miller keeping his fishing rights; given the need to appropriately manage third parties on what will be the Applicant's land. This will be detailed in the heads of terms with any limitations and caveats agreed between both the Applicant and Mr Miller.
Q13.0.3	NSDC	Unoccupied Residential Unit at the Former Mint Leaf Restaurant Do you have any comments relating to the loss of the residential unit at the	N/A

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ExQ3	Question to:	Question:	The Applicant's Responses
		former Mint Leaf restaurant which was noted in the applicant's DL5 submissions?	
Q13.0.4	The Applicant, NNAS, Lindum Group	<p>Update on Discussions</p> <p>In the absence of updated SoCG at DL5, please provide an update on any discussions, including areas of agreement and/ or disagreement, with a) NNAS and b) Lindum Group</p>	<p>Newark & Nottinghamshire Agricultural Society</p> <p>The Applicant has submitted an updated Statement of Common Ground with Newark & Nottinghamshire Agricultural Society (NAAS) at Deadline 7 of the Examination.</p> <p>As set out in the Statement of Common Ground, the Applicant has been liaising with NNAS through both its legal representatives and through its land agent. The appointed Valuer for the Applicant and NNAS' land agent have agreed to share Heads of Terms by 28 March 2025 which will set out the terms for the sale by land by agreement between the parties.</p> <p>NNAS's legal representative has also requested that an additional legal agreement be entered into between the Parties to deal with ancillary matters relating to access arrangements at the showgrounds site. However, the Applicant is of the view that a separate legal agreement is unnecessary to address the points raised by NNAS and has clarified with NNAS that the requested controls are either already set out in application documents or the Applicant has amended the application documents to ensure such controls are in place. For example, the Applicant has amended the Outline Traffic Management Plan [REP6-018] to expressly include the controls requested by NNAS. The updated Outline Traffic Management Plan [REP6-018] has been updated as agreed with NNAS and submitted to the Examination at Deadline 7.</p> <p>The Applicant must comply with the relevant control documents secured by the Development Consent Order or risk criminal sanctions as well as a fine. It is, therefore, the Applicant's view that to duplicate these controls is unnecessary and an inefficient use of public money.</p> <p>Further, NNAS have stated that they require a legal agreement so that they can enforce the controls contained in the Outline Traffic Management Plan [REP6-018] because they <i>"cannot rely on the Local Planning Authority to be willing and able to take action particularly as it may not be directly affected by any breach"</i>. Respectively, the Applicant does not agree with this summary. The local planning authority have a duty as the enforcing authority to take enforcement action when it is necessary, in the public interest, for them to do so. This means that whether or not the local planning authority are directly impacted is irrelevant to the question of enforcement and should any non-compliance with the Outline Traffic Management Plan [REP6-018] be raised by NNAS with the Local Planning Authority (LPA) or otherwise occurs then the LPA must take enforcement action if they deem it necessary in the public interest.</p> <p>Lindum Group</p> <p>The parties have both shared various rounds of comments on a draft legal agreement and the points in principle have been narrowed. The parties had a further meeting on 6 March 2025 and the Applicant shared a revised draft agreement on 10 March 2025 seeking to address the points raised during that meeting. The Applicant received a response from Lindum on 24 March 2025 and will review and return any comments as quickly as possible.</p> <p>The parties have also agreed many of the points in relation to the land transfer aspects which are required in order to bring the footpath/cycletrack forward using the Alternative Route (i.e. across land outside of the Order Limits and across Lindum's land).</p> <p>The parties are working collaboratively in order to finalise the agreement and are both working towards reaching agreement prior to completion of the Examination.</p>
14. Transportation and Traffic			
Q14.0.1	The Applicant	<p>Outline Traffic Management Plan</p> <p>a) Can NSDC's [REP5-068] comments in respect of the OTMP/ diversions be accommodated/ addressed? If yes, please provide an updated OTMP which you have sought to agree with NSDC. If no, please explain why.</p> <p>b) Two of the diversions in [REP6-018] are referred to as A.1.4 (pages 38 and 49) and therefore do not accord with the diversions referenced by NCC in [REP6-037]. Please rectify this in the final version of this document.</p>	<p>a) The Applicant responded to Newark and Sherwood District Council's comments [REP5-068] on page 20 in Comments on submissions received at the previous deadline [REP6-034]. A summary of the response is provided below:</p> <p>i) Opening date for the Southern Link Road updated to Summer 2026. This is now reflected in table 2-7 in the updated Outline Traffic Management Plan submitted at Deadline 7 of the Examination.</p> <p>ii) The diversion route along Hawton Lane is for local traffic only between Farndon and Newark. The diversion route has been discussed with Nottinghamshire County Council and mitigation measures included in section A.1.4.5. of the Outline Traffic Management Plan [REP6-018]</p> <p>iii) Figure A-7 of the Outline Traffic Management Plan [REP6-018] was updated at Deadline 6 of the Examination to include the northbound slip road to the A46 at Brough junction included.</p> <p>iv) The diversion route described in A.1.2.2 of the Outline Traffic Management Plan [REP6-018] was corrected at Deadline 6 of</p>

Applicant's Responses to Examining Authority's Third Written Questions

ExQ3	Question to:	Question:	The Applicant's Responses
			<p>the Examination.</p> <p>vi) The Parish Councils were included within table 2-1 of the Outline Traffic Management Plan [REP6-018] at Deadline 5 of the Examination.</p> <p>vii) The Applicant is not proposing to invite Parish Councils to the traffic management meetings. These are technical and planning meetings with Nottinghamshire County Council, Newark and Sherwood District Council, emergency services and promoters of any other adjacent schemes. Feedback from the public and Parish Councils will be received via the methods within section 5 of the Outline Construction Communications Management Plan (within the First Iteration Environmental Management Plan [REP6-012]) for escalation at the traffic management meeting, where required.</p> <p>Newark and Sherwood District Council have not provided any further comments on the Outline Construction Management Plan since it was updated at Deadline 5.</p> <p>b) The Outline Traffic Management Plan has been revised to correct the error in Appendix A.1.4. and has been submitted at Deadline 7 of the Examination.</p>
Q14.0.2	The Applicant, NCC	<p>Pelham Street Mitigation</p> <p>a) If an agreement relating to mitigation is listed in the Consents and Agreement Position Statement as opposed to being entered into before a decision is made on the DCO application, how could it be guaranteed that mitigation would be secured?</p> <p>b) If mitigation is not secured or implemented, please describe the impact(s) that you consider would occur and the weight that you consider should be given to the impact(s) in the overall planning balance.</p>	<p>a) The parties have been working collaboratively to finalise an agreement to secure the monitor and possible mitigation required at Pelham Street. Nottinghamshire County Council returned a copy of the draft agreement on 21 March 2025 with two amendments. One amendment is accepted by the Applicant and the Applicant is considering the second amendment which relates to costs. Given the single outstanding issue between the parties, the Applicant is confident that the agreement will be finalised prior to the close of Examination and in any event, prior to the point at which a decision is made on the application.</p> <p>b) In agreement with Nottinghamshire County Council the need for mitigation at Pelham Street will be established through the monitoring of traffic flows before and after the opening of the Scheme to traffic.</p> <p>Traffic modelling indicates that traffic flows on Pelham Street are forecast to increase as a result of the Scheme. The forecast change in traffic flow leads to a deterioration in the noise assessment for the adjacent receptors. These have been considered within Chapter 11 (Noise and Vibration) of the Environmental Statement [APP-055], where in the absence of additional mitigation it has been noted that a significant effect is not considered to arise. Details of the operational noise assessment outcomes can be seen within Table 11.35 and Table 11.36 of Chapter 11 (Noise and Vibration) of the Environmental Statement [APP-055]. The impact of the Scheme may further be seen in Sheet 7 of Figure 11.9 (Short-term Noise Change) of the Environmental Statement Figures [AS-063] and Figure 11.10 (Long-term Noise Change) of the Environmental Statement Figures [AS-064].</p> <p>Chapter 5 (Air Quality) of the Environmental Statement [REP5-073] presents the air quality assessment undertaken for the Scheme. The operational phase air quality dispersion model includes one human health receptor on Pelham Street (R61) as shown in Figure 5.1 (Air Quality Receptors) of the Environmental Statement Figures [AS-028]. Annual mean NO₂ concentrations at this sensitive receptor are predicted to increase by 1.1µg/m³ in the opening year (2028) from 17.9µg/m³ without the Scheme to 19.0µg/m³ with the Scheme which is well below the NO₂ air quality objective of 40µg/m³. Chapter 5 (Air Quality) of the Environmental Statement [REP5-073] confirms that during operation, no significant air quality effects are anticipated as a result of the Scheme and therefore no mitigation measures are proposed.</p> <p>In summary, no significant adverse effects have been predicted to arise for both noise and air quality receptors on Pelham Street, as reported in both Chapter 5 (Air Quality) of the Environmental Statement [REP5-073] and Chapter 11 (Noise and Vibration) of the Environmental Statement [APP-055]. As such, this particular impact should be considered by the decision maker in the planning balance accordingly.</p>
Q14.0.3	The Applicant, NCC	<p>A17/ Godfrey Drive/ Long Hollow Way Mitigation</p> <p>[REP6-037] states that NCC's proposed solution in relation to this junction would be to enter into an agreement with the applicant to adopt a monitor and mitigate approach at this junction.</p> <p>a) What is the applicant's position on this matter?</p> <p>b) Will an agreement be presented to the examination?</p> <p>c) If an agreement is not in place by the time that a decision is made on the DCO application, please explain the impact(s) that could occur, to inform the ExA's / SoS's assessment.</p>	<p>a) The Applicant does not agree that a monitor and mitigate agreement is appropriate for the Long Hollow Way roundabout and A17. The Applicant is satisfied that the Transport Assessment Report (TAR) [REP2-037] and modelling undertaken for the Scheme is sufficient and to the appropriate standard at the time of its production. The modeling included for future development schemes within the uncertainty long.</p> <p>Figure 12.4 of the Combined Modelling and Appraisal (ComMA) Report in Appendix A of the Tar [REP5-034] identifies the Development Sites in the Newark Area which have been incorporated within the uncertainty log. The Applicant's Response to the ExAs First Written questions [REP2-037] in response to question 14.0.10 (pdf page 91) includes a table identifying the developments identified in figure 12.4. Site ID 590 identifies the Newark Urban Area – Mixed Use Site 1. This site is detailed in the Newark and Sherwood District Council (NSDC) Local Development Framework Policies Map as NUA/MU/1 (refer to figure 1). This is the same location as two current planning applications, 23/01283/OUTM and 23/02281/OUTM which are available on the</p>

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ExQ3	Question to:	Question:	The Applicant's Responses
			<p>NSDC planning portal¹.</p> <p>b) Following a meeting on the 20 March 2025 with representatives from NCC, it was agreed that a monitor and mitigate agreement was not considered appropriate for this location. An email correspondence was received from NCC on the 24th March 2025 confirming that item 2 in the Statement of Common Ground could be agreed as NCC agreed that the developments along the A17 were not committed developments at this time. The Statement of Common Ground between the Applicant and NCC will be updated to reflect this agreement for Deadline 7.</p> <p>c) It is the Applicants position that the current and future planning applicants which are proposed along the A17 corridor will need to be assessed by the Statutory Consultees including the Local Highway Authority (NCC) and National Highways, as part of the consultation through the Town and County Planning Act. The Applicant is aware that a developer, who is currently progressing Outline Planning Applications through the Local Planning Authority, is already consulting with NCC on their traffic model and proposed mitigation works to the A17.</p>
by the xx	NCC	Great North Road Southbound [REP6-037] states that ARCADY modelling outputs "provide a level of comfort on this matter". Are there any outstanding issues which you consider should be addressed. Is any mitigation needed?	NCC to respond.
15. Water Environment and Road Drainage (incl Flooding)			
15.0 Flooding			
Q15.0.1	The EA	Fluvial Flood Risk – Exception Test Please confirm that the proposed development does meet the requirements of the Exception Test as detailed in NPPF paragraph 178. If concerns remain, please detail these and update the SoCG in full	Agreed with the Environment Agency. This agreement is recorded under item 3 in the Statement of Common Ground between the Applicant and the Environment Agency [REP6-028].
Q15.0.2	The Applicant, The EA	Flood Risk Zone Update March 2025 Given the recent update by the EA to their Flood Risk Zones please advise if this has any implications for modelling and/ or the conclusions of the Flood Risk Assessment [REP6-010] and the conclusions for ES Chapter 13 Road Drainage and Water [APP-057] for this proposal. Given the timescale to the close of the Examination will this matter be resolved within the Examination period. If so, please provide an update to relevant documents.	The Applicant confirms the new flood and coastal erosion risk data published by the Environment Agency January-March 2025, has no impact on the findings of Chapter 13 Road Drainage and Water Environment of the Environmental Statement [APP-057]. The Applicant has undertaken site specific detailed hydraulic modelling which builds on the Environment Agency's hydraulic modelling which is used to inform the flood mapping data. This hydraulic modelling has been reviewed several times by the Environment Agency and reflects the best available information with regards to baseline and "with Scheme" flood risk. The Statement of Common Ground between the Applicant and the Environment Agency has been updated at Deadline 7 of the Examination with a new item (item 2a) to confirm that both parties agree that the Scheme hydraulic modelling reflects the best available information with regards to baseline and "with Scheme" flood risk and that there are no implications for modelling and/ or the conclusions of the Flood Risk Assessment [REP6-010] and the conclusions for ES Chapter 13 Road Drainage and Water [APP-057] from the updated flood risk data.
15.1 Water Framework Directive			
No further questions at this stage.			N/A
15.2 Surface Water Drainage			
Q15.2.1	NCC, The Applicant	Surface Water Discharge Flows/ Volume Please provide an update with respect to the discussions between the LLFA and the applicant on surface water drainage and detail all outstanding matters. This should relate to only those statutory functions of the LLFA. Considering the SoCG with the EA [REP6-028], the LLFA should detail any outstanding concerns that relate only to their statutory function.	The Applicant has held meetings with the Local Lead Flood Authority (LLFA) to close out and agree all matters relating to the statutory functions of the LLFA as well as other queries raised. The queries raised and agreed responses are included within Appendix A of the Statement of Common Ground with Nottinghamshire County Council [REP6-030] as the LLFA. An updated version of the Statement of Common Ground between the Applicant and Nottinghamshire County Council is submitted at Deadline 7 of the Examination. The Applicant does not consider there to be any outstanding matters that relate to the LLFA's statutory function.
Q15.2.2	NCC, The Applicant	Kelham and Averham FCA Please consider and provide a response to [REP6-039].	The Applicant has provided a response to [REP6-039] within its 'Comments on any submissions received at the previous deadline' submitted at Deadline 7 of the Examination.

¹ Newark & Sherwood District Council Planning Services, Online Applications [online] available at <https://publicaccess.newark-sherwooddc.gov.uk/online-applications/> (last accessed March 2025)