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30th July 2025

Dear Transport Infrastructure Planning Unit

Applicant's response to Secretary of State for Transport request for information - A46 Newark Bypass (TR010065)

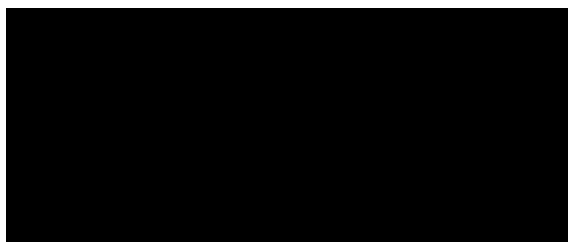
This response is made by National Highways (the "Applicant") to the Secretary of State for Transport (SoS) request for comments sent 21 July. The Applicant has prepared a document responding to the request by SoS.

The Applicant has responded to the questions asked on the following topics:

- Crown Land
- Land Rights
- Article 37 (modification of the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017)
- Water Environment and Flood Risk

Should you require additional information please do not hesitate in contacting me.

Yours sincerely,



Project Director
Email: a46newarkbypass@nationalhighways.co.uk

The Applicant’s Responses to questions received from the Secretary of State

Secretary of State	The Applicant Responses
Crown Land	
1. At the close of Examination, it remained unclear whether the Crown Estate continued to hold any interests in the land at plot 2/6a. The Applicant and the Crown Estate Commissioners are requested to provide an update regarding the status of the land at plot 2/6a. If a Crown interest exists, the Applicant is further requested to confirm when Crown consent for this land might be received, noting that section 135 of the Planning Act 2008 requires consent from the appropriate Crown authority before development consent can be granted.	<p>The Applicant confirms that the position as set out in Section 3.2 of The Applicant's closing statements of final position on outstanding matters not resolved [REP9-002] remains the same.</p> <p>The Government Legal Department (GLD) informed the Applicant that the freehold title will be extinguished, and the property will escheat to the Crown Estates. The Applicant has not yet concluded the transaction with The Crown Estate, but as the land has been disclaimed and will escheat, it is capable of being acquired compulsorily without the need for section 135 of the Planning Act 2008 consent. On that basis, the Applicant has not sought Crown consent under section 135 Planning Act 2008. The Applicant wishes to retain Article 52 (Crown Rights) in the draft Development Consent Order in case any subsequent interests belonging to the Crown are created across the order land.</p>
Land Rights	
<p>2. It is noted that voluntary agreements for the permanent acquisition or temporary possession of land were being pursued by the Applicant with the following landowners:</p> <ul style="list-style-type: none">Francis Michael Hare 6th Earl of Listowel - plots 3/2k and 3/15a;Winthorpe Family Settlement 1990 (including Jacqueline Suzanna Caroline Spencer & Lachlan Alastair Stewart) - plots 5/7a, 5/7b, 5/7c, 5/7d, 6/1a, 6/1b and 6/1c;James Miller (Kelham) Limited - plots 1/5n, 1/5o, 1/19a, 1/19b, 2/1a, 3/15a, 1/5l, 1/5p, 1/5m, 1/1r, 1/5n, 1/5o and 2/4a;John James Miller - plots 1/5n, 1/5o, 1/19a, 1/19b, 2/1a, 3/15a, 1/5l, 1/5p, 1/5m, 1/1r, 1/5n, 1/5o and 2/4a; andNewark and Sherwood District Council - plots 3/1g, 3/1i, 3/1n, 3/14a, 3/14e, 3/14g, 3/14j, 7/3a, 7/3b, 3/14a1, 3/14b1, 3/14h, 4/11a, 3/14b, 3/14c, 3/14d, 3/14f, 3/14i, 3/14k and 4/11a. <p>The Applicant is requested to provide an update as to the status of these agreements.</p>	<p>Francis Michael Hare 6th Earl of Listowel - plots 3/2k and 3/15a</p> <p>All matters have been agreed between the parties in respect of acquisition by agreement. The matter is now with the respective parties’ solicitors who are working on finalising the option agreement.</p> <p>Winthorpe Family Settlement 1990 (including Jacqueline Suzanna Caroline Spencer & Lachlan Alastair Stewart) - plots 5/7a, 5/7b, 5/7c, 5/7d, 6/1a, 6/1b and 6/1c</p> <p>The Applicant and the Landowner have continued to engage in acquisition by agreement discussions via their respective agents. The land requirements have been agreed, and draft heads of terms have been issued. Following exchanges and discussions regarding land value, the only outstanding point relates to whether hope value is attributable to specific plots of land and if so the level of hope value that would be appropriate. The parties are seeking to agree this point (a compensation issue), which would allow an overall settlement to be reached.</p> <p>James Miller (Kelham) Limited - plots 1/5n, 1/5o, 1/19a, 1/19b, 2/1a, 3/15a, 1/5l, 1/5p, 1/5m, 1/1r, 1/5n, 1/5o and 2/4a John James Miller - plots 1/5n, 1/5o, 1/19a, 1/19b, 2/1a, 3/15a, 1/5l, 1/5p, 1/5m, 1/1r, 1/5n, 1/5o and 2/4a</p> <p>The freeholder of the land is John James Miller, and the tenant is James Miller (Kelham) Limited. While they are separate legal entities, Mr Miller is a director and has control of the tenant company and these claims are being discussed together by the parties’ agents. There have been extensive discussions, and both parties are keen to reach agreement. A settlement figure has been agreed, and heads of terms are in the course of being finalised. There is one outstanding matter relating to the widening of an access track and/or the provision of passing places. This is currently with the Applicant’s design team and subject to agreement of this point the heads of terms will be signed and matters will progress swiftly to an option agreement.</p> <p>Newark and Sherwood District Council – plots 3/1g, 3/1i, 3/1n, 3/14a, 3/14e, 3/14g, 3/14j, 7/3a, 7/3b, 3/14a1, 3/14b1, 3/14h, 4/11a, 3/14b, 3/14c, 3/14d, 3/14f, 3/14i, 3/14k and 4/11a</p> <p>Discussions have progressed positively with Newark and Sherwood District Council whose concerns regarding the Scheme were primarily around the impact on their Lorry Park. Newark and Sherwood District Council and the Applicant have addressed these concerns by way of a letter of undertaking. This sets out amongst other things the requirements for access to Newark and Sherwood District Council’s land, detailed design, and compensation matters. The only outstanding point related to legal fees; however, this element has recently been agreed between the parties, and the Applicant understands that Newark and Sherwood District Council will now withdraw their objection.</p>
Article 37 (modification of the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017)	
3. The Applicant’s description of article 37 of the draft Development Consent Order in its explanatory memorandum is noted, including the reference to article 30(2) of the Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015, which identifies the land concerned and the persons in whose favour it was proposed the land be vested. The Applicant is invited to provide that information in respect of the current Application.	<p>The Applicant's drafted article 37 of the draft Development Consent Order [AS-106] is worded in a very similar way as the now made The A122 (Lower Thames Crossing) Development Consent Order 2025 (LTC Order). The LTC Order was made after the close of examination of this Application. There are no express third parties listed in article 32 of the LTC Order.</p> <p>The cross-reference to article 30(2) of the Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015 in the Applicant’s Explanatory Memorandum [REP8-006] paras 4.148-4.150 was to outline the precedent article for vesting of land or rights in third parties. That wording also mirrors the approach adopted in the Explanatory Memorandum for the LTC Order.</p>

The Applicant’s Responses to questions received from the Secretary of State

Secretary of State	The Applicant Responses
	<p>The exact interests which may be vested in third parties has not been finalised as it is part of ongoing discussions with statutory undertakers. It is likely to be restricted to the vesting of land or rights in favour of statutory undertakers. As set out in para 4.150 of the Applicant's Explanatory Memorandum [REP8-006] these provisions were shared with statutory undertakers and local authorities (and referenced them in public consultation) with no objection.</p> <p>In order to have alignment of the Applicant's draft DCO with the made LTC Order the Applicant would accept the following changes in red to be made to the draft DCO [AS-106]</p> <p>Modification of the 2017 Regulations</p> <p>37. — (1) Schedule 1 to the 2017 Regulations is modified as follows.</p> <p>(2) In paragraph (3) of Form 1, after “from the date on which the service of notices required by section 6 of the Act is completed”, insert—</p> <p>“(1A) The [insert land or rights or both] described in Part [] of the Schedule hereto as being for the benefit of third parties and more particularly delineated on the plan annexed hereto vests in the third parties statutory undertaker or local authority in question as from the end of the period of [insert period of 3 months or longer] from the date on which the service of notices required by section 6 of the Act is completed.”</p> <p>(3) References in Form 2 to “in themselves” is substituted with “in themselves and any identified third parties”.</p> <p>(4) In paragraph (b) of the notes on use of Form 2—</p> <p>(a) after “Insert the name of the authority” insert “and where the context requires insert a reference to third parties”; and</p> <p>(b) omit “Thereafter rely on that definition wherever “(b)” appears in the text”.</p>
Water Environment and Flood Risk	
<p>4. On 19 June 2025, the Department for Environment, Food and Rural Affairs published new guidance on National Standards for Sustainable Drainage systems (SuDS). The Applicant is requested to set out what, if any, implications the new guidance may have for the Proposed Development, and to provide any updated documents it considers necessary.</p>	<p>The Applicant has reviewed the National Standards for Sustainable Drainage Systems (SuDS), published on 19 June 2025. The Applicant notes that the final paragraph in the Introduction of the guidance states “<i>Although these standards apply for developments which include road drainage, they are not intended to be applied to the trunk road network managed by National Highways. Equivalent provision for SuDS for these roads is contained in the Design Manual for Roads and Bridges</i>”.</p> <p>The Applicant is therefore compliant with the new guidance as the Scheme relates to a trunk road managed by National Highways, which has been designed in accordance with the latest update of the Design Manual for Roads and Bridges.</p>