



Department for Transport

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National Highways
199 Wharfside Street
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Dear Sir/Madam,

PLANNING ACT 2008

APPLICATION FOR THE A46 NEWARK BYPASS DEVELOPMENT CONSENT ORDER

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to say that consideration has been given to:
 - The report dated 1 July 2025 of the Examining Authority ("ExA"), Kenneth Stone MRTPI BSc(Hons) Dip TP, Paul Burley MRTPI BA(Hons) MPhil and David Love MRTPI PIEMA BA(Hons) PGCert, who conducted an Examination into the application made by National Highways ("the Applicant") for the A46 Newark Bypass Development Consent Order ("the Application") under section 37 of the Planning Act 2008 as amended ("the 2008 Act");
 - The responses to the further consultations undertaken by the Secretary of State following the close of the Examination in respect of the Application; and
 - Late representations received by the Secretary of State following the close of the Examination.
2. Published alongside this letter on the Planning Inspectorate's website is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State for Transport ("the Report"). All "ER" references are to the specified paragraph in the Report. Paragraph numbers in the Report are quoted in the form "ER XX.XX.XX" as appropriate. References to 'requirements' are to those in Schedule 2 to the Development Consent Order ("the Order"), recommended by the ExA at Appendix C to the Report.
3. This decision was delegated by the Secretary of State to the Minister of State, Lord

Hendy of Richmond Hill CBE. While this decision has not been taken by the Secretary of State, by law, it must be issued in the name of the Secretary of State. All references to the Secretary of State are therefore to the Minister of State acting on behalf of the Secretary of State.

THE APPLICATION

4. The Application was accepted for Examination on 23 May 2024. The Examination began on 9 October 2024 and was completed on 8 April 2025. The Examination was conducted based on written and oral submissions submitted to the ExA and by a series of hearings. The ExA also undertook two accompanied site inspections, including an ‘access required’ inspection on private land where the ExA gave notice to the relevant parties, and two unaccompanied site inspections [ER 1.4.2 – 1.4.16].
5. The location of the Application lies within the administrative areas of Newark and Sherwood District Council (“NSDC”) and Nottinghamshire County Council (“NCC”) and adjoins Lincolnshire County Council [ER 1.4.1].
6. The Order as applied for would grant development consent for the widening of the existing A46 between Farndon Roundabout and the A1 to form dual carriageway, and for the provision of a new section of off-line dual carriageway between the western and eastern sides of the A1, connecting to the A46 to the west of Winthorpe Roundabout. The widening works include earthwork widening along the existing embankments and some new structures where the route crosses the Nottingham to Lincoln and East Coast Mainline railway lines, the River Trent, the Brownhills Link and the A1 [ER 1.3.3]. The elements comprising the scheme are summarised at ER 1.3.4 and are collectively referred to as “the Proposed Development” within this letter.

CHANGES TO THE APPLICATION

7. During the Examination, the Applicant did not put forward any formal change requests in relation to the Proposed Development. The Applicant did make several changes to key Application documents to reflect discussions and agreements that had occurred during the Examination. The Secretary of State is satisfied that the changes to the Application documents and any additional information submitted are contained within the ‘Application Document Tracker’ document which provides a full record of all documentation submitted into the Examination Library [ER 1.5.1 – 1.5.2]. She has had regard to this information in making her determination on the Application.

SUMMARY OF EXA’S RECOMMENDATION

8. The principal issues considered during the Examination on which the ExA reached conclusions on the case for development consent are set out in the Report under the following broad headings:
 - The Principle of the Development, Need, and the assessment of alternatives;
 - Air Quality;
 - Biodiversity;
 - Climate and Carbon emissions;

- Geology and Soils;
- Cultural Heritage;
- Landscape and Visual effects;
- Material assets and Waste;
- Noise and Vibration;
- Population and Human Health;
- Transportation and Traffic;
- Road Drainage and Water Environment;
- Cumulative Effects;
- Habitats Regulations Assessment (“HRA”);
- Compulsory Acquisition and related matters; and
- Draft Development Consent Order and related matters [ER 3.1.6].

9. For the reasons set out in the Report, the ExA recommended that the Secretary of State should make the A46 Newark Bypass Development Consent Order [ER 8.3.3]. However, the ExA noted that the Secretary of State may wish to satisfy herself in respect of funding for the scheme and in respect of Crown Land [ER 8.3.1 – 8.3.2]. Consideration of these matters, where applicable, are set out in the relevant sections below.

SUMMARY OF SECRETARY OF STATE’S DECISION

10. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting development consent for the proposals in this Application. This letter is the statement of reasons for the Secretary of State’s decision for the purposes of section 116 of the 2008 Act and regulation 31(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the 2017 Regulations”).
11. The Secretary of State has also had regard to the environmental information associated with this Proposed Development as defined in regulation 3(1) of the 2017 Regulations. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

SECRETARY OF STATE’S CONSIDERATIONS

12. The Secretary of State’s consideration of the Report, responses to her consultations of 21 July 2025 and 15 August 2025, representations received after the close of Examination and all other material considerations are set out in the following paragraphs. Where consultation responses and late representations are not otherwise mentioned in this letter, it is the Secretary of State’s view that these representations do not raise any new issues that were not considered by the ExA and do not give rise to an alternative conclusion or decision on the Order.

13. Where not otherwise stated in this letter, the Secretary of State can be taken to agree with the findings, conclusions and recommendations as set out in the Report and the reasons given for the Secretary of State's decision are those given by the ExA in support of the conclusions and recommendations.

Preliminary Matters

14. The Secretary of State is content that the Proposed Development is a Nationally Significant Infrastructure Project in accordance with section 14(1)(h) and section 22(1) of the 2008 Act [ER 1.1.2 - 1.1.3]. She is also content that section 104(2) of the 2008 Act has effect, which means that in determining this Application, the Secretary of State must have regard to any relevant National Policy Statement, any Local Impact Report ("LIR") submitted, any matters prescribed in relation to development of the description to which the Application relates, and any other matters the Secretary of State considers to be both important and relevant to the decision [ER 2.2.2 - 2.2.7].
15. For the avoidance of doubt, the Secretary of State has had regard to and agrees with the ExA's assessment of the relevant legislation and the National Policy Statements identified and with the other important and relevant Government policies and strategies identified and taken into account by the ExA within Chapter 2 and Appendix A of the Report. The Secretary of State has also had regard to the LIRs prepared by NSDC and NCC [ER 2.7].
16. The Secretary of State notes that the Application was accepted for Examination prior to the designation of the revised National Policy Statement for National Networks ("NPSNN") on 24 May 2024. The Secretary of State agrees with the ExA and is satisfied that the 2015 NPSNN continues to have effect for this Application [ER 2.3.4]. Nonetheless, as recognised in paragraph 1.17 of the revised NPSNN, any National Policy Statement which is designated but does not have effect is potentially capable of being important and relevant in the decision-making process. Being mindful of this and of the timing between this Application and the transition period of the NPSNNs, the Secretary of State has also taken relevant account of the revised NPSNN designated on 24 May 2024. However, within this letter, all references are to the 2015 NPSNN unless clearly stated otherwise.
17. The Secretary of State is additionally aware that a new version of the National Planning Policy Framework ("NPPF") was published in December 2024. The Secretary of State has considered the policies in the updated NPPF and considers that the substantive modifications do not materially affect the policy in the NPPF published 19 December 2023 in relation to her consideration of this Application. Although the NPPF does not contain specific policies for Nationally Significant Infrastructure Projects, it is an important and relevant consideration in her decision-making, and she notes the ExA has taken relevant account of the NPPF in the relevant sections of the Report [ER 2.4.2 - 2.4.4]. Any references to the NPPF in the Report and in this letter are to be taken as being to the NPPF published December 2024.
18. The Secretary of State has considered the environmental information associated with this Proposed Development as defined in regulation 3(1) of the 2017 Regulations. Having considered the Applicant's Environmental Statement ("ES") and further

environmental information provided, the Secretary of State considers that this information is sufficient to enable her to reach the conclusions drawn in this letter in compliance with the requirements of the 2017 Regulations and that changes made by the Applicant to the ES documentation do not individually or cumulatively undermine the original scope and assessment of the ES [ER 2.8.5]. As the Scoping Report did not identify any likely significant effects on another European Economic Area member state, the Secretary of State is further satisfied that transboundary effects do not need to be considered further with regard to the ES [ER 2.10].

Agreed Matters

19. The Secretary of State has carefully considered the matters listed immediately below. Based on the ExA's report, its findings, conclusions and all relevant information submitted either as part of the Application, during the Examination or thereafter, she agrees with the ExA's conclusions and recommended weighting for each listed matter. Her agreement in relation to these matters includes the interpretation and application of the policy tests made by the ExA, particularly in relation to the NPSNN and NPPF.

- Air Quality – little positive weight [ER 5.3.9 - 5.3.11];
- Biodiversity - little positive weight [ER 5.3.14 - 5.3.15];
- Climate and Carbon emissions – little negative weight [ER 5.3.16 - 5.3.18];
- Geology and Soils - little negative weight [ER 5.3.19 - 5.3.23];
- Material assets and Waste – little negative weight [ER 5.3.48 - 5.3.53];
- Noise and Vibration - moderate positive weight [ER 5.3.54 - 5.3.55];
- Transportation and Traffic – moderate positive weight [ER 5.3.72 - 5.3.84];
- Road Drainage and Water Environment (including Flooding) – little positive weight [ER 5.3.94]; and
- Cumulative effects - neutral [ER 5.3.95 - 5.3.98].

20. Therefore, in the planning balance, the Secretary of State has applied the same weight to these matters as the ExA for the same reasons set out in the relevant sections of the Report. This being the case, these matters do not require additional consideration within this letter, and the Secretary of State invites parties to refer to the relevant sections of the Report in relation to these matters.

21. The paragraphs below set out the matters where the Secretary of State has further comments, those matters on which further information has been sought, or those where she either disagrees with the ExA, or wishes to qualify her own views.

The Need for, and Principle of, the Development and assessment of alternatives

Need

22. The Applicant's assessment of the need for the Proposed Development is outlined in the Case for the Scheme document and further summarised by the ExA, who has also provided the main objectives for the Proposed Development, at ER 3.2.18. The

Applicant states that the Proposed Development would reduce traffic congestion around Newark and contribute to economic growth by improving connectivity from Lincolnshire to the national motorway network and improving route consistency between the Midlands and Lincoln [ER 3.2.18]. It will also unlock housing and employment growth in Newark, which is currently limited by congestion particularly around the Brownhills Roundabout [ER 3.2.23].

23. The Secretary of State is aware that the A46 at Newark was identified as an investment priority as part of the Department for Transport's Road Investment Strategy period 2 ("RIS2"), to fill the gap between the A46 and the A1 and enable a consistently good overall connection between Lincoln and Warwick [ER 3.2.9]. The RIS2 operates in conjunction with the NPSNN and from a macro standpoint articulates the government's comprehensive investment priorities for England's strategic road network.
24. The Applicant's case is that the Proposed Development will contribute to the RIS2 objective of improving network provisions along the Trans-Midlands Trade Corridor between the M5 and the Humber Ports, as well as strengthening a number of sectoral developments across the wider Midlands area [ER 3.2.22]. Although RIS2 formally ends in 2025, a number of schemes were deferred, but the Secretary of State's Oral statement to Parliament on 8 July 2025¹ confirmed that the Government has maintained its support for the Proposed Development.
25. During Examination, the ExA tested the Applicant's case and views put forward by Interested Parties in respect of need, primarily the journey time improvements and safety, and it also considered the representations received in respect of how the Proposed Development would facilitate economic and local development [ER 3.2.48 - 3.2.49]. Ultimately, the ExA was satisfied that the Proposed Development demonstrated an improvement to road safety, journey times and a contribution to economic growth, as well as resulting in some positive impacts to the environment in terms of water quality and habitat creation [ER 3.2.65]. The ExA considered the fact that the Proposed Development would meet its traffic and transport objectives represented a substantial benefit for all users of the highway and communities in close proximity [ER 5.3.4].

Alternatives

26. As the Proposed Development is supported in principle by RIS2, paragraph 4.27 of the NPSNN confirms that the ExA and Secretary of State are not required to consider 'alternatives' for the proposals, as a full options appraisal will have already been undertaken as part of the investment decision making process [ER 3.2.11]. Nonetheless and as mentioned above, the Secretary of State notes the ExA tested the Applicant's case in respect of need and reasonable alternatives [ER 3.2.48]. Due regard was given to the Applicant's case which the ExA outlines at ER 3.2.24 - 3.2.32 and the representations received [ER 3.2.33 - 3.2.47]. In particular, ER 3.2.31 - 3.2.32 explains the Applicant's reasoning for selecting the current option, including the routing, and that this forms the basis of the current Application.

¹ [Secretary of State's Oral statement to Parliament 8 July 2025](#) [Transforming the UK's road and rail networks - GOV.UK](#)

27. The ExA found that Chapter 3 of the ES set out the Applicant's assessment of alternatives, and that this (and the options appraisal for RIS2) included an alternative transport modes assessment, which concluded that alternative transport modes alone would not meet the identified need. The ExA reports that the current option also involves the least amount of third-party land, thus reducing the need for compulsory acquisition and temporary possession powers [ER 3.2.50]. The ExA further tested other potential alternatives with the Applicant, particularly tunnelling and better junction and signal management and noted the Applicant's responses on why these were not feasible or would not have achieved the necessary aims [ER 3.2.51 - 3.2.52].
28. The ExA was satisfied that the analysis undertaken by the Applicant was sufficient to demonstrate a reasonable consideration of the alternatives had been undertaken [ER 3.2.50]. The ExA observed the tests in the 2017 Regulations concerning the consideration of alternatives and was content that the Applicant's ES approach ensured that regulation 14 of the 2017 Regulations was complied with [ER 3.2.54 - 3.2.55]. The Secretary of State notes the ExA additionally looked at the tests in the Water Framework Directive ("WFD") and the Habitats Regulations Assessment ("HRA") as reported at ER 3.2.56 - 3.2.61. The Secretary of State will address compliance with the WFD and HRA separately within this letter.

Secretary of State's conclusion on the need for, and principle of, the development and assessment of alternatives

29. Having had regard to all evidence and representations on this matter, the ExA is satisfied there is a need for the Proposed Development, which will improve safety and journey times and contribute to economic growth [ER 3.2.65]. The ExA is content that the Applicant has explored all reasonable alternatives to the Proposed Development, whilst maintaining consistency with the aims of RIS2 and the legislative requirements [ER 3.2.66]. Furthermore, the ExA is satisfied it would meet the critical need to improve the national motorway network to address road congestion [ER 5.3.6]. The Secretary of State agrees with the ExA and considers that there are no alternatives that would meet the aims of the Proposed Development whilst achieving the least amount of land take and having a positive outcome on the environment as that proposed by the Applicant [ER 3.2.66].
30. The Secretary of State has noted the support for the Proposed Development from local authorities, local businesses, residents and other parties [ER 3.2.63 and 5.3.5]. Particularly, whilst the Proposed Development is outside of the boundaries of North Kesteven District Council, its local authority still considers the Proposed Development to offer support for housing and economic growth in this area, through improved accessibility [ER 3.2.36].
31. The ExA and the Secretary of State recognise that the NPSNN does not require the consideration of need and alternatives when a proposal has been identified in RIS [ER 3.2.67]. As detailed above, the Secretary of State has confirmed the commitment to the Proposed Development via RIS2 and therefore the commitment to the funding for it. Nonetheless, the Secretary of State has considered the need for the Proposed Development and is satisfied that it would be in accordance with the NPSNN principles and, where important and relevant, the NPSNN 2024, local policies and all other

relevant legislation and guidance. The Secretary of State agrees with the ExA that this matter should attract very great positive weight in the planning balance [ER 3.2.68].

Cultural Heritage

32. The ExA's summary of the Applicant's assessment of the potential impacts on Cultural Heritage can be found at ER 3.7.23 – 3.7.36 and 3.7.47 – 3.7.96, with the views of Interested Parties at ER 3.7.37 – 3.7.46.
33. The Applicant's assessment identified 2 study areas – an initial 500m buffer from the Order limits that was used to understand all known designated and non-designated heritage assets including archeological remains, historic buildings and historic landscapes as well as potential unknown buried archeological remains [ER 3.7.23]; and an additional study area of 1km that was used to assess potential changes to the setting of designated heritage assets. The Applicant noted that it is unlikely that heritage assets beyond 1km would be adversely impacted by the Proposed Development [ER 3.7.24].
34. The Applicant's submission was informed by a desk study review using the Historic Environment Record, consultation work with the host authorities and subsequent field surveys [ER 3.7.25]. The Applicant's baseline position, as extracted from the Nottinghamshire Historic Environment Record, is summarised at ER 3.7.27.
35. During the construction phase, the Applicant identified four designated assets likely to suffer a large significant adverse effect [ER 3.7.29], seven that will experience a moderate significant adverse effect and a further 36 that will experience a slight adverse effect [ER 3.7.30].
36. The Applicant also identified 21 non-designated archeological assets likely to experience significant adverse effects because of the Proposed Development [ER 3.7.31 and table 6], alongside 18 non-designated assets that would experience a significant large adverse effect, three that would experience a significant moderate effect and 46 that would experience a slight adverse effect [ER 3.7.32].
37. During the operational phase, the Applicant does not predict significant effects on either designated or non-designated heritage assets [ER 3.7.33].

Designated Assets

38. Paragraph 5.134 of the NPSNN requires the Secretary of State to weigh any harm to the heritage assets against the public benefits of the Proposed Development, including securing the assets' optimum viable use, where the harm is assessed as less than substantial [ER 3.7.9]. The ExA was satisfied that the harm to the designated assets examined in the Report is less than substantial overall, but noted that in some cases the level would be towards the upper end of this scale [ER 3.7.98].
39. The Applicant attributed a permanent large adverse effect to partial demolition of the northern part of Smeaton's Arches, which was widened in 1922, in order to expand Cattle Market roundabout. The Applicant also noted that this asset will be impacted by general construction operations such as vibration and attributed a temporary moderate

adverse effect to it [ER 3.7.76]. The ExA concluded that less than substantial harm would arise at Smeaton's Arches, specifically the 1922 re-built section and the ExA agreed with the NSDC's assessment that less than substantial harm is attributed because the rebuilt section is less valuable than the remaining 18th century elements of the original, but noted that the harm is at the upper end of less than substantial [ER 3.7.99].

40. The Applicant assessed that there will be a temporary moderate adverse effect during construction on the Church of All Saints and a permanent minor adverse effect as a result of the construction works but it also stated that the effects will be mitigated by proposed tree planting along the northern boundary of the A46 [ER 3.7.74]. NSDC disagreed with the Applicant's assessment and noted that the Applicant did not demonstrate sufficiently to justify its stance of a permanent minor adverse effect [ER 3.7.75]. The Applicant also assessed that there will be a permanent slight adverse effect post-construction during operation [ER 3.7.75]. The ExA considered that there are no cumulative concerns with respect to the Church of All Saints and the northern section of Smeaton's Arches and their intervisibility given the existing baseline of an already engineered corridor and mature vegetation [ER 3.7.100].
41. The ExA noted the host authorities' statement that there was no clear demonstration of the impact on the intervisibility between heritage assets, such as Kelham Hall, the designated Civil War assets, Newark Castle, Church of St Mary Magdalene and the Church of All Saints. The Applicant responded that taken together as whole they may add to the cultural landscape experience, however this is not something that contributes to the significance of each individual heritage asset [ER 3.7.65]. The ExA stated that without the cultural link between the assets, the Applicant is not able to undertake any meaningful assessment or respond to the concerns raised [ER 3.7.101]. Ultimately, the Applicant assessed that the grounds of the Church of All Saints are already impacted by noise from both the A1 and A46 but noted that noise is expected to slightly decrease as a result of Proposed Development. The ExA noted that they are satisfied that there will be a neutral impact on this asset [ER 3.7.101].
42. Winthorpe Conservation Area is already impacted by noise from the A1 and A46 and the Applicant confirmed that noise will not increase as a result of the Proposed Development [ER 3.7.87]. In respect of the wider setting, the Applicant proposed to create a parkland landscape to the west and south with bunds and fencing to create a minor sense of enclosure along the south providing a softened landscape edge [ER 3.7.88]. The effects on the Winthorpe Conservation Area stayed unresolved between the parties as the host authorities considered the outlook from the west side of the Conservation Area to be adversely affected [ER 3.7.89]. The ExA visited the Winthorpe Conservation Area and appreciated the importance of maintaining the Open Break to prevent coalescence with Newark and stated that it acts as a green buffer separating the village from both the A1 and A46 [ER 3.7.90]. The ExA confirmed that it was satisfied that the Proposed Development would not directly affect the key attributes and overall character of the Conservation Area but noted that the effective enclosure of the Open Break will result in a slight adverse effect on the rural character, but it is not anticipated to undermine the qualifying interests of the Conservation Area [ER 3.7.102].

43. In response to NSDC's concerns regarding the impact of the grade separated flyover and the blocking of views on the approach to Newark, the Applicant noted that historic views into Newark were already limited and there are no adverse impacts on leaving Newark. The Applicant also stated that new views of the town will be visible through the creation of the flyover, but the matter stayed unresolved between the parties [ER 3.7.93]. The ExA considered that Newark Conservation Area will suffer minimal impact as a result of the Proposed Development and categorised the impact as neutral [ER 3.7.103].

Non-designated assets

44. As set out in paragraph 36, the Applicant noted that 21 non-designated archeological assets are likely to experience significant adverse effects during construction. However, archeological excavation and recording undertaken before the physical loss of the asset would increase the understanding of the significance of the assets [ER 3.7.94]. Although there will be no overall adverse effect (excluding Civil War assets around Cattle Market roundabout) [ER 3.7.96], NCC considered that there would be harm to non-designated assets as a result of the enlarged Cattle Market roundabout and grade separated junction [ER 3.7.104]. The ExA saw no reason to disagree with NCC that there will be less than substantial harm to these assets and credited minor negative weight to this harm [ER 3.7.104].

Archeology

45. The ExA confirmed that the Applicant has demonstrated consistency with the mitigation hierarchy and avoided, where possible, assets of archeological value and established an Archaeological Management Plan where avoidance has not been possible. The ExA considered that this Plan will ensure those assets subject to disturbance will be properly recorded, which will improve the understanding of the archeological record [ER 3.7.106].
46. The Secretary of State notes that Historic England raised no concerns with the Applicant's Archaeological Management Plan while NCC considered that the original supporting documents were insufficient to address concerns that an appropriate level of trial trenching was undertaken [ER 3.7.61]. As a result, the Applicant updated requirement 9 of the draft Order as requested by NCC, to secure NCC's approval should the Applicant wish to depart from the methodology set out in the Archaeological Management Plan [ER 3.7.61]. In addition, the Applicant submitted outstanding survey information as part of the updated Archaeological Management Plan [ER 3.7.61].
47. Paragraph 5.139 of the NPSNN is clear that a documentary record of the past is not as valuable as retaining a heritage asset, and therefore the ability to record evidence should not be a factor in deciding whether consent should be granted. The ExA confirmed that it was satisfied with the Applicant's approach but recognised that there will be some minor harm as a result of unavoidable disturbance and attributed great weight to that harm [ER 3.7.106].

Civil War Landscape

48. The host authorities considered that there will be less than substantial harm on the designated heritage assets of the Civil War landscape and siege of Newark [ER 3.7.62]. During the Examination the impacts on the Civil War redoubt Scheduled Ancient Monument ("SAM") at Cattle Market roundabout were agreed between the Applicant and NCC. Historic England raised no concerns given the SAM was already impacted by the A46 and appreciation was already difficult [ER 3.7.58]. NCC raised concerns in relation to the intervisibility of assets that will potentially be blocked by the raised section of the Cattle Market roundabout [ER 3.7.61]. NSDC's Statement of Common Ground did not raise concerns of an archeological nature, but they did note that the setting of the SAMs north of Cattle Market roundabout will be compromised by the raised section of the junction and they also raised concerns regarding intervisibility of assets [ER 3.7.59 and 3.7.61]. The Applicant considered that the Proposed Development will cause an overall positive contribution to the heritage significance of the Civil War landscape through survey work which will enhance understanding of the asset [ER 3.7.57].
49. The ExA confirmed that they consider the harm on the designated assets of the Civil War landscape to be less than substantial with the Civil War redoubt SAM at Cattle Market roundabout being impacted at the upper end of that harm [ER 3.7.107]. The ExA noted that non-designated assets have been recorded by the Applicant and where avoidance has not been possible, recording will be achieved with the Outline Archaeological Management Plan that had been agreed between Interested Parties [ER 3.7.107]. The ExA confirmed that there will be less than substantial harm to the Civil War landscape and attributed great weight to this harm as a result of the relative position of the Cattle Market junction to both designated and non-designated assets and the degree of harm this affords [ER 3.7.107].

The Secretary of State's conclusion on Cultural Heritage

50. The Secretary of State agrees with the ExA that the Applicant has fully addressed the potential impacts on the cultural heritage assets for the construction and operational phases of the Proposed Development and has demonstrated that the impacts can be satisfactorily mitigated and managed [ER 3.7.108]. The Secretary of State further agrees that the Applicant has demonstrated that cultural heritage was an integral consideration from the outset, and that it demonstrates that the Proposed Development is in accordance with the NPSNN and, where important and relevant, the NPSNN 2024, local policies and strategies and all other legislation.
51. The Secretary of State notes that the Applicant has sought to avoid assets of archaeological value and where the avoidance was not possible, they developed an Archaeological Management Plan, which will ensure that the assets will be properly recorded, improving the understanding of the archaeological record [ER 3.7.106]. Noting NPSNN paragraph 5.139, which states that the ability to record evidence of the asset should not be a factor in determining whether consent should be granted [ER 3.7.12], she has taken the Archaeological Management Plan into account when agreeing to the ExA's assessment that there will be some minor harm to the archaeological remains but that the harm will be less than substantial.
52. The Secretary of State is satisfied that the ExA attributed appropriate weight and importance to any harm to a heritage asset as required by NPSNN paragraph 5.131

and that it has had regard to the matters identified in regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 [ER 3.7.97].

53. The Secretary of State agrees with the ExA that there will be less than substantial harm to heritage assets specifically around the Cattle Market roundabout including the general views of the Civil War assets as a result of the grade separated junction [ER 3.7.112]. The ExA considered that the harm is outweighed by the public benefits of the Proposed Development and decided that the heritage matters do not weigh against the Order being made in the overall balance [ER 5.4.10]. As required by paragraph 5.134 of NPSNN, the Secretary of State weighs this in the Planning Balance section of this letter.
54. The Secretary of State also agrees with the ExA's assessment that Smeaton's Arches will suffer less than substantial harm albeit at the upper end, due to the loss of the 1922 section [ER 3.7.112]. As per NPSNN paragraph 5.133, the Secretary of State is required to refuse consent where the proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, unless she is satisfied that the harm is necessary to deliver a substantial public benefit that outweighs that harm [ER 3.7.8]. Refusal is merited when there is a total loss of significance of a heritage asset and in this instance the loss is partial. NSDC considered the harm to be less than substantial because it relates to the section rebuilt in 1922 which is less valuable than the original [ER 3.7.99]. The ExA applied great negative weight and importance for this asset but concluded that the overall public benefits outweigh the harm caused to assets [ER 5.4.10]. The Secretary of State weighs this in the Planning Balance section of this letter.
55. Paragraph 5.131 of the NPSNN requires the Secretary of State to give great weight to the conservation of a designated heritage asset when assessing the impact of a proposal on its significance. She, along with the ExA, came to the overall conclusion that the harm caused to the above-mentioned assets weighs against the granting of the Order [ER 3.7.112]. In light of the above, the Secretary of State considers that the harm to heritage assets should be given great negative weight, in line with the ExA's approach [ER 5.4.5]. Although all parties agree the effects will be less than substantial, some assets will experience permanent harm, and even where effects are temporary (particularly during construction), the cumulative impact across multiple designated assets is significant. While NSDC and NCC have expressed support for the Proposed Development and accepted its public benefits, the Secretary of State acknowledges that the importance of conserving the affected heritage assets demands that the negative effects carry great weight in the planning balance [ER 3.7.110].

Landscape and Visual effects

56. The Applicant's assessment of the landscape and visual impacts is set out within Chapter 7 of the ES and supported by photomontages and visualisations [ER 3.8.1]. The ExA's summary of the Applicant's assessment of the potential impacts on landscape and visual effects can be found at ER 3.8.23 – 3.8.66, with the views of Interested Parties summarised at ER 3.8.67 – 3.8.75.
57. The Applicant identified seven Landscape Character Areas ("LCAs") potentially affected by the Proposed Development. The most significantly impacted areas during

both construction and operation are the Trent Washlands and Winthorpe Village and Farmlands.

58. For Trent Washlands, the construction phase would involve vegetation removal, leading to a temporary moderate adverse effect [ER 3.8.27 - 3.8.30]. Long-term operational changes, including the widened carriageway, drainage infrastructure, and new junctions would result in a moderate adverse effect in Year 1, reducing to slight adverse by Year 15 as planting becomes established [ER 3.8.31–3.8.33]. The continuation of the Applicant's case here is set out at ER 3.8.27 to 3.8.33.

59. In Winthorpe Village and Farmlands, major alterations such as the construction of a new A46 link road, roundabout, and slip roads would result in a temporary large adverse significant effect during construction due to the area's high sensitivity character [ER 3.8.37]. The Applicant noted that the operational phase would initially carry over this significant impact into Year 1, but mitigation measures such as noise barriers and landscaping are expected to reduce this to moderate adverse by Year 15 [ER 3.8.38 – 3.8.40]. The ExA goes on to report this at greater length at ER 3.8.34 - 3.8.40.

60. The Applicant's assessments for the remaining LCAs concluded:

- In East Nottinghamshire Sandlands, localised and temporary construction effects would result in a slight adverse impact during construction, continuing into operation without significant change [ER 3.8.42 – 3.8.44];
- Newark will see negligible construction effects and no operational changes, resulting in a slight adverse effect during construction and a neutral effect during operation [ER 3.8.45–3.8.47];
- South Nottinghamshire Farmlands will experience neutral adverse impacts during construction with no direct operational changes [ER 3.8.49 – 3.8.50];
- In Farndon Village, the Applicant concludes that although the area itself remains physically unaffected, nearby changes may be perceptible and that there would be an impact upon the tranquillity of the setting of Farndon LCA. The magnitude of effect upon Farndon Village LCA was assessed as Negligible, which when combined with a high sensitivity to change, lead to a non-significant Slight Adverse effect during construction and neutral significance during operation [ER 3.8.51 – 3.8.53]; and
- Mid-Nottinghamshire Farmlands will experience slight adverse construction impacts, with neutral during operation [ER 3.8.54 – 3.8.56].

61. In addition, the Applicant identified five representative residential receptors either within the Order limits or within 100m of the works that will experience significant effects during construction – one will experience very large adverse effects, two will experience large adverse effects and the remaining two will experience moderate adverse effects [ER 3.8.58]. The Applicant also noted that four residential receptors will experience significant effects in Year 1 of operation, two will experience Large Adverse effects and two will experience Moderate Adverse effects as a result of vegetation removal during construction opening of views of new elevated structures, notably at Cattle Market Roundabout and Brownhills Roundabout [ER 3.8.59]. The Applicant noted that by Year 15, maturing mitigation planting will remove significant effects for three of the residential receptors, but due to the proximity and scale of the

new structures at Cattle Market roundabout, there will remain large adverse significant residual effect for some residents at Sandhills Park [ER 3.8.59].

62. Eight representative visual receptors using public rights of way, recreational routes or recreational facilities were identified to experience significant effects during construction – two will experience very large adverse effects, two will experience large adverse effects and four will experience moderate adverse effects [ER 3.8.60]. Three representative visual receptors using public rights of way or recreational routes were identified that will experience significant effects during operation – one will experience large adverse effects and two will experience moderate adverse effects [ER 3.8.61]. The Applicant noted that by Year 15, mitigation planting in the foreground of the views will screen the new structures and effects will decrease to non-significant for two of the recreational receptors [ER 3.8.61]. However, the Applicant noted that due to the proximity and scale of the new structures at Brownhills Roundabout, impacts for users of the Trent Valley Way long distance route and National Cycle Network Route 64 on Winthorpe Road will remain moderate adverse significant effect [ER 3.8.61]. The Applicant identified that there will be moderate adverse significant effects on views from two viewpoints representing road users and noted that the effects will arise from the construction of large-scale structures [ER 3.8.62]. The Applicant noted that there will be no anticipated adverse effects during operation on road users [ER 3.8.63].

63. The Applicant considered that the design of the Proposed Development is consistent with Design Manual for Roads and Bridges LA 104 which provides mitigation hierarchy and that the proposal enhances the landscape character area as identified by NSDC Landscape Character Assessment Supplementary Planning Document [ER 3.8.64].

Landscape Character Area 1 – Trent Washlands

64. The ExA noted that the majority of works and changes will be in Trent Washlands and summarised the issues as loss of vegetation, earthworks/changes to topography and the enlarged Cattle Market Roundabout [ER 3.8.78].

65. The ExA stated that the insertion of the Cattle Market Roundabout will introduce a large, incongruous feature into the landscape which will result in great harm to this area and as a result, the ExA attributed great negative weight against the Proposed Development in relation to the visual harm caused by this specific feature. The ExA appreciated that the Applicant has undertaken the necessary work to inform the Proposed Development and noted that the grade separated junction is necessary to achieve the aims of RIS2 [ER 3.8.123]. However, the ExA noted that the impact of the Cattle Market Roundabout will not decrease over time regardless of whatever planting the Applicant provides [ER 3.8.133]. The ExA added that great harm will continue beyond Year 15 and throughout the lifetime of the Proposed Development and therefore the ExA ascribed great weight against the proposed development in relation to this element [ER 3.8.133].

Landscape Character Area 2 – Winthorpe Village and Farmlands

66. The ExA noted that harm will occur in Winthorpe Village and Farmlands during the construction period due to the proximity to the existing A46 and said that the harm will be to the south of the village by providing a vertical edge to the Open Break limit [ER

3.8.131]. The ExA stated that the harm will continue into Year 1 of operation [ER 3.8.131] and, like Trent Washlands, reduce to moderate by Year 15 [ER 3.8.132]. As a result, the ExA noted that there will be moderate adverse significant effect on the landscape and afforded moderate weight against the Proposed Development in the planning balance [ER 3.8.132].

Visual amenity – residential receptors

67. The ExA stated that great harm will be experienced by visual receptors, such as residential units at Sandhills Park, those at the eastern side of Farndon in proximity to the Farndon Roundabout and residential receptors in the southern and western sides of Winthorpe [ER 3.8.124].
68. The Applicant noted that during construction, there will be a slight adverse effect on Marsh Lane, Farndon and associated residential properties. It stated that the expectation is for the effect to reduce to neutral by Year 15 post completion as vegetation matures [ER 3.8.99]. The Applicant assessed that during construction, there will be a moderate adverse effect on Crees Lane, Farndon and noted that during operation, the effect will be moderate adverse that will reduce to slight adverse by Year 15 when landscaping mitigation measures will begin to mature [ER 3.8.100]. The Applicant also assessed the potential impacts on The Ivies, The Osiers, Mills Drive and The Weavers to be moderate adverse effect during construction, slight adverse post completion and neutral by Year 15 [ER 3.8.101]. The Applicant noted that there will be large adverse effects during construction as a result of the extent of the works at Brownhills Roundabout and that the effects will be experienced in the western edge of Winthorpe [ER 3.8.103]. The Applicant added that during operation the effects will still be large adverse in Year 1 but by Year 15 it will reduce to slight adverse [ER 3.8.104].
69. The ExA further noted that despite temporary mitigation measures such as screens, the introduction of bunds and planting early in the construction period, the impacts will still be negative on these receptors [ER 3.8.124]. The ExA also noted that during the early years of operation, there will still be moderate harm to the residential receptors, but that harm will reduce to a little [ER 3.8.125]. However, the ExA noted that the receptors at Sandhills Park will still experience a moderate degree of harm and as a result, the ExA attributed moderate weight against the Proposed Development [ER 3.8.125].

Visual amenity - road users

70. NSDC raised concerns about the Cattle Market Roundabout, also shared by other Interested Parties, that it will block existing views north and south from the Great North Road/ A616 [ER 3.8.112]. NSDC were unconvinced by the Applicant's response, but the ExA noted that the raised section will also generate new views for users of the A46 [ER 3.8.113 – 3.8.114]. The Applicant attributed significant moderate adverse effect and NSDC agreed with this assessment, but the matter remained unresolved in the Statement of Common Ground [ER 3.8.115].
71. The ExA noted that despite the efforts of the Applicant to reduce the effect on receptors of the Cattle Market Roundabout, it will continue to cause great harm to the residents

of Sandhills Park and Non-Motorised Users and therefore, the ExA attributed great weight against the Proposed Development [ER 3.8.135].

Visual amenity - light pollution

72. NSDC raised queries in relation to the introduction of lighting into areas that are currently unlit which was supported by Interested Parties with concerns over light pollution [ER 3.8.118]. The Applicant noted that the only new lighting will be at the Friendly Farmer Roundabout and that there will be no lighting on raised sections [ER 3.8.118]. The ExA noted that the commitment to not provide the lighting on the raised sections of the Proposed Development is expected to have less intrusion and stated that the additional limited lighting at Friendly Farmer Roundabout will be lower and less impactful compared to the existing arrangement [ER 3.8.129].

Design

73. Host authorities raised concerns in relation to the design and appearance of Cattle Market Roundabout and NSDC proposed a lighter structure, which they noted as a better option to maintain through views from Great North Road and to meet the policy of NPSNN [ER 3.8.119]. The Applicant responded that there are technical complications with such an approach [ER 3.8.119]. It was noted that requirement 24 requires the Applicant to agree the finishing detail for the raised element which sought to finish the structure in a red brick/ block to reduce the visual impact of the structure [ER 3.8.119].
74. The ExA noted that the Applicant has showed consistency with the requirements of the Design Manual for Roads and Bridges but added that the necessary grade separated junction at Cattle Market Roundabout will be a prominent feature in both landscape and visual terms, which will be a new intrusion in a landscape that already experiences the A46 and substantial development to the south of Cattle Market Roundabout [ER 3.8.127]. The ExA added that the use of the red block banding will assist in minimising the impact, but it will still be a harmful element [ER 3.8.127]. The ExA noted that the grade separated flyover at Cattle Market Roundabout is a necessary part of the works and added that the Applicant has shown that they have undertaken an approach that considered alternatives and why the suggestion of NSDC cannot be undertaken. The ExA considered that the design approach meets the terms of good design sought in NPSNN [ER 3.8.130].
75. Interested Parties also raised concerns about the re-modelled Brownhills Roundabout. The Applicant responded that the replacement will be smaller and added that the height has been lowered because of consultation and it cannot be reduced further due to flood risk concerns [ER 3.8.120]. The ExA noted that Brownhills Roundabout and the new elevated carriageway will be well mitigated in relation to their intrusions on landscape and visual amenity [ER 3.8.128]. The ExA added that the use of planting, bunds and screens will reduce noise generally in Winthorpe and provide a benefit to increase the feeling of tranquility in the village [ER 3.8.128]. The ExA also noted that the creation of a vertical boundary of the Open Break is unfortunate, but it does bring benefits in terms of noise mitigation, connectivity and habitat creation [ER 3.8.128].

The Secretary of State's conclusion on Landscape and Visual Effects

76. The Secretary of State agrees with the ExA's assessment that the Applicant has demonstrated compliance with the landscape, visual and design requirements of the NPSNN [ER 3.8.138].
77. The Secretary of State, in accordance with paragraph 4.32 of the NPSNN, considered whether the Proposed Development is sustainable and designed to be as aesthetically sensitive, durable, adaptable, and resilient as reasonably possible. She also considered paragraph 5.157, which requires projects to be carefully designed to minimise harm to the landscape, considering environmental and operational constraints. The Secretary of State agrees that the Applicant has adequately demonstrated how the design evolved through sustainability assessments and alternative options, and that reasonable mitigation measures have been included to reduce landscape harm. This is detailed in Chapter 2 of the ES and by the ExA at ER 3.8.64 - 3.8.66. and ER 3.8.138.
78. In relation to visual impacts, the Secretary of State had regard to paragraph 5.158 of the NPSNN which requires her to judge whether the visual effects on sensitive receptors outweigh the benefits of the Proposed Development. She agrees with the ExA's conclusion that visual receptors will suffer great adverse harm during construction [ER 3.8.134], especially to the residents of Sandhills Park and non-motorised users, despite the Applicants efforts to minimise the effects [ER 3.8.135]. Consequently, the Secretary of State agrees with the ExA that given the expected great harm in the area around the Cattle Market Roundabout, great weight should be attributed against the Proposed Development [ER 3.8.139].
79. The Secretary of State agrees with the ExA's overall conclusion that other than the area around the Cattle Market Roundabout there will be a moderate degree of harm during construction and up to Year 15 of operation and is satisfied that moderate negative weight should be given against the Proposed Development [ER 3.8.138]. The Secretary of State is further satisfied that the Proposed Development is in accordance with the NPSNN, and, where important and relevant, the NPSNN 2024, local policies, and other relevant legislation.

Population and Human Health

80. The Secretary of State notes the Applicant's assessment on Population and Human Health effects is set out in Chapter 12 of the ES and its accompanying documents, which the ExA has listed at ER 3.11.1. The ExA further summarises the Applicant's case at ER 3.11.14 – 3.11.39. Having taken this into account, as well as the representations received [ER 3.11.45 – 3.11.66], the ExA identified the following issues for further consideration in the Examination [ER 3.11.67]:

- Effect on Agricultural Landholdings;
- Walking, Cycling and Horse-riding ("WCH") including Public Rights of Way;
- Impact on Businesses and Community Facilities;
- Impact on Development Land;
- Impact on Residential Properties;
- Health Effects;

- Equalities Considerations;
- Employment; and
- Leisure (Fishing).

81. The Secretary of State has considered the findings of the ExA in respect of the above issues and is primarily in agreement with the conclusions reached. The Secretary of State agrees with the ExA that the Applicant's assessment of the population and human health-related effects of the proposed development is satisfactory [ER 3.11.123]. She also agrees with the ExA that the Applicant has sought to minimise effects where possible, including through keeping the loss of agricultural land to an absolute minimum [ER 3.11.124], minimising diversions and closures to the public rights of way during construction [ER 3.11.125] and mitigating impacts on local businesses during construction [ER 3.11.139]. Nonetheless, there are still negative effects on population and human health as a result of the Proposed Development. The Secretary of State agrees with the ExA's conclusions on the matters of effect on agricultural landholdings, impact on business and community facilities, impact on residential properties, employment and leisure. The Secretary of State has further considered the key issues within the matters of WCH and Public Rights of Way, Impact on Development Land, Health Effects and Equalities Considerations, below.

WCH and Public Rights of Way

82. At the close of Examination, there remained disagreement between the Applicant and NCC regarding design standards for the proposed cycling and walking facilities. In particular, NCC was concerned that the shared use footway along part of B6326 Great North Road would not meet Local Transport Note (LTN 1/20 Cycle infrastructure design) ("LTN 1/20") design standards [ER 3.11.43] because LTN 1/20 does not include shared use in its list of acceptable design standards, except for in specific circumstances, and it was also not aware of Active Travel England supporting designs that incorporate shared use at locations where the pedestrian/cyclist volumes are well below the threshold set out in the LTN 1/20 [ER 3.11.77].

83. It is the Applicant's position that section 6.5 of LTN 1/20 confirms that shared use facilities are acceptable where pedestrian and cycle flows are less than 300 per hour, which it states is the case for all routes within the Proposed Development [ER 3.11.79]. The Applicant further states that the shared use facility is proposed at 3 metres wide however it would be possible to split the facilities into two 1.5 metre wide segregated routes, details of which could be agreed during detailed design stage and that where a combined walking and cycling route joins an existing footway, details of transitions to enable cyclists to safely rejoin the carriageway would be agreed with NCC [ER 3.11.76]. Notwithstanding this, NCC maintained that regardless of pedestrian and cyclist volumes, paragraph 6.5.4 of LTN 1/20 sets out that shared use facilities are only used as a last resort [ER 3.11.77]. As NCC had adopted LTN 1/20 standards for new infrastructure on County highways, NCC was concerned it may be required to upgrade any substandard design at its own expense [ER 3.11.78].

84. The ExA found that while paragraph 6.5.4 of LTN 1/20 did state that shared use facilities were not generally favoured, this was in relation to urban areas where pedestrian or cyclist flows were high, as LTN 1/20 notes the interactions between people moving at different speeds can be perceived to be unsafe and inaccessible. In

this case, the ExA considered that the circumstances were more aligned with 6.5.6, where the facility is alongside interurban and arterial roads where there are few pedestrians and so shared use can be appropriate if well-designed and implemented. The Secretary of State agrees with these findings and with the ExA's conclusion that the Applicant's proposal comprises an appropriate balance, relevant to this Application [ER 3.11.138].

85. The Secretary of State agrees with the ExA that the Applicant's proposed mitigation strategies are satisfactory. Specifically, she is content that the provision of pedestrian and cyclist facilities aligns with the aim of paragraph 4.72 of the NPSNN 2024 by identifying and mitigating potential adverse health impacts and incorporating measures that promote active travel. She also agrees that the provision of adequate lorry parking facilities, as emphasised at paragraph 5.289 of the NPSNN 2024, is also achieved. Specifically, the inclusion of designated parking supports proper rest facilities for drivers, reflecting the policy's emphasis on ensuring adequate and well-located provision as part of infrastructure development. The Secretary of State acknowledges the ExA's assertion that this would not conflict with NCC's design standards in its Local Cycling and Walking Infrastructure Plan [ER 5.3.65].

Impact on Development Land

86. The Secretary of State notes the Applicant's intention to provide a footway and cycle track linking the A17 with the new route proposed along the south-eastern side of the widened A46 [ER 3.11.130]. However, a section of the proposed route would cross land owned by Lindum Developments Ltd ("LDL"), who has expressed concern that this would dissect its site and therefore jeopardise delivery of the site for employment purposes [ER 3.11.104]. The Secretary of State is aware the land has been identified as a development site in the Local Plan (the NSDC Allocations & Development Management Development Plan Document, 2013) and is the subject of outline planning permission [ER Appendix D, Table D1].
87. The Applicant's ES confirms the proposed route aims to remove severance and this section will benefit users by linking the community of Winthorpe with locations south of the A46, including Newark Showground [ES Table 12-16]. Although the ExA report that the potential for an alternative route outside of the Order limits had been discussed between the Applicant and LDL, the details of an agreed route were not provided to the ExA [ER 3.11.105] and this remained outstanding at the close of Examination.
88. The Secretary of State welcomes the Applicant's willingness to avoid prejudicing LDL's layout and agree an alternate route on other land owned by LDL, separate to this Order [ER 3.11.130]. Like the ExA, the Secretary of State is satisfied that the Order provides for a continued right of way as secured by article 15, whether this be in the form currently proposed or via a separate agreement with LDL and that the right of way is a benefit of the Proposed Development; reducing severance and linkages would support the integration of walking and cycling routes and connectivity with other locations in the surrounding area [ER 3.11.133 – 3.11.134 and ER Appendix D, Table D1]. She agrees with the ExA that this would accord with the aims of the NPSNN [ER 3.11.133]. In particular, the Secretary of State considers that the Applicant has addressed the accessibility needs of all users, including disabled individuals, as set out in paragraph 3.20 of the NPSNN and has sought to reduce community severance

and enhance accessibility, consistent with paragraph 3.22. She does not consider it necessary for the final footprint of the route to be resolved prior to her decision on this Application. As detailed in the Compulsory Acquisition and Related Matters section of this letter, the Secretary of State agrees with the ExA that the Applicant has sufficiently justified the proposed interference with the land and interests, including those of LDL, and that they are necessary and proportionate to allow the Applicant to construct, operate and maintain the Proposed Development [ER 6.11.17]. She is further satisfied that Schedule 3, Part 10 of the Order in relation to the provision of the footpath and its location [ER 3.11.134] will continue to apply until any such time an agreement is made which supersedes it; in which case the relevant approved 'Streets, Rights of Way and Access Plans' are able to be amended via article 15.

89. Overall, the Secretary of State and ExA consider the proposed walking and cycling route improvements to be a positive aspect of the Proposed Development [ER 3.11.135].

Health Effects and Equalities Considerations

90. Noting that the UK Health Security Agency ("UKHSA") had raised concerns regarding the health effects of the Proposed Development on patients of the mental health facility, the Farndon Unit, the Secretary of State has further considered this facility in relation to both health effects and equalities considerations.
91. Given the location of the Farndon Unit at the western end of the Proposed Development, the UKHSA stated there was a need to mitigate suicide risk posed by the new highway design, including temporary or permanent bridge structures [ER 3.11.46 and RR-074]. In response, the Applicant noted that this risk was not within the scope of the Design Manual for Roads and Bridges nor the Institute of Environmental Management and Assessment guidance covering human health in the environmental impact assessment and so had not been considered within the ES. However, the Applicant considered that no activity associated with the Proposed Development would materially increase the risk of death by suicide, and further, that the removal of the current at-grade crossing over the A46 would reduce risk of collision. It added that the National Highways Suicide Prevention Toolkit would be used during detailed design development [ER 3.11.114].
92. The Secretary of State is satisfied that the Applicant's assessment in relation to health effects was appropriate in accordance with relevant guidance and notes that it did not identify any significant effects in relation to health. The ExA's report noted that it was not presented with any evidence during the Examination which would lead it to draw a different conclusion [ER 3.11.141]. It is clear the guidance does not require the specific consideration of the risk of suicide in patients of a mental health facility, and this may be relatively unique to this Application. The inference the Secretary of State has drawn from the UKHSA representation is that this risk would be increased due to structures above the road, as opposed to collision on the road, and therefore she has considered the Works Plans and noted they do not show any permanent physical structure or bridge within particular close proximity to the Farndon Unit.
93. The Secretary of State notes and agrees with the ExA that the Applicant has paid due regard to section 149 of the Equality Act 2010, and all other relevant equalities

considerations in formulating the Proposed Development. The Applicant's Equality Impact Assessment [REP7-080] includes the Farndon Unit as a community service. Specific potential equality impacts on users, staff and visitors (including those with protected characteristics such as disability) have been identified and mitigated in the Environmental Management Plan, secured by Requirement 3 [ER 3.11.144]. Based on the evidence before her, the Secretary of State is satisfied that no further or separate equality assessment is needed in relation to the Farndon Unit. The Secretary of State's broader conclusions on the Equality Act 2010 and the Public Sector Equality Duty can be found in the General Considerations section of this letter.

94. While the UKHSA also noted that two local Gypsy, Roma and Traveller ("GRT") communities (Tolney Lane and Old Stable Yard), had not been considered in the Applicant's assessment of the Population and Human Health [ER 3.11.45], the Applicant stated that it did not consider groups with more sensitivities in ES Chapter 12 because vulnerable population groups were considered in the Equality Impact Assessment, section D of which assesses the impact on the local GRT communities in the vicinity of the Proposed Development. This had identified a disproportional impact associated with changes in noise exposure which, following noise mitigation, would result in a 'neutral' effect. An outline of the Inclusion Action Plan was agreed in the Statement of Common Ground with NSDC [ER 3.11.116 – 3.11.119]. The Secretary of State is satisfied the GRT communities have been appropriately considered.

Secretary of State's conclusions on Population and Human Health

95. In its conclusion on all aspects of population and human health, the ExA recommends that a little negative weight should be given to this matter. The Secretary of State agrees with this conclusion and that the Proposed Development is consistent with the population and human health-related policies in the NPSNN and where important and relevant, the NPSNN 2024, local policies and strategies and all other legislation [ER 3.11.145]. She therefore ascribes matters of population and human health to have a little negative weight against the Order.

Habitats Regulations Assessment ("HRA")

96. The Secretary of State's considerations in relation to the HRA are set out in more detail in the 'Habitats Regulations Assessment for an Application under the Planning Act 2008 A46 Newark Bypass (1 October 2025)', that accompanies this letter.
97. Under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations"), the Secretary of State, as the competent authority, is required to consider whether the Proposed Development (which is a project for the purposes of the Habitats Regulations) would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site. The purpose of the likely significant effects test is to identify the need for an 'appropriate assessment' ("AA") and the activities, sites or plans and projects to be included for further consideration in any AA.
98. Where likely significant effects cannot be ruled out, the Secretary of State must undertake an AA under regulation 63(1) of the Habitats Regulations to assess potential

adverse effects on site integrity. Such an assessment must be made before any decision is made on undertaking a plan or project or any decision giving consent, permission or other authorisation to that plan or project. In light of any such assessment, the Secretary of State may grant development consent only if it has been ascertained that the plan or project will not, either on its own or in combination with other plans and projects, adversely affect the integrity of such a site, unless there are no feasible alternatives and imperative reasons of overriding public interest apply (regulation 64).

99. The Secretary of State has considered the Application in line with her duty under the Habitats Regulations. She notes and agrees with the ExA that the Proposed Development is not directly connected with, or necessary to, the conservation management of a European site [ER 4.1.10]. She has considered the potential impact of the Proposed Development on two European sites which were scoped into the Applicant's HRA assessment and agrees with the Applicant that likely significant effects cannot be excluded from:

- Humber Estuary SAC
 - sea lamprey (*Petromyzon marinus*)
 - river lamprey (*Lampetra fluviatilis*)
- Humber Estuary Ramsar site
 - criterion 8 – river lamprey and sea lamprey [ER 4.2.2].

100. The Secretary of State therefore considered that an AA should be undertaken to discharge her obligations under the Habitats Regulations. After undertaking the AA, the Secretary of State concluded that when mitigation measures are taken into account there will be no adverse effects from the Proposed Development alone and in combination with other plans and projects, on the integrity of the Humber Estuary SAC and the Humber Estuary Ramsar site. Both the AA and its conclusions are provided in detail within the Secretary of State's HRA published alongside this letter, and should be read in conjunction with it.

Planning Balance

101. The ExA's overall recommended weighting on the matters examined are as follows:

- The Principle of the Development (need) and assessment of alternatives – very great positive weight on the basis of the contribution the Proposed Development would make to improving the Strategic Road Network that meets the country's long-term needs, as set out in the NPSNN [ER 5.3.8];
- Air Quality – little positive weight due to the decrease in pollutants in Newark Town Centre as a result of less traffic using this route [ER 5.3.11];
- Biodiversity – little positive weight due to the longer-term positive effects on biodiversity, including the provision of biodiversity net gain through the creation of habitat in the Flood Compensation Areas, the planting of hedgerows and

woodland improvement which adequately compensate for the short-term adverse impact of disturbance during construction [ER 5.3.14 - 5.3.15];

- Climate and Carbon emissions – little negative weight on the basis that there would be a net increase in operational carbon emissions, although noting this increase is not materially high and would not affect the Government’s ability to meet its carbon reduction targets [ER 5.3.17 – 5.3.18];
- Geology and Soils – little negative weight due to the loss of some best and most versatile agricultural land which was not able to be fully mitigated [ER 5.3.23];
- Cultural Heritage – great negative weight on the basis of the harm caused to designated and non-designated heritage assets [ER 5.3.25, 5.3.30, 5.3.33 – 5.3.34 and 5.4.5];
- Landscape and Visual effects – moderate negative weight, with the exception of Cattle Market Roundabout where the ExA have recommended great negative weight on the basis that the visual impacts resulting from the design of this grade-separated roundabout would cause harm to both residential properties and non-motorised users [ER 5.3.43 and 5.3.45 – 5.3.47];
- Material Assets and Waste – little negative weight due to the required use of primary materials and landfill capacity [ER 5.3.53];
- Noise and Vibration – moderate positive weight on the basis that the Proposed Development (with mitigation measures) offers a slight reduction in existing noise levels [ER 5.3.54 – 5.3.55];
- Population and Human Health – little negative weight due to reduced access to fishing rights in two locations along the River Trent [ER 5.3.69 and 5.3.71];
- Transportation and Traffic – moderate positive weight on the basis that the Proposed Development would deliver a variety of wide-ranging benefits, which are not limited to A46 users [ER 5.3.83 – 5.3.84];
- Road Drainage and Water Environment (including Flood Risk) – little positive weight due to an overall minor decrease in the risk of flooding [ER 5.3.88]; and
- Cumulative Effects – neutral weight [ER 5.3.98].

102. Following her consideration, the Secretary of State has not reached a different conclusion and/or weighting on the above matters.

103. In the planning balance, the Secretary of State also considers that the following tests have been met:

Socioeconomic effects

104. The Secretary of State has considered paragraphs 4.1 - 4.5 of the NPSNN noting in particular paragraph 4.5 which states that the economic case prepared for a transport business case will assess the economic, environmental and social impacts of a development. She has noted the Applicant’s Economic Appraisal, summarised by the ExA at ER 3.12.53 - 3.12.56, and the ExA’s conclusions at ER 3.12.139 that the appraisal is satisfactory. As noted in their closing statements, NCC and NSDC had remaining concerns primarily relating to visual and landscape implications, but are also largely supportive of the long term economic benefits brought about by the Proposed Development and its potential for unlocking future growth in and around Newark [REP9-11 and REP9-010 (respectively)]. While the Applicant’s appraisal is primarily based on a benefit to cost ratio (“BCR”), the Secretary of State considers this

to be only one component of the business case, observing that other impacts and benefits need to be taken into account, including those which cannot be monetarised, calculated and presented in the BCR.

105. The Secretary of State has reviewed the 'Case for the Scheme' and agrees that the Applicant considered the wider economic and social impacts and non-monetised benefits as is set out mainly in Chapter 5 of that document. ER 3.12.56 confirms the Applicant's conclusions on the additional benefits expected from the operation of the Proposed Development such as the beneficial impact on access to private property and housing; development land and businesses; community land and assets; and green space, recreation and physical activity due to reduced congestion and improved journey times. The Secretary of State is satisfied that the ExA has had due regard to these conclusions and to the representations on the impacts and benefits from Interested Parties. The ExA particularly noted that the Proposed Development would deliver a broad range of benefits which are not limited to A46 users including economic growth, reduced traffic on other roads in Newark-on-Trent, and wider social and economic benefits due to reduced congestion and improved journey times [ER 3.12.142]. The ExA did not reduce the weight given to Traffic and Transportation due to the BCR, noting the Applicant's view that the BCR is likely to range from break-even to positive [ER 3.12.139].

106. On this basis, the Secretary of State considers that the ExA has taken into account all expected impacts and benefits resulting from the Proposed Development, including those outside of the BCR, and the information is sufficient for the Secretary of State's consideration and weighing of the adverse impacts and benefits. The Secretary of State is therefore satisfied that this is compliant with the NPSNN. In addition to the quantified benefits captured in the BCR, the Secretary of State also considered wider economic benefits that are not readily monetised, including the strategic role of the A46 in improving access to the Humber Ports, supporting exports, and contributing to national productivity, as set out in Chapter 8 of the 'Case for the Scheme'.

Water Framework Directive

107. In her consideration of the Water Environment, the Secretary of State has had due regard to the objectives of the Water Framework Directive ("WFD") to prevent deterioration of water bodies and to protect or restore water bodies in order to reach 'good' status by 2027. The Secretary of State notes there are no WFD designated water bodies within the Proposed Development study area but there are nine non-designated lakes/ponds, two groundwater Source Protection Zones, two local nature reserves and three Nitrate Vulnerable Zones [ER 3.13.3, 3.13.8 and 3.13.10]. The Proposed Development is located entirely within the Lower Trent Erewash; a secondary combined WFD groundwater body which has 'good' status. It is also within a WFD drinking water protected area [ER 3.13.9].

108. The ExA noted that the Applicant's WFD compliance assessment demonstrates that the Proposed Development would not result in an adverse effect on any waterbody status and in fact works to the Slough Dyke and the creation of water bodies in the flood compensation areas will result in minor improvements. [ER 3.13.120 - 3.13.121]. It had also considered the Humber River Basin Management Plan and

concluded that the proposal is not anticipated to prevent any waterbodies within the study area from reaching their target 'Good' status in the future [ER 3.13.106 – 3.13.107]. Additionally, the Secretary of State notes that the Environment Agency has no remaining objection to the works [ER 3.13.104 - 3.13.105] and in the Statement of Common Ground between the Applicant and Environment Agency, the WFD compliance assessment was marked as agreed [ER 3.2.57]. The Secretary of State therefore agrees with the ExA that the Proposed Development complies with the WFD [ER 3.13.121] and further considers that the Proposed Development will not result in a deterioration of a waterbody status or prevent a water course from achieving 'good' status by 2027.

109. The Secretary of State is aware that the Proposed Development involves work in Flood Zone 3 land [ER 3.13.6]. The ExA report that in accordance with the NPPF and paragraphs 5.98 – 5.109 of the NPSNN, the Applicant undertook an extensive alternatives exercise in accordance with the Sequential Test [ER 3.13.77] and, as detailed earlier in this letter, confirmed that no reasonable alternative routes were feasible and the use of the existing A46 corridor is necessary to meet the RIS2 objectives [ER 3.2.51 - 3.2.52 and 3.2.66]. The Secretary of State agrees with the ExA that the Sequential Test has been met [ER 3.13.77].
110. As there are no reasonably available lower flood risk alternative sites, the Secretary of State notes that the Exception Test therefore applies. Having regard to paragraph 5.108 of the NPSNN regarding the Exception Test, the Secretary of State is satisfied that the Proposed Development would provide wider sustainability benefits to the community that outweigh the flood risk given its wider sustainability merits as detailed in the Applicant's 'Case for the Scheme' [ER 3.13.17]. The Applicant also identified no increase in flood risk elsewhere, no evidence that the Proposed Development would not remain safe for users throughout its lifetime, and that adequate floodplain compensation has been secured [ER 3.13.114 – 3.13.116]. This position was accepted by NCC and the Environment Agency [ER 3.13.114]. The ExA was content that the Proposed Development is essential infrastructure as defined in the NPPF and that it would not increase the risk of flooding, beyond those limits agreed with the EA [ER 3.13.116]. The Secretary of State is content that the wider benefits of the Proposed Development would outweigh the residual flood risk. Accordingly, the Secretary of State agrees with the ExA that the Sequential and Exception Tests are met and that there is no inconsistency with the NPSNN [ER 3.13.116 and 5.4.8 and 5.3.93].
111. The Secretary of State notes that since the Examination, new Flood and Coastal Erosion Risk Data was produced by the Environment Agency following the release of its 'National assessment of flood and coastal erosion risk in England 2024' report. The new data relevant to planning was published on 28 January 2025, with additional data published on the 25 March 2025, and further updates to flood risk datasets are being produced every 3 months and annually for coastal erosion.
112. The Secretary of State considers it appropriate for the Applicant to work with the Environment Agency to assess any implications of the new data for the Proposed Development. Accordingly, she has provided a new requirement in Schedule 2 of the Order to require the Applicant to consider the Environment Agency's flood risk and

coastal erosion data in its flood risk assessment. Further detail is provided in the 'Development Consent Order and Related Matters' section of this letter.

Sustainable Drainage Systems

113. Following the close of the Examination, the ExA became aware that the Department for Environment, Food and Rural Affairs had published new guidance on National Standards for Sustainable Drainage Systems (SuDS) [ER 3.13.11]. In her letter of 21 July 2025, the Secretary of State requested the Applicant consider whether this new guidance had any implications for the Proposed Development and whether any of the Application documents needed to be updated as a result. The Applicant's response of 30 July 2025 confirmed that it did not, and that as the Proposed Development was predominantly concerned with a trunk road managed by National Highways, the standards in the Design Manual for Roads and Bridges remained applicable, as detailed in the introduction to the new guidance. The Secretary of State is satisfied with the Applicant's response and that the publication of the National Standards for Sustainable Drainage Systems would not alter her considerations of the Applicant's assessment of the Road Drainage and Water Environment, nor her conclusions on this matter.

Carbon considerations

114. The Secretary of State has set out at paragraphs 19 - 20 of this letter that she agrees with the conclusions reached by the ExA in relation to Climate and Carbon emissions. She is satisfied that the Applicant and the ExA considered the implication of the legal judgement in *Finch (R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents)* [2024] UKSC 20) within the assessment of carbon emissions and determined that there were no additional likely significant indirect effects that had not already been identified in the ES [ER 3.5.44 and 5.3.16].
115. In respect of greenhouse gas emissions, although the Secretary of State acknowledges the increase in emissions resulting from the Proposed Development, she agrees with the ExA that at less than 0.007% of the total emissions in any carbon budget period, this would not be significant, and the Proposed Development would be unlikely to have an impact on the UK Government meeting its carbon reduction plan targets [ER 3.5.49].

The Secretary of State's conclusion on the Planning Balance

116. The Secretary of State agrees with the conclusions on the weightings of the ExA, except if detailed above. Having carefully considered all matters, the Secretary of State is satisfied that the need for the Proposed Development has been established and that this need should be afforded very great weight given the contribution it would make to meeting the need for critical infrastructure as set out in the NPSNN and RIS2, and where important and relevant, the NPSNN 2024, local policies, and all other relevant legislation and guidance. The Secretary of State has weighed the expected benefits of the Proposed Development against the potential negative effects that may occur, and she is of the view that any potential negative impacts are substantially outweighed by the need, and the economic, transport and environmental benefits that

are expected from the Proposed Development. She is satisfied that all legislative and policy tests have been met.

Compulsory Acquisition and Related Matters

117. The Secretary of State notes that the Applicant seeks powers to compulsorily acquire land and rights over land, and to take temporary possession of land (in some cases acquiring rights permanently rather than full ownership). A full description of the land and rights sought and the reasons for their requirement, are set out in the Applicant's Statement of Reasons, Book of Reference and accompanying plans [ER 6.2.3].
118. In considering these powers, the Secretary of State has had regard to the legislative requirements and national guidance set out by the ExA in ER 6.4, including the Guidance Related to Procedures for the Compulsory Acquisition of Land September 2013 by the former Department for Communities and Local Government ("the CA Guidance"). She has additionally had regard to the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 ("the CA Regulations").

Individual Objections and Issues

119. The Secretary of State has considered the objections raised by landowners, affected persons and other interest holders, and has had regard to the CA Guidance and the need for applicants to have made reasonable efforts to negotiate the acquisition of land by agreement before exercising compulsory acquisition powers.
120. The ExA report that the Applicant's Land Rights Tracker was kept up-to-date with its progress on the voluntary acquisition of land with the affected landowners and others with an interest in the Order land [ER 6.7.1]. Those where a voluntary agreement had not been reached by the close of the Examination or where an individual's objection had not been withdrawn, were considered further by the ExA. The ExA's conclusions on the representations made by affected landowners regarding compulsory acquisition/temporary possession matters, are set out in Appendix D to the Report [ER 6.7.2 - 6.7.4].
121. To aid her considerations, in her letter of 21 July 2025, the Secretary of State invited the Applicant to provide a further update on the progress of voluntary agreements with the following landowners:
- Francis Michael Hare 6th Earl of Listowel;
 - Winthorpe Family Settlement 1990 (including Jacqueline Suzanna Caroline Spencer & Lachlan Alastair Stewart);
 - James Miller (Kelham) Limited;
 - John James Miller; and
 - Newark and Sherwood District Council.
122. She notes that the Applicant's response dated 30 July 2025 confirmed that all agreements are being legally finalised and in the case of Newark and Sherwood District Council, it was expected that the objection would now be formally withdrawn. The Secretary of State notes that Newark and Sherwood District Council have since confirmed this withdrawal in their letter of 9 September 2025.

123. The Secretary of State has carefully considered the objections, the Applicant's responses, all evidence presented during Examination and any correspondence since its conclusion. She additionally notes, that the ExA considered areas of land that would be subject to compulsory acquisition/temporary possession or where rights would be interfered with as a result of the Proposed Development, but where no objection was raised [ER 6.9].
124. The Secretary of State acknowledges and agrees with the general conclusions reached by the ExA in ER 6.9. She agrees that the land is required for the Proposed Development or is required to facilitate, or is incidental to, that development and there is a compelling case in the public interest for the land to be acquired compulsorily, and the same considerations apply to that land which is sought to be acquired for temporary possession, whether or not with permanent rights thereafter [ER 6.9.5]. She also acknowledges and agrees with the specific comments made by the ExA in relation to the nature of the land and the status of negotiations for each plot considered at Appendix D. In each instance, the Secretary of State agrees with the ExA that a clear case has been presented for compulsory acquisition and this is particularly the case in respect of residential properties, where the Secretary of State notes that none of the property being acquired is currently used or occupied [ER 6.5.6]. Along with the ExA, the Secretary of State is satisfied that the public benefits associated with the Proposed Development would outweigh any private loss suffered by individuals [ER 6.11.9]. She is content that the Applicant explored alternatives to compulsory purchase powers and as outlined above, she is aware that voluntary agreements in respect of the parties listed, have been finalised or are in the process of being finalised [6.11.8 and 6.11.11].

Crown Land

125. Section 135 of the 2008 Act provides that the Order may provide for compulsory acquisition of interests in Crown land but only with the consent of the appropriate Crown authority.
126. The Applicant identified only one plot (2/6a) as potential Crown land that had vested in the Crown as bona vacantia land and thus the Applicant included it within its Crown Land designation [ER 6.8.3 - 6.8.4]. During the Examination, it became unclear whether the Crown had disclaimed the freehold through the escheat process and therefore the land had become ownerless, implying Crown consent would no longer be required [ER 6.8.5 - 6.8.6]. In her letter of 21 July 2025, the Secretary of State requested that the Applicant and the Crown Estate Commissioners provide an update regarding the status of the land at plot 2/6a.
127. In its response of 30 July 2025, the Applicant maintained its position that as the land has been disclaimed and will escheat, it is capable of being acquired compulsorily without the need for consent under section 135 of the 2008 Act; although the Applicant did want to retain article 52 to the Order in case any subsequent Crown interests were created. The Crown Estate Commissioners did not respond to either of the Secretary of State's requests dated 21 July and 15 August.
128. The Secretary of State has no reason to disagree with the Applicant's

contention that plot 2/6a has escheated, and that its freehold has been disclaimed and no residual interest is held by or on behalf of the Crown. Accordingly, the Secretary of State notes that in these circumstances, the consent of the Crown under section 135 of the 2008 Act is not required. This position is consistent with previous DCO decisions in which bona vacantia or disclaimed lands have been treated similarly, provided that the escheat has been properly evidenced. She further agrees with the Applicant that article 52 of the Order should be retained.

129. The Secretary of State is satisfied that the outcome of her consultation has satisfactorily resolved all questions relating to consent under section 135 of the 2008 Act. She agrees with the Applicant's view that the interest has extinguished and is not held for the benefit of the Crown and as a result, consent is not applicable here. The Secretary of State agrees with the ExA that the land is required for the Proposed Development and the use of compulsory acquisition powers is appropriate [ER 6.13.1].

Special Category Land

130. Sections 131 and 132 of the 2008 Act operate so that an Order which authorises the compulsory acquisition of common land or open space, or rights over such land, would be subject to Special Parliamentary Procedure unless an exemption applies.
131. The Applicant is seeking acquisition of special category land which is open space at plots 1/5h, 1/5i, 1/5j, 1/5k, 1/5q, 1/5r, 1/9b, 1/9c, 1/10b, 1/12a, 1/13a, 1/14c, 1/17a, 4/2a, 4/2b, 4/2c, 4/2d, 4/2f, 4/2f1, 4/2f2, 4/3a, 4/4a, 4/5a, 4/5e and 4/6a. The Book of Reference and Special Category Land Plans set out that 2.3 hectares of open space is proposed to be acquired permanently, 0.6 hectares acquired temporarily and 0.7 hectares where permanent rights are required for access or maintenance [ER 6.8.12]. For each plot, the Applicant considers that an exemption under section 131 or 132 of the 2008 Act applies and that no replacement land is necessary [ER 6.8.14 - 6.8.19].
132. The Secretary of State notes that in respect of Plots 1/5j and 1/5r, which are required for the construction of the new Windmill Viaduct, the Applicant only intends to permanently acquire the airspace above the land surface and, for the latter Plot, additional rights over the land beneath the bridge [ER 6.8.14]. The Secretary of State has noted the definition of land at article 2(2) of the Order which includes airspace and has based her considerations on this.
133. For plot 1/5j, the Secretary of State notes that the airspace is considered land that is being permanently acquired. She agrees with the ExA and is satisfied that the exemption at section 131(5) applies [ER 6.8.14 – 6.8.15 and 6.8.21].
134. For plots 1/5i, 1/5r, 4/5e, 4/6a, 4/2f, 4/2f1 and 4/2f2, the Secretary of State agrees with the ExA that the exemption at section 131(5) applies [ER 6.8.14 – 6.8.16 and 6.8.21].
135. For plots 1/5q, 1/10b, 1/12a, 1/13a, 1/14c and 1/17a, the Secretary of State agrees with the ExA that the exemption at section 131(4B) applies [ER 6.8.17 and 6.8.21].

136. For plots 1/5h, 1/5k, 1/9b, 1/9c, 4/2a, 4/2b, 4/2c, 4/2d, 4/3a, 4/4a and 4/5a, the Secretary of State agrees with the ExA that the exemption at section 132(3) applies [ER 6.8.18 - 6.8.19 and 6.8.21].

137. The Secretary of State notes that the ExA is content that where appropriate, the tests of sections 131(5), 131(4B) and 132(3) in relation to special category land are satisfied. As the Secretary of State also concludes that exemptions apply, she agrees with the ExA that Special Parliamentary Procedure is not engaged [ER 6.8.22]. In accordance with sections 131(3) and 132(2), exemptions should be recorded within the Order and the Secretary of State has addressed this in the 'Draft Development Consent Order and Related Matters' section of this letter.

Statutory Undertaker Land

138. Section 127 of the 2008 Act applies where a statutory undertaker submits a representation about the acquisition of land and this objection is not withdrawn. If this is the case, the Secretary of State must be satisfied that the land or right can be obtained without serious impediment to the statutory undertaker carrying out of its undertaking, or that such impediment can be made good by the use of alternative land [ER 6.8.27 - 6.8.28]. Section 138 of the 2008 Act applies if the proposed land to be acquired has a relevant statutory undertaker right over it or contains apparatus. The Secretary of State must be satisfied that the extinguishment of the right or removal of apparatus is necessary for the carrying out of the Proposed Development [ER 6.8.29].

139. The Secretary of State is aware that the Order includes powers to authorise the permanent compulsory acquisition of land, the extinguishment of relevant rights and will affect relevant apparatus belonging to statutory undertakers [ER 6.8.23 - 6.8.26]. As objections from three statutory undertakers, Canal and River Trust, National Grid Electricity Distribution (East Midlands) ("NGED") and Network Rail, remained outstanding at the close of Examination [ER 6.8.31], sections 127 and 138 of the 2008 Act are therefore engaged.

140. The Secretary of State agrees with the ExA's considerations regarding these statutory undertakers at Appendix D to the Report and with its conclusions both therein and at ER 6.8.32 - 6.8.33. Namely, that in accordance with sections 127 and 138 of the 2008 Act, the powers sought would not lead to any serious detriment to statutory undertakers carrying out their undertakings; the interference with apparatus and extinguishment of statutory undertakers' rights would be necessary for the carrying out and operation of the Proposed Development; and that the affected apparatus lying within or close to existing highway that would be extended or widened, would be replaced or moved to the extended widened or new offline sections. With specific regard to protective provisions, although the ExA reported that final agreements with Canal and River Trust, NGED and Network Rail had not been finalised by the close of Examination, the parties preferred wording had been included in Schedule 9 to the recommended Order, and the ExA was content that the wording provides adequate protection for the statutory undertakers [ER 6.8.33].

141. Post Examination, the Secretary of State received confirmation from Network Rail in its letter dated 5 June 2025 that an agreement on protective provisions that would avoid detriment to Network Rail's undertaking had been reached and its

objection was withdrawn. The Secretary of State also received correspondence from NGED confirming that its objection remained. Although noting that the ExA had included NGED's preferred wording for the protective provisions within their recommended Order, the Secretary of State nonetheless requested, by way of letter of 15 August 2025, that the Applicant and NGED provide an update on their agreement and any wording agreed. The Secretary of State since notes that responses from NGED dated 3 September 2025 and from the Applicant received 5 September 2025 confirm that a suitable form of protective provisions have now been agreed and as such, NGED have withdrawn their objection.

142. Overall, the ExA was satisfied that the recommended Order meets the requirements of sections 127 and 138 of the 2008 Act and that the protective provisions included within the Order are acceptable [ER 6.8.34]. The Secretary of State agrees.

Other consent and agreements

143. Paragraph 19 of the CA Guidance confirms that the Applicant needs to demonstrate that any potential risks or impediments to implementation have been properly managed and that any legal matters, including the need for any operational or other consents, have been taken into account [ER 6.8.39].

144. The ExA was content that all necessary consents and licences to enable the Proposed Development to proceed have been identified, that no party had raised any concern or issue that would prevent a necessary consent from being issued and that there is no reason why such consents and licences should not be secured or granted [ER 6.8.37 and 6.8.40]. The Secretary of State is likewise content.

Funding

145. Paragraph 17 of the CA Guidance states that an application should be accompanied by a statement explaining how it will be funded and should include the degree to which other bodies have agreed to make financial contributions. Furthermore, paragraph 18 states that the Applicant should demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the Order being made and that the resource implications of a possible acquisition resulting from a blight notice have been taken account of.

146. The ExA reports that the Applicant's Funding Statement estimates the total cost of the Proposed Development to be £686.4 million, including compensation payments relating to the compulsory acquisition and temporary possession of land and rights over land [ER 6.10.2]. The Funding Statement also confirms that the Proposed Development would be entirely funded by the Department for Transport through its Road Investment Strategy plan and is not dependent on funding contributions from external bodies. Although the ExA concluded there was no evidence before it that funding was not available, it was aware the Government had commissioned a spending review which included current and future road schemes under the Department for Transport's spending portfolio. The ExA therefore suggested that the Secretary of State may wish to satisfy herself as to the progress of the spending review and any implications for the funding of this Proposed Development prior to her decision

[ER 6.10.3]. The Secretary of State's Oral statement to Parliament on 8 July 2025² confirmed the road scheme settlement following the spending review; and this included a continued commitment to fund the A46 Newark Bypass. On this basis, the Secretary of State is satisfied that should the Order be granted, there would be adequate funding in place to ensure its delivery and that the Applicant has demonstrated that adequate funding is likely to be available to enable compulsory acquisition and temporary possession within the periods provided for in the Order.

Secretary of State's conclusion on compulsory acquisition and related matters

147. The Application includes a request for compulsory acquisition of the land to be authorised, and the Secretary of State agrees with the ExA that:

- the land is required for, or incidental to, the Proposed Development [ER 6.11.3];
- there are no suitable alternative sites to the land proposed for the Proposed Development [ER 6.11.5];
- The Applicant has sought to minimise and mitigate loss wherever possible, including the provision of fair and reasonable compensation [ER 6.11.6];
- the Applicant had explored all reasonable alternatives to compulsory acquisition [ER 6.11.8];
- there is sufficient funding in place to cover the costs that may arise from the exercise of the compulsory purchase powers contained within the Order [ER 6.11.10];
- the Applicant has demonstrated a clear idea of how it intends to use the land rights it proposes to acquire [ER 6.11.10];
- there is a compelling case in the public interest for the land to be acquired compulsorily [ER 6.11.11 – 6.11.12]; and
- any interference with human rights is for legitimate purposes, is proportionate and justified in the public interest [ER 6.11.17].

148. The Secretary of State is satisfied that the Application and its Examination procedurally accord with the 2008 Act and related guidance, all objections submitted to the Examination have been considered and that there is therefore nothing to suggest that parties have not had a reasonable chance to put forward their case [ER 6.12.3]. The ExA and Secretary of State both consider that while rights would be interfered with, the interference would be proportionate and justified in the public interest and consequently the compulsory acquisition and temporary possession powers would be compatible with the overarching aims of the Human Rights Act 1998, European Convention on Human Rights and relevant CA guidance [6.12.9].

149. Overall, the Secretary of State is satisfied that the requirements of sections 122, 123, 127, 131, 132 and 138 of the 2008 Act are met, as well as the relevant parts of the CA Guidance and the CA Regulations.

² [Secretary of State's Oral statement to Parliament 8 July 2025](#) [Transforming the UK's road and rail networks - GOV.UK](#)

Draft Development Consent Order and Related Matters

150. The Secretary of State has made a number of minor textual amendments to the recommended DCO in the interests of clarity, consistency and precision. Further to the textual amendments the Secretary of State also makes the following modifications:

- In the final paragraph of the preamble, additional vires have been cited inserted to address omissions.
- Article 2(1) (interpretation):
 - the definitions of “the 2016 Regulations and Directions”, “environmental masterplan”, “euNetworks”, “National Grid”, “Natural England”, “Network Rail”, “Openreach”, “Severn Trent Water” and “Virgin Media” are used only within either specific articles, Schedule 2 or specific parts of Schedule 9 and have been moved to those more appropriate locations for ease of reference;
 - in the definition of “cycle track”, text after “the 1980 Act” has been removed as it duplicates text that is already included within the definition in section 329(1) of that Act and risks causing confusion;
 - the definitions of “highway authority” and “structures plans and sections” have been removed as the terms are not used in the Order nor, in the case of the latter, the examination library;
 - in the definition of “engineering plans and sections”, the reference to “the highways engineering section drawings” has been removed as no document of that name is used either in the Order or the Examination Library;
 - the definition of “relevant planning authority” has been modified to remove reference to “one or both relevant councils” and substitute a definition based on the land to which the provision relates;
 - the definition of “Secretary of State” has been removed as it is unnecessary to define and does not require further clarification within the Order;
 - Paragraph (9) is modified to confine the expression “includes” with the caveat that it does not include materially new or materially different environmental effects compared with those reported in the Environmental Statement; and
 - Paragraphs (10) and (11) are removed as, noting the limited precedents and limited justification in the Applicant’s Explanatory Memorandum (“the EM”), neither appear necessary.
- Article 7(3) (application of the 1990 Act) has been inserted to address an undefined term with reference to works numbers that involve temporary works;
- Article 8(1) (planning permission) – the text of the tailpiece following “terms of this Order” has been removed as there is no justification in the EM and the precedent cited does not include the text concerned.
- Article 13(8) (application of the 1991 Act) has been removed as there is no justification within the EM for its inclusion, nor is there a lane rental scheme in operation in the area concerned.
- Article 14(4) (construction and maintenance of new, altered or diverted streets and other structures) has been removed as section 329(1) of the Highways Act

1980 provides that a cycle track not comprised in a highway is still a highway, meaning that paragraph (1) renders paragraph (4) unnecessary.

- Article 19(5), (6) and (10) (permanent stopping up and restriction of use of streets and private means of access) have been moved to a new article 44 (public rights of way) which is in accordance with customary drafting and better fits the subject of those paragraphs, but the references to “parts of” in paragraphs (5) and (6) have been removed as they are not considered to improve clarity.
- Article 21(10) (clearways, prohibitions and restrictions) – the definition of “in the relevant place” has been modified so that both elements (a) and (b) contain a tailpiece applying to both paragraphs (i) and (ii).
- Articles 23(11) (discharge of water) and 25(9) (authority to survey and investigate the land) have been inserted to ensure a consistent approach to deeming provisions.
- Article 25(1) (authority to survey and investigate the land) has been modified to clarify that entry onto land which is adjacent to, but outside the Order limits is limited to where entry is both reasonably necessary and where the land concerned is affected by the authorised development.
- Article 26(2) (compulsory acquisition of land) – cross-references have been corrected;
- Article 29(3) and (4) (compulsory acquisition of rights and imposition of restrictive covenants) has been removed as the Secretary of State is concerned about the transfer of powers to broadly defined categories of parties, which circumvents the application of article 12, and there is little justification provided within the EM to assuage those concerns.
- Article 30(10) (private rights over land) has been removed as the limited justification in the EM does not explain why, in the circumstances of the proposed development, such a provision is necessary.
- Ex-article 37 (modification of the 2017 Regulations) has been removed as, with rare exceptions for exceptional schemes where there is a strong justification in the EM, which is not the case here, it has been the Secretary of State’s position that such vesting provisions for unidentified third parties, including statutory undertakers as a class, are inappropriate; the definition of “the 2017 Regulations” has also been removed from article 2(1).
- Article 42(8) (Apparatus and rights of statutory undertakers in stopped up streets) the definition of “apparatus” removed due to identical definition present in Article 2.
- Article 45 (felling or lopping of trees and removal of hedges) is modified as follows:
 - paragraph (2)(c) is inserted to require the undertaker to take steps to avoid a breach of relevant wildlife and habitats legislation; and
 - paragraph (4)(b) is amended to require consultation with the relevant planning authority before removal of any hedgerow within the Order limits that is not identified in Part 1 of Schedule 8.
- Article 49(1) (defence to proceedings in respect of statutory nuisance) - reference to section 82(1)(d) and (fb) of the Environmental Protection Act 1990 have been removed as based on chapter 6.7 of the Environmental Statement their inclusion is considered unnecessary.

- Ex-article 50 (appeals relating to the Control of Pollution Act 1974) has been removed as the magistrates' court procedure under the 1974 Act provides a more appropriate mechanism for the relevant appeals and there is nothing persuasive in the EM to indicate otherwise.
- Article 50(18) (removal of human remains) has been inserted to provide necessary definitions for previously undefined terms.
- Article 56(2) (arbitration) and article 57(1) (temporary suspension of navigation in connection with the authorised development) – the drafting has been clarified to remove ambiguity.
- Schedule 1 (authorised development) – “approximately” has been removed throughout the Schedule as article 2(5) and (6) make its inclusion unnecessary.
- Schedule 2, Part 1 (authorised development) has been amended as follows:
 - throughout Schedule 2 a number of erroneous references to “paragraph” have been corrected to “sub-paragraph”.
 - In paragraph 1(interpretation):
 - the terms “County Archaeologist” and “District Archaeologist” are removed as neither term is used in the Order; and
 - the terms “Ecologist Clerk of Works”, “outline traffic management plan”, “pre commencement plan”, “protected species”, “European protected species” and “REAC” are used only within specific paragraphs and have been moved to those more appropriate locations for ease of reference.
 - paragraph 5(8) (construction hours) has been inserted to include a notice requirement to align this with the approach consistent across the Order; and
 - paragraph 21 (offsite barn owl boxes) has been modified so that it refers to the “barn owl nest box specification”, making it consistent with the document listed in Schedule 10 (documents to be certified).
- Schedule 7 (land of which temporary possession may be taken) has been modified to remove unusual subjective wording such as “needed” and “required”.
- Schedule 8 (hedgerows and trees), Part 2 (trees subject to Tree Preservation Orders):
 - the row containing tree reference G277 (common ash) (TPO/11/00099) has been removed as the Arboricultural Impact Assessment [REP7-054] states “*Retain – protect with temporary barriers in accordance with BS 5837*”; and
 - the second row containing tree reference G143 (mixed species) (TPO/11/00099) has been removed as the entry referring to felling a single tree is inconsistent with the Arboricultural Impact Assessment, which states “*Fell a section of the group – fell trees in conflict with the proposed works. Protect the retained section with temporary barriers and ground protection in accordance with BS 5837*”.
- Schedule 10 (documents to be certified) – for ease of reference the relevant provisions from the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 have been inserted along with the revision numbers for updated documents.

GENERAL CONSIDERATIONS

Equality Act 2010 and the Public Sector Equality Duty

151. Section 149 of the Equality Act 2010 includes a public sector “general equality duty” setting out the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The Secretary of State notes that the Applicant has had regard to the principles of the public sector equality duty and prepared an Equality Impact Assessment which identified groups with protected characteristics and detailed the potential effects of the Proposed Development on them [ER 6.12.10 - 6.12.11]. The Applicant’s Equality Impact Assessment identified a Travellers Site as housing persons with a protected characteristic and as such, it engaged with the Gypsy, Roma and Traveller community at the site to discuss the potential impacts of the Proposed Development and it reports that the community verbally confirmed support for the proposals [ER 6.12.12]. The Secretary of State agrees with the ExA and considers that the Applicant has therefore complied with the public sector equality duty by making reasonable adjustments to processes that would otherwise disadvantage those with a protected characteristic. She is also content that the ExA, in managing the Examination and coming to its conclusions in the Report, has also had due regard to the duties under the Equality Act legislation [ER 6.12.13]. In considering the determination of this Application, the Secretary of State has had due regard to the public sector equality duty.

Natural Environment and Rural Communities Act 2006

152. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006 as amended by section 102 of the Environment Act 2021, has had regard to the purpose of conserving and enhancing biodiversity and, in particular, to the United Nations Environmental Programme on Biological Diversity of 1992. The Secretary of State notes that the ExA has had regard to the Natural Environment and Rural Communities Act 2006 and biodiversity duty in the relevant sections of the Report. In reaching a decision to grant development consent, the Secretary of State has had due regard to the duty of conserving and enhancing biodiversity.

SECRETARY OF STATE’S OVERALL CONCLUSION AND DECISION

153. For all the reasons set out in this letter, the Secretary of State has decided to grant development consent, subject to the changes in the Order mentioned above. The Secretary of State is satisfied that none of these changes constitutes a material change and is therefore satisfied that it is within the powers of section 114 of the 2008 Act for the Secretary of State to make the Order as now proposed.

CHALLENGE TO DECISION

154. The circumstances in which the Secretary of State’s decision may be challenged are set out in Annex A of this letter.

PUBLICITY FOR THE DECISION

155. The Secretary of State's decision on this Application is being publicised as required by section 116 of the 2008 Act and regulation 31 of the 2017 Regulations.

Yours faithfully,

Kayla Marks
Head of the Transport Infrastructure Planning Unit

ANNEX A

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order is published. Please also copy any claim that is made to the High Court to the address at the top of this letter.

The A46 Newark Bypass Development Consent Order 2025 (as made) is being published on the Planning Inspectorate website at the following address:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR010065>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).