

Comments on the Applicant's D5 Submissions

This document sets out the comments by Cambridgeshire County Council (**CCC**) and Fenland District Council (**FDC**) (together, **the Councils**) on the Applicant's Deadline 5 (**D5**) submissions. The tables below set out the document in question that the Councils are commenting on, together with the relevant paragraph or reference number.

Except where expressly stated otherwise below, the Councils reiterate and rely on their comments submitted to the ExA at previous deadlines.

2.3 Works Plan - Revision 3 [REP5-003]

Topic	Paragraph Number	Councils' Comment
Boundaries of DCO and works	All plans	This version of the Works Plans appears to have been superseded by the change application submitted by the Applicant, which seeks to broaden the DCO boundary at the junctions of New Bridge Lane with both Cromwell Road and Salter's Way. Accordingly, the works boundaries within the Order Limits would, if the Change Application is accepted, require to be updated to reflect the larger area of highway that is required to work within.

2.4 Access and Rights of Way Plan - Revision 5.0 [REP5-004]

Topic	Paragraph Number	Councils' Comment
Boundaries of local highways	All plans	This version of the Access and ROW Plans appears to have been superseded by the change application submitted by the Applicant, which seeks to broaden the DCO boundary at the junctions of New Bridge Lane with both Cromwell Road and Salter's Way. Accordingly, the highway boundaries within the Order Limits would, if the Change Application is accepted, require to be updated to reflect the larger area of highway that is required to work within.
Boundaries of local highways	Plan 1 of 4	Following the discovery by CCC of new information about the highway boundary at the junction of Cromwell Road and New Bridge Lane, CCC and the Applicant have been in liaison about the effect this information has on the highway extent that is available for the Applicant to work within. This revised extent is reflected in the Applicant's Change Application documents, but is not shown on this version of the Access and ROW Plans.

3.1 Draft Development Consent Order - Revision 4.0 [REP5-005]

Topic	Paragraph Number	Councils' Comment
Requirement 6 - Biodiversity Net Gain	6(2), page 37	The Councils welcome the rewording of Requirement 6 – Biodiversity Net Gain, and are satisfied that a minimum of 10% biodiversity net gain will be secured as part of the scheme.
Requirement 29 – Origin of waste	29 (2), page 44	The paragraph states that “ <i>waste transported into Waste Area 2 to a waste loading point is considered to have originated in Waste Area 2.</i> ” If the waste originated outside of Waste Area 2 but was transported in, this should not be considered to have originated in Waste Area 2. Also we note the reference to a Waste Area 2 Plan, but cannot see this document, so cannot judge the size or location of Waste Area 2.
Schedule 4 – streets subject to permanent alteration of layout	Schedule 4, Table 2	Column 3 of Schedule 4 refers to works on Algores Way as being part of Work Number 4A, however CCC’s understanding is that this work number refers to the proposed road improvements to New Bridge Lane. The symbology for work number 4A on the Works Plan does not seem to identify any part of Algores Way.
Schedule 11 Part 6 – For the Protection of Internal Drainage Board	Part 6	Noting this is for the IDB, CCC would recommend consulting with Middle Level Commissioners and Kings Lynn for any comments on this, as this will in effect disapply Section 23 of the Land Drainage Act (1991) around works to watercourses. From an LLFA perspective, this should not impact CCC as the Council are not the authorising body for consenting, however the wording in this is similar to that within other Orders and therefore CCC has no comments.
Schedule 11 Part 9 – for the protection of Cambridgeshire County Council as highway authority	All	CCC continues to engage with the Applicant regarding finalisation of the draft protective provisions and believes the parties are approaching agreement. Outstanding issues still under discussion include the matter of compensation to the highway authority for damage caused to the highway by extraordinary levels of traffic, and the timescales allowed in the protective provisions for (i) approval of designs for highway works, and (ii) inspection of completed works prior to certification and adoption.

6.4 Environmental Statement - Chapter 6 - Traffic and Transport Appendix 6A - Outline CTMP - Revision 5.0 [REP5-011]

Topic	Paragraph Number	Councils' Comment
Management of PROWs during construction	7.2.5	The Councils are content with the amended wording to this paragraph.

Highway Condition Surveys	7.4.2	The Councils are content with the amendments regarding condition surveys for the highway and PROW network.
Former level crossing on new Bridge Lane	7.4.8	The Councils are content with the amended wording to the extent that is provided, but as Network Rail have now agreed, without prejudice, to the documentation of permissive bridleway rights over the crossing it would be helpful for clarity for the CTMP to include wording along the lines of: <i>'If permissive access over the former level crossing is agreed with Network Rail the terms of the arrangement and any signage will be agreed with Cambridgeshire County Council and Network Rail.'</i>

6.4 Environmental Statement - Chapter 11 - Biodiversity Appendix 11M - Biodiversity Net Gain Assessment - Revision 4 [REP5-015]

Topic	Paragraph Number	Councils' Comment
River unit modelling – water voles	3.3.7	<p>The Councils welcome the commitment from the Applicant that off-site River units are first targeted at enhancing local water vole habitats within the Host Authority areas within the Biodiversity Net Gain Assessment.</p> <p>However, this commitment has not been reflected within the Outline Biodiversity Net Gain Strategy (Annex C). The Councils are concerned that opportunities to address their concerns regarding compensation for water vole may be missed at the detailed stage – given that the Biodiversity Net Gain Strategy to be secured under Requirement 6 needs to be substantially in accordance with the Outline BNG Strategy, but not the wider BNG Assessment document.</p> <p>The Councils have raised this issue with the Applicant. The Applicant has proposed revised wording of Annex C – Outline BNG Strategy (to be submitted at Deadline 6), which is expected to fully resolve this matter.</p>
Annex C – Outline Biodiversity Net Gain Strategy	4.2.7	<p>The Councils welcome the adjustment of the hierarchy for the BNG delivery mechanism. Wisbech has very limited nature conservation resources and, therefore, the Councils welcome the focus of off-site BNG on sites local to the Proposed Development.</p> <p>The Councils hope that local solutions that support both BNG and opportunities for local residents to access nature (NMU provision) can be found that may complement one another.</p>

14.2 Applicant's Response to the ExA's Written Questions (ExQ2) - Revision 1.0 [REP5-032]

Topic	Paragraph Number	Councils' Comment
<i>Table 2.1. General and Cross-Topic Questions</i>		
S106 Community Impact Mitigation package	GCT.2.2	<p>The Councils agree with the Applicant's statement made at Deadline 5. The Councils provided an update on progress with the community mitigation package at ISH6 on 26 June, with which the Applicant agreed. Please see the Councils' post-hearing submissions at D6 for further details [CLA.D6.ISH6-7.S].</p> <p>The Councils wish to highlight that they see securing permissive access over the former level crossing on New Bridge Lane as an essential element of the mitigation package, notwithstanding that this will not sit within the s106 Agreement due to fact that it involves Network Rail as a third party. The Councils are hopeful that permissive access will be secured, but are not yet clear as to whether that will be achievable within the timescale of the Examination.</p>
<i>Table 2.4. Biodiversity, Ecology and the Natural Environment</i>		
BNG and public access	BIO.2.2	Please see the Councils' response to the updated Environmental Statement Annex C – Outline Biodiversity Net Gain Strategy [REP5-015] above.
<i>Table 2.5. Climate Change</i>		
Maximum adverse case composition	CE.2.2	The Council agrees that reduced biogenic carbon and no reduction in plastics would be a scenario in which GHG emissions for the EfW plant would be higher than the GHG emissions from sending this waste to landfill. The additional sensitivity analysis to be presented at Deadline 6 ought to confirm to what extent that affects the assessment, alongside other scenarios.
<i>Table 2.7. Cumulative Effects</i>		
Cumulative effects	CE.2.2	The Council agrees with the Applicants response to CE 2.2, and it is agreed that cumulative effects are acceptable and non-significant.
<i>Table 2.8. Draft Development Consent Order</i>		
S278 agreement; Protective Provisions	DCO.2.2	CCC continues to engage with the Applicant regarding both the draft protective provisions, and the terms of a s278 agreement, and believes both are close to being agreed.
Article 12.3	DCO.2.12	CCC is content with the Applicant's response to the Examining Authority's question and has

		no further comment.
<i>Table 2.9. Landscape and Visual</i>		
Visible plumes	LV.2.4	The Applicants' response is noted. In addition to the Applicants response on this aspect, it is recorded at para 9.5.44, page 9-48 of the LVIA [APP-036] that “The ZTV for the visible plume in Figure 9.6: Visible Plume ZTV (Volume 6.3) shows that with a maximum possible height of 159m above FFL (90m high chimneys and 69m high plume) the ZTV becomes less fragmented. This is because the localised screening from built development, narrow shelterbelts and smaller areas of tree cover would become less effective at screening views”.
<i>Table 2.12. Socio-Economic and Population</i>		
Community Impact Mitigation package	SPC.2.3	Please see the Councils' response to GCT.2.2.
<i>Table 2.13. Traffic and Transport</i>		
Extent of adopted highway affected by change application	TT.2.7	CCC is content that the Applicant, in its Change Application, is seeking appropriate powers to facilitate the construction of works outside the current highway boundary. However, concern remains that there is no mechanism in place to secure the dedication of such an area as highway maintainable at public expense. In particular, the works required at the junction of Cromwell Road and New Bridge Lane require new traffic signals to be installed outside the area that is currently highway. These signals will need to be maintained by CCC as the Highway Authority from the date on which they become operational. However, as part of the designed signal infrastructure is to be installed in land that is currently not highway (i.e., it remains private land), it will not be within CCC's authority to access and manage the apparatus. CCC does not yet have an understanding of how the Applicant proposes to resolve this.
Extraordinary levels of traffic	TT.2.11	CCC notes that the Applicant's response demonstrates a substantial percentage increase in HGV traffic on highway links 2 and 3 during the operational phase of the Proposed Development. This is sufficient evidence of the potential for damage to be caused to the highway through extraordinary new levels of traffic, and CCC retains its request for the clauses of section 59 of the Highways Act 1980 to be referenced in either the DCO or the OTMP, to ensure there is an agreed mechanism for CCC to recover any costs it incurs in repairing highway damage that is attributable to the proposed development.

14.3 Applicant's Comments on the ExA's Schedule of Changes to the Draft Development Consent Order - Revision 1 [REP5-033]

Topic	Paragraph Number	Councils' Comment
Art. 13 Temporary prohibition or restriction of use of streets and public rights of way	Page 7	The Councils welcome the ExA proposed addition of subsection (7) which it considers will provide assurance around reinstatement of any PROW affected by the construction works.
Schedule 8 – Land in which only new rights etc. may be acquired – Table 8	Page 12	The Councils welcome the proposed amendments with respect to PROW, which it considers add clarity and provide protection for the local highway authority.

14.4a Applicant's Comments on the Deadline 4 Submissions: Part 1 Statutory Parties - Revision 1.0 [REP5-034]

Topic	Paragraph Number	Councils' Comment
<i>6.4 ENVIRONMENTAL STATEMENT – APPENDIX 6A – OUTLINE CTMP (REV 3) [REP3-014]</i>		
Road closures and diversions – non-motorised users	7.2.1-7.4.8	The Councils welcome the amendments and refers to its response to 6.4 Environmental Statement - Chapter 6 - Traffic and Transport Appendix 6A - Outline CTMP - Revision 5.0 [REP5-011] at 7.2.5, 7.4.2 and 7.4.8 above.
<i>6.4 ENVIRONMENTAL STATEMENT – APPENDIX 11M – BIODIVERSITY NET GAIN ASSESSMENT (REV 3) [REP3-018]</i>		
3.2 Habitat loss and wider visual landscape impact affecting NMUs	Page 41-42	The Councils are content that significant progress is being made on the matter of mitigation in some compensation for the adverse visual impact and habitat loss affecting NMUs and local communities within the surrounding landscape. The Councils refer to their updated position on these matters at GCT.2.2 in their response to 14.2 Applicant's Response to the ExA's Written Questions (ExQ2) - Revision 1.0 [REP5-032] above.
<i>7.12 OUTLINE CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (REV 3) [REP3-022]</i>		
5.8 – Protection of PROW during construction	Page 43	The Councils refer to their response at 7.2.5, 7.4.2 and 7.4.8 in its response to 6.4 Environmental Statement - Chapter 6 - Traffic and Transport Appendix 6A - Outline CTMP - Revision 5.0 [REP5-011]
<i>11.3 APPLICANT'S COMMENTS ON THE WRITTEN REPRESENTATIONS: PART 1 STATUTORY PARTIES (REV 1) [REP3-039]</i>		
LV 3.2 to 3.9	3.2, 3.4, 3.6, 3.7 and	The Councils refer to their updated position on these matters at GCT.2.2 in their response to

	3.8 – Impact on local communities and users of the PROW and local road network	14.2 Applicant's Response to the ExA's Written Questions (ExQ2) - Revision 1.0 [REP5-032] above.
11.4 APPLICANT'S COMMENTS ON THE RESPONSES TO THE ExA's WRITTEN QUESTIONS (ExQ1) [REP3-041]		
Public Rights of Way (PROW) and Non-Motorised Users (NMUs)	Page 17	The Councils refer to their updated position on these matters at GCT.2.2 in their response to 14.2 Applicant's Response to the ExA's Written Questions (ExQ2) - Revision 1.0 [REP5-032] above, and at 7.2.5, 7.4.2 and 7.4.8 in its response to 6.4 Environmental Statement - Chapter 6 - Traffic and Transport Appendix 6A - Outline CTMP - Revision 5.0 [REP5-011] above.
11.5 APPLICANT'S COMMENTS ON DEADLINE 2 SUBMISSIONS [REP3-042]		
5.10 and 5.15 – New Bridge Lane Level Crossing - NMUs	Page 52	The Councils refer to their updated position on these matters at GCT.2.2 in their response to 14.2 Applicant's Response to the ExA's Written Questions (ExQ2) - Revision 1.0 [REP5-032] above.

14.7 Applicant's Response to ISH4 Action Point 6 - Revision 1.0 [REP5-038]

Topic	Paragraph Number	Councils' Comment
Combined Heat and Power (CHP)	2.4	The Council notes that the delivery of CHP is dependent on securing a customer supply agreement. Therefore it is, at this stage, uncertain whether or not CHP will become operational.
Carbon Capture and Storage (CCS)	3.3	The Council notes that the draft DCO secures reserve space and readiness monitoring reporting, but does not require a CCS facility to be actually built or operated. It is therefore extremely uncertain whether or not CCS will ever become operational.