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Via E-Mail to:

3 November 2023

rampion2@planninginspectorate.gov.uk

Dear Mr Allen,

RAMPION 2
NATIONAL HIGHWAYS i) RELEVANT REPRESENTATION
ii) PRINCIPAL AREAS OF DISAGREEMENT STATEMENT

This letter responds to the Examining Authority ('ExA') Rule 9 letter dated 20 September 2023. It consists of National Highways' Relevant Representation ('RR') in respect of the Development Consent Order ('DCO') application by Rampion Extension Development Limited ('Applicant') for an Order Granting Development Consent for the Rampion 2 Offshore Windfarm Project. It also includes our initial Principal Areas of Disagreement Statement ('PADS').

National Highways ('NH') is the government owned company which operates, maintains and improves the Strategic Road Network ('SRN') as the strategic highway company appointed under the provisions of the Infrastructure Act (2015) and in accordance with the Licence¹ issued by the Secretary of State for Transport.

NH is a statutory consultee to the planning process. It has a specific obligation to deliver economic growth through the provision of a safe and reliable SRN, in line with the provisions set out in DfT Circular 01/2022: *The strategic road network and the delivery of sustainable development*².

¹ Highways England: licence: <https://assets.publishing.service.gov.uk/media/5a80c317ed915d74e33fc43c/strategic-highways-licence.pdf>

² Strategic road network and the delivery of sustainable development <https://www.gov.uk/government/publications/strategic-road-network-and-the-delivery-of-sustainable-development>

The Circular sets out how NH will work with developers to ensure that specific tests are met when promoting a scheme. This includes ensuring the transport impact is understood, any mitigation (or other infrastructure) is designed in accordance with the relevant standards and that environmental impacts are appraised and mitigated accordingly.

NH has met regularly with the Applicant's transport consultants during the pre-application period and substantial progress has been made in understanding the proposals which has enabled NH to understand at a high level the impacts of the proposed development on the SRN generally and the location of some of the more detailed impacts.

NH received a first draft Statement of Common Ground from the Applicant on 16 October 2023 and an initial response to NH's proposed Protective Provisions from the Applicant on 18 October 2023. NH is currently working with the Applicant to agree both with the expectation that final versions of both will be submitted to the ExA in due course.

Overall, given the nature of the project and its implications for the SRN, and taking into account the processes followed and details agreed in connection with the original Rampion Project, NH believes all outstanding matters regarding Rampion 2 can be similarly resolved. However, for the purposes of the RR and PADS as set out in the Rule 9 letter, a number of matters remain unresolved. NH principal concerns requiring resolution are summarised below:

NH have particular concerns and requirements in the vicinity of the A27 between Arundel and Worthing;

a) The route is proposed to pass under the A27 in the area known as Hammerpot, east of Arundel Sussex which has safety and operational implications for the SRN.

b) Traffic attracted to, generated by or routed or rerouted as a result of the proposals which has potential implications for the SRN.

c) The construction, operation or maintenance of a site (construction/ compound/ permanent) associated with the project adjacent to or in close proximity to the SRN which is expected to have an impact on the SRN.

d) The construction, operation or maintenance of a site (construction/ compound/ permanent) associated with the project adjacent to or in close proximity to the SRN has implications for the SRN.

e) Part of the SRN has been included in the red line boundary and is referred to in the book of reference. There are other references to NH land or assets in the book of reference. There is a need to safeguard NH interests with regards to compulsory acquisition proposals or proposals concerning the acquisition of other rights.



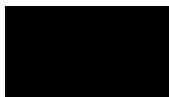
f) There is a need to ensure NH interests as the Strategic Highway Authority are safeguarded in the DCO including via the imposition of Protective Provisions, Requirements or other appropriate and/or relevant legal agreements.

NH has engaged with the Applicant and their representatives but to date has not received or agreed details with regards the above.

These issues are set out in detail in Annex A to this letter, which responds directly to the application documents. Annex B comprises our standard Protective Provisions. Annex C contains a Principal Areas of Disagreement Statement as requested in your Rule 9 letter dated 20 September 2023.

In conclusion, given the outstanding issues summarised above, NH is not yet satisfied that the Applicant's proposals appropriately address these concerns and requirements to ensure the safety, reliability and operational efficiency of the SRN is safeguarded as required by national planning and transport policy. However, NH is keen to work with the Applicant to resolve the concerns raised within this Relevant Representation.

Yours sincerely,



Kevin Bown
Spatial Planner
Spatial Planning Team
South East Region Operations

A DETAILED NATIONAL HIGHWAYS RESPONSE TO
RAMPION EXTENSION DEVELOPMENT LIMITED (RED)
FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR
THE RAMPION 2 OFFSHORE WINDFARM PROJECT

3 NOVEMBER 2023

SUMMARY

National Highways ('NH') have particular concerns and requirements in the vicinity of the A27 between Arundel and Worthing;

- a) The route is proposed to pass under the A27 in the area known as Hammerpot, east of Arundel Sussex which has safety and operational implications for the SRN.
- b) NH reserves its position with regard to the impact of drainage of the SRN where the route passes under the A27 at Hammerpot.
- c) Traffic attracted to, generated by or routed or rerouted as a result of the proposals has potential implications for the SRN.
- d) The construction, operation or maintenance of a site (construction/ compound/ permanent) associated with the project adjacent to or in close proximity to the SRN has implications for the SRN;
- e) There is a need to safeguard NH interests as the Strategic Highway Authority with regards to compulsory acquisition proposals or proposals concerning the acquisition of other rights.
- f) There is a need to safeguard NH interests as the Strategic Highway Authority in the DCO including the imposition of Protective Provisions, Requirements or other appropriate and/or relevant legal agreements.

We have also made comments, where relevant at this time, on other application documents submitted.

a) **Matters related to the proposed cable route under the A27 at Hammerpot**

NH are concerned to ensure that the A27 ahead of, during and after any construction and throughout the lifetime of the project, or after it becomes redundant, remains at all times a safe, reliable part of the SRN in accordance with section 10 of the Highways Act 1980, the National Planning Policy Framework (2023) and DfT C1/22.

To achieve these requirements, NH needs to receive, assess and agree a number of details, including (but not limited to)

- **Technical specification** for all works in the vicinity of (adjacent to/ under/over) the A27 and any other NH assets. The specification must comply with the Design Manual for Roads and Bridges ('DMRB') and would also need to cover consequential aspects of the construction, such as any necessary Traffic Management and impacts on flow rates/ routing etc on the wider SRN (noting that West Sussex County Highways may also have concerns and requirements with regards any consequential effect on the local highway network),

It is considered that while the original Rampion scheme successfully accomplished a pass under the A27 further east in 2018, there have been changes to regulatory requirements, technology or other factors which mean there is no guarantee that the proposed location is suitable, viable and deliverable. It may also be the case that more localised factors such as ground conditions, drainage, utilities or other assets or other environmental or other considerations could also mean that the current route cannot be delivered.

- **Legal framework** under appropriate legislation including the Planning Act 2008 and Highways Act 1980 and covering all works in the vicinity of (adjacent to/ on/ under/ over) the A27 and any other NH assets including NH standard protective provisions to sit on the face of the DCO, requirements, side agreements where project specific protective provisions are required by the Applicant, indemnities and other relevant legal agreements where considered necessary.
- **Any necessary current or future financial considerations** covering all works in the vicinity of (adjacent to/ on/ under /over) the A27 and any other NH assets. This could include any necessary fees or payments to cover NH costs to process applications, progress any necessary legal agreements or to cover any necessary future monitoring, maintenance or other costs related to the presence of and implications of the cable or other equipment or sundry paraphernalia on the A27 or other NH assets.
- **Any necessary future maintenance, repair, renewal, redundancy or removal provisions** covering all works in the vicinity of (adjacent to/ on/ under/ over) the A27 and any other NH assets. NH needs to fully understand the future physical or other implications of the cable route. For example, the degree to which the presence, maintenance, repair, renewal, redundancy or removal of the cable or other related, equipment or sundry paraphernalia may fetter NH ability to maintain

and operate the SRN *per se* and this section of the A27 in particular. This will require detailed documentation setting out all the implications and any consequential financial, legal or provisions.

NH considers that this is a major and significant outstanding matter, comprising a variety of interwoven work strands, needing to be resolved ahead of any decision on the DCO. NH is keen to engage with the Applicant to agree the scope of necessary submissions in order to receive and assess the Applicant's submissions through the appropriate processes.

b) NH reserves its position with regard to the impact of drainage of the SRN where the route passes under the A27 at Hammerpot

The Applicant has not made clear to NH the potential impact on drainage of the SRN where the route passes under the A27 at Hammerpot and whether there is an increased risk of flooding of the SRN or neighbouring highway land (including verges) which may place a risk on users of the SRN.

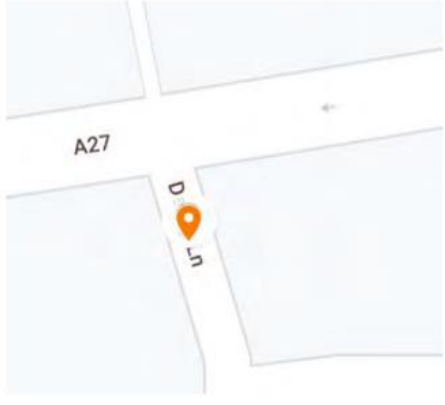

c) Traffic attracted to, generated by or routed or rerouted as a result of the proposals and the potential implications for the SRN

National Highways have engaged in and commented on the Transport Assessment ('TA') throughout the pre-submission process. While NH do not necessarily agree with all aspects of the TA, NH is content that even if it were to be amended, it would not show a materially different impact on the SRN *per se* (acknowledging other parties may have different views, for example with regards the local road network). At the SRN level, NH is content that the quantum of traffic generated during the construction, operation and any decommissioning of Rampion 2 would not exceed the thresholds set out in NPPF(2023) or C/122 that would warrant an objection on grounds of congestion or safety.

However, at the individual SRN junction level, in the absence of detailed evidence on the type, numbers, timing and management of vehicles (including abnormal loads or other loads with particular needs or characteristics eg cable drum vehicles), NH continue to have outstanding safety concerns.

For example, submission document 7.6 Outline Construction Management Plan proposes to utilise Decoy Lane accessed directly from the A27.

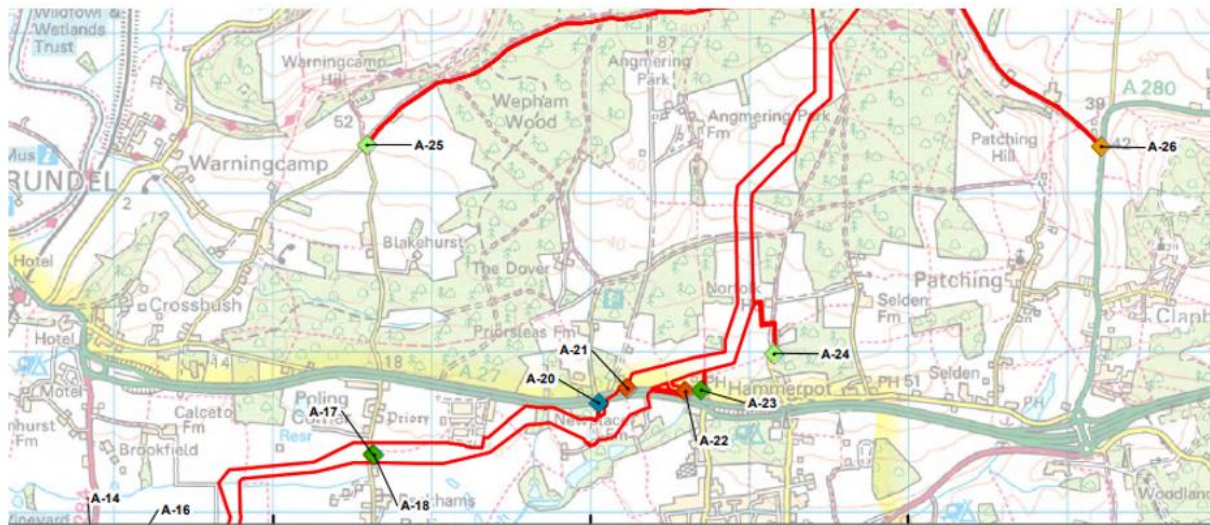
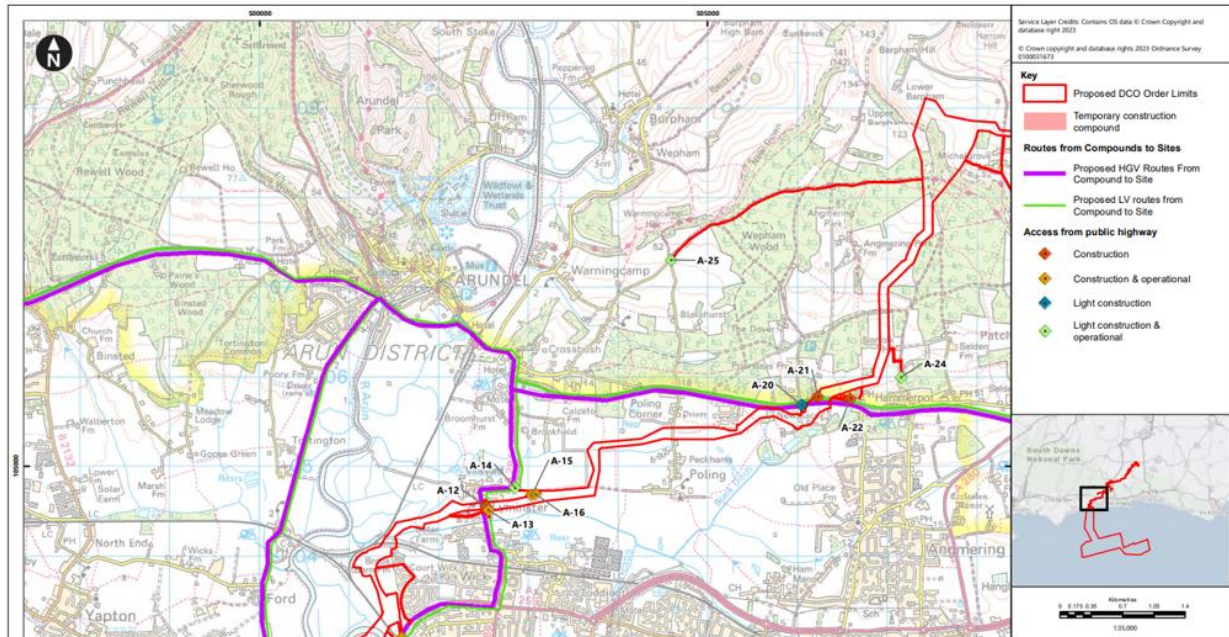
<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010117/EN010117-000198-7.6%20Rampion%202%20Outline%20Construction%20Traffic%20Management%20Plan.pdf>

Location Plan	Location Photograph
	
<p>Type of Access – Light construction</p> <p>Road Accessed – A27</p> <p>Width of Access Road – 3m</p> <p>Width of Main Carriageway – 29m</p>	

NH has concerns with regards whether this junction can be utilised while maintaining the safety and reliability of the A27. For example, Decoy Lane is narrow and may not be able to accommodate passing vehicles. This means vehicles may block back (possibly unexpectedly) onto the A27 creating safety concerns and risks. If Decoy Lane cannot be demonstrated to be a safe means of access to the nearby compound and works areas covering quite a long length of the route, then this may have wider implications for the route and its delivery. Hence why NH consider it necessary to resolve this matter prior to the DCO decision rather than at a later date.

In addition, given the outstanding details in connection with the viability of a number of sites/compounds etc accessed via the local road network (for example due to uncertainty on the deliverability of accesses that comply with standards and safeguard environmental designations and considerations), NH remains uncertain of the routing and hence SRN implications of other proposed elements of the scheme.

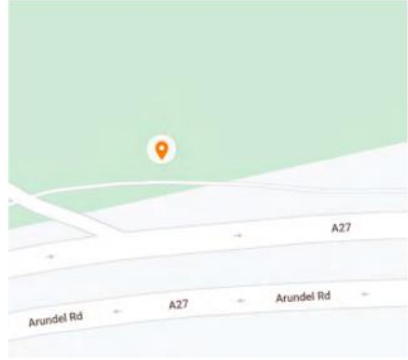


For example, other mapping from the Outline CTMP indicates potential reliance on the A27 Poling Crossroads to access various compounds. Again, given the current configuration of the junction and the narrow local road network, NH would wish to understand greater details of type, numbers, timing and management of vehicles to individual work locations and cumulatively. Without this detail it is not clear whether the proposals can be delivered without unacceptably affecting the safety of the SRN. It will also be noted that the two mapping extracts do not appear to show consistent locations for compounds/ works areas (A17-A18 south of Poling junction appears on one but not the other)



d) **The construction, operation or maintenance of a site (construction/ compound/ permanent) associated with the project adjacent to or in close proximity to the SRN and the implications for the SRN**

NH notes from the Outline CTMP (see map above) that various compounds/ work sites will be located immediately adjacent to the SRN.

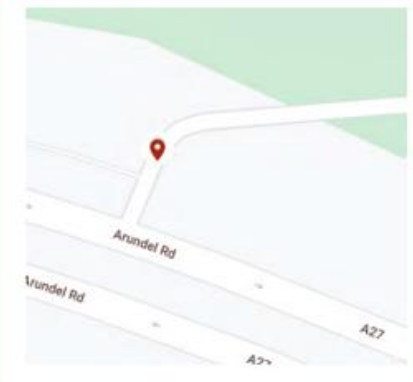

Some, for example, Access 21 (see extract from OCTMP below) will require works to the SRN. In the absence of further details, it is not known whether the enabling works will be possible and hence whether this site can be used as part of the project.

Access 21 Grid Reference: 50.84179, -0.49237	
Location Plan	Location Photograph
	
Type of Access – Construction Road Accessed – A27 Width of Access Road – N/A Width of Main Carriageway – 29m	
Accommodation Works	Road at site location
New temporary construction bellmouth required	
Access Visibility Requirements To be provided as per the draft Development Consent Order (DCO) (Document Reference: 3.1) requirement.	

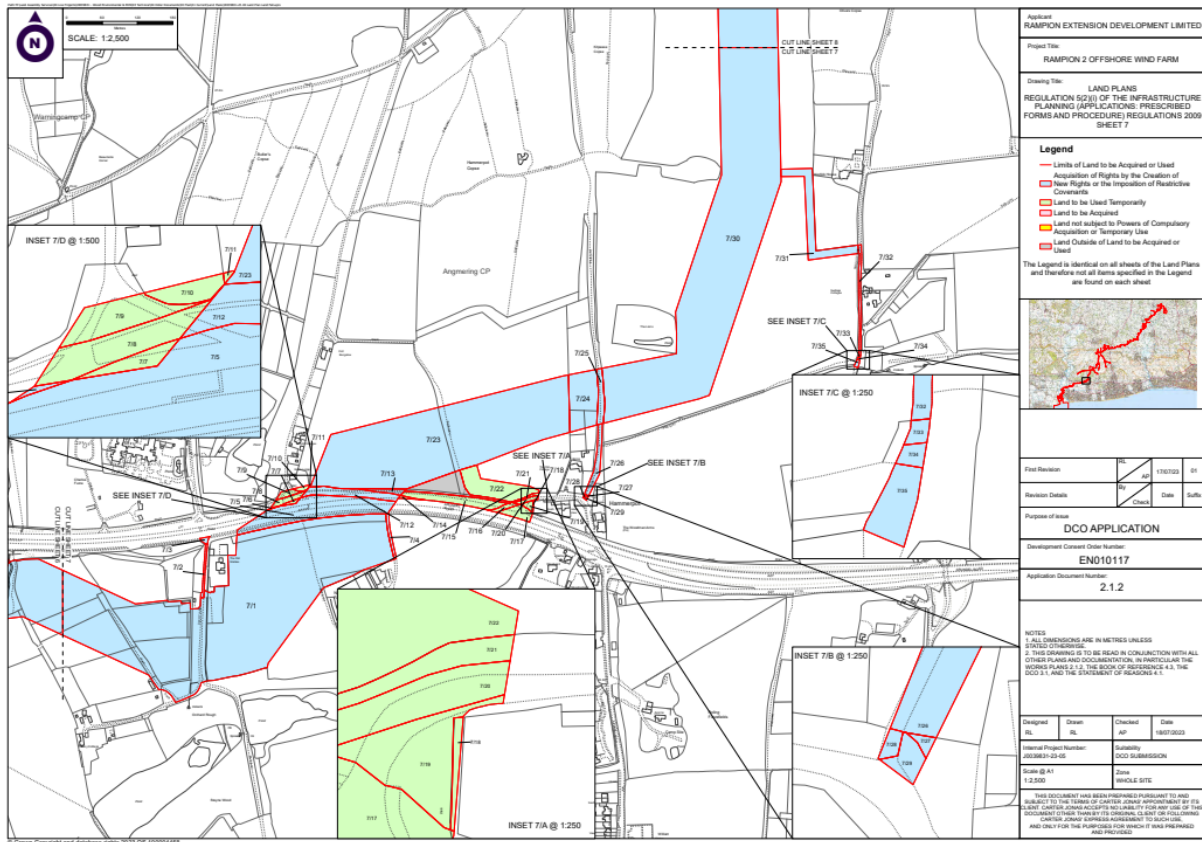
Some, for example, Access 22 (see mapping extracts below) suggest it does not need any enabling works on the SRN, yet the project plans show part of the SRN being within the DCO red line boundary (for example see extract from Lands Plans below).

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010117/EN010117-000168-2.1.2%20Rampion%20%20Land%20Plans%20Onshore.pdf>)

Therefore, NH is unclear as to the meaning and intention of either inclusions or exclusions of parts of the SRN within the redline. Without the necessary clarifications it is unclear on whether the details can be agreed, including any Protective Provisions, legal or technical agreements etc. It could be that these prove not possible and hence the location of works sites or the cable route could come into doubt.

Access 22 Grid Reference: 50.84143, -0.48742	
Location Plan	Location Photograph
	
<p>Type of Access – Construction Road Accessed – A27 Width of Access Road – 6m Width of Main Carriageway – 29m</p>	

Accommodation Works	Road at site location
<p>No accommodation works required – existing access</p>	
<p>Access Visibility Requirements To be provided as per the draft Development Consent Order (DCO) (Document Reference: 3.1) requirement.</p>	



e) The need to safeguard NH interests with regards to compulsory acquisition proposals or proposals concerning the acquisition of other rights.

Part of the SRN is included in the DCO red line boundary. The implications of this are unclear and need to be clarified and as appropriate included in any Protected Provisions, agreements etc.

f) The need to safeguard NH interests as the Strategic Highway Authority via the DCO, Protective Provisions, Requirements or other appropriate or relevant legal agreements.

Required to cover all works in the vicinity of (adjacent to/ under/over) the A27 and any other NH assets including NH land through NH standard protective provisions to sit on the face of the DCO, requirements, side agreements where project specific protective provisions are required by the Applicant, indemnities and other relevant legal agreements where considered necessary.

NATIONAL HIGHWAYS PROTECTIVE PROVISIONS

National Highways is concerned that its interests are not adequately protected in respect of the proposal for the route to pass under the A27 in the area known as Hammerpot, east of Arundel Sussex which has safety and operational

implications for the SRN. There will be traffic attracted to, generated by or routed or rerouted as a result of the proposals has potential implications for the SRN. The construction, operation or maintenance of a site (construction/compound/ permanent) associated with the project adjacent to or in close proximity to the SRN has implications for the SRN;

National Highways will require their protective provisions to be included if there is to be any disapplication of any permits/ licences/ consents. It is normal practice for a set of “protective provisions” to be agreed as part of – or in advance of - the consenting process to ensure that the SRN is protected from a safety and operational efficiency perspective, users of the SRN are kept safe, and to safeguard the commercial interests of National Highways, as the government company responsible for its maintenance and operation.

The Protective Provisions should address a range of matters, including;

- The requirements for agreeing the detailed design
- Prior approvals required and security, including those relating to safety
- The processes required before access to the SRN can be permitted to construct the mitigation works
- Construction
- Payments, including for design checking and approval, supervision and administrative support
- Certification and approvals to enable the site(s) to reopen to traffic
- A commuted lump sum for maintenance
- What (if any) land/rights are required from National Highways;
- What works (if any) are proposed to be carried out to the SRN;
- What construction method is being carried out to complete the works which interface with the SRN (for example, horizontal directional drilling or open cut trench);
- Are there any site-specific considerations (for example, geotechnical sensitivities);
- Is the proposed project likely to impact on a National Highways major projects scheme and if so, are there construction timetabling or operational conflicts to resolve;
- What are the traffic and transport impacts that NH object to;
- Will the works require a Temporary Traffic Regulation Order (TTRO);
- If the road in question is subject to a Design Build Finance and Operator (DBFO) contract and does NH need the DBFO contractor to have specific rights in the protective provisions;

It is noted that the Book of Reference includes acquisition of rights and temporary possession of a number of plots of highway land that are under National Highways freehold. NH reserves their rights in respect of the plots of land in its ownership. The proposals will need to be ratified by legal advisers as part of agreeing the

Protective Provisions.

NH submitted a draft Protective Provisions document to the Applicant and NH understands the draft Protective Provisions have been passed to the Applicant's legal advisors for consideration and discussion with NH.

Agreement to a standard Protective Provisions is essential to enable National Highways to discharge its duties under the Infrastructure Act (2015) on behalf of the Secretary of State for Transport. It is therefore requested that these Protective Provisions attached at Annex B are incorporated into the finalised DCO to afford National Highways with sufficient protection in respect of the safe operation of the SRN and its commercial position.

Comments on other Documents Submitted:

We have reviewed the main submission documents that may contain information or proposals relevant to the SRN or other NH assets. Our comments on them are as follows:

1) APP-064 6.2.23 Environmental Statement - Volume 2 Chapter 23 Transport (plus AAP107-APP110 comprising appendices thereto)

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010117/EN010117-000324-6.2.23%20Rampion%20%20ES%20Volume%20%20Chapter%2023%20Transport.pdf>

We note the document. Our advice to the applicant throughout has been that the ES Transport Chapter should ensure that it appropriately chimes with the Transport Assessment. However, it is for those statutory consultees with specific remits regarding Environmental Statements (for example, the Environment Agency and Natural England) to comment on whether the ES Transport Chapter has met the ES transport related requirements (for example, with regards to air quality, noise, other forms of pollution, climate change etc) and then to consider whether in doing so it means it has appropriately chimed with the Transport Assessment.

2) APP-173 6.4.19.1 Environmental Statement - Volume 4 Appendix 19.1 Full results of construction road traffic modelling

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010117/EN010117-000234-6.4.19.1%20Rampion%20%20ES%20Volume%204%20Appendix%2019.1%20Full%20results%20of%20construction%20road%20traffic%20modelling.pdf>

APP-174 6.4.19.2 Environmental Statement - Volume 4 Appendix 19.2 Full results of construction plant modelling

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010117/EN010117-000235-6.4.19.2%20Rampion%202%20ES%20Volume%204%20Appendix%2019.2%20Full%20results%20of%20construction%20plant%20modelling.pdf>

We have no comments as such on these documents. Elsewhere we have stated that while we have commented on the Transport Assessment per se, including, modelling methodology, outputs, interpretation etc, overall, we are content that even if it had been done differently, it would have resulted in similar overall levels of traffic and general impacts on the SRN.

However, as stated elsewhere, we have particular concerns and requirements with regards to identified SRN junctions or site accesses, that the applicant will need to provide sufficient details for to enable NH to confirm that the proposals will not have an adverse impact on the safety, reliability and/or operational efficiency of the SRN.

3) APP-196 6.4.23.1 Environmental Statement - Volume 4 Appendix 23.1 Abnormal Indivisible Loads assessment

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010117/EN010117-000419-Rampion%202%20Exam%20Library.pdf>

We have no comments as such on this high-level document.

However, as indicated elsewhere in these RRs, we have concerns regarding the potential safety or operation impacts of the use by the applicant of particular SRN junctions or proposed work/ compound sites directly off the SRN. Therefore, we require (as set out elsewhere) the Applicant to provide more details with regards the need for, use/ frequency/ timing of, and management of abnormal loads in connection with various SRN junctions or proposed work/ compound sites.

4) APP-197 6.4.23.2 Environmental Statement - Volume 4 Appendix 23.2 Traffic Generation Technical Note

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010117/EN010117-000258-6.4.23.2%20Rampion%202%20ES%20Volume%204%20Appendix%2023.2%20Traffic%20Generation%20Technical%20Note.pdf>

We note that the document does not include text referring to or demonstrating compliance with DfT C1/22.

However, as stated elsewhere, given the nature of the project with most transport

implications arising from the construction and/or decommissioning stages, and given the outline and later required detailed Travel Plans, we are content that the project should be able to, in practice, comply with C1/22 in terms of encouraging active and sustainable travel.

With regards other matters covered in the document, as stated elsewhere, our concerns and requirements relate to the specifics of a few SRN junction and access points rather than the overall and generalized traffic impacts, that we require the applicant to address into order to demonstrate their compliance with national transport policy.

5) APP-224 7.2 Outline Code of Construction Practice

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010117/EN010117-000194-7.2%20Rampion%20%20Outline%20Code%20of%20Construction%20Practice.pdf>

We have no comments as such on this high-level document.

However, as indicated elsewhere in the RRs, we have concerns and requirements regarding the potential safety or operation impacts of the use by the applicant of particular SRN junctions or proposed work/ compound sites directly off the SRN.

We also have particular concerns with regards the proposed works in the vicinity of (near to/ under/ on /over) A27 at Hammerpot.

It would appear most likely that our general concerns and requirements will need to be addressed via either additional detail in or an addendum to the Outline Construction Traffic Management Plan, while the Hammerpot detail will need to be addressed via either additional detail in or an addendum to the Outline Code of Construction Practice.

6) APP-228 7.6 Outline Construction Traffic Management Plan

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010117/EN010117-000198-7.6%20Rampion%20%20Outline%20Construction%20Traffic%20Management%20Plan.pdf>

We have no comments as such on this high-level document.

However, as indicated elsewhere in the RRs, we have concerns and requirements regarding the potential safety or operation impacts of the use by the applicant of particular SRN junctions or proposed work/ compound sites directly off the SRN.

It would appear most likely that our concerns and requirements will need to be addressed via either additional detail in or an addendum to the Outline Construction Traffic Management Plan.

7) APP-229 7.7 Outline Construction Workforce Travel Plan

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010117/EN010117-000199-7.7%20Rampion%20%20Outline%20Construction%20Workforce%20Travel%20Plan.pdf>

We have no comments as such on this high-level document.

However, as indicated elsewhere in the RRs, we have concerns and requirements regarding the potential safety or operation impacts of the use by the applicant of particular SRN junctions or proposed work/ compound sites directly off the SRN.

It would appear most likely that our concerns and requirements will need to be addressed via either additional detail in or an addendum to the Outline Construction Traffic Management Plan.

COPY OF NATIONAL HIGHWAYS
STANDARD PROTECTIVE PROVISIONS
COPY PROVIDED TO APPLICANT BY EMAIL DATED 3 AUGUST 2023

NATIONAL HIGHWAYS STANDARD PROTECTIVE PROVISIONS

1

PART []
FOR THE PROTECTION OF NATIONAL HIGHWAYS LIMITED

Application etc.,

1.—(1) The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways. (2) Except where expressly amended by the Order the operation of the powers and duties of National Highways or the Secretary of State under the 1980 Act, the 1984 Act, the 1991 Act, the Transport Act 2000, or Town and Country Planning (General Permitted Development) (England) Order 2015 which shall continue to apply in respect of the exercise of all National Highways’ statutory functions.

Interpretation

2.—(1) Where the terms defined in article 2 (*interpretation*) of this Order are inconsistent with subparagraph (2) the latter prevail. (2) In this Part of this Schedule— (a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document; (b) list of suppliers and materials used, as well as any relevant test results and CCTV surveys (if required to comply with DMRB standards); (c) product data sheets and technical specifications for all materials used; (d) as constructed information for any utilities discovered or moved during the works; (e) method statements for the works carried out; (f) in relation to road lighting, signs, and traffic signals any information required by Series 1300 and 1400 of the Specification for Highway Works or any replacement or modification of it; (g) organisation and methods manuals for all products used; (h) as constructed programme; (i) test results and records as required by the detailed design information and during construction phase of the project; (j) a stage 3 road safety audit subject to any exceptions to the road safety audit standard as agreed by the undertaker and National Highways; (k) the health and safety file; and (l) such other information as is required by National Highways to be used to update all relevant databases and to ensure compliance with National Highway’s *Asset Data Management Manual* as is in operation at the relevant time.

“as built information” means one electronic copy of the following information—



“the bond sum” means the sum equal to 200% of the cost of the carrying out the specified works (to include all costs plus any commuted sum) or such other sum agreed between the undertaker and National Highways;
“the cash surety” means the sum agreed between the undertaker and National Highways;
“commuted sum” means such sum calculated as provided for in paragraph 16 of this Part of this Schedule to be used to fund the future cost of maintaining the specified works; 2



“condition survey” means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the specified works;

“contractor” means any contractor or subcontractor appointed by the undertaker to carry out the specified works;

“defects period” means the period from the date of the provisional certificate to the date of the final certificate which shall be no less than 12 months from the date of the provisional certificate;

“detailed design information” means such of the following drawings specifications and calculations as are relevant to the development—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) road restraints systems and supporting road restraint risk appraisal process assessment;
- (d) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways
- (e) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;
- (f) pavement, pavement foundations, kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) traffic signal equipment and associated signal phasing and timing detail;
- (i) road lighting (including columns and brackets);
- (j) regime of California Bearing Ratio testing;
- (k) electrical work for road lighting, traffic signs and signals;
- (l) motorway communications as required by DMRB; (m) highway structures and any required structural approval in principle;
- (n) landscaping;
- (o) proposed departures from DMRB standards;
- (p) walking, cycling and horse riding assessment and review report;
- (q) stage 1 and stage 2 road safety audits and exceptions agreed;
- (r) utilities diversions;
- (s) topographical survey;
- (t) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it;
- (u) health and safety information including any asbestos survey required by GG105 or any successor document; and
- (v) other such information that may be required by National Highways to be used to inform the detailed design of the specified works;

“DBFO contract” means the contract between National Highways and the highway operations and maintenance contractor for the maintenance and operation of parts of the strategic road network which are within the Order Limits or any successor or replacement contract that may be current at the relevant time;

“DMRB” means the Design Manual for Roads and Bridges or any replacement or modification of it;

“final certificate” means the certificate relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways pursuant to paragraph 14;

“the health and safety file” means the file or other permanent record containing the relevant health and safety information for the authorised development required by the Construction 3

Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

“highway operations and maintenance contractor” means the contractor appointed by National Highways under the DBFO contract;

“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

“programme of works” means a document setting out the sequence and timetabling of the specified works;

“provisional certificate” means the certificate of provisional completion relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways in accordance with paragraph 7 when it considers the specified works are substantially complete and may be opened for traffic;

“road safety audit” means an audit carried out in accordance with the road safety audit standard;

“road safety audit standard” means DMRB Standard HD GG119 or any replacement or modification of it;

“road space booking” means road space bookings in accordance with National Highways’ Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy;

“Specification for Highways Works” means the specification for highways works forming part of the manual of contract documents for highway works published by National Highways and setting out the requirements and approvals procedures for work, goods or materials used in the construction, improvement or maintenance of the strategic road network;

“specified works” means so much of any work, including highway works and signalisation, authorised by this Order including any maintenance of that work, as is undertaken on, in, under or over the strategic road network for which National Highways is the highway authority;

“strategic road network” means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway;

“utilities” means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991; and

“winter maintenance” means maintenance of the road surface to deal with snow and ice.

General

3.In respect of any part of the strategic road network that is managed under a DBFO contract both National Highways and the highway operations and maintenance contractor shall have the benefit of this Part of Schedule [] but for the purposes of any approvals required under this Part of Schedule [] the undertaker shall liaise directly with National Highways.

4.Notwithstanding the limits of deviation permitted pursuant to article [] of this Order, no works in carrying out, maintaining or diverting the authorised development may be carried out under the strategic road network at a distance within 4 metres of the lowest point of the ground.

5.References to any standards, manuals, contracts, regulations and directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

Works outside the Order limits

6.—If the undertaker proposes to carry out works to the strategic road network that are outside of the Order Limits in connection with the authorised development, the undertaker must enter into an agreement with National Highways in respect of the carrying out of those works prior to the commencement of those works.

Prior approvals and security

- 7.—(1) The specified works must not commence until— (a) a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways; (b) the programme of works has been approved by National Highways;
- (c) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—
 - (i) the detailed design information, incorporating all recommendations and any exceptions approved by National Highways under sub-paragraph (a)
 - (ii) details of the proposed road space bookings;
 - (iii) the identity and suitability of the contractor and nominated persons;
 - (iv) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;
 - (v) information demonstrating that the walking, cycling and horse riding assessment and review process undertaken by the undertaker in relation to the specified works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding; and
 -
 - (d) a scheme of traffic management has been submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;
 - (e) stakeholder liaison has taken place in accordance with the process for such liaison agreed between the undertaker and National Highways under sub-paragraph (c)(v) above;
 - (f) National Highways has approved the audit brief and CVs for all road safety audits and exceptions to items raised in accordance with the road safety audit standard;
 - (g) the undertaker has agreed the estimate of the commuted sum with National Highways;
 - (h) the scope of all maintenance operations (routine inspections, incident management, reactive and third party damage) to be carried out by the undertaker during the construction of the specified works (which must include winter maintenance) has been agreed in writing by National Highways;
 - (i) the undertaker has procured to National Highways collateral warranties in a form approved by National Highways from the contractor and designer of the specified works in favour of National Highways to include covenants requiring the contractor and designer to exercise all reasonable skill care and diligence in designing and constructing the specified works, including in the selection of materials, goods, equipment and plant; and
 - (j) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways considers will be affected by the specified works, has been agreed in writing by National Highways.
- (2) The undertaker must not exercise— (a) article [] (*maintenance of authorised development*); (b) article [] (*street works*); (c) article [] (*permanent stopping up of streets, rights of way and rights of access*);

- (d) article [] (*temporary stopping up of streets, rights of way and rights of access*);
- (e) article [] (*traffic regulation*);
- (f) article [] (*discharge of water*);
- (g) article [] (*protective works to buildings*);
- (h) article [] (*authority to survey and investigate the land*);
- (i) article [] (*compulsory acquisition of land*);
- (j) article [] (*compulsory acquisition of rights*);
- (k) article [] (*temporary use of land for carrying out the authorised development*);
- (l) article [] (*temporary use of land for maintaining the authorised development*); or
- (m) article [] (*felling or lopping trees*) of this Order,

(3) National Highways must prior to the commencement of the specified works or the exercise of any power referenced in sub-paragraph (2) inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraph (1) or (2).

(4) Any approval of National Highways required under this paragraph- (a) must not be unreasonably withheld;

(b) must be given in writing;

(c) shall be deemed to have been refused if neither given nor refused within 2 months of the receipt of the information for approval or, where further particulars are requested by National Highways within 2 months of receipt of the information to which the request for further particulars relates; and

(d) may be subject to any conditions as National Highways considers necessary.

(5) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways immediately and details of their suitability to deliver the specified works will be provided on request along with collateral warranties in a form agreed by National Highways.

(6) Any change to the detailed design of the specified works must be approved by National Highways in accordance with paragraph 7(1) of this Part.

over any part of the strategic road network without the consent of National Highways, and National Highways may in connection with any such exercise require the undertaker to provide details of any proposed road space bookings and/or submit a scheme of traffic management for National Highways' approval.

Construction of the specified works

8.—(1) The undertaker must give National Highways 28 days' notice in writing of the date on which the specified works will start unless otherwise agreed by National Highways. (a) the relevant detailed design information and programme of works approved pursuant to paragraph 7(1) above or as subsequently varied by agreement between the undertaker and National Highways;

(b) the DMRB, the Manual of Contract Documents for Highway Works, including the Specification for Highway Works, together with all other relevant standards as required by National Highways to include, inter alia; all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016 save to the extent

(2) The undertaker must comply with National Highways' road space booking procedures prior to and during the carrying out the specified works and no specified works for which a road space booking is required shall commence without a road space booking having first been secured from National Highways.

(3) The specified works must be carried out by the undertaker to the satisfaction of National Highways in accordance with— 6

that exceptions from those standards apply which have been approved by National Highways; and
(c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same and in particular the undertaker, as client, must ensure that all client duties (as defined in the said regulations) are undertaken to the satisfaction of National Highways.

(a) other than in accordance with the requirements of this Part of this Schedule; or
(b) in a way that causes damage to the highway, highway structure or asset or any other land of National Highways,

(4) The undertaker must ensure that (where possible) without entering the highway the highway is kept free from mud, soil and litter as a result of carrying out a Specified Work.

(5) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(6) If any part of the specified works is constructed-

National Highways may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the satisfaction of National Highways.

(7) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(8) If within 28 days on which a notice under sub-paragraph (6) or sub-paragraph (7) is served on the undertaker (or in the event of there being, in the opinion of National Highways, a danger to road users, within such lesser period as National Highways may stipulate), the undertaker has failed to take the steps required by that notice, National Highways may carry out the steps required of the undertaker and may recover any expenditure incurred by National Highways in so doing, such sum to be payable within 30 days of demand.

(9) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing.

(10) In constructing the specified works, the undertaker must at its own expense divert or protect all utilities and all agreed alterations and reinstatement of highway over existing utilities must be constructed to the satisfaction of National Highways.

(11) During the construction of the specified works the undertaker must carry out all maintenance (including winter maintenance) in accordance with the scope of maintenance operations agreed by National Highways pursuant to paragraph 7(1)(h) and the undertaker must carry out such maintenance at its own cost.

(12) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme pursuant to paragraph 7(1)(b) of this Part or suspends the carrying out of any specified work beyond a reasonable period of time and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.

Payments

9.—(1) The undertaker must pay to National Highways a sum equal to the whole of any costs and expenses which National Highways incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified

works and in relation to any approvals sought under this Order, or otherwise incurred under this Part, including— (a) the checking and approval of the information required under paragraph 7(1);

(b) the supervision of the specified works;

(c) the checking and approval of the information required to determine approvals under this Order;

(d) all costs in relation to the transfer of any land required for the specified works; and

(e) all legal and administrative costs and disbursements incurred by National Highways in connection with the Order and sub-paragraphs (a)-(d); and

(f) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs,

(2) The undertaker must pay to National Highways upon demand and prior to such costs being incurred the total costs that National Highways believe will be properly and necessarily incurred by National Highways in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the authorised development.

(3) National Highways must provide the undertaker with a schedule showing its estimate of the NH costs prior to the commencement of the specified works and the undertaker must pay to National Highways the estimate of the NH costs prior to commencing the specified works and in any event prior to National Highways incurring any cost.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, National Highways reasonably believes that the NH costs will exceed the estimated NH costs it may give notice to the undertaker of the amount that it believes the NH costs will exceed the estimate of the NH costs (the excess) and the undertaker must pay to National Highways within 28 days of the date of the notice a sum equal to the excess.

(5) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above within 91 days of the issue of the provisional certificate issued pursuant to paragraph 10(4).

(6) Within 28 days of the issue of the final account: (a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it;

(b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(7) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 3% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

together comprising “the NH costs”.

Provisional Certificate

10.—(1) Following any closure or partial closure of any of the strategic road network for the purposes of carrying out the specified works, National Highways will carry out a site inspection to satisfy itself that the strategic road network is, in its opinion, safe for traffic and the undertaker must comply with any requirements of National Highways prior to reopening the strategic road network.

(2) As soon as the undertaker considers that the provisional certificate may be properly issued it must apply to National Highways for the provisional certificate.

(3) Following an application for a provisional certificate, National Highways must as soon as reasonably practicable: 8

- (a) inspect the specified works; and
- (b) provide the undertaker with a written list of works that are required for the provisional certificate to be issued or confirmation that no further works are required for this purpose. (c) the as built information has been provided to National Highways; and
- (d) the undertaker has paid the commuted sum to National Highways,

(4) When—

- (a) a stage 3 road safety audit for the specified works has been carried out and all recommendations raised including remedial works have (subject to any exceptions agreed) been approved by National Highways;
- (b) the specified works incorporating the approved remedial works under sub-paragraph (4)(a) and any further works notified to the undertaker pursuant to sub-paragraph 10(3)(b) have been completed to the satisfaction of National Highways;

National Highways must issue the provisional certificate.

(5) On the issue of the provisional certificate the bond sum shall be reduced to 20% of the total bond sum save insofar as any claim or claims have been made against the bond before that date in which case National Highways will retain a sufficient sum to ensure it does not have to meet any costs for or arising from the specified works.

(6) The undertaker must submit a stage 4 road safety audits as required by and in line with the timescales stipulated in the road safety audit standard. The undertaker must comply with the findings of the stage 4 road safety audit and must pay all costs of and incidental to such and provide updated as-built information to National Highways.

Opening

11. The undertaker must notify National Highways not less than 56 days in advance of the intended date of opening to the public of the strategic road network and the undertaker must notify National Highways of the actual date the strategic road network will be opened to the public within 14 days of that date.

Final condition survey

12.—(1) The undertaker must, as soon as reasonably practicable after making its application for a provisional certificate pursuant to paragraph 10(2), arrange for the highways structures and assets that were the subject of the condition survey to be re-surveyed and must submit the re-survey to National Highways for its approval. The re-survey will include a renewed geotechnical assessment required by DMRB CD622 if the specified works include any works beneath the strategic road network. (2) If the re-surveys carried out pursuant to paragraph 12(1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways for its approval in writing and the undertaker must carry out the remedial works at its own cost and in accordance with the scheme submitted.

(3) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, National Highways may carry out the steps required of the undertaker and may recover any expenditure it reasonably incurs in so doing.

(4) National Highways may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to paragraph 12(1) give notice in writing that National Highways will remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing.

(5) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

Defects Period

13.—(1) The undertaker must at its own expense remedy any defects in the strategic road network as are reasonably required by National Highways to be remedied during the defects period. All identified defects must be remedied in accordance with the following timescales— (a) in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of National Highways);

(b) in respect of matters which National Highways considers to be serious defects or faults, within 14 days of receiving notification of the same; and

(c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same.

(2) Following the expiry of the defects period National Highways has responsibility for routine maintenance of the strategic road network save for any soft landscaping works which must be established and which must thereafter be maintained for a period of 3 years by and at the expense of the undertaker.

Final Certificate

14.—(1) The undertaker must apply to National Highways for the final certificate no sooner than 12 months from the date of the provisional certificate. (a) inspect the strategic road network; and

(b) provide the undertaker with a written list of any further works required to remedy or make good any defect or damage in the strategic road network or confirmation that no such works are required for this purpose.

(3) The undertaker must carry out such works notified to it pursuant to sub-paragraph 14(2).

(4) When National Highways is satisfied that: (a) any defects or damage arising from defects during the defects period and any defects notified to the undertaker pursuant to sub-paragraph 14(2) and any remedial works required as a result of the stage 4 road safety audit have been made good to the satisfaction of National Highways; and

(b) the NH costs have been paid to National Highways in full;

(5) The undertaker must pay to National Highways within 28 days of demand the costs reasonably incurred by National Highways in identifying the defects and supervising and inspecting the undertaker's work to remedy the defects that it is required to remedy pursuant to these provisions.

(2) Following receipt of the application for the final certificate, National Highways must as soon as reasonably practicable:

National Highways must issue the final certificate after which the bond shall be released in full.

Security

15.—(1) The specified works must not commence until— (a) the undertaker procures that the specified works are secured by a bond from a bondsman first approved by National Highways in the agreed form between the undertaker and National Highways to indemnify National Highways against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of the exercise of the powers under this Order and the specified works under the provisions of this Part of this Schedule provided that the maximum liability of the bond must not exceed the bond sum; and

(b) the undertaker has provided the cash surety which may be utilised by National Highways in the event of the undertaker failing to meet its obligations to make payments under paragraph 9 or to carry out works the need for which arises from a breach of one or more of the obligations of the undertaker under the provisions of this Part of this Schedule.

Commuted sums

16.—(1) National Highways must provide to the undertaker an estimate of the commuted sum, calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 or any successor guidance, prior to the commencement of the specified works.

(2) The undertaker must pay to National Highways the commuted sum prior to the issue of the provisional certificate.

Insurance

17. Prior to the commencement of the specified works the undertaker must effect public liability insurance with an insurer in the minimum sum of £10,000,000.00 (ten million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of specified works or use of the strategic road network by the undertaker.

Indemnity

18.—(1) The undertaker fully indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 14 days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways.

Maintenance of the specified works

19.—(1) The undertaker must, prior to the commencement of any works of maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required shall commence without a road space booking having first been secured.

(3) The undertaker must comply with any requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 7 days' in advance of the planned commencement date of the maintenance works.

(4) The provisions of paragraph 11 shall apply to the opening of any part of the strategic road network following occupation of any road space under this paragraph.

Land

20.—(1) Following the issue of the final certificate pursuant to paragraph 14(4) National Highways may serve notice on the undertaker that it wishes to take a freehold transfer of land within the extent of strategic road network boundary which is not in the ownership of National Highways but has been acquired by the undertaker for the purposes of carrying out the specified works. (a) acquire or use land forming part of; (b) acquire new or existing rights over; or (c) seek to impose or extinguish any restrictive covenants over;

(2) If the undertaker receives notice under sub-paragraph (1) then the undertaker must effect a freehold transfer of the land which is the subject of the notice and complete such transfer as soon as reasonably practicable at no cost to National Highways.

(3) The undertaker must not under the powers of this Order:

any of the strategic road network, or extinguish any existing rights of National Highways in respect of any third party property, except with the consent of National Highways by written request to legalserviceteam@nationalhighways.co.uk

(4) Where any land or interest is proposed to be acquired for the benefit of National Highways, the undertaker must, unless otherwise agreed by National Highways, exercise article [] (*compulsory acquisition of land*) and article [] (*compulsory acquisition of rights and imposition of restrictive covenants*) as applied by articles [] (*application of the 1981 Act*) and article [] (*modification of the 2017 Regulations*) of this Order to directly vest in National Highways any such land or interest.

Expert Determination

21.—(1) Article [] (*arbitration*) of the Order does not apply to this Part of this Schedule. (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 7 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;

(c) issue a decision within 7 days of receipt of the submissions under sub-paragraph (b); and

(d) give reasons for the decision.

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date that an expert is appointed.

(5) The expert must—

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article [] (*arbitration*).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally

Principal Areas of Disagreement Statement: Initial PADS as at 3 November 2023

Table 1 – Outstanding Principal Areas of Disagreement			
Area of Concern	Explanation	Remedy Measures	Likelihood of Resolution
Protective Provisions ('PPs')	Protective Provisions not agreed, include land and maintenance funding issues and ongoing NH costs NH not yet confident it is adequately protected from safety and commercial or other liabilities perspectives	Protective Provisions must be agreed and included in the DCO, including land access, commuted lump sum and funding of NH costs	NH regularly apply their standard PPs and would expect the Applicant to agree to NH standard PPs to stand on the face of the DCO with project specific PPs to be negotiated and dealt with through a side agreement (as occurs with other DCOs)
A27 – Applicant’s proposals to carry out trenchless drilling at Hammerpot	<p>The Applicant proposes to carry out trenchless drilling under and in the vicinity of the A27 at Hammerpot, Sussex in order to carry the cable. To-date NH has not seen or agree the details of how this will be achieved without adversely and unacceptably affecting the safety, reliability and operational efficiency of the SRN.</p> <p>Required details would include (but are not limited to)</p> <ol style="list-style-type: none"> 1) Technical specifications 2) Legal framework 3) Any necessary current or future financial considerations 4) Any necessary future maintenance, repair, replacement or withdrawal provisions 	The Applicant must provide full DMRB compliant plans, methodologies and timings for all works under and close to the A27 for NH approval.	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.
A27 - the impact of drainage on the SRN where the route passes under the A27 at Hammerpot	The Applicant proposes to carry out trenchless drilling under and in the vicinity of the A27 at Hammerpot, Sussex in order to carry the cable. To-date NH has not seen or agreed evidence demonstrating that the works would not have an unacceptable impact on the drainage of the A27.	The Applicant must provide full DMRB compliant plans, methodologies and timings for all works under and close to the	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.

		A27 for NH approval.	
Traffic attracted to, generated by or routed or rerouted as a result of the proposals and the potential implications for the SRN	The applicant proposes to route construction and other related traffic to locations (work sites/ compounds etc) via the SRN. To-date, with regards to named junctions or access points, NH has not seen or agreed evidence demonstrating that the works would not have an unacceptable impact on the safety, reliability and/or operational efficiency of the SRN. Without this detail there may be doubts as to whether the proposed cable route and works can be progressed in compliance with national planning and transport policy.	The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree. The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.
The construction, operation or maintenance of a site (construction/ compound/ permanent) associated with the project adjacent to or in close proximity to the SRN and the implications for the SRN	The applicant proposes to make use of sites and compounds with direct or near direct access from the SRN via the SRN. To-date, with regards to named locations, NH has not seen or agreed evidence demonstrating that the use/ works/ any enabling works would not have an unacceptable impact on the safety, reliability and/or operational efficiency of the SRN. Without this detail there may be doubts as to whether the proposed cable route and works can be progressed in compliance with national planning and transport policy.	The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree. The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.
The need to safeguard NH interests with regards to compulsory acquisition proposals or proposals concerning the acquisition of other rights.	The applicant proposes via the Book of Reference and elsewhere activities, works or consequential provisions that may affect the safety, operation or management of the SRN and/or the roles and responsibilities of National Highways as the Strategic Highway Authority, asset owner and/or statutory consultee. The applicant needs to fully explain the implications of their proposals in these contexts in order to ensure that they comply with national planning and transport policy, the National Highways Operating Licence and do not usurp or unreasonably fetter National Highways.	The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree. The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.
The need to safeguard NH interests as the Strategic Highway Authority via the DCO, Protective Provisions, Requirements or other appropriate or relevant legal agreements	The applicant proposes via the Book of Reference and elsewhere activities, works or consequential provisions that may affect the safety, operation, management of the SRBN and/or the roles and responsibilities of National Highways as the Strategic Highway Authority, asset owner and/or statutory consultee. The applicant needs to fully explain the	The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree.	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.

	implications of their proposals in these contexts in order to ensure that they comply with national planning and transport policy, the National Highways Operating Licence and do not usurp or unreasonably fetter National Highways.	The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.	
APP-064 6.2.23 Environmental Statement - Volume 2 Chapter 23 Transport (plus AAP107-APP110 comprising appendices thereto)	<p>We have no comments as such on this high-level document.</p> <p>However, as explained via our RRs, we have concerns that the Applicant's current submissions do not contain sufficient detail to demonstrate that the proposals will not unacceptably impact on the safety, reliability and or operation of the SRN as required by national planning and transport policy.</p>	<p>The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree.</p> <p>The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.</p>	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.
APP-173 6.4.19.1 Environmental Statement - Volume 4 Appendix 19.1 Full results of construction road traffic modelling	<p>We have no comments as such on this high-level document.</p> <p>However, as explained via our RRs, we have concerns that the Applicant's current submissions do not contain sufficient detail to demonstrate that the proposals will not unacceptably impact on the safety, reliability and or operation of the SRN as required by national planning and transport policy.</p>	<p>The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree.</p> <p>The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.</p>	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.
APP-174 6.4.19.2 Environmental Statement - Volume 4 Appendix 19.2 Full results of construction plant modelling	<p>We have no comments as such on this high-level document.</p> <p>However, as explained via our RRs, we have concerns that the Applicant's current submissions do not contain sufficient detail to demonstrate that the proposals will not unacceptably impact on the safety, reliability and or operation of the SRN as required by national planning and transport policy.</p>	<p>The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree.</p> <p>The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.</p>	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.
APP-196 6.4.23.1 Environmental Statement - Volume 4 Appendix	We have no comments as such on this high-level document.	The Applicant will need to work with National	We see no reason why the outstanding concerns and

23.1 Abnormal Indivisible Loads assessment	However, as explained via our RRs, we have concerns that the Applicant's current submissions do not contain sufficient detail to demonstrate that the proposals will not unacceptably impact on the safety, reliability and or operation of the SRN as required by national planning and transport policy.	Highways to submit the required evidence for us to assess and agree. The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.	requirements cannot be resolved via the Applicant providing the required evidence and details.
APP-197 6.4.23.2 Environmental Statement - Volume 4 Appendix 23.2 Traffic Generation Technical Note	We have no comments as such on this high-level document. However, as explained via our RRs, we have concerns that the Applicant's current submissions do not contain sufficient detail to demonstrate that the proposals will not unacceptably impact on the safety, reliability and or operation of the SRN as required by national planning and transport policy.	The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree. The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.
APP-224 7.2 Outline Code of Construction Practice	We have no comments as such on this high-level document. However, as explained via our RRs, we have concerns that the Applicant's current submissions do not contain sufficient detail to demonstrate that the proposals will not unacceptably impact on the safety, reliability and or operation of the SRN as required by national planning and transport policy.	The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree. The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.
APP-228 7.6 Outline Construction Traffic Management Plan	We have no comments as such on this high-level document. However, as explained via our RRs, we have concerns that the Applicant's current submissions do not contain sufficient detail to demonstrate that the proposals will not unacceptably impact on the safety, reliability and or operation of the SRN as required by national planning and transport policy.	The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree. The applicant will need to update their DCO submissions and	We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.

		evidence accordingly for the ExA to consider.	
APP-229 7.7 Outline Construction Workforce Travel Plan	<p>We have no comments as such on this high-level document.</p> <p>However, as explained via our RRs, we have concerns that the Applicant's current submissions do not contain sufficient detail to demonstrate that the proposals will not unacceptably impact on the safety, reliability and or operation of the SRN as required by national planning and transport policy.</p>	<p>The Applicant will need to work with National Highways to submit the required evidence for us to assess and agree.</p> <p>The applicant will need to update their DCO submissions and evidence accordingly for the ExA to consider.</p>	<p>We see no reason why the outstanding concerns and requirements cannot be resolved via the Applicant providing the required evidence and details.</p>

Table 2 - Resolved Principal Areas of Disagreement			
Area of Concern	Explanation	Remedy Measures	Likelihood of Resolution
Policy C1/22 ('C1/22')	DfT C1/22 <i>Strategic road network and the delivery of sustainable development</i> was published in December 2022. All developments are now required to comply with its provisions unless material considerations indicate otherwise	The final Travel Plans will be able to reflect C1/22 requirements. But given that the main transport effects are temporary and during construction period, NH is satisfied that sufficient is being done by the Applicant to ensure compliance with C1/22.	Resolved