

The below response is written for both Ainsty (2008) Internal Drainage Board and Foss (2008) Internal Drainage Board which are part of the York Consortium of Drainage Boards.

This response is a Written Representation, as well as responding to the Examining Authority's First Written Questions (ExQ1).

We have tried to answer all the ExQ1's relating to us but struggled to do this in the order of the table as we felt it made our response unclear. We hope the responses we have made clarifies our position, but obviously please contact us if anything is unclear or you have further queries.

ARTICLE 19 – DISCHARGE OF SURFACE WATER

Article 19 grants the undertaker the right to discharge water into a watercourse in connection with the development, as well as create "openings" and connections, which we assume will be new outfall structures.

Article 19 appears to be drafted on the basis of public sewers and drains in relation to the Water Industry Act 1991. It therefore does not include all the requirements for discharge into watercourses as defined in both the Water Resources Act 1991 and the Land Drainage Act 1991.

Article 19(3) states that the consent of the person to whom that watercourse belongs must be obtained. The issue with this is that an IDB does not "own" a watercourse – we have powers under the Land Drainage Act to oversee our drainage district and any 'ordinary watercourse' within that district – however no watercourse belongs to us. It belongs to the riparian owner. This Article 19(3) therefore needs to be amended to include any "relevant drainage authorities" (as defined within the DCO), as well as any owner of the watercourse.

Article 19(4) needs to include any watercourse – not just public sewers or drains.

Our reasoning for the above requests is:

1. To ensure that suitable measures are taken to control the amount of water entering the watercourses; and
2. To ensure that suitable outfall structures are put in place. If, for example, just a pipe is installed in the watercourse, then when machinery comes to clean the watercourse out, these pipes regularly get damaged – formal headwall structures are, generally, required.

With regards to Article 19(5), the Board does not understand why this exemption is given to "main rivers" and not watercourses generally. However, if it is agreed that the Board's byelaws are not disapplied, then strictly subject to the above amendments, we would otherwise be happy with Article 19.

In the Statement of Common Ground, National Grid have said:

"National Grid agrees that runoff rates from temporary working areas to watercourses ... shall not exceed greenfield rates as calculated using industry standard methods..."

It further notes that there is a requirement for ... any new discharges to watercourses with the AIDB's district under AIBD Byelaw No. 3 (Control of Introduction of Water and Increase in Flow or Volume of Water). However, ... National Grid is proposing to extend disapplication of AIDB's byelaws ... to include Byelaw No. 3."

The Board will not agree to disapply Byelaw 3.

The Board would like to be clear that for any new discharge of surface water, we request that a discharge of 1.4 litres per second per hectare is applied, with a minimum rate of 0.5 litres per second to be applied. We do not accept the use of the IH124 method. This is what we apply to the whole of our district and we cannot make exceptions.

ARTICLE 21 – SURVEY AND INVESTIGATING LAND / WATERCOURSES

Article 21(1) gives the undertaker the right to survey, monitor and investigate the land, including any watercourses – this includes taking samples and then discharging water from those samples onto the nearby land.

Article 21(3) requires notice to be served on every owner and occupier of the land. Again, this will not include IDBs as we do not "own" a watercourse. We would therefore request that this is amended to include any "relevant drainage authorities" (as defined within the DCO), as well as any owner of the watercourse.

ARTICLE 44 – MAINTENANCE OF DRAINAGE WORKS

The Board maintain certain watercourses under its permissive powers under the Land Drainage Act 1991 – however, ultimately, the riparian owner of a watercourse is responsible for the maintenance of each watercourse. For the avoidance of any doubt, the Board is not therefore “responsible” for any watercourse.

ARTICLE 47 – PROTECTION OF INTERESTS

Article 47 states that Schedule 15 is to protect certain interests. The Boards are neither a Statutory Undertaker or provider as highlighted in the ‘Protective Provisions’. However, if any of the Boards Byelaws or Powers are to be disapplied then we would be seeking protective provisions in this section. For the avoidance of any doubt, the Boards do not want the byelaws to be disapplied.

ARTICLE 50 – PROCEDURE REGARDING CERTAIN APPROVALS

At present, Article 50 does not include the Boards as we are not the owner of any watercourse. This should therefore be amended to include any “relevant drainage authorities”. This then means that Schedule 3 and Schedule 4 is applicable.

ARTICLE 52 – AMENDMENT OF LOCAL LEGISLATION

Article 52(1) states that Byelaws 10, 14, 15 and 17 for our Ainsty (2008) IDB do not apply.

These are:

10. “No obstructions within 9 metres of the edge of the watercourse”

14. “Vehicles not to be driven on banks”

15. “Bank not to be used for storage”

17. “Fences, Excavations, Pipes etc.”

In the Statement of Common Ground, National Grid have said:

“Wherever possible (with the exception of watercourse crossings, as discussed above), construction works will remain outside the 9m stand-off distance from watercourses.

Approval of the IBD will be sought for any exceptional instances where this cannot be achieved...”

They have further stated in the Statement of Common Ground:

“National Grid confirms that all new permanent ground level infrastructure associated with the project will be located outside the AIBD byelaw stand-off distance of 9m from the top of bank of maintained watercourses...”

If the majority of works are to be outside of the 9m stand-off, why is the applicant applying to disapply the byelaws? It would appear very few consents would be required (if any) if the above is correct. The Board therefore does not understand why the applicant is seeking to have our byelaws disapplied, which appears unnecessary.

PARAGRAPH 13 OF SCHEDULE 3 – REMOVAL OF TEMPORARY BRIDGES AND CULVERTS

The Board would ask that an additional provision is added so that any damage caused by the removal of the bridges/culverts shall be made good to the reasonable satisfaction of the relevant drainage authorities. We have had a number of situations where applicants have removed culverts and bridges and then damaged the embankments of the watercourse which in turn can cause subsidence and substantially effect water flows.

BRIDGE/CULVERT CROSSINGS

With regards to Question 6.0.1 of ExQ1, the Board has reviewed sections 12.8.59 to 12.8.62 of APP-084 (“Chapter 12: Traffic and Transport”).

In the Statement of Common Ground, National Grid have said:

“Within the AIBD district, National Grid envisage there would be a requirement to apply for Land Drainage Consents for up

to four new temporary access watercourse crossings.

These comprise one temporary clear span bridge on a maintained watercourse (requiring Section 66 consent) and three culverts (requiring Section 23 Consent).

However, as currently drafted ... the Draft DCO ... seeks to disapply the requirement for ... consent for the temporary clear span bridge. ... the Draft DCO ... does not seek to disapply the requirement to obtain Section 23 Consents ...

... there may also be a need to carry out upgrade works on existing culverts for another four construction access crossing points, which would also require Section 23 Consents.”

However, when we have looked at all the crossings noted in section 12.8.59 of APP-084, the Board's views were:

- a) Bridge Crossings - No bridge crossings appear to be proposed within our district.
- b) Culvert Crossings - There are 5 proposed culvert crossings with our district. These are:
 - i. AP78 – This will be over an ordinary watercourse within Ainsty(2008)IDB.
 - ii. AP77 – This will be over Board maintained Red House Wood Dyke within Ainsty(2008)IDB.
 - iii. AP73 – This will be over an ordinary watercourse within Ainsty(2008)IDB.
 - iv. AP71 – This will be over an ordinary watercourse within Ainsty(2008)IDB.
 - v. AP66 – This will be over an ordinary watercourse within Ainsty(2008)IDB.

The Board has not seen any proposed details for these culverts. These should be specific to each location and therefore have an individual consent application. The Board would be looking:

- a) To ensure any culvert when installed does not restrict the conveyance capacity of the watercourse either day to day or in high flows. This includes the invert level of the culvert, which will also be site specific.
- b) To ensure the flood storage of the channel is not lost, or is suitably compensated for.
- c) That any handrails, fences, etc do not hinder the ability to carry out maintenance works, or the flows of the watercourse.