

## Yorkshire Green Energy Enablement (GREEN) Project

### The Examining Authority's first written questions and requests for information (ExQ2)

#### Responses of North Yorkshire Council

No	Question	NYC Response
<b>1.2 Cumulative effects</b>		
Q1.2.1	<p><b>Projects scoped into the cumulative effects assessment</b></p> <p>The Councils are referred to the Applicant's response to ISH2 Action Points 32 and 33 [REP4-026].</p> <p>a) Are Leeds City Council and North Yorkshire Council content with the Applicant's explanation as to how the proposed Hayton House solar farm project has been dealt with in the cumulative effects assessment?</p> <p>b) Are Leeds City Council and North Yorkshire Council content with the Applicant's explanation as to why the East Yorkshire Solar Farm has not been included in the cumulative effects long list?</p>	<p><b>NYC Response to Q1.2.1 a)</b></p> <p>Schedule 4 of the Infrastructure Planning (EIA) Regulations 2017 (the EIA Regulations<sup>1</sup>) sets out the information for inclusion in the ES. This is to include a description of the likely significant effects of a development on the environment, which should cover, amongst others, cumulative effects. Paragraph 5(e) describes cumulative as: "the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources."</p> <p>The Hayton House scheme proposed a solar farm and battery storage facility but does not have planning permission nor has an application for the proposal been submitted to the Local Planning Authority. Therefore, in terms of cumulative assessments, there is no certainty of the scheme going ahead. It is not an 'existing' or an</p>

		<p>‘approved’ project and therefore should not be included for cumulative effects.</p> <p>National Grid in their response to action points 32 and 33 indicate that North Yorkshire Council have adopted a scoping opinion. This is not the case and a scoping opinion for the request under ref: 2022/1306/SCP has not yet been issued although feedback was given from the Councils Landscape consultant which indicated that significant effects were likely and recommended an initial study area of at least 2km radius for the LVIA and a wider landscape study area for the cumulative effects.</p> <p><b>NYC Response to Q1.2.1 b)</b> Yes NYC are content with the applicants explanation on the East Yorkshire Solar Farm explanation.</p>
<p><b>5.4 Schedule 4: Discharge of Requirements</b></p>		
<p>Q5.4.1</p>	<p>Would the Service Level Agreement provisions of the draft section 106 agreement, if completed, address your concerns in relation to the timescales for the discharge of Requirements specified in Schedule 4 of the dDCO [REP3-004]? If not, explain the extent to which your previously stated position on the timescales specified in Schedule 4 is maintained and why.</p>	<p><b>NYC Response to 5.4.1</b></p> <p>The Applicant is wanting to maintain the shorter time periods for the discharge of requirements on the basis that they will undertake a similar process with the same short timescales on a draft version of the information. NYC don’t consider this addresses the issues previously raised.</p> <p>In practical terms this means NYC will get a draft submission and have to consider it in the same shorter timescales (3.3.2) and advise whether if they submitted as a formal discharge application it would</p>

		<p>be discharged. As we previously advised with the shorter timescales for the formal discharge application, it doesn't give sufficient time for NYC to consider and there is concern about resourcing as we may need to discuss with colleagues internally (i.e. landscape for example) or get a consultant in, even if we don't have a formal consultation to undertake (such as LLFA or highways).</p> <p>The costs section in the draft S106 is very vague. But even if this were made clearer, the view would be that the approach overall with short timescales would put us in a difficult position when it comes to discharge of requirement (both at draft and final stage) and we should push for the longer timescales as originally requested in the DCO below;</p> <p>North Yorkshire Council would wish to see the following changes to timescales:</p> <ul style="list-style-type: none"><li>• Article 1(1) – change 35 days to 8 weeks.</li><li>• Article 1(3) – change 7 business days to 21 working days.</li><li>• Article 1(4) – change 3 working days to 5 working days.</li><li>• Article 2(2)(b) – change 35 days to 8 weeks and add in the following text – <i>“unless a longer period of time for determination has been agreed with the undertaker in accordance with (1)(1)(c)”</i>.</li></ul> <p>If requirements are to be discharged in parts, North Yorkshire Council are of the view that a fee should be payable as per Article (2)(1)(a) for each request to discharge part of a requirement. It is suggested that a definition of 'application' is added to the Article (5) to set out that a 'application' means an application for any consent, agreement or approval required by a requirement whether or not the application</p>
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		<p>seeks to discharge a requirement in whole or in part. Whether it is appropriate to discharge a requirement in part will depend upon the nature of the requirement.</p>
<p><b>8. Green Belt</b></p>		
<p>Q8.0.1</p>	<p><b>Green Belt assessment</b>          At ISH2 [EV-005b], North Yorkshire Council confirmed that its response to ExQ1 8.0.1 [REP2-128] applies only to the former Selby District Council planning area, which covers the southern portion of the Proposed Development falling within the Leeds Green Belt but not the northern portion of the Proposed Development falling within the York Green Belt. For the avoidance of doubt:          a) Does North Yorkshire Council consider that the proposed new substation at Overton would constitute inappropriate development in the Green Belt? Provide the justification for your position.          b) Does North Yorkshire Council's view [REP2-128] that new pylons (excluding conductors) would constitute inappropriate development in the Leeds Green Belt also apply to new pylons in the York Green Belt? Provide the justification for your position.          c) Does North Yorkshire Council's view [REP2-128] that the proposed Cable Sealing End Compounds (CSECs) at Tadcaster would constitute inappropriate</p>	<p>Please see below</p>

	development in the Green Belt also apply to proposed new CSECs within the York Green Belt at Shipton North? Provide the justification for your position.	
<b>11.1 LVIA methodology, drawings and photomontages</b>		
Q11.1.1	<p><b>Soil bunding movement at Monk Fryston Substation</b></p> <p>Further to the Applicant's submission of the illustrative plan showing indicative soil bunding for construction and permanent phases - Monk Fryston [REP4-026], Appendix C as requested by the ExA in response to your comments on Viewpoint (VP) E:</p> <p>a) Has this alleviated your concerns over the accuracy of the photomontage from VP E?</p> <p>b) If not, set out any further concerns.</p>	The Council has no concerns to raise on this point.
Q11.1.2	<p><b>Expanded LVIA methodology statement for photomontages/ SoCG outstanding matters</b></p> <p>The ExA takes NYC's response [REP4-041], Action Point 12 to be confirmation that the wording set out in the Applicant's actions from ISH2 [REP4-026], Action Point 12 is now agreed and that its addition to the LVIA methodology document (via an ES Errata Document at Deadline 5) would provide satisfactory explanation for the level of detail/ sophistication provided in the Applicant's photomontages supporting the LVIA.</p> <p>a) Confirm that this is the case.</p>	<p>A) Confirmed</p> <p>B) Confirmed</p>

	<p>b) Does this mean that all matters under the ‘matters outstanding’ category in the most recent SoCG [REP3-018], section 5.2, which relate to photomontages/ visualisations are now agreed?</p> <p>c) If not set out what is not agreed, whether there is likelihood of agreement, and if there is, what further actions are required.</p>	
<p><b>11.2 Landscape and visual mitigation and enhancement</b></p>		
<p>Q11.2.1</p>	<p><b>Visual mitigation for users of Public Rights of Way (National Cycle Network Route 65 and Jorvic Way long distance footpath (River Ouse to Shipton) and Public Rights of Way east of Shipton and near Newlands Farm</b></p> <p>Further to your response to ISH2 [REP4-041], Action Point 11, but bearing in mind that the Applicant is revisiting Requirements 8, 9 and 10 to be submitted at Deadline 5:</p> <p>a) Confirm if these are the only two locations/ receptors outside the substations and CSECs where you consider mitigation should be more explicit than that currently set out in Requirement 8(1)(a).</p> <p>b) Give an indication of the sort of mitigation that you would consider appropriate in these locations.</p>	<p>A) The Council believes that for the 2 receptors identified, a more detailed understanding of the approach to and type of mitigation should be expected at this point. There are no other receptors which the Council would wish to point to at this stage</p> <p>B) As referred to in the hearings, the Councils preference would be to see mitigation as close to the receptor as possible to maximise screening and filtering of views.</p>
<p>Q11.2.2</p>	<p><b>Continuing dialogue over landscape and visual mitigation</b></p>	<p>We have said that the Council expects work to be carried out in relation to the 2 receptors. It is expected that information will be shared in relation to those.</p>

	<p>You indicated at ISH2, that a meeting held with the Applicant on Friday 19 May 2023 had found a way forward to deal with future exchanges of detail information for the outline landscape mitigation strategies, which would not result in any further submissions during the Examination [EV-005d].</p> <p>a) What, if any, further input on landscape and visual mitigation outside the substations and cable sealing end compounds do you envisage taking place during the Examination?</p> <p>b) Do you anticipate any further submissions being necessary from the Applicant?</p>	
Q11.2.3	<p><b>Replacement planting</b></p> <p>At ISH3, Leeds City Council indicated that its policy for replacement planting is three new for every one lost [EV-006d].</p> <p>a) Leeds City Council: – provide the policy that was referred to in ISH3.</p> <p>b) City of York Council and North Yorkshire Council: do you have similar policies and if so, submit a copy, or refer to one that has already been submitted into the Examination.</p>	<p>NYC does not have a strict defined policy in place as part of the district council local plans. It is understood that Leeds City Council ask for a greater reinstatement ratio and we understand that that has been asked for in some cases depending on the scheme.</p>
<b>12. Noise and Vibration</b>		
Q12.0.1	<b>Construction noise assessment methodology</b>	

	<p>In pages 42 and 43 of its Written Summary of Oral Representations made at ISH2 [REP4-023] the Applicant has commented that: <i>“NYC confirmed they were content with the construction noise assessment methodology. Noise levels reported within Chapter 14, Noise and Vibration, of the Environmental Statement (Documents 5.2.14) [APP-085] at Table 14.2.6 shows dominant construction noise. NYC stated that the Table does not account for maximum levels and shows an average over the whole day. For example, maximum levels from reversing alarms were not shown. NYC considered that this would result in noise impacts in quiet areas such that construction works should not take place on Sundays and Bank Holidays”</i> and that, <i>“National Grid also noted that methodology for assessing construction noise impacts is agreed with NYC, and that BS5228 was accepted to be the approved code of practice.”</i></p> <p>Having regard to these comments, can North Yorkshire Council confirm whether or not it is satisfied with all aspects of the Applicant’s construction noise assessment methodology, even if it may still disagree with the Applicant’s proposed construction working hours?</p>	<p>I can confirm that the construction noise assessment methodology is satisfactory despite our disagreement with proposed construction working hours.</p>
Q12.0.2	<p><b>Operational noise assessment methodology</b></p> <p>The ExA is aware that an updated SoCG is due to be submitted at Deadline 5 and at Issue Specific Hearing 2 you stated that your position on operational noise assessment would be reflected in the updated SoCG.</p>	<p>Document 8.23.1 Applicant’s Written Summary of Oral Representations made at ISH2, Table 8.2 provides an accurate view of the differing positions between National Grid and North Yorkshire Council (Selby area). I concur that, whilst we do not agree with the</p>



	<p>However, at ISH2 [EV-005f] and in Table 8.2 of its Written Summary of Oral Representations made at ISH2 [REP4-023] the Applicant has provided further details regarding its assessment methodology for operational noise.</p> <p>Respond to the Applicant's justification for its assessment methodology for operational noise, including the Applicant's view that whilst you do not agree with the methodology you are in agreement regarding the conclusions that have been drawn.</p>	<p>methodology, we are in agreement regarding the conclusions that have been drawn.</p> <p>In response to Document 8.5.2(c) Statement of Common Ground between National Grid Electricity Transmission plc and North Yorkshire Council July 2023, the document provides an accurate representation so far as this department's interests are concerned in so far as we do not agree with the overhead line noise assessment methodology or the inclusion of Sundays and Bank Holiday in core construction working hours.</p>
<p><b>14. Transportation and Traffic</b></p>		
Q14.0.2	<p><b>Highway safety in the vicinity of Access Points 89 and 90</b></p> <p>Is North Yorkshire Council content with the visibility splay that would exist at Access Point 90 (junction of Overton Road and Station Lane) for construction traffic exiting Overton Road and also for traffic heading southbound along Station Lane Road past The Sidings towards the junction with Overton Road and the A19? If not then specify what, if any, additional traffic management measures you consider should be undertaken.</p>	<p>Please see point 11 of the Highways workshop minutes:</p> <p><i>CA raised the potential for HGVs to use the Overton Road/Station Lane simple priority 'T' junction to access the wider road network and discussed that the available visibility to both the left and right is constrained by the horizontal alignment of the adjacent route, which actually heavily restricts the speed of oncoming traffic in either direction of travel. In light of this, the available stopping sight distance for motorists, is more than adequate to ensure that safe egress can be maintained during the construction phase. This conclusion is backed up by the personal injury collision data recorded in the vicinity of the intersection.</i></p>
Q14.0.6	<p><b>Traffic and transport workshop</b></p>	<p>The Council has agreed the minutes of the workshop which took place on 7 June.</p>

	<p>The ExA understands that a Traffic and Transport Workshop has taken place on 7 June 2023 as detailed in [REP4-023] to discuss North Yorkshire Council's areas of outstanding concern.</p> <p>Can the Applicant and North Yorkshire Council provide either the agreed minutes from this workshop or an agreed summary document outlining areas of agreement and any areas of disagreement that remain outstanding following the workshop? For any outstanding areas provide an assessment of whether or not this matter is likely to be resolved before the close of the Examination.</p>	<p>The workshop was productive and covered many of the concerns raised in the hearings, including the necessity for onsite visits which it concluded we not required at this stage.</p> <p>There was a question put to the Applicant concerning the powers in the DCO and the extent to which the Local Highways Authority retained control of the highway or were sufficiently notified. A response to that question is expected as part of the deadline 5 submissions.</p>
Q14.0.7	<p><b>Response to Action Points from ISH2</b></p> <p>Further to its submission in [REP4-041], can North Yorkshire Council provide a full response to ISH2 Action Points 27 and 28 [EV-005a] that were due at Deadline 4 and also Action Points 23 and 24 that are due at Deadline 5.</p>	<p>Please see responses as follows:</p>
27	<p>North Yorkshire Council to provide a note on change of speed limit on the A63.</p>	<p>Please see below:</p>
28	<p>North Yorkshire Council to confirm whether the pre-application discussions summarised in Table 12.5 of [APP-188] accurately reflect the discussions with the Council regarding the potential application of a speed reduction in the vicinity of the junction between A63 and Rawfield Lane and the Applicant's proposal to use a left-in / left-out arrangement.</p>	<p>The council has no reason to believe this is not an accurate reflection of the discussion.</p>

23	North Yorkshire Council to submit views on highway safety in relation to the proposed access points, including the junction at Overton Road north of the proposed substation. North Yorkshire Council D5 2	<p>Please see point 7 and 11 of the meeting minutes:</p> <p><i>MB and SF discussed the proposed access points across the North Yorkshire Council authority area and presented details on-screen to facilitate discussion over each location with the Council. It was agreed that the DMRB compliant visibility splays are appropriate (in light of further advice provided in the North Yorkshire Council Highway Design Guide). PR and JC advised that further future discussions would be required at the detailed design stage to agree specifics relating to access onto major routes such as the A19 and A659 corridors. MB, SF and CA all advised that National Grid will be required to discuss/agree the detailed design of all access points and would seek to agree an approved finish with the Local Highway Authority. It was emphasised that Requirement 14 of the draft DCO details that no vehicular access construction can commence until layout and design has been submitted to and approved by the LHA.</i></p> <p>-----</p> <p><i>CA raised the potential for HGVs to use the Overton Road/Station Lane simple priority 'T' junction to access the wider road network and discussed that the available visibility to both the left and right is constrained by the horizontal alignment of the adjacent route, which actually heavily restricts the speed of oncoming traffic in either direction of travel. In light of this, the available stopping sight distance for motorists, is more than adequate to ensure that safe egress can be maintained during the construction phase. This</i></p>
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		<i>conclusion is backed up by the personal injury collision data recorded in the vicinity of the intersection.</i>
24	Applicant and North Yorkshire Council to undertake site visits to review some of the access points, where issues have been raised, including road safety and potential for fly-tipping.	Site visits were not considered necessary following the review of the access points in the highways workshop.

### **Q8.0.1 Green Belt assessment**

#### **1.0 NYC RESPONSE TO Q8.0.1 a)**

- 1.1 The proposed substation at Overton was within the former Hambleton District Area (now NYC) and is within the York Green Belt. The adopted Development Plan for the area remains the Hambleton District Local Plan which was adopted in February 2022. Policy S6 of the plan relates to the York Green Belt and requires that;

*“Within the Green Belt there is a need to maintain strict controls over the types of development which can be permitted. Proposals for development in the Green Belt will be determined in accordance with relevant national policy. The extent of the York Green Belt is shown on the Policies Map.”*

- 1.2 The Substation at Overton would constitute inappropriate development in the Green Belt for the following reasons;
- 1.3 The site is currently an undeveloped agricultural field. The development would involve the use of a large part of the field to introduce a new substation where none exists at present. Firstly, this involves a change of use of the land. The use of the land as a substation would not fall within any of the exceptions listed at 149 a) to g) of the NPPF. Nor would it fall within 149 b) or 150 e) which specify certain types of acceptable changes of use. Although the list within the NPPF is not intended to be exhaustive, an electricity substation is far removed from the types of uses indicated such as outdoor recreation, cemeteries etc which generally are characterised by very limited built form and don't conflict with the purposes of including the land in the Green Belt.
- 1.3 Moreover, due the visual and spatial harm from the presence of buildings and equipment, the substation would not preserve the openness of the Green Belt and therefore could not fall within exception 149 b) or 150 and conflicts with the purpose of the NPPF of including land within the Green Belt set out at 138 c).
- 1.4 Secondly, details of the substation proposed and a visual image are indicated in (REP2-049) Figure 9, page 25 of the Design Approach to Specific Infrastructure (DASSI) Volume 8, Document 8.18 Final Issue A April 2023. A list of the buildings proposed within the document makes clear it would likely involve the erection of one large building (National Grid Control & Amenity Building approx. 33x26x8m- (LxWxH)) and several smaller buildings including the Diesel Generator (9x4x2m), the DNO Building housing the transformers (4x4x5m), Super Grid Transformers with Acoustic enclosures (15x25x11m), Earth Store and workshop building (10x3x3m), together with

boundary fencing, surfacing, and the access road. There would also be new pylons outside the substation in the field linking with overhead gantries to Cable Sealing Ends within the substations, and new operational equipment.

- 1.3 The NPPF sets out at para 149 that the construction of new buildings in the Green Belt is inappropriate unless it falls within the closed list of exceptions set out at para 149 a) to g). The elements of the scheme described above (e.g. the Pylons, any buildings, enclosures, boundary fencing, hard surfacing etc), are all structures (see justification in response to b) below) and do not fall within any of the exception categories listed in para 149 of the NPPF. Therefore, the use of the land, all of the above buildings and structures would be inappropriate development which are harmful by definition and Very Special Circumstances (VSC) will be needed to clearly outweigh the harm by definition and any other harm identified.

## **2.0 NYC RESPONSE TO Q8.0.1 b)**

- 2.1 NYC are of the opinion that all 'new Pylons throughout the project in NYC, Leeds and York Districts are inappropriate development. NYC consider these to fall within the definition of a new building.
- 2.2 Planning permission is required for the "carrying out of development on land pursuant to Section 57(1) of the Town and Country Planning Act 1990 (The TCPA) with the definition of development including the carrying out of building operations.
- 2.3 Due to the wide definition of "*building*" in the TCPA, namely that it includes "*any structure or erection*" (section 336), case law has therefore sought to quantify this.
- 2.4 In *Cardiff Rating Authority and Cardiff Assessment Committee v Guest Keen and Baldwin's Iron and Steel Co. Ltd* [1949] 1 KB 485, three criteria were identified for a building:

- size (with a building usually something that is constructed on site, rather than being brought on site already made);
- permanence; and
- physical attachment to the ground.

2.5 Following *Cardiff Rating* there has been a steady flow of cases examining these factors in order to determine whether or not a particular structure constitutes a “*building*”. Over the years the Courts have concluded that a myriad of structures (far removed from what would consider a building in the ordinary meaning of the word) are buildings in planning terms.

2.6 The Planning Inspectorate was tasked with considering this issue in two appeals, which add to the understanding of what is capable of being a “*building*”.

- The first appeal related to a cricket practice cage that consisted of six posts of 3.6 metres in height covered with netting. The Inspector determined that from the evidence the posts were intended to be permanent and, even if there was the potential to remove the netting, as a whole the structure was a permanent addition. Moreover, the posts were buried in the ground with concrete which ensured that at least the substantive part of the cage was physically attached to the ground. The Inspector also determined that the nature of the cricket facility implied that it was constructed on site, concluding that it was therefore a “*building*”. (Appeal reference: APP/M0655/C/18/3206121).
- The second appeal concerned a shelter for a practice tee at a golf club, measuring 10 metres in width and 4 metres in height. The shelter was portable, light weight and had some open sides. Despite this, the Inspector focused on the fact that the shelter was

fixed to the ground and therefore had a degree of permanency; concluding that the shelter did constitute a “*building*” in planning terms. (Appeal Reference: APP/N4720/W/18/3216727).

2.7 Applying this approach to all the proposed Pylons in the project; these are clearly of substantial size, would need to be constructed or assembled on site, would be physically attached to the ground and would become permanent once erected. As such they are considered buildings.

2.8 The NPPF sets out at para 149 that the construction of new buildings in the Green Belt is inappropriate unless it falls within the closed list of exceptions set out at para 149 a) to g). The Pylons do not fall within any of the exceptions listed. As such they are an inappropriate form of development which are, by definition, harmful to the Green Belt.

### **3.0 NYC RESPONSE TO Q8.0.1 c)**

3.1 Illustrations of the proposed Cable Sealing End Compounds (CSEC’s) are provided within the DASSI. The illustration of the Shipton North CSEC can be viewed at Figure 16 on page 36.

3.2 The CSEC would require a change of use of agricultural land to create the compound for the CSEC and would be inappropriate development for the reasons set out in the response to a) above. Furthermore, each compound would require new surfacing, boundary fencing and equipment which would fall within the definition of structures and in some cases, including, the CSEC at Shipton North, the CSEC’s would include a new Pylon. For the above reasons these structures would fall within the definition of buildings due to their size, permanence and physical attachment to the ground.



3.3 NYC are therefore, of the opinion that the CSEC at Shipton North within the York Green Belt would be inappropriate development.

#### **Action Point 27 – Note on Change of Speed Limit**

The setting of a successful speed limit is a highly technical matter governed by much research and guidance by the Department for Transport. All of the following documents (all are free for down load from the internet) are used by NYCC as reference in that process, all these documents are now intrinsically linked:

- Department for Transport (DfT) Circular 01/2013 'Setting Local Speed Limits',
- DfT Traffic Advisory Leaflet (TAL) 1/04 'Village Speed Limits',
- Current NPCC (ACPO) Speed Enforcement Policy Guidelines (2011-2015: 'Joining Forces for Safer Roads'),
- DfT TAL 2/06 'Speed Assessment Framework'.

When setting speed limits, it is necessary to follow the published guidance to ensure that speed limits are appropriate for their environment, are effective and gain police support, should enforcement be necessary. The objective of any speed limit is to achieve acceptable levels of driver compliance commensurate with that limit, not to create a platform for enforcement.

The guidance also provides important key factors that should be taken into account by the local highways authority, these are:

- History of collisions;
- Road geometry and engineering;
- Road function;
- Composition of road users;
- Existing traffic speeds; and
- Road environment.

Speed limits on their own have very little impact on driver perception of the appropriate speed. Drivers generally travel at a speed which they perceive to match traffic conditions and according to other factors, such as the road environment, the weather, parked vehicles, number of junctions, pedestrian movements etc. The road environment is one of the main key factors. The aspect from a driver's point of view, when travelling along the A63, the road environment is relatively open, with open fields either side of main carriageway.

A 40mph speed limit should only be considered where there are many bends, junctions or accesses and substantial development. Speed limits should not be used to attempt to solve isolated hazards, such as a single road junction ( Rawfield Lane ).

All of the above guidance documents must be used within their full context, without cherry picking, to achieve a safe and effective result. Without cognisance of that guidance any limit is likely to fail and compliance be problematic. For these reasons, as the Highway Authority we aim to ensure the correct speed limits are consistently applied across the County.