

YG-DCO-148

Yorkshire Green Energy Enablement (GREEN) Project

Volume 8

Document 8.33 Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1)

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Version History

Document	Version	Status	Description / Changes
06/09/2023	A	Final	First Issue

1. Introduction

1.1 Purpose of this document

- 1.1.1 This document provides National Grid Electricity Transmission plc's (National Grid) (the Applicant) response to the **Examining Authority's commentary and questions on the draft Development Consent Order (DC1) [PD-015]** on the Yorkshire Green Energy Enablement Project (Yorkshire GREEN or the Project).
- 1.1.2 Responses to questions are provided only where a response was requested from the Applicant, unless specifically stated otherwise.

2. Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1)

2.1 General and Cross-Cutting Questions

Table 2.1 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – General and Cross Cutting Questions

Ref No.	Respondent:	Question:
1	1. General and Cross-Cutting Questions	
1.0.1	The Applicant	<p>Format of final dDCO and Explanatory Memorandum In addition to the 'clean' and tracked changed version of the dDCO showing changes since the last version, can the Applicant submit a track changed version of the final dDCO which shows a composite of all the changes made to the submission version [APP-066] up to and including Deadline 7.</p> <p>As per the Examination Timetable, the Applicant's final dDCO should be accompanied by a version submitted in Microsoft Word and must have been validated against the Statutory Instrument template.</p> <p>The final dDCO should be accompanied by a final Explanatory Memorandum (EM). In addition to the 'clean' and tracked changed version of the EM showing changes since the last version, can the Applicant submit a version which shows in tracked changes all the amendments that have been made since the submission version [APP-067] up to and including Deadline 7.</p> <p>Applicant's Response:</p> <p>National Grid has submitted a document which shows in tracked changes all the amendments that have been made to the draft DCO since the submission version (A) [APP-066] up to and including Deadline 7's version (F). This is Document 8.1.1.</p> <p>Likewise, a document showing all tracked changes to the Explanatory Memorandum from version (A) [APP-067] up to and including Deadline 7's version (F) has been submitted to the examination at Deadline 7. This is Document 8.1.2.</p> <p>A validation report has been submitted with the majority of previous versions of the draft DCO and has also been submitted with the Deadline 7 version.</p>
1.0.2	The Applicant	<p>Drafting consistency: environmental effects Can the Applicant review all instances of flexibility being limited by the effects identified in the Environmental Statement (ES) (including but not limited to the Article 2 definition of "maintain", Article 5, the description of associated development within Schedule 1 and Requirements 1(3) and 3(2)) and amend to ensure consistency of drafting in relation to new or different environmental effects.</p> <p>The ExA's preferred wording is <i>"do not give rise to any materially new or materially different environmental effects from those identified in the environmental statement"</i></p> <p>Applicant's Response:</p> <p>National Grid has amended the wording throughout the draft DCO (Document 3.1(F)) submitted at Deadline 7 to read <i>"do not give rise to any materially new or materially different environmental effects from those identified in the environmental statement"</i> where applicable. This ensures consistency of drafting across the draft DCO (Document 3.1(F)).</p>

2.2 Part 1: Preliminary

Table 2.2 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Part 1: Preliminary

Ref No.	Respondent:	Question:
2	2. Part 1: Preliminary	
2.0.1	The Applicant	<p>Article 2: Interpretation – “environmental statement” Some of the documents comprising the submitted Environmental Statement (ES) (Documents 5.1 to 5.4.18) have been superseded by updated versions during the Examination. The ExA has some concerns that as currently drafted, it is not sufficiently clear which are the versions of all ES documents to be certified under Article 48. Some made Orders contain a Schedule specifying the ES chapters (including version references) that form the document to be certified.</p> <p>a) Can such an approach be taken in this Order? If so, include this as a new Schedule to the final dDCO. b) If not, why not, and what additional drafting could be included in Article 2 to provide certainty about the correct versions of the ES documents to be certified? c) In addition, for precision, amend the definition of “environmental statement” to include the final version references for the ES Errata and Addenda documents, eg “(Document 5.2.19(D))”.</p>
		<p>Applicant's Response:</p> <p>National Grid has included a new Part 8 to Schedule 2 (now called "plans, drawings and environmental statement") which lists the final version of all Environmental Statement documents to be certified under Article 48 of the draft DCO (Document 3.1(F)). Reference to Part 8 Schedule 2 has been included within the definition of “environmental statement.”</p>

2.3 Part 3: Streets

Table 2.3 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Part 3: Streets

Ref No.	Respondent:	Question:
3	3. Part 3: Streets	
3.0.2	National Highways The Applicant	<p>Article 14: Temporary stopping up of streets, cycle tracks and public rights of way</p> <p>a) To National Highways: your submissions [REP6-076] that the undertaker would have a power to temporarily stop up the Strategic Road Network (SRN) and National Highways would only have the benefit of its Protective Provisions if there were associated "works" are noted. Can you give practical examples of activities that you consider the undertaker might foreseeably wish to carry out under these powers that are not associated with a specific 'works' within Schedule 1 of the dDCO.</p> <p>b) Can the Applicant respond to National Highways' submissions [REP6-076] in respect of Article 14.</p>
		<p>Applicant's Response:</p> <p>In response to National Highways' submissions [REP6-076] in respect of Article 14, National Grid does not anticipate needing to exercise this power over the strategic road network. In any event, it has now been agreed between National Grid and National Highways that an approval right is provided for National Highways in the protective provisions regarding this power and this has been included in the protective provisions as updated in Part 6 of Schedule 15 to the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p>

2.4 Part 4: Supplemental Powers

Table 2.4 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Part 4: Supplemental Powers

Ref No.	Respondent:	Question:
4	4. Part 4: Supplemental Powers	
4.0.1	The Applicant	<p>Article 19: Discharge of water Can the Applicant respond to National Highways' submissions [REP6-076] in respect of Article 19.</p> <p>Applicant's Response:</p> <p>In response to National Highways' submissions [REP6-076] in respect of Article 19, National Grid does not anticipate needing to exercise this power over the strategic road network. In any event, it has now been agreed between National Grid and National Highways that an approval right is provided for National Highways in the protective provisions regarding this power and this has been included in the protective provisions as updated in Part 6 of Schedule 15 to the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p>
4.0.2	The Applicant	<p>Article 19: Discharge of water The ExA notes the Applicant's submissions (Appendix D and Appendix E, line 7 of [REP6-062] and Table 2.1 of [REP6-058]) in respect of the remaining matter in disagreement with Ainsty Internal Drainage Board (IDB) in relation to Article 19(12).</p> <p>a) Can the Applicant provide a detailed response to the submissions of Ainsty IDB at Deadline 6 [REP6-067].</p> <p>b) Appendix D of [REP6-062] indicates that all of the overhead line crossings would (subject to detailed design) exceed the requested 10.5 metre clearance, with the exception of that relating to back tower number XC459. The penultimate paragraph of Ainsty IDB's [REP6-067] suggests that it may be an acceptable approach to require consent from the IDB only if overhead lines have a clearance of less than 10.5 metres, which on the basis of Appendix D would be in a single instance. Is there any change to the Applicant's position on the basis of this analysis?</p> <p>c) If disagreement on this matter remains at Deadline 7, can the Applicant provide without prejudice wording that is capable of being inserted into Article 19(12) to satisfy the penultimate paragraph of Ainsty IDB's [REP6-067], specifically to provide that no consent under the relevant IDB byelaw is required for any overhead lines which are 10.5 metres or more above ground but that consent is required for any overhead lines with a clearance of less than 10.5 metres.</p> <p>d) What would be the practical implications (in terms of the construction programme and any other aspects, including any potential requirement for arbitration) of such a provision being included within Article 19?</p> <p>Applicant's Response:</p> <p>In summary:</p> <p>1 - Response already provided - National Grid has provided a full response to AIDB's Deadline 6 Submission.</p> <p>2 - There is a difference of opinion between AIDB and National Grid. There is a fundamental disagreement between National Grid and AIDB about whether compliance with the statutory clearances is sufficient.</p> <p>3 - AIDB's request would trigger new works. If the AIDB's position, that statutory clearances should be disregarded is accepted, then new taller pylons would need to be installed on one span. Those works are outside the scope of the Project and are not within the scope of works environmentally assessed.</p> <p>4 - AIDB's request would impose unnecessary costs. The works required by the AIDB would require the disposal of assets that are not life-expired. National Grid could not agree to the imposition of avoidable unnecessary costs on the electricity consumer as this would be a breach of their statutory duties of economy and efficiency. Full details on each of these points are set out below.</p> <p>a) National Grid have provided a full response to Ainsty Internal Drainage Board's (AIDB) Deadline 6 Submission [REP6-067] in Table 2.1 of the Applicant's Comments on Interested Parties' Deadline 6 Submissions (Document 8.31) submitted at Deadline 7.</p>

Ref No.	Respondent:	Question:
		<p>National Grid fundamentally disagree that additional approvals from IDBs should be required for an oversail of electric lines where minimum statutory clearances are met. National Grid are required to design overhead lines to the statutory clearances specified in the Electricity Safety, Quality and Continuity Regulations 2002, which are a minimum of 7.0m ground clearance for a 275kV overhead line, and 7.3m for a 400kV overhead line. Requiring height clearances in excess of the statutory minimum undermines the purpose of the statutory clearances, which gives National Grid certainty that if the statutory minimum is met the clearances will be acceptable, and gives third parties certainty that if the statutory minimum is met, third party operations can be conducted safely by observing safe working practices under overhead lines. The Energy Networks Association's Technical Specification 43-8 provides advice on the minimum clearance to any object to which access is not required and which a person cannot stand or lean a ladder on. This is 2.4m for 275kV and 3.1m for 400kV overhead lines. These are the distances from the lowest conductor which the IDB's equipment would need to meet when maintaining the ordinary watercourse to ensure that it is safe to work under the operating overhead line. Therefore, if AIDB's maintenance equipment is less than 4.2m high (in the case of 400kV overhead lines) or 3.9m high (in the case of 275kV overhead lines), this can be operated safely under overhead lines which are installed at the statutory minimum clearance. AIDB has confirmed that the maximum height of their machinery is 3.5m, so within these height restrictions.</p> <p>In terms of the Yorkshire GREEN Project specifically, for existing crossings, current clearances are improved upon in all cases, and for all but one of these (pylon XC459 to XC460), the 10.5m clearance requested by AIDB is achieved.</p> <p>However, in respect of the span from pylon XC459 to XC460, the XC overhead line is an existing line which is proposed to be reconducted. There is no proposal to change the XC line at this crossing point or increase the height of the existing pylons in this location. As previously confirmed within the Applicant's Deadline 5 Response to Issue Specific Hearing 3 (ISH3) Hearing Action Points (Action point 8) (Document 8.23.9) [REP5-081] and paragraph 4.7.2 of the Explanatory Memorandum (Document 3.2(F)), the vertical limits of deviation included in Article 5 of the draft DCO (Document 3.1(F)) do not provide for an increase in the height of existing pylons for which reconducting is proposed. Therefore, the clearance level of 10.5m being sought by AIDB cannot be delivered within the scope of the Project for which development consent is being sought. This would require an increase in the height of the existing pylons for reconducting of the XC line in this location, which is not within the scope of the powers sought in the draft DCO and has not been assessed in the Environmental Statement. For the avoidance of doubt, to achieve a clearance for span XC459 to XC460 in excess of the statutory minimum clearances would require a re-design of the Project as applied for in this location as well as fresh consideration of the environmental impacts and any new or different associated land rights that may be needed as a result of any such re-design. Additionally, such a decision would call into question the relevance and purpose of the minimum statutory clearances contained in Schedule 2 of the Electricity Safety, Quality and Continuity Regulations 2002, because a requirement to meet a 10.5m clearance (which would be the practical effect of seeking the IDB's consent for anything below this) would imply that the current minimum statutory clearances are not fit for purpose.</p> <p>b) & d) Whilst it is accepted that only one crossing (i.e. the span between pylon XC459 and XC460) does not meet AIDB's requested minimum clearance for this particular Project, this does not alter National Grid's position, or National Grid's fundamental disagreement with AIDB's approach to seek a minimum 10.5m clearance. A 10.5m clearance would significantly exceed the statutory minimum clearance of 7m for this particular span given it is a 275kV overhead line. As explained above, the XC line is an existing overhead line, which is being reconducted. As demonstrated from the table at Appendix D of [REP6-062], reconducting in this location increases the existing clearance currently being achieved by at least 1m, i.e. a minimum clearance of 9.3m is achieved with the Project as compared to a minimum clearance of 8.2m without the Project. As explained above, no vertical limits of deviation apply to these pylons and no environmental assessment has been made of an increase in height to the level which Ainsty IDB have requested nor an assessment of how this would alter land rights in order to construct and maintain the Project. National Grid are required to design overhead lines to meet the statutory minimum clearances, and that is what has been done for this Project. This also accords with National Grid's statutory duty to be economic and efficient, to make best use of existing assets where possible to do so. A change of this nature could fundamentally change the scope of the Project for which development consent is being sought. For example, it could result in the removal of two existing pylons which would not otherwise need to be removed (XC459 and XC460) and necessitate their replacement with taller pylons to reconduct the line, as well as any implications further up and down the overhead line. It is simply not possible to achieve this within the scope of the Project as applied for due to the following main reasons:</p> <ul style="list-style-type: none"> • The powers sought in the draft DCO, including compulsory rights, and the works assessed in the Environmental Statement do not allow for the increase in height of pylons that would be required to achieve the clearance being sought by AIDB. This would force a design solution which is outside of the scope and powers of the DCO that has been applied for. The vertical limits of deviation for the design of the Project do not apply to reconducting works because reconducting works do not include alterations to the height of existing pylons. In addition, no increase in the height of these pylons has been environmentally assessed. Further, no assessment has been made of the land rights which would be required for

Ref No.	Respondent:	Question:
		<p>construction should new, taller pylons be required to be installed for reconductoring in this location. Therefore, if AIDB refused to grant consent for the clearance proposed as part of the Project, any change would need to be treated as a new project requiring new or additional consents.</p> <ul style="list-style-type: none"> As described above, the increase in height of the pylon and the associated reconductoring work has not been assessed and was not part of the original scope. As a result, the funding commitment which would be required to complete this additional work has not been approved by National Grid's internal governance processes or Ofgem. In National Grid's view there is a risk that the additional funding may not be secured because the increase in height is not necessary to comply with the statutory minimum clearances set for overhead lines and would require replacement of components which have not come to the end of their design life, so would not otherwise require replacement. This goes against National Grid's approach to avoid the unnecessary replacement of assets that continue to perform their useful function, which ensures no unnecessary expenditure, prevents waste of apparatus and allows for consistency in appearance of pylons within the landscape. This approach ensures that National Grid acts in the best interests of the electricity consumer. Ofgem may take the view that replacing the existing functioning and compliant pylons with taller pylons when there is no requirement to do so for the Project because statutory clearances are being met, would not comply with National Grid's statutory duty of efficiency and economy. The XC line to be reductored is an existing overhead line under which AIDB currently maintains the existing ordinary watercourse at the existing clearances. AIDB has not provided any evidence that the existing clearance achieved (minimum of 8.2m) has prevented it from being able to maintain the existing ordinary watercourse or that it would be insufficient for it to maintain this watercourse in the future. To the contrary, AIDB has indicated that the equipment it uses to maintain the watercourse has a maximum height of 3.5m which, at the minimum clearance proposed for the Project, meets the Energy Networks Association's Technical Specification 43-8 for safe working under overhead lines. Moreover, the Project would provide a betterment on the existing clearance, which would be increased by at least 1m (minimum of 9.3m) as a result of the reductoring in this location. In short, AIDB has provided no clear reasons why they should be given the approval right requested. In fact, a clearance of 10.5m would exceed the minimum clearance required even for main rivers as set out under Requirement 17 (Clearance over the River Ouse) of the draft DCO (Document 3.1(F)). The Ainsty IDB Byelaws made under section 66 of the Land Drainage Act 1991 are not a prescribed consent for the purposes of Schedule 2 (prescription of consents) of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 and so do not require the consent of Ainsty IDB to be disapplied. In summary, there is no sound, Project specific, reason which has been provided by AIDB to justify their approval of a clearance that is above the statutory minimum clearances as currently set out in the draft DCO (Document 3.1(F)). <p>For these reasons, including an approval right in the form sought by AIDB has the potential to cause substantial delay to the delivery of the Project (whether or not arbitration processes are triggered to settle any dispute), especially where that approval is not given, so would require additional consents and potentially new land rights to deliver, as well as financial approval from Ofgem. Ultimately, this has the potential to prevent the Project from proceeding in its current form and, if consent is not given by AIDB, would very likely result in the inability to meet the earliest in service date.</p> <p>c) The ExA have sought wording which would, in effect, remove reference to the statutory clearances contained in Schedule 2 of the Electricity Safety, Quality and Continuity Regulations 2002 and replace this with AIDB's preferred minimum clearance of 10.5m. Paragraph (12) of Article 19 as currently included in the draft DCO (Document 3.1(F)) was a compromise sought by National Grid as an alternative to full disapplication of the associated byelaw within the Ainsty IDB Byelaws, as was included in previous versions of the draft DCO. As noted above, National Grid cannot deliver the Project as assessed and adhere to a minimum clearance of 10.5 metres for this particular crossing. To propose wording, even without prejudice, which requires IDB consent for any overhead lines which do not meet a minimum clearance of 10.5m (3.5m above the statutory minimum clearance for this particular crossing) would mean that this section of the existing overhead line could no longer be reductored, and that it would need to be replaced with new, taller pylons which would need to be environmentally assessed and may require new land rights to facilitate construction. Put simply, such works are outside the scope of the Project as well as outside of the powers and description of the authorised development which have been assessed and which would be consented under the terms of the draft DCO (Document 3.1(F)) and would imply that the current minimum statutory clearances are not fit for purpose.</p> <p>For these reasons, National Grid is not able to provide without prejudice wording as requested by the ExA. National Grid considers that to do so would not be consistent with National Grid's statutory duty to be economic and efficient and, if AIDB refused to provide the requisite consent, would likely lead to a requirement for additional consents and land rights to deliver a revised or new project, as well as separate funding approval by Ofgem which would inevitably mean that the earliest in service date would not be met.</p> <p>On the basis of the above response, National Grid feels strongly that without prejudice wording as requested cannot be provided in this instance given the fundamental disagreement National Grid has on this position.</p>

Ref No.	Respondent:	Question:
4.0.4	The Applicant	<p>Article 20: Protective work to land, buildings, structures, apparatus or equipment Article 20 is not included in Appendix E of [REP6-062]. Can the Applicant respond to National Highways' submissions [REP6-076] in connection with Article 20.</p> <p>Applicant's Response:</p> <p>In response to National Highways' submissions [REP6-076] in connection with Article 20, National Grid does not anticipate needing to exercise this power over the strategic road network. In any event, it has now been agreed between National Grid and National Highways that an approval right is provided for National Highways in the protective provisions regarding this power and this has been included in the protective provisions as updated in Part 6 of Schedule 15 to the draft DCO (Document 3.1 (F)) submitted at Deadline 7.</p>
4.0.5	The Applicant	<p>Article 21: Authority to survey and investigate the land Can the Applicant respond to National Highways' submissions [REP6-076] in connection with Article 21.</p> <p>Applicant's Response:</p> <p>In response to National Highways' submissions [REP6-076] in connection with Article 21, National Grid does not anticipate needing to exercise this power over the strategic road network. In any event, it has now been agreed between National Grid and National Highways that an approval right is provided for National Highways in the protective provisions regarding this power and this has been included in the protective provisions as updated in Part 6 of Schedule 15 to the draft DCO (Document 3.1 (F)) submitted at Deadline 7.</p>

2.5 Part 5: Powers of Acquisition

Table 2.5 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Part 5: Powers of Acquisition

Ref No.	Respondent:	Question:
5	5. Part 5: Powers of Acquisition	
5.0.1	The Applicant	<p>Articles 22, 25, 26, 36, 37, 38 and 39: Powers of Acquisition Articles 22 and 25 are not included in Appendix E of [REP6-062]. Can the Applicant respond to National Highways' submissions [REP6-076] in relation to Articles 22, 25, 26, 36, 37, 38 and 39.</p> <p>Applicant's Response:</p> <p>A detailed response for [REP6-076] is provided within the Applicant's Comments on Interested Parties' Deadline 6 Submissions (Document 8.31) submitted at Deadline 7. As is demonstrated within the Statement of Common Ground between National Grid and National Highways (Document 8.5.14(C)), National Grid and National Highways have now, with the updates to protective provisions in Part 6 of Schedule 15, considerably narrowed the issues between them so that all Articles of the draft DCO (Document 3.1(F)) are matters agreed with National Highways.</p>

2.6 Part 6: Miscellaneous and General

Table 2.6 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Part 6: Miscellaneous and General

Ref No.	Respondent:	Question:
6	6. Part 6: Miscellaneous and General	
6.0.1	The Applicant	<p>Article 45: Traffic regulation Can the Applicant respond to National Highways' submissions [REP6-076] with regard to Article 45.</p> <p>Applicant's Response:</p> <p>A detailed response for [REP6-076] is provided within Applicant's Comments on Interested Parties' Deadline 6 Submissions (Document 8.31). As is demonstrated within the Statement of Common Ground between National Grid and National Highways (Document 8.5.14(C)), all Articles of the DCO are matters agreed with National Highways.</p>

2.7 Schedule 1: Authorised Development

Table 2.7 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Schedule 1: Authorised Development

Ref No.	Respondent:	Question:
7	7. Schedule 1: Authorised Development	
7.0.2	The Applicant	<p>Other associated development National Highways has submitted that Schedule 1 could be amended to exclude works to the SRN from the scope of works constituting other associated development. The ExA notes the Applicant's justification for seeking to address the concerns of National Highways through Protective Provisions rather than amendments to Schedule 1. However, in the absence of Protective Provisions, the ExA needs to consider all drafting options to achieve the required outcomes. Therefore, if Protective Provisions are not agreed with National Highways by Deadline 7, provide without prejudice drafting that is capable of being inserted into the Schedule 1 description of associated development to exclude works affecting the SRN to the satisfaction of National Highways.</p> <p>Applicant's Response:</p> <p>As is demonstrated within the Statement of Common Ground between National Grid and National Highways (Document 8.5.14(C)), National Grid and National Highways have now, with the update to protective provisions in Part 6 of Schedule 15, considerably narrowed the issues between them so that Schedule 1 of the draft DCO (Document 3.1(F)) is listed as a matter agreed with National Highways.</p> <p>National Grid firmly disagree that an update to the wording of Schedule 1 is the appropriate mechanism through which to protect National Highways' undertaking. The protective provisions have now progressed to a stage where they resolve National Highways' concerns regarding approvals over the works themselves (and potential associated development).</p> <p>The only outstanding issues within the protective provisions relate to the indemnity and whether the protective provisions should extend to land which is not part of the strategic road network or, therefore, land held for the purposes of National Highways' statutory undertaking. This would not be capable of resolution through updated wording to Schedule 1 in any event. The purpose of the works listed in Schedule 1 is to allow flexibility should works within the Order limits but not expressly set out as Work Nos. be required to effectively deliver the Project. Whilst no associated development is anticipated within the strategic road network above what has been specifically identified, placing an outright exclusion over the ability to consent any such work would be an overly onerous resolution to the issue. The updated wording within the protective provisions now ensures that National Highways has the approval powers it requires over the works anticipated, as well as any unanticipated further associated development. Accordingly, as well as not being appropriate, it is also not necessary to include any additional drafting within Schedule 1. This is a position now agreed with National Highways.</p> <p>On the basis that both National Grid and National Highways have agreed that no update to Schedule 1 is required because the protective provisions have addressed National Highways' concern as confirmed in the Statement of Common Ground between National Grid and National Highways, no without prejudice wording has been provided because there is now no need for the ExA to consider addition of any such wording to Schedule 1.</p>

2.8 Schedule 3: Requirements

Table 2.8 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Schedule 3: Requirements

Ref No.	Respondent:	Question:
8	8. Schedule 3: Requirements	
8.0.1	The Applicant	<p>Requirement 1: Interpretation Justify the inclusion of “environmental mitigation works” within the definition of “pre-commencement works” and explain the nature of works that might reasonably be expected to fall within this definition.</p> <p>Applicant's Response:</p> <p>The term “environmental mitigation works” refers to measures required to mitigate environment effects during pre-commencement works and could cover the following works:</p> <ul style="list-style-type: none"> • Measures to manage, handle and store soils that may require excavation and storage as a result of pre-commencement works such as archaeological investigation works, diversion and laying of underground utilities, site clearance and works to investigate ground conditions or contamination (Embedded Measures Schedule, Document 5.3.3A(C), [REP6-035]), measures AS02 and AS03 (Code of construction Practice, Document 5.3.3B(E))). • Measures required as a result of pre-commencement biodiversity update surveys (Section 4.2, Biodiversity Mitigation Strategy, Document 5.3.3D(B), [REP6-039]) should these surveys identify the presence of protected/notable species which require the implementation of mitigation pre-commencement. An example of such mitigation would include setting up a buffer zone at utility diversions to avoid disturbance from undergrounding should pre-commencement surveys identify the presence of a badger sett (paragraph 4.7.1, Biodiversity Mitigation Strategy, Document 5.3.3D(B), [REP6-039]). • Measures that are required to ensure replacement habitat is in place ahead of impacts on existing habitat, for example the installation of replacement bat roost habitat in the form of bat boxes to mitigate the removal of potential roost habitat (paragraph 4.6.7, Biodiversity Mitigation Strategy, Document 5.3.3D(B), [REP6-039]). • Bio-security measures with regard to non-native invasive plant species which may be required to enable pre-commencement works (such as vegetation removal) to proceed (Section 4.11 Biodiversity Mitigation Strategy, Document 5.3.3D(B), [REP6-039]). • Biodiversity measures that are seasonally constrained and therefore may need to take place during the pre-commencement phase prior to construction works starting (to ensure they are implemented at the correct time). Though not currently required, if evidence were to be recorded during pre-construction update surveys examples of seasonally constrained biodiversity measures could be badger sett closure (July to November only) or bat roost closure¹ to avoid sensitive breeding seasons/periods with dependent young/bat hibernation period, and installation of replacement habitat in advance of closures. It should be noted that if required, these measures would be subject to obtaining the relevant protected species licences from Natural England. • Measures that may need to form part of the setup of temporary construction compounds such as acoustic or visual screening measures (paragraph 2.3.10 and 2.3.11 and measure NV04, Code of Construction Practice, Document 5.3.3B(E)). <p>National Grid considers it essential that the environmental mitigation works such as those examples outlined above are included in the definition of pre-commencement works in order that the potential environmental effects of works are mitigated and that seasonal constraints in relation to biodiversity are met to ensure the Project complies with legislation and best practice.</p>
8.0.2	The Applicant	<p>Requirement 5: Construction management plans – Construction Traffic Management Plan The ExA notes the Applicant's response to ISH4 Action Point 8 in relation to an alternative haul road proposal for construction access to Pylon XC520.</p>

¹ Note that timing of works affecting bat roosts depends on the nature of the roost (maternity/hibernation/mating/occasional).

Ref No.	Respondent:	Question:
		<p>a) Does the alternative haul road proposal fall within the scope of works assessed in the ES? If so, provide references. If not, explain the timescales for, and scope of, any additional assessment work that may be required.</p> <p>b) If a further update to the Construction Traffic Management Plan (CTMP) is planned to cover this matter, which we note would be subject to final land agreement, then it should be submitted at Deadline 7.</p> <p>c) Deadline 8 is the final opportunity for the submission of confirmation that a voluntary agreement with the landowner has been reached (and signed). In the absence of such confirmation, the ExA will not be able to give full weight to the alternative haul route. The ExA notes the Applicant's in-principle case that the original proposal of routeing via AP8 is acceptable and satisfactory.</p> <p>d) Comment on North Yorkshire Council's (NYC) [AS-025] suggestion that it may be possible to access Red Hill Lane by crossing Butts Lane via Old Quarry Lane, including confirmation as to whether or not a weight restriction order is in place for this road.</p> <p>e) Respond to NYC's points relating to the CTMP on pages 4 and 5 of [AS-025].</p> <p>Applicant's Response:</p> <p>a) The alternative haul road proposal does not fall within the scope of the works assessed in the ES where part of the route would fall outside the Project Order Limits. The proposed alternative access road would be an extension of the current access road proposed to pylon XC521. The proposed access track would comprise of approximately 200m of additional trackmatting and would join onto the access track currently shown to pylon XC520. Construction traffic would use the proposed bellmouth AP7 and no additional bellmouth works or intrusive access works would be required. A plan showing the proposed access track has been provided in Appendix A of the Applicant's Response to ISH4 Hearing Action Points (Document 8.29.4 [REP6-062]). There would be no additional loss of trees or hedgerow as a result of the use of this alternative access track. With the use of track matting to protect ground conditions as well as the implementation of the measures set out in the Code of Construction Practice (Document 5.3.3B(D), [REP6-037]), Biodiversity Mitigation Strategy (Document 5.3.3D(B)), [REP6-039] and Arboricultural Impact Assessment (Document 5.3.3I(D)) the alternative access route would not give rise to any materially new or materially different environmental effects from those identified in the Environmental Statement.</p> <p>b) and c) National Grid have provided an update to Hearing Action Point 8 and a response to Hearing Action Point 9 from Issue Specific Hearing (ISH) 4 in the Applicant's Deadline 7 Response to ISH4 Hearing Action Points (Document 8.29.6) submitted at Deadline 7. The alternative proposal was set out in an illustrative plan in Appendix A of the Applicant's Response to ISH4 Hearing Action Points (Document 8.29.4) [REP6-062], which would see a temporary access extend from AP7. This would mean that HGV traffic would be able to use the bellmouth at AP7 and travel to pylon XC521 along an existing access track, with a continuation of the existing access track being required, through a field gateway to connect into the access track proposed for pylon XC520 as part of the Project, part of which falls outside the Order limits. The access proposal would consist of the use of track matting for the continuation of the existing access track and there would be no requirement for additional vegetation removal. The use of this proposal would mean that HGV access would not need to be routed through Lumby during construction if the alternative was utilised, however the road through Lumby would still be used for LGV movements during construction and for future maintenance requirements.</p> <p>Heads of Terms were already agreed with the affected landowner prior to this proposal being identified, and a meeting has taken place to discuss the alternative which was positively received. However, the alternative access route can only be progressed to the extent that it is agreed by the landowner as part of ongoing voluntary negotiations and if the option agreement is entered into with the landowner.</p> <p>Whilst voluntary negotiations are progressing well, the option agreement will take some time to finalise and will not be completed during the course of the examination. As detailed in the Applicant's Written Summary of Oral Representations made at Issue Specific Hearing 4 (Document 8.29.1) [REP6-059] in Table 5.1 approximately 52 HGV movements are anticipated to be routed through Lumby per week, which equates to an average of up to 8 HGV two-way movements per day. In progressing this alternative, National Grid is trying to accommodate a local concern, but National Grid's clear position is that the use of the road through Lumby and AP8 is acceptable and satisfactory given the very low levels of HGVs required for construction of the Project in this location and it does not give rise to any significant environmental effects.</p> <p>On the basis that it will take some time before it is known whether an option agreement can be completed for this alternative, and that the current proposal for HGV routeing via Lumby and use of AP8 is considered to be acceptable and satisfactory given the low levels of HGVs required for construction of the Project in that location, National Grid has reviewed ES Chapter 3 Appendix 3F - Construction Traffic Management Plan (CTMP) (Document 5.3.3F(D)) to ensure flexibility is provided for both options. National Grid considers that the CTMP in its current form contains the flexibility to allow construction traffic to route to pylon XC521 via AP7. The CTMP does not state the construction access route per pylon or works activity. The CTMP sets out the construction route for each access point in Table 4.2. Therefore, it is National Grid's view that the CTMP in its current form contains flexibility to allow construction traffic to route to pylon XC521 via AP7 should an associated haul route be negotiated as part of the option agreement with the landowner, as well as via AP8 should a voluntary agreement not be secured and the existing proposal retained.</p>

Ref No.	Respondent:	Question:
		<p>Therefore, the CTMP cannot be updated to restrict the use of AP8 to LGVs only during construction. However, to ensure there is no ambiguity the CTMP (Document 5.3.3F(D)) has been updated and submitted at Deadline 7 to include a new paragraph 7.2.7 which states that “<i>This CTMP provides flexibility for HGV construction traffic to route to pylon XC521 via AP7 and AP8. National Grid will inform the relevant highway authority should the use of AP7 be confirmed. Should AP8 continue to be utilised for HGV construction traffic National Grid will seek to agree with the relevant highway authority any specific management measures in this location for example use of Banksmen if required (as per paragraphs 7.2.2 to 7.2.5 and Section 7.3 of this CTMP)</i>”.</p> <p>d) A full response on NYC’s suggestion to use Old Quarry Lane to access AP8 is provided in the Applicant’s Comments on Interested Parties Deadline 6 Submissions (Document 8.31) submitted at Deadline 7. This provides comments on NYC’s response to Action Point 7 [REP6-077].</p> <p>The route to AP8 was determined as the route with the fewest constraints, based on a variety of considerations as set out in paragraph 4.5.2 of the Construction Traffic Management Plan (Document 5.3.3F(D)), it is considered that Old Quarry Lane contains more constraints than Butts Lane, as set out below. Routeing west from the A162 (towards Lumby) Old Quarry Lane is a single-track road with no passing places for half a mile and a 7.5T weight restriction. Within Lumby, Old Quarry Lane is narrow and bound by residential properties some of which have direct frontage onto the carriageway. The junction of Old Quarry Lane/Butts Lane/Red Hill Lane is, in effect, a staggered priority junction. HGVs routing from Old Quarry Road to Butts Lane have to perform a slight turning manoeuvre with visibility limited to the left and right. Mitigation would be required for a route via Old Quarry Lane, similar to that required for the proposed route via Butts Lane, to ensure appropriate and safe access is maintained. Therefore, National Grid does not consider routeing HGV traffic via Old Quarry Lane to reduce potential traffic and transport impact compared with the proposed Butts Lane route. National Grid are not considering the use of Old Quarry Lane for construction traffic.</p> <p>e) Pages 4 and 5 of AS-025 related to text entitled ‘Highway Approval note to inspector’ and ‘Construction Traffic Management Plan’. The text on pages 4 and 5, provided by NYC, was provided to National Grid previously with a full response provided by National Grid within the Appendix of the Statement of Common Ground between National Grid Electricity Transmission plc and North Yorkshire Council (Document 8.5.2(C)) [REP5-031] addressing each point raised by the highway authority. As part of the response National Grid confirmed that engagement with the Local Highway Authority (LHA) would occur prior to any works within the highways as required by the draft DCO (Document 3.1(F)), clarified the terminology relating to temporary stopping up and disapplication of the New Roads and Street Works Act 1991 and addressed the points raised by NYC relating to the key consultation stages during the construction phase relating to the CTMP. The response is summarised below:</p> <ul style="list-style-type: none"> • Proposed Access: NYC requested consultation on each access and that each access will follow an implementation plan using the Design Manual for Roads and Bridges (DMRB) or the Council’s design standard. National Grid re-iterated that the CTMP (Section 3.5.1 (Document 5.3.3F(C) [REP6-041])) states accesses comply with DMRB, where relevant, and that Requirement 14 of the draft DCO (Document 3.1(F)) requires the LHA approval for accesses. • Abnormal Loads: NYC stated consultation would be needed on route and mitigation measures for Abnormal Loads with traffic management of each site. National Grid re-iterated that, as per CTMP paragraph 3.6.3 (Document 5.3.3F(C) [REP6-041]), the ESDAL system would be used to consult the relevant authorities regarding abnormal loads. • Routing: NYC highlighted the demands of HGVs on roads and that each route will require a survey being mindful that other large vehicles may also use the route. National Grid re-iterated that the most appropriate HGV routes were selected based on a range of constraints (identified in paragraph 4.5.2 of the CTMP) and that highway condition surveys are committed to in the CTMP (paragraphs 7.3.10 and 7.3.11) (Document 5.3.3F(C) [REP6-041]). • Overhead Crossings: NYC stated that overhead crossings are hazardous and could pose a risk to the public and therefore requested that National Grid carry out risk assessments of each operation within the highway. National Grid highlighted that scaffold crossings would be designed to the relevant design standards within consideration of climatic conditions and safety. The CTMP requires contractors to undertake risk assessments of traffic management measures (paragraph 8.2.2) and sets out the measures that will be implemented at crossing locations (paragraph 6.2.2) (Document 5.3.3F(C) [REP6-041]). • Traffic Management: NYC highlighted works in the highway would require street works approval and examination by the street works authority. National Grid outlined the requirements for advanced notice set out in the dDCO (Document 3.1(F)) in relation to the Project. National Grid, also, highlighted that the traffic management mitigation within the CTMP would be informed by discussion with the LHA ((paragraph 7.1.2) and implementation plans agreed with the LHA (paragraphs 7.2.4 and 7.2.5) (Document 5.3.3F(C) [REP6-041]).

Ref No.	Respondent:	Question:
		<ul style="list-style-type: none"> Management of the CTMP: NYC set out its wish to be involved and consulted with throughout the Project to prevent unnecessary disruption to the highway network. National Grid confirmed the intention to work with the LHAs to minimise disruption as far as possible. <p>NYC confirmed, via signing of the Statement of Common Ground between National Grid Electricity Transmission plc and North Yorkshire Council (Document 8.5.2(D)), that it was content with the responses provided by National Grid on those matters relating to the CTMP (Document 5.3.3F(C) [REP6-041]) and no changes were required for the CTMP (Document 5.3.3F(D)) in light of the comments provided within the text on pages 4 and 5 of [AS-025]. As set out in the Statement of Common Ground between National Grid Electricity Transmission plc and North Yorkshire Council (Document 8.5.2(D)) it is noted that the use of Butts Lane, Lumby to access AP8 is a matter not agreed with NYC. The potential alternative to the use of this route is discussed in the above response. Document 8.31 submitted at Deadline 7 provides comments on NYC's response [AS-025] to Action Point 7, which sets out NYC's concerns regarding the use of Butts Lane and potential mitigation.</p>
8.0.4	The Applicant	<p>Requirement 7: Construction hours Comment on NYC's submissions [AS-025] that "The ABC approach is limited in so far as the lowest noise threshold of 65dB LAeq,T significantly exceeds existing background levels in quiet rural areas as is the case here", with particular reference to the area surrounding the proposed Monk Fryston substation.</p> <p>Applicant's Response:</p> <p>National Grid has provided comments on North Yorkshire Council's response to AP13 in the Applicant's Comments on Interested Parties' Deadline 6 Submissions (Document 8.31) submitted at Deadline 7 which is repeated here.</p> <p>National Grid consider that NYC is incorrect in its assertion that the Threshold of Significance is 65dB. The Threshold of Significance for the BS 5228 Part 1 Annex E "Weekend" category, that applies to the Sunday and bank holiday hours in the construction noise assessment within the noise and vibration chapter (Document 5.2.14 ES Chapter 14 Noise and Vibration) [APP-086]) of the Environmental Statement, is 55dB LAeq,T, between 07:00 and 23:00 on Sundays and Bank Holidays.</p> <p>The suggestion that Monk Fryston is a very low noise area and that the underlying background is 30dB does not accord with data collected during the baseline monitoring (Document 5.3.14A Appendix 14A Baseline Noise Report) [APP-150]). On Sundays at the most relevant receptor locations MF1 (Monk Fryston Lodge) existing Sunday ambient noise levels of 44dB and Background L₉₀ levels of 37 dB were measured; and at MF3 (Pollums House Farm), which is closer to the A1(M), ambient noise levels of 59dB and background L₉₀ levels of 44dB, were measured.</p> <p>It is reiterated that the underlying background (L₉₀) level, is not generally referred to, with respect to assessments of construction noise using BS5228. The main comparative parameter being the ambient noise (LAeq,T). Low noise areas have been considered in the assessment in the selection of the lowest noise category, Category A.</p> <p>All assessments show that with mitigation applied, the 55dB "Weekend", Threshold of Significance is met at all receptors if works are progressed on a Sunday and/or a Bank Holiday. Therefore, it is considered that prohibition of Sunday/ Bank Holiday working or the application of a restriction to alternate Sunday/ Bank Holiday working is not justified by reference to predicted impacts and is not needed to preserve amenity in the vicinity of Monk Fryston as there is no assessment basis for specific restrictions in the Monk Fryston area.</p> <p>The rationale for the resistance to an alternate Sunday and Bank/Holiday criterion is detailed further in response to Action Point 14 of the Applicant's Response to ISH4 Hearing Action Points (Document 8.29.4) [REP6-062] and National Grid's position on Sunday and bank holiday working and construction noise effects with respect to the substations is set out in the Working Hours Position Statement (Document 8.34.1) submitted at Deadline 7.</p>
8.0.7	The Applicant	<p>Requirement 7: Construction hours The ExA notes the Applicant's justification for the construction working hours set out at ISH4 and in [REP6-062].</p> <p>a) In light of the sustained objections of NYC with a particular focus on the proposed Monk Fryston Substation, how does the Applicant respond to the suggestion of a provision within Requirement 7 that restricts consecutive Saturday and Sunday working on alternate weekends (an analogous approach to that taken in R7(2) of The National Grid (Richborough Connection Project) Development Consent Order 2017), solely in relation to Work No.11 (Monk Fryston Substation)?</p>

Ref No.	Respondent:	Question:
		<p>b) Even if the Applicant considers that such a provision is not necessary, provide drafting on a without prejudice basis that could be inserted into Requirement 7, if deemed necessary, to achieve the following alternative outcomes:</p> <p>i. restrict consecutive Saturday and Sunday working on alternate weekends in an equivalent manner to that secured by R7(2) of The National Grid (Richborough Connection Project) Development Consent Order 2017 for the whole project; and,</p> <p>ii. restrict consecutive Saturday and Sunday working on alternate weekends in an equivalent manner to that secured by R7(2) of The National Grid (Richborough Connection Project) Development Consent Order 2017 solely in relation to Work No.11 (Monk Fryston Substation).</p> <p>Applicant's Response:</p> <p>a) As set out in response to Q8.0.4 above and in National Grid's Working Hours Position Statement (Document 8.34.1) restrictions to the proposed weekend working hours is not considered to be necessary or justified at Monk Fryston Substation or at any other locations across the Project. The noise and vibration assessment (Document 5.2.14, [APP-086]) has identified that construction works during the proposed "weekend" as defined by Annex E of BS 5228 Part 1, core hours (Saturday 13:00 – 17:00, Sunday/ Bank Holiday 08:00 – 17:00) are not predicted to give rise to significant effects during this time period. For the majority of receptors across the Project, including those around Monk Fryston Substation significant effects are not likely to occur during this time period with or without mitigation. The mitigation proposed (summarised in National Grid's Working Hours Position Statement Document 8.34.1) would ensure that significant noise effects are avoided for those locations where significant noise effects could occur in the absence of mitigation.</p> <p>b) i) Given that significant adverse construction noise impacts are completely avoided at all locations across the route of the Project (as confirmed within the Applicant's Position Statement with North Yorkshire Council on Working Hours (Document 8.34.1)) and that section 2.1.8 of the Noise and Vibration Management Plan (Document 5.3.3H) [APP-101] includes a process to deal with resolution of any complaints arising from non-significant effects, National Grid is firmly of the view that alternate weekend working should not be imposed and cannot be justified as meeting the tests in paragraph 4.1.7 of NPS EN-1. It is neither necessary nor could it be reasonably required in light of the need for flexibility to meet the strict programme for urgent delivery of the Project by the earliest in service date. Despite National Grid's strong objection to such a restriction, and entirely without prejudice to National Grid's position, National Grid has provided the wording requested by the ExA below:</p> <p><i>"(1) Subject to paragraphs (2) and, (3) and (4) construction works may only take place between 0700 and 1900 Mondays to Fridays and between 0800 and 1700 on Saturdays, Sundays and Bank Holidays.</i></p> <p>(2) Working on a consecutive Saturday and Sunday may only take place on two out of any four alternate weekends in each relevant local authority area.</p> <p><i>(3) Piling operations must take place only between 0800 and 1700 on Mondays to Fridays and 0900 to 1400 on Saturdays.</i></p> <p><i>(4) The following operations may take place outside the core working hours referred to in paragraph (1) and (2)—</i></p> <p><i>(a) the jointing of underground cables, with the exception of cable cutting which must take place only during core working hours;</i></p> <p><i>(b) installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines or watercourses;</i></p> <p><i>(c) the completion of operations commenced during the core working hours which cannot safely be stopped;</i></p> <p><i>(d) any highway works requested by the relevant highway authority to be undertaken on a Saturday or a Sunday or outside the core working hours;</i></p> <p><i>(e) oil processing of transformers or reactors in substation sites;</i></p> <p><i>(f) the testing or commissioning of any electrical plant installed as part of the authorised development."</i></p> <p>ii) For the reasons given at (i) above, National Grid remains firmly of the position that alternate weekend working cannot be justified under paragraph 4.1.7 of NPS EN-1, whether solely in relation to Work No. 11 or across the entire Project. There is no reason why construction works at Monk Fryston should be treated any differently to construction works elsewhere along the route of the Project; in both cases no significant effects are predicted to occur, and measures have been secured to deal with any complaints arising from non-significant effects. Again, despite National Grid's strong objection to such a restriction, and entirely without prejudice to National Grid's position, National Grid has provided the wording requested by the ExA below:</p>

Ref No.	Respondent:	Question:
		<p>“(1) Subject to paragraphs (2) and, (3) and (4) construction works may only take place between 0700 and 1900 Mondays to Fridays and between 0800 and 1700 on Saturdays, Sundays and Bank Holidays.</p> <p>(2) In respect of Work No.11 as described in Schedule 1 (authorised development) working on a consecutive Saturday and Sunday may only take place on two out of any four alternate weekends.</p> <p>(3) Piling operations must take place only between 0800 and 1700 on Mondays to Fridays and 0900 to 1400 on Saturdays.</p> <p>(4) The following operations may take place outside the core working hours referred to in paragraph (1) and (2)—</p> <p>(a) the jointing of underground cables, with the exception of cable cutting which must take place only during core working hours;</p> <p>(b) installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines or watercourses;</p> <p>(c) the completion of operations commenced during the core working hours which cannot safely be stopped;</p> <p>(d) any highway works requested by the relevant highway authority to be undertaken on a Saturday or a Sunday or outside the core working hours;</p> <p>(e) oil processing of transformers or reactors in substation sites;</p> <p>(f) the testing or commissioning of any electrical plant installed as part of the authorised development.”</p>
8.0.8	The Applicant North Yorkshire Council	<p>Requirement 7: Construction hours Should disagreement remain on the matter of construction hours at Deadline 7, then the final Statement of Common Ground between the Applicant and NYC should be as specific as possible about the final positions of the respective parties to assist the ExA in making its recommendation.</p> <p>Applicant’s Response:</p> <p>The final SoCG between NYC and National Grid (Document 8.5.2 (D)) cross refers to a Working Hours Position Statement submitted at Deadline 7 (Document 8.34.1) which provides a clear explanation of National Grid’s position and NYC’s position to highlight where the parties disagree.</p>
8.0.9	The Applicant	<p>Requirement 8: Landscaping at Overton, Tadcaster and Monk Fryston Give further consideration to the wording of Requirement 8(2)(d) to ensure that it is clear that it covers not just proposed levels, but also the detailed fine-tuning of the landform, as discussed at ISH2 in relation to the Design Approach to Site Specific Infrastructure (DASSI). Note, the ExA is content that this matter would be secured in this Requirement.</p> <p>Applicant’s Response:</p> <p>National Grid has given further consideration to the drafting of Requirement 8(2)(d) and have amended the wording to read “(d) details of the design of the proposed levels and slope profiles of any permanent earthworks” within the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p>
8.0.11	The Applicant North Yorkshire Council	<p>Requirement 10: Replacement planting The Applicant’s response to Action point 26 [REP6-062] does not set out the points Mr Furber made on behalf of the Applicant at ISH4 regarding the replacement planting not being like for like and potentially delivering more in terms of numbers, diversity and quality, and being subject to the relevant planning authority’s approval. It was also referred to as a note for submission to explain [REP6-060], page 37.</p> <p>North Yorkshire Council indicated at ISH4, that it was keen to see/ consider this wording. The ExA invited the Applicant to consider where this statement could be secured.</p> <p>a) Applicant: As this requested statement is different from the points made in the response to Action point 26 [REP6-062], the ExA repeats its request that the Applicant submits suitable wording together with a proposal as to where this could be secured.</p> <p>b) Both: Given that the Examination is now at an advanced stage, the ExA encourages both parties to discuss and agree this wording without delay in order that an agreed form of words can be submitted at Deadline 7, together with a proposal for how it can be secured.</p> <p>Applicant’s Response:</p>

Ref No.	Respondent:	Question:
		<p>a) National Grid's understanding of Action point 26 was that a summary was required regarding use of the terms 'reinstatement' and 'replacement' and confirmation of where additional wording would be provided to clarify the difference in use of these terms (as set out in the Applicant's Response to Issue Specific Hearing 4 Action Points (Document 8.29.4, [REP6-062]).</p> <p>However, the matter of like for like replacement planting has been considered further and as detailed within [REP6-060] (page 37), National Grid considers that there could be opportunities for replacement planting to deliver benefits by going beyond a like for like binary replacement. This could occur when vegetation of low quality is removed (for example disease susceptible species) and is replaced by species that are more resilient or of higher quality. In addition, the replacement planting could result in a greater quantum of planting, for example through the process of no net loss along the overhead line route, combined with the landscaping schemes at the substations and Tadcaster CSEC. In addition, Requirements 8 and 10 of the draft DCO (Document 3.1(F)) ensure that should any replacement planting die, be removed or become damaged or diseased within five years after planting, it must be replaced.</p> <p>To reflect this, National Grid has updated the wording in paragraph 2.3.22 of the Code of Construction Practice (Document 5.3.3B(E)) submitted at Deadline 7 (amended wording is indicated in bold text) as follows: <i>"Reinstatement of vegetation would generally be completed using the same or similar species to that removed (subject to restrictions for planting over and around National Grid easements). Where feasible, the replacement planting may increase the quantum and species diversity of trees and hedgerows in comparison to those removed, for example when replacing planting of low density, quality and/or those species prone to disease e.g. ash. Hedgerows would be re-instated except where a field gate or bellmouth is required on a permanent basis for permanent access to substations or CSEC's or maintenance access for the linear infrastructure in the future."</i></p> <p>b) It is proposed that the updated wording is secured in the Code of Construction Practice (Document 5.3.3B(E)) as submitted at Deadline 7, this wording has been agreed in advance of Deadline 7 with NYC.</p>
8.0.12	The Applicant North Yorkshire Council	<p>Requirement 18: Design Approach to Site Specific Infrastructure</p> <p>Requirement 18 provides that the approval of details must "have regard to" the DASSI, whereas other, similar requirements in the dDCO generally stipulate that details must be "in accordance with" approved plans, schemes and strategies. The Applicant's submissions [REP6-060] that the DASSI seeks to inform, rather than prescribe, are noted.</p> <p>a) Does the Applicant object to replacement of the words "having regard to" with "in accordance with" in Requirement 18(2)? If so, why? b) Does North Yorkshire Council wish to comment on this?</p> <p>Applicant's Response:</p> <p>a) National Grid strongly objects to the replacement of the words "having regard to" with "in accordance with" within Requirement 18. As explained in [REP6-060], the nature of the DASSI is not one that can be 'accorded with' as it is not a prescriptive document that would be directly adhered to. The DASSI is to be treated as a 'brief'; it contains only an outline of the design principles to be taken forward into detailed design where there is design flexibility. Due to the document's nature as a brief to guide further detailed design, it is not appropriate for the wording 'in accordance with' to be used in the Requirement. The wording as drafted in the draft DCO (Document 3.1(F)) is the correct terminology to be used because it properly reflects the nature and purpose of the DASSI.</p> <p>The use of the words 'have regard to' requires that National Grid consider and justify any departures from the DASSI in order to demonstrate National Grid has had regard to it in progressing the detailed design and complying with the Requirement. Under the Requirement the local planning authority maintain an approval right and will need to be satisfied that such regard has been had, but it is essential that National Grid have flexibility for appropriate design choices to be made. Conversely, if the ExA was minded to use the wording "in accordance with", there would be no purpose in including an approval right for the local planning authority, as they would have nothing to approve.</p> <p>Within the Applicant's Response to ISH4 Hearing Action Points (Document 8.29.4) [REP6-062], in response to action point 29, National Grid considered the need for the tailpiece in Requirement 18(2). National Grid confirmed that the term 'having regard to' is essential to retain within the requirement wording due to the nature of the DASSI and removed the tailpiece from Requirement 18 only on the basis that the words 'having regard to' would be retained. This was despite the tailpiece being preceded in other DCOs with requirements of this nature (for example, the Hinkley Point C Connection Project Order 2016).</p>

Ref No.	Respondent:	Question:
		<p>It would be extremely restrictive to include the wording 'in accordance with' and not include the tailpiece within the Requirement. Such formulation of wording would be seriously detrimental to the design evolution of the Project due to the limitations on design which it would impose.</p> <p>For this reason, if the words “having regard to” are replaced with “in accordance with”, it would be necessary to re-introduce the tailpiece wording that is preceded in other DCOs such as the Hinkley Point C Connection Project Order 2016, with requirements of this nature. This tailpiece wording would read ‘unless otherwise agreed by the relevant planning authority.’ As set out above, the ExA should also give consideration to the purpose of an approval right of the local planning authority if the words ‘in accordance with’ were used. National Grid submits, that there would be no purpose or reason to include this in such circumstances.</p>
8.0.13	The Applicant North Yorkshire Council	<p>Requirement 18: Design Approach to Site Specific Infrastructure Differences remain over whether certain design elements in the DASSI should be secured in Requirement 18 [REP6-062], Appendix E, No. 18.</p> <p>a) Applicant: Respond to NYC’s comments in its response to action points from ISH4 [AS-025], action point 30 regarding the fencing and the potential for delay to post-consent approvals of the landscape mitigation strategies. Provide an update on any further discussions on this matter.</p> <p>b) Applicant: Having updated the wording in the DASSI to state that all fencing would be galvanised steel, how could the SoS allow for an alternative type/ colour of fencing to be considered if they felt this flexibility to be necessary?</p> <p>c) Applicant: Provide on a without prejudice basis additional/ amended wording to Requirement 18, to achieve increased flexibility over fencing type and colour. Ensure this is consistent with the DASSI.</p> <p>d) North Yorkshire Council: Further to the Council’s response to the Applicant’s justification for specifying and not consulting on galvanised metal fencing, set out in full [REP5-083], response to ExQ2 7.0.1 and précised in [REP6-062], Appendix E, No. 18, you indicated further discussions would take place with the Applicant. Provide an update on this and confirm if the Council still considers that fencing should be a matter for post-consent approvals via Requirement 18.</p> <p>e) North Yorkshire Council: Does the Council have any further comments to make regarding whether NYC considers that the materials for surfacing roads and footpaths within the substations should be subject to post-consent approvals? The Applicant states its case in [REP6-062], Appendix E, No. 18 and the Applicant’s drainage expert explained about the permeability of surface materials and the approach to SUDS at ISH4 [REP6-060], page 38.</p> <p>f) North Yorkshire Council: Is the Council content over the explanation regarding relocated buildings, being covered by the term permanent buildings in Requirement 18 [REP6-062], Appendix E, No.18?</p> <p>g) Applicant: Is there any reason not to add “including relocated buildings” to Requirement 18(1). Suggest (on a without prejudice basis, if you do not agree) precise additional wording to cover this.</p> <p>Applicant’s Response:</p> <p>a) National Grid have provided a full response to NYC’s comments in Table 2.11 of the Applicant’s Comments on Interested Parties’ Deadline 6 Submissions (Document 8.31).</p> <p>b) National Grid have set out a full response on the type and colour of the permanent fencing in Table 2.17 of the Applicant’s Response to the Examining Authority’s Second Written Questions (ExQ2) (Document 8.25.1) [REP5-083]. This explains that coloured, powder coated fencing has significantly less lifespan than standard galvanised steel fencing, and how maintenance requirements would be greater as there would be a need to re-apply the powder coating, which would pose a security risk as successful implementation of powder coating would need to be undertaken offsite in a controlled environment, meaning security fencing would have to be removed from site during maintenance. National Grid do not believe that the type of fencing can be subject to flexibility, as the fencing needs to be in line with National Grid’s technical specification to ensure security of the site. It is required to provide suitable security for the protection of the critical national infrastructure and be compatible with the electrified fencing requirements at the non linear sites. On this basis, the only type of fencing suitable is 2.4m galvanised palisade fencing. There is no requirement from a landscape and visual effects assessment perspective to provide the requested flexibility regarding fencing colour as mitigation. Should there be a requirement to allow flexibility for the colour of the fencing, the fencing in the first instance would need to be galvanised, and then a powder coated finish applied following the galvanization process.</p>

Ref No.	Respondent:	Question:
		<p>On this basis, National Grid do not believe that the DASSI needs to be updated, should the need to add the flexibility on colour be required, as this could be covered through Requirement 18 wording.</p> <p>c) Notwithstanding National Grid's position as outlined above and strong objection to the amendment of Requirement 18, the following without prejudice wording for Requirement 18 of the draft DCO (Document 3.1(F)) is provided pursuant to the ExA's request. Please note that approval of 'type' of fencing has been constrained so that it must comply with NG Technical Specification TS2.10.02 Perimeter Security because National Grid must comply with this specification for safety reasons.</p> <p>Please also note, that this without prejudice wording incorporates a minor change which has been made to the requirement within the draft DCO (Document 3.1(F)) to ensure that the acoustic enclosures are implemented as approved, as opposed to just buildings.</p> <p>" 18.—(1) Any permanent buildings and the acoustic enclosures at— (a) Overton Substation; and (b) Monk Fryston Substation, must not be completed until details of the external colour and surface finish of the permanent buildings and the external colour of the acoustic enclosures have been submitted to and approved by the relevant planning authority (2) Any non-linear site permanent security fencing at— (a) Shipton Tee Cable Sealing End Compounds; (b) Overton Substation; (c) Tadcaster Tee Cable Sealing End Compounds and (d) Monk Fryston Substation, must not be completed until details of the colour or type of the fencing, which must comply with Technical Specification TS2.10.02 Perimeter Security, has been submitted to and approved by the relevant planning authority. (3) Any details to be approved under sub-paragraphs (1) and (2) must be produced having regard to the design approach to site specific infrastructure and must be implemented as approved."</p> <p>d) N/A e) N/A g) National Grid do not believe there is a need to include relocated buildings in the wording for Requirement 18(1) of the draft DCO (Document 3.1(F)) because the current drafting of 'any permanent building' would include any relocated building. A relocated building would be a permanent building. Notwithstanding this, National Grid provide the following without prejudice wording pursuant to the ExA's request:</p> <p>" 18.—(1) Any permanent buildings (including relocated buildings) and the acoustic enclosures at— (a) Overton Substation; and (b) Monk Fryston Substation, must not be completed until details of the external colour and surface finish of the permanent buildings and the external colour of the acoustic enclosures have been submitted to and approved by the relevant planning authority. (2) Any details to be approved under sub-paragraph (1) must be produced having regard to the design approach to site specific infrastructure and must be implemented as approved."</p>

2.9 Schedule 4: Discharge of Requirements

Table 2.9 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Schedule 4: Discharge of Requirements

Ref No.	Respondent:	Question:
9	9. Schedule 4: Discharge of Requirements	
9.0.1	North Yorkshire Council The Applicant	<p>Time period for the discharge of requirements Appendix E of [REP6-062] indicates that NYC has agreed the timescales specified in Schedule 4 for the discharge of consents pursuant to articles of the dDCO but that it was still considering its position in relation to the timescales specified for the discharge of requirements.</p> <p>a) What is the status of agreement between the Applicant and NYC on this matter? b) If not agreed by Deadline 7, can both parties submit final position statements at Deadline 7 to inform the ExA's adjudication of the matter.</p> <p>Applicant's Response:</p> <p>National Grid confirm that the timescales for consents pursuant to articles, set out within the draft DCO (Document 3.1(F)) are agreed with NYC, as set out within item 3.2.5 of the SoCG (Document 8.5.2(D)).</p> <p>In terms of timescales specified for the discharge of requirements set out within Schedule 4 of the draft DCO (Document 3.1(F)), these are not agreed with NYC. They are however agreed with both Leeds City Council and City of York Council, as detailed in the relevant Statement of Common Ground (Document 8.5.4(D) and Document 8.5.3(C) [REP5-034]) respectively. Full details of both National Grid and North Yorkshire Council's final position are set out within item 4.2 of the Statement of Common Ground between National Grid and North Yorkshire Council (Document 8.5.2(D)), and a summary is provided below:</p> <p>National Grid's proposal to include a process for pre-application submissions within a Service Level Agreement (SLA) is informed by previous experience on the delivery of DCO projects. This experience has demonstrated that pre-application submissions are a fundamental part of achieving successful formal application approvals. Previous experience has demonstrated that high-quality, detailed pre-application submissions allows the LPAs to provide full and detailed feedback, meaning these comments can be reflected in the formal application submissions. This reduces the risk of requests for additional information and associated delays, enabling the process under Schedule 4 of the draft DCO to run smoothly for all parties, as the submission documents have already been reviewed and comments addressed prior to the formal submission being made. Including the pre-application process within an SLA allows more flexibility and the ability to amend the process through discussions with the LPA. This is considered advantageous to both parties.</p> <p>National Grid propose a 5-week formal application period as set out within Schedule 4 of the draft DCO (Document 3.1(F)), following a 6-week pre-application period, agreed and funded through a SLA, secured via a S106 agreement. This does not align with NYC's proposal for an 8-week timescale for formal application (noting that NYC have not specified the need for a pre-application process).</p> <p>National Grid consider that a total of 11 weeks (6 weeks for pre-application, followed by 5 weeks for formal application) is a realistic and reasonable timescale, reflecting both the urgent need to ensure the Project is delivered promptly (set out in the Updated Need Case (Document 7.4) [APP-205]), and the time needed for LPAs to review and approve the necessary information. In addition, the submission of a Stage Plan under Requirement 4 of the draft DCO (Document 3.1(F)), as well as monthly update meetings agreed via the SLA, would provide the LPAs significant notice prior to receiving requirement applications. National Grid have agreed that should the LPAs require external resource to manage/process requirement applications, funding under the SLA can be used in this way. NYC have stated that they do not propose to procure a third party to assist in this way.</p> <p>National Grid continue to emphasise that many of the requirements will not be extensive in length, as the principles by which the detail will be provided in the requirement documents are set out within the DCO application documents submitted. Consultation with external requirement consultees as detailed in Schedule 3 of the draft DCO is limited to requirement 6(b) (drainage management plan), and requirements 12 and 13 if applicable, and therefore National Grid consider that risk of delays associated with third parties is a low risk and can be managed appropriately.</p> <p>Despite this being a point of disagreement, National Grid seek to continue engagement with NYC on this matter.</p>

2.10 Schedule 15: Protective Provisions

Table 2.10 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Overarching matters

Ref No.	Respondent:	Question:
10	10.0	Overarching matters
10.0.2	The Applicant	<p>Updated Statement of Reasons ExQ1 4.0.2 requested an update to the submitted Statement of Reasons by Deadline 8. In order to allow a final opportunity for IPs to comment on this document, and to bring its submission into line with the deadline for final updated versions of other land rights documents, the ExA requests that the updated Statement of Reasons is submitted by Deadline 7 (Wednesday 6 September 2023).</p> <p>Applicant's Response: An updated Statement of Reasons (Document 4.1(C)) has been prepared and is submitted at Deadline 7.</p>
10.0.3	The Applicant	<p>Schedule 15: minor drafting inconsistency Ensure that there is consistency regarding the capitalisation or otherwise for the word "undertaker"/ "Undertaker", when meaning the undertaker delivering the authorised development and whether there is a difference in meaning between "statutory undertaker"/ "Statutory undertaker". Currently there are inconsistencies between different Parts of this Schedule 15</p> <p>Applicant's Response: National Grid has amended the minor inconsistencies noted in Schedule 15 within its submission of the draft DCO (Document 3.1(F)) at Deadline 7.</p>

Table 2.11 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Part 4 – For the protection of Railway Interests

Ref No.	Respondent:	Question:
10	10.1	Part 4 – For the protection of Railway Interests
10.1.2	The Applicant Network Rail	<p>Framework Agreement</p> <p>a) Network Rail: Does the Framework Agreement include the Basic Asset Protection Agreement (BAPA) [REP5-116], or is the BAPA an agreement that can be entered into prior to carrying out any work, but post-consent [REP6-025], para 28(3)? Explain what the two agreements are.</p> <p>b) Network Rail: You indicated that if the Framework Agreement is not agreed that you would submit the points in contention between parties a week prior to the close of the Examination [REP5-116], response to Q4.2.10. If needed, ensure that this is submitted, with reasoning, no later than Deadline 8, Wednesday 13 September. This is the last deadline for submissions.</p> <p>c) The Applicant: If the Framework Agreement is not agreed, also set out the points of contention with reasoning from the Applicant's point of view.</p> <p>d) Both: If any progress in agreeing the Framework Agreement has enabled further agreement on paragraphs in the Protective Provisions, set this out here.</p> <p>Applicant's Response: c) The Framework Agreement is prefaced on agreement of approach regarding the protective provisions and form of easement. Currently neither of these elements have been agreed between the parties and so it is not possible to sign up to a Framework Agreement. The main points in issue are the 'lift and shift' and termination provisions insisted upon by Network Rail, which is inhibiting National Grid from being able to sign up to certain provisions within the protective provisions and the form of easement which Network Rail have proposed. Agreeing to such provisions would allow Network Rail to terminate National Grid's land rights if the future need arose to do works to the railway and would also allow Network Rail to require National Grid to move its</p>

Ref No.	Respondent:	Question:
		<p>apparatus in the event that Network Rail requests this. Each of these provisions essentially achieve the same result of removing National Grid's acquired rights with respect to its apparatus and the need for National Grid to remove its established nationally significant infrastructure at the future request of Network Rail. Further detail regarding these points of difference is provided within the Position Statement – Protective Provisions not yet agreed with Network Rail (Document 8.34.3) submitted at deadline 7.</p> <p>d) Ongoing negotiations with Network Rail have enabled further agreement on the Protective Provisions. The content of the Framework Agreement is subject to confidentiality provisions and so it is not possible to provide further detail on this matter.</p>
10.1.3	The Applicant Network Rail	<p>Property documents</p> <p>a) Both: Provide an update on the required property documents, which are referred to in Network Rail's Deadline 5 submission where it was indicated that they would be agreed within six weeks from 11 July 2023, ie 22 August 2023 [REP5-116], response to Ex2 Q 4.2.10, well before Deadline 7.</p> <p>b) Applicant: Are the property documents referred to by Network Rail [REP5-116], those which are referred to by the Applicant as the voluntary agreements with all persons with interests in land [REP6-063], pages 8 to 10? If not, what are they?</p> <p>c) Both: Are the easement documents referred to in the latest SoCG [REP5-049], part of the property documents? Is it the easement documents which contain the disagreed "lift and shift" provisions?</p> <p>d) Both: If the property documents are agreed, list what changes/ areas of disagreement would be removed from those set out at present [REP6-063]. Would any areas of disagreement be sustained?</p> <p>Applicant's Response:</p> <p>a) The voluntary heads of terms are still in negotiation but are progressing positively with the most recent call being held on 1 September 2023. Whilst the majority of terms are now agreed, there are two fundamental points that National Grid is not able to agree with Network Rail, which relate to termination and relocation. National Grid's full position in this respect is set out in Applicant's Position Statement – Protective Provisions Not Yet Agreed with Network Rail (Document 8.34.3).</p> <p>b) Yes, these are the same.</p> <p>c) Yes the easement documents and the voluntary agreement are the same and those documents being negotiated where termination and relocation provisions are matters not agreed between the parties. National Grid's position in this respect is set out in Applicant's Position Statement – Protective Provisions Not Yet Agreed with network Rail (Document 8.34.3).</p> <p>d) Even if the property documents are agreed, there is still a need to include protective provisions on the face of the order. The two sets of documents are being negotiated in parallel and therefore reaching an agreement on the property documents would not remove all areas of disagreement from the protective provisions. The latest position in respect of the Protective Provisions is set out in a Position Statement submitted at Deadline 7 (Document 8.34.3).</p>
10.1.4	The Applicant Network Rail	<p>Property documents and Framework Agreement</p> <p>Both: Would agreement need to be reached on both the property documents and the Framework Agreements before agreement could be reached on the Protective Provisions?</p> <p>Applicant's Response:</p> <p>The Framework Agreement will contain the agreed property documents and agreed protective provisions, so both sets of documents would need to be agreed before the Framework Agreement can be finalised. Agreement on the property documents is required before the Applicant can agree to the compulsory acquisition provisions proposed by NRIL in the Protective Provisions. However, the 'lift and shift' and termination provisions are an issue in the property documents, which follows through into the Protective Provisions and is unlikely to be resolved by Deadline 8. Further detail regarding these points of difference is provided within the Applicant's Position Statement – Protective Provisions not yet agreed with Network Rail (Document 8.34.3) submitted at Deadline 7.</p>

Ref No.	Respondent:	Question:
10.1.5	The Applicant Network Rail	<p>Applicant's Proposed Protective Provisions to benefit Network Rail</p> <p>a) Network Rail: Confirm that in the event that agreement is not reached between yourself and the Applicant, you are in agreement that the form of wording contained in Applicant's Proposed Protective Provisions to benefit Network Rail [REP6-063], with the Network Rail amendments, would be acceptable as opposed to using the Network Rail Protective Provisions which you submitted at Deadline 2, because we note that you said they were out of date [REP2-082]</p> <p>b) Both: A response to the point above regarding the basis for Protective Provisions is crucial to the ExA, in order that it can make a recommendation to the SoS in the event that agreement is not reached between parties. Our understanding is that we could not rely on the Network Rail Deadline 2 submission and could not therefore recommend as described as Network Rail's overview position [REP6-063] para 1.3.3 to 1.3.4. If this is not the case, set out why not and provide detail of any further detailed differences.</p> <p>Applicant's Response:</p> <p>b) Network Rail's drafting position was set out within the Deadline 6 Joint Submission Proposed Protective Provisions to benefit Network Rail (Document 8.30.1) [REP6-063]. Points of difference have since narrowed, as is reflected in the Statement of Common Ground between National Grid and Network Rail (Document 8.5.11(D)) submitted at deadline 7. Only those points of drafting difference set out in [REP6-063], which persist as matters not agreed in the SoCG would need determining by the ExA and Secretary of State.</p>
10.1.6	The Applicant Network Rail	<p>Para 27 (dDCO [REP6-025])/ para 2 [REP6-063]: definition of "asset protection agreement"</p> <p>a) Applicant: Provide any comments/ alternative drafting or confirm the wording for the definition of asset protection agreement, in the event that later use of the term is required under para 39 (additional (e) shown as 14(e) and referred to as 15(e) [REP6-063]).</p> <p>b) Both: Agree wording, even in light of the Applicant's view that this definition would be redundant.</p> <p>Applicant's Response:</p> <p>a and b) Agreement has now been reached regarding the drafting of the definition for "asset protection agreement". This reads as follows: "asset protection agreement" means an agreement to regulate the construction and maintenance of the specified work in a form reasonably prescribed from time to time by Network Rail save for matters concerning requirements imposed by Network Rail in order for Network Rail to comply with its statutory duties, regulatory duties or the terms of its network licence in which case such matters shall be in Network Rail's absolute discretion and in determining whether or not such matters fall within those constraints Network Rail shall at all times act reasonably". This definition has been included in the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p>
10.1.7	The Applicant Network Rail	<p>Para 28 (dDCO [REP6-025])/ para 3 [REP6-063]</p> <p>a) Applicant: Explain why you disagree with the removal of the words "in good faith" in dDCO para 28(2)(a) [REP6-025], (REP6-063), para 3(2)(a), page 8.</p> <p>b) Network Rail: What is the justification for removal of the words "in good faith" dDCO para 28(2)(a) ([REP6-063], para 3(2)(a), page 8)?</p> <p>c) Network Rail: Confirm whether the proposed additions which are shown for insertion as para 28(4), 28(5) and 28(6) in the dDCO ([REP6-063], para 3(4), 3(5) and 3(6), pages 11 to 12) are the same as those which Network Rail includes in its standard Protective Provisions.</p> <p>d) Network Rail: Set out specific evidence to show that the powers sought under each of the articles and powers under various acts listed under the Network Rail proposed dDCO para 28(4)(1) to 28(4)(5) ([REP6-063], para 3(4), page 8 to 11) would compromise or otherwise adversely affect the safe and efficient operation of the railway. How in practice would that be compromised, in the context of and on the facts of this scheme?</p> <p>e) Applicant: Set out details of how the Network Rail Protective Provisions proposed under dDCO para 28(4) ([REP6-063], para 3(4), page 11) would impact on the undertaker's ability to deliver the project in terms of the rights sought in the vicinity of the railways.</p> <p>f) Network Rail: Explain the need for the broad-brush exclusion powers sought under proposed dDCO para 28(4)(6) and 28(4)(7) ([REP6-063], para 3(4)(6) and 3(4)(7), page 11 to 12) which could undermine the purpose of the rights being sought.</p> <p>g) Applicant: Provide comments on the Network Rail proposed additional paragraphs dDCO 28(4)(6) and 28(4)(7) ([REP6-063], para 3(4)(6) and 3(4)(7), page 11 to 12).</p>

Ref No.	Respondent:	Question:
		<p>h) Network Rail: Those DCOs cited as including Network Rail's standard Protective Provisions [REP6-063], para 1.3.4 may have been made on the basis of their own facts and merits but what are the distinguishing facts in this case that justify this treatment?</p> <p>Applicant's Response:</p> <p>a) National Grid has now agreed to removal of the words "in good faith" with Network Rail as updated in the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p> <p>e) National Grid note that due to the fundamental issues outstanding regarding the voluntary land agreements, Compulsory Acquisition powers will be required for the delivery of the Project and this cannot be inhibited through the protective provisions. Any works done under these powers would be subject to prior approval through subsequent paragraphs within the proposed protective provisions and so it is not necessary to duplicate here. Noting that because the definition of specified works is so broad, all of these elements would already be covered.</p> <p>National Grid propose the following articles can be accepted as requiring Network Rail consent in respect of works affecting Railway Property (as has been updated in the draft DCO (Document 3.1(F)) submitted at deadline 7):</p> <ul style="list-style-type: none"> • article 19 (discharge of water) • article 21 (authority to survey and investigate the land) • article 26 (extinguishment and suspension of private rights of way) <p>g) This has since been agreed by the parties and the paragraphs will remain as agreed in the draft DCO (document 3.1(F)) that will be submitted at Deadline 7.</p>
10.1.8	The Applicant Network Rail	<p>Para 29 (dDCO [REP6-025])/ para 4 [REP6-063]</p> <p>a) Both: It would assist the ExA if agreement could be reached between parties on the time by which the engineer must intimate disapproval etc dDCO para 29(2) ([REP6-063], para 4(2), page 14).</p> <p>b) Network Rail: Provide your final consideration (as indicated) whether the wording in dDCO para 29(4)(3) as set out in [REP6-063], para 4(4)(3), page 15 to 16 is acceptable. The ExA understands the consideration of wording to be over that shown as deleted in brackets referring to adjoining parts of specified works.</p> <p>c) Applicant: Comment on the proposed deletion of words from dDCO para 29(4)(3) as set out in [REP6-063], para 4(4)(3), page 15 to 16.</p> <p>Applicant's Response:</p> <p>a) National Grid can confirm that the timings have since been agreed by the parties and will be included in the draft DCO (document 3.1(F)) that will be submitted to the Examining Authority at Deadline 7.</p> <p>c) The wording regarding adjoining works has since been agreed by the parties and wording will be included in the draft DCO (document 3.1(F)) that will be submitted to the Examining Authority at Deadline 7.</p>
10.1.9	The Applicant Network Rail	<p>Para 30 (dDCO [REP6-025])/ para 5 [REP6-063]</p> <p>a) Applicant: Comment on Network Rail's point that describing expenses as 'reasonable' justifies the removal of the description of losses as 'foreseeable' in dDCO para 30(2) ([REP6-063], para 5(2), page 18).</p> <p>b) Both: If agreement can be reached by setting out more detail of limits of financial exposure, as stated by the Applicant, provide that [REP6-063], page 18.</p> <p>Applicant's Response:</p>

Ref No.	Respondent:	Question:
		<p>a) This has since been agreed by the parties and word "foreseeable" will be removed in the draft DCO (document 3.1(F)) that will be submitted to the Examining Authority at Deadline 7.</p> <p>b) No longer required due to the agreement which has been reached.</p>
10.1.10	The Applicant Network Rail	<p>Para 33 (dDCO [REP6-025])/ para 8 [REP6-063]</p> <p>a) Applicant: Notwithstanding the fact that there is disagreement over the deletions and additions in dDCO para 33(1) ([REP6-063], para 8(1), page 20 to 21) over costs of alterations, if the SoS was minded to include the wording proposed by Network Rail, what is your opinion on the precise wording included and the payment terms of 14 days?</p> <p>b) Applicant: Elsewhere in the dDCO 'undertaker' appears as a single entity. For the Applicant's preferred wording should 'their' read as 'its' in dDCO para 33(1)?</p> <p>c) Both: Confirm that you are content with the flow of meaning if the Network Rail deletions and additions were to be included at dDCO para 33(1) as shown [REP6-063], para 8(1) page 21. If not provide alternative drafting.</p> <p>d) Both: Is one option to revert to the Network Rail standard Protective Provision wording [REP2-081], para 9?</p> <p>Applicant's Response:</p> <p>a) National Grid cannot process payments within 14 days due to administrative and financial procedures that must be adhered to. National Grid's standard payment terms are 42 days and this position has been agreed with Network Rail.</p> <p>b) National Grid has amended the wording and use the word 'it' to describe 'undertaker' as a single entity within its submission of the draft DCO (Document 3.1(F)) at Deadline 7.</p> <p>c) National Grid and Network rail have agreed their position on this point and new drafting is included in the draft DCO (Document 3.1(F)) submitted to the Examining Authority at Deadline 7.</p> <p>d) This would not be necessary as the provision is now agreed by both parties.</p>
10.1.11	The Applicant Network Rail	<p>Para 35 (dDCO [REP6-025])/ para 10 [REP6-063]: Electromagnetic Interference (EMI) testing</p> <p>a) Applicant: Do you agree that testing is required prior to commencement and if so explain where else this is secured. Respond to Network Rail's position as stated with regards to dDCO para 35(6) ([REP6-063], para 10(6), page 25 to 26).</p> <p>b) Applicant: In connection with your view that dDCO para 35(7) is duplication, respond to the point made by Network Rail that dDCO para 35(3) covers design and construction and not operation of the authorised development [REP6-063], para 10(7) page 26 to 27.</p> <p>c) Network Rail: Explain the need for the exclusion powers sought under proposed dDCO para 35(7)(d) ([REP6-063], para 10(7)(d), page 27), responding to the Applicant's position that it duplicates the purpose of the rights being sought under dDCO para 35(3).</p> <p>d) Applicant: Explain why it is proposed that EMI matters fall outside the indemnity, providing reasoning based on the distinguishing facts in this case, rather than reliance on the Richborough Order as a precedent, in response to Network Rail's proposed addition at dDCO para 35(9), and linking this to the wording in dDCO para 43(1) ([REP6-063], para 10(9), page 28).</p> <p>e) Network Rail: Explain more fully the concerns over the wording in dDCO para 43(1) ([REP6-063], para 15(1)) which in your opinion has necessitated the addition of proposed dDCO para 35(9) ([REP6-063], para 10(9), page 27).</p> <p>Applicant's Response:</p> <p>a) To be added Network Rail have requested wording that "prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail". National Grid's approach to EMI is to</p>

Ref No.	Respondent:	Question:
		<p>ensure that its equipment complies with appropriate national standards, specifically BS EN 50122-1, which covers steady state and fault condition operation of National Grid's equipment. National Grid has committed to working with Network Rail to establish appropriate arrangements to verify effectiveness in line with normal practice procedures. It is not standard practice for National Grid to undertake operational testing of the line specifically with respect EMI because the calculations themselves demonstrate this to much more robust parameters. Paragraph 35(3) provides that pre-operational verification procedures will take place. This is the normal practice through which National Grid verify effectiveness of a line with respect EMI and involves calculations covering extreme scenarios, beyond that which could be physically tested at a commissioning stage of an overhead line, and undertaking a detailed design of new infrastructure so that there is no impact on from EMI, typically through the installation of additional earthing if required. Needing to agree this process again has the potential to add delay to the programme. National Grid has sought clarifications from Network Rail as to the testing Network Rail require, the conditions under which testing is to be carried out, and if there are any agreed standards followed for the testing protocols. National Grid has received further information from Network Rail regarding EMI and the standards that National Grid would need to comply with. National Grid maintain that no tests would be required due to the detailed design work that is undertaken; however, are committed to further discussions and dialogue with Network Rail to come to a resolution on this point. National Grid's approach to EMI is to ensure that its equipment complies with appropriate national standards, specifically BS EN 50122-1, which covers steady state and fault condition operation of National Grid's equipment. National Grid has committed to working with Network Rail to establish appropriate arrangements to verify effectiveness in line with normal practice procedures. It is not standard practice for National Grid to undertake operational testing of the line specifically with respect to EMI because the calculations themselves demonstrate this to much more robust parameters. Paragraph 35(3) provides that pre-operational verification procedures will take place. This is the normal practice through which National Grid verify effectiveness of a line with respect EMI and involves calculations covering extreme scenarios, beyond that which could be physically tested at a commissioning stage of an overhead line, and undertaking a detailed design of new infrastructure so that there is no impact from EMI, typically through the installation of additional earthing if required. The requirement to test the equipment prior to energisation is not required as the detailed design will have been undertaken to assess EMI and will have designed a solution ensuring that any impacts have been mitigated. Needing to agree this process again has the potential to add delay to the programme. National Grid has sought clarifications from Network Rail as to the testing Network Rail require, the conditions under which testing is to be carried out, and if there are any agreed standards followed for the testing protocols. National Grid has not yet received clarification regarding this point and so cannot commit to the wording requested by Network Rail.</p> <p>b) Shutting down the operation of an electric line is a significant undertaking for National Grid and cannot be committed to lightly. In practice, where there is an EMI, National Grid have a regulatory duty, to address this as soon as possible. The existence of EMI would not necessarily require shutting down operation of the line whilst the problem is being fixed. For example, NGET would not shut down operation unnecessarily in instances where Network Rail were still able to use their undertaking whilst the EMI issue was being addressed. Sub-paragraph (3) requires that National Grid must "take all measures necessary to prevent EMI", which provides the requisite protection for Network Rail, whilst at the same time maintaining flexibility for National Grid to resolve the issue without shutting down operation of the line, where such outage would not be necessary.</p> <p>d) This is now a matter agreed between National Grid and Network Rail and an indemnity covering EMI is included within the draft DCO (Document 3.1(F)).</p>
10.1.12	The Applicant Network Rail	<p>Para 43 (dDCO [REP6-025])/ para 14 [REP6-063]</p> <p>a) Applicant: Is the contention that the additions Network Rail proposes at dDCO para 43(1)(c), 43(1)(d), and 43(1)(e) ([REP6-063], para 14 (1)(c),(d),(e), page 33 to 34) are costs which Network Rail would not have a direct contractual obligation to pay? Set out further explanation of your disagreement to the inclusion of these three sub-sub paras.</p> <p>b) Network Rail: Provide any further justification that you consider necessary for the inclusion of proposed dDCO para 43(1)(c), 43(1)(d), and 43(1)(e) ([REP6-063], para 14 (1)(c),(d),(e), page 33 to 34).</p> <p>c) Applicant: Respond to Network Rail's case regarding the unreasonableness of disclosure at the outset, of all train operator agreements which might be relevant [REP6-063], page 33 to 34.</p> <p>d) Both: Note that the numbering of sub-paras differs between the dDCO and [REP6-063] for para 43(2) onwards.</p> <p>e) Network Rail: The removal of the word "that" prior to "sub-paragraph" does not appear to assist the meaning, dDCO para 43(4), ([REP6-063], para 14(3)(sic), page 35).</p> <p>f) Applicant: Set out the reasoning for your disagreement with Network Rail's deletions to dDCO para 43(4) and 43(5) [REP6-063], para 14(3) and 14(4), page 35 to 36.</p>

Ref No.	Respondent:	Question:
		g) Network Rail: Explain the reasons and justify the proposed deletions to dDCO para 43(4) and 43(5) ([REP6-063], para 14(3)(sic) and 14(4)(sic), page 35 to 36).
		<p>Applicant's Response:</p> <p>a) Agreement has now been reached regarding drafting of this provision, which is included in the draft DCO (Document 3.1 (F)) at Deadline 7.</p> <p>c) Agreement has now been reached regarding drafting of this provision, which is included in the draft DCO (Document 3.1 (F)) at Deadline 7.</p> <p>d) National Grid will ensure that paragraph numbering is consistent and correct in its submission of the draft DCO (Document 3.1 (F)) at Deadline 7.</p> <p>f) Agreement has now been reached regarding drafting of this provision, which is included in the draft DCO (Document 3.1 (F)) at Deadline 7.</p>

Table 2.12 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Part 6 – For the protection of National Highways Ltd

Ref No.	Respondent:	Question:
10	10.2 Part 6 – For the protection of National Highways Ltd	
10.2.1	The Applicant	<p>Para 59 [REP6-076] Review National Highways' point regarding deletion of "which" for grammatical purposes in dDCO para 59.</p> <p>Applicant's Response: National Grid agree to the removal of "which" in paragraph 59. This has been removed in the draft DCO (document 3.1(F)) at Deadline 7.</p>
10.2.2	The Applicant	<p>Para 60 (dDCO [REP6-025]): definition of "highway detailed design information" "Site clearance details" is without a letter in the sub-sub para brackets</p> <p>Applicant's Response: National Grid believes that this error has already been corrected in previous iterations of the draft DCO. Paragraph 60 of [REP6-064] "Site clearance details" within this definition has (a).</p>
10.2.3	The Applicant National Highways	<p>Para 60 (dDCO [REP6-025]/ para 2 [REP6-064]): definition of "reconductoring detailed design information" It is noted that National Highways proposes inclusion of three more items in dDCO para 60(2) under definition of "reconductoring detailed design information"; namely at (c) road restraints systems, (e) earthworks and (f) landscaping [REP6-064], page 8 and [REP6-076], Appendix 1. These descriptions are covered later under "highway detailed design information", but not for the reconductoring.</p> <p>a) Applicant: Your explanation covers the differentiation between the works above and below 5.5m, but does not explain your objection to inclusion of these sub-sub paras [REP6-064], page 3 to 4. Provide such an explanation.</p> <p>b) Applicant: comment on the "as are relevant to the development" point made by National Highways [REP6-064], page 4.</p> <p>c) Both: based on National Highways' comments regarding situations where scaffolding would not interfere with the existing road restraints systems [REP6-064], pages 4 to 5, is there a need for further definition to cover this difference? If so, provide precise wording and indicate where it would be included in the dDCO.</p>

Ref No.	Respondent:	Question:
		<p>d) National Highways: Why is “landscaping” needed?</p> <p>Applicant’s Response:</p> <p>a, b and c) This is now agreed with National Highways and the agreed wording has been included in the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p>
10.2.4	The Applicant National Highways	<p>Para 61 and 62 (dDCO [REP6-025]/ para 3 and 4 [REP6-064]): General The ExA notes the addition of para 61 regarding highway and maintenance operations contractors under design, build, finance and operate (DBFO) contracts having the benefit of this “Part of Schedule 15”.</p> <p>a) Applicant: It is not clear to which Part of Schedule 15 this refers. Is it all of Part 6? This requires clarification in the dDCO.</p> <p>b) Applicant: Would the deletion of the words “when constructed” as proposed by National Highways [REP6-064], para 7(1), page 19 to 20, which is included in dDCO para 65(1) alter the differentiation that you seek with regards works under 5.5m and above 5.5m of the surface of the SRN? If so, suggest precise wording to resolve this matter, agreed with National Highways, to resolve the ambiguity to which it refers. Respond to the point made regarding increased ambiguity [REP6-076], Appendix 1.</p> <p>Applicant’s Response:</p> <p>a) This phrasing is intended to mean all of Part 6. It is a common drafting mechanism to reference a specific Part of a Schedule in its entirety. Schedule 15 is split into 8 distinct 'Parts' and each is headed accordingly. No amendment to the draft DCO is necessary.</p> <p>b) This is now agreed with National Highways and the agreed wording has been included in the draft DCO (Document 3.1(F)) submitted to at Deadline 7.</p>
10.2.5	The Applicant National Highways	<p>Para 65 (dDCO [REP6-025]/ para 7 [REP6-064]): Prior approvals and security</p> <p>a) Applicant: As above, would the deletion of the words “when constructed” as proposed by National Highways which is included in dDCO para 65 alter the differentiation that you seek with regards works under 5.5m and above 5.5m of the surface of the SRN? If so, suggest precise wording to resolve this matter, agreed with National Highways to resolve the ambiguity to which it refers [REP6-064], page 19 to 20.</p> <p>As there is no difference between parties indicated in the wording of dDCO para 65(1) and para 65(2), other than the point above, the ExA assumes that the parties agree over the two-tier differentiation of works under 5.5m and above 5.5m of the surface of the SRN. The ExA had understood the purpose of this differentiation – which the Applicant has sought in order to effect a streamlined approach, “to ensure that NH is afforded appropriate protections but not at the expense of following burdensome and unnecessary processes for the standard scaffold and reconductoring works” [REP6-064], para 1.2.3 to 1.2.4.</p> <p>b) National Highways: Explain further the need for the broad-brush exclusion powers sought under proposed dDCO para 65(3) ([REP6-064], para 7(3), page 26 to 28) which could undermine the purpose of the rights being sought.</p> <p>c) Applicant: Set out details of how the National Highways additional drafting proposed under dDCO new para 65(3) would hinder progress and fetter rights to the undertaker’s ability to deliver the authorised development in terms of the rights sought in the vicinity of the SRN [REP6-064], para 7(3), page 21 and page 26 to 28.</p> <p>d) Both: Respond to National Highways’ addition of dDCO new para 65(3) ([REP6-064], para 7(3), page 26 to 27) which would remove the right for the undertaker to exercise rights under Articles 14, 19, 20, 21, 22, 25, 25, 35, 36, 38, 39, 45 over the SRN without National Highway’s consent – as questioned under Schedule 1, what would be the precise wording required here if Schedule 1 was amended to exclude works to the SRN from the description of associated development? Would the Applicant’s wording then be acceptable to National Highways?</p> <p>e) Both: What is progress on the Land Rights heads of terms. Has agreement been reached by Deadline 7? If not when? Would the agreement over land rights remove the disagreement over dDCO new para 65(3) ([REP6-064], para 7(3), page 26 to 28) and the need for its inclusion?</p>

Ref No.	Respondent:	Question:
		<p>f) Applicant: Explain why the additional wording regarding National Highways notifications to the undertaker regarding exercise of powers under dDCO existing para 65(3) is a point of difference [REP6-064], para 7(4), page 28.</p> <p>g) National Highways: If the two-tier approach is agreed, explain why the shorter time period, which is suggested for deletion from dDCO existing para 65(4)(d) and part 65(4)(e) is not required [REP6-064], para 7(5)(d) and (e), page 29 to 30.</p> <p>h) National Highways: Presumably the collateral warranties have National Highways as the third party dDCO existing para 65(6) [REP6-064], para 7(6), page 30 and [REP6-076], Appendix 1, comment PB8? Is this set out somewhere? Would the benefit also be for DBFO contractors? If not would wording be required to preclude them?</p> <p>i) Applicant: Explain your objection to the proposed wording regarding collateral warranties, in light of National Highways comment that collateral warranties procured for National Highways has been agreed [REP6-076], Appendix 1, comment PB8. Is it the case that collateral warranties would be procured for National Highways? Do you have any other suggested wording to provide the comfort sought by National Highways? Also consider the point above regarding DBFO contractors.</p> <p>Applicant's Response:</p> <p>a) This is now agreed with National Highways and the agreed wording has been included in the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p> <p>c) National Grid cannot agree to fettering of powers which make delivery of the Project uncertain. Land acquisition procedures should follow the process set out in the Articles.</p> <p>Compulsory Acquisition powers will be required for the delivery of the Project and this cannot be inhibited through the protective provisions. Any works done under these powers would be subject to prior approval through subsequent paragraphs within the proposed protective provisions and so it is not necessary to duplicate here. Noting that because the definition of specified works is so broad, all of these elements would already be covered.</p> <p>National Grid propose the following articles can be accepted as requiring National Highways consent in respect of:</p> <ul style="list-style-type: none"> • article 14 (temporary stopping up of streets, cycle tracks and public rights of way) • article 19 (discharge of water) • article 20 (protective works to buildings) • article 21 (authority to survey and investigate the land) and • article 45(2) (Traffic Regulation) 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. <p>This wording is now agreed with National Highways and the agreed wording has been included in the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p> <p>d) As noted above in response to question c), National Grid and National Highways have significantly reduced the number of articles, which is now acceptable to National Highways and therefore no amendments to Schedule 1 will be required in relation to the SRN. This is confirmed within the Statement of Common Ground between National Grid and National Highways (Document 8.5.14(C)).</p> <p>e) Progress is being made regarding negotiations but has not yet neared agreement. The wording of this paragraph is now agreed with National Highways.</p> <p>f) The wording included within draft DCO (document 3.1(F)) submitted to the Examining Authority at Deadline 7 is now agreed.</p> <p>i) National Grid and National Highways have agreed the approach on warranties and the wording is now agreed with National Highways and included in the draft DCO (document 3.1(F)) submitted to the Examining Authority at Deadline 7.</p>

Ref No.	Respondent:	Question:
10.2.6	The Applicant National Highways	<p>Para 66 (dDCO [REP6-025]/ para 8 [REP6-064]): Construction of the specified works</p> <p>a) Both: Regarding National Highways' concern about land over which it has rights that is not part of the SRN and the proposed general additional wording to dDCO para 66(5)(b), ([REP6-064], para 8(5)(b), page 34 and [REP6-076], Appendix 1, comment PB9), is one way forward to define land more narrowly by naming/ defining the balancing pond site, rather than adding "any other land of National Highways"?</p> <p>b) Applicant: Propose agreed wording if this is the case.</p> <p>c) National Highways: Explain why you consider it necessary to add in reference to payment under dDCO para 66(7) in light of payments under dDCO para 67 (below) ([REP6-064], para 8(7), page 35 to 36). Or is the point that this needs to be paid more quickly than other payments, which the Applicant is proposing to be 42 days? (The ExA acknowledges that there is disagreement between parties over terms of 30 or 42 days).</p> <p>d) Applicant: Consider if the word "reinstatement" in para dDCO 66(9) is consistent with glossary definitions, and if it matters if it is not, and if it needs any further description in this place.</p> <p>Applicant's Response:</p> <p>a) The protective provisions applicable to National Highways should only extend to land used for its undertaking. The drafting of the protective provisions in the draft DCO (Document 3.1(F)) restrict the applicability of the provisions to land which is held by National Highways for its undertaking. This would include the balancing ponds. Any other land, not used for National Highways' statutory undertaking, would be protected under the articles of the DCO as would apply to any other landowner. Further detail on national Grid's position in this respect is set out in the Applicant's Position Statement - Protective Provisions Not Yet Agreed National Highways Protective Provisions (Document 8.34.5).</p> <p>b) The following wording: "(b) in a way that causes damage to the strategic road network or any other land of National Highways used for its undertaking" is included in the updated draft DCO (document 3.1(F)) submitted at Deadline 7.</p> <p>d) The term 'Reinstatement' in this case is accurate because, in the event that this paragraph applied, the highway would be reinstated to its original status and this would be approved by National Highways.</p>
10.2.7	The Applicant	<p>Para 67 (dDCO [REP6-025]/ para 9 [REP6-064]): Payments</p> <p>The ExA notes that there is disagreement over timescales for payments in dDCO para 66(4) and 66(6)([REP6-064], para 9(4) and 9(6), page 41 to 42). Applicant: Provide a response to the point made by National Highways that the Applicant requires payment itself within 30 days when roles are reversed. What are the distinguishing facts in this case that justify this longer timescale?</p> <p>Applicant's Response:</p> <p>National Grid and National Highways have agreed to payment terms of 30 days. This is included in the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p>
10.2.8	The Applicant National Highways	<p>Para 70 (dDCO [REP6-025]/ para 12 [REP6-064]): Final condition survey</p> <p>a) Applicant: It is not clear to the ExA to which some of the sub-paragraph references within the body of para dDCO 70 apply. Are some of the references to dDCO para 65(1) and 65(2)? Provide clarity over sub-paragraph numbering (which was clearer in [REP6-064] and [REP6-76]).</p> <p>b) Applicant: Respond to National Highways' point regarding the need for a final condition survey after reconductoring works resulting in the addition of dDCO 65(1) (we think) to the stated (2) which we think is 65(2) in dDCO para 70(1) [REP6-064], para 12, page 45 to 46.</p> <p>c) Both: What implications would this addition of the reconductoring works have on the delivery of the authorised development?</p> <p>Applicant's Response:</p> <p>a) National Grid has amended sub-paragraph numbering within its submission of the draft DCO (Document 3.1 (F)) at Deadline 7.</p>

Ref No.	Respondent:	Question:
		<p>b) National Grid and National Highways have now agreed this point and both 65(1) and 65(2) are included within the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p> <p>c) N/A – this matter is no longer required to be responded to as there is agreement on the point.</p>
10.2.9	The Applicant	<p>Para 72 (dDCO [REP6-025]/ para 14 [REP6-064]): Final Certificate</p> <p>a) Applicant: Should the “paragraph (2)” cited in dDCO para 72(1) be paragraph 65(2)?</p> <p>b) Applicant: As above, cross refer to previous answer or provide a response to the point made by National Highways that the Applicant requires payment itself within 30 days when roles are reversed, indicating if there are any relevant special circumstances which apply to this project.</p> <p>Applicant’s Response:</p> <p>a) National Grid have checked all cross references within the draft DCO (Document 3.1(F)) submitted at Deadline 7 and made this update.</p> <p>b) National Grid and National Highways have agreed to payment terms of 30 days. This is included in the draft DCO (Document 3.1(F)) submitted to the Examining Authority at Deadline 7.</p>
10.2.10	The Applicant	<p>Para 73 dDCO [REP6-025]</p> <p>Should the “paragraph (2)” cited in dDCO para 73(1) be paragraph 65(2)?</p> <p>Applicant’s Response:</p> <p>a) National Grid have checked all cross references within the draft DCO (Document 3.1(F)) submitted at Deadline 7 and made this update.</p>
10.2.11	The Applicant National Highways	<p>Para 75 (dDCO [REP6-025]/ para 20 [REP6-064]): Indemnity</p> <p>a) Applicant: Set out your response to National Highway’s proposed removal of the word “directly” from dDCO para 75(1) ([REP6-064], para 20(1), page 53) and [REP6-076].</p> <p>b) National Highways: Set out your rationale for the exclusion of the word “directly” from dDCO para 75(1) ([REP6-064], para 20(1), page 53) and explain under what circumstances other liabilities might arise based on the facts of this case.</p> <p>c) Both: Set out your respective positions regarding the need or otherwise for setting a timescale of 14 days on demand for the indemnity in para dDCO 75(1) ([REP6-064], para 20(1), page 53).</p> <p>The ExA notes that there are differences regarding the need for an indemnity to be limited to a maximum aggregate amount, dDCO para 75(2) ([REP6-064], para 20(2), page 53).</p> <p>d) Applicant: Respond to the point made by National Highways regarding the fact that the Applicant does not agree to caps on indemnities in the reverse situation and has thus proposed removal of dDCO para 75(2) ([REP6-064], para 20(2), page 53).</p> <p>e) Both: What would be the risks associated with the powers and rights sought for the authorised development and its interface with the SRN that are relevant to your respective positions regarding capping or not capping the indemnity</p> <p>Applicant’s Response:</p> <p>a) National Grid has sought to impose reasonable limitations on its liability on this occasion due to the nature and limited works that will affect National Highways assets. This is required to also protect the electricity consumer who will ultimately bear the costs of such indemnities. In any event, any indirect losses would be recoverable by National Highways in the usual course of enforcement of the protective provisions. National Grid re-confirm the position in that it is disproportionate for indirect losses to be indemnified.</p> <p>c) National Grid is unable to process payments within 14 days of demand. Whilst it requires a specifically expedited process, National Grid has agreed to 30-day payment terms elsewhere within the protective provisions and so can agree this here.</p>

Ref No.	Respondent:	Question:
		<p>d) The position National Grid takes as a third-party asset holder affected by other DCOs is distinct from the position here. Where National Grid's apparatus is directly affected by a proposed development, it seeks proportionate protections. The works associated with this Project will not directly affect the strategic road network and so an indemnity proportionate to the works being undertaken is sought by National Grid so that it can uphold its regulated duty to the electricity consumer.</p> <p>e) There are no proposed works to be carried out on the SRN, National Grid will be oversailing the SRN and will be following standard and well-practiced procedures in this regard. National Highways have a full approval right and the road will be closed during the works. Accordingly, risks are small and any damage, if at all would be minor and therefore an uncapped indemnity in these circumstances is unfair and disproportionate to the specified works.</p>
10.2.12	The Applicant National Highways	<p>Para 77 (dDCO [REP6-025]/ para 19 [REP6-064]): Land</p> <p>a) Both: Regarding the proposed National Highways change to “the” final certificate in dDCO para 77(1) ([REP6-064], para 19(1), page 54), is there a difference of opinion over whether there would be more than one final certificate? If so, set this out and explain how this could be resolved in the wording.</p> <p>b) Applicant: Should the “paragraph (2)” cited in para dDCO 77(1) be paragraph 65(2)?</p> <p>c) Both: Clarify if, and why the words “approved under dDCO para 7(2)” at the end of dDCO para 77(1), ([REP6-064]), para 19(1) page 55) in are proposed for deletion. These words remain in National Highways’ commentary on the Protective Provisions [REP6-076].</p> <p>d) National Highways: In addition to comments in your commentary on the dDCO [REP6-076], Appendix 1, comment PB17, set out evidence to show how the powers sought under the Order would cause serious detriment to National Highway undertaking in the context of and on the facts of the authorised development.</p> <p>e) Applicant: Provide any further specific points which are relevant to the authorised development.</p> <p>Applicant’s Response:</p> <p>a) The wording included within draft DCO (Document 3.1(F)) submitted at Deadline 7 is now agreed.</p> <p>b) National Grid have checked all cross references within the draft DCO (Document 3.1(F)) submitted at Deadline 7 and made this update.</p> <p>c) This wording has now been agreed between the parties and will remain in the draft DCO (Document 3.1(F)) which will be submitted at Deadline 7.</p> <p>e) National Grid have now included a prevention of freehold acquisition over the SRN without consent as well as a restriction over extinguishment of rights. National Grid cannot impede the Compulsory Acquisition Powers which are necessary to implement the Project.</p>

Table 2.13 – Applicant's Response to the Examining Authority’s commentary and questions on the draft Development Consent Order (DC1) – Part 6 – For the protection of National Gas Transmission PLC as Gas Undertaker

Ref No.	Respondent:	Question:
10	10.3 Part 6 – For the protection of National Gas Transmission PLC as Gas Undertaker	
10.3.1	The Applicant	<p>DCOs with Protective Provisions for National Gas Transmission plc</p> <p>a) Applicant: Consider National Gas Transmission’s submission of other made DCOs [REP6-075] and its preferred Protective Provisions [REP6-072], explain further what specific aspects of the authorised development would trigger varying these Protective Provisions.</p> <p>b) Applicant: Respond to the National Gas Transmission’s s127 and s138 response and explain the nature of the works proposed in the vicinity of apparatus and interests set out [REP6-073], para 2.</p>

Ref No.	Respondent:	Question:
		<p>c) National Gas Transmission: Clarify the proximity of the apparatus and interests referred to in the response to the Applicant's s127 and s138 case to the Order limits of the authorised development and the nature of the detriment which you consider could take place [REP6-073].</p> <p>Applicant's Response:</p> <p>a) It is understood from NGT's submissions at deadline 6 that they have a template form of protective provision wording which is preferred across all DCOs. However, National Grid's approach to the protective provision drafting needs to be tied to the specific works in question and the impacts on third party apparatus. It is appropriate for NGT to depart from their standard form of words in the case of this Project due to the nature of the works proposed. In the present circumstances, the crossings will be track matting and will facilitate overhead line reconductoring works in proximity of NGT's underground pipeline. There will be no piling or foundation work and, indeed, no change to ground levels in proximity of NGT's apparatus. As stated previously, the impacts are envisaged to be less impactful than the current farming practices taking place over the same crossing points. Whilst each project is considered on its specific circumstances, if there were piling activities, trenching or diversion works in close proximity to NGT's apparatus, there would be increased justification for enhanced protections to be provided in line with NGT's template because of the increased risk resulting from these works. As this is not the case here, it would be overly burdensome to provide such protections.</p> <p>b) It is acknowledged that NGT hold apparatus within the Order limits which is critical for transmission of gas across the country. This apparatus includes a high-pressure gas main. However, this does not change the nature of the authorised development works in proximity of such apparatus and the risks associated with these works.</p> <p>There are three locations where the proposed development is in proximity to National Gas pipelines:</p> <ol style="list-style-type: none"> 1. Proximity to existing pylon XD003 2. Within the span from existing pylon XC483 to XC484 and access to the pylons 3. Within the span from existing pylon XC500 to XC501 and access to the pylons <p>1. Proximity to existing pylon XD003 Works in this area are limited to works to pylon XD003 for the use in the temporary diversion, which would include existing conductors being swung over to a temporary structure while work is being undertaken to construct pylon XD001. There are no intrusive works required in this location, and pylon XD003 will remain as it is and is not being modified. There will be a requirement to cross the pipeline with a temporary access track, but these works are non-intrusive and consist of laying suitable track mats on top of the ground, which can be scoped to distribute the weight of vehicles should that be required.</p> <p>2. Within the span from existing pylon XC483 to XC484 and access to the pylons The work at pylon XC483 located near Tadcaster Tee, which involves reconductoring of the XC route, and oversailing the NGT asset in span XC483 to XC484. No new pylons are required, and works will involve removing the existing conductors and replacing them with new ones. There will be a requirement to cross the pipeline in two locations with a temporary access track, but these works are non-intrusive and consist of laying suitable track mats on top of the ground, which can be scoped to distribute the weight of vehicles should that be required and the use of an existing road.</p> <p>3. Within the span from existing pylon XC500 to XC501 and access to the pylons The work at pylon XC500-501 involves reconductoring of the XC route, and oversailing the NGT asset in span XC500-501. No new pylons are required, and works will involve removing the existing conductors and replacing them with new ones. There will be a requirement to cross the pipeline in two locations with a temporary access track, but these works are non-intrusive and consist of laying suitable track mats on top of the ground which can be scoped to distribute the weight of vehicles should that be required. None of the works proposed in proximity to the pipelines are intrusive, and are limited to driving over these pipelines using either existing roads or track matting, hence there is a very low risk to the works impacting on any pipeline, no more so than the existing agricultural use and weights.</p>
10.3.2	The Applicant National Gas Transmission	<p>Para 80 (dDCO [REP6-025]/ para 2 [REP6-065]): Interpretation</p> <p>a) Both: Under definition of "acceptable insurance" it would assist the ExA and the SoS if parties could reach agreement on a figure to be included to limit the third-party liability insurance in dDCO para 80, ([REP6-065], para 2, page 4).</p> <p>b) Applicant: Respond to National Gas Transmission's case that £50million cover is the standard level of cover in these situations. Are there distinguishing facts in this case that justify a different level?</p>

Ref No.	Respondent:	Question:
		<p>c) National Gas Transmission: Under definition of “Network Code Claims” explain further the nature of the ambiguity that National Gas Transmission considers could arise with the inclusion of the word “direct” in dDCO para 80(a) [REP6-065], page 6.</p> <p>d) Applicant: Is there some sub-para lettering missing?</p> <p>Applicant’s Response:</p> <p>a) National Grid continue to negotiate this figure and is continuing to seek to reach agreement with NGT by Deadline 8. If such agreement is not possible, National Grid have submitted Position Statement – Protective Provisions not yet agreed with National Gas Transmission (Document 8.34.4) at Deadline 7 to reflect its position.</p> <p>b) The precedents provided by NGT for the value of insurance being £50million are completely different projects in terms of scale, type and impact and so the precedents that NGT wish to rely upon are not a relevant factor in the circumstances. National Grid have on multiple occasions noted to NGT that that the interfaces of this Project constitute three crossings where, in all instances, there will be no change to the ground level in proximity to the NGT pipelines.</p> <p>NGT continue their view that £50million is industry standard, National Grid believe that their offer of £25million in insurance cover adequately protects NGT in the highly unlikely situation that its apparatus will be affected by the Project. National Grid have on several occasions requested clear justification for why this level of insurance is required where the interferences are minimal, if any to their apparatus. Should evidence come to light National Grid will of course reconsider its position.</p> <p>d) National Grid believe that the sub-paragraph lettering has been picked up in a previous alteration, this has been checked in the draft DCO (Document 3.1(F)) submitted at Deadline 7.</p>
10.3.3	The Applicant National Gas Transmission	<p>Para 87 (dDCO [REP6-025]/ para 9 [REP6-065]): Retained apparatus protection</p> <p>a) Applicant: Set out details of how the National Gas Transmission proposed changes to dDCO para 87(1), 87(4)(a), 87(4)(b), 87(4)(c), 87(5) and 87(9) would impact on the undertaker’s ability to deliver the authorised development in terms of the rights sought in the vicinity of the one crossing of a National Gas Transmission pipeline [REP6-065], page 21 to 23.</p> <p>b) Applicant: Respond to National Gas Transmission’s case against deemed approvals and standard timeframes of 56 days in dDCO para 87(1), 87(4)(c), 87(5) and 87(9) ([REP6-065], para 9(1), 9(4), 9(5) and 9(9), page 21 to 22).</p> <p>c) National Gas Transmission: Respond to the Applicant’s point that the authorised development would only comprise one crossing of a National Gas Transmission pipeline and would not break surface of the land; and that the undertaker would engage in pre-application engagement before approvals are sought [REP6-065], page 22.</p> <p>Applicant’s Response:</p> <p>a) National Grid’s Project does not involve any intrusive works where the ground is being broken in the vicinity of NGTs pipeline. Therefore, awaiting approvals for works crossing the surface above the pipeline is disproportionate to the level and the scale of risk based on the minimal interaction with the pipeline. Whilst the issues surrounding a high-pressure gas pipeline are acknowledged, deemed approval within 28-day notice period is appropriate and proportionate to the non-intrusive works proposed. There are some time critical elements for National Grid to be able to deliver the Project by 2027, any delays could have a severe impact upon this.</p> <p>b) Whilst National Grid acknowledges that adequate time needs to be afforded to NGT personnel to review information provided and to assess the health and safety implications of the proposed development on NGT assets. National Grid insists that none of the proposed works are intrusive and therefore a 56-day period is unfair, unrealistic and not proportionate to the limited, if any, prospect of any damage or interference with NGT apparatus. A 28-day notice period should give NGT the comfort of this. National Grid is engaged with NGT and discussions will take place in advance of the 28 day notice period so that NGT is fully aware of the works taking place. Therefore, because NGT should be familiar with the works involved, any assessment required to take place should not require the length of time being requested.</p> <p>For the "deemed approval" points raised, National Grid maintain that the Project will not involve any ground being broken in the vicinity of NGT apparatus. Awaiting approvals for works crossing the surface above the pipeline with no certainty as to timescales for this approval would place National Grid in a</p>

Ref No.	Respondent:	Question:
		position where the delivery of the Project is impeded by disproportionate timescales especially where the risk is very low. National Grid require certainty that an approval decision will be provided by NGT within a set timescale, otherwise the Project could potentially be held to ransom indefinitely.
10.3.4	The Applicant National Gas Transmission	<p>Para 89 (dDCO [REP6-025]/ para 11 [REP6-065]): Indemnity</p> <p>a) Applicant: Provide a response to the case set out by National Gas Transmission for not capping the indemnity as set out in its response to CAH2 action point 18 [REP6-074], which supports the changes proposed for dDCO para 89(1) which relate to deletion of references to “direct” and “directly” and adding a “without limitation” wording; deletion of dDCO para 89(2) and deletion of dDCO para 89(10) [REP6-065], para 11(1) and 11(9), page 31 to 33.</p> <p>b) National Gas Transmission: Comment on the Applicant’s case that indemnity provisions need to reflect the interfaces with National Gas Transmission apparatus, not just comparing other Orders [REP6-065], page 32.</p> <p>Applicant’s Response:</p> <p>a) National Grid equally has a duty to be economic and efficient because its costs will ultimately also be borne by the electricity consumer. Of course, the costs of the authorised works will be borne by National Grid. However, National Grid require a proportionate and reasonable indemnity provision in line with the nature of the works and level of risk being undertaken on or near NGT apparatus. National Grid cannot accept an uncapped indemnity. Noting that this would not inhibit alternative mechanisms of enforcement under the protective provisions. Restriction of the indemnity in the way National Grid propose would not expose NGT to cover those costs which are carved out, but they would need to prove the losses associated with these in the usual contractual manner.</p>
10.3.5	The Applicant National Gas Transmission	<p>Para 93 (dDCO [REP6-025]/ para 15 [REP6-065]): Arbitration</p> <p>a) The Applicant: Respond to National Gas Transmission’s case regarding arbitration in connection with its apparatus justifying its additions to dDCO para 93 [REP6-065], para 15, page 39.</p> <p>b) National Gas Transmission: Set out why arbitration would be handled differently for National Gas Transmission solely, with all other dispute resolution following that set out in the dDCO.</p> <p>Applicant’s Response:</p> <p>a) National Grid require a consistent dispute approach across all provisions within the draft DCO and do not consider that this approach is unreasonable or onerous on any other party. If there is any potential for a dispute arising, a means of resolution needs to be set out. This National Grid believes should be done under the DCO's arbitration provision within which the protective provisions sit.</p>

Table 2.14 – Applicant's Response to the Examining Authority’s commentary and questions on the draft Development Consent Order (DC1) – Part 8 – For the protection of Northern Gas Networks Ltd Apparatus

Ref No.	Respondent:	Question:
10	10.4 Part 8 – For the protection of Northern Gas Networks Ltd Apparatus	
10.4.3	The Applicant Northern Gas Networks Limited	<p>Para 100 (dDCO [REP6-025]/ para 6 [REP6-066]): Removal of diversion of apparatus</p> <p>a) Northern Gas: Set out the case for your proposed removal of the words at the end of dDCO para 100(1), ([REP6-066], para 6(1), page 6).</p> <p>b) Northern Gas: The ExA would be most assisted if timescales could be agreed with the Applicant for dDCO para 100(2) ([REP6-066], para 6(2), page 7). If agreement cannot be reached, set out what timescale you consider would be reasonable and the reasons for the timescale proposed in the context of and on the facts of the authorised development.</p> <p>c) Applicant: Set out details of how the Northern Gas deletion of timescale proposed under dDCO para 100(2) ([REP6-066], para 6(2), page 7) would hinder progress to the undertaker’s ability to deliver the authorised development in terms of the rights sought in the vicinity of Northern Gas diversions.</p>

Ref No.	Respondent:	Question:
		<p>d) Both: set out respective positions with regards the proposed removal of the words “for the Undertaker’s approval” at the end of dDCO para 100(8) ([REP6-066], para 6(8), page 7).</p> <p>Applicant’s Response:</p> <p>c) National Grid needs the certainty as to when approvals will take place and will meet any resourcing costs so this should not be a problem if the 28-day period is possible. It has been agreed in principle between the parties that subject to substantive and effective engagement, NGN are content with a 28 day time period. National Grid and NGN are in close dialogue regarding the works anticipated to and surrounding NGN's apparatus as part of the proposed development. Because there would be substantive and effective engagement ahead of the 28 day period, this timescale is appropriate to retain within the protective provisions.</p> <p>d) The costs estimate needs to follow an approvals process to ensure that the payment can be processed by National Grid. As a regulated company, National Grid needs to adhere to strict financial regimes. The estimate provided by NGN will need to provide the requisite detail and be in a form compliant with National grid's internal requirements for audit purposes. Accordingly, it is appropriate that this wording remain within the draft DCO (Document 3.1(F)).</p>
10.4.4	The Applicant Northern Gas Networks Limited	<p>Para 102 (dDCO [REP6-025]/ para 8 [REP6-066]): Retained apparatus: protection</p> <p>a) Applicant: Set out the reasons for the timescale proposed in dDCO para 102(1), ([REP6-066], para 8(1), page 11) in the context of and on the facts of the authorised development and its interference with and rights associated with Northern Gas’ apparatus.</p> <p>b) Northern Gas: Justify the need for 56 days in dDCO para 102(1), ([REP6-066], para 8(1), page 11) in the context of and the facts that would apply to the authorised development.</p> <p>c) Northern Gas: Explain the reason for wishing to remove the definition of “close to” in dDCO para 102(2) e) ([REP6-066], para 8(2)(1)(e) (sic), page 12). Respond to the Applicant’s point that the 15m is defined earlier in dDCO para 102(2) ([REP6-066], page 12).</p> <p>d) Northern Gas: Explain why you wish to remove the reference to Northern Gas’ right to approve a subsidence mitigation scheme, if required in dDCO para 102(7)(c), ([REP6-066], para 8(7)(c), page 12).</p> <p>e) Both: If the case for 28 days or 56 days in dDCO para 102(8) differs from that above in dDCO para 102(1) set out the reasons here.</p> <p>Applicant’s Response:</p> <p>a) National Grid needs the certainty as to when approvals will take place and will meet any resourcing costs so this should not be a problem if the 28-day period is possible. It has been agreed in principle between the parties that subject to substantive and effective engagement, NGN are content with a 28 day time period. National Grid and NGN are in close dialogue regarding the works anticipated to and surrounding NGN's apparatus as part of the proposed development. Because there would be substantive and effective engagement ahead of the 28 day period, this timescale is appropriate to retain within the protective provisions.</p> <p>e) The position is the same in relation to subparagraph (8) as it is for subparagraph (1) and the same justifications apply.</p>

2.11 Related Matters

Table 2.15 – Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1) – Related Matters

Ref No.	Respondent:	Question:
11	11. Related Matters	
11.0.1	The Applicant	<p>Overall Location Plan [APP-005] Can the Applicant submit an updated version of the Overall Location Plan [APP-005] to reflect the administrative boundaries following local government reorganisation.</p> <p>Applicant's Response:</p> <p>The Overall Location Plan (Document 2.1(B)) has been updated as requested to reflect the administrative boundary changes and is submitted at Deadline 7.</p>
11.0.2	The Applicant	<p>New Institute of Environmental Management and Assessment guidance In July 2023, the Institute of Environmental Management and Assessment published a new guidance document called Environmental Assessment of Traffic and Movement. The guidance replaces the Guidelines for the Environmental Assessment of Road Traffic (1993), which were used to inform assessment in the Environmental Statement (ES), for example in ES Chapter 12 Traffic and Transport [APP-084]. Can the Applicant advise what are the implications (if any) of the new guidance for the assessment of the Proposed Development in the ES.</p> <p>Applicant's Response:</p> <p>ES Chapter 12 Traffic and Transport (Document 5.2.12 [APP-084]) reported the assessment of the likely traffic and transport effects of the Project in line with the Guidelines for the Environmental Assessment of Road Traffic (1993) (GEART) which was the relevant guidance at the time of submission (as outlined in Table 12.2 of Document 5.2.12 [APP-084]). As noted in Q11.0.2, updated guidance was published by the Institute of Environmental Management and Assessment (IEMA) in July 2023, entitled the Environmental Assessment of Traffic and Movement (EATM).</p> <p>EATM follows the same general principles and methodology set out in GEART, including the application of the two thresholds of traffic increase triggering the need for environmental assessment (net change in traffic flows of 30% or 10% for sensitive locations). The key changes in the EATM are as follows:</p> <ul style="list-style-type: none"> • the list of potential sensitive receptors has been expanded to include locations with existing safety concerns; • sensitive/vulnerable groups are not limited to factors of age and disability status but a range of factors including income and geography; • expansion of pedestrian environmental effects to include all non-motorised users; and • changes to the methodology of magnitude of change assumptions. <p>Table 12.14 presented in ES Chapter 12 Traffic and Transport (Document 5.2.12 [APP-084]) identifies the potential sensitive receptors considered within the assessment derived from the guidance within GEART. This does capture existing safety concerns through the classification of a receptors' sensitivity (Table 12.18 of Document 5.2.12 [APP-084]) and therefore complies with EATM. National Grid considers that the classification of receptors set out in Table 12.18 of Document 5.2.12 [APP-084] and applied in Table 12.27 are still valid, considering the context of the Project and highways receptors, in light of the updated guidance contained in EATM.</p> <p>The wider non-motorised user group is considered within the submitted application documents, for example the Public Right of Way Management Plan (PRoWMP) (Document 5.3.3G (B) [REP2-024]) considers the Project impact on users of the National Cycle Network (Section 4) and on the various users of Public Rights of Way (PRoW) such as horse riders in order to ensure appropriate mitigation measures are implemented.</p> <p>As summarised in paragraph 12.8.10 of Document 5.2.12 [APP-084], GEART advised the use of two rules as thresholds to determine which receptors required detailed assessment for likely significant traffic and transport effects. As EATM maintains the use of the two rules, there is no impact on the conclusion of the ES</p>

Ref No.	Respondent:	Question:
		<p>Chapter 12 Document 5.2.12 [APP-084] as to which receptors required detailed assessment (receptors 4, 7, 10, 11, 12, 17 and 25) as outlined in Table 12.28 and detailed in paragraphs 12.9.12 and 12.9.13.</p> <p>A summary view of the implications of EATM on the methodology of magnitude of change assumptions is set out below:</p> <ul style="list-style-type: none"> • Driver delay: the assessment of this likely significant effect is in principle unchanged. • Non – motorised user delay: as outlined previously, in GEART this related specifically to pedestrians but the submitted assessment did consider impacts on non-motorised user groups. Therefore, for the purpose of the assessment presented in Document 5.2.12 [APP-084] is in principle unchanged. • Non-motorised amenity: the assessment of non-motorised amenity is in principle unchanged. As previously outlined, the PRowMP (Document 5.3.3G (B) [REP2-024]) sets out consideration of impacts on non-motorised users, as does the submitted Construction Traffic Management Plan (CTMP) (Document 5.3.3F(D)). While EATM notes additional resources for assessment of pedestrian amenity, such as the Transport for London Guide to the Healthy Street Indicators, consideration of the additional factors within these guides are not relevant to assessing the Project’s impact given its rural location and that the likely traffic and transport effects would be temporary by nature of occurring in the construction phase of the Project. • Fear and intimidation: GEART outlined assessment of fear and intimidation was a factor of vehicle flow and vehicle speed. EATM expands on this methodology via provision of a scoring system to quantify magnitude of impact on fear and intimidation. EATM sets out a scoring system to calculate a degree of hazard based on traffic flow and average vehicle speed which is then summed to determine a fear and intimidation level (small, moderate, great or extreme). The magnitude of change is determined by comparing the highway fear and intimidation level with and without the development flow. While EATM provides a framework system for quantifying magnitude of impact on fear and intimidation the scoring system is based on the traffic factors set out in GEART. Therefore, for the purpose of the assessment within Document 5.2.12 [APP-084] the guidance within EATM would not impact on the assessment conclusion particularly as the likely traffic and transport impacts would be temporary (during the construction phase). • Accidents and safety: EATM expands on the limited guidance within GEART on assessment of impact on accidents and safety including the use of a staged approach. The staged approach involves identification of historic crash data, objective modelling techniques to establish a baseline of road safety and assessment of the effects of development traffic. Within ES Chapter 12 Document 5.2.12 [APP-084], for each highway section within the study area, a summary was provided (Table 12.11) of recent historical accident records and, where possible, compared with the average accident rate per million vehicle km for the relevant road categories. This accident record was used, along with the highway context, to inform assessment of likely significant traffic and transport effects relating to accidents and safety for those receptors requiring detailed assessment. For the detailed assessment of highways receptors within the ES Chapter 12, the potential impact of the development traffic on accidents and safety was assessed using professional judgement, as opposed to objective modelling as outlined in EATM. However, given the development traffic consists of a temporary increase in traffic during the construction phase with mitigation and management measures implemented where required it is considered to be a reasonable and suitable alternative approach. The traffic management measures that will be implemented as set out in the CTMP (Document 5.3.3F(D)) which is secured by Requirement 5 of the draft DCO (Document 3.1(F)) address any accidents and safety aspects. • Severance: GEART set out percentage traffic increase thresholds for assessing severance. EATM places additional emphasis on the highway context and awareness of the disproportionate impact low baseline flows can have on this metric. For the purpose of the assessment within Document 5.2.12 [APP-084] the guidance within EATM would not impact on the assessment conclusion particularly as the likely traffic and transport impacts would be temporary (during the construction phase). • Hazardous Loads: Both GEART and EATM outline the need for assessment of hazardous loads and is specifically expanded to abnormally large loads in EATM. EATM outlines abnormal load movements are regulated via ESDAL which is committed to within the CTMP paragraph 3.5.6 (Document 5.3.3F(D)). As outlined in Table 12.3 of Document 5.2.12 [APP-084], there are no hazardous loads within the Project. Therefore, there is no change in relation to hazardous/abnormally large loads assessment. <p>In summary, National Grid considers that the application of EATM would not impact on the conclusion of the ES Chapter 12 Traffic and Transport Document 5.2.12 [APP-084], particularly as the traffic and transport impact would be within the construction phase of the Project and, therefore, would be temporary in nature.</p>

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