

**Written Representation and Response to Proposed Changes submitted by National Highways Limited**

**Application by H2 Teesside Limited for an Order granting Development Consent for the H2Teesside Project**

**Planning Inspectorate Reference Number: EN070009**

**Interested Party Reference Number: 20048985**

## 1 Introduction

- 1.1 This written representation is National Highways Limited (“**National Highways**”) formal written response to the application by H2 Teesside Limited (“**Applicant**”) for an order granting development consent for the H2Teesside Project (“**DCO**”).
- 1.2 The document also sets out our response to the consultation on proposed changes to the project.
- 1.3 Whilst National Highways has no in principle objection to the DCO and the Authorised Development, the proposed development has the potential to have an impact on the Strategic Road Network (“**SRN**”). As such, National Highways are seeking the inclusion of adequate protections to manage any potential interface between the Authorised Development and the SRN, focussed on the construction stage of the proposals.

## 2 National Highways

- 2.1 National Highways is an arms-length government owned company responsible for the ownership, management and improvement of England’s motorways and major A-roads, collectively referred to as the SRN. The SRN comprises over 4,500 miles of road sitting at the core of the national transport system, connecting all major economic and resource centres with key markets and conurbations. The SRN is the most heavily used part of the national road network, carrying a third of all traffic and two-thirds of all freight totalling approximately 4 million journeys a day. It provides businesses with the means to get products and services to their customers, gives access to labour markets and suppliers, and encourages trade and new investment. It is also a complex network of highway structures, drainage and attenuation apparatus and telemetry and electronic communication assets. In short, the SRN is a critical piece of economic infrastructure, vital to the nation’s connectivity and the means for generating economic growth.
- 2.2 National Highways is appointed pursuant to section 1 of the Infrastructure Act 2015 to act as the highway authority, traffic authority and street authority for the SRN. The effect of this appointment is to make National Highways the statutory custodian of this national asset, conferring on it the status and legislative functions of a strategic highways company.
- 2.3 As a strategic highways company, National Highways must comply with a number of general and specific statutory duties<sup>1</sup>, including to:

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<sup>1</sup> Infrastructure Act 2015, s.5

- (a) *co-operate in so far as reasonably practicable with other persons exercising functions which relate to highways or planning;*
- (b) *have regard to the effect of the exercise of its functions on the environment;*
- (c) *have regard to the effect of the exercise of its functions on the safety of users of highways.*

2.4 The Secretary of State for Transport may from time to time give a strategic highways company directions or guidance as to the manner in which it is to exercise its statutory duties and functions. For the purposes of directing the functions as regards the SRN, these directions are contained within the 2015 Licence.<sup>2</sup> The directions contained in the 2015 Licence are mandatory<sup>3</sup> and are regulated by the Office of Road and Rail. They include:

- (a) *Paragraph 4.1 - The network for which the Licence holder is responsible is a critical national asset, which the Licence holder must operate and manage in the public interest, in respect of both current activities and needs and in providing effective stewardship of its long-term operation and integrity;*
- (b) *Paragraph 4.2 – Without prejudice to the general duties on the Licence holder under section 5 of the Infrastructure Act 2015, the Licence holder must, in exercising its functions and complying with its legal duties and other obligations, act in a manner which it considers best calculated to:*
  - i. *ensure the effective operation of the network;*
  - ii. *ensure the maintenance, resilience, renewal and replacement of the network;*
  - iii. *ensure the improvement, enhancement and long-term development of the network;*
  - iv. *ensure efficiency and value for money;*
  - v. *protect and improve the safety of the network;*

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<sup>2</sup> [Highways England: licence \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

<sup>3</sup> Infrastructure Act 2015, s.6(3)

- vi. *co-operate with other persons or organisations for the purposes of co-ordinating day-to-day operations and long-term planning;*
- vii. *minimise the environmental impacts of operating, maintaining and improving its network and seek to protect and enhance the quality of the surrounding environment;*
- viii. *conform to the principles of sustainable development.*

(c) *Paragraph 5.37 – The Licence holder must hold and manage land and property in line with, and as a function of, the Licence holder’s legal duties as a highway authority, and solely for the purposes of operating, managing and improving the highway, unless otherwise approved by the Secretary of State for Transport.*

2.5 More particularly sections 41 and 130 of the Highways Act 1980 contain respectively a statutory duty for National Highways to ensure it maintains the SRN to the appropriate/sufficient standard, free from any hazards so it is safe to use, and a statutory duty to assert and protect the rights of the public in use and enjoyment of the SRN. Section 16 of the Traffic Management Act 2004 contains a statutory Network Management Duty for National Highways to manage the SRN with a view to achieving, so far as may be reasonably practicable having regard to National Highway’s other obligations, policies and objectives, securing the expeditious movement of traffic on the SRN and facilitating the same on roads where another authority is the traffic authority. In order to achieve this, the action National Highways may take in performing that duty includes that which National Highways considers will contribute to securing the more efficient use of the SRN or avoidance, elimination or reduction of disruption to the above relevant roads and may involve the exercise of any power to regulate or co-ordinate the uses made of any road (or part of a road) in the road network (whether or not the power was conferred on them in their capacity as a traffic authority). Section 17 of the Traffic Management Act 2004 requires that National Highways shall make such arrangements as they consider appropriate for planning and carrying out the action to be taken in performing its Network Management Duty and has to establish processes to, as far as reasonably practicable, identify things (including future occurrences) which are causing, or have potential to cause SRN congestion or other disruption to the movement of traffic on it and consider any possible action that could be taken in response to (or anticipation of) anything so identified, e.g. in the event National Highways considers this particular statutory duty may not be met.

2.6 Supplementary to this, Paragraph 4.2 of National Highway’s statutory licence requires National Highways to act in a manner which it considers best calculated to ensure the effective operation of the SRN. To comply with this, Paragraph 5.1 states that National Highways should seek to minimise disruption to road users that might reasonably be expected to occur as a result of

planned or unplanned disruption to the network, as well as proactively and reactively provide relevant, accurate and timely information about traffic and conditions on the SRN to road users, including when there is disruption.

- 2.7 This range of duties demonstrates that National Highways must always protect road users/the SRN and ensure the SRN retains its integrity, is free from hazards, is safe to use and is available for continual uncongested use all year round subject to precise terms of its Network Management Duty which means National Highways is duty bound to consider carefully any activity that has the potential to impact on any of National Highways’ statutory duties.
- 2.8 Safety is at the heart of National Highways’ function as a statutory undertaker – the safety of the travelling public, the safety of National Highways staff and the safety of third-party contractors on the network. The SRN can be a dangerous network to operate on, over and under given the very limited control that National Highways has on road users operating at high speeds. The potential for catastrophic damage or injury is prevalent, which is precisely why National Highway has strict procedures for contractors operating on, over or under the SRN, particularly those which it does not itself control.

### 3 Written Representation and response to the Examining Authority's written questions

- 3.1 The Examining Authority’s (ExA) written questions associated with traffic and transportation matters applicable to National Highways have been considered and within Table 1 below, National Highways’ response to those questions are provided. It should be noted that beyond traffic and transportation matters (under section 17 of the questions), no further ExA written questions are applicable to National Highways and as such have not been commented on.

**Table 1 – ExA Written Questions & Requests for Information**

<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>	<b>National Highways Response:</b>
Q1.17.1	<b>Applicant and relevant Interested Parties (IPs)</b>	Update / Views sought. It would be necessary to use accesses in the ownership and use a number of IPs and other operators. A number of RRs have raised maintenance of their access rights as an issue. Please could all parties provide an update on whether access concerns remain	National Highways has no comments with regards to this question.

ExQ1	Question to:	Question:	National Highways Response:
		and if the DCO or relevant Protective Provisions (PPs) offer suitable protection to IPs.	
Q1.17.2	<b>Applicant</b>	Clarification. ES Appendix 15A Transport Assessment [APP-210], paragraph 15A.5.4 states that it has been assumed in the transport assessment for the construction phase that there will be an average of two workers per car travelling to the construction sites. Please detail, or signpost the ExA to, how this will be monitored and managed and who will be responsible for this during the construction phase and how this is secured in the DCO.	While ultimately not considered a matter that would inhibit National Highways reaching a view on the DCO, National Highways would in turn welcome the submission of further evidence from the Applicant to detail how such a strategy would be achieved and subsequently monitored and this is identified in the Statement of Common Ground between H2 Teesside Ltd and National Highways ('Matters under discussion' SOCG ID 1).
Q1.17.3	<b>National Highways</b>	Clarification. Please confirm that the RR [RR-025], which has been sent exclusively from Jacobs Systra Joint Venture, is fully the opinion of National Highways and that the ExA should treat it as such.	National Highways can confirm that RR-025 represents the opinion of National Highways and should be treated as such. National Highways would wish to apologise for any confusion with regards to the format by which the RR-025 representation was previously provided.
Q1.17.4	<b>National Highways</b>	Clarification. In their RR [RR-025], National Highways state that assessing Phase 1 construction as the worst case scenario for construction movement is in conflict with the	In line with the construction staff trip generation methodology presented by the Applicant within the May 2024 Transport Assessment, National Highways identified that the 'worst-case' Phase 1 two-way construction worker movements as proposed (960 worker trips & 222 HGV) did not appear to align to the proposed level of 1,300 on-site

ExQ1	Question to:	Question:	National Highways Response:
		<p>assumption of 1,300 construction workers being employed on site. Please explain this concern further.</p>	<p>staff. Nevertheless, irrespective of any potential discrepancy with regards to the calculation of two-way staff movements, National Highways were satisfied that should the delivery of an appropriately detailed Construction Traffic Management Plan [CTMP] be secured alongside an appropriate requirement to secure the scheduling of staff shift periods outside of the morning / evening SRN peak periods, any discrepancy regarding the calculation of staff movements would be largely immaterial with reference to any resultant impact at the SRN.</p> <p>However, for absolute clarity, this remains a matter under discussion as identified in the Statement of Common Ground between H2 Teesside Ltd and National Highways ('Matters under discussion' SOCG ID 2).</p>
Q1.17.5	<p><b>National Highways and Local Highway Authorities</b></p>	<p>Views / Explanation sought. Are National Highways and Local Highway Authorities content that ES Chapter 15 (Traffic &amp; Transportation) [APP-068] and associated framework plans form an appropriate basis for the framework CEMP as written? If not, please provide details of your concerns.</p>	<p>National Highways have no further comments with regards to this question and remain satisfied with the framework CEMP as proposed.</p> <p>As identified in the Statement of Common Ground between H2 Teesside Ltd and National Highways ('Matters under discussion' SOCG ID 4), the Framework CWTP will be updated at Deadline 2 in light of National Highways Relevant Representations.</p>
Q1.17.6	<p><b>Applicant, National Highways and Local Highway Authorities</b></p>	<p>Clarification / Views sought. ES Chapter 15 (Traffic &amp; Transportation) [APP-068] paragraph 15.5.5 states that each Engineering, Procurement and</p>	<p>As has been communicated to the Applicant previously, National Highways would expect that a final overarching, detailed CTMP applicable to each dedicated construction phase, inclusive of all associated processes, would be secured via Requirement on any permission granted. This</p>

ExQ1	Question to:	Question:	National Highways Response:
		<p>Construction contractor will have their own Final Construction Traffic Management Plan. Please explain what information will form the basis of these plans, how they will be approved and how this is secured in the draft DCO. Are National Highways and Local Highways Authorities content that this approach will be appropriate.</p>	<p>CTMP would be expected to regulate, control and manage all construction traffic associated with each dedicated construction phase as approved. National Highways will require each respective construction phase CTMP to be in substantial accordance with the content of draft Requirement 18 as detailed within the Draft Development Consent Order Document, March 2024.</p> <p>National Highways would expect that respective contractors would prepare their own individual CTMP documents which align to their own specific construction practices and associated staff processes. As a minimum, National Highways will require any individual contractor CTMPs to align to the content of any detailed overarching phase CTMP.</p>
Q1.17.7	<b>Applicant</b>	<p>Clarification. How is the Decommissioning Traffic Management Plan referred to in paragraph 15.5.9 of ES Chapter 15 (Traffic and Transport) [APP-068] secured through the DCO?</p>	<p>National Highways has no further comments with regards to this question and would expect the production of any Decommissioning Traffic Management Plan [DTMP] to be secured via Requirement on any permission granted.</p>
Q1.17.8	<b>Applicant and Local Highway Authorities</b>	<p>Clarification / Views sought. ES Figure 15-2 (Heavy Goods Vehicle Routes to and from the Proposed Development Site) [APP-162] and ES Figure 15-4 (Traffic Routes) [APP-164] detail the traffic and Heavy Goods Vehicle routing to the Proposed Development. These figures</p>	<p>National Highways has no further comments with regards to this question and remain satisfied with the proposed HGV SRN routing methodology as proposed.</p>



ExQ1	Question to:	Question:	National Highways Response:
		<p>appear to only show this routing to the main site.</p> <p>Please could the Applicant provide a plan and detail the routing to the other construction compounds.</p> <p>Please can the relevant Local Highway Authority comment on the general suitability of access to the remote construction compounds.</p>	
Q1.17.9	<b>Applicant and Local Highway Authorities</b>	<p>Clarification / Views sought.</p> <p>Paragraph 15.3.6 of ES Chapter 15 (Traffic &amp; Transportation) [APP-068] states that abnormal routing via the road network has only been considered as this represents the worst case scenario for traffic assessment.</p> <p>Could the Applicant please:</p> <ul style="list-style-type: none"> <li>i) Comment on the potential suitability of other methods of transporting abnormal loads and the likelihood of this being used.</li> <li>ii) Detail if there will be a need to transport abnormal loads to locations outside the main site area and if so, how has the suitability and method for</li> </ul>	<p>While National Highways has no further comments to make with regards to the abnormal load routing methodology as proposed, as has been discussed between National Highways and the Applicant to date, any measures to promote the utilisation of non-highway modes for abnormal load movements to site would be welcomed by National Highways. However, as has also been clarified with the Applicant, any matters pertaining to abnormal load movements via the SRN will need to be addressed with the National Highways Abnormal Indivisible Loads team (<a href="mailto:abnormalindivisibleloadsteam@nationalhighways.co.uk">abnormalindivisibleloadsteam@nationalhighways.co.uk</a>). Such movements would initially be identified through the CTMPs.</p>

ExQ1	Question to:	Question:	National Highways Response:
		<p>undertaking this been assessed?</p> <p>Could the relevant Local Highway Authorities please comment on the general suitability of potential abnormal loads access to the remote construction compounds.</p>	
Q1.17.10	<b>Applicant</b>	<p>Clarification.</p> <p>Please detail how it is envisaged that co-ordination between various construction projects, including those being promoted on the Foundry Site, will be undertaken so as to minimise the traffic impact in both construction and operational phase. Please also detail how this is secured in the draft DCO.</p>	<p>Any steps to coordinate construction programmes and activities across the site would be welcomed by National Highways and would be expected to greater facilitate the management and mitigation of any construction traffic impact at the SRN. Such co-ordination would be subject to detail and discussion in the CTMP that would be subject to a Requirement on any planning permission granted for the proposed development.</p>

#### **4 Consultation on Proposed changes to the H2Teesside Development Consent Order Application**

- 4.1 National Highways has reviewed the proposed changes as set out in the letter (and accompanying information) of 4<sup>th</sup> September 2024. On the basis of this review, National Highways are satisfied that the changes to the proposed development as detailed do not materially influence, either individually or cumulatively, any of the assessments undertaken by National Highways to date with regards to the proposed development's impact at the SRN, nor influence the view that National Highways has given to the DCO or agreements made.

**National Highways Limited**

**3 October 2024**