

PLANNING ACT 2008

INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**WRITTEN SUBMISSIONS OF NFU REGARDING THE A303 AMESBURY TO BERWICK DOWN
DEVELOPMENT CONSENT ORDER APPLICATION BY HIGHWAYS ENGLAND
PLANNING INSPECTORATE REFERENCE NO TR010025**

**SUBMISSIONS OF NATIONAL FARMERS UNION ON OUTSTANDING ISSUES ON THE
PUBLICATION OF THE EXAMINING AUTHORITY'S DRAFT DCO ON 3RD SEPTEMBER 2019 AND
THE LATEST VERSION OF THE OEMP.**

DATE 25TH SEPTEMBER 2019

**Submitted by:
Louise Staples
NFU
Agriculture House
Stoneleigh Park
Stoneleigh
Warwickshire
CV8 2TZ.**

1.0 Introduction

1.1 Submissions on behalf of the National Farmers Union (“NFU”) in respect of the application for a Development Consent Order (DCO) by Highways England for the A303 Amesbury to Berwick Down. The NFU is making a case on behalf of its members who are affected by the DCO. The NFU is submitting this submission to highlight outstanding issues following the publication of the Examining Authority’s draft DCO on 3rd September 2019 and the submission submitted by the NFU on 6th September 2019.

2.0 **DCO: Article 15 – Authority to survey and investigate the land.**

2.1 The NFU thanks HE for including the wording as drafted in the **draft DCO at 15(3) *the notice required under paragraph (2) must indicate the nature of the survey or investigation that the undertaker intends to carry out.*** The NFU believes that Article 15 at 15(3) should also state that the notice must indicate the following:

- Who will be taking entry
- The date of entry and for how long
- The type of equipment if any will be used.

The NFU set this out in the submission on the 6th September 2019. Highways England (HE) following a conference call on 20th September 2019 have stated that they would like to see the ALO take on the role of supplying the above information and for the wording not to be changed in the draft DCO. HE has stated the OEMP will have the following wording:

“The ALO will provide preconstruction survey information to landowners including company name, survey type and equipment to be used, an estimate of how long the surveys are expected to take, where surveys are to take place on land outside of the Order Limits and why such surveys are required on land outside the Order Limits”.

The NFU believes strongly that the wording in the draft DCO should be changed to state that the above information will be provided in the notice. We would expect the ALO as part of its role to have a meeting with a landowner to discuss the notice and the information as set out above. It is particularly important that the landowner is informed as to why the surveys are necessary as under the power, surveys are only authorised outside Order limits, where **reasonably necessary**.

2.2 Further to the publication of the Examining Authority’s draft DCO on the 3rd September 2019 and the NFU checking the wording in detail of Article 15, the NFU as stated in the submission

submitted on 6th September 2019 is very concerned that the following is included under Article 15:

- At 15 (1) (b) it is stated that *‘the undertaker where reasonable necessary may enter any land which is adjacent to, but outside the Order limits’*.

The NFU after checking the wording of other DCOs believes that it is not normal for the DCO under the article covering ‘Authority to Survey and Investigate Land’ to include the above wording which allows for the surveys to take place on land which is adjacent to, but outside Order Limits. In conference calls with HE on Friday 20th and Monday 23rd September the NFU asked why it was necessary for any surveys to take place outside Order Limits and in particular what ecological receptors were so important on the A303 Stonehenge scheme for this wording to be necessary. HE have confirmed in an email dated 24th September that non- intrusive surveys may be necessary to take account of the presence of protected species that could potentially be disturbed. It is not at all clear to the NFU why protected species would be disturbed any more on this scheme than other schemes which have applied for a DCO.

Further as stated in the submission of the 6th September 2019 under Article 2: Interpretation, there is no meaning of the word “adjacent”. The NFU has asked HE to clarify what it means by adjacent and HE have confirmed on 24th September that the definition must take its ordinary meaning, as this is how it has been interpreted within previous referenced submissions by HE. The NFU has read all previous referenced submissions and has not been able to find anywhere where HE has defined adjacent.

The Collins dictionary defines ‘adjacent’ as “being near or close, esp. having a common boundary; contiguous. Therefore the NFU would expect any surveys which are to take place if it could be proven that they were reasonably necessary outside Order limits, within 10m of the Order limits boundary.

The NFU even after further discussion with HE sees no reason as to why HE for this scheme should be allowed to undertake surveys and investigation work on land which is adjacent to, but outside of the Order limits. The NFU would like the Examining Authority to delete this wording. If the Examining Authority believe that HE have set out why it is so important to the scheme for surveys to be carried out adjacent to but outside Order limits then the NFU would like it to be stated in the DCO that adjacent is within 10m of the Order limits boundary. The NFU believes that it is critical that this is stated clearly so that there is no ambiguity over what is adjacent to the Order limits.

2.3 Further at 15 (1) (b) (iii) it is stated that without limitation on the scope of subparagraph (i) that the undertaker may investigate the nature of the surface layer, subsoil and groundwater and remove soil and water samples and **discharge water from sampling operations on to the land.**

As highlighted in the submission by the NFU on 6th September 2019 the wording highlighted in bold above is not normally included in the article covering surveys and investigation in a DCO and as Article 15 is drafted for the A303, the discharge of water from sampling operations on to land could take place within and outside the Order limits. It is the discharging of water on to land that is of the greatest concern to the NFU.

As above under 2.2 the NFU sees no reason as to why HE for this scheme should be allowed to discharge water from sampling operations on to land within and outside of the Order limits. The NFU would like this wording to be deleted as requested on the 6th September 2019.

The NFU has requested further information from HE on the discharge of water from sampling operations on to land as to what this would entail. HE confirmed that the powers are being sought to facilitate that prior to taking a sample of groundwater it is good practice to remove the water that is in the borehole and allow the borehole to refill from the aquifer that is being monitored. It has been stated to us that typically three well volumes would be removed and for a borehole that is 50m deep where the water is 15 metres below ground level this would be 200 litres of water. In context this is like 2 mm of rain falling over an area of 10m x 10m. HE provided a picture highlighting the purging process and this is submitted with this submission.

If the Examining Authority do believe that it is necessary and appropriate to allow HE to discharge water on to land then the NFU believes that it is critical that it is stated what the maximum amount of water is and if this is as the example given then it should be stated that the maximum amount of water to be discharged on to land is 200 litres per borehole. Further it would need to state how many times this would be carried out per borehole.

It is also not clear as to whether the DCO powers will cover the boreholes which are already in situ. The boreholes are currently tested every quarter. These boreholes are not situated in locations which could be considered as adjacent to the Order limits.

3.0. DCO: Article 29: Temporary Use of Land for Constructing the Authorised Development

As requested by the NFU in submission dated 23rd August 2019 the NFU would like the notice which is served by HE to take temporary possession of land to state how long the temporary occupation will be for and for details on the programme of works to be provided by the contractor.

4.0 Construction Compounds: At MW – CH4 in the OEMP it does state that the slurry treatment plant and the batching plant have to be located to the west of the existing tall hedgerow at Longbarrow. The NFU would like it made clear which plots of land this refers to and which construction compound this will be. This needs to be made clear in the DCO in the relevant schedules. HE have also referred to ‘soil treatment works’ and the NFU believes that where these types of works are to take place again should be made clear in the relevant schedules in the DCO. Under **Schedule 7 in the draft DCO** for the land areas to be taken for compounds it just states ‘provide temporary storage, laydown areas and working space’.

5.0 Compulsory Acquisition Hearing: Whether the Secretary of State could be satisfied that the land proposed to be acquired is no more than is reasonably necessary for the purposes of the proposed development. HE stated that they believe they have only highlighted the land that is required to be able to deliver the scheme and that once final design has been completed if it is shown that not all land is required then less land will be taken. The other re assurance given was that a step down in the rights needed could be considered. The NFU would like an assurance on this to be given by HE and for this somehow to be secured in the DCO.

The NFU believes that HE has still not confirmed how it would carry out this negotiation with landowners on the final design and prove that no more land is being taken than is necessary.

6.0 Role of the ALO: OEMP: Table 2.1: The NFU has been requesting that wording should be stated under the 'Role of the ALO' the times that the ALO is contactable. The wording requested is "The ALO (or their company) will be contactable from 7am to 7pm during the construction phase to landowners, agents and occupiers and will provide 24hr team or company contact details for use".

HE has now confirmed that in the ALO section of the OEMP the following wording will be added: *The ALO will be contactable by all landowners and occupiers during the day time working hours defined by the contractor through a direct phone number. During out of hours times, contact will be made through the HE helpline, who will provide a suitable contact to deal with any issues.*

The NFU would like to see HE providing an emergency number for out of hours times that is specific to this project. It is not acceptable to give an emergency number which is the HE general emergency number for the whole of England. Landowners will need to speak to someone in an emergency who knows the scheme and different locations along the scheme.

7.0 Field Drainage: OEMP: MW – COM7: The NFU has highlighted the wording that it believes to be essential to state how field drainage should be dealt with during and after construction. A lot of time has been spent on drafting this wording not only for this DCO application but others as well to make sure that all aspects are covered. This wording has been agreed recently with HE on the A30 Chiverton to Carland Cross scheme and therefore the NFU can see no reason why the full wording cannot be agreed with HE for this scheme.

HE have amended the wording under Field Drainage at MW – COM7 in the latest draft of the OEMP dated September 2019 and the NFU will be submitting a further response to this before the examination ends on the 2nd October 2019.

8.0 Outline Soils Management Plan: OEMP: Annex A.3: The NFU is pleased that HE have now drafted an Outline Soils Management Plan and the wording that has been included at MW- COM4.

The NFU would like it to be made clearer that during the aftercare period there would be annual monitoring of the physical soil characteristics and soil nutrient levels to set the aftercare management requirements for the following year. The landowners should be able to approve and agree the reinstatement works before and after soil replacement. A final report to determine the final handover condition of the agricultural soil should be produced.

