

From: [Matthew Taylor](#)
To: [A585 Windy Harbour to Skippool](#)
Subject: A585 Windy Harbour to Skippool Improvement Scheme: Deadline 6 submission - Fylde Borough Council (reference 20021788)
Date: 21 August 2019 11:23:34
Attachments: [6.1 Comments on the Applicant's revised draft DCO FBC.pdf](#)

Dear Sir/Madam,

Further to your letter dated 16 August 2019 and the timetable set out in Annex A, please find attached the following deadline 6 submission from Fylde Borough Council (FBC).

- **FBC document 6.1** – Comments on the Applicant's revised draft DCO.

If there are any queries concerning the above, please do not hesitate to contact me.

Kind regards,

Matthew



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Application by Highways England for a Development Consent Order in relation to the A585 Windy Harbour to Skippool Improvement Scheme (TR010035)

Fylde Borough Council (our reference: 20021788)

21 August 2019

Deadline 6: Comments on the Applicant's revised draft Development Consent Order and additional submissions received at deadline 5 (FBC document reference 6.1)

Comments on the Applicant's revised draft Development Consent Order:

Pages 40-43 of the draft Statement of Common Ground (SoCG) between the Applicant and Fylde Borough Council (FBC) submitted at deadline 2 (Rev 1.1 dated 7th May 2019, FBC document 2.3) contain a schedule of 12 amendments, additions and/or observations that FBC considered were required to make an earlier version of the draft Development Consent Order (dDCO) dated December 2018 (document labelled "Rev 1 – DCO Submission") acceptable.

FBC is satisfied that the changes suggested in points 1, 2 and 4-12 of the SoCG have been addressed in the revised (deadline 5) version of the dDCO dated 9th August 2019 (including through revisions to the supporting documents mentioned therein). There are however, in FBC's view, two outstanding issues with the "landscaping" provisions set out in Schedule 2, Part 1, Requirement 5 of the revised dDCO as follows:

1. For the reasons set out in its submissions at deadlines 2 (response reference 9.3 of FBC document 2.5) and 4 (FBC document 4.1), FBC maintains that the length of the rectification period specified in Requirement 5 (5) of the dDCO should be increased from 5 years to 10 years.
2. The provision in Requirement 5 (5) of the dDCO relating to the size of any replacement planting to be introduced during the rectification period contradicts the strategy identified in Rev 3 of the Record of Environmental Actions and Commitments (REAC) submitted at deadline 5. Specifically, reference number 12J in Rev 3 of the REAC states that the Handover Environmental Management Plan (HEMP) will provide for "replacement planting for areas of significant loss [to] be undertaken on a basis of anticipated growth rates for that stock based on its original stock size and time passed as opposed to like for like replacement", rather than referring to replacement specimens being of "the same [...] size as that originally planted". The same provisions are set out in the Applicant's response to FBC's deadline 4 submission (response reference REP4-026.1 in document 7.23). Accordingly, the commitments in the REAC are not presently carried through to Requirement 5 (5) of the dDCO. FBC considers that Requirement 5 (5) of the dDCO should be reworded to read as follows (with the Council's changes highlighted in bold lettering):

*(5) Any tree or shrub planted as part of the landscaping scheme that, within a period of **10** years after planting, is removed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of **a size and species which accords with the provisions for replacement planting identified in the approved HEMP**, unless the Secretary of State, following consultation with the relevant planning authority on matters related to its function, gives consent to a variation.*

For the reasons given above, FBC consider that revisions are needed to Requirement 5 (5) of the dDCO to secure appropriate measures for the ongoing maintenance of any landscaping scheme in order that this will provide proportionate mitigation for the proposed development's significant visual effects on the surrounding landscape.

It is noted that an additional clause relating to "night-time working" has been inserted at Requirement 4 (2) (c) (ix) of the revised dDCO. This cross references details set out in the REAC which, under reference number

4AL to Rev 3 of that document, indicate the Applicant's expectation to operate 95 separate night working periods. This insertion was not discussed with FBC beforehand and raises the following issues:

1. The term "night-time working" is not defined in the dDCO or the REAC (i.e. by reference to specified working hours).
2. The REAC fails to specify the locations where 65 of the 95 anticipated night working periods will occur.
3. Neither the dDCO nor the REAC clarify the nature of the operations that will take place during the 95 anticipated night working periods.

As a result of the above, FBC is unable to assess what effects the operations that the Applicant expects to carry out during the night working periods are likely to have on the amenity of surrounding occupiers, having particular regard to potential nuisances associated with noise disturbance and light pollution. In the absence of this information, FBC objects to the insertion of clause (ix) to Requirement 4 (2) (c).

Comments on the Applicant's responses to deadline 4 representations:

The Applicant submitted the document titled "7.23 Responses to Representations Received at Deadline 4" at deadline 5. The heading referenced "REP4-026.1" contains the Applicant's response to the comments made in FBC's deadline 4 submission (FBC document 4.1).

The Applicant's response does not state why the 10 year rectification period suggested by FBC is unjustified in the context of the specific circumstances and effects of the proposed development. Instead, it simply states that "the proposal by the Applicant is common practice" and refers to requirements in three other Development Consent Orders "which include either a 2-year or 5-year rectification period".

While FBC acknowledges that the length of the rectification periods for the three schemes mentioned in the Applicant's response were no greater than 5 years, those schemes are not directly comparable with this development. In particular, the "A556 Knutsford to Bowdon Scheme" involved the construction of a link road between two motorways and occupies a different landscape setting to the Applicant's scheme, the works associated with the "M4 Junctions 3 to 12 Smart Motorway" comprised the conversion of an existing hard shoulder to a lane open to traffic and the "A14 Cambridge to Huntingdon Improvement Scheme" appears to be associated largely with the widening of an existing road rather than the construction of a new road in a landscape that is presently dominated by open countryside. Importantly, it is unclear whether the three highway projects mentioned in the Applicant's response relate to the same landscape typology, topography and characteristics that are applicable to this scheme. Furthermore, and unlike any of the other projects mentioned in the Applicant's response, it should be noted that because the Windy Harbour scheme will occupy a coastal location that is exposed to salt and wind laden conditions, tree planting is more susceptible to failure than would be the case in sheltered, inland locations.

It is an established principle of the planning system that each case should be considered on its individual merits. As the location, nature, scope, landscape context and effects of the three projects mentioned in the Applicant's response are not directly comparable with this development, it does not follow that simply adopting the same approach for this scheme without any site-specific justification for doing so represents a sound or robust solution. Accordingly, FBC maintains that the length of the rectification period specified in Requirement 5 (5) of the dDCO should be increased from 5 years to 10 years.