

Ken Stone
 The Planning Inspectorate
 National Infrastructure Planning
 Temple Quay House
 2 The Square
 Bristol
 BS1 6PN

Our ref: SV/2022/111242/01-L01
Your ref: TR010056
Date: 30 March 2022

Dear Ken

A417 MISSING LINK DCO - EXAMINING AUTHORITY'S QUESTIONS (EXQ2) – ENVIRONMENT AGENCY RESPONSES

We write further to the issuing of your Further Questions (ExQ2) on 17 March 2022. We have set out below our responses to your questions.

Examining Authority's Question	Environment Agency's response
<p>2.2.2 Carbon emissions Do any of the named organisations have any comments they wish to make with regards to the Applicant's assessments and forecasts of carbon emissions, with direct reference to the NPSNN?</p>	<p>We have no specific comments to make regarding the Applicant's assessments and forecasts of carbon emissions, in the context of the NPSNN.</p> <p>Throughout our discussions with NH we have expressed the importance of the climate emergency, the need to do as much as possible to mitigate climate change and the importance of adaptation to a changing climate.</p>
<p>2.5.3 Article 3 Article 3 (a), (b) and (c) seek the disapplication of certain statutory provisions which relate to matters controlled by the EA and which are prescribed consents. In its Deadline 4 submissions [REP4-047] the EA provided an update on the disapplication of these matters and noted that it still had reservations about agreeing to these matters being disappplied. Can the parties provide a position on this matter for Deadline 6 with the appropriate amendment to the dDCO to be provided if required?</p>	<p>We are now able to provide a final position on this matter, having taken internal legal advice. Please accept our apologies that we were not able to provide this earlier in the process:</p> <p>Our current position on the disapplication of certain of our statutory provisions in the DCO process is that we do not disapply either the abstraction licensing regime or the discharge consenting regime. (In previously times we have done so for the abstraction licensing regime for certain projects, however the legislation has since changed.)</p> <p>Furthermore, our internal legal advice is that, given that no Flood Risk Activity Permits are expected to be needed for the project (please refer to our ExQ1 answers to 1.4.20 'Watercourse Rights' and 1.4.22 'Other</p>

	<p>Consents' for context) we do not consider it is necessary to disapply the legislation for those Permits either.</p> <p>Accordingly, we do not agree to disapplying the legislation for any of our statutory provisions for this project. We are therefore seeking the removal of the Protected Provisions within Part 3 of Schedule 8 of the dDCO.</p> <p>We have discussed this position with NH and understand that NH has accepted our position.</p> <p>For the avoidance of doubt, should any question arise over the likelihood of securing the relevant Permits, Consents and Licences for the scheme, we would reiterate our response at ExQ1 to 1.4.22 'Other Consents' where we advised the following:</p> <p><i>Essentially, from the information we have seen to date, we are satisfied that there will be no showstopper issues in terms of environmental impacts within our remit as a result of the development.</i></p> <p><i>The principles of the various Consents have already been included/established in the Environmental Statement. The detail is still outstanding. So, whilst we cannot absolutely pre-determine the Permit situation, we have confidence that it will be possible to secure the necessary Permits and Licences. This should not be seen as pre-determining such Permits, Consents and/or Licences, and does not fetter our discretion.</i></p>
<p>2.5.17 Protective Provisions In its Deadline 4 submissions on the dDCO, the EA confirmed that it raises no objection in principle to the Protective Provisions for the EA in the dDCO. However, the EA noted it had not sought a detailed review from its legal team and understood that the Provisions followed standard wording used elsewhere on other projects. It is for the EA to determine the appropriateness of its responses to the dDCO. At present the wording in the</p>	<p>See our response to 2.5.3 'Article 3' above. Our position is now changed on this; we do not agree to disapplying the legislation for any of our statutory provisions for this project. We are therefore seeking the removal of the Protected Provisions within Part 3 of Schedule 8 of the dDCO.</p> <p>We have discussed this position with NH and understand that NH has accepted our position.</p> <p>We believe NH will be making the necessary amendments to the Consents and Agreements Position Statement and the dDCO.</p>

<p>dDCO has not been questioned or challenged and therefore the ExA are of the view that there are no outstanding issues with these provisions as currently drafted. If the EA wishes to make any comments on the drafting of the provisions, it should do so by Deadline 6.</p>	
<p>2.12.1 Norman's Brook Are there any remaining concerns regarding the realignment of the tributary of Norman's Brook and subsequent effects on the hydrology profiles, or do both the Drainage Report [APP-406] and the Environmental Management Plan [REP4-027] provide sufficient reassurance and controls?</p>	<p>We have no outstanding concerns in principle with the realignment of the tributary of the Norman's Brook. These works have been discussed with NH, their consultants Arup and the EA and we are satisfied in principle that the appropriate measures and controls will be in place to realign this watercourse for the development of the road to commence. However, we are also conscious that the detailed design of the realignment of the tributary of the Norman's Brook is yet to be made available to us, and we would expect this to occur at the Requirements stage of the DCO process.</p> <p>The realignment of this tributary of the Norman's Brook is an opportunity to create a more naturally functioning watercourse in terms of its connection to the limestone springs which help it to flow and create the unique tufa forming habitat within the existing watercourse. There is also an opportunity for betterment in creating a watercourse which is much improved on the current configuration of the canalised river into a more sinuous channel but still within the constraints of the new valley under consideration.</p> <p>These aspects have been discussed with NH's consultants Arup as part of our cost recovery service which has informed the design considerations and we understand, as acknowledged with the Drainage Report [APP-406], that the new realigned watercourse scheme would aim to replicate the character and geomorphology of a typical upland stream, with naturalistic features and there would be space within the 5m wide platform to accommodate natural flood management and features such as step pools, cascades, informal steps and irregular meanders. On this basis, we are satisfied that this realignment can go ahead as planned.</p> <p>In summary, we are satisfied that the Drainage Report [APP-406] and the Environmental</p>

	Management Plan [REP4-027] provide sufficient reassurance and controls.
<p>2.12.4 Monitoring results Previous submissions to the Examination have suggested that the position regarding surface and ground water matters has been agreed, subject to further monitoring being undertaken. Has monitoring been ongoing and, if so, will the results of that be submitted to the Examination to either ratify or correct the previous findings and assumptions made?</p>	<p>We believe that this question is for National Highways to answer.</p> <p>From the EA's perspective we are satisfied with the ongoing assessment of surface and groundwater monitoring, however our position regarding monitoring (as acknowledged within the <i>Statement of Common Ground</i>) is that the data is still being collected and processed at onsite monitoring locations. We understand this will continue for the duration of road building and beyond post construction to verify the Hydrogeological Impact Assessment's findings.</p> <p>This monitoring data will be used as early warning surveillance monitoring to understand if impacts are occurring from the road building operations upon the water environment. Any immediate actions and mitigation can then be applied, as detailed within the Environmental Management Plan, to ensure the surface water and groundwater environment is appropriately protected.</p>

I trust the above will assist in the DCO process. Please do not hesitate to contact me if there are any queries.

Yours sincerely

Ms Ruth Clare BA (Hons), MSc, MRTPI, PIEMA
Planning Specialist – Sustainable Places

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