

PINS Ref: TR010059

Mr Kevin O'Hanlon
c/o The Planning Inspectorate
Major Applications and Plans
Temple Quay House
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Andrew Scatchard
Project Manager
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Date: 12 April 2024

Dear Mr O'Hanlon

Planning Act 2008 (as amended) and the Infrastructure Planning (Examination Procedure) Rules 2010

Application by National Highways ("the Applicant") for an Order granting Development Consent to authorise the widening of an approximately 20.6km stretch of the existing A1 between Morpeth to Ellingham, with approximately 14.5km of online widening and approximately 6.1km of new offline highway.

CONSULTATION SEEKING COMMENTS FROM THE APPLICANT

REQUEST FOR UPDATED APPLICATION INFORMATION

Please find below National Highways' (the "Applicant") response to the Secretary of State for Transport's request for comments set out in the Department for Transport's letter dated 27 March 2024.

1. Updated information provided by the Applicant

The Secretary of State invites **all interested parties** to provide any comments they have on the information provided by the Applicant on 22 November 2023 and 25 March 2024 in response to the Secretary of State's consultation letter of 7 November 2023.

Applicant's Response

As detailed at paragraphs 7.1.11 to 7.1.15 of the update to 6.33 Updated Biodiversity Air Quality Assessment submitted on 25 March 2024 to, the Applicant proposed to Northumberland County Council that they should enter into a similar arrangement to that agreed in 2021 in response to the impacts predicted from the updated 2024 assessment. In the intervening period, the Applicant and Northumberland County Council have agreed in principle that necessary habitat improvements should be delivered by a legal agreement and secured by commitment reference ExA: S-B100 in the updated 7.3 Updated Outline Construction Environment Management Plan submitted on 25 March 2024.

The compensatory woodland is to be provided by means of improved woodland management in areas of ancient and woodland management under the control of the Council. The location and required extent of the additional woodland management have been agreed. The management is to be undertaken by the Council and funded by the Applicant. Once this is confirmed, an agreement will be concluded between the parties which it is anticipated will follow the same model as that already concluded during the examination to fund woodland management to offset nitrogen deposition impacts.

2. Updated Ecology Desk Study and Habitat Verification Walkover

The Secretary of State requests comments from **Natural England** on the information provided by the Applicant and in particular the findings and conclusions set out in its Updated Biodiversity Air Quality Assessment and the compensation set out in this and the updated Construction Environmental Management Plan.

Applicant's Response

As detailed at paragraphs 7.1.8 to 7.1.10 of the update to 6.33 Updated Biodiversity Air Quality Assessment submitted on 25 March 2024, the Applicant considers that the Woodland Creation Area to be provided as part of the existing Ancient Woodland Strategy [REP9-012] would also offer suitable compensation for the potential impacts to the lower plant community of the River Coquet and Coquet Valley Woodlands SSSI/Duke's Bank Ancient Woodland as a result of predicted increases in ammonia concentration.

The Applicant has subsequently discussed the Updated Biodiversity Air Quality Assessment with Natural England. Although Natural England have confirmed that they are content with methodology and the findings of the assessment, they consider that additional compensation is required to address the impact of the predicted increase in ammonia concentration on the SSSI beyond that already proposed. The Applicant has discussed further potential compensation with Natural England and the parties have agreed the location and extent of a suitable additional compensatory planting area, subject to the land being secured. A number of alternative sites for compensatory planting have also been investigated and discussed with Natural England. The Applicant has now reached agreement in principle with the relevant landowner in relation to the preferred site and heads of terms are expected to be concluded shortly. The Applicant will therefore now engage further with Natural England to agree the appropriate mechanism to secure the provision of the additional land for compensatory planting, which it is expected would be included in the proposed Order.

3. The Levelling-Up and Regeneration Act (2023)

The Secretary of State notes that since the close of examination, sections 11A of the National Parks and Access to the Countryside Act 1949 and 85 of the Countryside and Rights of Way Act 2000 have been amended by section 245 of the Levelling-Up and Regeneration Act 2023, which came into force on 26 December 2023. The Secretary of State invites **the Applicant** to provide comments on the implications of this amendment and, in particular, whether and if so, why it considers the Secretary of State could be satisfied that the amended duty on him under

sections 11A and 85 would be complied with if development consent were to be given for this scheme.

Applicant's Response

As noted by the Secretary of State, since the close of the examination, section 11A of the National Parks and Access to the Countryside Act 1949 (1949 Act) and section 85 of the Countryside and Rights of Way Act 2000 (2000 Act) have been amended by section 245 of the Levelling Up and Regeneration Act 2023 (2023 Act), which came into force on 26 December 2023.

The amendments of relevance to the Scheme are reproduced below (emphasis included by the Applicant):

Section 11A of the 1949 Act

(1A) In exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a relevant authority other than a devolved Welsh authority must seek to further the purposes specified in section 5(1) and if it appears that there is a conflict between those purposes, must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.

(2A) The Secretary of State may by regulations make provision about how a relevant authority is to comply with the duty under subsection (1A) (including provision about things that the authority may, must or must not do to comply with the duty).

Section 85 of the 2000 Act

(A1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

(1A) The Secretary of State may by regulations make provision about how a relevant authority is to comply with the duty under subsection (A1) (including provision about things that the authority may, must or must not do to comply with the duty).

These amendments introduce an enhanced duty to “seek to further” the relevant purposes, in contrast to the previous duty to “have regard to”. They also introduce an enhanced requirement in respect of National Parks in England, in relation to the weight to be attached to the purposes in the event of a conflict.

To date, no regulations have been issued under subsections 11A(2A) or 85(1A).

The Scheme

As detailed at section 7.8 Potential Impacts of Chapter 7 Landscape and Visual for Part A [**APP-043**] and Part B [**APP-044**] of the Environmental Statement the assessment of impacts on areas of outstanding natural beauty (now known as National Landscapes) was scoped out of the assessment presented in Chapter 7 Landscape and Visual of the Environmental Statement for

Part A and Part B. This was on the basis that the Applicant and consultees including the Northumberland County Council AONB Officer and Landscape Planner and Natural England agreed that there were no areas of outstanding natural beauty in sufficient proximity to the Scheme such that they were likely to be adversely impacted, as tabulated in Table 7-4 Summary of Consultation of Chapter 7 Landscape and Visual for both Part A and Part B of the Environmental Statement. From the Scheme Study Area, at its closest point, the Northumberland Coast Area of Outstanding Natural Beauty (AONB) is approximately 7.5 km to the north-east of Part A and 3 km east of Part B.

The Northumberland National Park is approximately 11 km to the west at Rothbury at its closest point. No response was provided by the Northumberland National Park Authority in relation to potential adverse effects on the National Park. However, given the distance of separation between the Scheme and the Northumberland National Park, no impacts have been identified as arising during the construction phase, which is considered the most impactful phase of the Scheme, as detailed at section 7.8 Potential Impacts of Chapter 7 Landscape and Visual for Part A [APP-043]. As a result, there were no impacts identified as arising during the operational phase.

There has been no change to the above position, in respect of areas of outstanding natural beauty or National Parks, since the close of the examination. The duties under section 11A of the 1949 Act and section 85 of the 2000 Act apply where functions are being exercised or performed “*in relation to, or so as to affect*” National Parks or land in areas of outstanding natural beauty. On the basis that no National Parks or areas of outstanding natural beauty are in sufficient proximity to the Scheme to be impacted, the Applicant’s position remains as it was during the examination, in that the duties (as amended by the 2023 Act) are not triggered by the Scheme.

As a result, the Applicant does not consider that the amendments introduced by section 245 of the 2023 Act have any implications for the Scheme or the Secretary of State’s ability to comply with the relevant duties in granting development consent for the Scheme.

4. DCO Drafting - Hedgerows

The Secretary of State requests that **the Applicant** identifies which of the hedgerows listed in Part 1 (removal of hedgerows) of Schedule 9 (trees and hedgerows) to the draft order are “important hedgerows”.

Applicant’s Response

The Applicant has not understood that the Secretary of State requires further amendments to the draft Order to reflect the identification of *important hedgerows* as such.

All but two hedgerows in Part 1 of Schedule 9 to the draft Development Consent Order (DCO) [REP11-003] are considered as “important hedgerows” under The Hedgerow Regulations 1997. The two hedgerows that are not “important hedgerows” are within the Order Limits for Part B and referenced in Part 1 of Schedule 9 of the draft DCO as H73 and H95 (pages 104 and 107, respectively).

For Part A, this is based on the assessment detailed within Chapter 8: Cultural Heritage Part A of the Environmental Statement [APP-046]. As detailed in paragraph 8.8.25 of Chapter 8: Cultural Heritage Part A of the Environmental Statement all the hedgerows to be removed for Part A have the potential to meet the criteria for being categorised as of historic importance (archaeology and historic criteria as detailed in paragraph 8.4.19 of Chapter 8: Cultural Heritage of the Environmental Statement. Therefore, all hedgerows in Part A were treated as “important hedgerows” under The Hedgerow Regulations.

For Part B, “important hedgerows” were also identified in accordance with archaeology and historic criteria, within areas listed in paragraph 4.9.11 of Appendix 8.1: Historic Environment Desk Based Assessment Part B of the Environmental Statement Appendices [APP-291], with reference to Figure 8.2: Historic Landscape Characterisation Part B of the Environmental Statement Figures [APP-151]. Primarily, this relates to hedgerows around the Charlton Mires Junction but excludes the hedgerows referenced as H73 and H95. Hedgerows were also assessed against wildlife and landscape criteria. As detailed in paragraph 4.2.52 of Appendix 9.1: Habitats and Designated Sites Part B of the Environmental Statement Appendices [APP-298], none of the assessed hedges met the criteria for classification as an “important hedgerow”. Hence hedgerows H73 and H97 did not qualify as important hedgerows either on the archaeology and history criteria or on the wildlife and landscape criteria.

For the hedgerows in Part A, paragraph 8.7.60 of Chapter 8: Cultural Heritage Part A of the Environmental Statement [APP-046], assessed that these would be of low value as heritage assets.

For those hedgerows in Part B identified as being of potential historic importance, paragraph 4.9.12 Appendix 8.1: Historic Environment Desk Based Assessment Part B of the Environmental Statement Appendices [APP-291] judged their value to be low, based on their value only being of local importance. Paragraph 8.7.81 of Chapter 8: Cultural Heritage Part A of the Environmental Statement [APP-047] similarly found the value of hedgerows to be of low value, based on their historical and archaeological interest.

As detailed within the Biodiversity No Net Loss Assessment for the Scheme [REP5-038], a net gain of 4.57% is calculated in relation to Hedgerow Biodiversity Units. When considering linear length, 48.08km of hedgerow are predicted to be lost during construction of the Scheme but 51.79km of hedgerow are to be created as compensation. In addition, 5.60km of hedgerow would be retained. It should be noted that these values are also considered a reasonable worst-case scenario given the assessment limitation outlined within paragraph 2.5.2 of the Biodiversity No Net Loss Assessment for the Scheme. Retained and proposed hedgerow creation is shown on the Landscape Mitigation Masterplan Part A [REP8a-003] and Landscape Mitigation Masterplan Part B [REP8-010]. Mitigation and compensation for hedgerows is outlined within and secured by the Updated Outline Construction Environmental Management Plan (CEMP) [REP11-006], which notably includes (but is not limited to) the following measures:

- S-L2 and S-L9: created hedgerows to be planting using native species and in keeping with local landscape character;

- S-CH4: mitigation measures for the removal of any sections of field boundaries identified as being of historic significance to be devised in consultation with Northumberland County Council; and
- S-B14: stand-off distances around retained hedgerows during construction (protective measures).

The Updated Outline CEMP also includes other mitigation measures that reference hedgerows where this habitat is associated with other receptors (for example nesting birds or bats), although have not been specifically detailed above.

4. DCO Drafting - Addresses

The Secretary of State requests **the Applicant** to confirm that the registered office addresses identified in article 2 (interpretation) and email address identified in Part 4 (for the protection of national grid as gas undertaker) of Schedule 11 (protective provisions) of the draft order remain correct.

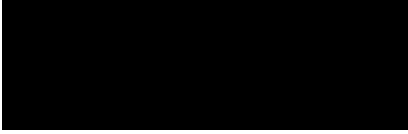
Applicant's Response

The Applicant has reviewed the registered office addresses identified in article 2 (interpretation) and email address identified in Part 4 (for the protection of national grid as gas undertaker) of Schedule 10 (protective provisions) of the draft development consent order [**REP11-003 & REP11-004**]. The Applicant confirms that the amendments below are required. The Applicant has agreed the amendments at items (1), (2), (4), (5), (6) and (7) with National Gas Transmission Plc, via legal representatives.

No.	Reference	Original text	Amended text
1.	Contents – Schedule 10, Part 4	PART 4 — FOR THE PROTECTION OF NATIONAL GRID AS GAS UNDERTAKER	PART 4 — FOR THE PROTECTION OF NATIONAL GAS TRANSMISSION PLC AS GAS UNDERTAKER
2.	Article 2	“National Grid Gas PLC” means the company registered in England and Wales, company number 02006000, whose registered office is 1-3 Strand, London, WC2N 5EH;	“National Gas Transmission Plc” means the company registered in England and Wales, company number 02006000, whose registered office is National Grid House, Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA;
3.	Article 2	“undertaker” means Highways England Company Limited (Company No. 09346363) of Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;	“undertaker” means National Highways Limited (Company No. 09346363) of Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;
4.	Part 4 of Schedule 10, heading	FOR THE PROTECTION OF NATIONAL GRID AS GAS UNDERTAKER	FOR THE PROTECTION OF NATIONAL GAS TRANSMISSION PLC AS GAS UNDERTAKER
5.	Part 4 of Schedule 10, paragraph 25	“National Grid” means National Grid Gas Plc or any successor as a gas transporter within the	“National Gas” means National Gas Transmission Plc or any successor as a gas transporter within the meaning of Part 1

No.	Reference	Original text	Amended text
		meaning of Part 1 of the Gas Act 1986 as the context requires;	of the Gas Act 1986 as the context requires;
6.	Part 4 of Schedule 10, paragraphs 24 to 38	All references to National Grid.	All references to be amended to National Gas in accordance with the definition referred to at (5), above.
7.	Part 4 of Schedule 10, paragraph 38	Notwithstanding article 47 (service of notices), any plans submitted to National Grid by the undertaker pursuant to paragraph 31 must be sent to National Grid Plant Protection at plantprotection@cadentgas.com or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.	Notwithstanding article 47 (service of notices), any plans submitted to National Gas by the undertaker pursuant to paragraph 31 must be submitted using the LSBUD system (https://lsbud.co.uk/) mailto:assetprotection@nationalgrid.com or such other address as National Gas may from time to time appoint instead for that purpose and notify to the undertaker in writing.
8.	Explanatory note, page 133	This Order authorises Highways England to undertake works in Northumberland to...	This Order authorises National Highways to undertake works in Northumberland to...
9.	Explanatory note, page 133	The Order permits Highways England to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.	The Order permits National Highways to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.
10.	Explanatory note, page 133	A copy of the plans, engineering drawings and sections, the book of reference, the environmental statement and the outline CEMP mentioned in this Order and certified in accordance with article 46 (certification of documents, etc.) of this Order may be inspected free of charge during normal working hours at [Highways England, Lateral, 8 City Walk, Leeds, West Yorkshire, LS11 9AT.	A copy of the plans, engineering drawings and sections, the book of reference, the environmental statement and the outline CEMP mentioned in this Order and certified in accordance with article 46 (certification of documents, etc.) of this Order may be inspected free of charge during normal working hours at National Highways, Lateral, 8 City Walk, Leeds, West Yorkshire, LS11 9AT.

Yours sincerely,



Andrew Scatchard
Project Manager
National Highways

