

Our ref: AE/2022/127507/02-L01 & Interested Party Ref: 20033155
Your ref: TR010060

Date: 30 January 2023

Submitted via portal

APPLICATION BY NATIONAL HIGHWAYS FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A12 CHELMSFORD TO A120 WIDENING

Environment Agency – Summary of Relevant Representation

This letter provides a summary of the representation submitted on 4 November 2022 in response to the Development Consent Order application for the proposed works.

Our Relevant Representation outlines our role and provides information in respect of biodiversity & ecology, flood risk, contaminated land, groundwater resources, surface water (water resources & water quality), waste, the draft DCO, and environmental permitting. Further detail and updates regarding ongoing work with the Applicant will be provided in our Written Representation.

1 Biodiversity & Ecology

Our response raised concerns that the proposed use of culverts and the design of the extensions to bridges on the six new and extended main river crossings will have a significant adverse effect on the ecology of those river catchments. We are also concerned about the loss of habitat resulting from the culverting of ordinary watercourses.

All new or altered main river crossings will require a flood risk activity permit (FRAP) from the Environment Agency. The Applicant has requested to disapply the need for such permits for permanent structures and has proposed protective provisions within the draft Development Consent Order (DCO). Due to our concerns with the nature of the proposed main river crossings, we are not currently content to accept the disapplication of flood risk activity permits for permanent structures, and we may not be prepared to grant FRAPs for the culverts.

2 Flood Risk

We confirmed that we have reviewed and are broadly satisfied with the Flood Risk Assessment (6.3 Environmental Statement – Appendix 14.5. APP-163), and associated sections concerning fluvial flood risk. This includes Annex L – Hydraulic Modelling Reports (APP-172). We have commented on the flood modelling during the pre-application stage and have confirmed we are satisfied that it is fit for purpose.

We have highlighted that for a number of the proposed main river crossings, there looks to be a loss of flood storage in the 5% (1 in 20) AEP (Annual equivalent

probability) event. This is not in accordance with paragraph 5.109 of the National Networks National Policy Statement (NNNPS) which requires no net loss of flood storage in Flood Zone 3b. Therefore, this net loss should be compensated for to remain compliant with the NNNPS. Alternatively, the Applicant may want to provide further information as to why compensatory storage is not provided, to enable the Examining Authority to consider whether that approach is acceptable.

At a number of the crossings (main river and ordinary watercourses) some of the works will lead to minor increases in flood depths at specific locations. It is not always clear whether the affected land will remain within the ownership of National Highways. Where this is not the case, it should be ensured that landowners are accepting of any increased risk or compensatory storage should be considered.

3 Contaminated Land

Our response confirms that we are broadly satisfied that it will be possible to manage the risks posed to controlled waters from land contamination by this development, but that further detailed information will be required before built development commences. We should have the opportunity to review the highlighted information, the proposed approach, and the full set of previous data. We requested a further Requirement be added to the draft DCO. We have also raised questions in respect of borrow pits.

4 Groundwater Resources

We confirm that we are broadly satisfied at this stage in terms of impacts on groundwater resources. Although some assessments are at a high level, they form a good basis for initial work. We are satisfied that all impacts on groundwater receptors, including groundwater dependant terrestrial ecosystems sites (GWDTE), will be assessed to the appropriate level of detail during the pre-application process for any dewatering abstraction licence(s). The requirement for licences to be obtained from the Environment Agency is included in the Consents and Licences position statement (APP-041).

5 Surface Water – Water resources and water quality

We are satisfied that the outlined mitigation can reduce impacts to surface water quality to an acceptable level, and that more detail will be provided in the Second Iteration of the Environmental Management Plan (EMP), which we should have the opportunity to review.

We asked for clarification on the management of foul and surface water from construction compounds, and for detail on the management of polluting firefighting run-off. In relation to emergency procedures and recording environmental incidents, we asked that the process of checking watercourses be formalised within the EMP.

In respect of water resources, we are satisfied that monitoring and more detailed

assessment of impacts on affected sources will be carried out as part of the Second Iteration EMP. Abstractions, including any significant dewatering, will require licensing by us which will ensure existing abstractors are not adversely affected without appropriate mechanisms in place. We are generally satisfied at this stage although there are some pre-emptive conclusions on impacts to waterbodies given the current lack of detail on abstraction needs.

We have asked about proposals to connect to mains and the re-use of dewatering water. We have highlighted that water availability is limited in this area, and therefore consumptive water abstraction licences are unlikely to be granted.

6 Waste

At this stage we are satisfied that the appropriate legislation and regulatory requirements have been acknowledged.

7 Draft Development Consent Order (DCO)

We have requested to be added as a named consultee, for matters within our remit, for Requirement 3 and Requirement 4 (relating to the second and third iteration EMP), and for Requirement 10 (1)(c) Detailed Design. We suggested an amendment to the wording of Requirement 6 Contaminated land and groundwater, and an additional Requirement to detail the measures for managing contaminated land across the scheme. We asked to be further added as a named consultee to part (2) of Requirement 11 concerning Surface and foul water drainage.

We support the inclusion of Requirement 12 which requires the development to be carried out in accordance with the Flood Risk Assessment (FRA).

8 Consents and Licences Position Statement (Environmental Permitting)

The applicant is not seeking to dis-apply the majority of the environmental permits that may be required during construction and operation of the scheme. But they have stated an intention to disapply the requirement for Flood Risk Activity Permits (FRAP) for permanent structures; and environmental permits for the discharge of water and sediment during operation (discharge consents).

In view of the current concerns with the nature of the proposed main river crossings, we are not content to accept the disapplication of flood risk activity permits for permanent structures. Additionally, we do not normally agree to the disapplication of discharge consents.

Section 150 of the Planning Act 2008 states that no disapplication of legislation within the remit of the Environment Agency can take place without our consent.