



Our ref: AE/2022/127507/04-L01 & Interested Party Ref: 20033155
Your ref: TR010060

Date: 13 February 2023

Submitted via portal

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

Please find below response from the Environment Agency to the Examining Authority First Written Questions (ExQ1), issued 20 January 2023

3. Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))

3.0.1 to NE, CoCC, CCC, MDC, BDC, ECC

In relation to Applicant's approach toward biodiversity net gain, are the parties satisfied with this approach and the Applicant's conclusion? If not, please explain why.

We note that this question was not directed to the Environment Agency. However, we would wish to state that in our Written Representation (section 1.6) we have highlighted that the Applicant has failed to show a clear delivery of biodiversity net gain specifically for rivers.

3.0.4 to NE, CoCC, CCC, MDC, BDC, ECC

Are the parties satisfied with Applicant's approach towards mitigation of impact upon protected species? If not, please explain why.

We note that this question was not directed to the Environment Agency. However, we would wish to highlight that we have raised significant concerns in our Relevant Representation (RR-011) in respect of the potential adverse impact of the scheme on species including European eels, otters, and water voles. We are concerned that the proposals for new and amended main river crossings will have a significant adverse effect on the ecology of those river catchments, through direct loss of habitat but also through habitat fragmentation and by restricting the ability of protected species to move up and downstream. We do not believe that the

Environmental Statement has appropriately assessed those impacts. Further detail is provided in our Written Representation.

6. Draft Development Consent Order (dDCO)

6.1 Requirements

6.1.2 to The Applicant, NE, EA, HE

Requirements 3 and 4. Are there other bodies, such as Natural England, Environment Agency, and Historic England and/or local groups that should be consulted, along with those already identified? If so, please amend as necessary, if not please explain. Please clarify how long the parties would be given to review and comment on the documents?

In our Relevant Representation (RR-011) we requested that the Environment Agency be added as a named consultee for both Requirement 3 and Requirement 4. This is to ensure that we are able to review and comment on the detailed mitigation measures for the protection of the environment proposed to be implemented during the construction and operational phases. This would be in line with the approach taken with other recently approved National Highways road schemes in East Anglia. We would require a minimum consultation period of 21 days.

6.1.5 to The Applicant EA

Requirement 11. In relation to (2), should the Environment Agency be included as a consultee?

In our Relevant Representation (RR-011) we requested that the Environment Agency be added as a named consultee for part (2) of Requirement 11. Part (1) of R11 requires the Environment Agency to be consulted on the proposals for surface and foul water disposal, including pollution control, prior to the commencement of development. We are not currently a named consultee for part (2), which concerns the approval of any proposed amendments to details agreed under part (1). Measures to manage surface and foul water disposal, including pollution control, may not require a separate Environmental Permit from the Environment Agency. Therefore, we should have the opportunity to review any proposed amendments to what has been previously agreed through this Requirement. A similarly worded Requirement has been included with other recently approved National Highways road schemes in East Anglia.

6.1.6 to The Applicant EA

Requirement 12. The reference to landowners agreement in (2), appears to remove the need to agree changes with the EA. Please explain further and provide justification.

We would not expect to have any concerns where there was landowner acceptance of any changes in flood risk, including because we would not expect any sensitive receptors (people or built property) to be affected. However, we would welcome the opportunity to review any proposed changes, which may also be beneficial in terms of helping landowners identify the nature of any increase in risk.

8. Geology and Soils

8.0.3 to The Applicant

Please can the Applicant clarify how the delivery of the Detailed Quantitative Risk Assessment (DQRA) will be secured via the application? Will it be subject to consultation and if so, with whom?

We note that this question was not directed to the Environment Agency. However, we would highlight that we would want to be consulted on the DQRA. We have asked the Applicant to confirm whether the DQRA will form part of the Environmental Management Plan. We have requested to be added as a named consultee for Requirement 3, which would ensure consultation on the DQRA if it were included within the EMP.

18. Water Environment

18.0.1 to EA, CoCC, CCC, MDC, BDC, ECC

Are the parties content with the Applicant's Flood Risk Assessment (FRA) and drainage proposals as detailed in Appendix 14.5 [APP-162] and Appendix 14.6 [14.6] of ES Chapter 14: Road drainage and the water environment [APP-081]? If not, please explain why and what additional information is required.

As confirmed in our Relevant Representation (RR-011), we are broadly satisfied with the FRA. We have reviewed the supporting flood modelling and are satisfied that it is fit for purpose. We have identified some small areas of increased flood risk, which we highlighted would require compensatory storage or landowner agreement to accepting the increase. The Applicant has confirmed that affected land will either remain within the ownership of National Highways, or discussions with landowners are underway. We highlighted some potential losses of functional floodplain which the Applicant has addressed. We also stated that it should be considered whether the road needs to remain operational during a worst-case flood event, and that some further assessment is required to consider the effects of such an event on a specific section of the route. We are continuing to work with the Applicant on all issues raised.

18.0.2 to EA, CoCC, CCC, MDC, BDC, ECC

ES Chapter 14: Road drainage and the water environment [APP-081], do the parties agree that section 14.8, baseline conditions, is an accurate assessment of the current situation? If not, why not.

We can confirm that we are satisfied with the baseline conditions outlined in section 14.8 of the Environmental Statement.