

PLANNING ACT 2008

INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**WRITTEN SUBMISSIONS OF NFU REGARDING THE A12 CHELMSFORD TO A120 WIDENING
SCHEME DEVELOPMENT CONSENT ORDER 201 [...]**

PLANNING INSPECTORATE REFERENCE NO TR010060

**SUBMISSIONS OF NATIONAL FARMERS UNION ON THE – EXAMINERS SECOND WRITTEN
QUESTIONS**

DATE 11TH APRIL 2023

1.0 Introduction

- 1.1 Submissions on behalf of the National Farmers Union (“NFU”) in respect of the application for a Development Consent Order (DCO) by National Highways (NH) for the A12 Chelmsford to A120 Widening Scheme. The NFU is making a case on behalf of its members who are affected by the proposed DCO.

2.0 Second Written Questions:

2.1 Compulsory Acquisition, Temporary Possession and Other Land or Right Considerations Q2.5.12 : Environmental Mitigation Agreements

National Highways have advised that acquiring land on a permanent basis for environmental mitigation is a long-standing practice. The NFU strongly feels that where a landowner would prefer for the land in question to be returned, then this should be facilitated by implementing an environmental management agreement. It has been explained in [REP3 –014] that the Applicant’s only remedy would be to seek to enforce the agreement through the civil courts, whereas the implication for the Applicant would result in a breach of the DCO and a potential criminal sanction.

The question raised is regarding legal mechanisms that can be agreed that would adequately protect the applicant. The NFU feels that the environmental management agreement itself would become the legal mechanism that would protect the applicant. The NFU would expect that the drafting of the agreement would reserve the right for National Highways to monitor that the obligations under the agreement are being carried out, and in the event of non-compliance the applicant would have the right to enter upon the land and carry out the maintenance themselves to ensure that they were able to meet their obligations under the DCO.

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Dated: 11th April 2023