

# **A46 Newark Bypass**

**Scheme Number: TR010065**

## **Statement of Common Ground with the Environment Agency**

**APFP Regulations 5(2)(q)**

**Planning Act 2008**

**Infrastructure Planning (Applications: Prescribed Forms and Procedure)  
Regulations 2009**

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**The Infrastructure Planning (Applications:  
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**The A46 Newark Bypass  
Development Consent Order 202[x]**

**Statement of Common Ground With  
The Environment Agency**

<b>Regulation Number:</b>	Regulation 5(2)(q)
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## 1 Introduction

### 1.1 Purpose of this document

- 1.1.1 This Statement of Common Ground (this “SoCG”) has been prepared in respect of the A46 Newark Bypass (the “Scheme”) following the application made by National Highways (the “Applicant”) to the Secretary of State for Transport, via the Planning Inspectorate (the “Inspectorate”) for a development consent order (DCO) under section 37 of the Planning Act (the “2008 Act”). A detailed description of the Scheme can be found in Chapter 2 (The Scheme) of the Environmental Statement [APP-046].
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere with the application documents. All application documents will be made available on the Planning Inspectorate website.
- 1.1.3 This SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has not yet been reached. SoCGs are an established means in the planning process of allowing all parties to identify and focus on specific issues that may need to be addressed during the examination.

### 1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared between 1) National Highways as the Applicant and 2) the Environment Agency (EA).
- 1.2.2 National Highways (previously known as Highways England) became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain, and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing National Highways made provision for all legal rights and obligations, including in respect of the application, to be conferred upon or assumed by National Highways.
- 1.2.3 The Environment Agency protects and improves the environment and promotes sustainable development. It plays a central role in implementing the government’s environment strategy in England. The Environment Agency plays a lead role in managing flood risk and works to minimise the impact of flooding.

### 1.3 Terminology

- 1.3.1 Within the table in [Section 3](#), Issues of this SoCG, the terminology is as follows:
- “Agreed” indicates area(s) of agreement:
  - “Under Discussion” indicates area(s) of current disagreement where resolution remains possible, and where parties continue discussing the issue(s) to determine whether they can reach agreement by the end of the examination; and
  - “Not Agreed” indicates a final position for area(s) of disagreement where the resolution of the divergent positions will not be possible, and parties agree on this point.
- 1.3.2 It can be assumed that any matters not specifically referred to in Section 3, Issues of this SoCG are not of material interest or relevant to the Environment Agency and therefore have not been subject of any discussions between the parties. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to the Environment Agency.

## 2 Record of Engagement

2.1.1 A summary of the meetings and correspondence that has taken place between National Highways and Environment Agency in relation to the application is outlined in **Table 2.1.1** below.

Table 2.1.1 Record of Engagement

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
29/04/2021	Meeting with Environment Agency	Meeting held to outline: an introduction of the Scheme, discussion of climate change allowances, the hydraulic model floodplain compensation methodology and flood reduction opportunities including legacy work and the Flood Risk Assessment.
09/06/2021	Meeting with Environment Agency	Discussion regarding the Water Framework Directive (WFD) receptors, potential impacts, and opportunities to start engagement and dialogue around the WFD compliance assessment that will continue during the scheme development.
30/03/2022	Meeting with Environment Agency	Introductory meeting to discuss water quality and flood management issues. Within the meeting flood compensation/mitigation was further discussed. Overall, the outcome of the meeting was an achieved consensus over future engagement to discuss necessary data requests.
05/04/2022	Meeting with Nottinghamshire County Council, Newark and Sherwood District Council, Trent Valley Internal Drainage Board, and Environment Agency	First flood and drainage steering group meeting. Discussed and collated further information including: <ul style="list-style-type: none"> <li>– Modelling</li> <li>– Floodplain compensation</li> <li>– Historic flood records</li> </ul> The result of this meeting was an overall agreement regarding how group members should share information in the future.
11/05/2022	Meeting with Nottinghamshire County Council, Newark and Sherwood District Council, Trent Valley Internal Drainage Board, and Environment Agency	Second flood and drainage steering group meeting held to collate further information on the following items: <ul style="list-style-type: none"> <li>– River Trent model and others</li> <li>– Basis of design for floodplain compensation, land drainage, records and models, historic flood records, run-off control conditions, flood resilience – joint probability</li> </ul>
12/05/2022	Meeting with Environment Agency	Follow up meeting from steering meeting to discuss flood risk data transfer following an action request for information submissions.
13/06/2022	Meeting with Environment Agency	A meeting held with the relevant Environment Agency water quality specialists to agree proposals for water quality monitoring for the Scheme, to inform the (Environmental Impact Assessment (EIA) as well as during construction. A consensus was achieved over proposals for water quality monitoring for the Scheme.

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
22/07/2022	Meeting with Environment Agency	Discussions included an update on the status of the survey efforts, flood defence at the Cattle Market Roundabout, approach to the flood modelling strategy and floodplain compensation. It was agreed that details of assessments including location of proposed borrow pits would be shared and reviewed.
14/09/2022	Meeting with Nottinghamshire County Council, Newark and Sherwood District Council, Trent Valley Internal Drainage Board, Environment Agency and the Applicant	Fourth steering group meeting which discussed the following: <ul style="list-style-type: none"> <li>- Future engagement</li> <li>- Survey updates</li> </ul>
21/09/2022	Meeting with Historic England, Natural England, Environment Agency, Newark and Sherwood District Council (Conservation Officer, Archaeology Advisor, and Environmental Health team)	The first Environmental Technical Working Group, which provided the following: <ul style="list-style-type: none"> <li>- A detailed overview of the Scheme</li> <li>- The anticipated scheme timeline</li> <li>- An update on the EIA progress to date</li> <li>- An overview of the environmental surveys undertaken to date and planned future surveys to inform the EIA</li> <li>- A summary of the environmental design principles, and overview of the indicative environmental masterplan</li> </ul>
10/10/2022	Meeting with Environment Agency	Technical meeting to discuss fluvial hydraulic modelling methodology
25/10/2022	Meeting with Nottinghamshire County Council, Newark and Sherwood District Council, Trent Valley Internal Drainage Board, Environment Agency and the Applicant	Fifth steering group meeting which discussed the following topics: <ul style="list-style-type: none"> <li>- Health &amp; safety</li> <li>- Public engagement</li> <li>- Groundwater</li> <li>- Future developments, whilst providing</li> <li>- Updates on surveys, hydraulic modelling, and floodplain compensation</li> </ul>
24/11/2022	Letter from the Environment Agency responding to a preliminary report on Floodplain Compensation Areas	The shift away from a single area of floodplain compensation near Kelham was welcomed.  The 0.2m slices used within the floodplain volume loss calculations is consistent with Environment Agency guidance and is acceptable.
30/11/2022	Meeting with Nottinghamshire County Council, Newark and Sherwood District Council, Trent Valley Internal Drainage Board, Environment Agency and the Applicant	Sixth steering group meeting which discussed the following topics: <ul style="list-style-type: none"> <li>- Health &amp; safety</li> <li>- Public engagement</li> <li>- Schemes beyond A46 and water quality</li> <li>- Updates on hydraulic modelling, floodplain compensation and drainage</li> </ul>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
12/12/2022	Email from Environment Agency contact	Environment Agency's response to TR010065/S42(1)(a)/Oct/2022 (consultation including Preliminary Environmental Information Report).
13/12/2022	Meeting with Environment Agency	To discuss the Southern Link Road and updated methodology technical notes for review.
11/01/2023	Meeting with Nottinghamshire County Council, Newark and Sherwood District Council, Trent Valley Internal Drainage Board, Environment Agency and the Applicant	Seventh steering group meeting which discussed the following topics: <ul style="list-style-type: none"> <li>- Health &amp; safety</li> <li>- Public engagement</li> <li>- Flood risk including updates to the modelling, scour, water quality and an update on the drainage</li> </ul>
31/01/2023	Environment Agency Technical Assurance meeting	To provide an overview of the Scheme and its stages, discuss the modelling approach and design of Flood Compensation Areas (FCAs).
07/02/2023	Meeting with Environment Agency	Technical meeting which discussed the following topics: <ul style="list-style-type: none"> <li>- Challenges</li> <li>- Modelling methodology and hydrology update</li> <li>- Hydraulic modelling progress</li> <li>- FCA design approach.</li> </ul>
17/02/2023	Meeting with Environment Agency	Technical update meeting to discuss outputs from interim model and to see how the FCAs are working and check their impacts.
23/02/2023	Meeting with Nottinghamshire County Council, Newark and Sherwood District Council, Trent Valley Internal Drainage Board, Environment Agency and the Applicant	Eighth steering group meeting which discussed the following topics: <ul style="list-style-type: none"> <li>- Existing schemes</li> <li>- Flood compensation areas</li> <li>- Scour Protection</li> <li>- Environmental Statement and drainage</li> </ul>
07/03/2023	Meeting with Environment Agency	To update Statutory Environmental Bodies on Scheme progress and discuss environmental constraints and design development.
16/03/2023	Meeting with Environment Agency	Technical update meeting to discuss the proposal regarding the existing access track.
31/03/2023	Meeting with Environment Agency	Technical update meeting to discuss progress on methodology, temporary works, and the solar farm in Kelham area.
04/04/2023	Meeting with Nottinghamshire County Council, Newark and Sherwood District Council, Trent Valley Internal Drainage Board, Environment Agency and the Applicant	Ninth steering group meeting which discussed the following topics: <ul style="list-style-type: none"> <li>- Temporary works</li> <li>- Public engagement</li> <li>- Flood risk</li> <li>- Updates on structures</li> </ul>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
04/04/2023	Email from Environment Agency contact	Environment Agency advising 1 in 30-year fluvial event to be used for when assessing impacts for temporary works with proposed recommendations for flood risk management during the temporary works phase.
12/04/2023	Environmental TWG	A meeting to provide a Scheme and EIA update. Additionally, an environmental design update was provided including a refresh of the environmental design parameters, a discussion of the environmental design evolution since statutory consultation and an overview of key areas within the environmental design.
18/04/2023	Meeting with Environment Agency	Temporary works meeting to review above ground temporary works, hydraulic modelling return periods expectations, review other temporary works and to discuss the next steps in hydraulic modelling.
18/04/2023	Email from Environment Agency contact	Environment Agency Asset Performance Team advising current loss of access to Slough Dyke causing inspection and maintenance activities to be problematic. Requesting as part of the Scheme access maintenance is included.
28/04/2023	Email from Environment Agency contact	Environment Agency advising solar farms are defined as essential infrastructure and therefore can be built in a floodplain compensation area, subject to passing the sequential and exception Tests.
05/05/2023	Meeting with Environment Agency	<p>To provide an update for the Environment Agency on the Scheme and how the Scheme work is progressing, including:</p> <ul style="list-style-type: none"> <li>- Habitat Regulations assessment – consultation to date, screening and appropriate assessment</li> <li>- Environmental Statement – Protected species survey findings and mitigation</li> <li>- Biodiversity Net Gain</li> </ul>
18/05/2023	Email from Environment Agency contact	<p>A response was provided from the Environment Agency's biodiversity and geomorphology team and the fisheries officer to an email the Applicant sent (09/05/2024) which reiterated queries raised in the presentation slides (05/05/2023). This included:</p> <ul style="list-style-type: none"> <li>- Feasibility of floating ecosystems / islands</li> <li>- Request for the Environment Agency to review the Biodiversity Net Gain report and accompanying Metric to assess the baseline conditions</li> <li>- Fish escape passage design</li> <li>- Timings to avoid specific construction activity to afford and minimise impacts to fish migration.</li> <li>- Low noise/vibration piling set-up</li> </ul>
25/05/2023	Meeting with Nottinghamshire County Council, Newark and Sherwood District Council, Trent Valley Internal Drainage Board,	<p>Tenth steering group meeting which discussed the following topics:</p> <ul style="list-style-type: none"> <li>- Public engagement</li> </ul>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
	Environment Agency and the Applicant	<ul style="list-style-type: none"> <li>- Flood risk, temporary works, updates on floodplain compensation, structures, and scour assessment.</li> <li>- Discussion around the groundwater approach and hydrogeology</li> </ul>
16/06/2023	Email from Environment Agency contact	Environment Agency advising that the groundwater team has no comments on the hydrogeology slides from the tenth steering group meeting (25/05/2023)
16/06/2023	Telephone call between Environment Agency and the Applicant	<p>To address and discuss the Environment Agency's comments on the drainage strategy in relation to Groundwater, contamination and fuel/ chemical spills.</p> <p>The drainage strategy was amended and updated to provide further information and clarification in relation to groundwater contamination and fuel/ chemical spills.</p>
20/06/2023	Meeting with Environment Agency and Trent Valley Internal Drainage Board	To discuss works in close proximity to the Environment Agency's main rivers with wider Environment Agency team. Under discussion were consents and permits, temporary works, permanent works, and WFD considerations at Windmill Viaduct, Nether Lock Viaduct and Slough Dyke.
17/07/2023	Meeting with Environment Agency	<p>A meeting held to discuss the following:</p> <ul style="list-style-type: none"> <li>- Volume Impact Assessment – confirmation that the Environment Agency do not have any further comments</li> <li>- Drainage Basis of Design – confirmation that the Environment Agency do not have any further comments</li> <li>- Discussion around the disapplication of permits</li> <li>- Statement of Common Ground update</li> </ul>
11/10/2023	Meeting with Environment Agency	Meeting to discuss Environment Agency's comments on the hydrology and hydraulic modelling.
16/11/2023	Environmental TWG	A meeting to provide a Scheme and EIA update. Stakeholders were taken through the final Environmental Masterplan and the Scheme amendments that had taken place since the last Environmental TWG meeting. An update on each of the key disciplines was also provided.
24/11/2023	Meeting with Environment Agency	Meeting to discuss Environment Agency's comments on the hydrology and hydraulic modelling and agree collaboratively a way forward to achieve model approval.
01/02/2024	Email from Environment Agency contact	Environment Agency confirmed approval of the hydraulic modelling, considering the model 'fit for purpose'.
22/04/2024	Meeting with Environment Agency	Meeting to discuss revised pluvial drainage strategy and bank lowering of the Old Trent Dyke.
12/07/2024	Relevant Representation from Environment Agency	Details the Environment Agency's position on the DCO application as submitted at pre-Examination stage.
05/09/2024	Meeting with Environment Agency	Meeting to discuss Environment Agency's relevant representation specifically in relation to flood risk items.
12/09/2024	Meeting with Environment Agency	Meeting to discuss the Environment Agency's relevant representation specifically in relation to the topics of water

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		quality (both ground water and surface water), biodiversity, contaminated land, and the HEWRAT assessment.
24/09/2024	Meeting with Environment Agency	Meeting to discuss the approach to permitting and consents.
17/10/2024	Meeting with Environment Agency	Meeting to discuss Environment Agency's relevant representation and agree items specifically in relation to flood risk.
21/10/2024	Meeting with Environment Agency and Natural	A meeting to summarise to Natural England and the Environment Agency the process and conclusions of the fish escape passage design and associated technical note.

2.1.2 It is agreed that this is an accurate record of key meetings and other forms of consultation and engagement undertaken between 1) National Highways and 2) Environment Agency in relation to issues addressed in this SoCG.

### 3 Issues

#### 3.1 Issues agreed, not agreed or under discussion

3.1.1 Table 3.1.1 below details the issues which have been agreed, not agreed or are under discussion between 1) National Highways and 2) Environment Agency

**Table 3.1.1 - Issues**

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
<b>Flood Risk</b>						
1.	Flood risk	Appendix 13.2 (Flood Risk Assessment) of the Environmental Statement Appendices [APP-177]  Figure 2.5 (General Arrangement Plans) [AS-007]  Appendix 13.4 (Drainage Strategy Report) of the Environmental Statement Appendices [APP-179]	The environment Agency's Statutory Consultation response in relation to flood risk stated:  The PEI emphasises the desire to ensure that floodplain compensation areas are provided close to where the respective floodplain volume is lost. This is particularly relevant on spatially large projects to ensure that floodplain compensation is hydraulically linked to the floodplain area lost.  As more detailed hydraulic modelling is developed, a range of return periods should be simulated, including the more frequent flood events. The project should ensure that there is no increase in flood risk to third parties for all events unless this forms part of a formalised floodplain compensation area.  In our response to the Scoping Opinion, we sought to raise awareness of a vulnerable Gypsy and Traveler site at Tolney Lane who are located adjacent to the Scheme in Flood Zone. This has not been referenced within the PEI. We are aware of work being undertaken by Newark and Sherwood District Council (NSDC) to investigate means of reducing the risk to this community. There is potential for cross over between the NSDC works and those proposed for dualling of the A46 Newark Bypass. We would encourage the applicants to engage with NSDC at the earliest opportunity to support identification of joint working opportunities and methods of reducing the risk to this highly vulnerable community.	A Flood Risk Assessment has been undertaken which can be found in Appendix 13.2 (Flood Risk Assessment) of the Environmental Statement Appendices [APP-177] and a mitigation scheme, including floodplain compensation, to ensure that the Scheme does not increase the susceptibility of local receptors to flooding.  Detailed hydraulic modelling of the floodplain has been undertaken with a range of storm events simulated, in agreement with the Environment Agency's Evidence & Risk Team, results of which have informed the Flood Risk Assessment that has been completed.  The mitigation for the Scheme also includes measures to attenuate surface water run-off from the additional hard surfacing, such as attenuation basins, the locations of which are shown on Figure 2.5 (General Arrangement Plans) [AS-007]. These have been sized to attenuate the run-off from the highway and discharge into the nearest watercourse at a restricted rate, agreed by Nottinghamshire County Council as the Lead Local Flood Authority. The mitigation for the Scheme can be found in Appendix 13.4 (Drainage Strategy Report) of the Environmental Statement Appendices [APP-179].  Meetings have been held with Newark & Sherwood District Council and the Environment Agency to ensure that their works to reduce flood risk to the local community in Tolney Lane are not impacted by the Scheme.	N/A – the Environment Agency comments on flood risk relating to the DCO application documents at point of submission are contained in the remaining rows of this section. This row has been maintained for completeness.	01/04/2024
2.	Flood Risk - Fluvial Hydraulic Modelling	Appendix 13.2 (Flood Risk Assessment) of the Environmental Statement Appendices [APP-177]	The Environment Agency has confirmed approval of the hydraulic modelling, considering the model 'fit for purpose' (01/02/2024).	Detailed hydraulic modelling of the floodplain has been undertaken with a range of storm events simulated, in agreement with the Environment Agency's Evidence & Risk Team, results of which have informed Appendix 13.2 (Flood Risk Assessment) of the Environmental Statement Appendices [APP-177].	Agreed	01/02/2024
3.	Flood Risk - Exception Test/Fluvial Hydraulic Modelling	Appendix 13.2 (Flood Risk Assessment) of the Environmental Statement Appendices [APP-177]	Relevant Representation Reference EAFR-001 (Flood risk exception test (part 2) – fluvial flood risk) refer to document reference for issue details.  The submitted flood risk assessment (FRA) fails to satisfy the second part of the flood risk exception test, insofar as it relates to fluvial flood risk.	Following a meeting to discuss the Environment Agency's relevant representation on 05/09/2024, the Applicant prepared a Technical Note to provide further detail to clarify the suitability of the fluvial hydraulic modelling outcomes. A meeting to discuss outstanding flood risk issues and the contents of the Technical Note took place on 17/10/2024. The Technical Note was provided to the Environment Agency on 22/10/2024 for their review. Following this meeting, the Applicant and the Environment Agency look to further discuss this issue.	Under Discussion	
			Relevant Representation Reference EAFR-002 (Increase in fluvial flood risk elsewhere) refer to document reference for issue details.  The FRA indicates that fluvial flood risk will be increased elsewhere as result of the development over its lifetime.	Following a meeting to discuss the Environment Agency's relevant representation on 05/09/2024, the Applicant prepared a Technical Note to provide further detail to clarify the suitability of the fluvial hydraulic modelling outcomes. A meeting to discuss outstanding flood risk issues and the contents of the Technical Note took place on 17/10/2024. The Technical Note was provided to the Environment Agency on 22/10/2024 for their review. Following this meeting, the Applicant and the Environment Agency look to further discuss this issue.	Under Discussion	

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
			<p>Relevant Representation Reference EAFR-003 (Overall reduction in fluvial flood risk) refer to document reference for issue details.</p> <p>The FRA fails to demonstrate that opportunities to reduce flood risk overall have been considered.</p>	<p>Following a meeting to discuss the Environment Agency's relevant representation on 05/09/2024, the Applicant prepared a Technical Note to provide further detail to clarify the suitability of the fluvial hydraulic modelling outcomes. A meeting to discuss outstanding flood risk issues and the contents of the Technical Note took place on 17/10/2024. The Technical Note was provided to the Environment Agency on 22/10/2024 for their review. Following this meeting, the Applicant and the Environment Agency look to further discuss this issue.</p>	Under Discussion	
			<p>Relevant Representation Reference EAFR-007 (Slough Dyke (main river) realignment) refer to document reference for issue details.</p> <p>No detailed drawings for the Slough Dyke realignment have been provided and the realignment has also not been represented within the hydraulic modelling undertaken.</p>	<p>Following a meeting to discuss the Environment Agency's relevant representation on 05/09/2024, the Applicant prepared a Technical Note to provide further detail to clarify the suitability of the fluvial hydraulic modelling outcomes. A meeting to discuss outstanding flood risk issues and the contents of the Technical Note took place on 17/10/2024. The Technical Note was provided to the Environment Agency on 22/10/2024 for their review. Following this meeting, the Applicant and the Environment Agency look to further discuss this issue.</p>	Under Discussion	
			<p>Relevant Representation Reference EAFR-009 (Climate change allowances sensitivity test) refer to document reference for issue details.</p> <p>The FRA has not assessed a credible maximum peak river flow climate change scenario, in line with GOV.UK guidance on climate change allowances for flood risk assessments. This is expected given the Scheme's status as a Nationally Significant Infrastructure Project (NSIP) and its proposed 120-year lifespan.</p>	<p>Following a meeting to discuss the Environment Agency's relevant representation on 05/09/2024, the Applicant prepared a Technical Note to provide further detail to clarify the suitability of the fluvial hydraulic modelling outcomes. A meeting to discuss outstanding flood risk issues and the contents of the Technical Note took place on 17/10/2024. The Technical Note was provided to the Environment Agency on 22/10/2024 for their review. Following this meeting, the Applicant and the Environment Agency look to further discuss this issue.</p>	Under Discussion	
4.	Flood Risk – Compensatory Flood Storage	Appendix 13.2 (Flood Risk Assessment) of the Environmental Statement Appendices [APP-177]	<p>Relevant Representation Reference EAFR-004 (Compensatory flood storage) refer to document reference for issue details.</p> <p>The FRA fails to provide details on the amount and location of the flood storage being displaced, compared to the amount and location of flood storage being provided, demonstrating that any flood storage provided will become effective at the same point in a flood event as the lost storage would have done.</p>	<p>Following a meeting to discuss the Environment Agency's relevant representation on 05/09/2024, the Applicant prepared a Technical Note to provide further detail to clarify the suitability of the floodplain compensation areas proposed by the Scheme. The Technical Note was provided to the Environment Agency on 15/10/2024 for their review. A meeting to discuss outstanding flood risk issues took place on 17/10/2024. Following this meeting, the Applicant and the Environment Agency look to further discuss this issue.</p>	Under Discussion	
			<p>Relevant Representation Reference EAFR-005 (Compensatory flood storage – phasing of works) refer to document reference for issue details.</p> <p>No consideration is given within the FRA to the phasing of works and when certain areas of floodplain compensation will become available to ensure that there is no loss in flood storage capacity at any point during the construction of the Scheme.</p>	<p>Following a meeting to discuss the Environment Agency's relevant representation on 05/09/2024, the applicant prepared a Technical Note to provide further detail to clarify the suitability of the floodplain compensation areas proposed by the Scheme. The Technical Note was provided to the Environment Agency on 15/10/2024 for their review. A meeting to discuss outstanding flood risk issues took place on 17/10/2024. Following this meeting, the Applicant and the Environment Agency look to further discuss this issue.</p>	Under Discussion	
			<p>Relevant Representation Reference EAFR-006 (Compensatory flood storage – maintenance) refer to document reference for issue details.</p> <p>The maintenance of proposed flood compensation has not been considered. Further justification and reassurance are required before we can be satisfied with the appropriateness of the proposals.</p>	<p>Following a meeting to discuss the Environment Agency's relevant representation on 05/09/2024, the applicant prepared a Technical Note to provide further detail to clarify the suitability of the floodplain compensation areas proposed by the Scheme. The Technical Note was provided to the Environment Agency on 15/10/2024 for their review. A meeting to discuss outstanding flood risk issues took place on 17/10/2024. Following this meeting, the applicant and the Environment Agency look to further discuss this issue.</p>	Under Discussion	
5.	Flood Risk – Interaction with Flood Defences	Appendix 13.2 (Flood Risk Assessment) of the Environmental Statement Appendices [APP-177]	<p>Relevant Representation Reference EAFR-008 (Interaction with Environment Agency flood defences) refer to document reference for issue details.</p> <p>There is limited information available on the Scheme's interaction with the existing Environment Agency flood defences. The FRA mentions that the Scheme will 'tie-in' with existing Environment Agency flood defences (see</p>	<p>The Applicant confirms the Scheme interacts with two Environment Agency flood defences. Information on the flood defences was discussed with the Environment Agency on 5 September 2024 in a meeting.</p> <p>The Crees Lane Embankment is a 239 metre long flood defence embankment which is located on the south bank of the River Trent between the A46 and Cress Lane. The embankment is constructed from clay with a clay key penetrating 1 metre below ground level. An access track, including bridleway 2, is located on top of the embankment.</p>	Under Discussion	

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
		Works Plans [AS-005]	paragraphs 3.4.2 and 7.7.2), but there is no explanation for how this will occur, or how it will be ensured that there will be no detriment to the defences.	<p>The new Windmill viaduct (Works No 7) spans over the flood defence embankment with no permanent detriment to its location or structure. The temporary works area for the construction of the bridge (Works No 127) will require a crushed stone platform to be laid to support the construction plant that will be required to construct the bridge, such as piling rigs and cranes. This stone platform would be laid against the existing flood structure and will not reduce its structural integrity. Upon completion of the new bridge structure the temporary works will be removed and the land reinstated to previous use. The bridleway (BW2) and access track (Works No 6 as shown on the Works Plans [AS-005]) are re-opened following completion of construction of the bridge and the reinstatement of Works No 127. Works No 6 provides vehicle and foot access to the Crees Lane Embankment for inspection and maintenance works.</p> <p>The Newark Roundabout Embankment is a 325-metre-long embankment located to the southeast of the A46 between Kelham Road and the southeast quadrant of the Cattle Market Roundabout. The embankment is constructed from Marl with a shear key that protrudes 1 metre into the ground under the centre of the bund. There are also two grout curtain walls through the bund.</p> <p>Works No 40 as shown on the Works Plans [AS-005] is required for the widening for the new Cattle Market junction and interfaces with the eastern end of the flood defence. The southeast corner of the new roundabout will incorporate the last 10 meters of the eastern end of the flood embankment within the earthworks for the new roundabout. The new earthworks will be benched into the existing embankment to form a solid, homogeneous structure. The flood bund will not be compromised during the construction works, and the EA's existing access will be maintained.</p> <p>In relation to Crees Lane floodbank the Standard of Protection (SOP) is demonstrated to be 1 in 100 year + 39% climate change in the Scheme hydraulic model, however other routes result in flooding behind the defence in more frequent SOPs.</p> <p>In relation to Newark Roundabout Embankment similarly, the Standard of Protection (SOP) is demonstrated to be 1 in 100 year + 39% climate change in the Scheme hydraulic model, however other routes result in flooding behind the defence in more frequent SOPs.</p>		
<b>Fisheries, biodiversity and geomorphology</b>						
6.	Biodiversity (general) – statutory consultation response	<p>Appendix 8.14 (Biodiversity Net Gain Technical Report) of the Environmental Statement Appendices [APP-159]</p> <p>Chapter 8 (Biodiversity) of the Environmental Statement [APP-152]</p> <p>Appendix 8.10 (Otter Technical Report) [APP-155]</p>	<p>The Environment Agency are happy to see that although it's not currently a legal requirement National Highways are looking to meet the 10% target as will be required going forward. They will need to ensure that they submit a BNG calculation as per the NE metric and guidance documents to show how they are meeting the 10% target requirements for the varying habitat types: hedgerows, terrestrial and rivers and streams. We would be very keen to be involved in the improvement and BNG requirements around watercourses to ensure that improvements are made accordingly in this area.</p> <p>We also note that water vole and otter surveys are ongoing. We know that otter use the area around Newark and there is potential for holts to be present in and around the development site therefore it is good to see that otter surveys are to be completed.</p> <p>Regarding water voles, the ditches in and around the development area are likely to be suitable for water vole especially in those more botanically rich drains and ditches which hold water all year round. We would also encourage the project team to look at improvements to the area for water vole through habitat creation for example through ditch creation and sustainable suds schemes whereby suds ponds contain water all year round and have a diverse range of aquatic, semi aquatic and terrestrial plant species within and</p>	<p>Whilst no mandatory requirement for BNG applies for Nationally Significant Infrastructure Projects (NSIPs) such as this Scheme, the Applicant is committed to seeking a net gain, as opposed to the full 10% requirement which does not apply to the Scheme. The Biodiversity Metric 3.1 has been applied to the Scheme. The Scheme would achieve a predicted net gain in biodiversity for hedgerows, terrestrial habitat and rivers and streams. Further details such as methodology and the biodiversity net gain scores can be found within Appendix 8.14 (Biodiversity Net Gain Technical Report) of the Environmental Statement Appendices [APP-159].</p> <p>Principles of mitigation, including design of post development habitats are set out in Chapter 8 (Biodiversity) of the Environmental Statement [APP-152], and opportunities to benefit species have been included where practicable. These mitigation and compensation measures have been discussed with the Environment Agency and Natural England and the Applicant can confirm that due consideration to the surrounding site has been given during the development of the habitat proposals. Surveys for otters and water voles have been completed to inform Appendix 8.10 (Otter Technical Report) [APP-155] and Appendix 8.12 (Water Vole Technical Report) [APP-157]. Mitigation requirements are set out in the Register of Environmental Actions and Commitments of the First Iteration Environmental Management Plan [APP-184]. Suitable planting that would be provided to benefit water vole and other wildlife is presented in Figure 2.3 (Environmental Masterplan) of the Environmental Statement Figures [AS-026].</p>	Under Discussion	

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		<p>Appendix 8.12 (Water Vole Technical Report) [APP-157]</p> <p>First Iteration Environmental Management Plan [APP-184]</p> <p>Environmental Statement Figures [AS-026]</p> <p>Environmental Statement Appendices [APP-176]</p>	<p>around them. This will benefit water vole and a range of other species (amphibians, birds, inverts, etc.).</p> <p>The Environment Agency would also encourage the development team to ensure that any habitat creation is in keeping with the surroundings of the site, including historical habitats, environmental conditions (for example in terms of soil water and chemical make-up) to ensure any habitats that are created on site have the best chance of succeeding and require less human intervention.</p> <p>We welcome that a WFD assessment will be submitted as part of the future NSIP application, and this needs to be of relevant detail for the potential impact of the development.</p>	<p>A Water Framework Directive Assessment has been undertaken and shared with the Environment Agency, which can be found in Appendix 13.1 (Water Framework Directive Compliance Assessment) of the Environmental Statement Appendices [APP-176]. Mitigation measures, as explained in greater detail in the aforementioned assessment, include construction best practices (including pollution prevention plan and emergency response procedures, and groundwater protection measures), as well as the requirement to obtain appropriate environmental permits for the works. These measures and results of the assessment have been discussed and presented to the Environment Agency and no objections were raised.</p>		
7.	Opportunities for fish habitat	<p>Chapter 8 (Biodiversity) of the Environmental Statement [APP-052]</p> <p>Chapter 13 (Road Drainage and the Water Environment) of the Environmental Statement [APP-057]</p> <p>Habitats Regulations Assessment [APP-185]</p> <p>Appendix 13.1 (Water Framework Directive Compliance Assessment) of the Environmental Statement Appendices [APP-176]</p>	<p>The borrow pits at Farndon would provide a good opportunity to create fish habitat with a gravel pit connected to the river. This would benefit WFD (boosting fish stocks) and also wider biodiversity. If the borrow pit at Brownhills will hold water all year it could be a good site for an angling venue for the local community. The design for both sites would need careful consideration and the Environment Agency would be happy to discuss further.</p> <p>The potential flood compensation area around Kelham and Averham needs to ensure there is no detrimental impact to the river habitat as it is an incredibly important area for fish and fish spawning, including protected species such as lamprey. The Humber SAC is downstream but functionally linked as the lamprey move upriver to spawn. Any change to habitat or water quality would need an HRA. It sounds however that the compensation area is most likely in the floodplain rather than works to the river itself but it this is something that will need to be considered due to the importance of the area.</p> <p>Within table 14.5 there are various sections which have the potential for slight adverse effect on water quality. Information will need to be provided to show how this risk will be removed. The River Trent has a number of protected and sensitive species of fish and a reduction in water quality could adversely impact them.</p> <p>The red line boundary for the A46 proposed NSIP is situated next to the Averham Weir on the River Trent. The Averham Weir has been highlighted as a barrier to fish passage and therefore is one of the key sites highlighted by the Trent Gateway partnership to provide a new fish pass and support the opening up of the River Trent. This proposed NSIP should look at opportunities to support the provision of a fish pass at Averham weir and the Environment Agency would be happy to discuss further.</p>	<p>As a result of the Scheme design development, the Brownhills borrow pit is no longer required as a floodplain compensation area and so the intention is that this land is returned to the landowner after construction works have been completed. The Brownhills floodplain compensation area was proposed to cater for mitigating floodplain lost between 8-10m Above Ordnance Datum (baseline for ground levels in the UK) ground elevations. This mitigation would now be provided at Farndon East floodplain compensation area, which is a more suitable site due to its hydraulic connectivity to local watercourses. In addition, the specific location of the borrow pit within this area is being heavily driven by the archaeology findings (e.g. avoiding high impact areas).</p> <p>The borrow pits at Farndon would be both borrow pits and floodplain compensation areas and would also be designed to provide ecological enhancements to the area. An assessment of how fish would use these habitats and the impact of the Scheme on fish has been included in the Environmental Statement, particularly:</p> <ul style="list-style-type: none"> <li>• Chapter 8 (Biodiversity) of the Environmental Statement [APP-052]</li> <li>• Chapter 13 (Road Drainage and the Water Environment) of the Environmental Statement [APP-057]</li> <li>• Habitats Regulations Assessment [APP-185]</li> <li>• Appendix 13.1 (Water Framework Directive Compliance Assessment) of the Environmental Statement Appendices [APP-176]</li> </ul> <p>Although a combination of residual light spill and noise and vibration disturbance during night works at Nether Lock Viaduct and Windmill Viaduct would act as a barrier to lamprey migration, the northern branch of the River Trent would act as a bypass to the upper reaches during this construction period. Furthermore, works at Kelham and Averham floodplain compensation area would be completed prior to commencement of main alignment works. The integrity of the river and sea lamprey population and the Humber Estuary Special Area of Conservation is not considered to be affected during construction as there would be no habitat loss, severance of migration routes or degradation of lamprey spawning substrate.</p> <p>As long as silt curtains are maintained, residual sediment deposition is unlikely to smother habitats that support spawning river or sea lamprey population associated with the Special Area of Conservation, due to high dilution of low quantities of residual</p>	Under Discussion	

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		<p>First Iteration Environmental Management Plan [APP-184]</p> <p>Habitats Regulations Assessment [APP-185]</p> <p>Appendix 13.1 (Water Framework Directive Compliance Assessment) of the Environmental Statement Appendices [APP-176]</p>		<p>particles entering the River Trent and the distance from suitable spawning substrate. Further detail with regards to this mitigation is outlined within the Register of Environmental Actions and Commitments of the First Iteration Environmental Management Plan [APP-184].</p> <p>The Environment Agency has been involved in discussions regarding the Farndon floodplain compensation area design as well as the mitigation and conclusions of both:</p> <ul style="list-style-type: none"> <li>Habitats Regulations Assessment [APP-185]</li> <li>Appendix 13.1 (Water Framework Directive Compliance Assessment) of the Environmental Statement Appendices [APP-176]</li> </ul> <p>As the Scheme is not impacting on Averham Weir there are no alterations to this structure or to provide fish passage at this location.</p>		
8.	Use of borrow pits for fry refuge	Environment Agency Relevant Representation EAFBG-001	<p>Environment Agency Relevant Representation EAFBG-001:</p> <p>The use of borrow pits for fisheries benefits by converting them into permanent fry refuge areas after use in construction. In particular, the Brownhills borrow pit.</p>	<p>This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/24.</p> <p>Existing constraints at the Brownhills borrow pit prevent the Scheme from converting this site into fry refuge areas. Brownhills borrow pit has limited hydrological connectivity to the River Trent. The Nottingham to Lincoln and East Coast Main Line (ECML) railway lines create a barrier to the west, the A46 carriageway to the south, Brownhills link and the A1 to the east (crossing the Nottingham to Lincoln railway to the north). The Brownhills borrow pit area currently drains overland as surface water, into existing highways drains which are culverted through the aforementioned barriers and discharge into the River Trent. These pathways are not viable for fish from the River Trent to navigate upstream to the Environment Agency's proposed permanent fry refuge at Brownhills. Furthermore, archaeological investigations identified extensive, complex settlement of Romano British and Anglo-Saxon archaeological remains in the Brownhills area, which resulted in a reduced area that could be used as a borrow pit to ensure preservation of these archaeological remains in situ. The Brownhills borrow pit is no longer required as a floodplain compensation area and so the intention is that this land is returned to the landowner after construction works have been completed. However, throughout the evolution of the design, opportunities to enhance biodiversity have been included in the Scheme.</p>	Agreed	04/10/2024
9.	Opportunities to enhance biodiversity - evidence	<p>Environmental Statement Figures [AS-026]</p> <p>First Iteration Environmental</p>	<p>In relation to EAFBG-003, following the presentation in the meeting on 12/09/2024, the Environment Agency's Fisheries Officer required evidence of how the various opportunities to enhance biodiversity have been included in the Scheme.</p>	<p>In an email sent on 02/10/2024, the Applicant provided the following details, which the Environment Agency subsequently responded to on 04/10/24 confirming their Fisheries officer was satisfied with.</p> <p>A lot of the details are shown on Figure 2.3 (Environmental Masterplan) of the Environmental Statement Figures [AS-026]. There are also a number of commitments detailed in Table 2.3 Register of Environmental Actions and Commitments (REAC)</p>	Agreed	04/10/2024

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
		<p>Management Plan [APP-184]</p> <p>draft Development Consent Order [APP-021]</p> <p>Environmental Statement Figures [AS-026]</p>		<p>within the First Iteration Environmental Management Plan [APP-184] that detail the mitigation measures.</p> <ul style="list-style-type: none"> <li>• <i>Permanently wet ponds and associated reedbeds with attention areas</i> – these are visible on the Environmental Masterplan, in particular Sheets 1 and 2 which show the Farndon East and West wetland areas to the south of the Scheme which include ponds, a lake and reedbed habitats. Additionally, the Environmental Masterplan shows attenuation areas spread along the length of the scheme which include permanently wet ponds and surrounding reedbeds. Further details on mitigation measures for the protection of aquatic habitats and pond / wetland creation is detailed in REAC ID B4.</li> <li>• <i>The sowing of species rich grassland adjacent to ponds and the addition of log and brash piles around ponds, to act as refugia / hibernacula</i> - Species rich grassland can be seen to be proposed in areas across the scheme, as well as indicative locations of reptile hibernacula. REAC ID B14 also states "... The provision of log and brash piles from retained felled trees, in species rich grassland, around ponds with areas of scrub and creation of the Farndon West wetland area will compensate for the loss of habitat suitable for reptiles at different life stages (within the Order Limits)...".</li> <li>• <i>A diverse assemblage of riparian plant species that will create shelter and foraging opportunities for wildlife (including fish)</i> - Indicative species mixes are shown on Sheet 1 of the Environmental Masterplan, and include indicative mixes for water bodies and associated plants, as well as reed bed indicative mixes. It is also considered that the reedbed habitat would provide refugia for fish species.</li> <li>• <i>The size, depth and riparian planting of the Farndon FCAs have been designed to also reduce mortality of entrapped fish species, from various predatory piscivorous birds and mammals</i> – REAC ID B9 provides the details on how the depths of the pools have been designed to reduce mortality of entrapped fish, and states "The greatest depth of pools within Farndon West FCA and Farndon East FCA would be a minimum of 2 metres to provide stable thermal properties for the survival of fish until the next flood event, should individuals not use the fish escape passage as flood water recedes" along with further information.</li> </ul> <p>Further opportunities to enhance waterways for biodiversity, such as floating islands within the Farndon FCAs to benefit biodiversity, were explored in internal multidisciplinary meetings. This was scoped out of the design as it was considered a hotspot for build-up of flood debris and could cause localised impact of flooding, blockage or damage when the debris is naturally deposited. The Environment Agency was in agreement with this decision adding that it is likely that the River Trent main river will be too fast flowing for these floating ecosystems, which are generally only effective along canals and slow-moving watercourses.</p> <p>In terms of how the delivery of the above mitigation measures are secured, Requirement 6 of the draft Development Consent Order [APP-021] secures the provision of the planting proposals presented within Figure 2.3 (Environmental Masterplan) of the Environmental Statement Figures [AS-026]. Requirement 3 of the draft DCO states that the mitigation measures and commitments detailed in the First Iteration EMP are carried through into the development of the Second Iteration EMP (which covers the construction stage) and the Third Iteration EMP (which covers the operational stage of the Scheme).</p>		
10.	Access to areas of fish rescue		In relation to EAWQ-007above, in an email to the Applicant on 04/10/2024, the Environment Agency asked whether the local Environment Agency Fisheries Team be granted access to these areas for fish rescue, if	In an email sent on 17/10/2024, the Applicant provided the following details. Access to the flood compensation areas at Farndon East and West will be via the secure access from the A46 southbound carriageway. This will be accessible by National Highways (for maintenance of the attenuation ponds) and the land owner who will be accessing the	Under discussion	

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			required, and for survey work? The Environment Agency noted that they can provide an Environment Agency padlock if required.	residual field system to the northside of Farndon west. Access could be permitted to the Environment Agency through agreement with National Highways operational team.		
11.	Water Framework Directive (WFD) – water body mitigation	Environment Agency Relevant Representation EAFBG-002	The key issue raised under the Environment Agency's Relevant Representation item reference EAFBG-002 stated that not all works impacting water bodies will be mitigated.	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/24. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	08/10/2024
12.	Biodiversity net gain – missed opportunity for watercourse improvements	Environment Agency Relevant Representation EAFBG-003	The key issue raised under the Environment Agency's Relevant Representation item reference EAFBG-003 stated that there is a lack of watercourse improvements as a part of the Scheme.	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/24. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	08/10/2024
13.	Biodiversity net gain – improvements to river units	Environment Agency Relevant Representation EAFBG-004	The key issue raised under the Environment Agency's Relevant Representation item reference EAFBG-004 stated that the BNG strategy does not appear to incorporate improvements to river units. The BNG Technical Report lists river units in the pre-development baseline, but not in post- development improvements.	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/24. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	08/10/2024
14.	Invasive species – Himalayan Balsam	Environment Agency Relevant Representation EAFBG-005	The key issue raised under the Environment Agency's Relevant Representation item reference EAFBG-005 stated that there is insufficient commitment to addressing spread of the non-native species, Himalayan Balsam, which is identified as impacting the development site (documented in the River Physical Habitat Technical Report).	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/24. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	08/10/2024
15.	Invasive species – Himalayan Balsam	N/A – email correspondence on 08/10/2024	<p>In an email from the Environment Agency on 08/10/2024, the Environment Agency stated:</p> <p>We have reviewed the meeting recording and information presented in the slide pack in relation to this issue and we consider it to be resolved. We have the following comments:</p> <p>We accept that catchment-wide control of Himalayan Balsam outside of the Scheme Order Limits is not within the Scheme's scope.</p> <p>It is positive that Himalayan Balsam will be addressed in relation to avoidance measures during construction and that an INNS management will be part of the BNG Management and Monitoring Plan and Landscape and Ecology Management Plan (LEMP). We will expect to be consulted on these plans and the Invasive Non-Native Species Management Plan and Bio-Security Risk Assessment as part of the Second Iteration Environmental Management Plan (EMP). Please note that we have requested to be a named consultee in DCO Requirement 3.</p> <p>We would also stress the importance of biosecurity as part of the Invasive Non-Native Species Management Plan and Bio-Security Risk Assessment, in that attention is drawn to this.</p> <p>Clearing Himalayan Balsam prior to works in the spring/early summer, as soon as is possible in the timeline of the project, may help manage further disturbance during any works.</p> <p>Unfortunately, as Himalayan Balsam management will not be addressed upstream, it is likely to be a costly on-going management issue that will need to be addressed on an on-going basis. Liaising with the Nottinghamshire Biodiversity Action Group to coordinate efforts in the catchment could also help with supporting Himalayan Balsam control.</p>	<p>The following response to this query was provided by email to the Environment Agency on 16/10/2024 for their consideration and agreement:</p> <p>The Applicant confirms that the Environment Agency will be added as a consultee in DCO Requirement 3.</p> <p>The Applicant will only be seeking to remove Himalayan balsam from areas directly affected by the works. Any Himalayan balsam present within the draft Order Limits that is not planned to be removed will have an exclusion zone installed via appropriate fencing and any land between plants and the exclusion zone will be maintained to prevent any further spread. Where an exclusion zone cannot be implemented to prevent spread, such as plants bordering the draft Order Limits, the plants will be removed to ensure that the Applicant is not allowing further spread into adjacent land.</p> <p>Consideration will be given to clearance prior to works in spring/early summer where practicable.</p> <p>The Applicant is willing to liaise with Nottinghamshire Biodiversity Action Group however is unable to commit to any additional effort to eradicate all Himalayan balsam within the Scheme as this falls outside the scope of the works.</p>	Under discussion	

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<b>Water quality</b>						
16.	Water quality – surface water run-off	Chapter 13 (Road Drainage and Water Environment) of the Environmental Statement [APP-057] and Appendix 13.1 (Water Framework Directive Compliance Assessment) of the Environmental Statement Appendices [APP-176]	The key issue raised under the Environment Agency's Relevant Representation item reference EAWQ-001 stated that: <ul style="list-style-type: none"> <li>Surface water run-off associated with diffuse highways run-off, combined with other sources.</li> <li>There is a need to protect and improve water quality of WFD catchments where they have 'Moderate' to 'Poor' ecological WFD status. Reasons for Not Achieving Good (RNAGS) in relation to existing highways diffuse pollution appears to not be adequately addressed.</li> </ul>	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/2024. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	08/10/2024
17.	Water quality – surface water sensitivity	Chapter 13 (Road Drainage and Water Environment) of the Environmental Statement [APP-057]	The key issue raised under the Environment Agency's Relevant Representation item reference EAWQ-002 stated that In the assessment of significance (section 13.5.8), the sensitivity of surface waters is derived from the importance of surface waters as detailed in Table 13-1. Importance has been assessed using WFD classification and the Q95 flow, with high importance equalling a higher Q95. The sensitivity of a watercourse to water quality impacts is the reverse, with less dilution meaning a watercourse is more sensitive.	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/2024. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	08/10/2024
18.	Water quality – surface water sensitivity	Chapter 13 (Road Drainage and Water Environment) of the Environmental Statement [APP-057]	In relation to the response provided to EAWQ-002 in a meeting held between the Applicant and the Environment Agency on 12/09/2024, the Environment Agency subsequently raised the following query via email on 26/09/2024: Provided the Applicant confirms that professional judgement has also been utilised to ensure sensitivity of any watercourses has not been underestimated then we are satisfied this issue can be closed.	Yes, professional judgement has been used when data was not available, to follow the DMRB LA113 guidance. This guidance assigns importance/sensitivity based on Q95 values and the nature of the watercourse (for example a WFD watercourse has a higher importance than an ordinary watercourse). Where Q95 flow data was not readily available, a conservative assumption on the nature of the watercourse was made using professional judgement to ensure the sensitivity of any watercourse has not been underestimated.	Agreed	08/10/2024
19.	Water Framework Directive (WFD) – detailed assessment	Appendix 13.1 (Water Framework Directive Compliance Assessment) of the Environmental Statement Appendices [APP-176]	The key issue raised under the Environment Agency's Relevant Representation item reference EAWQ-003 stated that Table 5-1 states that upgrades to the existing drainage for the road would prevent contaminated runoff from entering the 'Trent from Soar to The Beck' (water body). The detailed assessment has deemed that WFD compliance is achieved in this catchment as a result.	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/2024. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	26/09/2024
20.	Water Framework Directive (WFD) – detailed assessment	Appendix 13.1 (Water Framework Directive Compliance Assessment) of the	The key issue raised under the Environment Agency's Relevant Representation item reference EAWQ-004 stated that the detailed assessment described in Tables 5-1 to 5-4 does not confirm whether a comparison of the proposed drainage impacts shows an improvement or deterioration from the existing baseline. The detailed assessment should reference the Highways England Water Risk Assessment Tool (HEWRAT) assessment and confirm whether the proposed drainage strategy offers an	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/2024. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	08/10/2024

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		Environmental Statement Appendices [APP-176]	improvement on the existing baseline. This is particularly pertinent, as transport drainage has been identified as a RNAG status for almost all of the assessed waterbodies. The mitigation must ensure that the proposed development does not increase the contribution from this RNAG.			
21.	Highways England Water Risk Assessment Tool (HEWRAT) – baseline	Appendix 13.3 (HEWRAT Assessment) of the Environmental Statement Appendices [APP-178]	The key issue raised under the Environment Agency's Relevant Representation item reference EAWQ-005 stated that the HEWRAT results do not offer the results from the existing baseline for comparison. Without these results for comparison, it is unclear whether the Scheme offers an improvement or deterioration from the existing baseline.	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/2024. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	08/10/2024
22.	Highways England Water Risk Assessment Tool (HEWRAT) – baseline	Appendix 13.3 (HEWRAT Assessment) of the Environmental Statement Appendices [APP-178]	In relation to the response provided to EAWQ-005 in a meeting held between the Applicant and the Environment Agency on 12/09/2024, the Environment Agency subsequently raised the following query via email on 26/09/2024: Please can the Applicant direct us to the wording that confirms the findings of the baseline environment within the HEWRAT assessment.	The baseline conditions are described in Section 3.2 of Appendix 13.3 (HEWRAT Assessment) of the Environmental Statement [APP-178]. Table 3-11 on Page 29 and 30 of Appendix 13.3 (HEWRAT Assessment) of the Environmental Statement [APP-178] show the Tier 2 M-Bat 'Step 2' 'Step 3' results for the proposed outfalls in the Scheme, taken as the 'Baseline' vs 'Proposed mitigation' environments.	Agreed	08/10/2024
23.	Surface water quality monitoring – frequency	First Iteration Environmental Management Plan [APP-184]	The key issue raised under the Environment Agency's Relevant Representation item reference EAWQ-006 stated that the Surface Water Quality Monitoring Report proposes quarterly monitoring of water quality during the construction phase. The Applicant should increase the frequency of monitoring to at least monthly, or to reflect the monitoring conditions of any environmental permits that they may apply for.	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/2024. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	09/10/2024
24.	Surface water quality monitoring – frequency	First Iteration Environmental Management Plan [APP-184]	In relation to the Applicant's response to EAWQ-006 in a meeting held between the Applicant and the Environment Agency on 12/09/2024, the Environment Agency requested that the Applicant confirm where monthly monitoring during construction has been secured. Once the Environment Agency have seen this and we are satisfied it is secured appropriately this can be closed.	The proposed updates to wording in the REAC ID RDWE7 were shared with the Environment Agency on 09/10/2024 for review and acceptance. It was also noted that email addresses included in the proposed additional text in REAC ID RDWE7 would be redacted prior to issue into the Examination.  This item will be agreed once the Environment Agency have had sight of the revised version of the First Iteration Environmental Management Plan.	Under discussion	
25.	Surface water quality monitoring – ecological monitoring	First Iteration Environmental Management Plan [APP-184] and Appendix 13.5 (Surface Water Quality Monitoring Report) of the Environmental Statement Appendices [APP-180]	The key issue raised under the Environment Agency's Relevant Representation item reference EAWQ-007 stated that the Surface Water Quality Monitoring Report does not propose any ecological monitoring. Ecological monitoring should be incorporated into the monitoring of the water environment to ensure that ecological impacts can be appropriately managed.	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/2024. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	08/10/2024
26.	Surface water quality monitoring – ecological monitoring	First Iteration Environmental Management Plan [APP-184] and Appendix 13.5 (Surface Water Quality Monitoring	In relation to the Applicant's response to EAWQ-007 in a meeting held between the Applicant and the Environment Agency on 12/09/2024, the Environment Agency subsequently raised the following query via email on 26/09/2024: We are satisfied this can be closed provided appropriate ecological monitoring is secured within the LEMP.	As outlined in the meeting on 12/09/24, a LEMP will be produced as part of the Second Iteration EMP which will outline management requirements for landscape and ecology aspects for the scheme – including monitoring requirements for aftercare, as detailed in REAC commitment B11 in the First Iteration EMP [APP-184])	Agreed	08/10/2024

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
		Report) of the Environmental Statement Appendices [APP-180]				
27.	Surface water quality monitoring – baseline	Appendix 13.5 (Surface Water Quality Monitoring Report) of the Environmental Statement Appendices [APP-180]	The key issue raised under the Environment Agency's Relevant Representation item reference EAWQ-008 stated that in section 4.1.1, Table 4-1 provides the results from the surface water quality monitoring to date. Sampling has only been completed on 3 occasions and has returned some extreme results (i.e. 62.1 mg/l Biochemical Oxygen Demand). Any assessment that relies on this data should be reconsidered to ensure impacts are not being underestimated. If the Applicant does not believe the results of these assessments are impacted by relying on this data, they should provide a clear explanation on why they believe this is so.	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/2024. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.10].	Agreed	08/10/2024
28.	Surface water quality monitoring – baseline	Environmental Statement [APP-178]  Appendix 13.5 (Surface Water Quality Monitoring Report) of the Environmental Statement Appendices [APP-180]	In relation to the Applicant's response to EAWQ-008 in a meeting held between the Applicant and the Environment Agency on 12/09/2024, the Environment Agency subsequently raised the following query via email on 26/09/2024: Please can the Applicant confirm whether the data provided in Section 4.1.1 (Table 4-1) of the Environmental Statement has been used in the HEWRAT assessment.	The data shown in Table 4-1 of Appendix 13.5 (Surface Water Quality Monitoring Report) of the Environmental Statement [APP-178] was not used in the HEWRAT assessment. The data was imprecise for the specific criteria needed for the HEWRAT assessment. The water quality survey results for copper were <8 µg/s for some sampling locations. These results were deemed less precise than those found on the UK-SCAPE hydrological sensor data, therefore the EQS values for this report were taken from the nearest data source to each outfall catchment; at 'MD-36732350, Non-Tidal Trent Hoval Farrar Ltd intake' (0.7 kilometers east of Cattle Market Roundabout, on the River Trent), 'MD-36731820, River Trent at Winthorpe (new)' (0.7 kilometers Northwest of Winthorpe village, on the River Trent) and 'MD-42980429, Slough Dyke at Langford' (2 kilometers north of Winthorpe village, on The Fleet). For consistency, data from the sampling stations was used for all HEWRAT assessments completed for the Scheme. This is described in Section 2.6 of Appendix 13.3 (HEWRAT Assessment) of the Environmental Statement [APP-178].	Agreed	08/10/2024
29.	DCO Requirement 3 – Second Iteration Environmental Management Plan (EMP)	Draft Development Consent Order [APP-021]	The key issue raised under the Environment Agency's Relevant Representation item reference EAWQ-009 stated that the Environment Agency should be listed as a consultee for the Second Iteration EMP.	The Applicant confirms that the Environment Agency will be added as a consultee to the second iteration Environmental Management Plan (EMP), under Requirement 3, on matters related to its functions. An updated draft DCO showing this change will be submitted at Deadline 1. This item will be agreed once the Environment Agency have had sight of the revised version of the draft Development Consent Order submitted into Examination at Deadline 1.	Under discussion	
<b>Groundwater and Contaminated Land</b>						
30.	Geology and soils	Chapter 9 (Geology and Soils) of the Environmental Statement [APP-053]  Appendix 9.2 (Contaminated Land Risk Assessment) of the Environmental Statement Appendices [APP-164]	Statutory Consultation response received from the Environment Agency: We are particularly keen to understand any potential sources of contamination associated with the elevated aromatic hydrocarbons and naphthalene encountered at WS46.	These matters are considered Chapter 9 (Geology and Soils) of the Environmental Statement [APP-053] and Appendix 9.2 (Contaminated Land Risk Assessment) of the Environmental Statement Appendices [APP-164]. Potential impacts to soil resources would be mitigated through the implementation of measures set out in Appendix B.3 (Outline Soil Management Plan) of the First Iteration Environmental Management Plan [APP-184].  The Register of Environmental Actions and Commitments which is part of the First Iteration Environmental Management Plan [APP-184] includes a commitment to prepare a Materials Management Plan and a Site Waste Management Plan, which can be found in Appendix B.2 (Outline Materials Management Plan) and Appendix B.1 (Outline Site Waste Management Plan) of the First Iteration Environmental Management Plan [APP-184], in accordance with the Contaminated Land: Application in the Real Environment's code of practice The Definition of Waste: Development Industry Code of Practice.  Any soils that do not meet chemical acceptability criteria for reuse on site would be treated or disposed of to a suitable licensed facility. A Generic Quantitative Risk Assessment in respect of Controlled Waters can be found appended to the Ground	Under Discussion	

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
		<p>First Iteration Environmental Management Plan [APP-184]</p> <p>draft Development Consent Order [APP-021]</p>		<p>Investigation Report contained in Appendix 9.2 (Contaminated Land Risk Assessment) of the Environmental Statement Appendices [APP-164].</p> <p>The First Iteration Environmental Management Plan will be developed into a Second Iteration Environmental Management Plan to be implemented during construction of the Scheme. Adherence with the Second Iteration Environmental Management Plan is secured by Requirement 3 in Schedule 2 of the draft Development Consent Order [APP-021].</p> <p>The potential source of the contamination encountered at the location of WS46 is likely the adjacent historical Quibell Brothers chemical manure factory. Supplementary ground investigation work undertaken at the footprint of WS46, identified the contamination to be localised, as detailed in Appendix 9.2 (Contaminated Land Risk Assessment) of the Environmental Statement Appendices [APP-164]. During the enabling and construction earthworks of the existing A46 carriageway, it is possible that a small volume of site won material from the demolition location of the chemical manure factory was deposited at the location of WS46. It should be noted that no earthworks would be provided in the footprint of the WS46 contamination hotspot area and the contamination would therefore remain in-situ at this location.</p>		
31.	British Sugar authorised (active) landfill site	<p>Chapter 9 (Geology and Soils) of the Environmental Statement [APP-053]</p> <p>Figure 2.2 (Environmental Constraints Plan) of the Environmental Statement Figures [AS-025]</p>	<p>The key issue raised under the Environment Agency's Relevant Representation item reference EAGWCL-001 stated that the presence of the British Sugar authorised (active) landfill site within the Order Limits (red line boundary) and environmental and permit-related impacts associated with the development proposal have not been adequately addressed.</p>	<p>Upon receipt of this Relevant Representation, the Environment Agency has confirmed to the Applicant that the existing Environment Agency mapping (Permitted Waste Sites - Authorised Landfill Site Boundaries), which is publicly available via GOV.UK website, shows the British Sugar Borrow Pits authorised landfill site intersecting the current A46 road and proposed Scheme. Figure 2.2 (Environmental Constraints Plan) (Sheet 3 of 4) [AS-025], was produced using the mapped polygon on the available Permitted Waste Sites - Authorised Landfill Site Boundaries mapping.</p> <p>The Environment Agency has also confirmed to The Applicant, that the most recent permit for the British Sugar authorised Borrow Pit landfill (ref. EPR/VP3732LH), which was issued on 12/04/2007, shows that the landfill site plan does not intersect the existing A46 road or the Scheme's Order Limits. The Environment Agency has confirmed that this is the most up to date site boundary for the British Sugar authorised permitted landfill, and that the mapped polygon on the available Permitted Waste Sites - Authorised Landfill Site Boundaries mapping extends further than the actual permitted boundary of the British Sugar authorised landfill.</p> <p>The site plan included in the permit documents for the British Sugar authorised (active) landfill site, ref. EPR/VP3732LH does not show the location of the 4 groundwater monitoring boreholes (BP1-BP4). BP1 is located upgradient and BP2, BP3 &amp; BP4 are downgradient. However, the Environment Agency's local Regulated Industry Team have recently inspected the site and have confirmed that the proposed changes to the A46 as a result of the Scheme would not affect the operation, nor should they interfere with any of the existing monitoring infrastructure, and that the most recent drawing of the landfill boundary, included within permit ref. EPR/VP3732LH, is considered to be correct.</p> <p>Figure 2.2 (Environmental Constraints Plan) of the Environmental Statement Appendices [AS-025] will be updated using the most recent boundary of the British Sugar Borrow Pit landfill, as shown on the Schedule 2 - Site plan of permit ref. EPR/VP3732LH. The updated version of Figure 2.2 (Environmental Constraints Plan) will be re-submitted at Deadline 2.</p>	Under discussion	

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
32.	Dewatering Management Plan (DWMP)	First Iteration Environmental Management Plan [APP-184]  draft Development Consent Order [APP-021].	The key issue raised under the Environment Agency's Relevant Representation item reference EAGWCL-002 stated that: The Applicant should commit to preparing and putting a dewatering management plan in place.	The Applicant will include the commitment to produce a De-watering Management Plan in the First Iteration Environmental Management Plan [APP-184]. The First Iteration Environmental Management Plan [APP-184] will be developed into the Second Iteration Environmental Management Plan for implementation during construction and is secured by Requirement 3 of the draft Development Consent Order [APP-021]. The Environment Agency will be consulted during its development to ensure agreement with mitigation and commitments.	Under discussion	
33.	Piling method statements and risk assessments	First Iteration Environmental Management Plan [APP-184]  draft Development Consent Order [APP-021]	The key issue raised under the Environment Agency's Relevant Representation item reference EAGWCL-003 stated that: There is a lack of clarity regarding the specificity of piling method statements and piling risk assessments. Piling method statements and piling risk assessments need to be site-specific, and the risks assessed based on the site hydrogeology and potential for contamination. The Applicant should update the First Iteration EMP to address the above issue and identify the requirement for site-specific piling method statements and risk assessments, which are to be submitted to the LPA in consultation with the Environment Agency prior to piling activities commencing. We would also request a DCO Requirement to be included in relation to piling and will work with the developer to agree this.	The Applicant proposes to update commitment GS4 of the Register of Environmental Actions and Commitments in the First Iteration Environmental Management Plan to state that a Piling Works Method Statement will be produced specific to the piling locations. This is secured by Requirement 3 of the draft Development Consent Order [APP-021] that confirms a Second Iteration Environmental Management Plan must be produced prior to commencement of the works which will be developed from the First Iteration Environmental Management Plan [APP-184]. Preparation of the Second Iteration Environmental Management Plan must be done in consultation with the local planning authority and, as per our response above, now in consultation with the Environment Agency. Part (v) of Requirement 3 of the draft Development Consent Order [APP-021] states that a Piling Works Method Statement will be produced for the works. This method statement will be specific to the piling locations and will include an appropriate risk assessment. It is anticipated that there will be no piled foundations in areas of known contamination.  Given the fact that there will be a detailed Piling Works Method Statement and risk assessment prepared in consultation with the Environment Agency and local planning authority and approved by the Secretary of State, it is the Applicants view that an additional specific requirement covering the piling works is unnecessary.  The Applicant will submit an updated First Iteration Environmental Management Plan [APP-184] and updated draft Development Consent Order [APP-021] at Deadline 2 to reflect the proposed change.	Under discussion	
34.	Surface water and groundwater monitoring	First Iteration Environmental Management Plan [APP-184]	The key issue raised under the Environment Agency's Relevant Representation item reference EAGWCL-004 stated that: There is a lack of clarity in relation to surface water and groundwater monitoring commitments. The First Iteration EMP should be amended to reflect the above position and confirm that the monitoring results are to be sent to the Environment Agency on a monthly basis.	The Applicant is in agreement with the Environment Agency to increase the frequency of both surface water and groundwater monitoring to monthly during the construction phase, and quarterly for one-year post-construction. The Applicant is also in agreement to send the Environment Agency the surface and groundwater monitoring results. This includes the results obtained to date, as well as the results obtained going forwards pre-construction, during construction, and post-construction. The Applicant has liaised with the Environment Agency to confirm where monitoring results are to be sent.  Revisions to REAC Commitment RDWE7 have been agreed with the Environment Agency to cover the above. This item will be agreed once the Environment Agency have had sight of the revised version of the First Iteration Environmental Management Plan.	Under discussion	
35.	Groundwater and contaminated land - Contamination hotspot at WS46.  [Note this issue was submitted to the Applicant after publication of the Environment Agency's	Contaminated Land Risk Assessment Parts 1-9 [APP-164], [APP-165], [APP-166], [APP-167], [APP-168], [APP-169]	The key issue raised under the Environment Agency's Relevant Representation item reference EAGWCL-005 stated that contamination hotspot at WS46 has been identified as localised contamination thought to be from site won material from the demolition of chemical manure factory. Given that this material should not have been deposited at the site, responsibility should be taken for removing it from the site. Where the contamination remains there is a risk of pollution to controlled waters when there is an opportunity to deal with it as part of the DCO. We expect the contaminated material to be removed. It should be relatively easy to either	This issue was covered in a meeting held with the Environment Agency to discuss their Relevant Representation, on 12/09/2024. The Applicant's full response is provided in the Applicant's response to Environment Agency Relevant Representation [7.11]. In summary, the Applicant is of the view that the contamination hotspot within the Order Limits presents a low risk to controlled waters if left in situ. Therefore, the Applicant proposes to leave the contamination in situ at the hotspot location due to the absence of planned excavation or vegetation clearance activities. The Applicant proposes to undertake further assessment, in the form of controlled waters detailed quantitative risk assessment (DQRA), in line with the Land Contamination Risk Management guidance, in relation to the hotspot of contamination identified in the vicinity of WS46. The	Under discussion	

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
	Relevant Representation however the issue has been responded to as part of the Applicant's response to the Environment Agency (TR010065/EXAM/7.1 1)].		remediate it in situ or excavate and remove it from the site for appropriate waste disposal.	completed DQRA will be discussed with the Environment Agency and submitted into the Examination at Deadline 4, if not sooner.		
<b>Waste</b>						
36.	Materials and waste	First Iteration Environmental Management Plan [APP-184	<p>The developer must apply the waste hierarchy as a priority order of prevention, re-use, recycling before considering other recovery or disposal options. Adherence to the waste hierarchy and adoption of best practice in relation to site waste management planning will help you deliver against circular economy objectives. It is important to take a precautionary approach and ensure that you follow the regulatory waste legislation. Ensure that you seek advice from the Environment Agency if required.</p> <p>The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes. The code of practice applies if you produce, carry, keep, dispose of, treat, import, or have control of waste in England or Wales.</p> <p>In order to meet the applicant's objectives for the waste hierarchy and obligations under the duty of care, it is important that waste is properly classified. Some waste (e.g., wood and wood-based products) may be either a hazardous or non-hazardous waste dependent upon whether they have had preservative treatments. Proper classification of the waste both ensures compliance and enables the correct onward handling and treatment to be applied. In the case of treated wood, it may require high temperature incineration in a directive compliant facility.</p> <p>If materials that are potentially waste are to be used on-site, the applicant will need to ensure they can comply with the exclusion from the Waste Framework Directive (WFD) (article 2(1) (c)) for the use of, 'uncontaminated soil and other naturally occurring material excavated in the course of construction activities, etc.' for the material not to be considered as waste.</p> <p>A deposit of waste to land will either be a disposal or a recovery activity. The legal test for recovery is set out in Article 3(15) of WFD as: any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.</p> <p>Non-waste activities are not regulated by us (i.e., activities carried out under the CL: AIRE Code of Practice), however you will need to decide if materials meet End of Waste or By-products criteria (as defined by the Waste Framework Directive).</p> <p>Where waste soil is to be exported from site it must be classified as either a Hazardous waste with the waste code 17-05-03 (soil and stones containing hazardous substances) or as a Non-Hazardous waste code 17-05-04 (soil and stones other than those mentioned in 17-05-03).</p> <p>Site Waste Management Plans (SWMP) are no longer a legal requirement, however, in terms of meeting the objectives of the waste hierarchy and your duty of care, they are a useful tool and considered to be best practice.</p>	<p>Comments and guidance noted by the Applicant. Waste hierarchy and circular economy principles would be implemented by the Applicant throughout the construction phase to minimise disposal and maximise reuse and recycling of waste arisings. Opportunities for reuse and recycling of waste include (but are not limited to):</p> <ul style="list-style-type: none"> <li>• Reusing excavated soils that includes stored topsoil on-site in the landscaping features of the A46 or in floodplain compensation areas. Excavated materials would also be considered to create flood bund when possible. Surplus soils would be offered to projects near the Scheme for reuse on land, whenever possible</li> <li>• Chipping green waste on-site for use in the landscaping for the Scheme</li> <li>• Composting of green waste</li> <li>• Recycling inert materials by crushing, blending and subsequent reuse, as an aggregate</li> <li>• Reusing waste on other nearby Schemes</li> <li>• Reusing waste for uses with clear benefits to the environment, for example in the remodeling of agricultural land or in the restoration of nearby quarries or other excavation sites</li> <li>• Providing on-site facilities to separate out waste to enable the recovery of material through recycling</li> </ul> <p>Where waste must be taken to a recycling or disposal site, the Principal Contractor would ensure that the site has the appropriate permits. In addition, the suitable facility would be located as close to the works as possible to minimise the impacts of transportation, in particular the release of carbon emissions. The Principal Contractor would identify the closest and relevant treatment and disposal sites. These measures are provided for in the</p> <p>Outline Site Waste Management Plan, which the Applicant has produced and which can be found in Appendix B.1 (Outline Site Waste Management Plan) of the First Iteration Environmental Management Plan [APP-184]. It will be developed into a full Site Waste Management Plan by the Principal Contractor for the construction period. The Site Waste Management Plan will ensure that waste is managed in accordance with the waste hierarchy and other relevant legislation and would detail information on the waste carriers and waste management facilities that would be used. In finalising the Site Waste Management Plan, the Principal Contractor will act in accordance with the legislative requirements identified by the Consultee.</p> <p>Provision of the Site Waste Management Plan is secured by Requirement 3 of the draft DCO [APP-021] as part of the mitigation measures and commitments detailed in the First Iteration EMP [APP-184]. These will be carried through into the development of the Second Iteration EMP (which covers the construction stage) and the Third Iteration EMP (which covers the operational stage of the scheme).</p>	Under discussion	

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
				This item will be agreed once the Environment Agency have had sight of the revised version of the draft Development Consent Order.		
37.	Disposal of waste – British Sugar landfill	First Iteration Environmental Management Plan [APP-184]	The key issue raised under the Environment Agency's Relevant Representation item reference EAWA-001 states: It is not clear if the Applicant intends to pursue an option to deposit any waste arisings at the British Sugar authorized landfill site. The Applicant should confirm their intentions regarding waste disposal and the British Sugar authorised landfill site, and discuss any permit implications with our National Permitting Service (NPS).	The Applicant has not approached British Sugar on this matter and is not seeking to dispose of waste at the British Sugar landfill. The use of landfills is to be avoided by the scheme where possible and only used as a last resort. All waste will be dealt with by an appointed licensed waste management company. Should the Applicant's position change, the Environment Agency will be consulted to discuss the use of the landfill. The Applicant accepts the Environmental Agency's requirements should such a proposal be pursued.	Agreed	18/10/2024
<b>Water Resources</b>						
38.	Water usage – abstraction licencing	Consents and Agreements Position Statement [APP-023]	The key issue raised under the Environment Agency's Relevant Representation item reference EAWR-001 states: The documentation submitted acknowledges the requirement for abstraction licences for de-watering and anticipates short term low risk (being exempt) and longer term (requiring a licence) needs. However, there is inadequate information on other consumptive uses of water required for the construction phase of the development. We recommend considering potential consumptive demands for water in more detail and a further investigation of options for different sources of supply as this may affect the project design (e.g. if site storage is needed for times of unavailability).	<p>The Applicant anticipates the requirement for abstraction licences to enable the main construction works. Abstraction will be required where groundwater is encountered during excavation with key areas identified but not limited to Farndon Borrow Pits. Any abstracted waters would be initially discharged into the River Trent until pond creation has been completed within the borrow pits, which would then be used as storage areas for water to be used for dust suppression. Where capacity is reached within the new ponds, any further ground water encountered during excavation works would be discharged into the River Trent. Where stored waters for dust suppression are depleted, the Scheme proposes abstraction from the River Trent unless any restrictions are placed on the watercourse. In the event that restrictions are enforced, alternative sources would be sought including using water from local hydrants following approval by the local water and sewerage undertaker.</p> <p>There are no other activities associated with the Scheme that will require the consumptive use of abstracted waters as this will generally be sourced by mains abstracted water to prevent possible contamination of materials or damage to tools and machinery.</p>	Agreed	18/10/2024
<b>General / cross cutting comments</b>						
39.	Required Environment Agency permits and licences	Consents and Agreements Position Statement [APP-023]	The key issue raised under the Environment Agency's Relevant Representation item reference EAGC-001 states: The list of consents and agreements may not be conclusive and, depending on situations encountered, others may be needed that have yet to be identified, for example, relating to water resources licencing, water discharge permits and waste management. There is a risk of delays to the delivery of the Scheme where consents and agreements are insufficiently comprehensive to allow the Environment Agency to effectively deal with permit applications, queries and fully understand what the project requires. The Applicant should review the Consents and Agreements Position Statement document and further consider what is required. To avoid any delays during the project the Applicant should ensure that the Consents and Agreements Position Statement comprehensively covers a range of scenarios that may, or may not occur, insofar as it is possible.	<p>The Applicant has considered all potential licensing requirements for the Scheme and cannot foresee any requirement for additional licences to be attained. Water resource licencing has been considered and abstraction has been identified as the only licensable activity as no impoundment of watercourses is to be undertaken.</p> <p>The Applicant has included the need for water discharge permits within Appendix A of the Consents and Agreements Position Statement [APP-023] and these will be required for removal of surface waters from the works areas to be discharged into watercourses in close proximity to the Scheme that fall within the Order Limits, but only where ponds do not have enough capacity for storage. Any discharge will be treated before discharge and only where this has been agreed with the Environment Agency.</p> <p>The Applicant is currently awaiting a review of licences for waste management by an appointed specialist and where any gaps are identified, Appendix A of the Consents and Agreements Position Statement [APP-023] will be updated and submitted to the Examining Authority as appropriate.</p>	Under discussion	
<b>Permits</b>						
40.	Disapplication of other Environment Agency permits and licences	Draft Development Consent Order [APP-021]	<p><b>Disapplication of flood risk activity permits (FRAPs)</b></p> <ul style="list-style-type: none"> <li>We acknowledge that the Applicant is not currently seeking to disapply the Environmental Permitting Regulations (EPR) for flood risk activities in the draft Development Consent Order (DCO) but, it is indicated in the Consents and Agreements Position Statement that</li> </ul>	The Applicant is not currently seeking to disapply the Environmental Permitting Regulations for flood risk activities. Therefore, there are no Protective Provisions within the draft Development Consent Order [APP-021]. Should this position change, the Applicant will contact the Environment Agency to agree the terms of the protective provisions.	Under discussion	

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
		And Consents and Agreements Position Statement [APP-023]	<p>they may seek to do so. The applicant should therefore confirm if they are indeed seeking the disapplication of the EPR for flood risk activities.</p> <ul style="list-style-type: none"> <li>It should be noted that the EPR for flood risk activities cannot be disappplied without our consent. Should we agree to disapplication following further discussions with the Applicant, the draft DCO will need to be updated to include our protective provisions.</li> </ul> <p><b>Disapplication of other Environment Agency permits and licences</b> We acknowledge that the Applicant is not seeking to disapply any other Environment Agency permits and licences, as confirmed in the Consents and Agreements Position Statement.</p>			
<b>Draft Development Consent Order Requirements</b>						
41.	Requirement 3 – Second Iteration Environmental Management Plan (EMP)	Draft Development Consent Order [APP-021]	The key issue raised under the Environment Agency's Relevant Representation item reference EAREQ-001 states: The Environment Agency is not listed as a consultee for the Second Iteration EMP. Where the Second Iteration EMP is developed without consultation with the Environment Agency, it could be less effective and the range of environmental matters (such as surface water and groundwater quality, water resources, aquatic ecology, flood risk and waste management, for example) within our remit may not be adequately addressed, which could lead to avoidable impacts if not satisfactorily managed. The Environment Agency should be listed as a consultee for the Second Iteration EMP.	The Applicant can confirm that the Environment Agency will be added as a consultee to the Second Iteration Environmental Management Plan, under Requirement 3 of the draft Development Consent Order [APP-021], on matters related to its statutory functions. An updated draft Development Consent Order has been submitted at Deadline 1 to reflect this change.	Under discussion	
42.	Requirement 4 – Third Iteration Environmental Management Plan (EMP)	Draft Development Consent Order [APP-021]	The key issue raised under the Environment Agency's Relevant Representation item reference EAREQ-002 states: The Environment Agency is not listed as a consultee for the Third Iteration EMP. Where the Third Iteration EMP is developed without consultation with the Environment Agency, it could be less effective and environmental matters within our remit may not be adequately addressed. The Environment Agency should be listed as a consultee for the Third Iteration EMP.	The Applicant can confirm that the Environment Agency will be added as a consultee to the Third Iteration Environmental Management Plan, under Requirement 4 of the draft Development Consent Order [APP-021], on matters related to its statutory functions. An updated draft Development Consent Order has been submitted at Deadline 1 to reflect this change.	Under discussion	
43.	Requirement 6 – Landscaping	Draft Development Consent Order [APP-021]	The key issue raised under the Environment Agency's Relevant Representation item reference EAREQ-003 states: The Environment Agency is not listed as a consultee for landscaping details. Where we are not listed as a consultee, there is a risk that matters within our remit are not adequately address. Principally, our concerns in this regard relate to potential impacts on main rivers, flood defences and works in flood risk areas (Flood Zone 3). The Environment Agency should be listed as a consultee to ensure that we are consulted on matters related to our functions.	<p>The Applicant has considered the Environment Agency's comment and has reviewed various other made Development Consent Orders (DCOs), including the A12 Chelmsford to A120 Widening DCO 2024, the M3 Junction 9 DCO 2024 and the A47/A11 Thickethorn Junction DCO 2022. The proposal to include the Environment Agency as a consultee in relation to the landscaping scheme in Requirement 6 of the draft Development Consent Order [APP-021] is not precedented and the Applicant does not consider it necessary or appropriate to agree to this amendment.</p> <p>The Applicant has engaged with the Environment Agency throughout the development of the environmental design in the form of the quarterly Environmental Technical Working Group (TWG). This Environmental TWG was established to inform consultation bodies of the progress and timescales for the Scheme, and also to review and discuss specific Scheme issues, to consider appropriate design solutions and seek to agree statements of common ground (SoCGs) on environmental matters. The Environmental TWG also provided a format for technical review of the ES assessments such as EIA methodology and documents supporting the ES, and associated surveys, development, review and agreement of environmental design, mitigation requirements, and environmental opportunities and enhancements. The Applicant is therefore satisfied that it has sufficiently consulted with the Environment Agency to address its concerns.</p> <p>The Applicant asks the Environment Agency to clarify their specific concerns which the Applicant will address in full.</p>	Under discussion	

Issue No.	Issue	Document Reference	Environment Agency Position	National Highways' Position	Status	Date status confirmed
44.	Requirement 8 - Contaminated land and groundwater	Draft Development Consent Order [APP-021]	<p>The key issue raised under the Environment Agency's Relevant Representation item reference EAREQ-004 is that the current wording of Requirement 8 does not require construction to stop if unsuspected contamination is discovered pending investigation and remediation where required. There is a risk that contaminants are mobilised if construction continues without appropriate investigation and remediation where required, which could impact on controlled waters. To address the above, the wording of the Requirement should be amended. We have the following suggested wording (to be agreed):</p> <ul style="list-style-type: none"> <li>If contamination is found, the construction activity should stop in the affected area, pending the undertaking of risk assessment, production of a remediation scheme/programme and undertaking of the remediation itself.</li> </ul>	<p>The Applicant is satisfied that Requirement 8 of the draft Development Consent Order [APP-021] as currently drafted is sufficient to appropriately manage any risks associated with contamination. Regulations 13, 15 and Schedule 4 of the Construction (Design and Management) Regulations 2015 (CDM 2015) govern the approach which must be taken if contamination is discovered. CDM 2015 ensures that, where the presence of contaminated soil is known or suspected, risks to the public and site are minimised. The Applicant has also already undertaken investigations to identify risks in respect of contamination which is reported in Chapter 9 of the Environmental Statement. The Applicant is therefore of the view that the Environment Agency's suggested amendment is not required.</p>	Under discussion	
45.	Requirement 14 – Flood compensatory storage	Draft Development Consent Order [APP-021]	<p>The key issue raised under the Environment Agency's Relevant Representation item reference EAREQ-005 is that Sub-paragraph 2 states the climate change allowance as 35%, which is not correct for this location and does not accord with the flood risk assessment.</p>	<p>The Applicant has updated the wording in Requirement 14 of the draft Development Consent Order to refer to the correct climate change allowance referred to by the Environment Agency. An updated copy of the draft Development Consent Order has been submitted at Deadline 1 reflecting this change. In order to assist the Examining Authority and the Environment Agency, the Applicant has set out the proposed amendments to Requirement 14 below:</p> <p><i>Flood compensatory storage</i> 14(1)...</p> <p><i>(2) The schemes prepared under paragraph (1) must provide suitable flood storage for any flood waters that would be displaced by the authorized development in the 1 in 100 year plus 35-39% climate change allowance event.</i></p>	Under discussion	
46.	Requirement 15 – Flood risk assessment	Draft Development Consent Order [APP-021]	<p>The key issue raised under the Environment Agency's Relevant Representation item reference EAREQ-006 - currently do not agree with the wording in sub-paragraph 2, as we have unresolved issues with the flood risk assessment in relation to increases in flood risk elsewhere. We defer to agreeing the wording of the Requirement, subject to the Applicant satisfactorily addressing the issues we have identified with the flood risk assessment in relation to increases in flood risk elsewhere as a result of the development. The wording of the Requirement will need to be agreed with us pending a resolution of the flood risk issues we have identified and may need to be amended. We will continue to work with the Applicant to address this issue.</p>	<p>The Applicant notes the comments from the Environment Agency and will continue to work with the Environment Agency to address this issue.</p>	Under discussion	
47.	Additional Requirement – Piling	Draft Development Consent Order [APP-021]	<p>The key issue raised under the Environment Agency's Relevant Representation item reference EAREQ-007 requested the inclusion of a DCO Requirement for piling risk assessments. Request for inclusion of suitably worded Requirement in the DCO.</p>	<p>The Applicant has considered the Environment Agency's proposed inclusion of a requirement in the draft Development Consent Order [APP-021] for piling risk assessments. The CDM 2015 require a piling risk assessment to be carried out in accordance with the specific requirements set out in Regulations 4, 8, 12 and 13. The Applicant is satisfied that these Regulations secure the necessary protections sought by the Environment Agency without the need for a specific requirement in the draft Development Consent Order [APP-021]. The Environment Agency will have been consulted on the detailed Piling Works Method Statement which will form part of the Second Iteration Environmental Management Plan in accordance with Requirement 3 of the draft Development Consent Order. Therefore, it is the Applicant's view that there is no need or justification for the Environment Agency's draft requirement.</p>	Under discussion	