

A46 Newark Bypass

TR010065/7.54

**7.54 Information to Support the  
Applicant's Response to the Examining  
Authority's Written Questions (ExQ1) on  
the Finch Judgement**

APFP Regulation 5(2)(a)

Planning Act 2008

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

Volume 6

November 2024

Infrastructure Planning

Planning Act 2008

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

**A46 Newark Bypass**

Development Consent Order 202[x]

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**7.54 Information to Support the Applicant's Re-  
sponse to the Examining  
Authority's Written Questions (ExQ1) on the Finch  
Judgement**

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<b>Regulation Number:</b>	Regulation 5(2)(a)
<b>Planning Inspectorate Scheme Reference</b>	TR010065
<b>Application Document Reference</b>	TR010065/7.54
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<b>Version</b>	<b>Date</b>	<b>Status of Version</b>
Rev 1	December 2024	Deadline 4 Submission

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# 1 Information to Support the Applicant's Response to the Examining Authority's Written Questions (ExQ1) on the Finch Judgement

## 1.1 Introduction

1.1.1 Table 1.1 in section 1.2 has been prepared by National Highways (the "Applicant") in response to the Examining Authority's first round of written questions (Q4.0.11) [PD-007] which asked:

*"c) whether the judgement of the UK Supreme Court in Finch (R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents) [2024] UKSC 20) has raised any new issues which have not been included in the application documentation (bearing in mind that the Application was Accepted before the Finch judgement was handed down); and*

*d) if the judgement is of relevance to the determination of the Application, what you consider to be the correct approach to addressing the Finch judgement".*

1.1.2 R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents) [2024] UKSC 20 (Finch) requires all indirect environmental effects of a project to be identified and assessed, and the findings presented in the Environmental Statement.

1.1.3 Regulation 14(2)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations)<sup>1</sup> provides that an Environmental Statement must include *"a description of the likely significant effects of the proposed development on the environment"*. *Schedule 4 para 5 of the EIA Regulations provides that the description of the likely significant effects of a project should cover "the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the development"*.

1.1.4 The Environmental Impact Assessment (EIA) for the A46 Newark Bypass (the "Scheme") has been undertaken in line with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations), as well as the Design Manual for Roads and Bridges (DMRB) LA 103

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<sup>1</sup> Statutory Instrument (2017) The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, No. 527.

(Scoping projects for environmental assessment)<sup>2</sup>, DMRB LA 104 (Environmental assessment and monitoring)<sup>3</sup> and the Planning Inspectorate's Advice Note Seven: Environmental Impact Assessment<sup>4</sup> for all environmental factors (topics) set out in the EIA Regulations and guidance documents.

- 1.1.5 The Scheme EIA has been undertaken by competent experts from each technical discipline. Evidence of the competent expert for each discipline is presented in the relevant chapter of the Environmental Statement.
- 1.1.6 As part of the EIA process, all effects, including indirect effects, were identified during the scoping stage of EIA. All likely significant effects, including indirect effects, have been carried forward to the detailed assessment stage, the results of which are presented within the Environmental Statement. However, following the judgement in Finch and the questions raised by the Examining Authority, a review of all possible indirect effects from the Scheme has been undertaken to ensure that all likely significant indirect effects are reported, and none were omitted during the EIA Scoping stage or from the Environmental Statement.
- 1.1.7 It is important to note that the Supreme Court in *Finch* emphasised the need for an Environmental Statement to consider all impacts where there can be considered to be an 'inevitable causation' between a project and an effect. Such effects must not be mere 'speculation or conjecture' i.e. the relevant information needs to be available or an appropriate methodology able to be applied. Furthermore, the Supreme Court emphasised that an assessment should only be required if a reasoned conclusion is able to be reached - there must be sufficient evidence to draw the link between the project and the effect.
- 1.1.8 The review of indirect effects has been undertaken with the competent experts that completed the Environmental Statement for the Scheme and identifies any additional effects that have not already been included and scoped out or included within the Environmental Statement. The review has followed a four-step approach:
1. All potential indirect effects of the Scheme must be identified.
  2. Identify those indirect effects that are "likely" to occur as a result of the grant of consent for the Scheme.

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<sup>2</sup> Standard for Highways (2020) Design Manual for Roads and Bridges, LA103 'Scoping projects for Environmental assessment'.

<sup>3</sup> Standard for Highways (2020) Design Manual for Roads and Bridges, LA104 'Environmental assessment and monitoring'.

<sup>4</sup> The Planning Inspectorate (2020) Advice Note Seven: Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements [online] available at: [Nationally Significant Infrastructure Projects - Advice Note Seven: Environmental Impact Assessment: process, preliminary environmental information and environmental statements - GOV.UK](#) (last accessed November 2024).

3. Any likely indirect effects which have been identified must then be assessed to determine whether they are significant; and
4. Any likely indirect effects which are considered to be significant should be reported.

1.1.9 Table 1.1 below demonstrates this review, including the rationale for the consideration or otherwise of indirect effects. The review concludes that there are no additional likely indirect effects which are considered to be significant that have not already been captured by the existing EIA for the Scheme.

**Table 1.1: Additional Indirect Effects identified per topic.**

Potential Indirect Effect	Construction/ Operation	Is the effect likely to occur?	Does the effect have the potential to be significant?	Is the effect assessed in the Environmental Statement?	Commentary
<b>Air Quality</b>					
Likely indirect effects are captured within Chapter 5 of the Environmental Statement [AS-021] and no additional indirect effects were identified in this review.					
<b>Cultural Heritage</b>					
Likely indirect effects are captured within Chapter 6 of the Environmental Statement [APP-050] and no additional indirect effects were identified in this review.					
<b>Landscape and Visual Amenity</b>					
Likely indirect effects are captured within Chapter 7 of the Environmental Statement [APP-051] and no additional indirect effects were identified in this review.					
<b>Biodiversity</b>					
Likely indirect effects are captured within Chapter 8 of the Environmental Statement [APP-052] and no additional indirect effects were identified in this review.					
<b>Geology and Soils</b>					
Likely indirect effects are captured within Chapter 9 of the Environmental Statement [REP3-009] and no additional indirect effects were identified in this review.					
<b>Material Assets &amp; Waste</b>					
Off-site extraction of raw materials used for the Scheme	Construction	Y	N	N	All material required for the Scheme would be produced and available within the market, regardless of the construction of the Scheme. All new borrow pits required for the Scheme have been included in the Order Limits and have been assessed in Chapter 10 (Materials Assets and Waste) of

Potential Indirect Effect	Construction/ Operation	Is the effect likely to occur?	Does the effect have the potential to be significant?	Is the effect assessed in the Environmental Statement?	Commentary
					the Environmental Statement [APP-054]. Any facilities to be used for the purpose of the Scheme will be operating under the existing permitting conditions and no new direct or indirect effect pathways will be created as a result of the Scheme.
Off-site manufacture of products used in the Scheme.	Construction	Unknown	N	N	Due to the complexity of following the supply chain for manufactured products, there is not sufficient evidence to determine a link between the Scheme and this potential indirect effect. Therefore, it has not been assessed in line with the guidance in <i>Finch</i> .
Manufacture of construction machinery	Construction	N	N	N	The Scheme will not result in the manufacturing of construction machinery which would not otherwise be produced for other highways construction schemes in the United Kingdom. The Scheme is not anticipating to require any bespoke items of construction machinery to be utilised. It has been considered that the size of the Scheme is negligible compared to the market forces which drive the production of construction plant and equipment on a national level.
End of lifecycle for construction machinery used in the Scheme.	Construction	N	N	N	The construction period of the Scheme is such that construction plant used on the Scheme would still be in a serviceable condition for future use and would not be disposed of in a landfill.



Potential Indirect Effect	Construction/ Operation	Is the effect likely to occur?	Does the effect have the potential to be significant?	Is the effect assessed in the Environmental Statement?	Commentary
Increase in the production of vehicles	Operation	N	N	N	The Scheme is likely to result in the production of a negligible amount of additional vehicles.
Production and use of fuel (fossil, electric and hydrogen)	Operation	N	N	N	The Climate assessment, contained within Chapter 14 of the Environmental Statement [APP-058], included the emissions associated with road users. This assessment captures the emissions of the Scheme compared to the without Scheme scenario, including the emissions associated with the use of fossil fuels and electricity within the vehicles. This is based on the traffic assessment which indicates an increase in vehicle kilometres is anticipated, and as such increased fuel usage.  However, the increase in fuel use as a result of Scheme itself is considered to be negligible in the context of overall fuel demand in the United Kingdom and would not result in the need for additional fossil fuel extraction sites.
Increased production of municipal solid (domestic) waste as a result of construction workforce	Construction	Y	N	Y	Effects on waste management are assessed within section 10.11.24 in Chapter 10 (Material Assets and Waste) of the Environmental Statement [APP-054].
Greater wear and tear on vehicles due to vehicles travelling	Operation	N	N	N	The Scheme will not result in greater wear and tear on vehicles as it is creating an overall shorter route.

Potential Indirect Effect	Construction/ Operation	Is the effect likely to occur?	Does the effect have the potential to be significant?	Is the effect assessed in the Environmental Statement?	Commentary
greater distances					
Additional materials required for the construction of noise barriers.	Construction	N	N	N	The aggregates required for the Scheme has been assessed as part of Chapter 10 (Materials Assets and Waste) of the Environmental Statement [APP-054]. Materials required for the noise barriers would be negligible compared to the overall scale of aggregates used for the construction of the Scheme.
<b>Noise &amp; Vibration</b>					
Likely indirect effects are captured within Chapter 11 of the Environmental Statement [APP-055] and no additional indirect effects were identified in this review.					
<b>Population and Human Health</b>					
Temporary creation of jobs necessary to deliver the Scheme in the Wider Impact Area.	Construction	Y	Y	Y	This effect has been determined as Slight Beneficial and is described in Table 12-14 in Chapter 12 (Population and Human Health) of the Environmental Statement [REP3-011].
Effects of relocation/extinguishing existing occupiers	Construction/ Operation	N	N	N	The Scheme will not result in the permanent relocation or extinguishment of any existing occupiers.
Changes in modes of travel	Construction/ Operation	N	N	N	The Scheme is not likely to result in a significant alteration in the modes of travel used in the area.
Effects of Dependent Development	Construction/ Operation	N	N	N	It is not considered that any developments are dependent on the construction of the Scheme. Relevant local developments are included in the Uncertainty Log which

Potential Indirect Effect	Construction/ Operation	Is the effect likely to occur?	Does the effect have the potential to be significant?	Is the effect assessed in the Environmental Statement?	Commentary
					informs the developments to be included within traffic model for the Scheme.
Increased demand in the requirement for petrol filling station(s) or electric charging points.	Operation	N	N	N	There are three fuel filling stations located in the study area: Esso Petrol Station and Shell Garage located on either side of the A46 just to the east of the A1 interchange; and Jet Garage on Farndon Road to the north-east of Farndon Roundabout, approximately 250 metres to the east of the A46. Due to the presence of these existing facilities, it is not anticipated any additional requirement for petrol stations or electrical charging stations will be generated by the Scheme.
<b>Road Drainage and the Water Environment</b>					
Increased use of water resources as a result of construction workforce.	Construction	N	N	N	The approximate maximum size of the construction workforce is set out in section 2.6.272 of Chapter 2 (The Scheme) of the Environmental Statement [APP-046]. At peak, it is estimated that 450 staff will be on site per day, split between office-based staff (approximately 110) and the onsite workforce (approximately 340).  It is anticipated that the construction workforce will result in a negligible increase in use of water resources.  Additionally, local workforces will be utilised where possible, further minimising the potential of this effect.
Increased production	Construction	N	N	N	The approximate maximum size of the

Potential Indirect Effect	Construction/ Operation	Is the effect likely to occur?	Does the effect have the potential to be significant?	Is the effect assessed in the Environmental Statement?	Commentary
of domestic wastewater as a result of construction workforce					<p>construction workforce is set out in section 2.6.272 of Chapter 2 (The Scheme) of the Environmental Statement [APP-046]. At peak, it is estimated that 450 staff will be on site per day, split between office-based staff (approximately 110) and the onsite workforce (approximately 340).</p> <p>It is anticipated that the construction workforce will result in a negligible increase in waste and wastewater production.</p> <p>Additionally, local workforces will be utilised where possible, further minimising the potential of this effect.</p>
<b>Carbon</b>					
Decommissioning of assets associated with the Scheme	Operation	N	N	N	<p>The carbon assessment within Chapter 14 (Climate) of the Environmental Statement [APP-058] considers the whole life carbon emissions through construction and operation of the Scheme. Construction includes emissions from materials, construction plant and transport to/from site. Operation includes emissions from road users, energy requirements, renewal and maintenance, and land use change (changes to habitat in line with Biodiversity Net Gain and landscape design). As per DMRB LA 114 decommissioning is excluded from the assessment due to the length of the asset operational phase.</p>
Unplanned repair and maintenance	Operation	N	N	N	<p>Due to the unplanned nature of these activities, prediction of the likelihood of this</p>

<b>Potential Indirect Effect</b>	<b>Construction/ Operation</b>	<b>Is the effect likely to occur?</b>	<b>Does the effect have the potential to be significant?</b>	<b>Is the effect assessed in the Environmental Statement?</b>	<b>Commentary</b>
activities					effect was deemed impossible to predict and therefore not considered to be likely.

## 1.2 References

- <sup>1</sup> Statutory Instrument (2017) The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, No. 527.
- <sup>2</sup> Standard for Highways (2020) Design Manual for Roads and Bridges, LA103 'Scoping projects for Environmental assessment'.
- <sup>3</sup> Standard for Highways (2020) Design Manual for Roads and Bridges, LA104 'Environmental assessment and monitoring'.
- <sup>4</sup> The Planning Inspectorate (2020) Advice Note Seven: Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements [online] available at: [Nationally Significant Infrastructure Projects - Advice Note Seven: Environmental Impact Assessment: process, preliminary environmental information and environmental statements - GOV.UK](#) (last accessed November 2024).