

A46 Newark Bypass

TR010065

Applicant's Summary of the Issue Specific Hearing 1 (ISH1)

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Infrastructure Planning (Examination Procedure)
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A46 Newark Bypass

Development Consent Order 202[]

Applicant's Summary of the Issue Specific Hearing 1

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Issue Specific Hearing 1: Draft Development Consent Order – 3 December 2024

Applicant's responses to Representations made at Issue Specific Hearing 1 (ISH1) held on Tuesday 3 December 2024 at 14:00

1.1 INTRODUCTION

The ISH1 for the A46 Newark Bypass Scheme (DCO) application was held at The Great Hall, The Renaissance at Kelham Hall, Main Street, Newark NG23 5QX on Tuesday 3 2024, commencing at 14:00. Participation was possible virtually on Microsoft Teams as well as by attendance in person.

This document summarises the responses made at ISH1 by the Applicant and addresses the representations made by Affected Parties, Interested Parties and other parties attending.

The Applicant has responded to the topics raised by each of the attending parties in the sequence that the Examining Authority (ExA) invited them to speak. It provides cross references to the relevant application or examination documents in the text below.

The following action points arising from ISH1 were noted by the ExA:

1. The Applicant to update the Explanatory Memorandum to provide further justification for the limits of deviation.
2. The Applicant to ensure that the Pre-commencement plan accords with the mitigation documents listed in Requirement 3 which includes the soil management plan and the outline transport management plan.
3. The Applicant to provide a detailed sign posting document for Pre-commencement Plan to capture relevant post commencement plans.
4. The Applicant to update Statements of Common Ground to include reference to the Pre-commencement Plan.
5. The Applicant and NSDC to review working hours and activities that can commence within first 30 minutes.
6. The Applicant to consider the necessity for appropriate trigger, whether design should be in accordance with detailed plans and whether any detailed plans should be subject to approval by SoS and to provide further justification on the wording of this Requirement.
7. The Applicant to update the Consents and Agreements Position Statement

The Applicant's response to each action point is detailed at Appendix 1

1.2 POST-HEARING SUBMISSIONS IN RESPONSES TO MATTERS RAISED AT ISH1

Ref	Comment /Representation by:	Questions/Issues Raised at the ISH1	Applicant's written summaries of oral submissions at ISH1
Agenda Item 1: Welcome, introductions and arrangements for the Hearing			
1.1	Applicant	Introductions	<p>The Applicant was represented by the following individuals:</p> <p>Lorrae Hendry – Partner at Womble Bond Dickinson (UK) LLP and legal advisor to the Applicant</p> <p>Emma Harling-Phillips – Partner at Womble Bond Dickinson (UK) LLP and legal advisor to the Applicant</p> <p>Mark Sutton – Project Technical Director at Skanska, delivery partner to the Applicant</p>
<i>Other appearances</i>			
1.2	Paul Arnett – Partner at Town Legal and Lynsey Preston on behalf Newark and Sherwood District Council (NSDC), who wished to speak on most of the agenda items.		
1.3	Jaspreet Lyall of Counsel, Kevin Sharman and Dee Johal on behalf of Nottinghamshire County Council (NCC), who wished to speak on Agenda Items 3, 6 and 7.		
1.4	Simon Tucker, Sophie Summers and Paul Gaughan on behalf of Canal and River Trust (CRT) who wished to speak specifically on Agenda Item 3, Art 58.		
Agenda Item 2: Purpose of the ISH and ExA Opening remarks			
2.1	The ExA explained the purpose of this ISH1 is to explore the drafting of the draft DCO [REP3-003] and associated matters, noting that if the SoS decides to grant development consent, the draft DCO forms the legal basis for the development, setting and securing the standards and environmental performance.		

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<p>The ISH1 is without prejudice and the ExA reminded parties that even if their position is that development consent should not be granted, they can make comments on the drafting of the draft DCO without conceding their wider objection. This ISH1 will not cover issues relating to compulsory acquisition as these points are being dealt with separately.</p> <p>The ExA are under a duty to provide the SoS with a best drafted DCO even if it recommends that development consent is not granted. The ExA previously issued their first round of written questions and received responses from the Applicant and other parties at Deadline 2. Further responses to those responses to questions have also been submitted into the examination at Deadline 3 and the ExA will have regard to those responses. To avoid duplication, the ExA asked that parties cross refer to those submissions where they believe an issue has already been dealt with.</p> <p>The ExA asked that each party who make oral representation at this ISH1, submit a written summary of their submissions for Deadline 4.</p>			
<p>Agenda Item 3: Articles</p>			
<p>3.1 3(a) - Article 2 – Definitions</p>			
<p>3.1.1</p>	<p>ExA</p>	<p>The ExA asked whether the definition of relevant planning authority was sufficiently clear in the context of the requirements 3, 4, 5 etc.</p> <p>The ExA noted that NCC suggested that the Applicant needed to define Local Highway Authority and answer to Q6.2.21 is this not</p>	<p>It is the Applicant's submission that the definition of 'relevant planning authority' in Article 2 of the draft Development Consent Order [REP3-003], as drafted, is sufficiently clear.</p> <p>The definition of 'relevant planning authority' is included in Article 2 of the dDCO [REP3-003] to mean, in any given provision of this Order, the local planning authority for the land to which the provision relates. There is precedent in the A47 Wansford to Sutton DCO from 2023. The effect is that, in relation to requirements 3, 4 and 5 etc. where you have the possibility that the subject matter is being consulted on might be relevant to the planning interest of NDSC or NCC. The Applicant is trying to demonstrate that, to the extent that the authorities' planning functions are relevant, they will be consulted on. The approach taken does vary across different DCOs that have been granted consent.</p>

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		already in definition in Article 2?	
3.1.2	NSDC	<p>NSDC does not have a strong objection to the Applicant's position but requests that the Applicant makes it clear as to which planning authority is referred to and be as specific as possible.</p> <p>NSDC noted that there are differing approaches across different DCOs and some name the particular planning authority but acknowledges that it is for the ExA to decide whether the Article as drafted is sufficiently clear.</p>	
3.1.3	NCC	NCC agreed with the ExA and accepts that Article 2 in defining 'local highway authority' is adequately defined as drafted.	
3.1.4	ExA	The ExA asked the Applicant whether it could look at adopting	The Applicant confirmed that it would review the current definition of 'relevant planning authority' and consider whether it would be appropriate to expressly refer to the fact that this means that of the possible local planning authorities (i.e. NSDC and NCC) the 'relevant' one for the specific

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		<p>more specific drafting in the requirements</p>	<p>purpose in the context of where it is used will be determined by reference to their individual planning functions.</p> <p>Relevantly the planning functions that would fall to NCC are education, transport planning, mineral extraction and waste management.</p> <p>While all other planning matters would be within the remit of NSDC.</p> <p>As an example, if the term 'relevant planning authority' is used in a requirement to do with landscaping, NCC would be consulted on the landscaping scheme to the extent that it could impact their planning functions, e.g. transport planning and NSDC would be consulted in their role as local planning authority.</p> <p>With this in mind, the Applicant has now reviewed this position and amended the definition of relevant planning authority' as follows:</p> <p>"relevant planning authority" means in any given provision of this Order, the local planning authority for the land to which the provision relates either one or both Newark and Sherwood District Council or Nottinghamshire County Council to the extent relevant to their planning functions;</p> <p>It is the Applicant's respectful submission that each authority is aware of the remit of its planning functions and therefore should be in a position to anticipate which of the elements of the Order are relevant to them.</p> <p>The updated wording for this definition will be included in the draft DCO [REP3-003] to be submitted into the Examination at Deadline 4.</p>
3.2	3(b) - Article 3 – Disapplication of legislative provisions		
3.2.1	ExA	<p>In relation to Article 3(4), the ExA asked why is it necessary to disapply NCC's permit</p>	<p>In relation to the disapplication of the Nottinghamshire County Council Permit Scheme Order 2020 (NCC Permit Scheme), the Applicant acknowledges that NCC have to comply with its network management duty under the Traffic Management Act 2004 and it is the Applicant's submission that as the New Roads and Streets Works Act 1991 ('the 1991 Act') notice provisions will apply,</p>

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		<p>scheme? NCC have stated that the Applicant already use the permit scheme.</p>	<p>and therefore NCC will still be able to comply with this duty. The Applicant is seeking to disapply NCC's permit scheme on the basis it appears to be designed for more specific ad hoc controls, e.g. smaller one-off developments. The construction of the Scheme is to run for a number of years with a significant amount of traffic management controls being required throughout that time. The administrative burden for both NCC and the Applicant associated with applying for a permit at each instance is disproportionate given the other controls that are set out within the draft DCO and within the application control documents, for example the Outline Traffic Management Plan (OTMP) [REP3-026] which will form the basis for the Traffic Management Plan in accordance with Requirement 11 of the draft DCO [REP3-003].</p> <p>The Applicant referred to a number of Articles within the draft DCO [REP3-003] including:</p> <ul style="list-style-type: none"> • Article 13 which refers to the 1991 Act and disapplies some of those provisions whilst making it clear that the rest of the 1991 Act still applies; • Article 18, which requires permission prior to commencement of works on streets; and • Article 22 which sets out consent and notice requirements in relation to street works. <p>The OTMP [REP3-026], which as noted above will form the basis of the Traffic Management Plan in accordance with Requirement 11 of the draft DCO [REP3-003] also sets out commitments which must be complied with including communicating with the local highway authority for traffic management, sharing information, active consultation and traffic management for road closures.</p> <p>The Applicant appreciates NCC's duty and seeks to work together with NCC to agree with a range of controls which are more proportionate and that would work for both parties, if the controls in the draft DCO [REP3-003] are not considered sufficient. This could be dealt with in the Statement of Common Ground (SoCG) process.</p>
3.2.2	ExA	<p>The ExA sought to understand whether any changes are proposed to disapply</p>	<p>The Applicant is not seeking protective provisions with the EA as the Applicant is not seeking to disapply the flood risk activity permitting regime. Appendix A of the Consents and Position Statement (CAPS) [REP2-006] will be updated at Deadline 4 to make this clearer.</p>

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		<p>any other legislation including in respect of Environment Agency (EA) matters and whether this may require Protective Provisions for the EA.</p>	
3.2.3	NCC	<p>NCC acknowledged that the Traffic Management Plan will manage the interaction, but it is NCC's position that it has a statutory duty to manage traffic on its network. The NCC Permit Scheme that is used ensures this statutory duty is being met. NCC also need to be consistent in relation to other planning applications where the NCC Permit Scheme applies. NCC's position is that the A46 Scheme should still be subject to the NCC Permit Scheme</p>	

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		although it is a large scheme.	
3.2.4	NCC	It is NCC's position that the administrative requirements would not be too fundamentally onerous on the basis that the Applicant already uses the software used for the NCC Permit Scheme.	It is the Applicant's position that while it may already use the software under the NCC Permitting Scheme for some of its works this is not a reason alone for requiring the Applicant to continue using it in the context of this much more complicated and longer running project. The Applicant shall review the requirements presented by NCC in the hearing and respond via the SoCG.
3.2.5	ExA	The ExA confirmed that it cannot resolve this issue but encouraged the parties to enter into discussions to resolve these points. .	
3.2.6	ExA	The ExA sought to understand whether any changes are proposed to disapply any other legislation including in respect of EA matters and whether this may require Protective Provisions for the EA.	The Applicant is not seeking protective provisions with the EA as the Applicant is not seeking to disapply the flood risk activity permitting regime. Appendix A of the CAPS [REP2-006] will be updated at Deadline 4 to make this clearer.
3.2.7	ExA	The ExA noted that the Explanatory Memorandum (EM)	The Applicant confirmed that it does not intend to disapply anything further at this stage and will update the CAPS [REP2-006] and EM [REP3-005] for Deadline 4 to make this clear.

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		<p>indicates that there may more disapplication's and sought clarification from the Application on this.</p>	
3.3	3(10) - Article 10 – Limits of Deviation		
3.3.1	ExA	<p>The ExA noted that NSDC raised concerns that other approved road schemes have not always specified additional or more generous limits of deviation for certain features, and the EM [REP3-005] in this case has not stated reasons for these additional and more generous limits of deviation for these works. Their concern derives from the sensitive landscape and heritage receptors around Cattle Market roundabout and Winthorpe.</p>	<p>The Applicant confirmed that, as noted by NSDC, in accordance with Article 10 of the draft DCO [REP3-003] all works authorised by the draft DCO [REP3-003] except Work Numbers 33, 34, 36, 51 and 52 have a vertical limit of deviation of 1m upwards and 1m downwards.</p> <p>Work Numbers 33, 34, 36, 51 and 52 each have a limit of deviation restricted to 1m upwards, but the Applicant has sought additional flexibility in relation to the ability to reduce the height of these Works. Each of the Work Numbers listed relate to works at Cattle Market Junction and it is the Applicant's expectation that through detailed design it will be able to reduce the height of these Works which would have the potential to reduce the impact of these structures on local visual receptors, landscape character and nearby heritage assets.</p> <p>The Applicant noted that limits of variation differ across other DCOs due to the different environmental constraints that are specific in each scheme. There is precedent for this greater flexibility, including in The A303 (Amesbury to Berwick Down) Development Consent Order 2023 (the A303), where a complex set of limits of deviation was provided for with specific limits applying to different types of works. The Applicant notes that A303 and A428 Black Cat to Caxton Gibbet Road Improvement Development Consent Order 2023 (the A428) is precedent for upwards and downwards limits of deviation starting at 1m. The Applicant further noted that the environmental impact assessment is based on the worst case scenario and does reflect the full extent of the specific limits of deviation as set out in the draft DCO [REP3-003].</p> <p>The Applicant confirmed that, where it is possible to do so, the Applicant will take advantage of new information during detailed design to reduce the height wherever it can. However, the Applicant is unable to confirm whether this is possible with certainty this at this stage due to the</p>

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		<p>The ExA asked the Applicant to confirm its position and whether these are necessary or whether they can be reviewed/ restricted.</p> <p>The ExA asked the Applicant whether further justification could be added to the EM?</p>	<p>nature of the process and the potential for unexpected consequences that would only become apparent at the end of the detailed design process.</p> <p>The Applicant will provide further justification for current limits of deviation sought for the Scheme within the EM [REP3-005] and will submit that at Deadline 4 into the Examination.</p>
3.3.2	NSDC	NSDC requests that the highway authority is also included as a consultee in relation to Article 10(2).	<p>The Applicant agreed to respond in writing to NSDC's request to be a named consultee in relation to Article 10(2).</p> <p>The Applicant can now confirm that the draft DCO [REP3-003] has been updated to include the local highway authority as a consultee in relation to limits of deviation in Article 10 and this update will be submitted to the Examination at Deadline 4.</p>
3.3.3	NSDC	NSDC referred to a possible typographical error. NSDC asserted that this should state "local highway authority certified to the SoS's satisfaction" in Article 10(2).	The Applicant notes the typographical error and will make the necessary amendments to the draft DCO [REP3-003] and submit the amended document to the Examination at Deadline 4.
3.3.4	NSDC	NSDC asserted its position that the vertical	

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		<p>limits of deviation appear onerous and too wide, noting they are wider than other recently made DCOs such as The M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022 which had a limit of 0.5m. NSDC's principal concern relates to the upwards deviation (which is currently 1m) and any increased height would aggravate the assessment.</p> <p>NSDC assert that if the height can be reduced, it should be given the sensitivity of the receptors and this should be reflected in the drawings</p>	
3.3.5	ExA		<p>The ExA reminded NCC that the Applicant has, in Applicant's Comments to Responses to ExQ1 [REP3-037], said that there may be opportunities to reduce the height and therefore reduce the impact and this is within the current limits of deviation. The assessments within the Environmental Statement (ES) are based on the worst case scenario and the impacts are assessed against the more significant deviations. The ExA explained to NCC that the Applicant would not be</p>

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			able to reduce the height currently as they are not in the detailed design phase, the Applicant is therefore keeping their options open to allow them to reduce the height if possible in the future.
3.3.6	ExA	The ExA asked the Applicant to update the EM [REP3-005] to provide further justification for the flexibility of the limits of deviation.	The Applicant confirmed that it will update the EM [REP3-005] and submit it to the Examination at Deadline 4 as requested by the ExA.
3.4	3(d) - Article 52 – Crown Rights		
3.4.1	ExA	The ExA sought an update on issues relating to Crown Rights under Article 52 and for clarity as to the necessity for crown land. The ExA noted that Crown Consent is a lengthy process and sought confirmation from the Applicant as to a progress update. The ExA reminded the Applicant that this needs to be concluded by the end of examination and ideally	<p>The Applicant confirmed that there is one plot (Plot 2/6a as shown on the Land Plans [AS-004] classified as Crown Land. This plot was owned by AF Budge which has now dissolved. As a result, the land vests in Crown as Bona Vacantia. The Applicant has approached the Crown's solicitors to understand what this means.</p> <p>The land is currently operational highway land and the Applicant is therefore also looking to register the land under an adverse possession claim and is pursuing this with HM Land Registry.</p> <p>The Applicant's approach has two elements which are running concurrently. If these avenues are unsuccessful, the Applicant will seek Crown Consent under section 135 of the Planning Act 2008.</p> <p>The Applicant acknowledges the ExA's need for conclusion by the end of the Examination and is hopeful that this will be achieved.</p>

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		before the ExA issues their version of the draft DCO.	
3.5	3(e) - Article 58 – Temporary suspension of navigation		
3.5.1	ExA	The ExA requested an update on the suspension of navigation and discussions with Canal and River Trust (CRT).	<p>The Applicant confirmed that revised wording of Article 58 has been agreed with CRT and will be included in the amended draft DCO [REP3-003] at Deadline 4.</p> <p>The discussions with CRT in relation to the Protective Provisions (PPs) are ongoing and are going very well. A meeting was held between the parties on Thursday 28 October 2024 and the parties are now close to agreement. There are a few final points which need to be finalised before the PPs can be in agreed form.</p>
3.5.2	CRT	CRT confirmed that there have been positive discussions between the parties. CRT have confirmed the new and revised wording to Article 58 and negotiations are well advanced in respect of PPs. Once these are incorporated in the draft DCO at Deadline 4, CRT will confirm in writing that this has been agreed.	<p>The Applicant to provide clarity in its written response.</p> <p>The Applicant's valuer has had two meetings with the Canal and River Trust (CRT) with the latter being an onsite meeting on the 27 November 2024 together with members of the construction team. As a result of these discussions the applicant has taken the opportunity to reduce the permanent land to be acquired by agreement. Plans have been exchanged between the parties which will now enable specific land plans to be drawn up for the acquisition by agreement as well as the lesser rights required. Once these amended plans have been drawn up a further meeting will be arranged between the parties for the new year.</p> <p>It is our intention to reach agreement before the end of the examination period.</p>

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		<p>CRT noted that land negotiations are going well however it would maintain its objection to the Applicant's use of compulsory acquisition powers under the DCO. CRT would expect the land agreements to be sufficiently progressed so that the Applicant would not need those powers.</p>	
Agenda Item 4: Requirements			
4.1	4(a) - Requirement 3		
4.1.1	ExA	<p>The ExA asked the Applicant whether parts (j) and (t) of Requirement 3 are duplication.</p>	<p>The Applicant confirmed that parts (j) and (t) of Requirement 3 are not duplication. Part (j) refers to the Invasive Non-Native Species Management Plan and Bio-Security Risk Assessment and Part (t) refers to Invasive Non-Native Species Method Statement. These are two separate documents which serve different purposes.</p> <p>The Invasive Non-Native Species Management Plan and Biosecurity Risk Assessment provides the strategy to manage INNS, including factors influencing management, a summary of site survey results, the scope, outcomes, timeline and frequency of reviews (updated as appropriate and necessary), biosecurity measures, including identifying procedures required for taking contaminated soil off site and record contamination/spread/non-compliance issues</p> <p>The Invasive Non-Native Species Method Statement details how to undertake the work safely and ensuring legal standards are met and site personnel are aware of and adhere to best practice.</p>

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			<p>Paragraph 8.10.27 of ES Chapter 8 [APP-052] suggests that the INNS Method Statement is part of the INNS Management Plan and Biosecurity Risk Assessment. As such, the Applicant will update Part (j) for Deadline 4 to read: "<i>(j) Invasive Non-Native Species Management Plan and Bio-Security Risk Assessment, including an Invasive Non-Native Species Method Statement</i>".</p>
4.1.2	ExA	<p>The ExA asked the Applicant whether requirement 3 needs to be amended to reflect the request from Natural England (NE) with regard to the Soil Management Plan (SMP) being adopted in relation to pre-commencement activities (as there may be possible impacts related to soil handling and soil resources during this phase of works) or, alternatively, whether the pre-commencement works secured through Requirement 17 need to be expanded to reference the SMP.</p>	<p>At Deadline 3 an updated First Iteration Environmental Management Plan (FIEMP) [REP3-022] was submitted, which included at GS1 that "<i>The SMP will be developed, implemented and based on the OSMP provided in Appendix B.3 of this First Iteration. The soil management plan will be implemented for all soil handling activities, including pre-commencement activities.</i>"</p> <p>However, in considering this matter again, the Applicant notes that this is not the correct mechanism for securing soil management in relation to the pre-commencement works, as Requirement 3, which secures the Second Iteration Environmental Management Plan (EMP) does not relate to pre-commencement. As such, this wording has now been removed from the FIEMP.</p> <p>Instead, it is Requirement 17 (Pre-commencement works) of the draft DCO [REP3-003] which applies, which provides that "<i>any pre-commencement works must be carried out in accordance with the pre-commencement plan.</i>" The Pre-Commencement Plan (PCP) was submitted with the Application [APP-188]. This has a 'general mitigation' section that relates to soil handling at paragraphs 3.1.57-3.1.65: general soil mitigation measures. There are also mitigation measures that relate to specific works contained in section 2 of the plan that are also relevant to soil management.</p> <p>Currently the PCP [APP-188] does not include all of the measures proposed in the SMP such that they apply to the pre-commencement works. The Applicant therefore proposes to update the PCP [APP-188] to include the measures that NE wish to see apply to the pre-commencement activities. This will be submitted to the Examination at Deadline 4.</p> <p>The list of pre-commencement works in article 2(1) of the draft DCO [REP3-003] already refer at (i) to environmental mitigation and therefore no change is required to specifically refer to soil management.</p>

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4.1.3	ExA	The ExA asked the Applicant whether NE is satisfied with the Applicant's proposals	The Applicant confirmed that it is in dialogue with NE regarding the SoCG and will be informing NE of the new proposals as part of their discussions. The Applicant was hopeful they could present an agreed position on this matter with NE at Deadline 4 in the form of an agreed SoCG.
4.1.4	ExA	The ExA asked whether it could happen that when discharging the SIEMP under requirement 3, the SMP was amended and therefore became out of step with the pre-commencement undertakings?	The Applicant explained that the SMP, as part of the First Iteration and Second Iteration EMP, relates to the main works – the authorised development - not the pre-commencement works and it may be that different mitigation measures need to apply because of the nature of the pre-commencement works. The PCP [APP-188] will have the detailed mitigation measures in relation to soil management for those works which will then not be influenced by the SMP as part of the First Iteration and Second Iteration EMP. As such the two are separate documents intended to have separate provisions specific to the works they apply to.
4.1.5	ExA	The ExA queried whether all Interested Parties will have sufficient opportunity to comment on the pre-commencement plan.	<p>The Applicant's approach has been explained in the ES, the PCP [APP-188] was provided as part of the Application, the approach to pre-commencement is provided for within the draft DCO [REP3-003] and it has been an agenda item for this IHS1. Therefore, the Applicant is confident that anyone that needs to comment are able to do so.</p> <p>The Applicant agreed to (i) produce a signposting document for the PCP [APP-188]; and (ii) add a line to all SoCGs confirming the Interested Party's view on the pre-commencement plan. The Applicant will endeavour to do this by Deadline 4. If that is not possible it will be submitted at Deadline 5. The Applicant is confident that, in addition to the PCP [APP-188] being an Application document, this will provide all Interested Parties with sufficient opportunity to comment.</p>
4.1.6	ExA	The ExA noted that (i) vehicles will be involved in the pre-commencement plan;	The Applicant clarified that measures regarding re-routing can be found in paragraphs 2.17 – 2.12; 2.2.14 - 2.2.25; 2.3.13 – 2.3.22; 2.4.15 – 2.4.31; 2.4.43 – 2.4.53; and 2.4.58 – 2.4.71 (Specific Mitigation Measures) of the PCP [APP-188]. The PCP [APP-188] is a final, detailed plan and as such it is not subject to later consultation or approval. Unlike the OTMP [REP3-026], the

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		<p>(ii) re-routing is dealt with in the OTMP [REP3-026]; and (iii) the OTMP only comes into effect post-commencement.</p> <p>In light of this, the ExA queried how re-routing will be controlled in the pre-commencement phase.</p>	<p>PCP provides detailed mitigation measures that apply to the pre-commencement works so that those measures can be consulted upon now and allow the pre-commencement works to be started without delay. It is not the case that parties would need to look to later plans such as the OTMP [REP3-026]. To the extent that measures within the OTMP [REP3-026], for example, are relevant to the pre-commencement works, they are already provided for in the PCP [APP-188] both in the general mitigation at Section 3 (paragraphs 3.1.1 -3.1.109) and the measures which are provided in Section 2 (paragraphs 2.1.1 – 2.4.71) of that plan that relate to specific works</p> <p>As this pre-commencement plan was provided for in the Application documents, the Applicant is confident that all Interested Parties will have sufficient opportunity to comment on these re-routing measures.</p>
4.1.7	ExA	<p>The ExA asked the Applicant to direct them to the paragraphs in the PCP that cover anything controlled post-commencement.</p>	<p>The Applicant agreed it would prepare and submit a detailed signposting document for the PCP [APP-188]. The Applicant will endeavour to do this by Deadline 4. If that is not possible it will be submitted at Deadline 5.</p>
4.1.8	NSDC	<p>NSDC queried why the scope of the management plan and method statements in the PCP [APP-188] did not refer to construction site artificial lighting.</p>	<p>The Applicant can confirm that construction lighting is included in section 3.1.44 of the PCP [APP-188].</p>
4.1.9	NSDC	<p>NSDC confirmed that it will await further</p>	<p>The Applicant directed NSDC to the Applicant's Responses to the Examining Authority's First Written Questions (ExQ1) [REP2-037] which addresses NSDC's drafting concerns and explain why the drafting is in the terms provided in order to allow for flexibility. Flexibility is justified in this</p>

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		<p>detailed of the later iteration of the PCP.</p> <p>NSDC noted its concern about how vague the drafting is, in terms of scope and the methods described being indicative.</p> <p>NSDC suggested changing the drafting of Requirement 3(1) in the draft DCO [REP3-003] from “substantially in accordance with” to “in accordance with”.</p> <p>In relation to Requirement 3(2) of the draft DCO [REP3-003], NSDC noted that “must reflect mitigation measures” is open wording, and suggested this be amended to “must accord with mitigation measures” with a more substantive scope of management</p>	<p>case as like any major infrastructure project proceeding through consenting, detailed design has yet to be undertaken and as such, some detailed design-related environmental surveys would still need to be undertaken (e.g. protected species confirmation surveys). As a result, some measures identified in the FIEMP [REP3-022] may not be necessary or may require revision (e.g. if surveys for bats found the presence of a previously unidentified roost) at the time that the Second Iteration EMP is being prepared. This wording therefore provides a way for updates to be made if necessary. Equally some provisions of the FIEMP [REP3-022] may need to be made more specific to the circumstances of the detailed design to effectively deliver the mitigation that they are designed to achieve. The Environmental Management Plan, like any Code of Construction Practice or similar document, is designed to be a living document that is central to the mitigation of environmental effects of the Scheme. To be effective it must be flexible enough to ensure clarity for contractors in how it applies to the detailed design while at the same time delivering the mitigation that it is designed to achieve.</p>

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		plan and method statements.	
4.2	4(b) Requirement 5 – Construction Work		
4.2.1	ExA	<p>The ExA asked NSDC to clarify its objection to the Applicant's proposed construction hours. NSDC's standard construction hours are 07:30-18:00 Monday to Friday and 08:00-13:00 on Saturdays.</p> <p>Requirement 5 currently identifies construction to take place between 07:00-18:00 Monday to Friday and 07:00-13:00 on Saturdays.</p>	No response required from the Applicant.
4.2.2	NSDC	<p>NSDC confirmed that the Applicant's proposed construction hours are outside NSDC's standard construction hours which are applied to all developments</p>	<p>The Applicant explained that due to the scale of the Scheme and its status as a Nationally Significant Infrastructure Project (NSIP), amending the construction hours in accordance with NSDC's request could have significant programme implications, which could in turn result in costs increases and delay the delivery of a nationally important project. The reduction in hours requested by NSDC amounts to 3.5 hours a week or 182 hours a year – the equivalent of 16.5 days lost every year of construction.</p> <p>Whilst the Applicant recognises that the Southern Link Road is complying with NSDC's standard hours, it is important to note the context of that Scheme, which features properties along Grange</p>

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		<p>generally. It is NSDC's position that the Applicant's construction hours are too early, specifically on Saturdays. NSDC propose the construction hours are amended to start at 07:30 Monday to Friday and 08:00 on Saturdays.</p> <p>NSDC acknowledged that the Scheme is substantial but referred to the Southern Link Road (a single carriageway linking A1 to the A46) scheme as evidence of another large scheme that complies with NSDC's standard construction hours and requests NSDC's prior written agreement if and when the Applicant needs any flexibility in terms of the construction hours.</p>	<p>Road and other properties at the southern end of Newark. As such, the entire extent of the development area is adjacent to sensitive residential receptors, which is not the case for the A46 Scheme. There are also no landscape barriers i.e. trees, buildings or bunds that block the Southern Link Road development from these receptors. In contrast, the majority of the A46 Newark Bypass is on the northern side of the existing highway embankment and A46 highway.</p>

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4.2.3	ExA	The ExA asked the Applicant whether it has made an assessment as to whether the construction hours in accordance with NSDC's request would have an impact on the programme of the scheme.	The Applicant will confirm in writing whether a formal assessment has been carried out but asserts that a reduction of 3.5 hours per week in construction would have a significant impact on a scheme of this size.
4.2.4	NSDC	NSDC raised a concern that the list of essential activities which can be carried out outside of the specified construction times under Requirement 5(2)(k) is broad which could potentially allow construction at different times due to poor scheduling.	In relation to Requirement 5(2)(k) and the continuous period of operation, the Applicant confirmed that the drafting is not intended to overcome construction delays for things such as poor scheduling. This drafting has been included to cover situations where delays occur due to unforeseen circumstances, causing specific tasks to overrun which cannot stop and continue the next day, for example a road traffic collision causing delays to a concrete pouring operation.
4.2.5	ExA	The ExA asked the Applicant to consider whether tighter wording could be used for Requirement 5(2)(k) to	<p>Since the hearing, the Applicant has been in discussions with NSDC regarding the proposed construction hours. The Applicant has clarified that the activities permitted during the 30 minute 'start-up' time at the beginning of the day, referenced in the Applicant's previous response NSDC's LIR [REP2-018], would include:</p> <ul style="list-style-type: none"> • Staff and workforce personnel arriving to the main offices and satellite offices.

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		<p>reflect its intention as explained.</p>	<ul style="list-style-type: none"> • Activities associated with personnel welfare and safety, including washing, changing into PPE. • Activity briefings, safety briefings, including toolbox talks. <p>The Applicant wishes to maintain the option for office staff and the construction workforce to be able to start to access the offices and satellite offices from 07:00 to allow these activities to commence. In some cases, staff will be working flexible working hours, and the Applicant would wish to continue to offer this during the delivery of the Scheme.</p> <p>Notwithstanding the activities listed in a) to l) in paragraph 2 of Requirement 5 of the Draft DCO [REP3-003], the Applicant has already agreed to prohibit the following activities between the hours of 07:00 and 07:30:</p> <ul style="list-style-type: none"> • Start up or use of construction plant • Loading and unloading of construction vehicles • Material deliveries <p>Once the Applicant has reached agreement on these matters with NSDC it will update Requirement 5 in the draft DCO to reflect that agreement, which will also be captured in the Applicant's SoCG with NSDC.</p> <p>However, at Deadline 4, the Applicant has amended the construction hours in Requirement 5 of the draft DCO as follows to change the working hours on a Saturday from 07:00-13:00 to 08:00 to 14:00:</p> <p><i>“Construction work for the authorised development must only take place between 0700 hours and 1800 hours Monday to Friday, and 0800 hours to 1400 hours on Saturdays, with no activity on Sundays or bank holidays, except as specified in paragraphs (2), (3) and (4).”</i></p>

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			This change to Requirement 5 has been agreed with NSDC.
4.2.6	NSDC	NSDC requested the insertion of prior written consent in relation to requirements 5(2) and 5(3) as opposed to consultation only.	<p>The Applicant does not consider it appropriate for some of the activities listed under Requirement 5(2) to be subject to the approval of the Relevant Planning Authority. Several of these activities do not generate noise and/or amount to regular out of hours activities. For example: (2)(a) traffic management measures and signal changes, (2)(i) security, (2)(j) maintenance of plant and equipment that require 24hr operation such as dewatering pumps and (2)(l) environmental and engineering surveys.</p> <p>In addition, some of the required works may need to be undertaken urgently. These works should not (and cannot practically) be subject to the need to provide written consent. For example (2)(a) traffic management measures and signal changes and (2)(h) any emergency works or operations required for safe working. For example, if there is a lorry fire within the traffic management at midnight and the road requires repair, it will be actioned and appropriate traffic management deployed. For the reasons given above, the Applicant also does not consider appropriate that consent should be sought in relation to (2)(k) completion of activities already begun which require continuous periods of operation, such as completing concrete pouring.</p> <p>However, in relation to the following activities listed at Requirement 5(2), the Applicant has amended the draft DCO to require the approval of the Relevant Planning Authority:</p> <ul style="list-style-type: none"> (b) bridge installation works to the new bridge structures; (c) removal of the existing signal gantries and the installation of new gantry structures; (d) highway tie-in works and installation of temporary and permanent road markings; (e) installation of signs and streetlights adjacent to live carriageways; (f) abnormal load deliveries or deliveries where daytime working would be excessively disruptive to normal traffic operation, including the delivery of plant;

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			(g) construction of the Nether Lock Rail bridge and the works over the Nottingham to Lincoln line.
4.2.7	NSDC	NSDC explained that Requirement 5(4) as currently drafted requires consent but there are no time limits associated with this. NSDC asked for reasonable time limits to be inserted and suggested the inclusion of a 28 day period to allow NSDC to consider and provide consent if required.	In relation to the activities proposed to require consent under Requirement 5 the Applicant proposes that 14 days is an appropriate timeframe for consent to be given, as this accords with experience when submitting amended Section 61 agreements to Local Authorities and will ensure that critical works are not delayed.
4.3	Requirement 6: Landscaping		
4.3.1	ExA	The ExA queried whether there was sufficient clarity in terms of what is meant by 'no part' and 'that part' at this point in the Scheme.	The reason that Requirement 6 refers to approval in parts is so that parts can be commenced, if necessary, before all the other scheme details are finalised and to ensure that commencement is not delayed in one area of the Scheme if there are approval issues in another, preventing unnecessary delay to the Scheme. "Part" was introduced into the Requirements by developers to act as a mitigation measure. It ensures commencement is not delayed in one area of the scheme if there are consenting/requirement issues in another.

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			<p>When a particular written scheme/plan is submitted to the relevant body for consultation and the Secretary of State (SoS) for approval, it will make clear what part of the Scheme it relates to and will clearly define the parameters of what is being proposed and is to be approved.</p> <p>In relation to Requirement 6, the reality is that the Applicant is hoping to discharge Requirement 6 in one go as it is a pre-use requirement rather than a pre-commencement requirement.</p>
4.3.2	ExA	<p>The ExA asked whether a phasing plan for landscaping would be appropriate.</p>	<p>Chapter 2 of the ES [APP-046] states as follows:</p> <p><i>2.6.8 The main construction works would follow the advanced and pre-commencement works, with construction works split across the following sections of the Scheme, as presented in Figure 2-2 below:</i></p> <p><i>Section 1: Farndon Roundabout to Nottingham to Lincoln railway line</i></p> <p><i>Section 2: Nottingham to Lincoln railway line to East Coast Main Line</i></p> <p><i>Section 3: East Coast Main Line (ECML) to A1</i></p> <p><i>Section 4: A1 to Winthorpe Roundabout</i></p> <p><i>Section 5: Modifications to existing carriageway</i></p> <p><i>Section 6: Kelham and Averham FCA</i></p> <p><i>2.6.9 Sections 1 to 4 would be delivered in parallel and would involve the widening of the existing A46 to form the two lanes for the new northbound carriageway and the central reserve. The new bridge structures and junctions would be constructed in this period. Section 5 involves the modifications required to convert the existing A46 carriageway into the two lanes for the new southbound carriageway. This would involve installation of new signage, road restraint systems and surfacing. This would take place following the completion of the new northbound carriageway, so that traffic can be diverted onto the new alignment, providing a traffic free working area.</i></p> <p><i>2.6.10 Section 6 incorporates the works to form the floodplain compensation requirements in the land between the villages of Kelham and Averham. These works would be undertaken at the start</i></p>

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			<p><i>of the programme to provide the required compensation ahead of the main embankment widening works commencing.</i></p> <p><i>2.6.11 A phased approach to construction of some sections of the Scheme, particularly at the new and modified junctions at Farndon, Cattle Market, Brownhills and Winthorpe, would be adopted, with phasing determined by the requirements for Temporary Traffic Management (TTM) on existing routes and the need to minimise disruption to the travelling public, residents and businesses.</i></p> <p>An indicative construction programme based on these sections is then provided at Table 2-3.</p> <p>Figure 2-2 in Chapter 2, read in conjunction with Table 2-3 provides the proposed high-level phasing for the Scheme.</p> <p>Given the fact that this is a linear scheme and the reality is that sections 1-4 are likely to be delivered together, the Applicant does not believe that a phasing plan is required.</p>
4.3.3		<p>The ExA noted that, in terms of referencing in the ES, there is no certified document or overall plan which subdivides it down into parts or phases or elements. In this way, is it not appropriate or capable of providing a plan which labels different parts of the plans as different parts and then coming back with something to say</p>	<p>The Applicant confirmed that whilst a plan could be submitted which would be certified which replicates the detail in Chapter 2 of the ES [APP-046], it would not necessarily be the case that when a plan/scheme is submitted for consultation and approval under a requirement it would always relate to the sections listed above, as set out in Chapter 2 of the ES. As explained, this is to provide flexibility to ensure that the various plans and schemes required to be approved for the Scheme to commence to be done as efficiently as possible and to ensure that one specific element in one location does not delay the delivery of the rest of the Scheme. For example, it could be that the Applicant looks to discharge the landscaping scheme for all of Sections 1-4 except for one specific location within Section 4 where it is trying to come to agreement with a landowner/statutory nature conservation body etc. Rather than allowing that to hold up the discharge of the requirement for the whole Scheme, or for the whole of Section 4, the landscaping scheme would be submitted, with clear reference to the fact that it is to be discharge for the whole of the Scheme, except for that one specific location (or 'part'). That would be clearly set out in the application for discharge of the requirement so that the consultees and the SoS would know what they are being asked to approve. As such, the Applicant maintains that the appropriate</p>

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		when those would be submitted	mechanism to identify the 'part' of the Scheme that the requirement discharge relates to is the application for discharge itself, rather than a phasing plan.
4.3.4	NSDC	NSDC understood the Applicant's need for flexibility but raised concerns that the current drafting of this requirement makes it hard for the LPA / SoS to take a holistic view of the landscaping proposals.	<p>In relation to NSDC's point about taking a holistic approach, the Applicant explained that Requirement 6(2) provides for this as it requires the landscaping scheme for each part to reflect the applicable mitigation measures from the FIEMP [REP3-022] and the Environmental Master Plan, which sets out mitigation measures for the Scheme as a whole. The Applicant has already set out a holistic view of the landscaping proposals for the whole Scheme and there is a requirement that the detailed design for the various parts must reflect that overarching Scheme.</p> <p>In relation to the absence of a reference in Requirement 6(2) for the authorised development to accord with a relevant plan, the Applicant noted that the DCO should be read as a whole and noted that the Applicant is already required, by Requirement 3, to comply with the FIEMP [REP3-022] and the Second Iteration EMP that will follow. It is the Applicant's view that, when the requirements are read together, there are appropriate controls, and the authorised development must be constructed in accordance with the various plans and documents referred to.</p>
4.3.5	ExA	The ExA asked the Applicant whether the drafting needs to be updated to refer to the Second Iteration EMP as well as the FIEMP to clarify that there is sufficient scope for change after the DCO is made.	The Applicant explained that, by requiring the landscaping scheme to comply with the mitigation measures in the FIEMP, the provisions of the draft DCO [REP3-003] ensure that it must also comply with the measures in the Second Iteration EMP. This is because, Requirement 3 requires that the Second Iteration EMP is "substantially in accordance with the FIEMP". The FIEMP is referred to on the face of the Order as that is the plan that currently exists.

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4.3.6	NSDC	NSDC proposed that Requirement 6 should refer to a scheme layout plan.	The Applicant notes that Requirement 6 to the draft DCO [REP3-003] already refers to the Scheme's Environmental Masterplan in Requirement 6(2). As such, no additional reference to a scheme layout plan is required.
4.3.7	NSDC	NSDC felt that the "reasonable standard" referred to in 6(5) was too vague and asked the Applicant to amend this paragraph to be more specific. They proposed using a British standard or code of practice.	<p>The Applicant confirmed that the full requirement does refer to the British Standard code of practice as follows:</p> <p><i>"All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice."</i></p> <p>The Applicant explained that this requirement was drafted to account for any changes over time to this code of practice so that the landscaping works are in accordance with whichever standard is applicable at the relevant time.</p>
4.3.8	NCC	NCC noted that it may end up taking on some land that is landscaped but noted this is a matter which NCC and the Applicant can resolve through the SoCG.	The Applicant confirmed that it would address this matter with NSDC through its discussions on the SoCG.
4.4	3(d) - Requirement 8 – Contaminated Land and Groundwater		
4.4.1		The ExA asked the Applicant how expected contamination is	The Applicant confirmed that the process for expected contamination is outlined in Chapter 9 (Geology and Soils) of the ES [REP3-009], Appendix 9.2 (Contaminated Land Risk Assessment)

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		<p>secured in the DCO, as this requirement only refers to unexpected contamination, and suggested the Applicant amend the drafting to provide clarity on expected contamination is dealt with.</p>	<p>of the ES Appendices [APP-164 to APP-169] and the Register of Environmental Actions and Commitments (REAC) (contained in the FIEMP) [REP3-022].</p> <p><u>Chapter 9 (Geology and Soils) of the ES [REP3-009]</u></p> <p>Paragraph 9.6.2 of Chapter 9 (Geology and Soils) of the ES [REP3-009] explains that the assessment was based on the current Scheme alignment (as described in Chapter 2 of the ES (The Scheme) [APP-046]), known ground conditions and knowledge of any potential contamination. The findings may be subject to change during Scheme development. Should any previously unidentified contamination or unforeseen ground conditions become evident the procedure set out in Requirement 8 of the draft DCO [REP3-003] will be followed ensuring that any remediation required will take place.</p> <p><u>Environmental Statement Appendices - Appendix 9.2 (Contaminated Land Risk Assessment) [APP-164 – APP-160]</u></p> <p>The Contaminated Land Risk Assessment (CLRA) includes a revised conceptual model which identifies any unacceptable contamination risks and the appropriate mitigation measures to ensure protection of human and environmental receptors (including controlled waters) during construction.</p> <p>The approach to mitigation is set out in Section 9.10 of ES Chapter 9 (Geology and Soils) [REP3-009]</p> <p><u>FIEMP – REAC</u></p> <p>The mitigation measures outlined in the CLRA are also detailed within the FIEMP [REP3-022] in relation to the following REAC Commitments:</p> <p>GS4 - The protection of controlled waters during excavation and foundation works.</p> <p>GS5 - The protection of site soil and groundwater quality with respect to plant and working methods.</p> <p>GS6 - Management of contamination risks: reporting.</p>

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			<p>GS7 - Management of contamination risks: workers.</p> <p>RDWE8 - To prevent spread of INNS and contamination of surface waters during construction.</p> <p>RDWE12 - To mitigate potential adverse effects upon groundwater during the construction phase.</p> <p>The Applicant confirmed that the only known contamination identified within the order limits is a hotspot of contamination at the location of exploratory hole WS46.</p> <p>The potential source of the contamination 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 inadvertently deposited at the location of WS46. It should be noted that no earthworks are proposed in the footprint of the WS46 contamination hotspot area and the contamination would therefore remain undisturbed in-situ at this location.</p> <p>The Applicant is currently engaged in consultation with the EA on this (EAGWCL-005) and have agreed to provide further assessment, in the form of controlled waters detailed quantitative risk assessment (DQRA), in line with the Land Contamination Risk Management guidance. The completed DQRA will be discussed with the EA and submitted by The Applicant into the Examination at Deadline 4.</p> <p>If the EA are in agreement with the findings of the DQRA, and that the contaminated material identified at the location of WS46 can remain undisturbed in-situ, then no remediation is required. If a risk is identified, then remediation will be provided in line with the mitigation measures outlined above. As such, known contamination is appropriately addressed through the measures outlined above. A Requirement in the DCO regarding known contamination would simply duplicate controls already provided for.</p>

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4.4.2		<p>The ExA asked whether they are secured through the DCO and, if works are required, is there not a requirement to provide a verification report</p>	<p>The Applicant referred to GS6 - Management of contamination risks within the FIEMP [REP3-022] which provides:</p> <p><i>A verification report is required to be produced on completion of the earthworks and landscaping, in particular to confirm no excavation works have taken place at the location of the contamination hotspot, and to confirm the fate of contaminated material identified at the location of BH11 (Nether Lock viaduct).</i></p> <p>The Applicant confirmed that Requirement 3(2) requires the Second Iteration EMP to reflect the mitigation measures required by the REAC.</p>
4.4.3	NSDC	<p>NSDC noted that the requirements are not clear on the face of the Order and it is not particularly clear what the position is in relation to known contamination. NSDC encouraged the Applicant to, for the next version of the draft DCO, to address this and potentially include signposting to other requirements, so that it is clear on the face what relates to known contamination and that its to be carried out in accordance with the</p>	<p>The Applicant explained that the Requirements are just one way that the Authorised Development is controlled and they need to be read in line with other documents. The Applicant does not propose to replicate the entirety of the EMP in the Requirements and noted that there have been other made DCOs which have not had requirements at all and just relied on the EMP, such as the A66 Northern Trans-Pennine Development Consent Order 2024.</p> <p>The Applicant maintains that a further DCO requirement is not necessary for the reasons explained above.</p>

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		relevant mitigation measures and a requirement where required for a verification report as well.	
4.5 3(e) - Requirement 10 – Protected Species			
4.5.1	ExA	<p>The ExA asked whether there should be consultation with a third party to agree the written scheme? And if so, who?</p> <p>The ExA asked whether there should be a mechanism to reflect any agreed position or to ensure that there is no conflict between those positions. The ExA noted the situation where the Applicant is effectively “marking its own homework”. The ExA asked whether it would be useful to go out and get some agreement or response</p>	<p>The Applicant has provided a detailed response on this matter in the Applicant’s Response to the ExA’s First Written Questions [REP2-037].</p> <p>The Applicant has reviewed various other made Development Consent Orders, including the A12 Chelmsford to A120 Widening Development Consent Order 2024, the M3 Junction 9 Development Consent Order 2024 and the A428. The proposal to amend Requirement 10 of the draft DCO [REP3-003] to require that the written scheme for protection and mitigation measures to be prepared by the Ecological Clerk of Works is agreed with the Local Planning Authority or NE is not precedent and the Applicant does not consider it necessary or appropriate to agree to this amendment.</p> <p>The Applicant notes that this Requirement only applies to any protected species or nesting birds not previously identified in the environmental statement. Should any additional protected species or nesting birds be identified, they would be protected through the protected species licensing regime. NE's Written Representation [RE2-045] notes that NE are unlikely to have capacity to review all avoidance, protection and mitigation measures proposed where a licence is not required. It is therefore clear that NE is of the view that approval should not be provided for under Requirement 10 of the draft DCO [REP3-003].</p> <p>Sub-paragraph (2) of Requirement 10 of the draft DCO [REP3-003] prevents construction taking place in the area specified in the written scheme "until any necessary licences are obtained to enable mitigation measures to be implemented". Protected species licences are issued by NE and</p>

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		<p>from some other authority to check what the Applicant is doing is appropriate.</p>	<p>therefore NE would be consulted separately through the licensing regime if the Applicant is required to do so.</p> <p>The Applicant also understands that NE and the EA are content with the drafting of Requirement 10 of the draft DCO [REP3-003] so the Applicant does not propose any amendment.</p>
4.5.2	NSDC	<p>NSDC assert that there are currently gaps and noted that there are examples of DCOs which include a provision for a final pre-construction survey work to be undertaken to establish whether there are European or protected species before carrying out any part of the authorised development</p>	<p>The Applicant explained that there are requirements in other made DCOs which require pre-construction surveys to be carried out which is often the case where the previous survey work that was completed for the ES was not complete and therefore there is deemed to be a potential for change, and therefore pre-construction surveys are required. That is not the case here and therefore the amendment suggested is not appropriate in relation to this specific Scheme.</p>
4.5.3	NSDC	<p>NSDC's second point refers to the written scheme not being clear on the face. It seems to NSDC that it is the Applicant who prepares and implements it themselves ("mark their</p>	<p>The Applicant noted that this is in relation to protected species and birds which in any event would be subject to the licensing regime and therefore it would be NE who would be "marking" the Applicant's homework.</p>

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		own homework"). NSDC would suggest that the Scheme require approval, and consultation with Natural England.	
4.5.4	NSDC	NSDC noted that there is another gap. Currently, there is a provision for works to cease but it is not clear when they would resume. NSDC has seen examples where it's clear where works can resume (i.e. any necessary licenses have been obtained). NSDC would encourage the Applicant to include a provision setting out expressly when works can resume	The Applicant explained that sub-paragraph (2) of Requirement 10 of the draft DCO [REP3-003] prevents construction taking place in the area specified in the written scheme "until any necessary licences are obtained to enable mitigation measures to be implemented". This is therefore already provided for with the drafting of Requirement 10 of the draft DCO [RE3-003].
4.5.5	NCC	We would prefer to be consulted on any proposed mitigation	For the reasons given above, the Applicant does not consider it appropriate to require consultation or approval under Requirement 10 of the draft DCO [REP3-003].

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		scheme given its competency in ecology matters.	
4.6	Requirement 12 – Detailed Design		
4.6.1	ExA	The ExA noted that the requirements set out what the detailed design must accord with but there does not appear to be a trigger mechanism in that requirement in terms of the submission of the detailed design to be submitted to and approved by the SoS. The ExA asked whether this could be included?	<p>The Applicant confirmed that there is no requirement for detailed design to be approved. The purpose of Requirement 12 of the draft DCO [REP3-003] is to ensure that parties can be satisfied that the detailed design is constrained to take place within set parameters, and is effectively known in advance. It is not necessary that the ExA, the SoS or any Interested Party has a detailed design to consider, that is not the approach that is adopted in relation to major infrastructure projects. Instead, detailed design is left to a later stage, but is constrained by certain parameters, with which the detailed design must accord. Requirement 12 has been drafted in its current form to reflect that standard approach to NSIPs and in order to avoid delay to the provision of a critical piece of national infrastructure.</p> <p>The Applicant does not accept that the detailed design should be subject to subsequent approval by the SoS on the basis that it is not necessary or appropriate and would delay the delivery of a NSIP.</p> <p>The Scheme's detailed design is already constrained by the provisions of Requirement 12 of the draft DCO [REP3-003] such that further SoS approval of the detailed design is not necessary.</p>
4.6.2	ExA	The ExA requested the Applicant to provide further information in writing and noted the example in relation to Mr Sumsion where the Applicant has said to a party that it would get back to them in relation	<p>Requirement 12, as currently drafted, provides numerous controls on the detailed design of the Scheme thereby ensuring that the detailed design accords with:</p> <ul style="list-style-type: none"> a) the preliminary scheme design shown on the works plans, utilities works plans and the engineering drawings and sections; b) the mitigation principles set out in the environmental masterplan; and c) the design principles.

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		<p>to detailed design. The ExA noted that it is understand how this is going to work.</p> <p>The ExA noted that there have been a number of made DCOs which have included requirements where detailed design would be submitted and approved by the SoS. There is precedent, particularly where large structures are involved. The ExA noted that there may be a number of large structures such as bridges and underpasses where there are exposed engineered structures, where the detailed design of them will have an important and significant impact on either the visual or landscape structures in the area. The ExA noted that there is not</p>	<p>This ensures that the Scheme is designed in a manner that is consistent with the plans and measures that have already been the subject of scrutiny and consultation during the Examination. As such, it is only where the detailed design seeks to depart from those measures that the Applicant is required to seek approval from the SoS. In that case, the Applicant is already required by the provisions of requirement 12(1) to consult with the relevant local planning authority and relevant local highway authority on those proposed amendments.</p> <p>Any requirement for approval of the detailed design under Requirement 12 would depart from precedented practice on highways DCOs, which do not require such steps to be taken and would cause significant delay and cost to the Scheme, as well as imposing a large administrative burden on the Applicant and the SoS.</p>

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		<p>currently any detailed design in front of it to consider.</p> <p>The ExA noted that at some stage, the Applicant will have a design and the relevant documents for that design. Parties are not asking for additional documents or onerous matters, it is a question of putting it into the public domain so there is some opportunity for somebody to look at these further.</p>	
4.6.3	NCC	<p>NCC endorse the ExA's comments and support an express requirement that the development is designed in detail and then an appropriate mechanism for which those designs are submitted and approved in consultation with relevant bodies. NCC</p>	

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		will await the response from the Applicant to the points raised by ExA.	
4.7 3(f) - Requirement 14 – Flood Compensation Storage			
4.7.1	ExA	<p>The ExA noted that Requirement 14 of the draft DCO [REP3-003] secures the production of the Flood Compensation Scheme and includes wording to ensure the EA are consulted, which NE welcome. Nonetheless, NE consider this wording could be strengthened to reference the need for this scheme to include fish escape passages and refuge areas, and/or to require agreement with the EA and NE regarding the detail of the Flood Compensation Scheme.</p>	<p>The Applicant explained that this point links back to the earlier discussion about avoiding a duplication of control by way of different documents.</p> <p>Requirement 14 of the draft DCO [REP3-003] secures the floodplain compensation scheme. The fish escape passage and refuge areas are already secured via commitment B9 within the Table 3-2 (REAC) of the FIEMP [REP3-022]. Requirement 3 then secures this. The FIEMP [REP3-022] will be developed into a Second Iteration EMP prior to commencement of the Scheme. Adherence with the Second Iteration EMP is secured by Requirement 3 of the draft DCO [REP3-003]. The fish escape passages are also shown (albeit indicatively) on Figure 2.3 (Environmental Masterplan) of the ES Figures [AS-026]. Requirement 12 of the draft DCO [REP3-003] secures the provision of the mitigation principles set out in the environmental masterplan. Requirement 12 requires the scheme to be designed in accordance with that Environmental Master Plan and mitigation principals so they fish escape passages are secured just in a different place by different documents. The Applicant therefore maintains that no changes are required.</p> <p>The Applicant also confirms that Natural England and the Environment Agency have been added as consultees on the Second Iteration Environmental Management Plan at Requirement 3 of the draft Development Consent Order [REP3-003]. However, the Secretary of State is the appropriate discharging authority for requirements given the scheme’s national network status and in line with the tested and accepted approach for national network DCOs, which have been approved by the SoS. Further, as the SoS is the decision maker for the application seeking development consent it is appropriate that they are also the decision maker in discharging requirements. The SoS's internal team deals with National Highways schemes across the whole of England and is experienced in dealing with a wide variety of circumstances. The SoS will have the benefit of</p>

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		<p>The ExA sought a response from the Applicant on this.</p>	<p>consultation responses from various parties depending on the requirement. In this way the Statutory Nature Conservation Bodies, including NE, are able to input and potentially influence the SoS's decision in the discharge of requirements on matters related to their function.</p> <p>The Applicant understands that the EA are in agreement with the wording of the Requirements and therefore does not propose to make any changes to Requirement 14 of the draft DCO [REP3-003].</p>
4.7.2	ExA	<p>The ExA asked whether, if part of the FCA is to address the fish escape passages, it would be appropriate to make some reference within that. The ExA noted its concern that there would be a FCA design which does not provide for the fish escape passages but could be used to discharge Requirement 13 of the draft DCO [REP3-003]. How are the REAC measures in relation to fish escape passages taken on board to ensure that they are picked up, if there is no express</p>	<p>As explained above, the Requirements are just one way that the Authorised Development is controlled and they need to be read in line with other documents that also constrain the development and secure mitigation measures. As such, it would not be appropriate to replicate all of those controls in the Requirements.</p> <p>If Requirement 14 of the draft DCO [REP3-003] were to be discharged in the manner suggested by the ExA, that would amount to a breach of the REAC Commitments and therefore the DCO, which would be a criminal offence. It is also unlikely to happen given that the EA are also a consultee on the flood compensation scheme, and they would be raising that point to the SoS when that FCA was being approved.</p>

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		reference to them in the Requirement?	
4.8	3(g) - Requirement 15 – Flood Risk Assessment		
4.8.1	ExA	The ExA noted that the EA have issues with the 10mm flood tolerance model. The ExA asked whether the Applicant anticipates any changes to the wording of Requirement 15 of the draft DCO [REP3-003] being made and whether or not that is a matter that needs to await conclusion with the Applicant's discussions with the ExA.	<p>The Applicant explained that, in relation to the 10mm flood tolerance model, it has provided clarification to the EA in its Comments on Responses to ExQ1 [REP3-037] that it is in relation to the differences in levels between the baseline and post-Scheme hydraulic model results. Discussions are ongoing and the Applicant will await a response to its clarification from the EA as to whether it is satisfied with the explanation given. However, this is not a matter that needs to be reflected in Requirement 15 of the draft DCO [REP3-003].</p> <p>The Applicant noted that this point will be picked up in the SoCG with the EA.</p>
4.8.2	ExA	The ExA asked whether wording needs amending pending resolution of flood risk issues raised by EA. Should this also include consultation with the LLFA and/or Drainage Boards and noted that it	The Applicant can confirm that Requirements 13 and 15 of the draft DCO [REP3-003] have been amended to require consultation with the LLFA. This has been reflected in the updated draft DCO submitted at Deadline 4.

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		would make sense to continue their involvement.	
4.9	4(h) – EA's request for an additional Requirement in relation to Piling risk assessment		
4.9.1	ExA	The ExA noted that EA has requested an additional Requirement in relation to Piling risk assessment and asked for a response from the Applicant on this.	<p>A piling risk assessment is already required under the REAC within the FIEMP [REP3-022]:</p> <p>GS5 - The protection of site soil and groundwater quality with respect to plant and working methods (includes): <i>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.</i></p> <p>RDWE12 - To mitigate potential adverse effects upon groundwater during the construction phase: <i>As per commitment GS4 of this REAC, piling will be required during construction; As detailed in Chapter 9 (Geology and Soils) of the ES [APP-053], Piling Works Risk Assessments will be undertaken, if deemed necessary, prior to construction of the Scheme. In addition, method statements detailing piling operations will cover the potential to cause pollution to the underlying aquifer and potential mobilisation of contaminated soil.</i></p> <p>Given that compliance with the FIEMP [REP3-022] is secured by Requirement 3 of the draft DCO [REP3-003], the Applicant is of the view that a piling risk assessment is already secured under the Application and that no further requirement is needed to address this issue in the draft DCO [REP3-003].</p> <p>The Applicant notes that the EA's submission at Deadline 3 [REP3-044] notes as follows:</p> <p><i>“To confirm, the additional piling assessment requirement that we requested in our RR is no longer necessary. This is adequately covered by the commitments in the FIEMP.”</i></p> <p>The Applicant will ensure that this point will be picked up in the SoCG with the EA.</p>
4.10	4(i) - Construction Lighting Strategy for Construction		

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4.10.1		<p>The ExA explained that NE have noted that the ES documents and the draft DCO [REP3-003] do not currently make any reference to a specific lighting strategy for construction. Whilst reference is made to construction light spill mitigation, measures in REAC ref. B9, NE requests that the text is amended within the FIEMP [REP3-022] (and duplicated in the Second Iteration EMP). The ExA asked the Applicant whether there should be a separate requirement, or an additional management plan or method statement be included in Requirement 3.</p>	<p>The Applicant explained that commitments B1 and B9 within the FIEMP [REP3-022] have been updated to include NE's suggested wording and submitted at Deadline 3 of the Examination [REP3-022]. The Applicant understands from NE's Written Representation [REP2-045] and the discussions regarding the SoCG that they are satisfied that with the addition of their suggested wording in the FIEMP that the issue has been satisfactorily addressed.</p> <p>Given the above the Applicant is of the view that construction lighting is appropriately covered by the FIEMP [REP3-022] and that no requirement for a construction lighting strategy needs to be included in the draft DCO [REP3-003].</p>
4.10.2	NCC	<p>NCC noted the Applicant's response but explained that there should be, as in other</p>	<p>The Applicant maintains that there is no need for a construction lighting plan to be listed under Requirement 3(2) as provisions in relation to construction lighting are already provided for in the main body of the FIEMP, and therefore will be included in the SIEMP. See for example REAC</p>

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		made DCOs, an explicit reference to construction site artificial lighting in Requirement 3(2) of the Draft DCO [REP3-003].	Commitments L1, L6, B1, B2, B8 and B9. Adding the requirement suggested by NCC would amount to a duplication under the DCO, which is not required.
4.11 4(j) - Any other issues on Requirements			
4.11.1	NSDC	<p>NSDC noted that there should be express reference in Requirement 13(2) to the draft DCO [REP3-003] to consultation to LLFA as it relates to water drainage</p> <p>In relation to Requirement 17, NSDC welcome the Applicant's intention to submit a more detailed pre-commencement plan. NSDC noted that it has provided detail on what it would hope to see in its Response to ExQ1 [REP2-050].</p>	The Applicant can confirm that Requirement 13 of the draft DCO [REP3-003] has been amended to require consultation with the LLFA. This has been reflected in the updated draft DCO submitted at Deadline 4.

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4.11.2		In relation to Requirement 17, NSDC welcome the Applicant's intention to submit a more detailed PCP. NSDC noted that it has provided detail on what it would hope to see in its Response to ExQ1[REP2-050].	The Applicant can confirm that an amended PCP is being submitted at Deadline 4.
4.11.3		NSDC noted that there is not currently a requirement for restoration and/or landscaping of land that may be used temporarily for construction, which is usually expressly provided for in DCOs.	<p>The Applicant can confirm that such a requirement is already provided for within the draft DCO [REP3-003]. The relevant provision is Article 40(4), which states:</p> <p>40(4) Temporary use of land for carrying out the authorised development</p> <p><i>(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—</i></p> <p><i>(a) replace a building removed under this article;</i></p> <p><i>(b) restore the land on which any permanent works have been constructed under paragraph (1)(d);</i></p> <p><i>(c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;</i></p> <p><i>(d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development;</i></p> <p><i>(e) remove or reposition any apparatus installed for or belonging to statutory undertakers;</i></p> <p><i>(f) remove or reposition any necessary mitigation or accommodation works; or</i></p>

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			<p><i>(g) remove any temporary works where this has been agreed with the owners of the land.</i></p> <p>The Applicant is also required, under REAC Commitment L1 in the FIEMP [REP3-022] to restore "land used temporarily to construct the Scheme, as soon as practicable."</p>
Agenda #5 Protective Provisions (PPs)			
5.1	5(a) - Network Rail (NR)		
5.1.1	ExA	The ExA sought an update and confirmation of latest position on PPs in relation to NR	<p>The Applicant confirmed that parties have been attending fortnightly meetings as well as additional ad hoc meetings to finalise the PPs with NR.</p> <p>The Applicant confirmed that the parties are very close and there are essentially two points outstanding. The parties are hopeful that agreement can be reached shortly and in any event before the end of the Examination.</p> <p>In addition, the Applicant and NR are proposing to enter into two Basic Asset Management Agreements (BAPAs):</p> <ul style="list-style-type: none"> • One to govern the structures being built over the railway; and • One in relation to the work the Applicant is requesting NR to undertake on the Overhead Catenary System. <p>The Applicant confirmed that it has no concerns regarding the agreement of the BAPAs before the close of Examination.</p>
5.2	5(b) - Canal and River Trust (CRT)		
5.2.1	ExA	The ExA sought an update and confirmation of latest position on PPs in relation to CRT.	
5.2.2	CRT	CRT confirmed that the parties have made progress in relation to	The Applicant acknowledged CRT's response and confirmed it had nothing further to add.

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		<p>the PPs. A meeting was held on Thursday 28 November 2024 which sought to agree a couple of remaining points. The parties are hopeful that agreement can be reached and an update provided to the ExA for Deadline 4.</p>	
5.3	5(c) - Cadent Gas		
5.3.1	ExA	<p>The ExA sought an update and confirmation of latest position on PPs in relation to Cadent Gas</p>	<p>It is the Applicant's understanding that the PPs with Cadent Gas are agreed, as they appear in the draft DCO [REP3-003] and as such the Applicant is not anticipating any changes to them at this stage. The parties are, in the background, agreeing the final drafting points in relation to a Deed of Easement which would be used should development consent be granted but as this will not impact the PPs, and the Applicant expects this to be agreed in due course this should not cause the ExA any concern.</p>
5.4	5(d) - Any other PPs the Applicant is progressing		
5.4.1	ExA	<p>The ExA sought an update and confirmation on latest position on PPs in relation to any others the Applicant is progressing.</p>	<p><u>National Grid Electricity Distribution ('NGED')</u></p> <p>In relation to NGED, the Applicant confirmed that PPs are currently underway although it doesn't anticipate these appearing on the face of the order, and an Asset Protection Agreement (APA) has been drafted. Both the PPs and the APA are currently under review. As these are fairly standard documents, the Applicant sees no reason why these cannot be agreed by the close of Examination. The Applicant will continue to work with NGED to agree and finalise the PPs and the APA as soon as possible and will keep the ExA updated as to progress.</p>

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			<p><u>Environment Agency ('EA')</u></p> <p>As noted earlier, the Applicant is not seeking to disapply Flood Risk Activity Permits and as such will not be seeking PPs with the EA.</p>
5.4.2	ExA	The ExA asked whether NGED are happy that the PPs will not appear on the face of the order	The Applicant confirmed that based on the drafting of the documents it has seen to date and previous experience with NGED they are, as far as the Applicant is aware, happy with this arrangement and will update the ExA on its progress.
Agenda #6 Other Schedules and Plans			
6.1	6(a) - Schedule 1 – Authorised Development		
6.1.1		<p>The ExA noted that NR's SoCG references agreement to the creation of a passing place on Quibells lane and asked how is this to be secured.</p> <p>The ExA also asked whether Works 69 or 70 be amended to reference a passing place?</p>	<p>The Applicant agrees that a small amendment to Work No. 69 within the draft DCO [REP3-003] to include specific reference to passing places along Quibells lane would make it clear that this is the intention of the Applicant.</p> <p>The Applicant has updated the draft Development Consent Order [REP3-003] as submitted a revised version into the Examination at Deadline 4.</p>
6.2	6(b) - Schedule 10 – Documents to be certified		
6.2.1		The ExA noted that NCC recommend that	The design principles are secured by way of Requirement 12 (Detailed Design) of the draft DCO [REP3-003]. The design principles can be found in Annex A of the Scheme Design Report [APP-

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		<p>the scheme design principles contained within the scheme design report APP-194 should be a separate document and secured through the DCO and sought comments from the Applicant.</p>	<p>194] and are listed as a certified document under Schedule 10 of the draft DCO [REP3-003] and as such it is the Applicant's view that this Annex does not need to be a separate document.</p> <p>The Applicant went on to confirm that there is precedent for this approach, i.e. that not all certified documents need to be stand alone. For example the A428 in its list of Documents to be Certified (Schedule 10) referred to a number of figures or appendices within other documents:</p> <ul style="list-style-type: none"> • Environmental masterplan, figure 2.4 within ES document • Habitats plan, figure 1 of Appendix 8.3 within ES document
6.2.2	ExA	<p>ExA asked that, when looking at the appendix, could it refer back to the main text for context</p>	<p>The Applicant confirmed that it will look into this point.</p> <p>The Applicant has now reviewed the Scheme Design Report [APP-194] to consider whether Annex A could become a standalone document. The appendix if pulled out would not be very meaningful and needs to sit within the wider report. This is because the Scheme Design Report [APP-194] refers to the Annex to demonstrate which principles are been achieved and conversely the Annex cross-refers back to the report where they are applicable to a particular design intervention. If the Annex was pulled out as an additional separate report then it would need the description of those particular design interventions to be included within it.</p> <p>Given that there is accepted precedent for this approach in other made development consent orders the Applicant is respectfully of the view that the Scheme Design Principles should remain as an Annex to the Scheme Design Report [APP-194] and that the description in Schedule 10 of the draft DCO [REP3-003] is sufficiently clear to allow a lay person to locate them.</p>
6.2.3	NCC	<p>NCC noted the need for clarity to allow a lay person to find a document relatively easily.</p>	

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6.3	6(c) - NCC have identified at Tables 2.6 through to 2.9 and 2.18 – 2.20 of its LIR matters related to plans and prohibitions that need to be reviewed/amended		
6.3.1	ExA	The ExA noted that NCC have identified at Tables 2.6 through to 2.9, and 2.18 -2.20 of its LIR [REP1-038] matters related to plans and prohibitions that need to be reviewed/amended and sought the Applicant's views on this.	<p>The Applicant has provided a detailed response to each point raised in each of the tables listed by the ExA in its response document Applicant's Comments on Nottinghamshire County Council's Local Impact Report [REP2-019].</p> <p>The Applicant also confirmed that it had identified all changes required to the draft DCO [REP3-003] and they did not anticipate any further changes being required arising from the points raised by NCC in the tables referred to.</p>
6.3.2	NCC	NCC noted that these points are best dealt with in writing and noted most points have been dealt with.	
6.4	6(d) - Lindum SoCG and the diverted Public Rights of Way (PRoW) access Lindum's land		
6.4.1	ExA	The ExA noted that the SoCG with Lindum in relation to the route of the diverted PRoW across Lindum's land - it seems that this may be secured by way of a	The Applicant explained that the parties are in the process of negotiating a side agreement which would present a mutually beneficial result for both parties. However, if the worst were to happen and agreement could not be reached the Applicant would still provide its proposed route as shown on Sheet 5 of the Street Rights of Way and Access Plans [AS-006] and therefore it is the Applicant's view that there would be no need for any other mechanism to secure an alternative.

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		<p>side agreement but obviously if not it will remain an issue to be secured addressed elsewhere. What progress is being made on the side agreement and what are the contingency plans if an agreement is not reached. This could also affect the dDCO and Sheet 5 of the Street Rights of Way and Access Plans [AS-006] – ‘Winthorpe CP - A cycle track comprising a highway from point F-5O to point F-5M, a distance of 300 metres.’ The ExA asked for the Applicant’s views on this.</p>	
6.4.2	ExA	<p>The ExA asked whether any revisions to Works Plans [REP3-002] would be required.</p>	<p>The Applicant confirmed that it does not anticipate that it will need to make any changes to its application in order to allow the alternative route to be brought forward. Instead this will be dealt with by way of the proposed side agreement with Lindum.</p>

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6.4.3	ExA	The ExA asked if the route is identified as going through the Lindum site	The Applicant confirmed that this is correct and explained that Lindum's development has evolved and the Applicant is trying to react to Lindum's evolving development plans by agreeing with Lindum an alternative route.
6.4.4	ExA	The ExA asked whether the Applicant intends to have any documents certified that would need to be amended in light of this.	Given the fact that the Applicant is not proposing to change the design or approach to the footway/cycle track as set out in its application, the Applicant confirmed that this is not its intention to change any documents to be certified at this stage.
Agenda #7 Other Agreements			
7.1	7(a) - Secure mitigation or works outside the DCO boundary		
7.1.1	ExA	The ExA sought clarification and update on the Applicant's position or progress on secure mitigation or works outside of the DCO boundary.	In relation to Doddington Hall and the proposed compensatory scheme, the Applicant confirmed that a s253 Agreement has been drafted and shared with the owners of Doddington Hall following a meeting where principals were agreed. The Applicant therefore does not anticipate any difficulties arising in respect of this. Secondly, in relation to Barn Owl Boxes, the Applicant explained that the locations are determined by survey works. Licences are being agreed currently so the boxes can be installed by February 2025 to allow them to be naturalised by construction. Once licences are in place, the Applicant can enter agreements with the parties in respect of ongoing management and maintenance.
7.1.2	ExA	In relation to Doddington Hall, the ExA asked whether this agreement is going to be put into the	The Applicant explained that, subject to reasons of commercial sensitivity, at the very least a summary of the terms of the agreement could be submitted into the Examination or it may be possible to submit the terms directly to the SoS in the event that any confidentiality commitments require this.

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Ref	Comment /Representation by:	Questions/Issues Raised at the ISH1	Applicant's written summaries of oral submissions at ISH1
		<p>Examination and how it will have regard to it or that mitigation, noting it would need to have something in front of it to demonstrate how it can be secured and to enable the ExA to have regard to it. This comment relates to all agreements being entered into by the Applicant which the Applicant intends to rely on in terms of securing mitigation.</p>	
7.1.3	ExA	<p>In relation to the Barn Own Boxes, the ExA noted that it needs to understand the locations of them, even if this is done confidentially.</p>	
7.1.4	ExA	<p>The ExA asked whether the CAPs [REP2-006] can be updated to include a list with the agreements that the Applicant is progressing</p>	<p>The Applicant confirmed that it will update the CAPS [REP2-006] to reflect the ExA's request.</p>

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Ref	Comment /Representation by:	Questions/Issues Raised at the ISH1	Applicant's written summaries of oral submissions at ISH1
		or intending to progress.	
Agenda #8 Any other matters			
	N/A		
ISH1 concluded at 17:03			

Appendix 1 – Post-Hearing Response to Action Points Arising from ISH1

Item	For	Action Point	Applicant's Response
1	Applicant	Update the EM to provide further justification for the limits of deviation.	The Applicant confirms that the Explanatory Memorandum [REP3-005] has been updated to include additional justification in relation to the limits of deviation. The updated Explanatory Memorandum will be submitted into the Examination at Deadline 4.
2	Applicant	Ensure that the PCP accords with the mitigation documents listed in Requirement 3 which includes the soil management plan and the outline transport management plan	The Applicant can confirm that an amended Pre-Commencement Plan (PCP) [APP-188] is being submitted at Deadline 4.
3	Applicant	Detailed sign posting document for PCP to capture relevant post commencement plans.	The Applicant confirms that a signposting document [TR010065/APP/5.61] has been prepared and submitted into the Examination at Deadline 4.
4	Applicant	Update SoCGs to include reference to the PCP.	The Applicant can confirm that the relevant SoCGs (Environment Agency, Natural England, Historic England, NCC and NSDC)

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Item	For	Action Point	Applicant's Response
			have been updated to include reference to the PCP and re-submitted at Deadline 4.
5	Applicant and NSDC	Review working hours and activities that can commence within first 30 minutes	<p>Activities permitted between 07:00 and 07:30</p> <ul style="list-style-type: none"> i. Staff and workforce personnel arriving to the main offices and satellite offices. ii. Activities associated with personnel welfare and safety, including washing, changing into PPE. iii. Activity briefings, safety briefings, including toolbox talks. <p>Activities precluded between 07:00 and 07:30 (notwithstanding those activities listed in a) to l) in paragraph 2 of Requirement 5 of the Draft DCO [REP3-003] are:</p> <ul style="list-style-type: none"> • Start up or use of construction plant. • Loading and unloading of construction vehicles • Material deliveries <p>Requirement 5(a) of the Draft DCO [REP3-003] has been updated to the following (changes in red).</p> <p>Construction work for the authorised development must only take place between 0700 hours and 1800 hours Monday to Friday, and 0800 hours to 1400 hours on Saturdays, with no activity on Sundays or bank holidays, except as specified in paragraphs (2), (3) and (4).</p>
6	Applicant	To consider the necessity for appropriate trigger, whether design should be in accordance with detailed plans and whether any detailed plans should be subject to approval by SoS and to provide further justification on the wording of this Requirement	Please see the Applicant's response at section 4.6 above.
7	Applicant	Update consents and agreements positions statement [REP2-006].	The Applicant has updated the Consents and Agreements Position Statement [REP2-006] to include reference to the legal agreements it is seeking to enter into with third parties.

Regional Delivery Partnership

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