

# **A46 Newark Bypass**

**TR010065**

## **Applicant's Summary of the Compulsory Acquisition Hearing 2**

Rule 14(3)

Planning Act 2008  
Infrastructure Planning (Examination Procedure)  
Rules 2010

Volume 7

December 2024

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning  
(Examination Procedure) Rules 2010**

**A46 Newark Bypass**

Development Consent Order 202[ ]

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<b>Regulation Number</b>	Rule 14(3)
<b>Planning Inspectorate Scheme Reference</b>	TR010065
<b>Application Document Reference</b>	7.48
<b>Author</b>	A46 Newark Bypass Project Team, National Highways

<b>Version</b>	<b>Date</b>	<b>Status of Version</b>
Rev 1	13 December 2024	Final for Deadline 4

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## **A46 NEWARK BYPASS DCO**

### **Compulsory Acquisition Hearing 2 (CAH2): For Individual Affected Persons – 3 December 2024**

#### **Applicant's responses to Representations made at Compulsory Acquisition Hearing 2 (CAH2) held on Tuesday 3 December 2024 at 10:00AM**

#### **1.1 INTRODUCTION**

The CAH2 for the A46 Newark Bypass Scheme (the Scheme) application was held at The Great Hall, The Renaissance at Kelham Hall, Main Street, Newark NG23 5QX on Tuesday 3 December 2024, commencing at 10:00. Participation was possible virtually on Microsoft Teams as well as by attendance in person.

This document summarises the responses made at CAH2 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 actions arising from the CAH2 were noted by the ExA:

1. NSDC to confirm how the ExA would deal with any reduction in capacity of the lorry park and associated impacts if reconfiguration studies are not undertaken until after the Examination has closed.
2. James Miller to confirm in writing whether, if agreement is reached with the Applicant, concerns regarding the viability of the business, which were expressed at the Preliminary Meeting before discussions had moved forward, have fallen away.
3. The Applicant to provide a response to the issue raised by Mr Sumsion in relation to the mitigation of noise in a child's bedroom on the Langford Hall Estate
4. The Applicant to update the Works Plans to show pedestrian route extending to the proposed bellmouth to the Langford Hall Estate.
5. In relation to the Charity of Thomas Brewer's land, the Applicant to confirm in writing the nature of, and which, utilities are to be accommodated in the utility corridor on blue land.
6. The Applicant and Lindum to consider whether the absence of an agreement between the parties could result in incompatible planning permissions.
7. The Applicant to confirm how, if an alternative route is to be pursued which includes land outside of the Order Land how would this be secured and how would it be presented in the DCO application (including in terms of the benefits to be ascribed to the creation of new pedestrian routes

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

**1.2 POST-HEARING SUBMISSIONS IN RESPONSES TO MATTERS RAISED AT CAH2**

Item	Comment / Representation by:	Questions/Issues Raised at the CAH2	Applicant's summary written Response at CAH2
<b>Agenda # 1 Welcome, introductions and arrangements for the Hearing</b>			
1	Applicant	Introductions	The Applicant was represented by the following individuals: <ul style="list-style-type: none"> <li>• Jonathan Bower - Partner at Womble Bond Dickinson (UK) LLP and legal advisor to the Applicant</li> <li>• Mark Sutton – Project Technical Director Skanska</li> <li>• Simon Peart – Chartered Surveyor from the Valuation Office Agency</li> </ul>
2	<p><b><i>Other appearances</i></b></p> <p>Interested Parties ('IPs') and how their land is affected by the development:</p> <p><u>Local Authorities &amp; Statutory Parties</u></p> <ul style="list-style-type: none"> <li>• Newark &amp; Sherwood District Council (<b>NSDC</b>) – Raj Gupta, Partner at Town Legal representing NSDC in relation to their land ownership.</li> <li>• Nottinghamshire County Council (<b>NCC</b>) – No representations.</li> <li>• Canal &amp; River Trust (<b>CRT</b>) – Notified the ExA that they would no longer be attending on the basis that progress with the Applicant is positive.</li> </ul> <p><u>Affected Persons / Organisations who have objected:</u></p>		

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Item	Comment / Representation by:	Questions/Issues Raised at the CAH2	Applicant's summary written Response at CAH2
	<ul style="list-style-type: none"> <li>• John James Miller – Affected party with an interest in:                             <ul style="list-style-type: none"> <li>○ the Farndon East and West Flood Compensation Area ('FCA').</li> <li>○ Plot 3/2k and Plot 3/15a (as a tenant) as shown on the Works Plans [REP3-002]</li> </ul> </li>   <li>• James Sumsion and Beth Sumsion:                             <ul style="list-style-type: none"> <li>○ Land at Langford Hall; and</li> <li>○ Langford Hall itself</li> </ul> </li>   <li>• The Charity of Thomas Brewer – Affected party represented by David Barnthorpe (Treasurer &amp; Secretary) and Lee Cammack (Chair) with an interest in Plots 6/2a – 6/2b as shown on the Works Plans [REP3-002], adjacent to Winthorpe Roundabout</li>   <li>• Adrian Hatton – Landowner of:                             <ul style="list-style-type: none"> <li>○ Rectory Farm</li> <li>○ Land in the area of Kelham FCA</li> <li>○ all of the land plots shown on Sheet 7 of the Works Plans [REP3-002], with the exception of Plot 7/6A</li> </ul> </li>   <li>• Peridot Solar – Affected party represented by James Cook and Christopher Cook, Associate Planner / Agent) for the planning application currently being determined by NSDC, with an interest in:                             <ul style="list-style-type: none"> <li>○ Kellam FCA concerning Plot 7/4e as shown on the Works Plans [REP3-002] primarily;</li> <li>○ Option to Lease land for solar development relating to Plots 7/4c, 7/4d, 7/4e (which is the FCA) as shown on the Works Plans [REP3-002].</li> </ul> </li>   <li>• Lindum Developments Limited – Represented by Amanda Beresford, Partner at Schofield Sweeney and Dean Bower from Lindum regarding an interest in Plots 15/a, 15/b and 15/c as shown on the Works Plans [REP3-002] which affect Lindum land west of the Newark showground land that concern the creation of a cycle way and footpath across Lindum's land which is allocated for employment development.</li> </ul> <p><u>Absent Registered Appearances:</u></p>		

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Item	Comment / Representation by:	Questions/Issues Raised at the CAH2	Applicant's summary written Response at CAH2
	<ul style="list-style-type: none"> <li>• Aldergate Properties Ltd represented by Peter Whistler</li> <li>• Mr Brocklehurst</li> </ul>		
<b>Agenda #2 Purpose of the CAH and ExA Opening remarks</b>			
3			<p>The application for the Scheme includes a request for an order granting a Development Consent Order (DCO) to authorise Compulsory Acquisition (CA) of an interest in or a right over land. This hearing is to enable the ExA hear and examine the objections by IPs to help consider issues raised and where relevant and legal policy test on application to CA and Temporary Possession ('TP'). The purpose of the hearing was to consider matters on the CAH2 Agenda published on 15 November 2024 and detail was provided by the ExA.</p> <p>The ExA requested that all Affected Parties who made an oral representation in CAH2 submit a written summary by Deadline 4 on Friday 13 December 2024. The written summary must be based on the oral representation made at the Hearing, it must not include new material, although the Affected Party can include more detail and supporting information such as plans and clarifications.</p>
<b>Agenda # 3 Individual Site Specific Representations</b>			
<p>For each Affected Person, the ExA asked the parties to:</p> <ol style="list-style-type: none"> <li>i. confirm the plots that they have an interest in (by reference to the book of reference and land plans) and the nature of the interest,</li> <li>ii. provide an outline of the current scope of objections, taking account of any progress in negotiations with the Applicant,</li> <li>iii. confirm whether CA and or TP powers (or both) are objected to and (with reference to the statutory tests and applicable guidance) why?</li> <li>iv. What relief is sought?</li> <li>v. Whether there are any issues of hardship or requests for non-statutory relief, and if so, the basis for these and any practice precedents,</li> <li>vi. Where relevant, whether the Human Rights Act (ECHR) rights and or the Public Sector Equalities Duty (PSED) are engaged and what considerations emerge from this?</li> </ol>			
<b>3.2 Newark and Sherwood District Council</b>			

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Item	Comment / Representation by:	Questions/Issues Raised at the CAH2	Applicant's summary written Response at CAH2
4	Raj Gupta – Town Legal on behalf of NSDC	<p>Mr Gupta explained that the land holdings affected are in two categories:</p> <ol style="list-style-type: none"> <li>1) The Lorry park which is used frequently by the freight industry and is a major source of income for NSDC: it employs:                             <ul style="list-style-type: none"> <li>○ 5 Full-time staff</li> <li>○ 7 Part-time staff</li> </ul> </li> <li>2) The entrance to NSDC's main office is subject to TP powers which need to be regulated otherwise there is a risk that NSDC will not have access to its own office.</li> </ol> <p>Mr Gupta referred to Sheet 3 of the Land Plans [AS-004] which was presented to the ExA and attendees during the CAH2.</p> <p>The plots to be permanently acquired are Plots: 3/14a, 3/14e, 3/14g, 3/14j which are mainly located in the north and north-west corner and going down.</p> <p>The plots subject to TP are the areas shaded blue in the Land Plans [AS-004] relating to Plots: 3/14b, 3/14c, 3/14d, 3/14f, and 3/14k. All Plots except for 3/14b1 and 3/14h are also subject to the acquisition of easements.</p> <p>The easements vary and so have restricted covenants and include rights for the Applicant to</p>	<p><i>No response required from the Applicant here.</i></p>



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Item	Comment / Representation by:	Questions/Issues Raised at the CAH2	Applicant's summary written Response at CAH2
		<p>pass and re-pass over land and to effectively sterilise the land so that it cannot be used for anything other than access.</p> <p>What we are looking for and where we are in negotiations with the Applicant.</p>	
5	ExA	The ExA asked whether the easement land can be used for the lorry park since it is not being used for access?	The Applicant confirmed that access would be maintained for the Council over this land
6	Raj Gupta – Town Legal on behalf of NSDC	<p>Mr Gupta explained that if the lorry is parked on the land, NSDC will be infringing on the easements acquired. This affects two things:</p> <ol style="list-style-type: none"> <li>1) The capacity of the lorry park, taking into account the permanent acquisition of pink land and any acquisition of easements in those areas. Capacity would be reduced by 30%; and</li> <li>2) NSDC will need a designer to reconfigure the lorry park to consider loss of land and easement and mitigate that loss of capacity.</li> </ol>	See point 5 above
7	ExA	The ExA asked NSDC whether even if easements are in place, there may not be any loss in capacity?	<i>No response required from the Applicant here.</i>
8	Raj Gupta – Town Legal on behalf of NSDC	Mr Gupta explained that there would still be a loss and NSDC will still need to do a design of reconfiguration to take into account loss of land and	See point 5 above.

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		<p>easements so NSDC don't exactly know what the capacity will be at this point. If nothing is done, then the loss of capacity will be 30%.</p>	
9	ExA	<p>The ExA directed the Applicant to explain why is there a prohibition of parking lorries on the blue land and the purpose of the easement?</p>	<p>The Applicant explained that it is still possible to use blue land for the parking of vehicles. That is where the easements would be: Parcel 3/14b.</p> <p>The difference in opinion arises from the negotiations between the Applicant and NSDC. The original position that is set out by the Council is the potential capacity impact if the land were to be sterilised. As suggested by Raj Gupta, both parties will continue to seek to reach terms of negotiation and also provide updates on possible further work to be undertaken to understand reconfiguration and potential impact on capacity.</p>
10	Raj Gupta – Town Legal on behalf of NSDC	<p>Mr Gupta wished to elaborate on NSDC's access to the main office entrance Plot 3/14h as shown on the Works Plans [REP3-002].</p> <p>Mr Gupta explained that in the case of TP, this can either be exclusive to the Applicant or can be shared with others. That is at the Applicant's / Acquiring Authority's discretion which is to be reached by agreement. The Application could take exclusive TP of that and prevent NSDC access to the Council's office.</p>	<p>The Applicant noted that the latest discussion between the Applicant and NSDC took place on 11 November 2024 with officers of the planning team. It seems that in principle an Agreement can be reached. There are no huge differences in terms of structure. In basic terms, the proposal is that the Applicant will provide a near complete detailed design that they intend to do before they are finalised and seek comments from NSDC. Provided those comments are given in writing and within a reasonable timeline. It will then undertake not to undertake any powers for a period of time to allow the council to undertake its own design for reconfiguration. We will have a detailed design of the works, a period time in which we can take time to design and reconfigure the lorry park, and undertake the works and then the Applicant can go on the land to undertake their works. The</p>

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			Applicant will aim to minimise the impact on the lorry park and minimise the compensation payable to NSDC by the Applicant.
11	ExA	The ExA asked NSDC how they anticipate to secure that the design work would not be completed during the examination – that this would be carried out a later date and whether that would be through a separate Agreement?	<i>No response required from the Applicant here.</i>
12	Raj Gupta – Town Legal on behalf of NSDC	<p>Mr Gupta confirmed that the Applicant's request is divided into two:</p> <ol style="list-style-type: none"> <li>1) Detailed design of Applicant's works will be provided by undertaking via letter from the Applicant to NSDC. The Applicant has provided a draft of the letter for NSDC's consideration.</li> <li>2) Reconfiguration of the lorry park and costs of design, etc. by Agreement. The Applicant will provide a draft Agreement and draft set of Heads of Terms.</li> </ol>	<i>No response required from the Applicant here.</i>
13	ExA	Regarding re-design, the ExA won't be able to see anything before the close of the A46 DCO Examination.	<i>No response required from the Applicant here.</i>
14	Raj Gupta – Town Legal on behalf of NSDC	Mr Gupta confirmed that NSDC and the Applicant will aim to reach Agreement on all matters discussed and all objections regarding policy, CA	<i>No response required from the Applicant here.</i>

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		and TP will be withdrawn. The ExA won't be able to see any plans.	
15	ExA	<p>The ExA noted that NSDC made a relevant representation regarding the reduction in capacity and tied that to the statement in the NNNPS 2024, about the need to provide sufficient lorry parking. How can the ExA deal with that comment if we have not seen any information regarding the respective capacity of the park?</p> <p>The ExA noted that this is a point that can be revisited in the ISH2 Transport Hearing on 4 December 2024.</p>	<i>No response required from the Applicant here.</i>
16	Raj Gupta – Town Legal on behalf of NSDC	<p>Mr Gupta noted that this was a reasonable question from the ExA and that NSDC will consider this question and respond in the ISH2 Transport Hearing on 4 December 2024.</p> <p>In principle it seems clear than an Agreement can be reached, although there are some details that need to be further considered. NSDC require quicker movement from the Applicant to progress the Agreement. There is no reason why NSDC and the Applicant won't reach an Agreement before the end of Examination.</p> <p><i>Action Point arisen – the ExA will raise this with NSDC at the ISH2.</i></p>	<i>No response required from the Applicant here.</i>

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17	ExA	Regarding the lorry park, the ExA asked NSDC if they are confident that there is a way that the lorry park matter can be resolved which will lead to potentially withdrawing your objection pending the appropriate conclusion of Agreement	<i>No response required from the Applicant here.</i>
18	Raj Gupta – Town Legal on behalf of NSDC	Mr Gupta confirmed that the ExA's remark was correct, subject to the parties engaging swiftly.	<i>No response required from the Applicant here.</i>
19	ExA	The ExA asked the Applicant if they were content with NSDC's comments about concluding matters quickly?	<p>The Applicant stated that in relation to the Agreement, as part of the matrix, an undertaking has been supplied and NSDC will respond on that point. Regarding the wider Agreement in relation to land acquisition and TP, the Applicant has had a number of discussions with NSDC about the land rights. In the last meeting on 11 November 2024, the parties discussed the outline agreement which covers several parts including: detailed design; temporary rights; and land acquisition. This was followed up with a site inspection on 20 November 2024 to inspect the ground. Valuers for the land walked the site and agreed to progress by Agreement. It is with the valuers to now produce HoT to refer to concern regarding TP and Plot 3/14h. That gives NSDC some control and ability to have a say in how that is to be used. It is intended to be a Licence by Agreement. So far the parties have made positive progress and are looking to get the terms agreed as soon as possible.</p> <p>An additional point to raise regarding TP and Plot 3/14h with regards to Agreement. This plot is also an area of TP land that will be used for traffic management processes and delivery of the</p>

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			works on the Great North Road. It will be controlled under the Outline Traffic Management Plan (OTMP) [REP3-026] in relation to maintaining access to businesses during the works.
20	ExA	The ExA asked NSDC whether there were any other issues that they wish to raise, other than the lorry park and access to the site?	<i>No response required from the Applicant here.</i>
21	Raj Gupta – Town Legal on behalf of NSDC	Mr Gupta confirmed that there was nothing further raise and that they hope to make progress over the next month or two.	<i>No response required from the Applicant here.</i>
22	ExA	The ExA invited the Applicant to provide their final right of reply.	The Applicant replied nothing further.
<b>3.4 John James Miller</b>			
23	John Miller	<p>Mr Miller is an affected person regarding he Farndon West and East in the FCA. Mr Miller noted that he didn't have all the details, but will ensure to provide a written summary. Mr Miller's oral representation concerns Sheet 1 (44 Hectares) as shown on the Works Plans [REP3-002], most of which is to be permanently acquired. A small bit is categorised at TP with permanent rights thereafter.</p> <p>Mr Miller intends to explore the idea of it being or having temporary right on it but after further investigation and confirmation that a Section 253 Agreement would be for 99 years, and therefore he would prefer to go through the route of permanent</p>	<i>No response provided by the Applicant here.</i>

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		<p>acquisition. Mr Miller asked for G1 survey data which the Applicant has provided. An offer was given by the Applicant on 25 September 2024. Mr Miller looked and commissioned some of his own papers to look at mineral rights and Biodiversity Net Gain (BNG). He now has a solicitor appointed to enter into negotiations with the Applicant. A meeting will take place with the district valuer on site tomorrow (4 December 2024). Mr Miller is hoping to reach a conclusion towards the end of the DCO Examination.</p> <p>On a block of land categorised as permanent acquisition, Mr Miller requires access to his fishing right on River Trent and need access to the retained piece of land in that parcel during and after the construction, because there is no other access available to Mr Miller and the Applicant is aware of this. On that basis, Mr Miller seeks to clarify the compensation for cricket bat willows; 250 of them in the land to be permanently acquired will be lost during the construction of the FCA.</p> <p>In respect of Plots 3/2k and 3/15a as shown on the Works Plans [REP3-002] , Mr Miller is a tenant of that land. There are HoTs in place with the Applicant and negotiations are progressing well.</p>	
24	ExA	The ExA raised two points with Mr Miller:	<i>No response required from the Applicant here.</i>

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		<p>1) The level of compensation and nature in relation to direct compensation. The ExA noted that compensation is not a matter for the ExA to get involved in;</p> <p>2) The ExA asked what the nature is of the objection to the CA and who this would affect and what the other issues are that Mr Miller is raising as to why the CA is inappropriate (notwithstanding compensation).</p>	
25	John Miller	<p>Mr Miller explained that some of that land will be used as environmental mitigation for the project. BNG is a revenue stream available to landowners and it is something that Mr Miller has expressed an interest in prior to the hearings. The land is registered with the local authority (NSDC) as a potential area of BNG. It is losing that opportunity and therefore, rather than going down the route of it being permanent acquisition, the land would be acquired through a lease of 99 years.</p> <p>Mr Miller expressed his decision to pull away and pursue the route of permanent acquisition.</p>	<i>No response required from the Applicant here.</i>
26	ExA	The ExA reiterated Mr Miller's comments regarding his decision to no to enter into a lease or a management agreement, and Mr Miller's confirmation that he prefers to move forward with	<i>No response required from the Applicant here.</i>



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		CA, and subsequently resulting in the removal of objection based on discussions with the Applicant.	
27	John Miller	Mr Miller confirmed the ExA's statement. Mr Miller would pursue CA as opposed to a management agreement.	<i>No response provided by the Applicant here.</i>
28	ExA	The ExA invited the Applicant's comments in regards to the oral representation made by Mr Miller.	The Applicant explained that the Applicant updated the OTMP [REP3-026], to include a specific mention to Mr Miller's access to the land off the A46, and how that will be maintained during the construction. The reference to the works numbers are contained in the OTMP on page 21 – A46 field access.
29	ExA	The ExA sought to clarify whether Mr Miller was referring to a different matter in relation to retaining access.	The Applicant confirmed that there is a field system to the north, which is accessed via the access maintenance / access track that the Applicant will be constructing.
30	ExA	The ExA sought to clarify whether that would facilitate access, and whether there is an Agreement to facilitate that	The Applicant confirmed that this would facilitate access and that this would be included in the Agreement as part of that discussion.
31	ExA	The ExA asked Mr Miller whether he had any further outstanding issues regarding access	<i>No response required from the Applicant here.</i>
32	John Miller	Mr Miller confirmed that the Applicant has addressed all concerns.	<i>No response required from the Applicant here.</i>
33	ExA	The ExA noted that when Mr Miller attended the Preliminary Hearing, Mr Miller expressed concerns regarding the impact of viability of Mr Miller's	<i>No response required from the Applicant here.</i>

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		business. The ExA asked Mr Miller whether this is still a concern?	
34	John Miller	Mr Miller confirmed that this was no longer a concern.  The ExA requested Mr Miller to confirm this in the submission of his written summary.	<i>No response required from the Applicant here.</i>
35	ExA	The ExA referred to Mr Miller's point regarding the retention of fishing rights. The ExA asked Mr Miller whether this will involve any physical works or just retaining as it is	<i>No response required from the Applicant here.</i>
36	John Miller	Mr Miller confirmed that they will be maintaining an access track for vehicles as they go down the River Trent.	<i>No response required from the Applicant here.</i>
37	ExA	The ExA asked Mr Miller whether that track is currently in place	<i>No response required from the Applicant here.</i>
38	John Miller	Mr Miller confirmed that the track is not in place.	<i>No response required from the Applicant here.</i>
39	ExA	The ExA asked the Applicant whether this was compatible and that it has been considered in response to the Environmental Master Plan (EMP) [AS-026].	The Applicant confirmed that it would revisit and respond to this point in the ISHs taking place on Thursday 5 December 2024.

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		<i>The ExA will revisit this point in the ISHs on Thursday 5 December 2024.</i>	
40	ExA	<p>The ExA invited the Applicant to provide their final right of reply to the matters raised by Mr Miller.</p> <p><i>If Mr Miller reaches a position where he agrees, Mr Miller shall confirm in writing and submit to PINS and also withdraw their objection.</i></p>	<p>The Applicant confirmed that it had a meeting scheduled for 4 December 2024 to look at the practical issues on the site, including access and the Willow Plantation. There are a number of reports to be provided by Mr Miller's agent, and the Applicant will ensure to have a look at those. The Applicant will try to reach an agreement as soon as possible.</p>
<b>3.5 James Sumsion on Behalf of Langford Hall</b>			
41	James Sumsion on behalf of Langford Hall	<p>Mr Sumsion on behalf of Langford Hall noted that his oral representation concerns Plots: 6a, 6a/1, 6/b, 6/c, 6/c1, 6/d, 6/d1, and part of 6/2a on Sheet 6 of the Works Plans [REP3-002].</p> <p>Mr Sumsion owns the freehold of Langford Hall. This serves as a family home, commercial office and Airbnb property. James is supportive of the scheme and recognises the necessity of the Scheme. Mr Sumsion finds himself objecting in relation to the position that the Scheme leaves him in.</p> <p>Langford Hall is a Grade 2* Listed Building property. Mr Sumsion believes that this property is the most serious heritage asset impacted by this scheme, and therefore holds more of a special interest. As</p>	<p><i>No response provided by the Applicant here.</i></p> <p>The land within Plot 6/6b is outlined for a utilities corridor. The Applicant will ensure that Langford Hall will benefit from the necessary rights/land interest to be contiguous with the adopted highway for access.</p>

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		<p>custodians of Langford Hall, its 25<sup>th</sup> anniversary was celebrated this year which attracted 400 attendees. Mr Sumsion is committed to preserving its heritage and historical agriculture. The Applicant seeks to CA part of the land for the purpose if the project to TP other parts for carrying out work.</p> <p>It is proposed to close the existing access point to access private drive and place a new access drive from the realigned A1133.</p> <p>Engagement with the Applicant started early and positively, however Mr Sumsion wishes to make an oral representation with regards to:</p> <ol style="list-style-type: none"> <li>1) Land Allocation,</li> <li>2) Heritage Conservation Needs</li> <li>3) Footpath</li> <li>4) Accessibility</li> <li>5) Noise Mitigation</li> </ol> <p>Mr Sumsion's understanding is that the parties will enter into a set of HoTs and supported by detailed design. Mr Sumsion discovered last month that the detailed design would not be available until spring; this was suggested to be 21 June 2025. There is no Statement of Common Ground (SoCG) to rely on where the parties stand on in respect of many open-ended questions and issues.</p>	

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		<p>Mr Sumsion noted that there was a misunderstanding between his appointed lawyers (BDB Pitmans who are now known as Broadfield UK). Mr Sumsion was under the impression that they were engaged in the process. Unfortunately the land agent is unable to represent at hearings. Mr Sumsion noted that he was unable to get the written responses submitted within the Deadline.</p> <p><u>1) Land Allocation</u></p> <p>Mr Sumsion noted that he objected to the extent of CA of the land, the access river (Plot 6/d1) in their first written representation. Mr Sumsion did not believe that it would be in the public interest to be permanently acquired.</p> <p>Mr Sumsion confirmed that the Applicant has agreed to this point and are redrawing the Land Plans, although they are not in receipt of anything as times marches on, and is concerned with that. Mr Sumsion' understanding that the query that the district values have escalated with no answer.</p> <p>The A1133 is being realigned; Plot 6/3c, is swing to the left slightly and creates a triangle of 'no man's' land between the end of Mr Sumsion's curtilage and the end of the road. Mr Sumsion suggested that there should not be such 'no man's land' to maintain</p>	

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		<p>the integrity of the estate. The 'no man's' land serves no purpose.</p> <p><u>2) Heritage Conservation Needs</u></p> <p>The Applicant proposed an entrance gate that was not accommodating with the lodge. It is attached to a lodge and gives a foretaste of what one can expect before they go to the hall. The new proposed entrance gate will no longer have a lodge next to it. Mr Sumsion flagged a need to speak to the designer of the hall. After Historic England got involved at Mr Sumsion' request, Historic England wish to design this themselves which give Mr Sumsion a cause for concern. Mr Sumsion is adamant that they should have some independent heritage architects on the project team to ensure the design speaks to the architectural narrative of the Langford, and avoid diminishing the estate's historical value. This is a risk that cannot be taken when dealing with a property that has stood for 250 years, and hopefully for another 250 years. Historic England thought they had the undertaking that they were founded to be able to act on Mr Sumsion' behalf, and land agents not able to represent</p> <p><u>3) Footpath</u></p> <p>Regarding Footpaths F-6C – F-6E as shown on the Streets, Rights of Way and Access Plans [AS-006],</p>	

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		<p>Mr Sumsion put in a request for the footpath to be extended to the hall itself to enable people walking over to the showgrounds. The Airbnb will often enable occupants of the lodge to walk children to school. Mr Sumsion noted that there is confusion as to what position they are in and there appears to be a lot of loose ends in the SoCG.</p> <p><u>4) Accessibility</u></p> <p>Mr Sumsion flagged that he received no response to his Written Representation [REP2-057] under Section 4.6 regarding the stopping up of the lodge entrance. Stopping up of the entrance means that this becomes a cul-de-sac and would need turning areas for oil deliveries, refuse trucks and disposal lorries and visitors so they can go up to the lodge and safely turn without reversing in a single track.</p> <p><u>5) Noise Mitigation</u></p> <p>Mr Sumsion has not yet reached agreement with the Applicant. The lodge is less than 100m from the designated construction noise area within the operation and noise study area of the lodge is held. The family that lives there; the children go to school and the parents work nights. Mr Sumsion requested some discretionary consideration for noise mitigation means, noting that the Environmental Statement</p>	

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		<p>(ES) has classified the noise impact as negligent short term and long term.</p> <p>There is concern for the real world impact on their quality of life. The constructive and operational impacts have been assessed separately and in combination. Mr Sumsion wants proactive commitment to address this concern to endure the short term and the long term viability, Mr Sumsion requested of double glazing on the first children's bedroom, sitting room and breakfast room for the affected family at Langford Hall.</p> <p>There was huge emphasis that the gates commensurate with the architectural significance of the lodge.</p>	
42	ExA	<p>The ExA stated that in terms of the matters that have been raised, the ExA sought the Applicant's response; in particular, responses to the areas where there is a lack of understanding of what the intention is or where resolution has not yet been arrived at, and the method of achieving a resolution.</p> <p>Mr Sumsion has mentioned a SoCG. The ExA asked whether the Applicant thinks it would be helpful or whether some form of agreement or document between the parties would be helpful, and if so what that would be.</p>	<p>The Applicant explained that, the discussions regarding acquisition by agreement have been positive and the Applicant has reduced the permanent land acquisition from 6.85 acres to 1.84 acres (subject to acquisition by agreement).</p> <p>Agreement discussions relate to the remainder of the land and the Applicant is progressing that under a Licence and a Section 253 Agreement because the land owner wishes to retain land.</p> <p>Heads of Terms (HoTs) were updated and issued to Mr Sumsion on 17 September 2024. Before the issue was raised by Broadfield UK in terms of the land and between existing boundaries and new highway. The Applicant has asked their agent to consider this</p>



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			<p>point internally, and to incorporate this into the HoTs. The Applicant confirmed that the HoTs are in a good place but discussions regarding detailed design are outstanding.</p> <p>The Applicant noted that detailed design is key to enable the parties to reach agreement and the Applicant anticipates that the parties can reach agreement as long as there is a mechanism for addressing detailed design subsequently.</p> <p>The Applicant wanted to clarify that:</p> <ol style="list-style-type: none"> <li>1) detailed design has been picked up by the Applicant; and</li> <li>2) the Applicant provided an update.</li> </ol>
43	ExA	<p>The ExA is not clear on detailed design, because detailed design won't progress until much later in the process; after the DCO Examination. Mr Sumsion feels that he is at a disadvantage because he won't know what that is and how can he have the confidence that matters he is concerned with are address in there if there is not SoCG.</p> <p>The ExA sought clarity on the Applicant's proposed method or satisfaction that the issues that Mr Sumsion is concerned about will be addressed with detailed design.</p>	<p>The Applicant confirmed that this was addressed in the Applicant's Response to Relevant Representations [REP1-009] and in Historic England's SoCG [REP1-021], seeking approval in principle in the HoTs, and to have a section in the Accommodation of Work Agreement including conversations that covers:</p> <ul style="list-style-type: none"> <li>• the access track that runs up from here, realigning of the A1133 and the triangle; and</li> <li>• the boundary condition to that planting that is detailed in the EMP [AS-026], covering areas as gate design, pillar design and the turning circle.</li> </ul> <p>In a previous statutory consultation, there was lot that the Applicant identified, such as the need of access to the property.</p> <p>The Applicant further clarified:</p>

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			<p>3) Access to the drive – would be discussed in a proposed agreement;</p> <p>4) The realignment of the A1133 and the triangular piece of 'no man's' land will be picked up in discussions from an agreement perspective;</p> <p>5) The Footpath would be extended to the new access road to Langford Hall;;</p> <p>6) The turning circle will be addressed in the Accommodation Works Agreement;</p> <p>7) Discretionary noise mitigation will be considered;</p> <p>8) Impacts on the lodge will be addressed on Thursday 5 December 2024 in ISH4.</p> <p>The Applicant also referred to the design of the gate being proposed as part of the HoTs for the Accommodation Works Agreement.</p> <p>In relation to the footpath and the proposed extension, the Applicant can confirm that this will be extended up to the bell mouth of the of the new access track.</p>
44	ExA	The ExA sought to clarify whether this would relate to the new track or the new lodge	The Applicant confirmed that it was referring to the new access road.
45	ExA	The ExA sought to clarify whether the Works Plans and Land Plans have been updated.	<p>The Applicant confirmed that the Works Plans [REP3-002] will need to be updated as the extension is a few metres.</p> <p>The Applicant can now confirm that as the Works Plans do not show the footpath locations it has updated the Streets Rights of</p>

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			Way and Access Plans [AS-006] and submitted those into the Examination at Deadline 4.
46	-	-	Regarding discretionary noise mitigation, there were no acoustic experts representing the Applicant in the CAH2, and therefore the Applicant noted that this was point that they would pick up on in due course so that this could be discussed with Mr Sumsion and see whether Agreement can be reached.
47	ExA	The ExA asked Mr Sumsion to clarify whether he was referring to the children's bedroom.	<i>No response required from the Applicant here.</i>
	James Sumsion	Mr Sumsion confirmed yes.	<i>No response required from the Applicant here.</i>
48	ExA	The ExA asked Mr Sumsion if he was intending to attend ISH4 on Thursday 5 December 2024 (when the Applicant intends to address the impacts of noise on the lodge)	<i>No response required from the Applicant here.</i>
49	James Sumsion	Mr Sumsion confirmed that he would not be attending.  Mr Sumsion also clarified his point in relation to the issue regarding the entrance gates; Mr Sumsion requested an independent contractor / professional representation for the design to ensure that he design commensurate with the historical appearance of the lodge.	<i>No response required from the Applicant here.</i>
50	ExA	The ExA clarified that it is not within the ExA's role to design the HoTs but, the Applicant has inferred	The Applicant agreed with the ExA's points and suggested structure to deal with the issues. It is possible for matters to be

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		<p>that this point regarding the independent contractor for the design would be addressed in the HoTs. This would perhaps cover the approval process or methodology for how the design will be agreed between the parties; whether or not they will provide a design or seek some form of agreement as to who is creating that design. The ExA gathered that these are the sort of matters for discussion that Mr Sumsion would have with the Applicant when discussing the Heads of Terms.</p> <p>Given that detailed design is likely to occur after the Examination concludes, the ExA suggested that in the HoTs, the parties note that they will sign the agreement which addresses all the issues, withdraw objection and enter into a side agreement with the Applicant.</p>	<p>dealt with, subsequent to an Agreement being in place in relation to consultation and design. The Applicant proposed to put in place a process to facilitate future engagement with Mr Sumsion, as part of the design, however the Applicant is unable to confirm what that would be at this point. The Applicant has noted that this is a point to pick up with Mr Sumsion, and hopefully the parties can reach agreement.</p>
51	ExA	The ExA invited the Applicant to provide their final right of reply.	The Applicant had no further comments.
<b>3.6 The Charity of Thomas Brewer</b>			
52	Lee Cammack – Chairman of the Charity Thomas Brewer	<p>Mr Cammack highlighted that his oral representation would have regard to Plots: 6/2a, 6/2b, 6/2c, 6/2d as shown on the Land Plans [AS-004], which adjoin the A1144 and the A46. Mr Cammack raised two points:</p> <p>1) Mr Cammack asked why Plot 6/2c shaded blue is different from other areas of the land</p>	<p>The Applicant provided a response to Mr Cammack's Points 1 and 2.</p> <p>1) The Applicant noted that it was going to review the Land Plans [AS-004] in detail regarding Plot 6/2c and provide a reason as to why it has been labelled as being subject to TP with permanent rights in writing. By way of brief update to the ExA, the reason 6/2c is subject to TP with</p>

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		<p>that are categorised as TP such as Plots 6/2b and 6/2d.</p> <p>2) The footpath is to be installed from Hagen Land from the village of Winthorpe which joins the A46. There is a footpath being installed up there to the Winthorpe Island. There is no footpath at the moment. The concern is that the footpath has proper protection. No chance of the original access for people. Deterring would be appropriate if at all possible.</p> <p>Mr Cammack also pointed out that they have had discussions with the district valuer who informed them that they are losing 29% of the farmable land which is a concern for the charity as the rent the tenant farmer pays is the only form of income. That is a knock back that the charity will take but nonetheless will take forward with the district valuer.</p>	<p>permanent rights relates to utility rights (regarding a general utility corridor) that will be required throughout that area in the future. The Applicant reiterated that they will put this in writing. The response to this is captured in Annex 1 to this document in response to Action 5.</p> <p>2) In relation to the footpath and cycleway along the edge of the boundary, the Applicant explained that there will be a boundary fence between the ends of the 3m footway and access track that will segregate those areas from the residual field systems. The fencing detail will be confirmed with the landowners as regards to accommodation, but often it is a post with a full rail detail as per the design highway design standards with netting on it.</p>
53	Lee Cammack – Chairman of the Charity Thomas Brewer	Mr Cammack asked what utilities are there at the moment, as they are unaware of utilities.	The Applicant noted that they have acknowledged Mr Cammack's representation and will respond in writing once the Applicant has received confirmation of the details in relation to the boundary. There will be a hedge marking the centre of the line of the boundary and then the fence is offset from that. The response to this is captured in Annex 1 to this document in response to Action 5.

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54	ExA	The ExA invited the Applicant to provide their final right of reply.	The Applicant had no further comments.
<b>OTHER PARTIES</b>			
<b>Peridot Solar represented by James Cook</b>			
55	James Cook on behalf of and Director of Peridot Solar	<p>Mr Cook highlighted that his oral representation would have regard to the area of land in Plot 7/14a as shown on the Land Plans [AS-005] and the proposed Kelham FCA. Peridot Solar submitted a planning application to NSDC for a proposed battery and energy storage scheme in October 2023.</p> <p>That was across 65 hectares of land to the west of Kelham. Mr Cook has had a number of initial discussions with the Applicant about the interaction of the solar farm and the FCA. The planning application went through consultation. The EA made comments on the 1 November 2023 raising no objections the scheme has been through the consultation period and waiting for determination of the application by NSDC. On the 12 November, the EA submitted a holding objection to the scheme on the grounds that they had some concerns over the interaction of the proposed area for FCA. The reason arose from the lack of clarity of how that would work. There has been limited detail on how flood waters will get from one side of the 617 to the other side into the solar proposal land and how the FCA should operate and how they will be constructed. There are a lot of unknowns to the EA</p>	<p>The Applicant notes that the EA put in a recent letter onto the NSDC planning portal and the EA also submitted their a further representation [REP3-044] at Deadline 3 with regard to this issue. The Applicant confirmed that it is reviewing this submission and has prepared a response to the EA's written representation which will be submitted into the Examination for Deadline 4.</p> <p>The Applicant has worked with the EA during preliminary design and through the period of examination with the details of the FCAs included within the Appendix 13.2 (Flood Risk Assessment) to the ES [APP-177].</p> <p>With regards to the water flow from the FCA, there is a proposed culvert under the A617 that provides connectivity and water flow between the existing ditch systems and the proposed FCA.</p> <p><i>The ExA noted that matters regarding flooding, etc. will be covered in ISH2 on 4 December 2024, and therefore the Applicant will have the opportunity to delve into those areas in more detail with regards to the actual impact of the flood. The ExA redirected the Applicant to provide a response in terms of CA and TP.</i></p> <p>In terms of the CA and TP, the Applicant noted that there is nothing further in this stage as wider issues of flooding will be discussed in the ISH2 on 4 December 2024, and the Applicant will follow up with a written summary of oral representation.</p>

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		<p>on how the solar farm would sit on the FCA. Mr Cook has received very little information from the Applicant about how it would operate, except from a Letter of Comfort from the Applicant about the solar farm and bypass, but the detail was very high level.</p> <p>Since then, they have since formally removed an element of solar deployment from the FCA to the detriment to the solar scheme, around 1.3 hectares. That is fairly recent, as it is the only way to overcome the EA's holding objection. Mr Cook has tried to reach to the Applicant to know more about what the FCA involves and the detail of that. That has drawn zero dialogue.</p> <p>Pulled some deployment out of the FCA to the detriment of Peridot Solar and really the only interaction now is from a planning perspective. We have access directly from the A617 in the land plans which can be seen in the vicinity of A617.</p> <p>In relation to an existing field gate that comes of the A617 as part of the solar scheme, Peridot Solar is looking to include an improved internal vehicular access to the solar farm and also agreement that it would use the same as it would provide access to the FCA. The concern there is that with the EA there is a lack of understanding of how the ditch would run parallel to the A617 would be impacted and how the access proposed to the A617 into the solar deployment will be implemented and certainty</p>	<p>The Applicant added that as Mr Adrain Hatton is the landowner, and is involved with the proposed solar development, it is most useful perhaps to discuss the concerns of CA and TP with Adrian Hatton.</p>

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		<p>as to how this would be done. These are the concerns.</p> <p>This has delayed the determination of the solar farm application, and provided unknowns and significant impact on the deployment as we try to overcome some of the objections that the EA has raised.</p> <p>Mr Cook sought clarification from the Applicant to see how this would work and give the EA confirmation that the infrastructure proposed as part of the FCA is operating and impede the impede the flood flows</p>	
56	James Cook on behalf of and Director of Peridot Solar	<p>Mr Cook reiterated that they require communication from the Applicant to engage with them on this to address the EA's concerns and provide further information. Mr Cook has requested a meeting to discuss the material impact on the deployment and generation of the proposed solar farm, however this request was not responded to.</p> <p>Determination was due in January 2024, and the EA's very recent observation, from the latest consultation, no objection, their recent holding objection has had a material impact on the scheme.</p>	<i>No response required from the Applicant here.</i>
<b>Adrian Hatton</b>			
57	Adrian Hatton	Mr Hatton expressed that he had a number of concerns regarding the interaction between the FCA	The Applicant confirmed and reassured Mr Hatton that they will pick up with engagement in the HoTs. There have been a number



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		<p>and the solar farm, however this has been covered by Mr Cook.</p> <p>Mr Hatton flagged that there were a few issues:</p> <p>The Applicant asserts that Mr Hatton put forward land for use for the FCA. This is partly true. Mr Hatton engaged in negotiations with the Applicant to find a way to use land albeit that was not required for the solar development and that land was not deemed a sufficient area. This was in relation to Plot 7/4w and that was refused by Solar and that has caused considerable hardship and delays over the years.</p> <p>There are also problems regarding the lack of information provided by the Applicant. Mr Hatton had concerns in relation to Plot 7/4e. This is shown as a single plot, and it is in fact two separate fields. It would have been easier to deal with them separately. There is no material effect, but this could have been made more consistent from a negotiation perspective.</p> <p>Mr Hatton owns the land shown pink on Sheet 7 of the Land Plans [AS-004] with the exception of Plot 7/6a. The proposed FCA in Kelham is well recognised. This is against the EA's normal principals of being directly adjacent to watercourse and as a result there have been discussions about</p>	<p>of meetings and there are substantive HoTs, however the structure of the HoTs are more complex with the planning for the Solar Farm. The Applicant has exchanged HoTs with Mr Hatton and it is an ongoing process. Mr Hatton's request to not use CA / TP powers have been something the Applicant is considering internally; the Applicant is trying to produce new plans and make amends to the access mentioned by Mr Hatton to be clearly marked on the plans.</p> <p>The Applicant is confident agreement can be reached by the end of examination, and will continue to have discussions throughout. HoTs were returned to the Applicant this week and so the Applicant will update HoTs and send back. As soon as the parties are in the position, and are satisfied that the requirements of both parties are met, the parties will be happy to agree HoTs.</p> <p>In relation to the FCA and the operation existing ditches and infrastructure, the Applicant will provide further detail at the ISH2.</p> <p>In relation to Plot 7/4e being shown as a single plot, the Applicant can leave that as a single plot if suitable for Mr Hatton.</p> <p>With regards to the access areas (Plot 7/2i) in the Applicant's Response to Relevant Representations [REP1-009], the Applicant explained that it would work with Mr Hatton to look at the access and ensure they are suitable. The Applicant would like to sit down with Mr Hatton to go through those Plots as there has been some misunderstanding between the agents.</p>

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		<p>culverts under the road which are reliant on existing drainage water to connect the FCA to the River Trent.</p> <p>Mr Hatton is also concerned because he has not seen Works Plans to enhance the drainage systems on his land east of the A617 to cope with the additional water. Further to that the construction of the culvert beneath the A617, negotiations are ongoing and a proposal was made to install a new access on the east side of the A617 to enable construction of those culverts and ongoing maintenance of the A617, plan those accesses and exiting access on the field to the west of the A617 onto Plot 7/4a. This is not shown on any of the plans.</p> <p>Concern regarding Plot 7/2i which is shown in blue with permanent rights to be acquired. Plot 7/2i forms the entrance to my house. That access may be used for a 7 day period to enable mobilisation of equipment to construct a new access to service. Mr Hatton does not believe there is a need to permanently acquire right over that land because when the new access is constructed, then they will not need to use Mr Hatton's house access.</p> <p>Mr Hatton objects to the need for grant of CA is that we have been engaged for excess of 2 years engagement in negotiations and working on HoTs</p>	

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		<p>and operational Agreements for use of this land by means of licence or other. Progress has been slow and there are changing requirements from the Applicant throughout the scheme,</p> <p>Mr Hatton welcomes an increase in the speed by which these negotiation are taking place. And would like more active engagement so that we can have this done well in advance of the determination of the DCO.</p>	
58	ExA	<p>The ExA will be covering matters on water, including FCA, in the ISH3 on 4 December 2024. The ExA welcomed Mr Hatton to attend and deep dive into the discussion of FCA, although noted that discussions and recordings will be available. Mr Hatton may find it useful as matters of culverts and the element of FCA can be discussed.</p>	<p><i>No response required from the Applicant here.</i></p>
<b>LINDUM DEVELOPMENTS LIMITED represented by Amanda Beresford</b>			
59	Amanda Beresford, on behalf of Lindum Developments Limited	<p>Lindum Developments Limited ('Lindum') owns the land shaded yellow shown on Sheet 5 of the Land Plans [AS-004] between the A46 and the other road. Lindum also owns plots: 5/15a, 5/15b, 5/15c and 5/16a.</p> <p>Plot 5/15c is a narrow strip of land that runs along the boundary of Lindum's land along the edge of the A46. The other plots relate to a creation of a new cycleway and footpath which cuts across Lindum's</p>	<p>The Applicant explained that they have addressed the interface issue with Lindum in several documents including:</p> <ul style="list-style-type: none"> <li>• REP1-009 – Applicant's Response to Relevant Representations;</li> <li>• REP2-037 – Applicant's Response to the ExA's WQ1 (Q.13.2.2)</li> </ul> <p>The original consultation with Lindum took place in 2022, in advance of the statutory consultation for the Scheme. At that time</p>

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		<p>land. Lindum's land is allocated for employment purposes in the relevant development plan NUA/MU/1.</p> <p>There is currently an application before the local planning authority for planning permission to develop the site for employment purposes. It is an outline permission and does not show the route of the new proposed cycleway and footpath.</p> <p>The issue that Lindum has is that the proposed route of the cycleway and footpath dissects the development site in two and as such jeopardies the efficient delivery of the site for the employment purposes. The location of the route as set out in the application for the Scheme means it is not possible to configure building and services on the site to maximize employment opportunities .</p> <p>This issue is under discussion with the Applicant in principle and a solution has been provided. The solution proposed is that instead of the route of the proposed new cycleway and footpath as shown in the application for the Scheme, the parties have agreed an alternative route which would follow the A46 to the west and skirt the western edge of land then join the other land toward the south going west and then south.</p>	<p>Lindum’s proposed plans for its development were different to what we see in its current outline planning application. The Applicant has found themselves in a situation where the proposal does not match with Lindum's current design. The Applicant understands that designs develop and change and therefore the Applicant will continue to work with Lindum to resolve this issue and come to seek mutual agreement on how we can still provide the 3m wide cycleway and footpath. The Applicant wishes to pursue a legal agreement and look at how that land will be dedicated and how that can sit with Lindum’s current outline planning application.</p> <p>The structure of the agreement is currently under internal review. Essentially, the choices available to each party will depend on which scheme comes forward first, i.e. whether this is Lindum's scheme or the Applicant's scheme and there are permutations provided in the agreement. Ms Beresford has not seen the draft yet, and so the Applicant will circulate this as soon as it can. The Agreement will then be subject to further discussion with Lindum.</p>

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		<p>Ms Beresford had asked for a plan to show the alternative route and on Friday we received a plan that showed the route just described as an alternative route. In principle, this looks acceptable, but this is still being considered and looked at in further detail.</p> <p>Lindum hopes to achieve an agreement which will show this alternative route as being the route for the new cycleway and footpath rather than the proposed route that is shown on the application for the Scheme. Lindum is yet to receive a draft of the Agreement and is therefore unclear as to the mechanism to secure and agree this. Details will be specified in that Agreement as to how the alternative cycleway and footpath will be achieved, in the most part, the alternative route would be within the land take from Lindum's land along the A46 and Plot 5/15c. Lindum would be open to extend that Plot so that it is slightly wider and sell that by way of Agreement to allow the new cycleway and footpath to go along the A46 (along plot 5/15c). It would then head south to skirt the western edge of Lindum's land; it would still be within Lindum's ownership. No other party would be included and as the alternative route may be outside of the current red line of the application this may require a modification to the Order Limits. This is Lindum's present position on the compulsory acquisition and temporary possession element of the Scheme.</p>	

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		Ms Beresford has been informed to expect a draft Agreement covering these issues outlined in today's CAH2 and hopefully the matter can be resolved, and Lindum can withdraw their objection.	
60	ExA	The ExA noted that one of the alternatives may result in the land being acquired either not in the application site or land that may not necessary be identified for compulsory acquisition or temporary possession which would potentially mean that the Applicant would have to change that; and or not that would result in us going down certain routes which we all want to avoid.	That Applicant confirmed that it is not proposed to make any amends to the Application. If any alternative route was to come forward this would be achieved by way of amendment to Lindum's proposed scheme rather than changes to the Applicant's scheme. To provide the ExA with assurance, the Applicant confirmed that there are no proposals to make any changes to the application for the Scheme in relation to the footpath.
61	ExA	The ExA asked whether the applications (Lindum's Planning Application and the A46 Scheme) fit like a jigsaw	The Applicant confirmed that the drafting proposed as part of the Agreement is much like a jigsaw which would allow the location of the footpath to come forward at the right time and slot in appropriately.
62	ExA	The ExA asked when the Planning Application made by Lindum was due to be determined?	<i>No response required from the Applicant here.</i>
63	Amanda Beresford, on behalf of Lindum Developments Limited	Ms Beresford stated that they do not have that information, although there is reason to believe that determination may be imminent.	<i>No response required from the Applicant here.</i>

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64	ExA	The ExA noted in the Applicant's response to the LIR that this was due to be determined in December 2024.	<i>No response required from the Applicant here.</i>
65	Dean Bower on behalf of Lindum Developments Limited	<p>Mr D Bower clarified that there were two applications in; one of which that does not concern the Applicant – this application will be determined in December 2024.</p> <p>The application that concerns the Applicant and the land shaded yellow is anticipated to be determined in the first Quarter of 2025, however there is no set date provided by the Local Authority.</p>	<i>No response required from the Applicant here.</i>
66	ExA	The ExA asked Ms Beresford about the outcome if by the end of the examination the parties have not reached Agreement.	<i>No response provided by the Applicant here.</i>
67	Amanda Beresford, on behalf of Lindum Developments Limited	Ms Beresford said that Lindum would object to the route as it has public disbenefits in not allowing employment opportunities on the site to be maximised. It is a site that the Local Planning Authority want to see maximum employment opportunities created.	The Applicant expressed that it is the hope of the Applicant that agreement can be reached with Lindum, but that it stands behind the route proposed in its application should an alternative not be possible with Lindum and that therefore no changes are proposed to the Scheme.
68	ExA	The ExA asked the Applicant whether the route the Applicant is currently pursuing and proposing is to the satisfaction of Lindum?	The Applicant confirmed that it is seeking to secure a route that would be to the satisfaction of Lindum via a side agreement. However, should the parties fail to reach agreement the Applicant confirmed that the route set out in the application for the Scheme is the route that the Applicant stands behind. Albeit the Applicant

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			is eager to ensure agreement with Lindum on the alternative location of the route for the footpath can be concluded.
69	ExA	The ExA asked the Applicant that in the event they don't reach agreement, and we have alternative route that a landowner wants to be bring forward, how will the ExA deal with that in the DCO.	The Applicant stated that if there is an alternative that sits outside the DCO from a land perspective then it would be secured by way of the side agreement with Lindum.
70	ExA	<p>The ExA asked the Applicant how the ExA should deal with the mitigation or enhancement (whichever it may be) in terms of providing a continuous pedestrian route that sits outside of the DCO</p> <p><i>The ExA noted that this may be a point for the Applicant to take away and provide a response in writing.</i></p>	The Applicant stated that in the context of considering the option put forward by the ExA, this is a point that the Applicant wishes to take away and respond to either in writing or to be addressed in the ISH2 regarding Transport.
71	ExA	The ExA then asked how an alternative route would be illustrated in the certified drawings.	The Applicant noted that they will tie this point together with their response in the previous question raised by the ExA.
72	ExA	The ExA asked Ms Beresford / Mr D Bower to confirm that in Lindum's current planning application, on the land that would be affected by the Scheme, comprises a series of options.	<i>No response required from the Applicant here.</i>
73	Dean Bower on behalf of Lindum Developments Limited	Mr D Bower confirmed that as the planning application is an outline application that this allows for options. However, these options are restricted by the route that's drawn and set out in the application for the Scheme. This is why Lindum is	<i>No response required from the Applicant here.</i>



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		working with the Applicant to try and find that preferred solution and the mechanism for the relocation of it around the outside boundary of the site.	
74	ExA	The ExA asked, in terms of the alternative described earlier, would that be satisfactory for all those options in your planning application?	<i>No response required from the Applicant here.</i>
75	Dean Bower on behalf of Lindum Developments Limited	Mr D Bower responded yes, versus this option that is here, then it is something that Lindum would be willing to accept. The alternative along the boundaries of the site is much less impactful.	<i>No response required from the Applicant here.</i>
76	ExA	The ExA asked: what if in the future, Lindum was granted planning permission and Lindum wanted to change the layout as they would have decided that the route agreed with the Applicant was not the route that they wanted at all.	<i>No response required from the Applicant here.</i>
77	Amanda Beresford, on behalf of Lindum Developments Limited	Ms Beresford stated that it is highly unlikely, given that the route that suggested by Lindum is skirting the boundary of the site. The difficulty is where it impacts the interior of the site by dissecting it. Therefore, the comment that that the ExA made about the delivery of employment land would no longer be an issue because the alternative route does not impact the employment land as much as the route proposed in the application for the Scheme.	<i>No response required from the Applicant here.</i>

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78	ExA	<p>The ExA asked Lindum, if an agreement is not reached, would we end up in a situation where, if Lindum's Application were to be granted, that we could end up with two incompatible planning applications?</p> <p><i>The ExA noted that they cannot pre-judge Lindum's Application, but hypothetically speaking.</i></p>	<i>No response required from the Applicant here.</i>
79	Amanda Beresford, on behalf of Lindum Developments Limited	Ms Beresford noted this question posed by the ExA as one to take away for consideration, however Ms Beresford acknowledged that it looks like it could be the case.	<i>No response required from the Applicant here.</i>
80	ExA	<p>The ExA explained that this may give rise to Hillside issues in terms of implementation.</p> <p>The ExA noted that this may be a question for Lindum and the Applicant to respond to in writing so that the ExA is clear that they are not inadvertently giving rise to such a situation.</p>	This request become Action 6 from the ExA. The Applicant's response to Action 6 is set out in Appendix 1 to this document.
81	Amanda Beresford, on behalf of Lindum Developments Limited	Ms Beresford had intended to make an appearance on behalf of Lindum in the ISH1 and ISH2 as there are some Agenda points, however they felt that their attendance was no longer necessary.	<i>No response required from the Applicant here.</i>

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		<p>For instance, the two particular Agenda Item of interest were:</p> <ul style="list-style-type: none"> <li>• ISH1: Item 6.d) regarding the issue around how the alternative route for the cycleway and footpath is to be secured; and</li> <li>• ISH2: Item 3.b) about the impact on the allocated site which is NUA/MUA/1</li> </ul> <p>To reiterate, we have explained our position on that, and it is no longer necessary to attend.</p>	
<b>ExA's Final Remark</b>			
<p>Any written summary of oral cases put at the hearings and any documents that have been requested should be submitted by the next examination Deadline 4 which is Friday, 13 December 2024.</p>			
<b>CAH2 concluded at 12:47</b>			

**Appendix 1 – Post-Hearing Response to Action Points Arising From CAH2**

Item	For	Action Point	Applicant's Response
1	NSDC	Aside from seeking to reach agreement with the Applicant on CA and TP, how would the ExA deal with any reduction in capacity of the Lorry Park and associated impact as noted at paragraph 5.3, of NSDC Relevant Representations if reconfiguration studies are not undertaken until after the examination has closed.	No response from the Applicant required.
2	John Miller	Confirm in writing whether, if Agreement is reached with the Applicant, concerns regarding the viability of his business, which were expressed at the Preliminary Hearing have fallen away.	No response from the Applicant required.
3	Applicant	To provide a response to the issue raised by Mr Sumption in relation to the mitigation of noise in a child's bedroom the Langford Hall Estate.	Due to the Environment Statement noting negligible short and long-term noise impact to the lodge; there is no statutory requirement to provide noise mitigation. However, we acknowledge the specific circumstances of the Lodge including, being home to small children and parents who work nights. This will be recorded in the communication with the landowner as part of the land compensation negotiations.
4	Applicant	To update the Works Plans to show the pedestrian route extending to the proposed bell mouth to the Langford Hall Estate	<p>The pedestrian routes are not shown on the Works Plans [REP3-002], however the Applicant has updated the Streets Rights of Way and Access Plans [AS-006] to show the pedestrian route extending to the proposed bell mouth to the Landford Hall Estate. The updated Streets Rights of Way and Access Plans will be submitted into the Examination at Deadline 4.</p> <p>In addition to updating the Streets Rights of Way and Access Plans, the Applicant has also updated the relevant reference in Schedule 3, Part 10 of the draft Development Consent Order [REP3-003] submitted into the Examination at Deadline 4.</p>

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Item	For	Action Point	Applicant's Response
5	Applicant	In relation to the land belonging to the Charity of Thomas Brewers, confirm in writing the nature of the utility corridor on the blue land.	<p>The Interested Parties inquired as to why plot 6/2c was shown blue on the Land Plans [AS-004] whereas the plots either side (6/2d and 6/2b were shown green). The Applicant can confirm that plot 6/2c has been designated Land to be used temporarily and rights to be permanently acquired as there are utility diversions proposed in this location. Plot 6/2c includes the realignment for the A1162, Work No 109 on sheet 6 of the Works Plans [REP3-002]. This works area includes Work No U26, as shown on sheet 6 of the Utility Works Plans [AS-016] and comprises the diversion of electronic communication equipment belonging to EU Networks.</p>
6	Applicant	With regard to Lindum, to consider whether the absence of an Agreement between the parties could result in incompatible planning applications put forward by both Lindum and National Highways.	<p>While the parties are committed to reaching an agreement securing the alternative location of the footpath/cycletrack along the outside boundary of Lindum's proposed development site we have, as requested by the ExA, considered the implications if such an agreement cannot be reached.</p> <p>In this regard, the ExA has asked the Applicant to specifically consider the risk of there being two conflicting planning consents in place, i.e. the implication of having the footway/cycle track proposed by the Scheme running through the development site subject to Lindum's planning permission. The ExA asked this in the context of the recent Hillside Parks Limited v Snowdonia National Park Authority (UKSC/2020/0211) judgement (Hillside).</p> <p>It is important to understand a little of the wider background to the planning permission Lindum is seeking and to note that Winthorpe FP3 already dissects the site that Lindum is seeking to develop and so part of its application will involve the provision of a diversion route around the boundary of the development site for Winthorpe FP3. While the needs of the A46 Scheme would require the</p>

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Item	For	Action Point	Applicant's Response
			<p>extension of this footpath a short distance to the east and that it be a combined footpath/cycletrack, there would be a diversion provided by Lindum whether or not the A46 Scheme progresses. The Applicant only mentions this because the distance between what the two parties require or would be satisfied with are very much aligned in terms of the provision of the alternative footpath route which should provide further comfort to the ExA.</p> <p>The other point to note is that in order for the Applicant to permanently provide the footpath/cycletrack in the location set out in the Application it is seeking compulsory acquisition powers. While the presence of an implemented or implementable planning permission may have an implication on the compensation payable by the Applicant it is not in itself a blocker to the ability of the Applicant to exercise compulsory acquisition powers (if granted). Further, it should be noted that the draft Development Consent Order [REP3-003] provides protection to the Applicant in Article 8(2) which confirms that the Applicant, where it is complying the terms of the Order, will not be in breach of a planning permission granted under the Town and Country Planning Act 1990 (1990 Act). There is precedent for this provision in Article 7(2) of the A428 Black Cat to Caxton Gibbet Order 2022.</p> <p>It is therefore the Applicant's submission that if we were in a scenario that Lindum had obtained planning permission which conflicted with the footpath/cycletrack the presence of the footpath would not sterilise the site and either Lindum could apply to have the footpath/cycletrack diverted or design the detail of its development in a way that would allow for the footpath/cycletrack. Taking these steps would ensure that a Hillside scenario did not arise.</p>

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Item	For	Action Point	Applicant's Response
			<p>Based on the above, it is the Applicant's respectful submission that the likelihood of the parties not reaching agreement on this point is very low. However if, in the very low chance, agreement were not to occur the Applicant would not be in breach of any planning permission pursuant to Article 8(2) and it would not be prevented from exercising its compulsory acquisition powers. Should Lindum be affected by having to revise its proposals it would be a matter for compensation in the usual manner upon the exercise of the Applicant's compulsory acquisition powers, if granted.</p>
7	Applicant	<p>If an alternative route is to be pursued which includes land outside of the order, how would this be secured and how would this be presented on any relevant drawings?</p>	<p>As noted during CAH2, the Applicant and Lindum are currently negotiating the terms of an agreement which would secure the alternative route of the footpath/cycletrack along the outside boundary of the Lindum development site. As currently drafted, Article 15(5) of the draft Development Consent Order [REP3-003] allows for some flexibility in the provision of cycletracks listed in Schedule 3, Part 10 by stating that the cycletracks listed there must be provided in the locations shown on the Streets, Rights of Way and Access Plans [AS-006] unless otherwise agreed with the Local Highway Authority.</p> <p>Therefore the Applicant is required to either provide the cycletrack in the location shown in the Application or to provide a suitable alternative provided the Local Highway Authority consent. This control mechanism coupled with the fact that the Applicant is not proposing to relinquish its powers to provide the cycletrack in the location shown in the Application unless and until such an alternative route has been secured and is satisfactory to the Local Highway Authority should provide the ExA comfort that there is no scenario envisaged that a path servicing this location will not be provided.</p>

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Item	For	Action Point	Applicant's Response
			<p>Based on the above, the Applicant is not proposing to amend any of the Application documents to reflect this possibility as it is of the view that the controls required to ensure a suitable footpath/cycletrack track is provided in this location are already set out in the draft Development Consent Order [REP3-003].</p>