

13/12/2024

WRITTEN SUMMARY OF ORAL REPRESENTATIONS

A46 Newark Bypass Scheme

The County Council's written summaries of oral representations
made during Issue Specific Hearings held December 2024



**Nottinghamshire
County Council**

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Issue Specific Hearing 1 – Draft Development Consent Order

Agenda Item 3

Nottinghamshire County Council welcome the applicant's comments to review the definition wording of 'relevant planning authority' within the draft DCO and provide further clarity regarding LA functions and responsibilities, so that the relevant consultees are clearly defined in relation to Schedule 2 of the dDCO. NCC note this was also taken as an action point at ISH2.

The Council confirmed its current position would be that permits are required for any works that affect Nottinghamshire County Councils network. National Highways already submit permits to NCC for works on Nottinghamshire's network. However, the Council expressed that it is open to dialogue on this matter and will consider it in light of the applicant's comments to ExQ1 Q6.1.3 [REP3-037]. It was agreed that the Council would continue to engage with the applicant on the issue regarding the disapplication of legislative provisions through the Statement of Common Ground process.

Agenda Item 4

The County Council requested to be a named consultee on Requirement 10 of the dDCO during the hearing.

Although requirement 12 requires the detailed design to be in accordance with mitigation principles set out within the environmental masterplan, Requirement 10 still leaves a hole for species which are not classed as protected species or nesting birds.

We recommend that the wording for this requirement is changed to encompass all wildlife, namely other mammals and amphibians which could also be impacted by the works and not necessarily fall under the "protected species" bracket.

In addition, a clause on the timing of vegetation clearance should also be added into requirement 10, to protect all species of nesting birds, as all nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended). Vegetation clearance should only be undertaken outside of the nesting bird season with nesting bird season considered to be from March until the end of September. It is known that some species such as feral pigeon can nest all year round, and therefore checks should be undertaken prior to the start of any vegetation works (mainly buildings and structures – if any are to be impacted).

The Council also put forward a request to be a named consultee on Requirement 15 as the Lead Local Flood Authority.

Agenda Item 6

As per the Council's LIR, NCC recommended that the scheme design principles contained within the scheme design report APP-194 should be a separate document and secured through the DCO. It is a technical matter, and the County acknowledges that the document is to be certified but it would provide for better comprehension and ease of access for the layperson.

NCC acknowledged that the majority of matters regarding Tables 2.6 through to 2.9, and 2.18 -2.20 of its LIR have been addressed by the applicant. We don't expect any further comments on this, but any outstanding issues will be picked up in the SoCG process.

Issue Specific Hearing 2 – Transport

Agenda item 3a

The ExA addressed Nottinghamshire County Council's request within its Local Impact Report [Table 2.11, REP1 -038] and response to Q14.0.9 in ExQ1 [REP2-052] for additional junction modelling to assess impacts to junction capacity in the wider area.

The County Council confirmed it had received the additional modelling technical note and A46 Cattle Market / Kelham Road forecast Microsimulation Modelling just prior to Deadline 3. Further to this, the ARCADY input sheets were provided by the applicant December 5th.

The NCC Transport Programme Delivery team has commenced its review of the ARCADY modelling files and associated Technical Note. The Council does not envisage there will be a capacity issue based on the modelling outputs and now just need to verify the junction model inputs for each junction. The Council will be commissioning Via East Midlands to review the Vissim model but this review will not take place until January 2025 because of existing work commitments.

Agenda item 3b

The Examining Authority enquired whether the scheme would have any physical effects on any site allocations. In relation to the former NCC Depot Site, the council's understanding is that this is to be the applicant's main compound and as can be seen on the Land Plans [page 12, AS-004] in conjunction with the General Arrangement Plans [AS-007] the northern and western boundary towards cattle market junction requires permanent acquisition for the scheme and will be impacted in order to accommodate the junction upgrade. Conversations with the Council's property and estate team are ongoing, but the County Council does not anticipate that works to be undertaken by the applicant will prejudice any future development.

Agenda item 3c

The County Council acknowledged the applicant's comments regarding the update to the OTMP [REP3-026], as submitted at Deadline 3. The inclusion of Farndon Road as a route where construction vehicles are not permitted, is certainly welcomed [Table 2-3 Proposed access restrictions]. The OTMP is being examined by NCC's Highway Network Management team and is being considered in reference to ExQ1 Q14.0.27 and Q14.0.16 [PD-007]. Any further issues will be picked up in the Statement of Common Ground and the County's position updated for Deadline 5.

Agenda item 3d

The Council expressed that public transport operators will inevitably be impacted during the construction phase. It notes that the applicant has stated in the OTMP that bus operators will be given advanced warning of closures impacting routes. NCC would expect bus operators to be approached at least 6 months in advance of any delivery, setting out the programme of works and discussing mitigation for bus services. NCC would also value funds being made available by the applicant should the bus operators identify a requirement for additional buses to be put into operation to maintain existing bus timetables to combat the increased congestion caused by the works.

It is the council understanding that details on this will be forthcoming in the Second Iteration EMP via the Construction Communications Management Plan, for which the Council is a consultee via Requirement 3 of the dDCO.

Agenda item 3e

<p>i. LTN 1/20 standards.</p>	<p>The ExA raised NCC’s response to ExQ1 Q14.0.42 [REP2-052] concerning proposed cycling and walking routes and LTN 1/20 standards. The Council confirmed that the issue had been discussed with the applicant and closed out within the latest submission of the SoCG at Deadline 3, with no further requirements from NCC. In relation to this point, please also see response to Agenda Item 6, ISH5 further in this document.</p>
<p>ii. Approval of temporary diversions, provisions for communicating and managing diversions, post-diversion considerations e.g. removal of mounting blocks at Farndon underpass</p>	<p>The County Council stated it did not anticipate any issues on this agenda item during the hearing. It has since reviewed the Outline Traffic Management Plan [REP3-026] in relation to Public Rights of Way, [2.22 and Table 2-11].</p> <p>On a technical point, the county believes that Farndon Footpath 3 and Farndon FP5 have been labelled incorrectly as Newark FP3 and Newark FP5 within Route reference: Newark BW2. In relation to Newark BW2, the council doesn’t have any issues with the route proposed but as cyclists are being diverted onto existing footpaths the applicant will need permission from the relevant landowners.</p> <p>The Council has no issues with the removal of the mounting blocks at Farndon underpass <u>post</u> temporary diversion.</p> <p>Overall, the Council is content with the proposals in Table 2-11 and has no further comments.</p>
<p>iii. Proposed diversion at Farndon including use of temporary horse-rider route by cyclists and pedestrians</p>	<p>The hearing discussed the temporary diversions at Farndon including use of the temporary horse-rider route by cyclists and pedestrians. The council confirmed it had reached agreement on the proposed route as part of discussions directly with the applicant regarding Issues 5 and 6 in the SoCG [REP2-036] and there are no further requests from NCC at this stage.</p>
<p>iv. Clarification of ‘stopping up’ illustrated along route of Newark FP3 in [APP-174] (response to ExQ1 13.0.1 (b))</p>	<p>In relation to ExQ1 Q13.0.19 [REP2-052] NCC confirmed that there were no proposals from the County Council for closures to Newark F14 outside the A46 Bypass Scheme. The applicant acknowledged the misunderstanding at the hearing.</p>

v. Existing route between Winthorpe FP2 and Winthorpe FP3.	NCC has accepted the proposal from the applicant and there are no outstanding matters regarding Winthorpe FP2 and Winthorpe FP3 at this stage, discussions were held directly with the applicant on this matter in relation to Issue 8 in the SoCG, which is now agreed [REP2-036].
vi. Newark Active Travel Partnership's comment	

Agenda item 3e

The County Council welcomed the applicant's comments regarding the forecasted increases in modelled traffic flows on Pelham Street and their agreement to monitor and where necessary provide mitigation. It was agreed that the specifics on the side agreement for this matter would be picked up through the SoCG and both parties do not anticipate any issues with securing the arrangement.

Issue Specific Hearing 3 – The Water Environment

Agenda item 3

NCC expressed that the Council would like to be involved with technical discussions taking place between the applicant and the Environment Agency. We welcome the applicant's comments for wider engagement with the local authorities and extension of an invite to attend the relevant steering group meetings.

NCC will continue to work closely with the applicant to ensure that the options and the deliverability of the Kelham Bypass Scheme is complementary to the A46 Newark Bypass NSIP and does not have any further concerns at this stage.

The County Council has noted Action point 3 for provision by Deadline 5: *review the Defra Asset management website that appears to show other flood defences maintained privately or by Councils and confirm whether these are affected by the scheme and if not explain why not relevant.*

Issue Specific Hearing 4 – Environmental Matters

Agenda Item 3

The Council confirmed at the hearing that it was content with the applicant's comments to Newark and Sherwood District's submitted response to ExQ1 Q3.0.4 [REP3-037] in relation to habitat severance and did not have any further comments to make. The Council can also confirm that it is satisfied with the comments to Q3.0.6 and Q3.1.1 [REP3-037] in conjunction with comments made by the applicant at the hearing regarding the approach to BNG, site selection and offsite compensation at Doddington Hall, and the 'trading down' in compensation for river units. Therefore, does not have any further comments to add at this stage in regard to agenda items 3a to 3c.

Regarding agenda item 3d, the County Council holds concerns around the monitoring of the three veteran trees, T038, T136 and T139, that will experience a direct impact to their root protection

areas. Will an arboriculture audit report be submitted to the local planning authority? Frequency and further details on mitigation and remedial measures should be provided.

Agenda Item 5

The applicant has submitted an Archaeological Mitigation Plan ([REP2-062](#)) (AMP).

The main assessment report (Trial Trenching Assessment Report) that was missing from the original application documentation has been appended to the Archaeological Mitigation Plan. Methodologies for the other assessments undertaken prior to examination (geophysical survey, metal detecting, fieldwalking, GI monitoring and geoarchaeology coring) have also been appended, although the actual reports are appended to an earlier document, the updated Desk-based Assessment ([AS-099](#)). The results of these latter assessments have also been summarised in the AMP.

We would normally expect the assessment reports to be submitted individually rather than being appended to the AMP. The AMP is a document presenting the strategy for post-consent works and may require revision as the scheme evolves, whereas the assessment reports present the body of evidence on archaeological remains and impact for consideration at Examination.

We would also suggest that the presentation of the completed assessment methodologies (described as WSIs) in the AMP only serves to confuse matters where future and differing methodologies will be required for the mitigation phase of works. The AMP is not the appropriate place for them, although this is a technical point.

The AMP presents a sound overall approach to mitigation work for the scheme. However, it does include a phase of additional assessment where it has not been possible to access some parts of the scheme prior to Examination. While this is not ideal, NCC accept the limitations of access encountered by the applicant and given the high level of quality assessment work and engagement to date, and the relatively small scale of the remaining assessment required, we are confident that the applicant will be able to complete any outstanding assessment work at a post-consent stage and incorporate the results into an updated AMP.

The phasing of this work (further assessment, updating the AMP and then implementation of the archaeological work) can be secured through appropriate wording in the archaeological requirement at Schedule 2.

The following is recommended to bring the archaeological submission in line with expected parameters and other NSIP schemes and to ensure the AMP is an appropriate document (83 pages focused on post-consent work rather than 839 pages with somewhat confusing appendices):

1. The assessment report (Trial Trenching Assessment Report) should be separated from the AMP and submitted in its own right as supporting evidence to Chapter 6 of the ES or appended with the other assessment reports in the Desk-based Assessment;
2. The methodologies (WSIs) associated with the completed assessment work (Appendices B to G) be removed from the AMP. These would normally be appended to the assessment reports themselves, if necessary at all;
3. The current wording for archaeological requirement (Schedule 2, Part 1, 9) in the draft DCO ([REP3-003](#)) should be revised to accommodate an enforceable phased programme of archaeological work that includes a further phase of assessment and subsequent revision to

the AMP. The following is based on a recently approved scheme by the SoS with similar circumstances and also incorporates the suggested wording for this scheme (submitted at the last deadline):

9.—(1) The authorised development may not commence until—

(a) a written scheme of investigation for additional trial trenching has been submitted to and approved by each relevant planning authority, in consultation with Historic England;

(b) additional trial trenching has been carried out in accordance with the scheme approved under sub-paragraph (a); and

(c) updates are made to the Archaeological Mitigation Plan to account for the results of the additional trial trenching carried out, and the updated Archaeological Mitigation Plan is submitted to and approved in writing by each relevant planning authority, in consultation with Historic England

(2) The authorised development must be carried out, operated and maintained in accordance with the updated Archaeological Mitigation Plan approved under sub-paragraph 1(c) and, as set out in that strategy, the undertaker must submit individual Site Specific Written Schemes of Investigation for each phase of mitigation work to each relevant planning authority for approval. Any archaeological works must be carried out by a suitably qualified and competent person or body previously notified to each relevant planning authority.

Issue Specific Hearing 5 – Other ES Topics

Agenda items 3 and 4

The County Council confirmed it accepts that a Carbon Management Plan is not a mandatory requirement as part of the DCO submission for the scheme as its assessment is subject to the NPSNN 2015. It is not envisioned to provide significant additional benefit and as stated in the County's LIR, NCC noted that the Applicant has committed to a construction Carbon Management Plan being provided as part of the Second Iteration Environmental Management Plan (paragraph 14.10.10 of ES Chapter 14).

The examining authority requested that the applicant update the following:

- Chapter 14 Climate of the Environmental Statement in line with updated guidance PAS 2080:2023.
- The Outline Soil Management Plan in line with updated guidance in The Institute of Quarrying's Good Practice Guide for Handling Soils in Mineral Workings (2021).

The County Council welcomes the applicant's response to provide these updates.

Agenda item 5

Nottinghamshire County Council (NCC) is the Minerals Planning Authority for the County and we have commented on the minerals and waste implications arising from the proposed project. At the Hearing NCC confirmed its broad level of content on the minerals sterilisation that would arise from the project and that it was not significant, that the case had been made to justify this and for the most part the mineral that would be sterilised would be unlikely to ever be commercially worked in the absence of the Project. The Council highlighted that prior extraction of minerals should be

pursued if practicable and highlighted that this would be eminently possible at the proposed borrow pits which would provide both sand and gravel deposits as well as general fill materials for embankments. Potentially any incidental sand and gravel could be utilised and processed on site for the project. It is assumed the materials management plan would manage the extraction of the borrow pits so that useful minerals can be recovered and not be needlessly sterilised.

At the hearing the Council also confirmed that the use of borrow pits was supported by Policy DM15 of the Nottinghamshire Minerals Local Plan given the link to the highway project which they would directly serve. Clause e) of the policy however requires proposals to provide for appropriate restoration measures. The Council queried the restoration details that were available and an apparent lack of detail regarding contours and types of planting/habitats on the general arrangement plans. Subsequently the Environmental Masterplan (figure 2.3) [AS-026] was highlighted by the applicant which upon review helpfully contains much more detail regarding the outline restoration proposals for the three borrow pits.

Sheet 5 of the Environmental Masterplan now show that the Brownhills borrow pit would be restored to the 'previous land use' - which is agricultural. The extent of any materials excavation remains unclear at this stage however. Also unclear is whether the land could be economically/practicably farmed again. In particular the plan is not clear where farm access would be provided from. Would an access be re-provided from the remnant section of Winthorpe Road? If it is not likely to be reused for agriculture, then an alternative restoration should be proposed - i.e for biodiversity such as woodland.

Sheet 2 of the Masterplan shows the two Farndon Borrow pits. The eastern pit is primarily to be open water (floodplain compensation) with marginal areas for biodiversity including some ponds. The western pit is to be restored to an area of reedbed, marsh/wet grassland and ditches/scrapes. Details are indicative but sufficient for now.

Additionally, in reviewing the First Iteration Environmental Management Plan (Rev 3) [REP3—022] the Council has noted reference B4 (page 39) refers to the creation of the Farndon West wetlands and planting the borrow pits in Farndon East to improve biodiversity of the lake. Ponds at Kelham and Averham are also mentioned here. Some details are provided for the management arrangements for the said ponds but there is no equivalent statement setting out any management details for the borrow pits.

The Council has reviewed requirement 6 in the draft DCO order regarding landscaping. Whilst this is a fairly generic form of wording clearly more aimed at typical landscaping works NCC consider it will also require full landscaping details for the borrow pits. The Council considers the requirement however to be substandard in relation to details of aftercare and long-term management for the borrow pits - and in particular we would highlight that reedbeds are technically a lot more complicated to successfully deliver and require longer than 5 years of aftercare than would be typically put in place for tree planting for example. In the Council's experience aftercare between 10-15 years is required to establish reedbed to a 'good condition'. Therefore, a small amendment is proposed below to strengthen the requirement and NCC would want to be consulted on such details as the relevant planning authority for minerals development.

Amendment to subparagraph (4) of requirement 6 through an additional clause (f):

Landscaping

6.—(1) No part of the authorised development can come into use until a landscaping scheme for that part which sets out details of all proposed hard and soft landscaping works is submitted to the Secretary of State for approval in writing following consultation with the relevant planning authority on matters related to its functions.

(2) The landscaping scheme for each part must reflect the applicable mitigation measures set out in the First Iteration EMP and the landscaping principles set out in the environmental masterplan.

(3) The authorised development must be landscaped in accordance with the approved landscaping scheme for that part.

(4) A landscaping scheme prepared under sub-paragraph (1) must include details of landscaping works, including—

(a) location, number, species, mix, size and planting density of any proposed planting;

(b) cultivation, importing of materials and other operations to ensure plant establishment;

(c) proposed finished ground levels;

(d) existing trees to be retained, with measures for their protection during the construction period; and

(e) implementation timetables for all landscaping works.

f) details of aftercare and thereafter the long-term management arrangements for the restored borrow pits

(5) 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.

(6) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the Secretary of State, following consultation with the relevant planning authority, gives consent to a variation.

We consider that aftercare and management details need to be secured in order to ensure the restoration is achieved to the required standard to improve biodiversity, and to restore landscapes and to meet the requirements of policy DM12 of the Nottinghamshire Minerals Local Plan, which requires proposals for minerals working to include appropriate details for restoration, aftercare and long term after use to enhance the environment. We consider this is best secured through a small addition to requirement 6 in the interests of clarity and enforceability.

The applicant's response to Action Point 2 taken at ISH4 (in respect to agenda item 3), regarding the separation, within the order limits, of matters that require maintenance over different periods of time may prove relevant here given the preferred 10–15year aftercare period mentioned above for reedbeds. NCC will review once published.

Agenda item 6

ExQ1 Q13.0.24

The Council confirmed that it had reached agreement with the applicant through the statement of common ground process regarding its submitted comments to ExQ1 Q13.0.24. It accepted that the wider network improvements are not able to be delivered through this scheme, however, the

applicant has indicated it will assist the Council with considering a potential alternative source of funding for delivery outside of the A46 Newark Bypass Scheme.

IAP

Regarding the Inclusion Access Plan and Q13.0.8 within ExQ1, the County Council acknowledges the applicant's response that in order to provide the detailed plan, engagement with the contractor, suppliers and wider supply chain is required and that stage has not yet been reached. However, the request from the Examining Authority to the applicant to produce a Framework IAP is welcomed as it will provide better understanding of the overall parameters to be included and reassurance in regard to the Public Sector Equality Duty. The council notes that Requirement 3 of the dDCO does require consultation with the local authority on the IAP prior to commencement of construction. However, again additional comfort is provided having a framework IAP for review at this point given the second iteration EMP will be produced '*substantially in accordance with the First Iteration EMP*'.