

**THE NORTHAMPTON GATEWAY RAIL FREIGHT INTERCHANGE ORDER 201X**

**NORTHAMPTONSHIRE COUNTY COUNCIL'S RESPONSES TO ExA QUESTIONS IN TABLE TO ISH3 AGENDA**

<b>Q. No</b>	<b>Persons in addition to the applicant to whom the question is directed</b>	<b>Part of DCO</b>	<b>Drafting Example (Where relevant)</b>	<b>Question</b>	<b>NCC's response</b>
2	RPAs, NCC	Authorised development Arts 2 & 3		S.26 PA 2008 defines a strategic rail freight interchange and states that it must be capable of receiving at least four goods trains per day. Is this an ongoing requirement which applies throughout the life of an SRFI and if so, should it be secured by a formal requirement in Sch 2?	S.26 of the PA 2008 requires that the rail freight interchange must be capable of handling at least 4 goods trains per day (26(4)(b)).  The issue centres on whether this should be secured by a formal requirement in Sch.2. The Applicant's position has been that they cannot guarantee the number of freight trains that will use the interchange.
3	NCC	Art 10	<i>Permanent stopping up of streets</i>	Art10 enables the permanent stopping up of streets, and provision of substitutes. The requirement in s136(1) PA 2008 is that an alternative is provided in the case of the stopping up a highway, or that the SoS is satisfied that no alternative is required.  (a) Are the streets to be stopped up all highways?	3a. yes  3b. no.  3c. n/a

				<p>(b) Are there any cases where alternatives are not being provided?</p> <p>(c) If there are, is there evidence to enable the SoS conclude that an alternative is not required, and what is that evidence?</p>	
5	NCC	Art 10 and Sch 4 Column 2	<i>A508 highway; The three stoppings up at the Rookery Lane/ Ashton Road/ A506 jn (x, xii and xiv on Doc 2.3E [APP-025])</i>	<p>The three stoppings up at the Rookery Lane/ Ashton Road/ A506 jn (x, xii and xiv on Doc 2.3E <a href="#">[APP-025]</a> are replaced by a new junction in three separated parts (xi, xiii, and xv), one for each of the stoppings up. When combined they appear to be an alternative. But taken separately they would be inadequate. For example if the portion of Rookery Lane to be stopped up, which is currently the mouth of the junction with the A506, was only replaced by the corresponding new highway it would not reach the A506 because the new part of the A506 is located further east. The stopped up part of Rookery Lane is marked xii and the alternative is marked xiii on Inset 5C. Is not something needed on sequencing to enable the SoS to be satisfied that there will be an alternative? If so, please could the Applicant provide suitable drafting?</p>	<p>We agree with the Inspecting Authority and await the revised drafting as these should all be concurrent and are mutually reliant.</p>

6	NCC, Messrs AW, W & R Irlam	Art 10 and Sch 4 Column 2	A508 highway The three stoppings up at the Rookery Lane/ Ashton Road/ A506 jn (x, xii and xiv on Doc 2.3E [APP-025])	<p>The Relevant Representation from Berrys on behalf of AW, W &amp; R Irlam says this:</p> <p>“The current layout [of the junction] facilitates tractors with cultivators, long combine harvester headers, etc., to swiftly across [sic] the junction without any road furniture/ structures impeding the route. The revised layout includes a central island which will impede or possibly even prevent agricultural vehicles swiftly and safely crossing. ...</p> <p>The conclusion is that if the DCO is granted then it must incorporate a further revision to the road layout at this junction to ensure the on-going safety of large vehicles including agricultural machinery. Any change to junction layout must also minimise land taken from agricultural production.”</p> <p>Does the Applicant propose any redesign of the junction? If so, how?</p> <p>Does this representation go to the question of whether the stopping up can be approved at all, because of the design of the alternative? Or does it go to the question of</p>	<p>The question about agricultural movements across the junction has been raised and it is incumbent upon the road user to ensure they can traverse the highway appropriately and safely. There would also be, as part of the detailed design of the junction, a Safety Audit process in accordance with DMRB standard GG119 and the use of the junction by agricultural vehicles of this nature can be brought to the attention of the auditors so that consideration can be made at that point.</p>
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7	NCC	11	<i>Temporary stopping up of streets</i>	Please can the Applicant explain how these temporary stoppings up relate to the development or to matters ancillary to the development (bearing in mind the words of s120(3) of PA 2008); or give some other power for the SoS to include Art 11.	For the Applicant to clarify why this is relevant
8	NCC	12 and Sch 5 Pt 1	<i>Stopping up of Bridleway KZ10 and RZ1</i>	In the case of the stopping up of Bridleways KZ10 and RZ1 and their replacement by a crossing of the new Roade Bypass from points 18-21-20 do they not need to be done together as KZ10 and RZ1 currently connect together. Otherwise, on the moving of one without the other, it would terminate in what appears currently to be a field. See Doc 2.3D <a href="#">[APP-024]</a> . Currently the crossing 18-21-20 is provided in two parts, one relating to each of the two stoppings up.	Agree with the Inspecting Authority. Await an appropriate amendment as the route must remain continuous either on existing over proposed route
9	NCC	12 and Sch 5 Pt 2	<i>Stoppings up where no alternative is to be provided</i>	As to the stoppings up in Part 2, where no alternative is to be provided, a judgment is needed on each of them as to	The Applicant needs to accommodate the uses within the detailed design of this area to ensure that users can continue to access the highway appropriately.

				<p>whether no alternative is required. They are KZ19, RZ3 and RZ6.</p> <p>In the case of the stopping up of Bridleway RZ6 at the roundabout on Stratford Road it is not clear whether or not the new highway will reach all the way to Point 25, where the stopping up begins. This needs to be clarified.</p> <p>Please will the Applicant explain why an alternative is not required?</p> <p>Will horses and pedestrians be able to reach the carriageway?</p>	
10	NCC	12 and Sch 5 Pt 3	<i>New PROWs to be created</i>	<p>The Explanatory Memorandum does not explain why these new PROWs are to be created. Please will the Applicant explain why, and what power in PA 2008 they submit enables the SoS to include this, and guide the ExA to the evidence in the application which shows that the power may be exercised in this case.</p> <p>Please will the Applicant explain how the PROWs listed in Sch 5 Pt 3 fall within the Works described in Sch 1.</p>	For the Applicant to demonstrate but appears to be to create or enhance linkages to the network and improve permeability.
11	NCC	12 and Sch 5 Pt 3	<i>New PROWs to be created: cycle track between points 9 and</i>	<p>The new cycle track between points 9 and 10 on Doc 2.3C [<a href="#">APP-023</a>] however runs straight into and becomes a footpath at point 10.</p>	This is a timing thing and something for the drafting. In addition the finite detail of the unit and exact location may change as the layout is indicative.

			<p>10 on Doc 2.3C [APP-023]</p>	<p>Looking at the illustrative masterplan [APP-066] an entrance into the site is anticipated there, with a 20 cycle rack space. A cycle track might therefore be acceptable as long as the entrance is there. But if it is not, the cycle path will not be needed but will still be available and there might be a temptation to ride on along the footpath. That might be an adverse impact to weigh under s104(7) against benefits.</p> <p>Please could the Applicant comment and address how the adverse impact could be avoided or mitigated?</p> <p>This cycle path is in the area of Works No 6 but does not appear to be described in Sch 1. Please can the Applicant comment and clarify? Is it necessary to describe it in Works No 6? (For clarity, the posing of the last question does not imply that the ExA has a view.)</p>	<p>As such, the drafting needs to be reactive to establish the route and designation when there is something to go to but not before.</p>
12	NCC	Art 13 - accesses	<p><i>Art 13(5) permits some closures without substitutions. The justification is given in para 7.41 of the EM</i></p>	<p>Please will the Applicant explain why closing access H is acceptable? The adjacent land appears to be the development site (in which case would not the reason for the</p>	<p>For the applicant but “H” and “J” seem to be a field accesses into their development site which would be replaced by their new access. Other elements are for the applicant to explain.</p>

			<p>closure of E be applicable – the site is being developed and the access is not needed), but the reason refers to the adjacent landowner having a nearby alternative access?</p> <p>Please will the Applicant explain and clarify the reason no replacement is needed for J?</p> <p>The ExA is having difficult seeing that the closure of AG on the Roade Bypass is explained in the EM.</p> <p>The same applies to AR (which includes a crossing of the WCML which may already be in existence). Note that Land Plan 2.1D <a href="#">[AS-019]</a> has rights to be acquired on the line of this access, presumably so as to provide it (shaded blue). (There is also a khaki thick dashed shading on this route, which is not listed in the Legend to that plan. Please could the Applicant address that also?).</p> <p>And also to C on Inset 1A of Doc 2.3A <a href="#">[APP-021]</a>.</p> <p>Please can the Applicant fully explain AG, AR and C so that the SoS can know how they relate to</p>	
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				the development and are within s120(3), or provide explanation and evidence of the use of some other power to which the Applicant directs the ExA.	
13	NCC	Art 17(1)	<i>Art 17(1) revokes the Northampton Church Lane, Blisworth) Weight Restriction) Order 1971 which imposes a 3 ton (sic) restriction on Church Lane, Blisworth. According to Google Maps Church Lane is a short lane of about 100 metres leading from Stoke Road to the High Street.</i>	It is currently not clear to the ExA that Art 17(1) makes a provision which is “related to, or to matters ancillary to, the development” – the test in s120. The EM appears to give no explanation. Will Church Lane be covered by a new weight restriction? Please can the Applicant and NCC explain the reason for this revocation, direct the ExA to the relevant evidence or otherwise explain the connection?	3 Ton Limit being revoked as it appears to be replaced by 7.5ton area limit, (see inset B on of Doc 2.6B and Doc 2.6C) to protect roads unsuitable for traffic from this development.
14	NCC	Art 19	<i>There are zones, which the EM explains are shown on Doc 2.6C [APP-054] where a weight restriction of 7.5 tonnes is applied.</i>	The ExA presumes that the reason is mitigation explained in the transport section of the ES. Please can the Applicant however explain and point the ExA to the relevant sections? Please can the Applicant also demonstrate that the Article satisfies the tests in s120(3)?	Seems obvious but for the Applicant to do the X refs.
15	NCC, Highways England	Art 20	<i>The EM says this is for agreements to construct highways and alterations in accordance with the</i>	Please will the Applicant explain how these meet the “relate” test in s120. Without limiting the generality of this question, please consider particularly how the works in Art	20 (1) a enables parties to enter into agreements for new roads etc. similar to S38s and 20 (1) (d) enables them to maintain roads they build that may be highway but maintained at private expense, (within the site)



			DCO.	20(1)(a) and (d) meet the “relate” test.	
16	Environment Agency, NCC, Highways England	Art 21	<i>This Article allows for drainage into watercourses, public sewers and drains in connection with the carrying out or maintenance of the development. Consent is needed, not to be unreasonably withheld, from the watercourse etc owner. Consent is deemed after 28 days unless there is an express decision. There are other safeguards – see the terms of the Article for details.</i>	Is this Article affected by s150 PA 2008? See also the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015/462 Sch 1 and the reference to the Water Resources Act 1991 Sch 25 paras 5 and 6. Please will the Applicant supply evidence that s150 does not apply, or direct the ExA to where the consent under s150 can be found.	In discussion with applicant and wording has been amended in Art 21 (4) of the DCO to incorporate the requirement for approval from the LLFA for any works on, over, under or near an ordinary watercourse (within 9m), make changes to any structure that helps control water or discharge any water into any watercourse.
21		46(1)(c) (formerly 46(3))	<i>“(c) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991( ) in relation to watercourses for which Northamptonshire</i>	(a) Will the Applicant please explain whether there are any such watercourses to which the development relates, or whether s.23 relates to another matter for which provision may be made in the order? That is needed if	In discussion with applicant and wording has been amended in Art 21 (4) of the DCO to incorporate the requirements under s.23 for approval from the LLFA for any works on, over, under or near an ordinary watercourse (within 9m), make changes to any structure that helps control water or discharge any water into any watercourse.

			<i>County Council is the drainage board concerned;" does not apply</i>	s120(5) (a) is to authorise the provision. (b) s23 of the Land Drainage Act 1991 is listed in Schedule 2 Pt 1 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015/462 and therefore s150 applies. Please will the Applicant direct the ExA to where evidence of the consent of the drainage board can be found, or provide such consent?	
23	<b>NCC, Highways England</b>	2	<i>Definition of HGV</i>	The Article 2 definition Uses 7.5 tonnes. But other websites including <a href="https://www.gov.uk/government/publications/guide-to-lorry-types-and-weights">https://www.gov.uk/government/publications/guide-to-lorry-types-and-weights</a> HGV = vehicle over 3,500 kgs, i.e.3.5 tonnes. Please will the Applicant, Highways England and the County Council clarify and if 7.5 tonnes is intended explain and justify, so as to avoid any confusion.	Reference is intended to cover anything over 7.5 Tonne. Could clarify that it is anything that requires an HGV driver's licence as indicated on Lorry Type sheet referred to.
28	<b>SNDC, NBC and NCC</b>			Please will the relevant planning authorities and the County comment on the fact that some parts of the main site are not to be bound by the s106 agreement? Please will those of them who are to be parties to the s106 agreement (currently SNDC and NCC) please confirm that they are satisfied, after	The s.106 Agreement is in the process of being re-drafted by Eversheds, however there is a small amount of land that is not within the boundaries of the agreement.  NCC's position is that this is such a small area that the obligations in the agreement will still bind the development. This being the case, we still await the Applicant's updated draft and response to the ExA's question

				<p>proper consideration, that the development cannot be cannot be constructed, occupied or used by any person without compliance with the obligations entered into by the First Owners, the Second Owner and the Developer in the s106 agreement? Should any other parts of the land over which the proposed development is to be carried out (whether on or off the Main Site) be bound by the s106 agreement and if so, why?</p>	
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