

## **National Highways Submission at Deadline 7** **– Responses to information requested by the ExA**

Title:	National Highways Responses to information requested by the ExA – Deadline 7
Reference:	TR050007
Applicant:	Tritax Symmetry
Proposal:	Application by Tritax Symmetry (Hinckley) Limited for an Order Granting Development Consent for the Hinckley National Rail Freight Interchange
Author:	National Highways (20040073)
Date:	27 February 2024

National Highways Limited (“we” and “National Highways”) has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This submission forms National Highways’ Deadline 7 submissions which includes National Highways’ response to information requested by the ExA as set out below:

### **Rule 17 letter (dated 20 February 2024) [PD-015]**

Thank you for your letter of 20 February 2024. It is noted that this request for information includes one question directed at National Highways, copied.

*Plots 65 and 69 At D5 [REP5-036] the Applicant is response to ExQ2.3.1 commented on contacting National Highways (NH) on ‘numerous occasions’ to seek further progress on obtaining voluntary land agreements with NH to enable works No 6. It is noted in NH’s D5 submission [REP5-078] that it refers back to the use of protective provisions to secure and facilitate the necessary license and works, which form part of the strategic highway network. The Applicant contends that the plots are outside of*

*the highways boundary and are needed for future maintenance purposes by them upon completion of the Proposed Development. Could NH provide an update and clarity on this issue.*

National Highways is surprised by the Applicant's response, in particular its comment that it has contacted National Highways on 'numerous occasions' to seek further progress on obtaining voluntary land agreements. Discussions have taken place between the parties where National Highways has set out its position to the Applicant, and subsequently reiterated this in previous Deadline Submissions detailing that the compulsory acquisition of Plots 65 and 69 is not agreed by National Highways nor deemed necessary.

National Highways maintains its objection to the compulsory acquisition of Plots 65 and 69. We can confirm that we have drainage assets on these two Plots, as well as Plots 66 and 68. The drainage assets consist of two ditches for the drainage of the SRN and three outfalls from the ditches inside Plots 65, 66, 68 and 69. As such, these drainage assets will need to be maintained during the works and, in addition, National Highways will need to maintain or potentially replace these in the future. Therefore, retention of Plots 65 and 69 (we will deal with Plots 66 and 68 separately within this submission) is critical as any action that prevents National Highways from adequately draining the SRN has clear safety implications and would cause serious detriment to National Highways' undertaking.

To ensure this does not happen, National Highways is happy to enter into a suitably worded licence and/or easement over Plots 65 and 69 granting the Applicant access over the Plots for future maintenance purposes upon completion of the Proposed Development. This has been our position during this Examination. Compulsory acquisition of the entire freehold of Plots 65 and 69 is, therefore, disproportionate and unnecessary and would cause serious detriment to National Highways' undertaking by introducing public safety risks. The compulsory acquisition powers that the Applicant seeks in respect of National Highways land and interests are not necessary and National Highways submit that the necessary tests for authorising such have not

been met. Compulsory acquisition should be an option of last resort. National Highways has shown that it is willing to grant the Applicant the necessary rights to access the Proposed Development for maintenance purposes.

### ExA Q2 Dated 19 January 2024 [PD-013]

Pursuant to National Highways' response to information requested by the ExA dated 19 January 2024, specifically question 2.3.4(a) where National Highways advised that a response concerning its private rights for each plot listed would follow separately, we can confirm that National Highways removes its objection to the extinguishment of the following private rights:

<b>Plot</b>	<b>Private Right agreed to be extinguished</b>
39	Right of entry for excavation and to maintain boundary fences, hedges and walls as contained in a Conveyance dated 25 October 1979 for the benefit of the M69
54	Rights relating to a headwall for the construction, maintenance, inspection and renewal of a headwall including a right of entry with all manner of machinery as contained in a Transfer dated 6 January 1999
67	Right of entry for maintenance of boundary fences, hedges and walls as contained in a Transfer dated 28 April 1982 for the benefit of adjoining land
71	Right of entry for excavation and maintenance of boundary fences, hedges and walls as contained in a Conveyance dated 13 January 1982 for the benefit of the M69
84	Right to maintain boundary fences, hedges and walls as contained in Conveyance dated 24 March 1981 for the benefit of the M69
101	Right of entry for maintenance of boundary fences, hedges and walls, right of erection or planting of hedge/fence for the benefit of the M69
101a	Right of entry for maintenance of boundary fences, hedges and walls, right of erection or planting of hedge / fence for the benefit of the M69
102	Right of entry for maintenance of boundary fences, hedges and walls, and right of erection or planting of hedge / fence as contained in a Conveyance dated 24 March 1981 for the benefit of the M69
103	Right of entry for maintenance of boundary fences, hedges and walls, right of erection or planting of hedge / fence for the benefit of the M69

104	Right of entry for maintenance relating to boundary hedges, fences and walls, right of erection or planting of hedge / fence for the benefit of the M69
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National Highways also benefits from rights to drainage assets at Plots 54, 84, 101, 101a, 103 and 104 as detailed within our Deadline 5 response – National Highways Response to Questions from the Examining Authority [REP5-077]. National Highways objects to these rights being extinguished by the Applicant for the same reasons as those detailed for the compulsory acquisition of Plots 65 and 69. These drainage assets will need to be maintained during the works and we will need to maintain or potentially replace these in the future. Any action that prevents National Highways from adequately draining the SRN has safety implications and would cause serious detriment to National Highways’ undertaking. As such the drainage rights enjoyed by National Highways over these Plots of land should remain.

National Highways also has drainage assets in the form of ditches for the drainage of the SRN on Plots 67 and 102. National Highways seeks to rely on the Highways Act 1980 for the future inspection, maintenance and replacement of these drainage assets to ensure the safe operation of the SRN, and objects to the DCO limiting or extinguishing these powers in any way.

National Highways maintains its objection to the compulsory acquisition of Plots 66 and 68. We can confirm that we have drainage assets on these two Plots, as mentioned earlier in this submission. These assets will need to be maintained during the works and, in addition, we will need to maintain or potentially replace these in the future. Retention of these two Plots is critical for the safe operation of the SRN, and any action that prevents National Highways from properly draining the SRN would cause serious detriment to National Highways’ undertaking.

As with Plots 65 and 69, National Highways is happy to enter into a suitably worded licence and/or easement over Plots 66 and 68 granting the Applicant access over the Plots for future maintenance purposes upon completion of the Proposed Development. This has been our position during this Examination. Compulsory acquisition of the

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entire freehold of Plots 66 and 68 is, therefore, disproportionate and unnecessary and would cause serious detriment to National Highways' undertaking by introducing public safety risks. The compulsory acquisition powers that the Applicant seeks in respect of National Highways land and interests are not necessary and National Highways again submits that the necessary tests for authorising such have not been met. As stated, compulsory acquisition should be an option of last resort and National Highways has shown that it is willing to grant the Applicant the necessary rights to access the Proposed Development.

Finally, by way of an update, National Highways removes its objection to the temporary possession of Plot 61 by the Applicant to access the track for the undertaking of the level crossing closure and diversion of the right of way.