

A303 Amesbury to Berwick Down

TR010025

Deadline 2
8.10.9 Compulsory Acquisition (CA.1)

APFP Regulation 5(2)(q)

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

May 2019



Infrastructure Planning

Planning Act 2008

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Rules 2010

A303 Amesbury to Berwick Down

Development Consent Order 20[**]

Compulsory Acquisition (CA.1)

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9 Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations (CA.1)

The scope of the Compulsory Acquisition powers sought

Question CA.1.1

The Explanatory Memorandum, paragraph 2.10, states that all elements of the Proposed Development either constitute part of an NSIP or are 'associated development' within the meaning of section 115(2) PA2008 and so can be properly authorised by the Order. The Applicant has chosen not to differentiate between these two categories in the dDCO.

- i. How does that approach reflect the Guidance on associated development applications for major infrastructure projects (Department for Communities and Local Government April 2013)?
- ii. Explain further the example given of potential overlap between some on-highway and some off-highway diversion of statutory undertakers' equipment and why the 'associated development' aspects of the scheme could not be appropriately categorised as such in the dDCO?
- iii. The Statement of Reasons, paragraph 2.3.1, lists the works necessary to deliver the scheme. Which, if any, of the categories a. to u. can be identified as associated development?

Response

- i. **How does that approach reflect the Guidance on associated development applications for major infrastructure projects (Department for Communities and Local Government April 2013)?**
 1. Please see the Applicant's response to question DCO.1.4(i).
- ii. **Explain further the example given of potential overlap between some on-highway and some off-highway diversion of statutory undertakers' equipment and why the 'associated development' aspects of the scheme could not be appropriately categorised as such in the dDCO?**
 2. To expand on the example given in paragraph 2.9 of the Explanatory Memorandum, it is conceivable that statutory undertaker's apparatus, for example an electricity cable, may be diverted partly along the line of the new A303, which would form part of the NSIP, yet also be partly diverted along the line of the A360 to be re-aligned as part of the new Longbarrow Junction works. The A360 itself would not form part of the NSIP and would be associated development. In these circumstances the works comprising that diversion would form both part of the NSIP and part of the associated development. It would be impractical, unwieldy and harm the clarity of the drafting in Schedule 1, to impose an arbitrary distinction between different elements of the same continuous cable.

3. Another example of the impracticality of separately identifying associated development in Schedule 1 is the provision of the Green Bridges. The structure would form part of the NSIP, yet the ways carried over the A303 would not. The Green Bridges themselves also perform functions for the NSIP such as for ecological mitigation. It would be impractical and serve no useful function to separately define the structure from the ways and the ecological mitigation elements.
 4. For further information on the precedent orders considered in settling on this approach please see the Applicant's response to DCO.1.4.
- iii. **The Statement of Reasons, paragraph 2.3.1, lists the works necessary to deliver the scheme. Which, if any, of the categories a. to u. can be identified as associated development?**
5. The Applicant's reasons for not separately identifying which elements of the Scheme form the NSIP and which are associated development are set out in DCO.1.4 and above. For those reasons the Applicant is not able to identify which of the items a to u in paragraph 2.3.1 are associated development. In any event, whether development forms part of the NSIP or is associated development is not a relevant consideration for the purposes of compulsory acquisition. All elements of the Scheme are required and are necessary to deliver the compelling case in the public interest for the authorisation of compulsory acquisition powers.

The scope of the Compulsory Acquisition powers sought

Question CA.1.2

The Explanatory Memorandum, paragraph 2.10, states that the extinguishment of private rights over land would enable the Applicant to take land with a clear unencumbered title, thereby minimising impediments to the delivery of the scheme.

- i. Explain in further detail why it is necessary to include provisions allowing for the extinguishment of private rights and restrictive covenants over the Order Land.
- ii. What is the nature/extent of any delay to the scheme that might otherwise result?
- iii. What alternatives to this approach have been explored?

Response

- i. **Explain in further detail why it is necessary to include provisions allowing for the extinguishment of private rights and restrictive covenants over the Order Land.**
 1. The Applicant understands the reference to the Explanatory Memorandum relates to paragraph 7.12 of that document which discusses the purpose and effect of article 23 (private rights over land) of the draft DCO. Sections 3.2 and 3.3 of the Statement of Reasons [APP-023] also consider the compulsory acquisition powers included in the draft DCO.
 2. It should be noted that article 23 takes effect differently depending upon which main acquisition power is being exercised. In respect of land that is compulsorily acquired (i.e. the land shown in pink on the Land Plans [APP-005]), on the date of acquisition of that land all existing private rights are to be extinguished. This is necessary to ensure that the land comprised in the Scheme can be used for the purposes of the Scheme and to ensure that its development in the public interest is not restrained through the assertion of private rights. It is proportionate because no lesser measure would achieve that requirement.
 3. In respect of land over which only rights may be acquired (i.e. the land shown in blue on the Land Plans and listed in Schedule 4 to the draft DCO) article 23(2) extinguishes existing rights "*so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant*". In effect, such existing rights and restrictive covenants are only extinguished if it would be inconsistent with the exercise of the rights acquired under the Order. Where the rights can co-exist article 23(2) allows them to do so. This is necessary to ensure that the rights acquired under the Order can be exercised but is proportionate in that it goes no further than is needed to achieve that aim.
 4. While not a power of acquisition it should also be noted that article 23(3) operates so as to suspend existing rights while land is temporarily possessed under the DCO. This is necessary in order to allow the Applicant to use the land as required

temporarily but is proportionate because once the land is returned to the landowner the existing rights may continue to be enjoyed.

5. In each case where rights or restrictive covenants are extinguished or suspended the person with the benefit of those rights is entitled to be compensated for losses arising from that suspension or extinguishment (See article 23(4)).
 6. Taking these factors into account, it is clear that the effect of article 23 is not to authorise the extinguishment of all rights and restrictive covenants over the Order land, but to authorise such extinguishment on a particular and proportionate basis.
- ii. **What is the nature/extent of any delay to the scheme that might otherwise result?**
7. The nature or extent of any delay to the Scheme arising from the assertion of private rights will depend on the nature of the rights that are asserted. If a right wholly inconsistent with the construction and operation of the Scheme was asserted then, in the absence of article 23, such a right could be an impediment to the implementation of the Scheme.
 8. While the Applicant has prepared its Book of Reference [APP-025] diligently, there remains a possibility of unregistered or equitable rights existing that are unknown to the Applicant that could be asserted so as to prevent or delay the implementation of the Scheme.
- iii. **What alternatives to this approach have been explored?**
9. The approach in article 23 is well established and precedented in numerous DCOs (see Rookery South (Resource Recovery Facility) Order 2011, the Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013, the A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014 and the A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016). While the Applicant has sought, and continues, to negotiate with landowners, article 23 is required to ensure the full and proper functioning of the compulsory acquisition and temporary possession powers included in the draft DCO, should such negotiations ultimately not prove fruitful. This approach is in line with paragraph 25 DCLG Guidance '*Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land*' and is discussed in greater detail in section 4.11 of the Statement of Reasons [APP-023].

The scope of the Compulsory Acquisition powers sought

Question CA.1.3

To assist with the consideration of whether the extent of the land to be acquired is no more than is reasonably required for the purposes of the development to which the development consent will relate:

- i. The Statement of Reasons, paragraph 2.4.1, refers to the Applicant requiring a degree of flexibility as to where certain elements of the scheme can be constructed within the limits of deviation (LoD) provided for in the dDCO. How would it be ensured that powers of Compulsory Acquisition would not be exercised in respect of land not ultimately required as a result of the detailed design process?
- ii. The Statement of Reasons, paragraphs 5.3.5 and 5.3.7, refer to the acquisition of rights in the sub-soil above the tunnel and up to (and including, where necessary) the surface of the land, to restrict activities on land that may affect the structural integrity of the tunnel. Please explain in detail the purpose and need for this power; the type of restrictions on activities that are sought to be imposed and the type of activities that it is anticipated might affect structural integrity.
- iii. Please expand upon the progress of discussions with the relevant landowners to minimise any impact upon existing surface activities.
- iv. The Statement of Reasons, paragraph 5.3.7, refers to the need for consultation on the restrictive covenants that would be imposed. What would be the process for any such consultation? How would such consultation and/or the content of any restrictive covenants be secured by the dDCO? If it is not intended to be secured in that way, please provide justification for such an approach.
- v. Please provide an indication of the anticipated content and/or an initial draft of any restrictive covenants intended to be imposed.
- vi. The Statement of Reasons, paragraph 5.3.9, refers to the construction compound requirements for the tunnelling operations. Please provide further details to justify the extent of the land sought to be used for this and other construction compounds. For each compound explain why a compound of this size is required and the justification for the extent of the plots proposed to accommodate them.
- vii. The Statement of Reasons, paragraph 5.3.12, seeks to justify the extent of the land over which powers are sought for the creation and acquisition of new rights to accommodate the diversion of statutory undertakers' apparatus. Please explain and justify in further detail the extent of the land over which such powers are sought given the width of the corridors likely to be needed for that purpose.

Response

- i. **The Statement of Reasons, paragraph 2.4.1, refers to the Applicant requiring a degree of flexibility as to where certain elements of the scheme can be constructed within the limits of deviation (LoD) provided for in the dDCO. How would it be ensured that powers of Compulsory Acquisition would not be exercised in respect of land not ultimately required as a result of the detailed design process?**
1. The need for the land and the purposes for which compulsory acquisition powers are sought is set out in section 5.3 of the Applicant's Statement of Reasons [APP-023]. As noted in paragraph 5.3.4:

" The Applicant considers that the Land included in the DCO is the minimum land-take required to construct, operate, maintain and mitigate the Scheme and is therefore necessary to achieve the objectives of the Scheme. The Applicant has sought to achieve a balance between minimising land take and securing sufficient land to ensure delivery of the Scheme, noting that the detailed design of the Scheme has yet to be developed. In that context, the limits of the Land have been drawn as tightly as possible so as to avoid unnecessary land take. In the event that less land proves to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the Land that is required and, in all events, will seek to minimise effects on landowners."
 2. To achieve this goal the Applicant requires a degree of flexibility in its exercise of compulsory acquisition powers, for example, to acquire rights or impose restrictive covenants over land it would be authorised to compulsorily acquire outright if, following detailed design, the acquisition of rights or imposition of restrictive covenants would suffice. For further information please see the Applicant's response to DCO.1.42.
 3. In addition, the articles in Part 3 (Powers of acquisition and possession of land) of the DCO are drafted to permit the Applicant (in the event that the DCO is made and the relevant powers are granted) to take temporary possession of land in the first instance where that land is subject to a power of compulsory acquisition (whether under article 19 (Compulsory acquisition of land) or under article 22 (Compulsory acquisition of rights)) and that power has not yet been implemented (through the service of notices relating to either the general vesting declaration process or the notice to treat and notice of entry process).
 4. This mechanism would permit the Applicant to take temporary possession of land in the first instance and to carry out the works comprising the authorised development (through exercise of the power in article 29 (Temporary use of land for constructing the authorised development)) before subsequently acquiring the land on the basis of the area actually required to deliver the 'as built' design. By deploying this mechanism, the Applicant minimises the risk of land being acquired without due purpose and can be confident that the only land which is

ultimately acquired is that which is reasonably required for the purposes of the development to which the development consent relates.

- ii. **The Statement of Reasons, paragraphs 5.3.5 and 5.3.7, refer to the acquisition of rights in the sub-soil above the tunnel and up to (and including, where necessary) the surface of the land, to restrict activities on land that may affect the structural integrity of the tunnel. Please explain in detail the purpose and need for this power; the type of restrictions on activities that are sought to be imposed and the type of activities that it is anticipated might affect structural integrity.**
5. Please see the Applicant's response to CH.1.27
- iii. **Please expand upon the progress of discussions with the relevant landowners to minimise any impact upon existing surface activities.**
6. The Applicant's Land Acquisition and Temporary Possession Negotiations Schedule [AS-011] contains further information on the status of negotiations with persons with interests in the land affected by the Scheme. An updated version of the Applicant's Land Acquisition and Temporary Possession Negotiations Schedule will be submitted at Deadline 2. Discussions with the affected persons with interests are ongoing, as no agreements are yet to be finalised. Further discussions are also taking place with the valuations office independently to aid these negotiations. One aspect of the negotiations are the accommodation works plan discussions which include agreeing the future access routes with the individuals who use the land affected. These are part of the land agreements process.
- iv. **The Statement of Reasons, paragraph 5.3.7, refers to the need for consultation on the restrictive covenants that would be imposed. What would be the process for any such consultation? How would such consultation and/or the content of any restrictive covenants be secured by the dDCO? If it is not intended to be secured in that way, please provide justification for such an approach.**
7. Please see the Applicant's response to CH.1.27 for further information. The restrictive covenants would be imposed pursuant to article 26 of the draft DCO over the land identified in Schedule 6 for the purposes set out in column (4) of that Schedule. The reference to consultation in paragraph 5.3.7 relates to the restrictive covenants that would be imposed, that is to say, it is envisaged that a restrictive covenant would be imposed on the subsoil and surface so as to require persons carrying out activities on that land that could affect the structural integrity of the tunnel to consult Highways England prior to carrying out that activity. Highways England does not propose to consult on the scope of the restrictive covenants imposed under article 26, and notes that there is no requirement to consult prior to the implementation of such powers.
- v. **Please provide an indication of the anticipated content and/or an initial draft of any restrictive covenants intended to be imposed.**

8. Please see the Applicant's response to CH.1.27.
- vi. **The Statement of Reasons, paragraph 5.3.9, refers to the construction compound requirements for the tunnelling operations. Please provide further details to justify the extent of the land sought to be used for this and other construction compounds. For each compound explain why a compound of this size is required and the justification for the extent of the plots proposed to accommodate them.**
9. Please see the Applicant's response to DCO.1.2 for further information on the Applicant's approach to construction compounds. As explained in more detail in that response, the Applicant is not yet in a position to confirm the precise size, location or layout of construction compounds that would be required temporarily for the purposes of constructing the Scheme. Necessarily, this is a matter for the detailed design of the Scheme. However, reasonable assumptions have been made as to the extent of the construction compounds that would be required and these are illustrated on Environmental Statement Figure 2.7 A-E Illustrative Construction Layout Including Compounds and Haul Routes [APP-061].
- vii. **The Statement of Reasons, paragraph 5.3.12, seeks to justify the extent of the land over which powers are sought for the creation and acquisition of new rights to accommodate the diversion of statutory undertakers' apparatus. Please explain and justify in further detail the extent of the land over which such powers are sought given the width of the corridors likely to be needed for that purpose.**
10. Predominantly the plots of land identified for the acquisition of rights to accommodate statutory undertakers' apparatus are co-incident with the areas the Applicant has identified as being appropriate to site temporary construction compounds. These areas are shown illustratively on Environmental Statement Figure 2.7 A-E Illustrative Construction Layout Including Compounds and Haul Routes [APP-061]. Authorisation for the compulsory acquisition of rights over this land is sought for the purposes of the diversion of statutory undertaker's apparatus and the imposition of restrictive covenants to protect that apparatus, as more particularly identified in Table 2 of the Statement of Reasons.
11. The precise timing and location of these diversions remains to be finalised with the relevant undertakers. A complicating factor is that the diversions will cross the land intended to be used temporarily for construction, and that land itself may require to be served by the same utilities being diverted.
12. To enable a solution that would be acceptable to Highways England in respect of its interaction with the land to be used temporarily for construction, the statutory utility in respect of its apparatus and the landowner in respect of their continuing use of the land following its return, Highways England seeks the authorisation to acquire rights over these plots, albeit the intention is that the rights would be acquired and restrictions imposed only over the 6 and 12 metre wide corridors, or

in the case of the Esso pipeline, 50 metres, as discussed in paragraph 5.3.12 of the Statement of Reasons.

13. Highways England would not seek to acquire rights over more land than is necessary for this purpose, as to do so would only increase the quantum of the landowner's claim for compensation and the rights would be of no value to Highways England, who seeks them only for the benefit of the relevant statutory undertaker. Without this flexibility, Highways England would be precluded from arriving at the optimum solution for all parties.

The scope of the Compulsory Acquisition powers sought

Question CA.1.6

Please explain further the relationship between the time limit for the exercise of temporary powers of possession set out in Article 21(2) and the time limits for the exercise of Temporary Possession powers set out in Articles 29 and 30.

Response

1. There is no relationship between the time limits for the exercise of the temporary possession powers in articles 29 and 30. Each power serves a different purpose and operates independently of the other.
2. In respect of the time limits for the exercise of the temporary possession power for the purposes of constructing the Scheme under article 29, please see the Applicant's response to DCO.1.41. In summary, the undertaker cannot take temporary possession of land under article 29 after the period of 5 years beginning with the day on which the DCO comes into force, but the undertaker may remain in possession of such land after this date where possession is taken before the end of that period.
3. The power to temporarily possess land for the purpose of maintaining the authorised development under article 30 may be exercised at any time during the 'maintenance period'. The maintenance period is defined in paragraph (11) as follows:

"In this article "the maintenance period", in relation to any part of the authorised development, means the period of 5 years beginning with the date on which—

 - a) that part of the authorised development is first opened for public use (where that part of the authorised development is intended to be used by the public); or
 - b) in respect of any other part of the authorised development, that part is first brought into operational use by the undertaker."
4. In effect, the maintenance period is the first five years from which the relevant part of the authorised development has been brought into use. Any maintenance beyond this time limit will be carried out on land in the Applicant's ownership or through rights acquired permanently for that purpose.

The scope of the Compulsory Acquisition powers sought

Question CA.1.7

Article 22 (1) of the dDCO would authorise the creation of new rights/restrictive covenants over all of the Order land and the power is not restricted to that land specified in Schedules 4 and 6.

- i. Please provide further justification for the extent of the power sought with reference to the conditions specified for the exercise of such powers by section 122 PA2008.
- ii. Please describe the nature of the restrictive covenants sought by way of a schedule or updated Book of Reference and provide full justification for them.

Response

- i. **Please provide further justification for the extent of the power sought with reference to the conditions specified for the exercise of such powers by section 122 PA2008.**
 1. Please see the Applicant's response to DCO.1.42 for a detailed response. In summary, article 22(1) would only authorise the compulsory acquisition of rights or imposition of restrictive covenants over land that it seeks authorisation to acquire outright. As such the conditions in section 122 PA2008 are met because the Applicant considers it has made out the case for the outright acquisition of the land. For a plot by plot justification of the Applicants requirement for the land, please see Table 1 of the Statement of Reasons [APP-023]. The power is necessary to afford Highways England a degree of flexibility, in terms of being able, where appropriate, to offer potential alternatives to compulsory acquisition, through the exercise of a lesser and more proportionate form of compulsory acquisition than outright purchase that would permanently deprive the landowner of the use of the land.
- ii. **Please describe the nature of the restrictive covenants sought by way of a schedule or updated Book of Reference and provide full justification for them.**
 2. Please see the Applicant's response to (i) above. The exact nature of the restrictions or rights remain to be determined but, as explained above (in (i)) would serve, if required, as an alternative to outright acquisition.

The scope of the Compulsory Acquisition powers sought

Question CA.1.8

For the avoidance of doubt, please confirm the total number of plots falling within each of the four tables listed in the Statement of Reasons, Annex A.

Response

1. The number of plots falling within each of the four tables listed in the Statement of Reasons, Annex A are as follows:

Annex A Table	Number of Plots
Table 1: Acquisition of Land	209
Table 2: Acquisition of Rights and Imposition of Restrictive Covenants	54
Table 3: Acquisition of Subsoil Only and Acquisition of Rights and Imposition of Restrictive Covenants	15
Table 4: Temporary Possession of Land Only	33

The scope of the Compulsory Acquisition powers sought

Question CA.1.9

Please provide justification for the extent of the National Trust land sought to be subject to powers of Temporary Possession.

Response

1. The Relevant Representation report [AS-026] provides Highways England's response to the National Trust's concerns in respect of temporary possession over its land. In Chapter 23, Highways England's response notes that:
"The temporary possession of land would be limited to what is essential for the efficient construction of the Scheme.
2. *The DCO seeks powers to take temporary possession of land for constructing and maintaining the Scheme. These powers may be exercised in respect of land that is only required during the construction works, such as for compounds and the storage of materials. Where land is intended to be acquired permanently, temporary possession may initially be taken until the permanent requirements are finalised to ensure that Highways England does not permanently acquire more land than is necessary.*
3. *It is accepted and agreed, however, that such temporary possession powers are not required at the surface over land identified for only subsoil acquisition. Highways England has offered a commitment to the Trust to confirm that no temporary possession powers would be used at the surface of plots 06-08, 06-11, 06-13, 07-02, 07-05, 07-07, 07-13, 08-02, 08-07, 08-09, 08-10, 08-11, 08-22, and temporary possession powers would be limited to subsoil level only."*
4. Plot 05-37 is identified as required for temporary possession only, for the purposes of construction of the new restricted byway and private means of access on the line of the existing A303 for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space.
5. Various plots are identified for permanent acquisition of land or rights, over which temporary possession may initially be taken until permanent requirements are finalised. This includes plots 08-19 and 09-04, which is land where the National Trust owns the registered freehold, and plots 05-33, 06-01, 07-01, 07-08, 07-09, 07-15, 07-16, 08-04, 08-22, 09-06 and 09-10 which are plots where the National Trust hold a frontage interest in the existing highway. Temporary possession powers are required over these plots to enable Highways England to obtain access to the land to carry out the Scheme ahead of permanent acquisition. This approach enables Highways England to refine the extent of land it acquires permanently so that no more than is necessary is permanently acquired. Plot 08-22 was included in the list of subsoil plots stated in the Relevant Representations Report in error. Plot 08-22 is not required for subsoil acquisition but is land in which the National Trust holds a frontage interest in the existing highway.

Highways England is seeking the permanent acquisition of this land for the construction of a new restricted byway and private means of access.

6. It should be noted that section 130 of the Planning Act 2008 does not apply to National Trust land held inalienably over which only powers of temporary possession are sought.

Whether there is a compelling case in the public interest for the Compulsory Acquisition of the land, rights and powers that are sought by the dDCO

Question CA.1.10

For the avoidance of doubt, what are all the factors that are regarded as constituting evidence of a compelling case in the public interest for the Compulsory Acquisition powers sought and where, giving specific paragraph references, are these set out in the submitted documentation?

Response

1. Highways England has had regard to the requirement in section 122(3) of PA2008 for there to be a compelling case in the public interest to justify the use of Compulsory Acquisition (CA) powers. This means that the public benefit derived from the compulsory acquisition must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, compulsory acquisition must be justified in its own right. But this does not mean that the compulsory acquisition proposal can be considered in isolation from the wider consideration of the merits of the project. There must be a need for the project to be carried out and there must be consistency and coherency in the decision making process.
2. The factors that are regarded as constituting evidence of a compelling case in the public interest are, in the main, detailed in the Case for the Scheme [APP-294], the Statement of Reasons [APP-023], the Funding Statement [APP-024] and the Addendum to the Funding Statement [AS-012], and are provided below. Specific references to the submitted documentation and relevant paragraph numbers are provided in the detailed response that follows.
3. **The need for the Scheme.** The need for and the benefits of the Scheme are set out in Chapter 2 of the Statement of Reasons [APP-023] and in other application documents, including the Case for the Scheme [APP-294]. Together, these documents demonstrate that there is a very strong and compelling case in the public interest for the Scheme to be delivered.
4. The Scheme would address the existing problems associated with this part of the A303, including the following (summarised from the Case for the Scheme [APP-294], Table 2.1 and paragraphs 2.2.1-2.6.6):
 - a. Transport – lack of capacity on single carriageway sections and single level junctions lead to congestion and delay.
 - b. Transport – on average there are 15 collisions with personal injury each year on the Scheme section.
 - c. Economic – productivity in the South West is restricted by poor connectivity.
 - d. Economic – growth is constrained by traffic congestion, delay and unreliable journey times.

- e. Economic – overall tourism and the visitor economy are harmed by congestion and unreliable journey times.
 - f. Heritage – the A303 severs the World Heritage Site (WHS) limiting enjoyment and appreciation of the site.
 - g. Communities – traffic causes severance and visual intrusion in the village of Winterbourne Stoke.
 - h. Communities – villages near the A303 suffer from rat-running traffic.
 - i. Communities –tourist traffic has an adverse impact on local communities.
 - j. Environment – the existing A303 forms a barrier to wildlife.
 - k. Environment – the existing A303 causes problems of noise for the residents of Winterbourne Stoke.
 - l. Environment – runoff from the existing road causes water pollution.
5. **Government Policy Support for the Scheme.** The Case for the Scheme [APP-294], paragraphs 2.1.5-2.1.6 and Appendix A of the Funding Statement [APP-024] (the latter provides the context of the Government strategies and policy documents), explain that strategic government policy explicitly describes the need for improvement of the A303 and the A303/ A358 corridor, including:
- a. the Government’s Road Investment Strategy 2015 - 2020 (2014);
 - b. Highways England’s Strategic Business Plan 2015 - 2020 (2014);
 - c. Highways England’s Delivery Plan 2015 - 2020 (2015); and
 - d. The Government’s National Infrastructure Delivery Plan 2016 - 2021.
6. **The Wider Package of Proposals for the A303/A358 Corridor.** The Statement of Reasons [APP-023], paragraph 5.4.5 explains that the Scheme is part of a wider package of proposals for the A303/A358 corridor designed to transform connectivity to and from the South West of England by creating a high-quality dual-carriageway along the corridor. The Scheme is essential to delivering this long-term commitment.
7. **National Policy Statement for National Networks (NPSNN) and other Planning Policy Documents.** The Case for the Scheme [APP-294], in paragraph 8.4.1 concludes that the Scheme demonstrates compliance with the NPSNN, including the Government’s strategic vision for the development of the national road network, wider policies for economic performance, environment, safety, technology, sustainable transport and accessibility, as well as journey reliability and the experience of road users. Where harm is generated by the construction or operation of the Scheme, it has been demonstrated through careful and comprehensive assessment that the substantial and long lasting benefits, such as improvements to the setting of Stonehenge and biodiversity net gain, as well as the extensive transportation, economic and community benefits, will outweigh the limited harm.

8. The Case for the Scheme [APP-294], further, in paragraphs 7.3.6-7.3.13 considers the application for the Scheme against the National Planning Policy Framework (2018) (NPPF). It concludes that the Scheme is compliant with the NPPF's support for development that considers future needs, growth and resilience. It goes on, (in paragraphs 7.3.14-7.3.16) to conclude that the Scheme also conforms with relevant policies in the development plan.
9. **Consideration of Options.** The Case for the Scheme [APP-294], in section 3, summarises the options identification and assessment process. A more detailed description of the assessment of alternatives is provided in Chapter 3 of the Environmental Statement [APP-041]. Paragraph 3.2.1 of the Case for the Scheme [APP-294] explains that proposals for the improvement of the A303 between Amesbury and Berwick Down have been the subject of extensive study and consultation since 1991. Over the past 25 years more than 60 potential routes had been identified for a scheme to improve the A303 and reduce its impact on the WHS. It further explains that the Applicant undertook a non-statutory consultation on the route options in early 2017, with the statutory consultation on the Scheme being held in early 2018.
10. **The Option that Best Delivers the Project Objectives.** The Scheme was selected as the option that best delivers the objectives, thereby resolving the existing problems and meeting the defined need. The project objectives are set out in the Case for the Scheme [APP-294], paragraph 2.8.2. The Scheme would offer an effective solution to two key challenges – congestion on the A303 and the impacts of the road and traffic on the WHS, ([APP-294], paragraph 4.1.1 and 8.2.2.). The Case for the Scheme [APP-294] in Paragraphs 5.2.1-5.7.5, further explain that the Scheme would provide a range of benefits including reduced journey times; safety benefits; reducing congestion; increased resilience; improvements for the World Heritage Site (WHS) and the setting of Stonehenge; provision for walkers, cyclists and horse-riders as well as economic benefits and supporting tourism.
11. **Acquisition of Land and Rights by Voluntary Agreement is Being Pursued.** The Applicant has engaged with all affected landowners and occupiers with a view to acquiring their land interest by agreement, by writing to them to inform them of Highways England's willingness to negotiate to acquire the land by agreement, and to invite dialogue on this point. As a result, Highways England is in the process of ongoing discussions with all affected landowners and occupiers and negotiations with this objective will be ongoing through the Development Consent Order process. The status of such discussions is set out in the Applicant's Land Acquisition and Temporary Negotiations Schedule [AS-011] reflecting the position at the time of the submission of the Application, and updated for submission at Deadline 2. Highways England is aware of the requirement (paragraph 25 of the Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (DCLG, September 2013)) to seek to acquire land by negotiation wherever practicable. The power to acquire land compulsorily should only be sought if attempts to acquire land and/or rights by agreement fail. However, the DCLG Guidance explains (in paragraph 25) that

in some linear schemes, which involve development over many separate plots of land, land acquisition through compulsory acquisition may be necessary. Where this is the case it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset. For this reason, the Applicant's draft DCO [APP-020] includes provision for powers to acquire land, and rights over land, compulsorily.

12. The Statement of Reasons [APP-023] (in section 5.7) provides details which relate to acquisition by agreement.
13. **There is Funding Available for Compulsory Acquisition Costs.** The Applicant provided details regarding how the Scheme would be funded in the Funding Statement [APP-024] and the Addendum to the Funding Statement [AS-012]. The Funding Statement [APP-024] made it clear (in sections 3-5) that funds would be available to implement the Scheme, whether by a combination of private and public finance or solely by public finance. The Addendum to the Funding Statement [AS-012] confirmed that funds would be available to meet all compulsory acquisition costs, blight claims and compensation payments for the Scheme. The decision has now been made by the Government that, subject to the completion of the relevant statutory processes, the Scheme will be delivered through public funding. In his Budget statement on 29 October 2018, the Chancellor of the Exchequer announced the decision that the Government will no longer use Private Finance 2 as a contracting model. In that Budget Statement, the Government specifically reiterated its support for the A303 Scheme. Further information about Scheme funding is set out in the Applicant's responses to the ExA's Written Question CA.1.15.

Whether there is a compelling case in the public interest for the Compulsory Acquisition of the land, rights and powers that are sought by the dDCO

Question CA.1.11

The Statement of Reasons, paragraph 5.4.1, submits that there is a compelling case in the public interest for the Compulsory Acquisition.

- i. What assessment, if any, has been made of the effect upon individual Affected Persons and their private loss that would result from the exercise of Compulsory Acquisition powers in each case?
- ii. Paragraph 5.4.7 asserts that the public benefits of the scheme outweigh any residual adverse effects including private loss suffered by individual land owners and occupiers. What is the reasoning behind that assertion and how has that balancing exercise between public benefit and private loss been carried out?

Response

1. First, in response to part (i), Highways England would like to clarify that there are no residential properties within the Scheme boundary, as stated in the Environmental Statement (ES), Chapter 13, People and Communities [APP-051], paragraph 13.6.32. This is further confirmed in the Statement of Reasons [APP-023], paragraph 6.2.2 which states that the Order land does not include, and the Scheme does not require, the outright acquisition of any residential dwelling houses - it only requires the acquisition of subsoil below and rights over subsoil and surface where the tunnel would pass beneath properties known as 1 and 2 Custodian Cottages.
2. The ES, Chapter 13, People and Communities [APP-051], in paragraphs 13.3.7-13.3.8 describes the criteria used for assessing the sensitivity of agricultural holdings and other receptors including private assets and development land. Paragraphs 13.3.12-13.3.14 (including Table 13.8) provide an explanation regarding how the significance of effects was derived for agricultural holdings and other receptors. Potential impacts upon agricultural land, development land and private assets during operation are described in paragraphs 13.7.7.-13.7.9. The effects of the Scheme upon individual agricultural and other land interests during both the construction phase and operational phase are summarised in ES Chapter 13 [APP-051], Tables 13.22 and 13.23.
3. In response to part (ii), the Applicant is of the view that the public benefits of the Scheme outweigh any residual adverse effects including private loss suffered by individual landowners and occupiers. The reasoning behind this assertion is as follows:-
 - a. Highways England has had regard to the requirement in section 122(3) of the Planning Act 2008 (PA 2008) for there to be a compelling case in the public interest to justify the use of compulsory acquisition (CA) powers.
 - b. Highways England has considered the private loss that those affected by CA would suffer, in terms of:

- acquisition of land through CA;
 - acquisition of rights over land as well as (or instead of) the land itself, and also in terms of the creation of new rights over land subject to CA;
 - the extinguishment of private rights;
 - the powers being sought to override easements and other rights; and
 - temporary displacement from land subject to powers of temporary possession.
- c. Highways England considers that such private losses may be fairly and appropriately compensated through the payment of statutory compensation under the Compensation Code.
- d. Section 125 of PA 2008 applies the Compulsory Purchase Act 1965 to the draft Development Consent Order (dDCO), which makes provision for the payment of such compensation.
- e. The balancing exercise undertaken considered the private loss (after compensation) upon individual landowners and occupiers against the benefits that the Scheme would deliver. The National Policy Statement for National Networks (NPSNN), in paragraph 2.10, explains that the Government has concluded that at a strategic level there is a compelling need for development of the national networks – both as individual networks and as an integrated system. It goes on to say that the Examining Authority and the Secretary of State should therefore start their assessment of applications for infrastructure covered by this NPS on that basis. Highways England therefore asserts that the compelling need for development of the Scheme (which forms a part of the national networks) outweighs any private loss (after compensation). Accordingly, there is a compelling case in the public interest which would justify the proposed use of CA powers to ensure delivery of the Scheme in a timely manner.

Whether all reasonable alternatives to Compulsory Acquisition been explored

Question CA.1.12

In the light of the relevant DCLG Guidance related to procedures for the compulsory acquisition of land, paragraph 8:

- i. How can the Panel be assured that all reasonable alternatives to Compulsory Acquisition (including modifications to the scheme) have been explored?
- ii. Set out in summary form, with document references where appropriate, what assessment/comparison has been made of the alternatives to the proposed acquisition of land or interests therein in each case.

Response

1. In response to both parts (i) and (ii) of this Question, the Panel can be assured that all reasonable alternatives to Compulsory Acquisition (including modifications to the Scheme) have been considered. In summary:
2. Before a decision was made to proceed with the Scheme, Highways England explored and assessed many alternative solutions and routes. These are described in the Case for the Scheme [APP-294], section 3 and in the Environmental Statement (ES), Chapter 3 [APP-041]. The Scheme, which is the subject of the current application, has evolved through consultations, negotiation and discussion with a range of Interested Parties and Affected Persons. The Scheme, as proposed, includes modifications that arose from consultation; for further detail, please refer to the Applicant's response to ExA Written Question CA.1.13.
3. The Statement of Reasons [APP-023] in paragraph 5.5.2 explains that following public consultation, the Applicant selected the most appropriate option. This selection took into account various factors, including, amongst others, views of consultees including persons with an interest in land. Other factors included environmental impacts, meeting the objectives of the Scheme, affordability, value-for-money, safety and construction and operational considerations. None of the alternatives or modifications considered would obviate the need for the compulsory acquisition and temporary possession of land.
4. The Applicant has been undertaking negotiations to acquire land and rights by agreement. This process is explained in the Statement of Reasons [APP-023], in paragraphs 4.11.1 to 4.11.5. The current situation in respect of those negotiations is detailed in the Applicant's Land Acquisition and Temporary Possession Negotiations Schedule [AS-011], updated at Deadline 2.
5. Basing much of the alignment of the Scheme on the existing A303 route reduces the total amount of land that needs to be acquired through compulsory acquisition. The Statement of Reasons [APP-023], in paragraph 4.1.2, explains that of the Order land (approximately 427.9 hectares (ha)), approximately 232.2 ha are proposed to be subject to powers of compulsory acquisition; 48.4 ha are proposed to be subject to powers to acquire compulsorily subsoil and to acquire

rights (including the imposition of restrictive covenants) over the remaining subsoil (above that subsoil proposed to be permanently acquired) up to and including the level of the surface of the land; 113.4 ha are proposed to be subject to the acquisition of permanent rights (including the imposition of restrictive covenants); and 33.9 ha are proposed to be subject to powers of temporary possession.

6. The draft Development Consent Order (dDCO) [APP-020], Article 27 (Acquisition of subsoil, etc., only), facilitates the Applicant's ability to be flexible in order to minimise, so far as is possible, the extent of interests to be acquired, with less impact upon landowners. The Explanatory Memorandum [APP-021], in paragraph 7.19 explains that it is considered to be in the public interest to provide this flexibility.
7. In addition, the dDCO, Article 22 (Compulsory acquisition of rights), allows for rights over land to be acquired as well as (or instead of) the land itself. This would allow the Applicant, if appropriate, to reduce the area of outright acquisition and rely on the creation and acquisition of new rights instead, as explained in the Explanatory Memorandum [APP-021], paragraph 7.6.

Whether all reasonable alternatives to Compulsory Acquisition been explored

Question CA.1.13

The Statement of Reasons, paragraph 5.5, refers to public consultation and the consideration given to that in the selection of the most appropriate option.

- i. Please explain what, if any, account has been taken of responses to Pre-application consultation (both in relation to statutory and non-statutory consultation) in the route selection and in considering whether there are reasonable alternatives to Compulsory Acquisition.
- ii. Please provide any examples of route changes and changes to design development options within the preferred route in response to public consultation.

Response

1. The account taken of responses to the non-statutory consultation in 2017 is set out in Chapter 5 of the A303 Stonehenge: Amesbury to Berwick Down - Report on Public Consultation (APP-026). The matters raised by the public, by statutory and non-statutory bodies and by landholders are set out in Tables 5-1, 5-4 and 5-5 respectively, along with Highways England's response to each matter raised, and with 'Alternative Proposals' being one of the main themes identified. Chapter 6 (Section 6.2, Table 6-1) also summarises the key considerations arising from the consultation which informed the choice of preferred route. Those key considerations informed the subsequent identification of alternative route options as set out in Chapter 6 of the Scheme Assessment Report (SAR - <https://highwaysengland.citizenspace.com/cip/a303-stonehenge/>), with the assessment of those route options informing the choice of preferred route as set out in the following chapters of the SAR.
2. The account taken of responses to the statutory consultation in developing the design of the preferred route (including consideration of any reasonable alternatives to, and reduction of, Compulsory Acquisition) is contained within Chapter 5 of the 2018 Consultation Report (APP-026). The matters raised by all consultees are set out in Tables 5-1 to 5-17 along with Highways England's response to each matter raised. The design changes made to the scheme following consideration of those matters are summarised in Section 5.19. Specific matters raised by bodies such as Wiltshire Council, Historic England, Natural England, Environment Agency, English Heritage Trust and National Trust are summarised in Chapter 4, Section 4.7, Tables 4-9 to 4-11.
3. In relation to the non-statutory consultation, an example of a route change was in the western part of the WHS, where the route taken into consultation was moved northwards to run closer to and parallel with the existing A303 and became the preferred route. The reasons for the choice of preferred route from the options assessed following consultation are summarised in Chapter 16 of the SAR (<https://highwaysengland.citizenspace.com/cip/a303-stonehenge/>).

4. In relation to the statutory consultation, as summarised in section 5.19 of the Consultation Report [APP-026], an example of a design change is the widening of Green Bridge No. 4 in the western part of the WHS to c.150 metres to provide enhanced physical and visual connectivity in that area of the WHS.

Whether all reasonable alternatives to Compulsory Acquisition been explored

Question CA.1.14

The Statement of Reasons, section 4.11, indicates that the Applicant has engaged with all landowners and occupiers with a view to acquiring their land interest by agreement. The Additional Submission 5 – Land Acquisition and Temporary Possession Negotiations Schedule has been submitted to show the progress of negotiations with Affected Persons.

Please provide an updated Schedule on the state of any negotiations with each Affected Person to acquire the various land/rights in question.

Response

1. An updated Schedule of Negotiations entitled “Land Acquisition and Temporary Possession Negotiations Schedule (April 2019)” has been prepared and submitted (in clean and tracked versions) at Deadline 2.

Whether adequate funding is likely to be available

Question CA.1.15

The Funding Statement outlines two options for funding with Option 1 being a combination of private and public finance and Option 2 solely public finance.

- i. Please explain the process and timeline for deciding upon the funding option that would ultimately be adopted.
- ii. Option 1 would make use of the Private Finance 2 (PF2) contract model. Does that remain an option supported by the Government?
- iii. Does the Road Investment Strategy (RIS) and the figure of £15 billion ring-fenced for major road investment place reliance upon such schemes proceeding by way of Option 1 or would that figure support all RIS schemes proceedings solely by way of public finance?
- iv. The Funding Statement makes reference to the RIS published on 1 December for the period 2015/2016 and 2020/2021. Does that represent the current position or has that been overtaken by a later RIS? If so, has the funding of the scheme been included within that? If not, what reliability can be placed upon Option 2 – solely public finance?
- v. Please provide an update to the Funding Statement to fully reflect the current position.
- vi. The Funding Statement indicates that the main scheme has a capital cost estimate of £1.7 billion and Appendix A includes reference to £2 billion of investment in the A303 corridor as a whole. What is the capital cost element for the remainder of the A303 corridor and does the £2 billion figure rely upon parts of the corridor proceeding by way of Option 1 or another form of funding that does not rely solely upon public finance?

Response

- i. ***Please explain the process and timeline for deciding upon the funding option that would ultimately be adopted.***
 1. The decision has now been made by Government to pursue Option 2, solely public funding. In his 2018 Budget statement on 29 October 2018, the Chancellor of the Exchequer announced the decision that Government will no longer use Private Finance 2 as a contracting model. This ruled out Option 1.
 2. Government specifically reiterated its support for the A303 scheme in that Budget statement:
 3. *“PF2 was previously considered for the A303 and Lower Thames Crossing roads projects. The government is still committed to pursuing these projects, subject to scrutiny of the relevant business cases which are still in development. The model of financing of these schemes is not the deciding factor in whether they are taken forward.”*
- ii. ***Option 1 would make use of the Private Finance 2 (PF2) contract model. Does that remain an option supported by the Government?***

4. Option 1 is no longer supported by Government, see answer above.
- iii. ***Does the Road Investment Strategy (RIS) and the figure of £15 billion ring-fenced for major road investment place reliance upon such schemes proceeding by way of Option 1 or would that figure support all RIS schemes proceedings solely by way of public finance?***
5. Option 1 is no longer supported by Government, see answer above.
- iv. ***The Funding Statement makes reference to the RIS published on 1 December for the period 2015/2016 and 2020/2021. Does that represent the current position or has that been overtaken by a later RIS? If so, has the funding of the scheme been included within that? If not, what reliability can be placed upon Option 2 – solely public finance?***
6. Highways England's Road Investment Strategy (RIS) funding is agreed in five-year periods with Government. RIS period 1 ends in March 2020 and includes sufficient funding for the A303 project to this date. RIS2 is in preparation and is expected to be issued in late 2019. The DfT document, Draft Road Investment Strategy 2: Government Objectives dated October 2018, confirms the continued funding of upgrades to the A303 corridor as a priority for RIS2. More generally, as demonstrated by the Chancellor of the Exchequer's statement above, the Government remains committed to funding the A303 project.
- v. ***Please provide an update to the Funding Statement to fully reflect the current position.***
7. Please see accompanying letter accompanying the Deadline 2 Submission
- vi. ***The Funding Statement indicates that the main scheme has a capital cost estimate of £1.7 billion and Appendix A includes reference to £2 billion of investment in the A303 corridor as a whole. What is the capital cost element for the remainder of the A303 corridor and does the £2 billion figure rely upon parts of the corridor proceeding by way of Option 1 or another form of funding that does not rely solely upon public finance?***
8. Please see accompanying letter accompanying the Deadline 2 Submission.
- vii. ***The Funding Statement indicates that the main scheme has a capital cost estimate of £1.7 billion and Appendix A includes reference to £2 billion of investment in the A303 corridor as a whole. What is the capital cost element for the remainder of the A303 corridor and does the £2 billion figure rely upon parts of the corridor proceeding by way of Option 1 or another form of funding that does not rely solely upon public finance?***
9. Reference to £2bn is for the entire A303/A358 corridor and is not based on funding Option 1 for the A303 Stonehenge project. There are two other schemes currently being developed as set out in 3.1.2 of the Funding Statement. Neither of these separate schemes rely on private finance; it has always been the case that Highways England will fund these other two schemes out of its RIS period funding. Neither does the funding of the three schemes rely on a total cap on costs of £2bn being achieved. The commitment to funding of the Scheme is independent of the other schemes in the corridor.

Whether adequate funding is likely to be available**Question CA.1.16**

The Funding Statement states that Highways England with its external advisor PwC held market engagement with private finance funders in June/July 2018 and those soundings raised no concern on market capacity to fund A303 privately.

- i. The Appendix B letter from PwC confirms that it has assisted with certain activities. However, it does not comment on the availability of private funds to implement the scheme. Please provide evidence to support the assertion made in that respect.
- ii. What reliance can be placed upon the continuing availability of private funds in the future should market conditions change?

Response

1. Government has abandoned private finance of the scheme as an option and so the availability of private funds is no longer relevant.

Whether adequate funding is likely to be available

Question CA.1.17

Please summarise the evidence relied upon to support the conclusion that there is a reasonable prospect that the scheme, if granted consent, would actually be taken forward and in what time period?

Response

1. The Funding Statement sets out the consistent support of the Government for the scheme over a period of years. Most recently the Government has stated in its 2018 Budget statement that it intends to pursue Option 2 for this scheme using solely public funding. The intended construction programme for the scheme has been public throughout that period with construction commencing in 2020 and a target scheme opening in 2026.

Whether adequate funding is likely to be available

Question CA.1.18

The Funding Statement, paragraph 3.2.3, indicates that total direct development costs including land acquisition are estimated at £300 million including allowances for risk and inflation.

- i. What proportion of that figure can be attributed to land acquisition costs?
- ii. How can the Panel be satisfied as to the reliability of that figure, and what is its degree of accuracy?

Response

- i. What proportion of that figure can be attributed to land acquisition costs?**
 1. Approximately 8% (£22m) has been attributed to land acquisition costs.
- ii. How can the Panel be satisfied as to the reliability of that figure, and what is its degree of accuracy**
 2. Land values have been derived from the Government Valuation Office and prepared by suitably qualified professional surveyors experienced in agricultural land values in this area of England. The valuation process is considered straight forward, therefore offering a high degree of reliability and accuracy.

Whether the purposes of the proposed Compulsory Acquisition justify interfering with the human rights of those with an interest in the land affected

Question CA.1.19

What degree of importance has been attributed to the existing uses of the land proposed to be acquired, and why?

Response

1. As is noted in paragraph 4.3 of the Applicant's Statement of Reasons [APP-023] the majority of the existing uses of the land proposed to be acquired consist of existing highway and a mixture of arable and pastoral agriculture.
2. In establishing its compelling case in the public interest for the authorisation of powers of compulsory acquisition the Applicant has considered the wider public benefits of the Scheme against the impacts on private land interests. An explanation of this balancing exercise is set out in section 5.4 of the Statement of Reasons. In the case of human rights considerations, these are set out in section 6 of the Statement of Reasons.
3. Highways England acknowledges the value of the existing land uses but notes that the loss of these private interests can be compensated. In contrast the wider public benefits of the Scheme can only be delivered through the authorisation of compulsory acquisition powers.

Whether the purposes of the proposed Compulsory Acquisition justify interfering with the human rights of those with an interest in the land affected

Question CA.1.20

The Statement of Reasons, paragraph 6.2.1, indicates that the Applicant considers the significant public benefits that would arise from the scheme would outweigh any harm to individuals.

Explain more precisely the factors which have been placed in the balance (including references to any paragraphs of the relevant NPS), the weight attributed to those factors and how this exercise has actually been undertaken?

Response

4. The balance between public benefits and private interests has been taken into account in the Applicant's consideration of the benefits and impacts of the Scheme. This is explained in Section 7.5 and Chapter 8 of the Case for the Scheme and NPS Accordance [APP-294].
5. As set out in Section 7.5 of the Case for the Scheme and NPS Accordance, Section 104(7) of the Planning Act 2008 requires that the application should be determined in accordance with the relevant National Policy Statement (in this case the National Networks National Policy Statement (NN NPS)) unless the adverse impacts of the proposed development would outweigh its benefits (paragraph 7.1, Case for the Scheme and NPS Accordance [APP-294]). Table 7.1 provides a summary of the environmental effects predicted (both beneficial and adverse), including those on private land interests and the local community. For example, permanent adverse effects on two agricultural holdings and best and most versatile (BMV) agricultural land have been identified, as well as beneficial effects on connectivity, local travel patterns for public right of way users, reduced severance and improved journey time reliability and reduced stress for drivers on the A303 (page 7-45, Case for the Scheme and NPS Accordance [APP-294]).
6. These effects as reported in the Environmental Statement (ES [APP-038 to 291]), have then been assessed against the NN NPS policies as set out in Tables A1, A2 and A3 of the Case for the Scheme and NPS Accordance [APP-294]. For example, in respect of BMV agricultural land, paragraph 5.168 of the NN NPS requires that applicants should take into account the economic and other benefits of BMV agricultural land and seek to use poorer quality land in preference (Table A3, page A-110 of the Case for the Scheme and NPS Accordance [APP-294]). In the 'Scheme compliance' column of Table A3 of the Case for the Scheme and NPS Accordance [APP-294] it is acknowledged that the Scheme will result in significant adverse effects but it is not possible to avoid affecting agricultural land due to the rural location of the Scheme. Table A3 of the Case for the Scheme and NPS Accordance [APP-294] also describes the mitigation measures proposed to address the impacts on soil quality referred to in the NN NPS paragraph. Paragraph 8.5.2 of the Case for the Scheme and NPS Accordance

[APP-294] confirms the overall public benefits, as described in Section 8.2, outweigh the specific adverse effects identified.

7. Paragraphs 5.203 to 5.205 of the NN NPS require applicants to consider reasonable opportunities to support other transport modes and recommend that evidence should be provided to show how existing severance issues have been addressed. With reference to Chapter 13: People and Communities of the ES [APP-051], Table A3 (Table A3, page A-130, Case for the Scheme and NPS Accordance [APP-294]) explains that the Scheme will reduce existing severance issues during operation, facilitating improved journey times for non-motorised users.
8. As explained in Section 8.5 of the Case for the Scheme and NPS Accordance [APP-294], most weight has been applied to compliance with international and national legal obligations, as well as compliance with the NN NPS. No one factor has been given more weight than another, but have been viewed cumulatively, when balancing the impacts and benefits. In complying with those policies, Tables A1, A2 and A3 of the Case for the Scheme and NPS Accordance [APP-294] demonstrate that the benefits of the Scheme in the public interest as described in Section 8.2 would outweigh the residual impacts as identified in Table 7.1 of the same document.

Whether the purposes of the proposed Compulsory Acquisition justify interfering with the human rights of those with an interest in the land affected

Question CA.1.21

The Statement of Reasons, paragraph 6.2.4, asserts that the interference with human rights in this case would be proportionate and justified.

- i. How has the proportionality test been undertaken?
- ii. Explain the proportionate approach which has been taken in relation to each plot.

Response

1. The need for and the benefits of the Scheme are set out in Chapter 2 of the Statement of Reasons [APP-023] and in other application documents, including, in particular, the Case for the Scheme [APP-294] in which Section 7.5 balances the impacts and benefits of the Scheme. Together, they demonstrate that there is a very strong and compelling case in the public interest for the Scheme to be delivered.
2. The land required for the Scheme has been identified based on environmental and engineering requirements and is the minimum necessary that will allow Highways England to carry out the detailed design of the Scheme, and, subsequently, to construct, operate and maintain it. The purpose for which each plot of land within the Order limits is required is set out (on a plot by plot basis) in Annex A to the Statement of Reasons [APP-023].
3. Land required for the Scheme was subject to land referencing methodology (as explained in sections 4.4 to 4.10 of the Statement of Reasons [APP-023]) to identify all legal interests in and current uses of the land, to ensure a full understanding of the interests of those individuals who would be affected should their land be required for the Scheme. The developing Scheme design was scrutinised on a plot-by-plot basis to ensure compulsory acquisition was reduced to the minimum extent of land necessary to design and then build out the Scheme. It was also tested on a plot-by-plot basis to consider the proportionality of the requirement for each plot, compared with the individual impact of seeking powers of compulsory acquisition over that land.
4. During review of the land requirements for the Scheme, each plot was reviewed individually based on a consideration of the practical engineering requirements against the individual impacts that would occur at the local level. This process of checks and balances, carried out by the Applicant to challenge the proposed land take requirements as the Scheme design evolved following consultation, allowed the Applicant to refine the land requirements and, wherever possible, to mitigate the effects of the Scheme on landowners.
5. The Applicant's plot-by-plot review included detailed consideration of the following:

- a. The justification for and extent to which the plot was required, to ensure that only land that was absolutely required to deliver the Scheme was included within the Order limits. Where land requirements could be minimised by reconfiguration of the design, this was undertaken where possible.
 - b. Review of plot land use and ownership to understand the impacts resulting from the inclusion of a given plot on the individual's land ownership and business.
 - c. Provision and development of accommodation works to retain existing or design new accesses in locations to reduce disruption on the existing land use.
 - d. Review of plot areas and shape to refine the design within existing field, landownership and land use boundaries to configure the design to contain it within one land area to minimise the impact on multiple landowners or uses.
 - e. Reduction of severance through the consideration of the residual shape of land to be retained by the landowner following completion of the Scheme to avoid creating inaccessible or unworkable areas of retained land.
6. As a result of the above process of challenge and scrutiny, balancing the requirement for each individual plot against its anticipated impacts on the existing landowners and occupiers, the Applicant is satisfied that the powers of compulsory acquisition and temporary possession sought in the DCO are necessary, proportionate and justified.

Whether the purposes of the proposed Compulsory Acquisition justify interfering with the human rights of those with an interest in the land affected

Question CA.1.22

The Statement of Reasons, paragraph 6.2.2, refers to the acquisition of the sub-soil below and of rights over subsoil and surface where the tunnel would pass underneath the properties known as 1 and 2 Custodian Cottages.

- i. Please explain and justify the assertion that the dwellinghouses would not therefore be directly affected.
- ii. Please provide details of any permanent rights sought to be acquired over the land within the ownership/occupation of those property owners.
- iii. Please identify any potential interference with their Convention rights that might occur.

Response

- i. ***Please explain and justify the assertion that the dwellinghouses would not therefore be directly affected.***
 1. The limit of deviation (LoD) for the bored tunnel section of the Scheme passes beneath residential properties 1 and 2 Custodian Cottages (Book of Reference [APP-025] and Land Plans [APP-005], plot 08-12). These properties are owned by The Historic Buildings and Monuments Commission for England, and are tenanted as two separate residential units.
 2. The DCO, if made, would grant powers for the permanent acquisition of subsoil beneath these properties and permanent acquisition of rights at the surface. No compulsory acquisition of land is required or sought over the cottages at the level of the surface of the land, and the cottages would remain in situ throughout the construction and operation of the Scheme. The Land Instability Risk Assessment [APP-278] assessed the potential for direct impacts on the cottages as a result of proposed tunnel construction. It states, at paragraph 7.4.2, that:

“A preliminary Stage 1 damage assessment has been carried out on the cottage structures based on a method similar to that defined in Crossrail’s report “Crossrail: A Technical Guide for Developers” [7]. The assessed damage category of the structures at Custodian Cottages does not exceed Category 0. Category 0 indicates negligible tensile strains within the structure of between 0.0 and 0.05%.”
 3. Given that Custodian Cottages will not be subject to compulsory acquisition of land at the surface and the assessed damage category does not exceed Category 0, these cottages are not considered to be directly affected.
- ii. ***Please provide details of any permanent rights sought to be acquired over the land within the ownership/occupation of those property owners.***
 4. As set out in the Statement of Reasons [APP-023], paragraph 5.3.7,

“the Applicant seeks powers to acquire compulsorily new rights over the subsoil above the tunnel (and its exclusion zone), up to and including the surface of the land above. The purposes for which such new rights are sought include enabling the Applicant to impose restrictive covenants to secure protection of the tunnel from potentially conflicting future development and works that might jeopardise the structural integrity of the tunnel. The restrictive covenants, which would be imposed upon implementation of the powers of compulsory acquisition (should such powers be granted in the DCO) would require consultation with the Applicant in respect of any proposals for development or for works at or below surface level within the relevant land, and referred to hereafter as the 'zone of protection'.”

5. As noted in the response to question CH.1.27, the terms of these restrictive covenants are still under discussion with the Heritage Monitoring Advisory Group (HMAG) and affected landowners. The current proposal is that restrictive covenants will be required over land above and adjacent to the tunnel in order to protect it from any activity that could risk the structural integrity of the tunnel. These activities would be likely to include:
 - a. development which would require planning permission, deep foundations, piling or which would influence existing ground conditions;
 - b. changes in ground weight loading (either increasing or decreasing) such as:
 - i. any excavation (including boring) below a depth of 1.2m in the area shown in light blue on the drawing in the appendix and below a depth of 0.6m in the area shown in dark blue on the drawing in the appendix;
 - ii. any additional loading as a result of building work or storage;
 - iii. use by any vehicles of greater weight than for standard road use vehicles;
 - iv. any new tree planting or removal.
6. Attached at the appendix is a longitudinal section showing the shallowest alignment of the tunnel permitted by the draft DCO (which reflects the greatest level of restriction over land up to and including the level of the surface of the land). The section drawing locates the positions of these two types of restriction shown with shades of dark blue (for fuller restriction) and light blue for (lighter restriction). The Custodian Cottages are within the light blue area shown on the appendix, and therefore would be subject to the lighter restriction.
- iii. ***Please identify any potential interference with their Convention rights that might occur.***
7. As stated in the Statement of Reasons [APP-023], paragraph 6.2.2, the dwelling-houses will not be directly affected, and it is not therefore anticipated that the Convention rights protected by Article 8 (the right of the individual to respect for

his private and family life, his home and his correspondence) will be infringed. In the event that such rights were considered to be infringed, it is the Applicant's view that such interference would be justifiable on the basis that it would be lawful, if the Development Consent Order was made in the form applied for, and in the public interest, given the economic and safety benefits (among other benefits) which would arise if the Scheme was implemented.

Whether the purposes of the proposed Compulsory Acquisition justify interfering with the human rights of those with an interest in the land affected

Question CA.1.23

The Statement of Reasons, paragraph 6.2.5, states that the Applicant has had regard to landowner feedback both in the initial design of the scheme and in iterative design changes throughout the development of the scheme.

Please provide a separate list of the design changes relied upon in this respect together with the relevant document reference and paragraph number so that these can be readily identified.

Response

1. The Applicant has had regard to landowner feedback in both the initial design of the Scheme and as part of the iterative design changes throughout the development of the Scheme to date. Chapters 2 and 5 of the 2018 Consultation Report [APP-026] detail how responses to non-statutory and statutory consultation were taken in to account by the Applicant when developing the design of the preferred Scheme. The matters raised by all consultees are set out in Tables 2-2, 2-3 and 5-1 to 5-17 of the Consultation Report, along with Highways England's response to each matter raised. If a request for a change made during the statutory consultation resulted in a change to the Scheme, this has been noted in the relevant column in Tables 5-1 to 5-17.
2. Examples of design changes are set out in Section 5.19, Summary of Changes to the Scheme from Consultation of the Consultation Report.. Some of these changes may also have been made as a result of subsequent environmental assessments and consequent mitigation measures but were also requested in the consultation responses. Other changes included clarifying or confirming details that were not presented at consultation but were part of the Scheme's continuing development.
3. A number of changes to the Scheme proposals were suggested by respondents during the supplementary consultation referred to in Section 6 of the Consultation Report. These suggestions were considered but, except for a small revision to not extend the restricted byway proposed along the A360 (north) to the north of Airman's Corner, did not result in further changes to the design for the reasons explained in Tables 6.19 to 6.22 of the Consultation Report [APP-026].
4. The table below contains information extracted from the Consultation Report [APP-026] where a change was adopted having taken into account feedback from landowners, amongst other consultees.

Consultation Report Code	Summary of Consultee Comment (Statutory Consultation 2018)	Response to Consultee Comment (Statutory Consultation 2018)	Landowner consultation reference number
ENV#300	We request more detail about the size and exact location of the land bridge (Green Bridge No.4) for the Western Portal to ensure it maintains visual and physical connectivity between barrow groups in the western part of the WHS.	Following the statutory consultation, Green Bridge No.4, to the west of the western tunnel portal, has been widened to approximately 150 metres and its location has been confirmed within the WHS, as one of three changes presented for the supplementary consultation summarised in Chapter 6 of this report. The amended bridge proposal is illustrated on the Environmental Masterplan, ES Figure 2.5 (Application document 6.2). This change has been made to increase the visual and physical connectivity between barrow groups in the western part of the WHS, with the accompanying heritage assessment being reported in ES Chapter 6, and in the Heritage Impact Assessment, ES Appendix 6.1.	809822
ENV#304	The proposed green bridge will do little to mitigate the impacts of the scheme upon the WHS at this location and suggested a further or wider green bridge in this area. An assessment carried out shows the needs for a wider land-bridge at a position east of the proposed green bridge to ensure meaningful physical and visual landscape connectivity between the Winterbourne Stoke and Diamond monument groups.	Following the statutory consultation, this suggestion has been adopted. Green Bridge No.4 has been widened to approximately 150metres and its location has been confirmed within the WHS as one of three changes put forward for the supplementary consultation summarised in Chapter 6 of this report. The wider bridge will provide greater physical and visual connectivity between the northern and southern parts of the WHS, and between the groups of monuments in the western part of the WHS, with enhanced heritage, landscape and biodiversity benefits. The accompanying heritage assessment is reported in ES Chapter 6, and in the Heritage Impact Assessment, ES Appendix 6.1.	809822
ENV#305	We are very concerned about the proposal to link existing byways open to all traffic 11 and 12 with a new byway due to adverse impacts on the OUV of the WHS. There will be a negative impact upon views from and towards	Taking into consideration this and other feedback from the statutory consultation, the previously proposed link to the south of the existing A303 between Byways 12 and 11 has been removed from the scheme proposals. This change to the scheme proposals presented for statutory consultation was one	809822

	<p>the Stonehenge monument. We cannot support the creation of a new route for traffic. The new link should be a restricted byway only for walkers, cyclists and horse riders.</p>	<p>of three changes put forward for the supplementary consultation summarised in Chapter 6 of this report. Access between the two byways for walkers, cyclists and horse riders will instead be provided by the new restricted byway being provided along the old A303 through the WHS.</p>	
ENV#314	<p>We recommend that consideration be given to modifications aimed at disabling encampment e.g. reducing the widths of Byways 11 & 12 as a measure to reduce disturbance and re-routing the proposed link further north, away from RSPB Normanton Down.</p>	<p>Reducing the widths of Byways 11 and 12 is something that is beyond the scope of the scheme. The suggestion would be a matter for Wiltshire Council to consider as the responsible authority for the byways. Regarding the previously proposed link between Byways 11 and 12, taking into consideration this and other feedback from the statutory consultation, this has been removed from the scheme proposals as one of three changes put forward for the supplementary consultation summarised in Chapter 6 of this report. Access between the two byways for walkers, cyclists and horse riders will instead be provided further to the north of Normanton Down by the new restricted byway being provided along the old A303 through the WHS.</p>	1701426
ENV#324	<p>The drainage infiltration areas as proposed are large and it is not clear how these areas will be managed and how the potential impact on the water quality will be managed.</p>	<p>Taking into consideration the consultation feedback, the number of drainage infiltration areas have been rationalised in terms of reducing the number from five to four and locating them closer to the new road. Due to the reduced number, each infiltration area needs to be slightly larger to meet the storage capacity requirement and to provide permanently wet areas to create dew ponds which will be managed and maintained to secure biodiversity enhancements. This design refinement reduces the agricultural land take. Further information can be found in ES Appendix 11.3, Road Drainage Strategy. With regards to water quality, existing drainage of highway run-off does not meet current standards on any part of the existing A303 from Yarnbury Castle to east of the River Avon. Drainage on the scheme will use carrier pipes to convey run-off to drainage</p>	809823

		treatment areas where contaminants will be absorbed before the run-off is discharged to ground. Details of the drainage solution are set out in Case for the Scheme (Application Document 7.1). The scheme will deliver an improvement in road drainage against the existing system.	
ENV#325	The option with the screen on the parapet is preferable to reduce the noise impact on the properties close to this section of the road	Taking into consideration the feedback from the consultation, a 1.5 metre high environmental screen will be provided on the south side of the viaduct. The screen is not needed on grounds of noise reduction but is justified in terms of the benefits it will provide for Winterbourne Stoke in reducing the visual impacts of traffic.	809823
ENV#330	We strongly object to the proposal to introduce a new route between byways 11 and 12 due to likelihood of adverse impacts on the OUV of the WHS. This will undermine the benefits of the scheme. It is inappropriate to reintroduce damage caused by motorised traffic, which is what the scheme is seeking to address. There is no need or a justification to provide a new link between Byways 11 and 12.	Taking into consideration this and other feedback from the statutory consultation, the previously proposed link to the south of the existing A303 between Byways 12 and 11 has been removed from the scheme proposals. This change was one of three changes put forward for the supplementary consultation summarised in Chapter 6 of this report.	809823
ENV#331	The land bridge options regarding Green Bridge 4 do not adequately mitigate the impact of the road as it passes between the Winterbourne Stoke and Diamond barrow groups. The first proposed location for this bridge would provide no mitigation. The second proposed location is improved but the bridge needs to be of a substantially greater width to provide acceptable mitigation. A width of at least 150m is required. Any land bridge must be designed to minimise the visual	Following the statutory consultation, this suggestion has been adopted. Green Bridge No.4 has been widened to approximately 150 metres and its location has been confirmed within the WHS as one of three changes put forward for the supplementary consultation summarised in Chapter 6 of this report. The wider bridge will provide greater physical and visual connectivity between the northern and southern parts of the WHS, with enhanced heritage, landscape and biodiversity benefits.	809823

	impact on the landscape whilst improving habitat connectivity and access to the newly created byway.		
ENV#334	We object to the proposed design of the ventilation openings due to the likelihood of visual impact with regard to the western portal. The practical and visual impacts of any fencing and additional safety measures required around the openings will need to be considered, as well as the impacts of light emitted from the openings.	Taking into consideration this and other feedback from the statutory consultation, the fully grassed-over canopy option has been chosen for the western portal.	809823
ENV#346	We consider that more work is needed on the design of the road as the road leaves the western portal at the western end of the WHS to protect OUV and designated heritage assets. The impact of the scheme on the Winterbourne Stoke and Diamond barrow groups is not acceptable without further mitigation. The bridge is currently of insufficient width to provide acceptable mitigation. A land bridge with a width of at least 150m is required.	Taking into consideration this and other feedback from the statutory consultation, in relation to the impacts of the scheme at the western end of the WHS, the suggestion of a wider bridge has been adopted. Green Bridge No.4 has been widened to approximately 150 metres and its location has been confirmed within the WHS as one of three changes put forward for the supplementary consultation summarised in Chapter 6 of this report. The wider bridge will provide greater physical and visual connectivity between the northern and southern parts of the WHS, including between the Winterbourne Stoke and Diamond barrow groups in this western part of the WHS, with enhanced heritage, landscape and biodiversity benefits.	809823
ENV#349	In order to protect the OUV, more work is required to mitigate the impact of the road as it runs between the Winterbourne Stoke and Diamond barrow groups.	Taking into consideration this and other feedback from the statutory consultation, Green Bridge No.4 has been widened to approximately 150 metres and its location has been confirmed within the WHS as one of three changes put forward for the supplementary consultation summarised in Chapter 6 of this report. The wider bridge will serve to help sustain the OUV of the WHS, by providing greater physical and visual connectivity between the northern and southern parts of the WHS, with enhanced heritage, landscape and biodiversity benefits where the route runs between the Winterbourne Stoke and Diamond	809823

		barrow groups.	
ENV#350	The proposed vertical sides will reduce the visual impact of the traffic and the road itself from the cut. The sloped version of the cutting would have a much greater impact on attributes of OUV of the WHS. It would also require 50% greater land take than the vertically sided solution.	Taking into consideration this and other feedback from the statutory consultation, the vertical retaining wall option has been chosen for the western portal approach.	809823
ENV#351	Even with a bored tunnel length of 3km as per our assessment work, the proximity of the tunnel portal to the Normanton Down barrow group would have a damaging impact on the OUV of the WHS without additional mitigation.	Further mitigation in this location includes the adoption of a grassed canopy over the tunnel entrance in the western part of the WHS, as well as the positioning of a c.150 metre wide green bridge near Longbarrow (as one of three changes put forward for the supplementary consultation reported in Chapter 6). The full EIA, including a full cultural heritage assessment, ES Chapter 6, and an accompanying Heritage Impact Assessment, ES Appendix 6.1, shows that, overall, the scheme will benefit the WHS and sustain its OUV.	809823
ENV#352	The proposed 200m canopy extension to the western tunnel portal has the potential to mitigate the impact of the road on the views between Winterbourne Stoke, Diamond and Normanton Downs. Our work shows this 200m extension is essential to protect the OUV of the WHS.	The fully grassed-over canopy option has been chosen for the western portal.	809823
ENV#373	We welcome the benefits that the scheme presents for the reduction of noise levels within the WHS and would expect appropriate mitigation for all other areas where increase noise levels are anticipated.	The scheme's design has been developed and refined to minimise as far as is practicable the potential for noise impacts. This includes the use of cuttings, environmental bunds and screens, and noise barriers, along with the use of a thin road surface system, which will generate lower noise levels than standard hot rolled asphalt. The requirement for noise mitigation is informed by the noise assessment, which considers the potential for increases in noise levels as a result of the scheme on nearby noise-sensitive receptors. Further details of the noise	809823

		assessment and mitigation proposals are set out in ES Chapter 9, Noise and Vibration.	
ENV#378	Our current assessment suggests there would be adverse impacts on monuments that convey attributes of OUV. This relates to the new BOAT joining byways 11 and 12 and without additional mitigation of adverse impacts in the area cutting between the Diamond Group and Winterbourne Stoke barrows.	In terms of the two matters raised, the previously proposed link to the south of the existing A303 between Byways 12 and 11 has been removed from the scheme proposals (as one of three changes put forward for the supplementary consultation summarised in Chapter 6 of this report). The landscape mitigation east of the existing Longbarrow roundabout has been addressed by measures including the grassed canopy extension over the western tunnel entrance, and the positioning of a c.150 metre wide green bridge near Longbarrow (as another of three changes put forward for the supplementary consultation reported in Chapter 6). The full EIA, including a full cultural heritage assessment, ES Chapter 6, and an accompanying Heritage Impact Assessment, ES Appendix 6.1, shows that overall, the scheme will benefit the WHS and sustain its OUV.	809823
PR#1	The link between Byways 12 and 11 should not be constructed.	The previously proposed link to the south of the existing A303 between Byways 12 and 11 has been removed from the scheme proposals. This change to the scheme proposals presented for statutory consultation was one of three changes put forward for supplementary consultation, the feedback from which is summarised in Chapter 6 of this report.	2196061 2198805 2021315 804589
PR#2	The designation of byways is not clear.	The designations of the byways (public rights of way) along the scheme were explained at consultation and were clarified after feedback as part the supplementary consultation held on three changes made to the scheme proposals presented for statutory consultation, as described in Chapter 6 of this report.	809830 704512 804589
PR#3	BSJA3A is missing from the consultation documents.	Byway BSJA3A was omitted from the plans shown at statutory consultation because it has been ploughed over and is not in use. The public rights of way proposals have been clarified as part of the supplementary consultation held on three design changes made since the statutory consultation. The	809830 704512

		supplementary consultation plans show the designated route of BSJA3A, but make clear that the adjacent section of BSJA3 is to be formally designated as a byway open to all traffic (BOAT) to accommodate motorised use, reflecting what in practice exists on the ground. Feedback from the supplementary consultation is summarised in Chapter 6 of this report.	
PR#6	All new public rights of way should be high quality and fit-for-purpose for cyclists/horse riders/carriages where appropriate.	All the new public rights of way proposed along the length of the scheme will be constructed in a way that will make them fit for all the uses permitted by their designated status. Exact cross-sectional details and construction materials will be determined as part of the Scheme's detailed design, and will be sensitive to the landscapes through which the rights of way will pass.	704512
PR#21	The PROW north of Green Bridge No.4 should continue to the Stonehenge visitor centre.	The new restricted byway running northwards from Green Bridge No. 4 will continue to the Stonehenge visitor centre.	804637
PR#025	There is no need for additional access into Parsonage Down.	Taking into consideration this feedback from the statutory consultation, the two short lengths of public right of way north of Green Bridge No. 1 that were shown extending into Parsonage Down as part of the consultation proposals have been removed from the scheme.	804381 704446
PR#068	Move the link between byways 12 and 11 further north, adjacent to existing A303.	The previously proposed link between Byways 12 and 11 has been removed from the scheme proposals as one of three changes put forward for the supplementary consultation reported in Chapter 6 of this report. Moving the link north adjacent to the existing A303 would mean motorised vehicles would continue to pass in close proximity to Stonehenge, defeating one of the main aims of the scheme to remove the sight and sound of traffic from much of the WHS landscape. With the scheme, motorised use of Byway 11 will terminate its northern end where it currently joins the existing A303. Non-motorised users will be able to join the new restricted byway to be created along the line of the old A303 through the WHS after the tunnel has been	2021430

		constructed.	
PR#092	Move the link between byways 12 and 11 south along the National Trust boundary.	The previously proposed link to the south of the existing A303 between byways 12 and 11 has been removed from the scheme proposals. This change to the scheme proposals, presented for statutory consultation, was one of three changes put forward for supplementary consultation, the feedback from which is summarised in Chapter 6 of this report. The change has been made because the link would have had an adverse impact on the adjacent Normanton Down barrow group and on the tranquillity of the WHS at this location. Moving the motorised link further south would have increased the impact on the barrow group. Non-motorised users will be able to travel between byways 11 and 12 via the old A303, which will become a new restricted byway between the two that are already existing.	2021430
PR#099	Make sure the public right of way south of the A303 between Yarnbury Castle (SLAN3) and Green Bridge No. 1 is a restricted byway.	The public right of way south of the A303 will be restricted byway between Yarnbury Castle (SLAN3) and Green Bridge No. 1, except for a section along the old A303 to the west of Winterbourne Stoke which is needed to serve as a byway open to all traffic to maintain connection with BSJA3.	804381
PR#103	Make sure public right of way south of the A303 between Yarnbury Castle (SLAN3) and BSJA3 is a bridleway, not a BOAT.	The public right of way south of the A303 will be a restricted byway between Yarnbury Castle (SLAN3) and BSJA3. It is not being created as a BOAT because that could lead to increased turning movements where SLAN3 joins the A303 and hazardous conflicts between slow and fast moving traffic.	2061710 2200194
PR#108	The B3083 underpass must include a private track, not a public right of way.	A private means of access cattle track is proposed under the A303 on the eastern side of the B3083 underbridge. This will also incorporate safe bridleway use by equestrians on the B3083 so that they will not need to share the same road space under the bridge with motorised vehicles. A gate system will ensure that the private means of access will be closed when the route is in use by equestrians and vice versa. The same gate will close either the public or private access at both ends of the	2021430

		bridge, similar to large kissing gates.	
PR#127	What is the need for the bridleway on the stopped up section of the Allington Track? This should be removed.	The proposal to convert the stopped-up section of Allington Track to a bridleway has been withdrawn. No public access along this route will be provided.	809821 804500
RT#10	Preference for noise / sound barrier / screen attached to parapet / fig 5.11.	Taking into account the popular support for the screening option, and the benefit it will provide in reducing the visual impacts of traffic, the scheme includes a 1.5-metre-high environmental screen on the south side of the viaduct. This will also serve to maintain the continuity of environmental screening being provided alongside the new road either side of the viaduct.	2195993 2061710 2021430 804589
RT#12	Is it possible to screen the viaduct with trees and landscaping, using mature trees?	The viaduct crossing of the River Till is designed to retain the open character of the valley floor and minimise its visual impact in the landscape. The embanked approaches will be landscaped and there will be planting either side of the viaduct. In addition, discussions are ongoing with landowners regarding potential offsite planting by agreement within the Till valley between the viaduct and Winterbourne Stoke. Mature trees will be considered where appropriate, but in the main young trees will be planted because these have a better establishment and long-term success rate.	2061710 804589
RT#28	Prefer the parapet with screen option but only if the noise reduction will be significant.	Taking into consideration the feedback from the consultation, a 1.5-metre-high environmental screen will be provided on the south side of the viaduct. The screen is justified in terms of the benefits it will provide for Winterbourne Stoke in reducing the visual impacts of traffic.	1759164
CJ#6	Preference for landscaped option / fig 5.49 of the Public Consultation Booklet.	The adopted option for the flyover at Countess junction is the 'landscaped' option presented at statutory consultation. This is a simple and common form of structural solution, with two single-span bridges over the existing roundabout, and the most cost efficient. In addition, landscaping will reduce the visual impact of	2061710 804589 2200048

		the flyover.	804598
CJ#11	Provide a noise barrier on both sides of the flyover.	In mitigation of predicted levels of traffic noise, the design of the Countess flyover has been developed to include a noise barrier 1.8 metres high on its north and south sides. Further information can be found in ES Chapter 9, Noise and Vibration (document reference 6.1).	2061710 804589 804598
CJ#22	The Countess flyover will have a noise barrier, 1.8 metres high, on its north and south sides.	The Countess flyover will have a noise barrier, 1.8 metres high, on its north and south sides.	804589
WES#1	The balancing ponds shown in the western section of the scheme need to be rationalised in terms of their numbers/locations and reviewed in terms of them being too big and their location being disruptive to farming.	Following this consultation feedback, the numbers of drainage infiltration areas have been rationalised in terms of reducing the number from five to four and locating them closer to the new road. Due to the reduced number, each infiltration area needs to be slightly larger to meet the storage capacity requirement and to provide permanently wet areas to create dew ponds and increase biodiversity enhancements. This design refinement reduces the agricultural land take and makes them less disruptive to farming. The revised proposals can be seen on the Environmental Masterplan, Appendix 2.1 of the Environmental Statement (Application document 6.3).	2198805 2021430
WES#58	Move the drainage treatment areas near Longbarrow junction further east to make better use of field for arable production.	The drainage infiltration area near the new Longbarrow junction is located where proposed because the landform here accommodates the outfall level needed for the drainage system at this point. The final detailed drainage design will inform the exact size and location of the infiltration area at this and other proposed sites.	2198805
TU#6	I don't like the concrete overhangs/edging at the west entrance to the tunnel above the layby.	The vertical retaining wall option has been chosen for the western portal approach.	2198805 2021430 704406

			809824 2023147 804589
LB#8	Provide a safe crossing for NMUs south of Longbarrow southern roundabout.	Longbarrow junction will be controlled by traffic signals (lights). Safe crossings for pedestrians, cyclists and equestrians will be integrated with these signals.	2021430 804637
LAN#32	What will the final land use be of the old A360 at Rolleston Junction, could the land take to the east be minimised to ensure effective farming can continue and will the drainage arrangements be changed?	At Rolleston junction the new junction layout has been modified as one of three changes put forward for the supplementary consultation summarised in Chapter 6. The modified layout is located in the north west corner of the field to the east of B3086 within the WHS. This will take up less land and will allow a section of the current B3086 to revert to agricultural land, connecting with the field to the west. The road drainage will be designed to be self-contained within the new highway footprint.	2021315 2199803
GB#11	Preference for Green Bridge No. 4 to be moved east, within WHS as per Fig 5.18 of the Public Consultation Booklet.	Following the statutory consultation, the location of the bridge has been confirmed within the WHS. It has also been widened to approximately 150 metres. Adopting this option for the location and width of the bridge provides greater physical and visual connectivity between the northern and southern parts of the WHS, with enhanced heritage, landscape and biodiversity benefits.	2021551
CS#1	The Rolleston crossroads proposal seems dangerous.	A new layout at Rolleston crossroads has been designed to alter the traffic flow priorities, discourage rat running traffic continuing to Shrewton and accommodate long vehicles safely. Following consultation feedback and further archaeological survey work, which shows an absence of buried remains in the area, an alternative design has been developed to produce a more compact layout. The alternative design was included among three changes put forward for the supplementary consultation	2199803

		summarised in Chapter 6. The layout will also discourage traffic from using the B3086 to Shrewton and the narrow High Street through the village. The design complies with current highway design standards and has been agreed in principle with the local highway authority, Wiltshire Council.	
CS#6	Rollestone crossroads junction needs to be improved.	Rollestone crossroads is being improved to alter traffic flow priorities, discouraging rat running traffic continuing to Shrewton and accommodating large vehicles to turn easily and safely between the Packway and B3086. Following feedback at statutory consultation, an amended proposal for Rollestone crossroads was presented at supplementary consultation, being more compact and taking less land. Further information can be found at Chapter 6 of this report.	2199803
CS#15	Realign Rollestone crossroads to cut off corner of the WHS.	Following consultation feedback and further archaeological survey work, which shows an absence of buried remains in the area, an alternative design for the new Rollestone junction has been developed, to produce a more compact layout located in the north west corner of the WHS. The alternative design was included among three changes put forward for supplementary consultation, the feedback from which is summarised in Chapter 6 of this report.	804589
EAS#043	Provide an alternative link between AMES1 byway and Equinox Drive.	This link was included in the public rights of way proposals clarified in the supplementary consultation reported in Chapter 6 of this document, which show AMES1 connected to the southern end of Equinox Drive.	809789

Whether the purposes of the proposed Compulsory Acquisition justify interfering with the human rights of those with an interest in the land affected

Question CA.1.24

The Statement of Reasons, paragraph 6.5.1, states that the Applicant has complied with its duties under section 149 of the Equalities Act 2010.

- i. Please explain how the Applicant has had regard to its public sector equality duty in relation to the powers of Compulsory Acquisition sought and where this can be identified in the Equalities Impact Assessment.
- ii. Have any Affected Persons been identified as having protected characteristics?

Response

- i. **Please explain how the Applicant has had regard to its public sector equality duty in relation to the powers of Compulsory Acquisition sought and where this can be identified in the Equalities Impact Assessment.**
 1. Regarding point (i), Under s.149 of the Equality Act 2010 (the "2010 Act"), the Equality Duty is a duty on public bodies to eliminate discrimination of those belonging to protected characteristics groups (PCGs) when carrying out public functions, in this instance the operation, maintenance and improvement of England's strategic road network. The Equality Duty recognises the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation (s.4 of the 2010 Act).

In terms of consideration of Compulsory Acquisition, the ExA can see from the EqIA at [APP-296 - D Assessment Stage 2, page 25] that effects on land and property both permanent and temporary are assessed through the People and Communities ES chapter [APP-051 - 6.1 Environmental statement Chapter 13 - People and Communities], which has full regard to those identified with protected characteristics and considers any potential differential effects in accordance with the Equalities duties.
 - ii. **Have any Affected Persons been identified as having protected characteristics?**
 2. Regarding point (ii), Highways England recognise that there is potential for affected persons to be discriminated against based on their protected characteristics during a process of consultation or engagement, including in relation to matters of negotiation and, should it be necessary, compulsory acquisition. Therefore, during extensive engagement with affected peoples, which has included face-to-face meetings and written and electronic communications, both directly and with representatives and intermediaries, there has been consideration of and offer to meet any needs or requirements of individuals and groups. During this engagement there has been no indication (from either the

affected people or their intermediaries, representatives or agents) that they have needs or specific protected characteristic-based requirements that, if not met, would lead to discrimination or breach of the Equalities duties. For example, there has been no indication from any affected persons that project information or communications were not being provided to them in an accessible format.

3. It is considered that the full and robust EqIA particularly when taken alongside the complementary EIA process and ES undertaken by Highways England has enabled it to meet its obligations under the Equality Duty. The EqIA process will continue to support and be actively engaged through the project stages, including during detailed design, construction and implementation.

The accuracy of the Book of Reference, Land Plans and points of clarification

Question CA.1.25

Please confirm that the Book of Reference accurately sets out the various plots and interests and provide a schedule of all amendments submitted since the application was made together with an update to the Book of Reference. Please identify any inaccuracies that have come to light.

Response

1. The Book of Reference (BoR) is a product of the land referencing process. The Book of Reference sets out the plots and their association to different types of acquisition as outlined in paragraph 2.1.3 of the Book of Reference [APP-025].
 - a. Part 1 of the Book of Reference contains the names and addresses of each person within Categories 1 and 2, as set out in Section 57 of the 2008 Act, along with the area of each plot of land in which the development will be carried out.
 - b. Part 2 outlines any interest with a potential claim under section 10 compulsory purchase act 1965, Part 1 land compensation act 1973 or section 152(3) of the Planning Act 2008.
 - c. Part 3 contains the names of all those entitled to enjoy easements or other private rights over land (including private rights of navigation over water) which it is proposed shall be extinguished, suspended or interfered with
 - d. Part 4 specifies the owner of any Crown interest in the land which is proposed to be used for the purposes of the order for which application is being made.
 - e. Part 5 of the Book of Reference specifies land that the acquisition of which may be subject to special parliamentary procedure, is special category land or is replacement land.
2. A schedule of amendments and inaccuracies, and an updated Book of Reference has been submitted for Deadline 2.
3. The information contained in the Book of Reference is based on the diligent enquiries undertaken by the Applicant. This information is accurate to the best of the Applicant's knowledge.

The accuracy of the Book of Reference, Land Plans and points of clarification

Question CA.1.26

The Statement of Reasons, paragraph 4.4.2, states that diligent inquiry to identify affected landowners, those with interests in land, and those with a potential claim, was undertaken by the Applicant's land referencing supplier and a summary of the steps undertaken is set out at paragraph 4.9.

- i. Please comment upon the reliability and accuracy of the non-contacting referencing stage.
- ii. Please explain why the adoption of a 10m buffer zone and the inclusion of properties identified as potentially affected by a 1dB or greater increase in noise as a result of the scheme as potential Category 3 parties represents a worst-case assessment and a precautionary approach.
- iii. What reliability can be placed upon the use of public sources of information to establish ownership of unregistered land as outlined in the Statement of Reasons, paragraph 4.9.3?

Response

- i. ***Please comment upon the reliability and accuracy of the non-contacting referencing stage.***
 1. In response to (i), as set out in section E3.4 of Appendix E.3 of the Consultation Report [APP-031], non-contact referencing processes included the purchase and interrogation of datasets including official copies of Her Majesty's Land Registry and other online sources. All relevant recorded interests in land (including registered proprietors, as well as information relating to mortgages and interests benefitting from other charges and private rights) were identified and stored in a land referencing database and verified against other data sources, such as electoral roll information and registered address for service of notices using Companies House records.
 2. Non-contact land referencing is an important initial stage in the land referencing process in order to identify persons with an interest in land within Categories 1, 2 and 3, which may be affected by the Applicant's Scheme proposals. However, non-contact referencing cannot be relied upon in isolation, as its reliability and accuracy are necessarily subject to factors beyond the Applicant's control; for example, individual sources of information (such as Land Registry and online datasets) may not always be kept fully up to date or may not provide a full and comprehensive list of all interests in land. Non-contact referencing is therefore only one part of the diligent inquiry process undertaken in the identification of interests in land, which is outlined in detail in Appendix E.3 of the Consultation Report [APP-031].
 3. Following the initial check of non-contact referencing processes, contact was made with identified interests to enquire and confirm information, updating the land referencing database where necessary, as set out in section E3.5 of Appendix E3 of the Consultation Report [APP-031]. This included enquiring about

interests in the land via questionnaires. This was then followed up by site visits and other enquiries to confirm land interest information. Further letters and questionnaires were issued to parties identified with an interest in land to confirm their information and ensure the information was current and accurate in advance of the production of the Book of Reference [APP-025]. The contact referencing facilitated further clarification of the accuracy and reliability of the non-contact data.

ii. Please explain why the adoption of a 10m buffer zone and the inclusion of properties identified as potentially affected by a 1dB or greater increase in noise as a result of the scheme as potential Category 3 parties represents a worst-case assessment and a precautionary approach.

4. In response to (ii), as outlined in section 4.7 of the Statement of Reasons [APP-023] limits were set including areas of land which were identified as being required to construct, operate and maintain the Scheme. Once these had been determined a 10m buffer was added onto these limits to allow for any minor variation as a result of drafting anomalies and to ensure that all adjacent landowners, frontage interests and potential relevant claims under section 10 of the Compulsory Purchase Act 1965 and section 152(3) PA 2008 were included and consulted with. A 10m buffer was seen as appropriate, given that a considerable amount of work had already gone into assessing the developing Scheme design and considering the scope of potential impacts through survey investigations and site visits.
5. In addition, a precautionary approach was taken to include any additional properties outside of the close vicinity of the Scheme that may have a relevant claim for compensation (as potential Category 3 parties) under Part 1 of the Land Compensation Act 1973. Highways England considered advice from environmental and property compensation experts to identify those physical factors that may give rise to a compensation claim as a result of the Scheme. Physical factors relating to vibration, smell, fumes, smoke, artificial lighting and discharge of solid or liquid substance onto the land were not considered to give rise separately to a potential claim for compensation as a result of the Scheme. It was considered that noise might give rise to a claim for compensation as a result of the Scheme, but that this was unlikely unless the adverse impact was an increase of at least 1dB, given a change of smaller magnitude than this would be difficult to perceive. Further detail on this is available within section 4.8 of the Statement of Reasons [APP-023].

iii. What reliability can be placed upon the use of public sources of information to establish ownership of unregistered land as outlined in the Statement of Reasons, paragraph 4.9.3?

6. In response to (iii), public sources (such as those described in section 4.9 of the Statement of Reasons [APP-023]) are a useful starting point for identification of ownership of unregistered land, and may provide a contact for further enquiries and investigation of legal interests in the land. However, public sources of information were not solely relied upon as the only source of information in the

diligent inquiry process, and the land referencing methodology was further reinforced by contact referencing (as set out in paragraph 4.10 of the Statement of Reasons). This diligent inquiry process is set out in greater detail in Appendix E3 of the Consultation Report [APP-031].

The accuracy of the Book of Reference, Land Plans and points of clarification

Question CA.1.27

What assurance and evidence can the Applicant provide of the accuracy of the land interests identified as submitted and indicate whether there are likely to be any changes to the land interests, including the identification of further owners/interests or monitoring and update of changes in interests?

Response

1. The land referencing process has been undertaken throughout the pre-application period to ensure that any changes in ownership or new interests have been identified and consulted. The categories of persons identified and the land referencing methodology used to identify the persons with an interest in the land are described in Appendix E (Statutory consultee identification and engagement) of the Consultation Report, at Appendix E3 thereof (Land Referencing Methodology Report) [APP-031]). This methodology was utilised to ensure diligent inquiry was undertaken in the identification of land interests, as required under sections 44 and 56 of the Planning Act 2008. For the purposes of the DCO application the outputs of the diligent inquiry process are set out in the Book of Reference [APP-025], providing details of all land interests affected by the proposed Scheme.
2. The accuracy of land interests is assured by the fact that diligent inquiry has been undertaken in line with this methodology, including accessing public records (such as HM Land Registry) as well as through direct engagement and bespoke, personalised enquiries (by means of land interest questionnaires) and subsequent re-confirmation of the results of those questionnaires, by way of requests for confirmation of the data assembled in respect of each person with an interest in land.
3. As interests in land change over time, the Book of Reference will be updated to reflect the Applicant's ongoing monitoring of Land Registry changes, as well as continued engagement with land interests. If and where changes to land interests occur, these will be updated in the Book of Reference and provided to the Examining Authority. An updated version of the Book of Reference ([APP-025] submitted as part of the DCO application documentation) will be provided at Deadline 2; this updated version will include all changes and updates to land interests (since the submission of the Application) that Highways England is currently aware of through its ongoing data monitoring and updating process.

The accuracy of the Book of Reference, Land Plans and points of clarification

Question CA.1.28

- i. Explain how the Book of Reference complies with the guidance published by the former Department for Communities and Local Government – Planning Act 2008: Guidance related to procedures for the compulsory acquisition for land Annex D, paragraph 10.
- ii. Where have the proposed new rights and restrictive covenants been identified and cross-referenced to the relevant development consent order articles? Please explain how this has been achieved by the Book of Reference.

Response

- i. ***Explain how the Book of Reference complies with the guidance published by the former Department for Communities and Local Government – Planning Act 2008: Guidance related to procedures for the compulsory acquisition for land Annex D, paragraph 10.***
 1. In respect of (i), paragraph 10 of Annex D to the Department for Communities and Local Government – Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land states that:
 2. *"Where it is proposed to create and acquire new rights compulsorily they should be clearly identified. The book of reference should also cross-refer to the relevant articles contained in the development consent order"*
 3. The Applicant considers that the Book of Reference [APP-025] complies with the guidance. At paragraph 3.1.12 (within its introductory text) the Book of Reference refers to relevant articles of the Draft DCO [APP-020] and explains how the wording in the descriptions of land (plot descriptions) within Parts 1, 3, 4 and 5 of the Book of Reference correlate to those articles. Paragraph 3.1.12 of the Book of Reference sets out that:
 4. The four categories of wording described above cross-refer to articles in the draft DCO as follows:
 - All interests and rights in..." – the compulsory acquisition of land pursuant to article 19 of the draft DCO.
 - "Acquisition of rights over..." – the creation and compulsory acquisition of new rights over land pursuant to article 22 of the draft DCO.
 - "Acquisition of subsoil and rights..." – the compulsory acquisition of subsoil and the creation and compulsory acquisition of new rights over land above that subsoil, pursuant to article 27 of the draft DCO.
 - "Temporary possession and use of..." – the temporary possession and use of land for the purposes of constructing the authorised development pursuant to article 29, and for the purposes of maintaining the authorised development pursuant to article 30 of the draft DCO.

5. That information is then summarised in a table included at paragraph 3.1.13 which shows: colour of the plot on the Land Plans; the wording used in the Book of Reference description; the land use power sought; and the principle relevant DCO article.
- ii. ***Where have the proposed new rights and restrictive covenants been identified and cross-referenced to the relevant development consent order articles? Please explain how this has been achieved by the Book of Reference.***
6. In respect of (ii), the Applicant refers to its response to CA1.28 (i) above which sets out where the relevant information is contained in the Book of Reference. In particular, the second and third bullet points within paragraph 3.1.12 in the introductory text to the Book of Reference signpost the reader to the relevant descriptions in Parts 1, 3, 4 and 5 of the Book of Reference and to the relevant articles in the draft DCO.

The accuracy of the Book of Reference, Land Plans and points of clarification

Question CA.1.29

Please confirm that the Book of Reference complies with the advice contained in Annex D, paragraph 8, of the guidance. For example, are all those identified in Part 3 also recorded in Part 1?

Response

1. The Book of Reference [APP-025] complies with the advice contained in Annex D, paragraph 8 of the guidance.
2. All those persons entitled to enjoy easements or other private rights over land which Highways England proposes to extinguish, suspend or interfere with are listed in Part 3, and also recorded in Part 1 (Category 2) of the Book of Reference [APP-025].
3. Part 4 lists the owner of any Crown interest in land proposed to be used for the purposes of the DCO. Crown interests in land are also listed within Part 1 of the Book of Reference and may be further identified in the descriptions of land contained in Part 1, which include the phrase “excluding all interests of the Crown”, where relevant.

The acquisition of Statutory Undertakers' land – s127 of the PA2008

Question CA.1.30

The Statement of Reasons, paragraph 7.5, refers to two Statutory Undertakers, namely, Southern Electric Power Distribution and Wessex Water owning land directly affected by the scheme.

Please confirm that that represents a complete list of all such statutory undertakers and provide the present state of any negotiations with each one, including whether the undertaker objects to the acquisition of the land or rights and on what grounds.

Response

1. Southern Electric Power Distribution (SSE) and Wessex Water are the only Statutory Undertakers that own land directly affected by the Scheme and s127 of the Planning Act 2008 therefore applies in relation to their land. The full extent of statutory undertakers land and interests affected by the Scheme is set out in section 7.5 of the Statement of Reasons [APP-023] and the Applicant also refers to its response to written question CA.1.32.
2. On submission of the application an objection was raised by SSE relating to the proposed inclusion of plot 09-31 within the DCO application. This land has been included so as to ensure that the proposed extension to the existing substation can be delivered without impediment. Discussions are ongoing in relation to protective provisions and the voluntary acquisition of land and rights over land owned by SSE and required to deliver the Scheme. The Applicant refers to its response to written question DCO.1.108 which sets out further details of the contact with SSE to date.
3. To date Wessex Water has not raised any objection to the proposed acquisition of land (subsoil plot 09-11) or rights (09-13) over land owned by Wessex Water. Highways England has contacted Wessex Water on a number of occasions and will continue to contact Wessex Water in order to confirm if they have any comments on the protective provisions. The Applicant refers to its response to written question DCO.1.108 which sets out further details of the contact with Wessex Water to date.

The acquisition of Statutory Undertakers' land – s127 of the PA2008

Question CA.1.31

Have all the Protective Provisions in Schedule 11 and/or asset protective agreements between the various parties been agreed? If not, please identify any outstanding areas of disagreement.

Response

1. Not all Protective Provisions (PPs) have been agreed at this stage. The Applicant has provided all relevant statutory undertakers with copies of the draft development consent order and the PPs for comment.
2. On 20 February 2019, BT Openreach confirmed its approval in principle to the content and the wording of the relevant PPs in the draft development consent order.
3. Discussions are ongoing with all other parties in respect of the PPs. The Applicant refers to its response to question DCO1.108 which sets out the status of discussions with each statutory undertaker. A further more detailed update on the status of the PPs will be provided for Deadline 3.

The extinguishment of rights, and removal of apparatus of statutory undertakers – s138 of the PA2008

Question CA.1.32

The Statement of Reasons, paragraph 7.5.12, refers to six Statutory Undertakers, that would be affected by major utilities diversions as a result of the scheme.

- i. Please confirm that that represents a complete list of all such Statutory Undertakers.
- ii. Please provide an update on the present state of any negotiations with each one indicating whether Protective Provisions have been agreed and identifying any matters that remain outstanding.
- iii. Please explain why the extinguishment or the relevant right or removal of the relevant apparatus is necessary in each case.

Response

1. In response to (i), paragraph 7.5.12 of the Statement of Reasons [APP-023] identifies a total of three Statutory Undertakers for the purposes of s138 of the PA 2008 which are:
 - a. Southern Electric Power Distribution plc;
 - b. Southern Gas Networks plc; and
 - c. Wessex Water Services Limited.
2. In addition to the above Statutory Undertakers, paragraph 7.5.12 also identifies a number of electronic communications code network operators for the purposes of s138 of the PA 2008 which are:
 - d. BT Group plc;
 - e. CenturyLink Limited;
 - f. Sky UK Limited; and
 - g. Virgin Media Limited.
3. In addition to the Statutory Undertakers listed above, Esso Petroleum Company Limited is noted in the Statement of Reasons as being a major utility that is affected and has apparatus which will need to be diverted as a result of the scheme.
4. SSE Telecommunications Limited (branded as SSE Enterprise Telecoms) owns apparatus that will be affected as a result of the scheme. SSE Telecommunications Limited's interests were omitted from the Application version of the Statement of Reasons and Book of Reference [APP-025] but have been included in the revised Book of Reference submitted for Deadline 2.
5. National Grid plc and National Grid Gas plc are noted in the Book of Reference as having an interest in plots 09-31, 11-15, 11-19 and 11-20. However, the Applicant understands that National Grid does not have any apparatus in this location and further enquiries are being made to understand the nature of these rights and whether protective provisions are required.

6. In response to (ii), detailed negotiations with each Statutory Undertaker and electronic communications code network operator are currently at the C3 stage of enquiry in respect of apparatus where the New Roads and Street Works Act 1991 applies (in accordance with SA10/05 New Roads and Street Works Act - Diversionary Works published in Manual for Contract Documents for Highway Works). It is anticipated that C4 enquiries will be issued in imminently. The information obtained through the C4 enquiry process will determine whether apparatus will need to be protected or relocated. Please see the Applicant's response to question DCO1.108 for further information in relation to the status of discussions relating to Protective Provisions.
7. In response to (iii) As set out in paragraphs 7.5.9 and 7.5.10 of the Statement of Reasons, a development consent order may only include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the development consent order relates (subsection 138(4)).
8. The draft DCO [APP-020] includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to statutory undertakers or electronic communications code network operators, in connection with the delivery of the Scheme. The exercise of such powers will be carried out in accordance with the Protective Provisions contained in Schedule 11 to the DCO. The Applicant hopes to be able to agree the drafting of the Protective Provisions with the relevant statutory undertakers and electronic communications apparatus owners.
9. In any event, the Applicant considers that the Protective Provisions included in Schedule 11 to the draft DCO include sufficient constraints on the exercise of the powers in the DCO in order to safeguard the statutory undertakers' and electronic communications apparatus owners' interests, whilst enabling the Scheme (i.e. the development authorised by the DCO) to proceed. The Applicant therefore considers that the test set out in section 138 of the PA 2008 is satisfied.

The extinguishment of rights, and removal of apparatus of statutory undertakers – s138 of the PA2008

Question CA.1.33

The RR made on behalf of Esso Petroleum raises concerns that the scheme would potentially interfere with its existing fuel pipeline.

Please provide an update on the present state of negotiations with the Applicant as regards both the Protective Provisions and the diversion agreement.

Response

1. The proposed Scheme will interfere with Esso's existing fuel pipeline. Several meetings have therefore been held with Esso representatives with a view to agreeing a mutually acceptable diversion. The Applicant understands that Esso has agreed in principle to a diversion and is currently in discussion with Esso regarding the terms and conditions relating to an Agreement for the Design, Procurement and Construction of this pipeline diversion proposal, including the length of the existing pipeline to be abandoned.
2. Discussions relating to the inclusion of protective provisions for the benefit of Esso in the draft DCO are ongoing and the Applicant refers to its response to question DCO1.108.

The acquisition of rights over special category land comprising open space

Question CA.1.34

The Statement of Reasons, Table 7.1, identifies various land plots within the Order limits as open space.

Please confirm that no other land affected comprises land forming part of a common, open space or fuel or field garden allotment.

Response

1. Highways England has taken a precautionary approach to include all land that could be considered as open space, allotments and common land whilst carrying out the diligent inquiries necessary to prepare the Book of Reference [APP-025] and associated Land Plans [APP-005] and Special Category Land Plans [AP-006]. The methodology as to how those types of land were identified can be found in Appendix E.3 of the Consultation Report [APP-031] and is summarised below. As a result, Highways England is confident that there is no land within the Order limits forming part of a common, open space or fuel or field garden allotment other than those plots set out in Table 7.1 of the Statement of Reasons [APP-023] and Part 5 of the Book of Reference [APP-025].

The acquisition of rights over special category land comprising open space

Question CA.1.35

In the light of the relevant DCLG guidance:

- i. Please confirm that the proposed replacement land is not already subject to rights of common, or to other rights, or used by the public even informally for recreation.
- ii. Please explain in detail why the proposed replacement land would be suitable for that purpose.

Response

iii. ***Please confirm that the proposed replacement land is not already subject to rights of common, or to other rights, or used by the public even informally for recreation.***

1. Highways England confirms that the replacement land, see plots 11-33 and 10-17 shown in grey on sheets 10 and 11 of the Special Category Land Plans [APP-006], is not already subject to rights of common, or to other rights, or used by the public informally for recreation.
2. Highways England has taken a precautionary approach to include and identify all land that could be considered as open space, allotments and common land. The methodology as to how these categories of land were identified can be found in APP-031 (Appendix E 5.1 Consultation Report) and is summarised in Highways England's response to the Examining Authority's question CA.1.34. Prior to including plots 10-17 and 11-33 as replacement land a detailed assessment was undertaken specifically for this land to ensure its suitability. Two site visits were carried out in August and September 2018. A report was produced to assess the land use from the ground and confirmed it was suitable to be included as replacement land and was not subject to rights of common or used by the public for informal recreation.
3. Highways England is therefore confident that the replacement land is not subject to rights of common or to other similar rights, or used by the public informally for recreation. Any public use of the land must be consistent with its status as a highway and any public rights of such a highway use would be extinguished when that part of the highway is stopped up.

ii. Please explain in detail why the proposed replacement land would be suitable for that purpose.

4. The case for the acquisition of the open space land and its replacement are set out in the Statement of Reasons [APP-023], section 7.3.
5. Paragraphs 8 and 9 of the DCLG Guidance '*Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land*' address the factors that the Secretary of State will take into account when considering the suitability of replacement for the purposes of sections 131 and 132 Planning Act 2008. These

factors include (i) the relative size and proximity of the replacement land when compared with the land it is proposed to replace and (ii) that it would not usually be appropriate for replacement land to be subject to rights of common, or other rights, or used by the public for recreation.

6. As is detailed in Table 7.1 of the Statement of Reasons, the area of the open space land that is to be acquired compulsorily is 4342.5 square metres (plots 10-16 and 11-06). The area of the replacement land is 4,344 square metres which exceeds the area of open space land that it is to replace. The replacement land is also in close proximity to the open space land which it is proposed to replace therefore in terms of locality it provides suitable replacement. Taken together with Highways England's response to part (i) above, the replacement land meets the statutory test in section 131 Planning Act 2008 and the Secretary of State's Guidance.

The acquisition of rights over special category land comprising open space

Question CA.1.36

The Statement of Reasons, paragraph 7.3.9, indicates that, in respect of plots 10-18, 10-19, 11-04 and 11-05 there would be compliance with section 132(3) PA2008.

Explain in detail the reasoning behind the assertion that these plots of land when burdened with the rights sought would be no less advantageous than it was before.

Response

1. Article 22(2) of the draft DCO limits the purposes for which rights may be acquired compulsorily, or restrictive covenants imposed, to the purposes specified in column (3) of Schedule 4 in respect of the plots of land identified in the corresponding column (2). In respect of plots 10-18, 10-19, 11-04, and 11-05 Schedule 4 confirms that those purposes comprise only:
 2. *"the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking)"*
3. As outlined in Table 2 of 4.1 Statement of Reasons [APP-023]; plots 10-18, 10-19, 11-04 and 11-05 are required for the installation, use, protection and maintenance of, and access to statutory undertakers' apparatus. Any apparatus will be located underground and there will be no above ground structures (with the possible exception of marker posts). In particular, there is a need to realign an existing Southern Gas Networks pipeline in this location. It is expected that when these plots are burdened with the rights to install, use, protect and maintain the apparatus the land would be no less advantageous than it was before as once the utilities are in place and the works required for the realignment of the Allington Track are complete, the land will be returned to open space and its surface will be restored to the condition it was in before the works took place. It is predicted that realignment work would take between 4-6 weeks.
4. Periodic maintenance operations associated with the apparatus are unlikely to impact on the ongoing use of the land for public recreation. Generally, maintenance activities would be infrequent, such that any interference would also be temporary.
5. As such, when burdened by the rights sought compulsorily through the DCO, the land would be no less advantageous and the requirements of section 132(3) are met.
6. However, it should be noted that where possible any utilities will be located beneath the new highway (plots 10-16 and 11-06).

The acquisition of rights over special category land comprising open space

Crown land

Question CA.1.39

The Statement of Reasons, paragraph 7.1, indicates that the dDCO makes provision for the acquisition of land interests which are not held by the Crown but which exist in Crown land.

- i. Please provide an update on the progress of discussions with the Secretary of State for Defence and the Secretary of State for Digital, Culture, Media and Sport.
- ii. Has the consent of the Crown been obtained to the inclusion of all Articles in the dDCO which affect Crown land?
- iii. In view of the provisions of section 135(2) PA2008, could the Applicant clarify when it is anticipated that these consents will be forthcoming?

Response

- i. ***Please provide an update on the progress of discussions with the Secretary of State for Defence and the Secretary of State for Digital, Culture, Media and Sport.***
 1. In response to (i), discussions are ongoing with both the Secretary of State for Defence and the Secretary of State for Digital, Culture, Media and Sport (referred to below as the 'Crown authorities') through the Applicant's 'landowner position statement' process.
 2. Requests for Crown authority consent, pursuant to section 135 PA2008, were sent to the Crown authorities regarding the inclusion in the DCO of land identified in correspondence as Crown land. The correspondence was sent on 26th September 2018 in the case of the Secretary of State for Defence, and on 2nd October 2018 in the case of the Secretary of State for Digital, Culture, Media and Sport).
 3. Although a response on behalf of the Secretary of State for Defence has been received by the Applicant, it does not cover all of the plots in respect of which Crown authority consent was sought by the Applicant. With one minor exception, the response grants consent only in respect of the land in which the Secretary of State for Defence owns the freehold interest and is, accordingly, listed as a Category 1 person in the Book of Reference [APP-025]. The consent does not cover the plots in which the Secretary of State for Defence has the benefit of rights, granted either by Deed, or in connection with access and/or apparatus (such that the Secretary of State has, for the purposes of the Planning Act 2008, a 'Category 2' interest in the relevant land). The Applicant therefore continues to seek Crown authority consent in respect of such Crown interests.
 4. As stated in the Book of Reference [APP-025], the Applicant has no intention to acquire any Crown interests but only the interests other parties may have in land owned by or subject to rights benefitting the Crown. Consent has not yet been obtained from the Secretary of State for Digital, Culture, Media and Sport.

However, discussions are ongoing between the Applicant and the Department of Culture, Media and Sport to ensure that both parties are content with the details and inclusion of the land as part of the DCO. The Applicant anticipates that consent will be forthcoming during the examination period.

ii. *Has the consent of the Crown been obtained to the inclusion of all Articles in the dDCO which affect Crown land?*

5. In response to (ii), where Crown authority consent has been secured (i.e. in respect of land within the Order limits where the Secretary of State for Defence owns the freehold interest, the consent permits the Applicant to use the Crown land to carry out the works authorised by the DCO (in the event that the DCO is made by the Secretary of State for Transport).

iii. *In view of the provisions of section 135(2) PA2008, could the Applicant clarify when it is anticipated that these consents will be forthcoming?*

6. In response to (iii), the Applicant is mindful that section 135(2) of the Planning Act 2008 provides that an order granting development consent may include any other provision applying in relation to Crown land, or rights benefitting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision. The Applicant is therefore continuing to pursue the Crown authority consents with the objective of securing them during the course of, and certainly prior to the close of, the examination.

Special category land – land owned by the National Trust

Question CA.1.40

The Statement of Reasons, paragraph 7.4, indicates that the DCO, if made, would authorise the Compulsory Acquisition of land and rights over land held inalienably by the National Trust.

In the light of section 130 PA2008, please provide an update as regards the discussions on this matter being held with the National Trust.

Response

1. Highways England and the National Trust have been engaged in discussions relating to the Compulsory Acquisition of land and rights over land held inalienably by the National Trust over the course of the Scheme's development.
2. It is understood that all land that is owned by the National Trust that is required by the Scheme is held inalienably. This includes the following plots:
 - a. Permanent acquisition of land (plots 08-19 and 09-04)
 - b. Permanent acquisition of subsoil and restriction above (plots 06-08, 06-11, 06-13, 07-02, 07-05, 07-07, 07-13, 08-02, 08-07, 08-09, 08-10, 08-11)
 - c. Permanent acquisition of land in which NT has a frontage interest over an existing highway (plots 05-33, 06-01, 07-01, 07-08, 07-09, 07-15, 07-16, 08-04, 08-22, 09-10)
 - d. Rights over land in which NT has a frontage interest over an existing highway (plot 09-06)
 - e. Temporary possession only (plot 05-37)
3. It is understood that the freehold interest in the National Trust's inalienable land cannot be voluntarily transferred under private treaty. In seeking to acquire inalienable land for the Scheme, Highways England can therefore only acquire that land compulsorily by using the compulsory acquisition powers that have been sought as part of the DCO.
4. The Applicant notes that s130 of the PA 2008 only applies if there is an outstanding objection from the National Trust relating to compulsory acquisition of its inalienable land. Section 130 of the PA 2008 does not apply to the temporary possession powers being sought in the DCO. .
5. Highways England and the National Trust have been in discussions to work towards the withdrawal of the National Trust's objection. These discussions are ongoing. The outstanding issues are set out in the National Trust's Relevant Representation [RR-2344] and Highways England has responded to each of these issues in Chapter 23 of the Relevant Representations Report [AS-026]. The Applicant notes that the National Trust indicated in their Relevant Representation that "*if we are convinced that the scheme addresses the issues and concerns we are raising, and offers the level of protection we have pressed for throughout, we will be in a position to remove our objection.*"

The Applicant is therefore hopeful that the National Trust will be in a position to withdraw its objection prior to the close of the Examination.

6. A Statement of Common Ground has also been drafted between the National Trust and Highways England, and the draft version will be submitted as requested by the Examining Authority at Deadline 2.

Related applications, orders and consents

Question CA.1.41

The Statement of Reasons, paragraph 7.6, refers to other consents outside the DCO that would be required from other authorities.

- i. Please confirm that all necessary consents have been identified.
- ii. Please provide an update to the Consents and Agreements Position Statement and identify the progress made by the Applicant in its discussions with the relevant bodies.
- iii. How can the Panel be confident that the need for these other consents would not present any obstacle to the implementation of the project should development consent be granted?

Response

- i. **Please confirm that all necessary consents have been identified.**
1. In response to (i), based on the information available at the time of writing, all necessary consents have been identified. This includes some amendments to those listed in the Consents and Agreements Position Statement (CAPS) [APP-022], as discussed further in item (ii), below. It is possible that consents requirements may change through the detailed design process, though this is considered normal for an infrastructure project at this stage of its development. The Applicant is not aware of any reasons why any additional consents would not be granted.
 - ii. **Please provide an update to the Consents and Agreements Position Statement and identify the progress made by the Applicant in its discussions with the relevant bodies.**
2. In response to (ii), the required updates to the CAPS are set out below:
 - a. Consent to abstract water (listed as (p) in the list of consents included within the DCO). Since submission of the dDCO, the Applicant has engaged extensively with the Environment Agency (EA) and has been advised that it is now the EA's policy not to agree to the disapplication of legislation in respect of this activity. The Applicant, therefore, will need to pursue a consent to abstract water, should it be required, by exemption or through application for a licence. The Applicant has therefore removed the disapplication of section 24 of the Water Resources Act 1991 from article 3 of the dDCO submitted for Deadline 2. The Applicant is not aware of any reason why such an exemption or licence would not be granted.
 - b. Through ongoing engagement, the EA has requested clarity on the likelihood and nature of any temporary dewatering required for tunnel

construction and the requirements of any further risk assessment and required mitigation measures, should dewatering be necessary. This discussion is captured in the SoCG being prepared between the Applicant and the Environment Agency. In the SoCG, the Applicant confirms that any need for dewatering will be minimised as far as reasonably practicable. The assessment of risk and identification of any required mitigation measures will be achieved through the Outline Environmental Management Plan [APP-187] (MW-WAT8), as secured through paragraph 4 of Schedule 2 to the DCO [APP-020]. This position is agreed between the two parties, as captured in the SoCG.

- c. Consent to Investigate a Groundwater Source (Section 32 of the Water Resources Act 1991) – This would be a requirement for ground investigations where a pumping test is to be carried out i.e. to construct a borehole and abstract water for testing purposes. A consent of this kind was issued to Highways England on 5 February 2018 for carrying out groundwater testing to inform the Environmental Statement, it expired on 31 January 2019. The consent can be updated for future works, with agreement from the EA. This consent would be pursued outside of the DCO. The Applicant is not aware of any reason why such a consent would not be granted.
- d. At the time of writing, the Applicant has not identified the need for any further changes to the CAPS or the consent requirements listed therein.

iii. **How can the Panel be confident that the need for these other consents would not present any obstacle to the implementation of the project should development consent be granted?**

- 3. In response to (iii), where consents are to be included within the DCO through disapplication via article 3 of the dDCO and where the consent under section 150 Planning Act 2008 is required for that disapplication, the Applicant remains confident that all necessary agreements will be obtained during Examination. Where consents will need to be sought separately from the DCO, as identified in Appendix A of the CAPS and amended by the points (a), (b), and (c), above, discussions with the relevant consent granting body are already well developed. The Applicant is not aware of any reason why such consents will not be granted. In the cases of the required badger licence and the proposed approach to greater crested newt, Natural England have already provided written agreement in principle, as evidenced in Appendix A of the CAPS.
- 4. The Panel can be confident that the need for these other consents would not present any obstacle to the implementation of the Scheme should development consent be granted because the Applicant considers that all the required consents and the associated works for which consent may be required are

standard and do not themselves present potential impediments to the consent granting process. Further, the Applicant is confident that the proposed project schedule provides ample time within which to successfully apply for and obtain the necessary consents.

Objections to the grant of powers of Compulsory Acquisition

Question CA.1.42

The Applicant is requested to provide a response to the objections which have been received to the request for grant of Compulsory Acquisition powers and an update as regards negotiations with those objectors.

Response

1. From the relevant representations that were received the Applicant understands that objections to the request for grant of Compulsory Acquisition powers have been raised by Beacon Hill Land Limited, Amesbury Property Company/Classmaxi Limited, Rachel Hosier, Stephen Moore and the Turner Family (Robert, Fiona, Matthew and Rachel Turner).
2. Beacon Hill Land Limited objects to the proposed use of powers of compulsory acquisition to acquire land permanently for the new alignment of the Allington Track and AMES1 (plot 11-08 [APP-005]). Land is required here in order to provide Highways England with the ability to extinguish rights over AMES1 to enable this byway to be changed in status from a byway open to all traffic to a public footpath. The power of acquisition sought would enable Highways England to effect this change in the status of AMES1 and would also accommodate a scenario in which the existing landowner did not wish to retain the land once its status had been changed by the Scheme. However, if the landowner accepts the land in its changed state, Highways England could agree not to implement its compulsory acquisition powers over the land, allowing the land to be retained by the existing landowner, subject to it having been dedicated as a public footpath. For the new alignment of the Allington Track, Highways England is also considering the option of having the road dedicated as public highway whilst ownership of the land is retained by Beacon Hill Land Limited.
3. Discussions with Beacon Hill Land Limited continue to take place; the owners and land agent have been made aware of the potential solution outlined above. Highways England currently awaits confirmation of how Beacon Hill Land Limited wish to proceed.
4. Discussions with Amesbury Property Company and Classmaxi Limited are ongoing regarding the potential for Amesbury Property Company / Classmaxi Limited to dedicate land in its ownership (and required by the Applicant for the Scheme) as new highway, whilst retaining ownership of that land through agreement with the Applicant, thereby achieving a solution that does not depend on the use of compulsory acquisition powers. In the event that such a solution was agreed, the Applicant would not amend the Application proposals to exclude Amesbury Property Company and Classmaxi Limited's land from the Scheme, but would covenant not to exercise its powers of compulsory acquisition over the relevant land in exchange for the dedication (as highway) of the land which is currently owned by Amesbury Property Company and Classmaxi Limited, but required for the Scheme.

5. In response to Rachel Hosier's objection, the land identified for permanent acquisition around the tunnel has been reduced as far as is considered practicable to accommodate the construction, operation and maintenance of, and mitigation for, the tunnel. It does, however, include a Limit of Deviation to allow for the detailed design of the Scheme, and within which the tunnel would be located following that detailed design process. Highways England only intends to acquire land that has been identified as required for permanent acquisition once the final detailed design is confirmed. It is to be noted that some land has been identified as required for essential mitigation around the tunnel to enable the portals and approach to be set below ground level and to allow the creation of areas of new species-rich chalk grassland, to minimise adverse cultural heritage impacts and for landscape and visual integration.
6. Highways England is aware that Ms Hosier may seek to manage the land around the cutting from the western portal to Long Barrow roundabout post construction of the Scheme. Highways England is currently considering this opportunity to discuss proposals for the future maintenance of what would become part of Highway England's 'soft estate'.
7. The Applicant understands that the Turner family's objection relates to the extent of the proposed land take, including land which is required to be subject to powers of temporary possession for the purpose of providing construction compounds. As is explained in the Statement of Reasons [APP-023], at paragraph 5.3.4, Highways England considers that the land included in the DCO is the minimum land-take required to construct, operate, maintain and mitigate the Scheme and is necessary to achieve the objectives of the Scheme. Highways England has sought to achieve a balance between minimising land take and securing sufficient land to ensure delivery of the Scheme, noting that the detailed design of the Scheme has yet to be developed. In the event that less land proves to be required in a particular area following the detailed design stage, Highways England would only seek to acquire that part of the land that is required and, in all events, will seek to minimise effects on landowners.
8. Some areas of land within the Order limits are needed temporarily for construction purposes and are therefore shown within the DCO application as being subject to powers of temporary possession. These areas would be returned to the landowner once they were no longer needed for the construction of the Scheme. This would be the case in respect of land owned by the Turner family which is proposed to be subject to powers of temporary possession. The draft DCO includes provisions requiring land used by the Applicant temporarily to be restored to the satisfaction of the landowner.
9. The construction compound requirements for the tunnelling operations are, by necessity, more extensive than for a traditional surface highway scheme. This is due to the need for additional infrastructure to support the tunnelling operations, such as precast concrete and slurry treatment plants. The location for the main works compound has been selected to be outside the WHS, close to the tunnel's

western portal and adjacent to the A360 and proposed A303 to provide good highway and haul route links. The areas for satellite compounds and works areas have been minimised as far as possible, whilst still providing sufficient space for the safe construction of the Scheme. Land owned by the Turner family is required by the Applicant on a temporary basis to accommodate the main construction compound which has been optimally sited to facilitate the efficient construction of the Scheme. Details of the construction compounds are provided in the Environmental Statement ('ES'), Chapter 2 [APP-040] (see paragraph 2.4) and Figure 2.7 [APP-061] (showing an indicative site layout) and in the Outline Environmental Management Plan [APP-187]. On completion of the Scheme, the construction compounds would be removed and the land would be reinstated and returned to the landowner/occupier, as noted above.

10. Discussions with the Turner family are ongoing. Previously the Turners suggested relocating their farm infrastructure, which Highways England was willing to assist with, as the Scheme developed. However, it is now understood that the Turner family no longer wishes to pursue this suggestion. Discussions are taking place regarding how the proposed areas of land acquisition can be minimised and the Applicant is endeavouring to provide the Turner family with as much information as possible at this time in relation to the nature of the activities that would be likely to take place where the compounds are proposed to be located.
11. In respect of the objection to compulsory acquisition from Mr Moore, the Applicant's view is that proposals for the compulsory acquisition of the land east of Parsonage Down are justified. Part of the land owned by Mr Moore and included within the Order limits is required for the construction, operation and maintenance of the Scheme and for essential landscape mitigation, and the remainder is included on the basis that at present, whilst it is understood that the land could be restored to calcareous grassland once the excavated material was in place, it cannot be confirmed that the land could be returned to its former agricultural classification. Accordingly, the compulsory acquisition powers are sought to accommodate a scenario in which the landowner no longer wished to retain the land in its changed stated.
12. Negotiations with the landowner have been taking place and continue to do so, the reasoning behind the inclusion in the DCO Application for powers of compulsory acquisition has been explained by the Applicant to Mr Moore. The Applicant is waiting to hear back from Mr Moore as to how he would like to proceed and whether or not he would prefer to retain the land post construction of the Scheme.

Objections to the grant of powers of Compulsory Acquisition

Question CA.1.44

- i. Please respond the specific objection to the exercise of Compulsory Acquisition powers raised by APC and CML on the grounds that the extent of the land/rights sought to be acquired is unreasonable.
- ii. What is the current state of progress of negotiations with the objector to agree their proposed mechanism to avoid excessive land-take?

Response

- i. ***Please respond the specific objection to the exercise of Compulsory Acquisition powers raised by APC and CML on the grounds that the extent of the land/rights sought to be acquired is unreasonable.***
 1. As set out in the Applicant's response to [RR-1537] (see page 13-2 of [AS-026]), land required permanently will be acquired through individual agreement with landowners and occupiers or via compulsory purchase under the General Vesting Declaration (GVD) process. The land acquisition process is likely to begin in 2020 if the Scheme receives development consent. In addition to including powers of compulsory acquisition, the draft development consent order (DCO [APP-020]) also includes powers to take temporary possession of land for the purposes of constructing (and later maintaining) the Scheme. Where land is required temporarily for the purpose of constructing the Scheme (i.e. the land shown shaded green on the Land Plans [APP-005]), such land would not be acquired by Highways England; it would only be occupied and used during the construction period, for example for the provision of construction compounds or for the storage of materials. When the need for such temporary uses had ceased, the land would be reinstated and returned to its owner.
 2. Alternatively, where land is intended to be acquired permanently, powers of temporary possession may initially be used (and permanent works carried out under temporary possession powers) until the land requirements are finalised. Acquisition would then take place in respect of the land required for the as-built Scheme.
 3. The purpose of this two-staged approach is to ensure that Highways England does not permanently acquire more land than is necessary for the Scheme. Temporary possession will be taken by serving notice of the intended entry on affected landowners and occupiers. Powers to take temporary possession or to compulsorily acquire land under the DCO must be exercised within 5 years of the date on which the DCO comes into force.
 4. Highways England considers that the land included in the DCO is the minimum land-take required to construct, operate, maintain and mitigate the Scheme and is therefore necessary to achieve the objectives of the Scheme. Highways England has sought to achieve a balance between minimising land take and securing sufficient land to ensure delivery of the Scheme, noting that the detailed design of the Scheme has yet to be developed. This principle has been applied to the land

owned by Amesbury Property Company/Classmaxi Limited for the Allington Track diversion. In that context, the Scheme Order limits have been drawn as tightly as possible so as to avoid unnecessary land take. In the event that less land proves to be required in a particular area following the detailed design stage, Highways England would only seek to acquire that part of the Land that is required and, in all events, will seek to minimise effects on landowners (Statement of Reasons, para 5.3.4 [APP-023]).

ii. What is the current state of progress of negotiations with the objector to agree their proposed mechanism to avoid excessive land-take?

5. Discussion with Amesbury Property Company and Classmaxi Limited are ongoing. These discussions include the consideration of a mechanism whereby works can be undertaken and new highway (Allington Track) could be dedicated by voluntary agreement. However, the Applicant maintains its position that compulsory acquisition powers are necessary to ensure the deliverability of the Scheme.

Objections to the grant of powers of Compulsory Acquisition

Question CA.1.46

Please respond to the specific objection to the exercise of Compulsory Acquisition powers raised by Countryside Solutions on behalf of Beacon Hill Land Limited.

Response

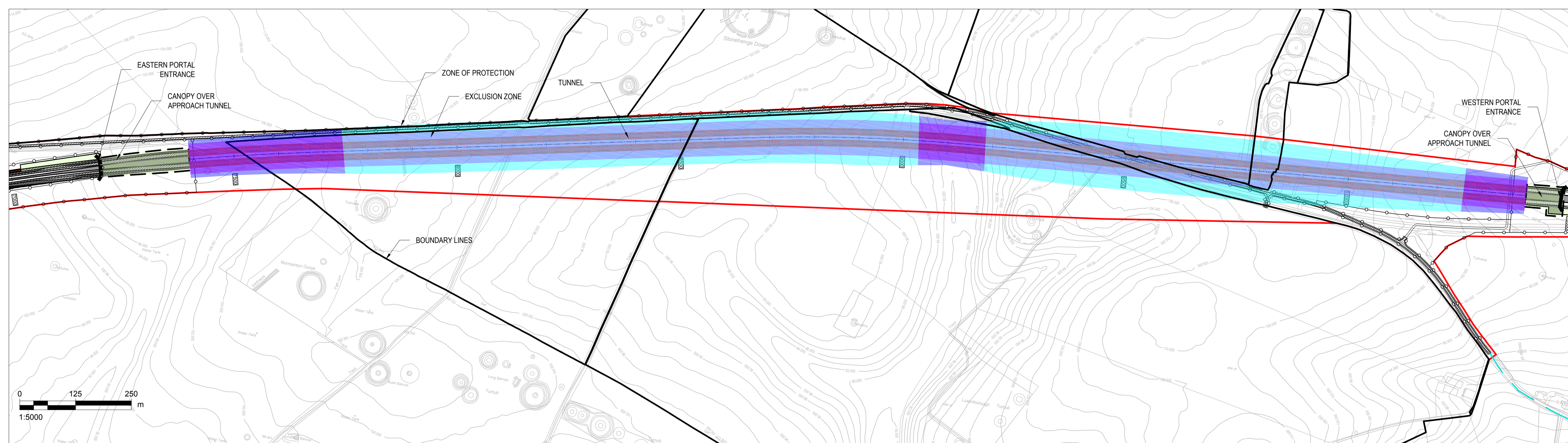
1. As set out in the Applicant's response to RR-1542 (page 13-12) of [AS-026], the power to acquire land permanently in this area would give Highways England the ability to extinguish existing rights over AMES1 to enable this byway to be changed in status from a byway open to all traffic to a public footpath. The power of acquisition sought would enable Highways England to effect this change in the status of AMES1 and would also accommodate a scenario in which the existing landowner did not wish to retain the land once its status had been changed by the Scheme. However, if the landowner is willing to accept the land in its changed state, Highways England could agree not to implement its permanent acquisition powers over the land, allowing it to be retained by the existing landowner, subject to it having been voluntarily dedicated as a public footpath by the landowner.
2. The proposed public footpath, labelled reference P on sheet 11 of the Rights of Way and Access Plans [APP-009] and described in Schedule 3 to the draft DCO [APP-020], would be of benefit to local people, by maintaining pedestrian access. The junction of AMES1 with the A303 would be closed to vehicular traffic, protecting the adjoining monument (tumulus) from further degradation and improving safety on the existing A303 by reducing the potential for conflict arising from traffic from the BOAT joining the A303. As such, and in providing safer Non-Motorised User connections, the proposal contributes to the achievement of the Scheme's objectives of helping to conserve and enhance the World Heritage Site and provide a positive legacy for local communities.

Appendices CA.1

Appendices CA.1

Question CA.1.22

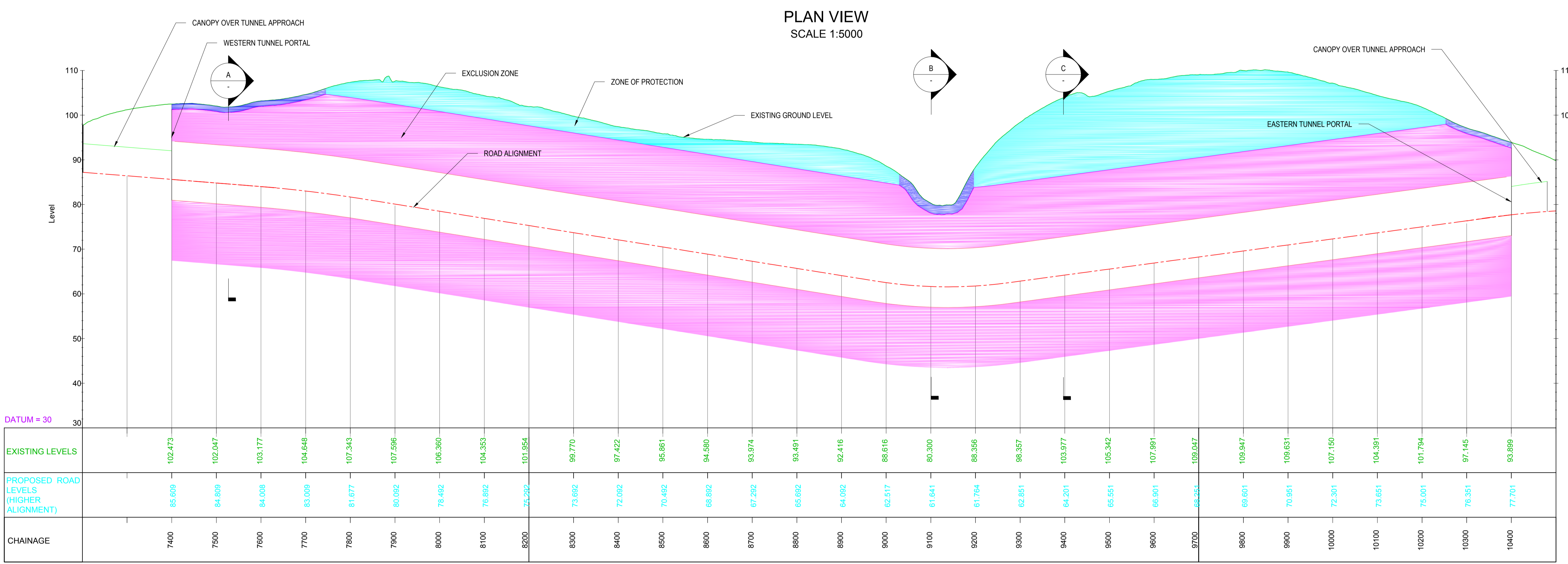
Proposed restriction - Tunnel long section



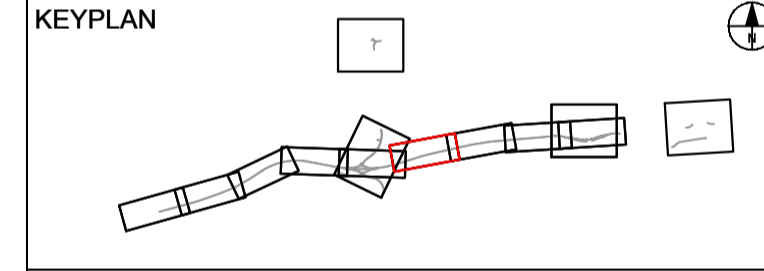
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KEY:

	PERMANENT ACQUISITION
	RESTRICTION DARK BLUE AREA: 0.6M DEPTH
	RESTRICTION LIGHT BLUE AREA: 1.2M DEPTH



Revision Details	By	Check	Date	Suffix
LEVELS UPDATED TO REFLECT PROPOSED ROAD LEVELS	MA	MA	16/08/18	P01
LEVELS UPDATED TO REFLECT PROPOSED ROAD LEVELS	CN	MA	14/09/18	P02
LEVELS UPDATED TO REFLECT PROPOSED ROAD LEVELS	---	MA	14/09/18	P03.1



Purpose of issue

Client

Project Title

**A303
Amesbury to Berwick Down**

Drawing Title

**ZONE 3 MAIN LINE TUNNELS
LONGITUDINAL SECTION
UPPER ALIGNMENT LAND
REQUIREMENTS -
FOR DISCUSSION**

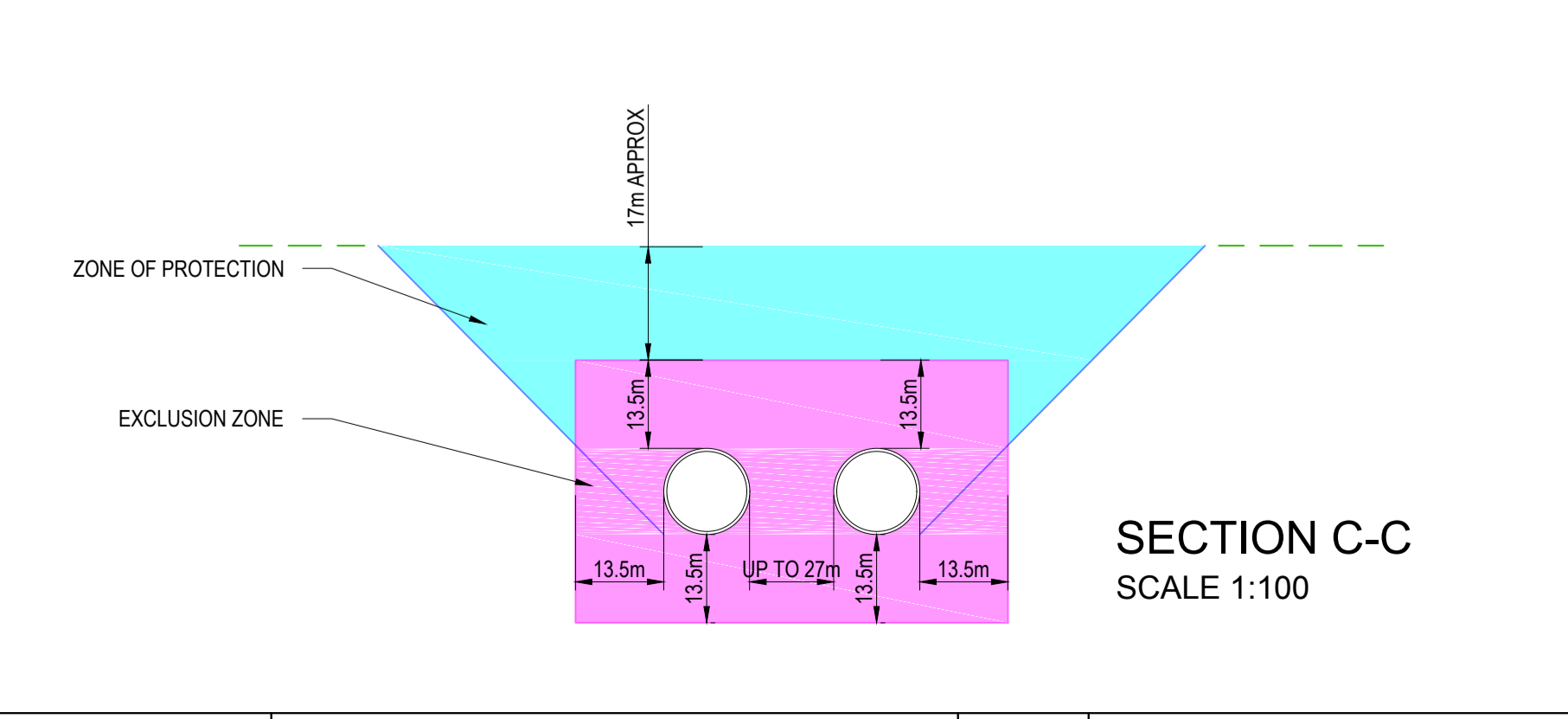
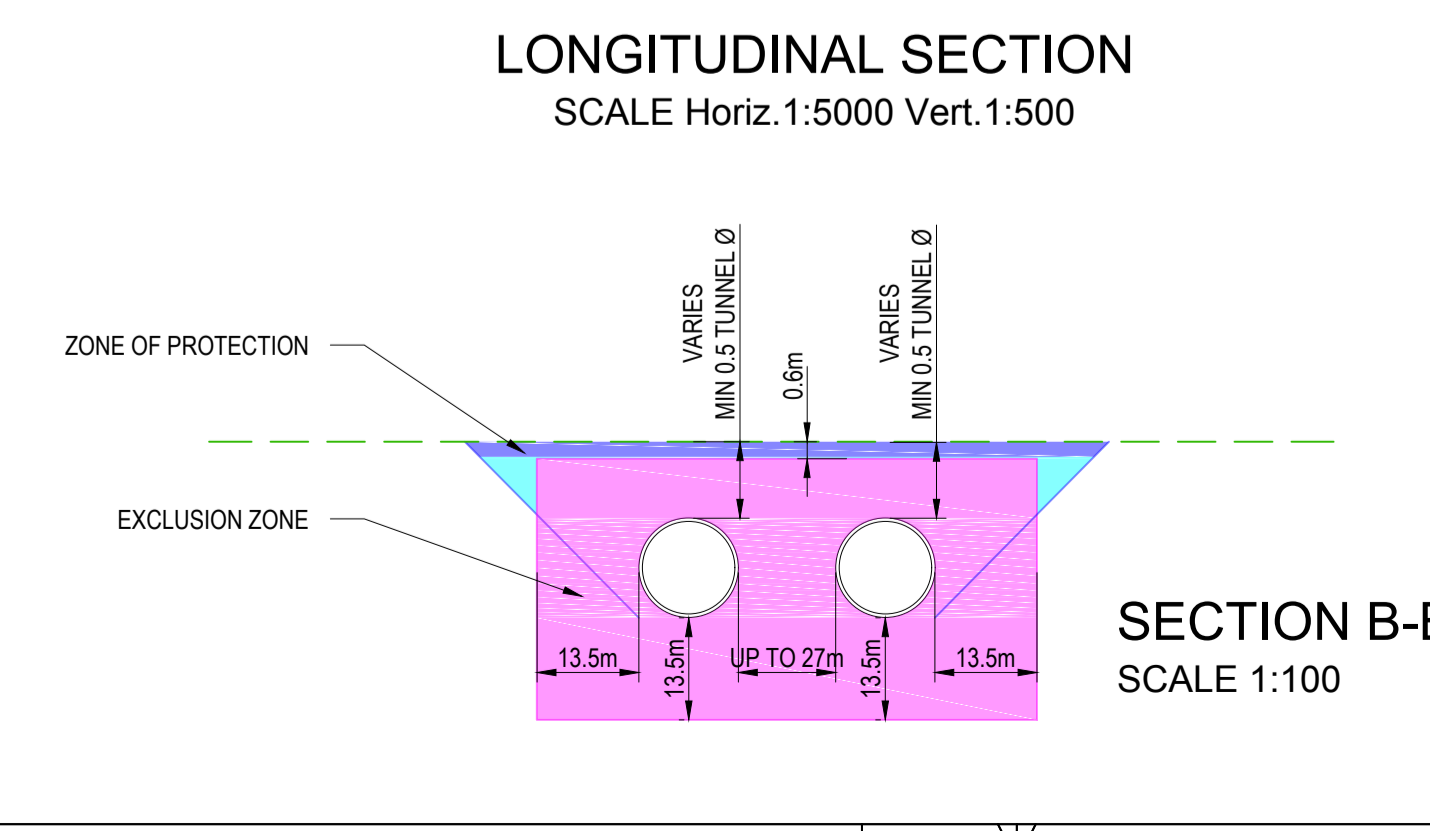
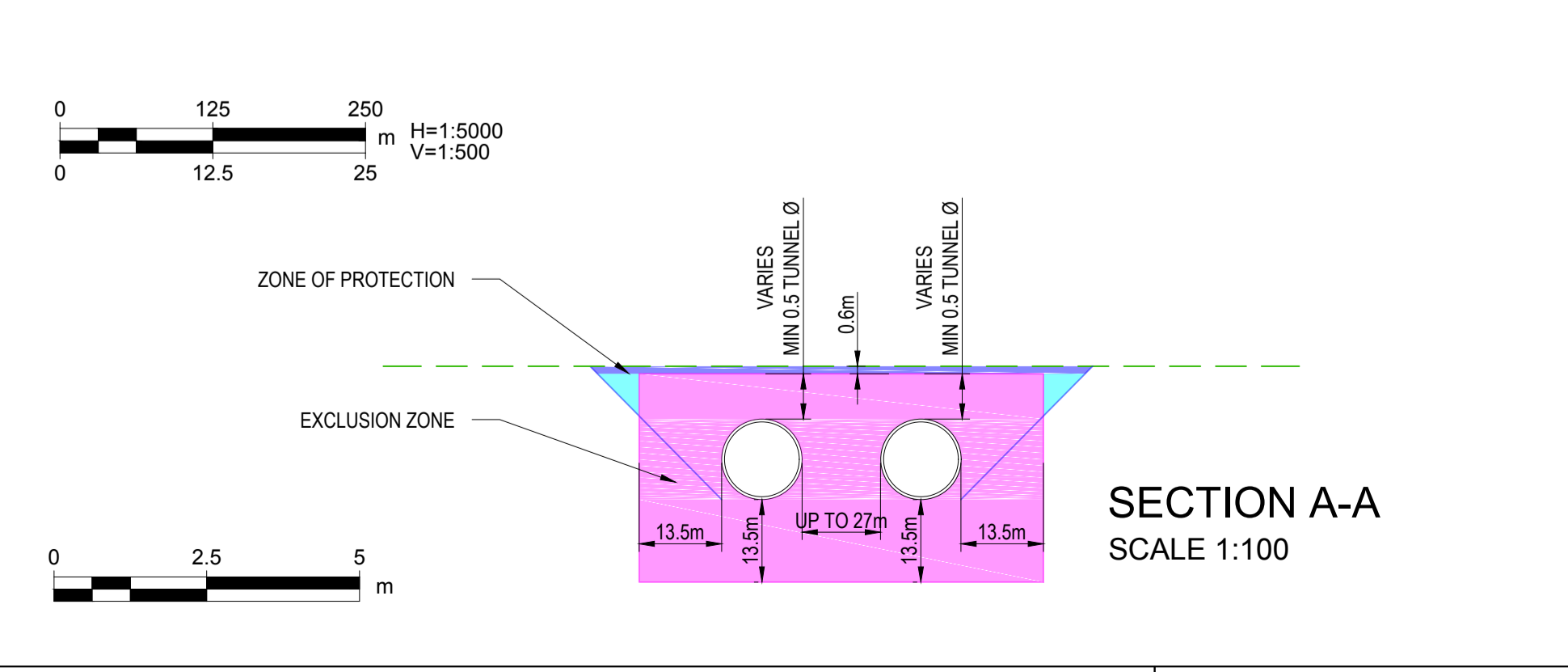
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Scale @ A1	Zone	Date		
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Highways England Project Office
Temple Quay House
2 The Square, Temple Quay
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